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From: Kenneth L. Kutcher	Sender's Direct Dial Number: (310) 451-3669
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For your information For your files Please review and comment In accordance with your request

Re: Initial Study/Negative Declaration (PXP/Inglewood Oil Field)

Message to Recipient(s): Please see the attached comment letter submitted by the Culver Crest Neighborhood Association.

Original to follow by Mail:

Client Name:

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Responsible Atty (if different from Sender):

Transmitted By: Susie

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January 4, 2007

Linda F. Campion
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Re: Initial Study/Negative Declaration
Inglewood Oil Field/PXP Well Drilling Program in Los Angeles County

Dear Ms. Campion:

This letter is written on behalf of the Culver Crest Neighborhood Association ("CCNA"), an association of more than 500 homeowners and residents living generally to the west of and immediately adjacent to the Inglewood Oil Field as recognized by the California Division of Oil, Gas, and Geothermal Resources (DOGGR), field map #122.

The purpose of this letter is to provide the DOGGR and the County of Los Angeles ("County") with our preliminary comments on the Initial Study/Negative Declaration dated December 4, 2006 ("Initial Study"), concerning the proposal by Plains Exploration and Production Company ("PXP") to establish 24 new oil and gas wells in the Inglewood Oil Field adjacent to our homes.

This letter is submitted pursuant to the California Environmental Quality Act ("CEQA") State Guidelines Section 15204(b). For the reasons explained herein, the DOGGR is legally obligated to prepare and circulate an

Environmental Impact Report ("EIR") to study the potentially significant adverse aesthetic, air quality, housing/population, land use and noise impacts of PXP's proposed 24 new oil and gas wells.

LEGAL BACKGROUND/STANDARD OF REVIEW

When faced with legal challenges to the propriety of a Negative Declaration, courts exhibit a strong preference for EIRs rather than Negative Declarations. CEQA sets a "low threshold" for requiring preparation of an EIR. *County of Sanitation Dist. No. 2 v. County of Kern*, 127 Cal. App. 4th 1544, 1579, 27 Cal. Rptr. 3d 28 (2005) ("California courts . . . routinely describe the . . . test as a low threshold requirement for the initial preparation of an EIR that reflects a preference for resolving doubts in favor of environmental review"); *Packet Protectors v. City of Sacramento*, 124 Cal. App. 4th 903, 928, 21 Cal. Rptr. 3d 791 (2004); *Bowman v. City of Berkeley*, 122 Cal. App. 4th 572, 580, 18 Cal. Rptr. 3d 814 (2004); *Citizen Action To Serve All Students v. Thornley*, 222 Cal. App. 3d 748, 754, 272 Cal. Rptr. 83 (1990); and *Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 298, 310, 248 Cal. Rptr. 352 (1988). A strong presumption in favor of requiring preparation of an EIR is built into CEQA. 1, Stephen L. Kostka & Michael H. Zischke, *Practice Under The California Environmental Quality Act* § 6.29, p. 324 (CEB Oct. 2006 Update).

The technical standard for this determination is that "if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect." State CEQA Guidelines § 15064(f)(1); *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68 (1974). "Significant effect upon the environment" is defined by CEQA as "a substantial or potentially substantial adverse change in the environment." Pub. Res. Code § 21068; State CEQA Guidelines § 15382. A project "may" have a significant effect on the environment if there is a "reasonable probability" that it will result in a significant impact. *No Oil, Inc. v. City of Los Angeles, supra*, 13 Cal. 3d at 309. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is deemed to be beneficial. State CEQA Guidelines § 15063(b)(1).

PROCEDURAL DEFICIENCIES OF THE INITIAL STUDY/NEGATIVE DECLARATION

This letter is also being submitted to point out that the preparation and circulation of the proposed Negative Declaration failed in many material respects to comply with applicable legal requirements. See *Christward Ministry v. Superior Court*, 184 Cal. App. 3d 180, 197, 228 Cal. Rptr. 868 (an Initial Study that is materially deficient is insufficient to support a Negative Declaration). Here, the material deficiencies in the Initial Study/Negative Declaration include the following:

1. Wrong And Misleading Title. The very title of the proposed Initial Study/Negative Declaration is legally flawed in that it fails to reflect the fact that the Initial Study expressly calls for mitigation measures which, at a minimum, would result in a Mitigated Negative Declaration, as opposed to a simple Negative Declaration. The inaccurate and misleading title of the document, as if it were a Negative Declaration, gives public agencies and members of the public the misconception that no potentially significant impacts were identified. The Initial Study therefore needs to be recirculated under a title that accurately reflects the fact that potentially significant adverse impacts of the proposed drilling have been identified, in order to solicit public comment that correctly reflects the conclusions drawn in the Initial Study.

2. Failure To Disclose Who Prepared. State CEQA Guidelines Section 15063(d)(3) requires an Initial Study to provide "[t]he name of the person or persons who prepared or participated in the initial study." The Initial Study fails to satisfy this basic legal requirement. It is CCNA's suspicion that PXP representatives prepared the Initial Study, given the sympathetic descriptions of their proposed project and its potential impacts. Does the Certification on the bottom of page 28 of the Initial Study mean that the applicant, not the lead agency, prepared the Initial Study? If so, then CCNA officially insists that the Initial Study be withdrawn and a new Initial Study be prepared by the DOGGR as the lead agency charged with objectively analyzing the potential adverse impacts of the proposed project consistent with State CEQA Guidelines Section 15063.

In this regard, CEQA requires all Negative Declarations and Mitigated Negative Declarations to "be prepared directly by, or under contract to, a public agency," not a private applicant. Pub. Res. Code § 21082.1(a). Furthermore, CEQA also requires the lead agency to "[i]ndependently review and analyze any report or declaration required by [CEQA]" and states that the Initial Study must reflect the lead agency's "independent judgment." Pub. Res. Code § 21082.1(c)(1) & (2).

3. Failure To Contact The City Of Culver City. Although Section 4 of Ordinance No. 2006-0064U clearly documents the concerns of the City of Culver City relating to oil well operations in the Inglewood Oil Field, the Initial Study contains no indication that any Culver City officials were contacted during its preparation. This is particularly troubling in that the Initial Study concludes without attribution that none of the proposed new wells is within the Culver City Viewshed. (Initial Study at p. 9.)

4. Attempted Exclusion Of CCNA. The circulation of the Initial Study/Negative Declaration is legally inadequate and appears intentionally designed to frustrate public participation by CCNA as the group of homeowners most directly impacted by the proposed project. As stated in State CEQA Guidelines Section 15201, "Public participation is an essential part of the CEQA process." And more specifically, Section 15086(b)(3) of the State CEQA Guidelines expressly contemplates that the lead agency consult directly with

"[a]ny person identified by the applicant whom the applicant believes will be concerned with the environmental effects of the project."

The DOGGR's circulation list for the Initial Study contains 27 recipients, including eight neighborhood groups. However, CCNA is nowhere to be found on that list. This is particularly troubling given that over the past 12 months, CCNA has met with representatives of PXP, including Steve Rusch, on multiple occasions to discuss our members' serious concerns with PXP's operations generally, with multiple releases of noxious odors specifically, and with the adverse impacts of PXP's operations on our health, comfort and homes. These meetings have included (i) a presentation made by PXP at a general membership meeting of CCNA that was attended by more than 100 people, (ii) a meeting for CCNA members at PXP's oil field, which included a tour and a lunch hosted by PXP, (iii) a more complete tour of the PXP's facility for CCNA board members that was led by several PXP representatives, and (iv) numerous smaller meetings between Mr. Rusch and various members of the CCNA Board of Directors. PXP's apparent failure to communicate CCNA's strong interest to the DOGGR constitutes a bad faith violation of their obligations under CEQA. It was only by happenstance that CCNA became aware of the Initial Study and the deadline for submission of these comments. As a result, CCNA was forced to spend time over the seasonal holidays to prepare these comments, another indication of bad faith efforts to frustrate the very level of public participation on which CEQA is premised.

Indeed, while each of our 500+ homeowners received in the mail late last week a "Happy Holidays & Happy New Year" card from PXP, it is personally irritating that PXP used our addresses when they wanted to send out promotional material, but not when it came to informing us of the Initial Study. Equally telling is that PXP found room on the card: (i) to talk about "working closely with our neighbors in Ladera Heights, Baldwin Hills, Culver City ...", (ii) to assert that "PXP has strengthened its community partnerships to better serve the needs of the community," (iii) to talk about how they have conducted oil field operations "as a responsible neighbor," (iv) to acknowledge prior noise and odor problems but say PXP prides itself on its "quick solutions to mitigate these problems as quickly as possible," and (v) to list 10 contributions that PXP made over the last year to various community events – but that they could not find space to mention the availability and importance of reviewing the Negative Declaration and Initial Study.

5. Unexplained Omission Of Adjacent Community College. It also appears that other immediate neighbors of PXP similarly were not informed of the Initial Study. For example, although the Notice of Completion & Environmental Document Transmittal lists 45 schools that are located within two miles of PXP's facility, not a single one of those schools is included on the mailing list showing the people to whom a notice of the Initial Study was sent. One of the 45 listed schools is West Los Angeles College, whose campus

borders the PXP facility on two sides. However, as of December 20, the College's President was unaware of the Initial Study.

6. Inadequate Public Comment Period. Separate and apart from the failure to properly circulate the Initial Study, it seems clear that the decision requiring public comments to be filed before an artificial January 5th deadline was designed to minimize public input, in direct contravention of CEQA Guidelines Section 15021, which states that "[p]ublic participation is an essential part of the CEQA process," and requires each agency to adopt provisions permitted "wide public involvement." This requirement was certainly not met by a comment period that completely overlaps the holidays, and ends the Friday before many of the 45 potentially impacted schools re-open after their Winter breaks.

Indeed, informed commentators recommend that "[w]hen a project is likely to be controversial, the lead agency should consider providing notice and consulting with interested organizations and members of the public while preparing the initial study." 1, Kostka, *supra* at § 6.26, p. 323 (emphasis added).

On behalf of itself and other individuals and groups who had inadequate time to review and analyze the Initial Study, or who may be completely unaware of the Study, misled as to its content by the inaccurate title, or unable to prepare comments over the holiday season, CCNA hereby formally objects to the apparent effort to frustrate public participation in the review of the blatantly partisan, highly superficial and legally flawed Initial Study/Negative Declaration.

THE PREPARATION OF AN EIR IS LEGALLY NECESSARY BEFORE ACTING ON THIS PROPOSED OIL DRILLING PROJECT

Substantively and analytically, the Initial Study's conclusion that an EIR is not required is fatally flawed. Ironically, the evidence of this error is contained in the attachments to the Initial Study. No further evidence of the project's potential adverse environmental effects is required to be submitted. (When deciding between preparing an EIR or adopting a negative declaration, the lead agency must consider all the evidence in its administrative record, not just the Initial Study. Pub. Res. Code § 21082.2(a).)

A. Ordinance No. 2006-0064U Documents The Project's Health And Safety Threats.

Section 4 of Ordinance No. 2006-0064U is entitled, "Zoning Study Initiated; Determination of immediate threat." (Emphasis added.) The text of Section 4 documents the severe problems for adjacent residents posed by the PXP's oil drilling:

"Although oil wells have existed for many decades in the Baldwin Hills Zoned [sic] District, in the past year, there has been a number of complaints by nearby residents reported to the County, the SCAQMD, and the City of Culver City relating to oil well operations in the affected area. On at least one occasion in the last eight (8) months, a notice of violation was issued by the SCAQMD as the odors, attributed to oil well operations, were considered a nuisance. These complaints coincide with a dramatic upsurge in the drilling and deepening of oil wells in this area. Since January 2005, approximately 60 permits were issued by the state and 10 to 20 new wells have been opened in the affected area. Also, the drilling of additional wells or deepening of existing wells without adequate controls may negatively impact the quality of life for nearby residents due to the possibility of ever-increasing odor occurrences and releases of noxious gases as well as other potential adverse impacts including noise, visual, traffic, and vibration impacts. Unless this interim ordinance is extended as provided for herein, an irreversible incompatibility of land uses might reasonably occur as a result of the drilling or deepening of new wells in the affected area, all to the detriment of the public health, safety, and welfare. Accordingly, the Board of Supervisors finds that there is a current and immediate threat to the public health, safety, or welfare, and that the drilling or deepening of new wells and the approval of any required additional subdivisions, variances, building permits, site plans, or any other applicable entitlements in connection therewith would result in that threat to the public health, safety, or welfare" (Emphasis added.)

B. Supervisor Burke's Motion Also Documents The Need For Careful Environmental And Zoning Review, Which Has Not Yet Occurred.

Furthermore, County Supervisor Yvonne B. Burke's August 8, 2006 motion relating to the adoption of Ordinance No. 2006-0064U provided in pertinent part:

"[Ordinance No. 2006-0064U] will enable the County [of Los Angeles] to undertake essential environmental and zoning studies that will help identify appropriate permanent regulations. These important studies will necessarily include the active participation and

expertise of the State Department of Conservation and the City of Culver City."

The County has not completed its environmental and zoning studies of the impact of new wells in the Inglewood Oil Field. Those impacts -- which threaten the public health, safety and welfare -- must be studied in an EIR prepared for PXP's latest proposed project.

C. Inadequacy Of Relying Upon Ordinance No. 2006-0064U As A Mitigation Measure.

The Initial Study recognizes that mitigation measures are necessary; the Initial Study states: "In order to minimize disturbance to the adjacent property owners, mitigation measures will be undertaken." (Initial Study at p. 2.) However, the exclusive mitigation measure proposed by the Initial Study is the assertion that PXP's proposed drilling "will comply with all the requirements contained in [Ordinance No. 2006-0064U]." (Initial Study at p. 4.) The Initial Study completely ignores the fact that Ordinance No. 2006-0064U will expire before PXP's proposed drilling will be completed. The Initial Study states: "The entire project will be completed in approximately 30-52 weeks . . ." (Initial Study at p. 3.) Ordinance No. 2006-0064U, on the other hand, will expire on June 26, 2007. (Initial Study at p. 11.) Thus, as the sole mitigation of the proposed project's potential air quality, noise, aesthetic and other adverse impacts on CCNA, the Initial Study relies exclusively on a County Ordinance that will not even be in effect for most of the implementation of the proposed project. This flawed analysis is simply absurd.

D. Unaddressed Landscaping Impacts.

Moreover, concerning aesthetics, Paragraph 1 of Section 1 of Ordinance No. 2006-0064U requires PXP to plant landscaping "at the periphery of the property." However, the only discussion of landscaping present in the project description is an indication that vegetation will be REMOVED, not planted. (Initial Study at p. 3.)

CEQA does not allow a lead agency to defer consideration of mitigation measures and potential impacts to the future. However, that is exactly what the Initial Study does. It defers consideration of aesthetic impacts to the County's future review of site plans for the new wells. (Initial Study at pp. 8-9.) This is legally inadequate. In *Sundstrom v. County of Mendocino, supra*, 202 Cal. App. 3d 296, the court held that deferring evaluation of environmental impacts until after adoption of the negative declaration amounts to a post hoc rationalization and improperly skirts CEQA's required procedure for public review and agency scrutiny of potential environmental impacts.

E. Incomplete Consideration Of Mandatory Hotline.

Furthermore, Paragraph 6 of Section 1 of Ordinance No. 2006-0064U requires PXP to maintain a 24-hour hotline for odor complaints and to maintain records of such calls. The Initial Study, which appears to have been prepared by PXP, reveals PXP's apparent dislike of this requirement since it contains not one word about this requirement. There is no indication of whether such a hotline exists. There is no statement, assuming such a hotline exists, of how many such complaints have been logged in. There is no statement that such a log book even exists.

F. Omission Of SCAQMD's Notice Of Violation.

Additionally, there is no indication that the DOGGR ever even examined the SCAQMD's Notice of Violation issued to PXP within the last 12 months. Instead, the Initial Study recklessly mischaracterizes the SCAQMD's Notice of Violation as "a reported odor incident." (Initial Study at p. 11.) CCNA hereby officially requests that the DOGGR take administrative notice of SCAQMD's Notice of Violation and further requests that a copy of such Notice of Violation be included with the administrative record of these proceedings.

G. Lack Of Technical Analysis Of Air Quality Risks.

In the Article entitled, "Considerations in Preparing EIRs and Negative Declarations," State CEQA Guidelines Section 15147 requires:

"The information contained in an EIR [or Initial Study/Negative Declaration] shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and member of the public."

However, the Initial Study's discussion of the air quality violations at the Inglewood Oil Field contains no technical foundation for the unsubstantiated assertion that the Notice of Violation "was related specifically to activities in the Nodular Shale, which no proposed well would penetrate or affect." (Initial Study at p. 11.) This lack of analysis and lack of public availability renders the Initial Study in its present form legally inadequate.

H. Impermissible Deferral Of Noise Mitigation Measures.

The determination of noise mitigation measures for PXP's proposed new drilling is totally deferred with a generic statement that "[n]oise mitigation is site specific and draws upon a number of different influences and techniques . . . PXP will utilize one or more of these to ensure compliance with County noise standards." (Initial Study at p. 2.) This is not CEQA analysis; this is nothing but wishful thinking. After acknowledging that noise mitigation must be site specific,

the Initial Study then omits any site specific analysis and leaps to the unsubstantiated conclusion that PXP will comply with the County's noise ordinance. How can this conclusion be substantiated with first conducting any site specific analysis?

State CEQA Guidelines Section 15070(b)(1) requires that project plans incorporate mitigation measures before a proposed mitigated negative declaration is released for public review. See also *Sundstrom v. County of Mendocino*, *supra*, 202 Cal. App. 3d at 306-307:

"The requirement that the applicant adopt mitigation measures recommended in a future study is in direct conflict with the guidelines implementing CEQA. California Code of Regulations, title 14, section 15070, subdivision (b)(1) provides that if an applicant proposes measures that will mitigate environmental effects, the project plans must be revised to incorporate these mitigation measures "before the proposed negative declaration is released for public review" Here, the use permit contemplates that project plans may be revised to incorporate needed mitigation measures after the final adoption of the negative declaration. This procedure, we repeat, is contrary to law." (Emphasis added by court.)

If the PXP noise mitigation measures for the proposed new wells are not developed until after adoption of the proposed Negative Declaration, then CCNA will not have an opportunity to review and comment on their anticipated effectiveness. This is contrary to CEQA. This is particularly sensitive, given that the drilling would occur 24 hours per day/7 days per week (Initial Study at p. 3) in a hilly area where sound travels unobstructed downhill and echoes through ravines towards existing single family homes.

Furthermore, pursuant to State CEQA Guidelines Section 15147, CCNA formally requests a copy of the Arup Acoustics October 2004 noise measurements taken from an undisclosed "residential property adjacent to the Inglewood project site." (Initial Study at p. 24.) The Inglewood Oil Field contains some 900+ acres. (Initial Study at P. 24.) Given this size and the acknowledged fact that noise impacts are "site specific," the Initial Study's wholesale reliance on the 2004 analysis is both speculative and legally inadequate.

I. Flawed Land Use Impact Analysis.

The Initial Study's superficial analysis of the potential Land Use impacts of PXP's project is equally flawed. In its entirety, this discussion in the Initial Study reads:

"The Inglewood Oil Field has been in operation since 1924 and over 1600 wells have been completed therein. There are no agricultural resources in the project area. The oil field has preserved open space in the Los Angeles basin." (Initial Study at p. 22.)

The Initial Study fails to account for Section 4 of Ordinance No. 2006-006U, which expressly contemplates "permanent re-zoning of the properties in the Baldwin Hills Zoned District." It also fails to account for Supervisor Burke's motion that the County intends "to undertake essential . . . zoning studies that will help identify appropriate permanent regulations." The impact of the proposed new wells on the upcoming changes to the County zoning must be evaluated and considered in an EIR.

J. Failure To Consider Fire Risks Given That The New Drilling Is To Occur Within A Seismically Active Area.

The project site is located within a seismically active area. (Initial Study at p. 16.) And yet the Initial Study fails to consider the risk of fire in the event of an earthquake. Instead, the Initial Study focuses in the oil field's irrelevant lack of proposed structures and the low risk of forest fires in this urban area. (Initial Study at p. 15.) The risk of fire due to oil drilling in a seismic fault area is a serious risk that needs to be adequately evaluated. That is where the fire risk lies with PXP's proposed oil drilling project.

K. Will the Proposed Grading Result In Any Increased Risk Of Landslides?

Two years ago, five homes in our neighborhood were red-tagged due to mudslides during the rainy season. As a result, Culver Crest was in the national news at that time. Unfortunately, those homes remain red-tagged today and Tellefson Road is still closed while FEMA funds are being sought to repair the hillside.

PXP's proposed project involves proposed grading permits. (Initial Study at p. 3.) Yet the Initial Study fails to discuss the potential for landslides and the need for mitigation measures related to the proposed grading. (Initial Study at p. 16.) This is in spite of the fact that the potential for landslide and erosion problems resulting from PXP's operations are well known. The May 2002 Baldwin Hills Park Master Plan (the "Master Plan"), which was prepared on behalf of the California Department of Parks and Recreation and the Baldwin Hills Conservancy (and which can be found on the Conservancy's web page at <http://www.bhc.ca.gov/documents.html>) states that the "[g]rading operations related to oil field activities have resulted in considerable modification of the natural topography," and that the "Baldwin Hills have a well-documented history of landslide and erosion problems that are associated with their unstable soil strata and the destabilizing effects of rainfall. Slope failures are manifested by

shallow slides and wet season debris flows especially on slopes, which have been artificially oversteepened by grading." (Master Plan at pp. 13 -15.) Furthermore, the Initial Study contains none of the critical information concerning the volume of the proposed grading. The analysis of this potential impact therefore is not adequate in its present form in the Initial Study.

L. Ignoring Legally Required Consideration Of Cumulative Impacts.

CEQA requires that an EIR be prepared when the cumulative effect on the environment is considerable even where the incremental impact of a proposed project may be individually limited. State CEQA Guidelines Section 15064(h)(1). " 'Cumulatively considerable' means that the incremental effects of an individual project are *significant* when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." *Id.* The Initial Study, however, totally fails to consider the cumulative effects of the 24 new wells combined with the existing 1,600 wells (Initial Study at P. 2) and probable future wells. This includes the potential for increased seismic activity resulting from continued oil drilling. Again, this omission comes notwithstanding the fact that PXP's operations are known to have a seismic impact. The Master Plan states that "[p]revious small ground movements and faulting have been associated with oil field activities and processes including withdrawal induced subsidence and pressure injection." (Master Plan at pp. 14-15.)

There is no discussion of cumulative impacts in the Initial Study. This makes the Initial Study legally inadequate.

M. Any Alleged Benefits Of The Proposed Project Do Not Negate The Need To Examine The Potentially Significant Adverse Impacts.

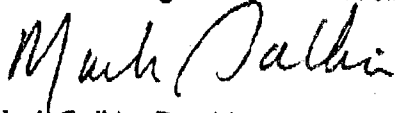
The Initial Study concludes that the energy impacts of the proposed project are beneficial. (Initial Study at p. 14.) CEQA requires the preparation of an EIR whenever there will be potentially significant impacts, regardless of whether the overall effect of the project will be beneficial or adverse. State CEQA Guidelines Section 15063(b)(1).

CONCLUSION

For the foregoing reasons, an EIR is legally required. Furthermore, the Initial Study/Negative Declaration is materially flawed and cannot be adopted without amendment and recirculation.

Finally, CCNA hereby official requests notice of all public hearings, any modifications of the Initial Study/Negative Declaration, and all other related DOGGR actions concerning PXP's proposal or any future proposals concerning the Inglewood Oil Field.

Yours truly,
Culver Crest Neighborhood Association



By Mark Salkin, President

cc: Supervisor Yvonne B. Burke
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