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March 28, 2017

VIA ELECTRONIC FILING

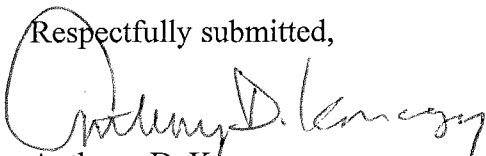
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Application of Laurel Pipe Line Company, L.P. for All Necessary Authority,
Approvals, and Certificates of Public Convenience To Change the Direction of
Petroleum Products Transportation Service to Delivery Points West of Eldorado,
Pennsylvania
Docket No. A-2016-2575829**

Dear Secretary Chiavetta:

Enclosed please find the Answer of Laurel Pipe Line Company, L.P. to the Motion to Compel Responses to Giant Eagle, Inc. Set I in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/skr
Enclosure

cc: Certificate of Service
Honorable Eranda Vero

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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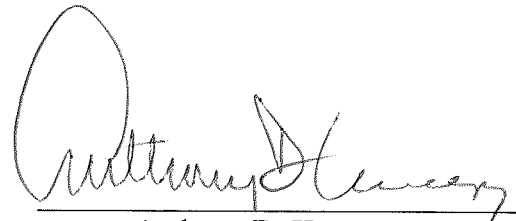
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Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Laurel Pipe Line Company, :
L.P. for All Necessary Authority, Approvals, :
and Certificates of Public Convenience To : Docket No. A-2016-2575829
Change the Direction of Petroleum Products :
Transportation Service to Delivery Points :
West of Eldorado, Pennsylvania :

**ANSWER OF LAUREL PIPE LINE COMPANY, L.P.
TO THE MOTION TO COMPEL RESPONSES TO GIANT EAGLE SET I**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE ERANDA VERO:

Laurel Pipe Line Company, L.P. (“Laurel” or the “Company”) hereby files this Answer, pursuant to 52 Pa. Code § 5.342, to the Motion to Compel Responses to Giant Eagle Set I (“Motion”) filed by Giant Eagle, Inc. (“Giant Eagle”) on March 23, 2017. As explained below, Giant Eagle’s Motion should be denied because the Interrogatory Numbers 15 and 26 in Giant Eagle Set I are not relevant and are not likely to lead to the discovery of relevant or admissible evidence in this application proceeding. In support thereof, Laurel states as follows:

I. INTRODUCTION

1. On March 13, 2017, Laurel submitted timely Objections to Giant Eagle’s Set I Interrogatories. Laurel objected to Giant Eagle Set I, Interrogatory Nos. 15 and 26 (“Objections”). Giant Eagle submitted its Motion with respect to these interrogatories, which requested the following:

GE-LAU-I-15. Refer to ¶ 18 of the Application. Identify all entities and/or individuals who have expressed “interest in

additional eastbound movements of Midwestern-sourced petroleum products to points east of Pittsburgh.”

- a. Describe the nature of any such expressions of interest, including the identities of the person(s) or entity involved, the timing of any expressions of interest, and the nature of any discussions regarding any such expressions of interest.
- b. Provide all Documents relating to any such expressions of interest.

GE-LAU-I-26. Refer to the Arnold Testimony at the question and answer beginning on page 18, line 8.

- a. Identify and describe the work intended to be performed in the first element of the Broadway II project as described on page 18, lines 9-14, including, without limitation, (i) a detailed description of all equipment and facilities to be constructed, installed or modified; (ii) the cost of all such equipment and facilities; (iii) the anticipated start and completion dates for all work that has not yet been started or completed; (iv) the completion date for all work that has been completed; (v) the date when the first element of the Broadway II project is anticipated to be fully completed.
- b. Please provide all studies completed or commissioned which calculate the costs of “(1) returning out-of-service tanks to service in Toledo, Ohio and Midland, Pennsylvania.”
- c. Please provide all studies completed or commissioned which calculate the costs of “(2) constructing new tanks in Mantua, Ohio.”
- d. Please provide all studies completed or commissioned which calculate the costs of “(3) replacing mainline pumps and upgrading electrical

systems at facilities in Toledo, Lima, Cygnet, Wakeman, Mantua, and Columbiana, Ohio, as well as various related appurtenances.”.

2. In its Objections, Laurel objected to Giant Eagle Set I, Interrogatory No. 15 as follows:

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). However, discovery which “would require the making of an unreasonable investigation by...a party” is not permitted. 52 Pa. Code § 3.61. The information sought in Giant Eagle Set I, Number 15 is overbroad and not relevant to the issues to be addressed in this proceeding.

Laurel objects to Giant Eagle Set I, Number 15 to the extent that it seeks information related to any interest in eastbound movements of Midwestern-sourced petroleum products to points east of Eldorado, Pennsylvania. Laurel has not proposed nor is it seeking to change the direction of flow to any points further east of Eldorado, Pennsylvania. Therefore, to the extent that Giant Eagle Set I, Number 15 seeks information related to any interest in eastbound movements of Midwestern-sourced petroleum products to points east of Eldorado, Pennsylvania, the information is irrelevant to Laurel’s proposed change in direct of flow for points west of Eldorado that is pending before the Commission.

Laurel further objects to Giant Eagle Set I, Number 15 because it is vague and overbroad. Giant Eagle Set I, Number 15 does not specify an applicable time period for a response. However, similar discovery requests to and from Laurel have limited the applicable time period to January 1, 2012 through the present.

To the extent that the information sought by Giant Eagle Set I, Number 15 is limited to pertain to shipper interest in eastbound movements of Midwestern-sourced petroleum products to points east of Pittsburgh to Eldorado, Pennsylvania, and the time

period January 1, 2012 through the present, Laurel will withdraw this objection.

Objections, at pp. 3-4. Laurel also objected to Giant Eagle Set I, Interrogatory No. 26 as follows:

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). The information sought in Giant Eagle Set I, Number 26 is not relevant to the issues to be addressed in this proceeding, and not likely to lead to the discovery of admissible evidence.

The information sought in Giant Eagle Set I, Number 26 pertains to the “first element of the Broadway II project” that is discussed in the Direct Testimony of David W. Arnold. Laurel St. No. 1, p. 18, ln. 8-14. As stated in Mr. Arnold’s testimony, the first element of the Broadway II project involves actions that Buckeye Pipe Line Company, L.P. (“Buckeye”) will take to increase the capacity of its interstate petroleum products pipeline system from Western Ohio to Pittsburgh. Laurel’s proposal, as described in its Application, involves a change in direction of flow over Laurel’s facilities, and Buckeye’s use of those facilities pursuant to the Capacity Agreement that was consolidated for consideration with Laurel’s Application. However, the information sought by Giant Eagle Set I, Number 26 is only related to an aspect of the Broadway II project that involves Buckeye’s interstate assets and facilities, which are not the subject of the pending Application or Capacity Agreement. Moreover, Buckeye is an interstate petroleum products pipeline, whose rates, services, and facilities are not subject to the jurisdiction of the Commission. Thus, any information related to Buckeye’s interstate assets or facilities is not related to a relevant issue in Laurel’s Application proceeding that is pending before the Commission.

Based on the foregoing, Laurel objects to Giant Eagle Set I, Number 26, which seeks information that is irrelevant, and not likely to lead to admissible evidence in this proceeding.

Objections, at pp. 4-5. As discussed more fully herein, Laurel has demonstrated that the information sought by these interrogatories is irrelevant and not reasonably calculated to lead to the discovery of evidence that is admissible in this proceeding.

3. Under Section 5.342(g)(1) of the Commission's regulations, "[t]he party against whom the motion to compel is directed shall file an answer within 5 days of service of the motion absent good cause..." 52 Pa. Code § 5.342(g)(1). Accordingly, Laurel hereby files this Answer to Giant Eagle's Motion with respect to Giant Eagle Set I, Interrogatory Nos. 15 and 26.

4. Giant Eagle Set I, Interrogatory Nos. 15 and 26 both seek information that is not relevant to the issues and subject matter to be addressed in this proceeding, and are not likely to lead to the discovery of admissible evidence. For the reasons explained herein, disclosure of the information sought by these interrogatories should be denied. In addition, paragraph 4 of Giant Eagle's Motion attempts to summarize Laurel's Objection. The Objections are a written document, the terms of which speak for themselves. Any interpretation or characterization thereof is denied.

5. In addition, paragraph 5 of Giant Eagle's Motion attempts to summarize Laurel's Objection. The Objections are a written document, the terms of which speak for themselves. Any interpretation or characterization thereof is denied. Laurel notes, however, that Giant Eagle agreed in its Motion to Laurel's proposed limitation regarding Giant Eagle Set I, No. 15 to the time period of January 1, 2012 through the present.

6. Furthermore, paragraph 6 of Giant Eagle's Motion attempts to summarize Laurel's Objection. The Objections are a written document, the terms of which speak for themselves. Any interpretation or characterization thereof is denied.

II. ANSWER TO THE MOTION TO COMPEL

7. The Commission's regulations and precedent limit discovery to information that is relevant to the subject matter involved in the pending proceeding. Section 5.321(c) of the Commission's regulations states that:

A party may obtain discovery regarding any matter, not privileged, **which is relevant to the subject matter involved in the pending action**, whether it relates to a claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter.

52 Pa. Code § 5.321(c) (emphasis added). In addition, the information sought by discovery must be "reasonably calculated to lead to the discovery of admissible evidence." *Id.*

Giant Eagle cites *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Cmwlth. 2006), for the proposition that any doubts regarding the relevancy of subject matter should be resolved in favor of relevancy, and that the party contending discovery is not relevant has the burden of proving irrelevancy. Motion ¶ 5. Notably, Giant Eagle fails to disclose that the Commonwealth Court in *Koken* went on to hold that "if there is nothing in the record from which relevancy can be ascertained, this Court may place the burden of establishing relevancy upon the requesting party." *Koken*, 911 A.2d at 1025.

A. Giant Eagle Set I, Number 15

8. The information sought by Giant Eagle Set I, No. 15 is irrelevant to the issues in this proceeding. Giant Eagle's arguments to the contrary rely on self-selected statements that are entirely removed from the context of Laurel's Application. Moreover, Giant Eagle's arguments regarding the relevance of the information sought directly contradict Your Honor's prior Order regarding the scope of issues involved in this proceeding.

9. Contrary to Giant Eagle’s claims, Laurel’s statements regarding shipper interest in its Application were limited to interest in eastbound movements to Eldorado. As explained below, Giant Eagle’s cherry-picked excerpts from the Application fail to demonstrate that interest in movements to points east of Eldorado is relevant for purposes of discovery.

- a) With regard to the statement on page 2 of Laurel’s Application, Giant Eagle fails to recognize that the referenced statement does not reference shipper interest in movements to “points east of Eldorado.” As such, it is unrelated to the information sought by Giant Eagle Set I, Interrogatory No. 15, *i.e.* information regarding shipper interest related to points east of Eldorado.
- b) With regard to Paragraph 23 of Laurel’s Application, Giant Eagle omits reference to the open season hosted by Buckeye—which was expressly limited to eastbound transportation service to Eldorado and points west. *See* Application ¶ 23, n. 9; *see also* Buckeye Open Season Notice (Oct. 21, 2016) (“Once complete, the second phase of the Project will allow Buckeye to offer expanded transportation service...to a destination point *in the Altoona area of central Pennsylvania.*”) (emphasis added). Importantly, the cited open season notice was specifically referenced and thereby incorporated into Laurel’s Application. This notice alone is demonstrative that Shipper interest related to the proposal in Laurel’s Application was limited to movements to Eldorado and points west.
- c) Again, Giant Eagle cherry-picks a statement from Laurel’s Application, without any reference to context. At no point in Laurel’s Application does

Laurel submit that the shipper interest it received for purposes of the proposal in its Application, included interest in movements to points east of Eldorado.

- d) As previously explained, Laurel's Application addresses eastbound transportation to Eldorado and not further east. Any interest in moving products further east past Eldorado on Laurel is not relevant to the Application.

10. Similar to its claims regarding Laurel's Application, Giant Eagle misconstrues Laurel's direct testimony.

- a) The referenced statement in Mr. Hollis's testimony is consistent with Laurel's Application to reverse the flow of petroleum products to Eldorado and not past Eldorado.
- b) This statement is quoted without reference to the applicable question, which again makes explicitly clear that Mr. Hollis is testifying about general trends in the petroleum products transportation market and not specific indications of interest received by Laurel. The omitted question states "Please describe the current state of the petroleum products transportation market." Application, at p. 8, ln. 18. Mr. Hollis's statement follows this question. Giant Eagle's attempt to misconstrue Mr. Hollis's testimony by omitting key elements of its context should be denied.
- c) Again, Mr. Hollis's statements in his testimony speak to general trends experienced by Laurel leading up to the open season for eastbound movements to Eldorado and points west. While Mr. Hollis notes that

Laurel received expressions of shipper interest “to explore the feasibility of transporting lower-priced Midwestern petroleum products into and across Pennsylvania,” it is important to note that the open season hosted by Buckeye regarding eastbound flow to Eldorado and points west, *i.e.* the subject matter of Laurel’s proposal in its Application, did not seek expressions of shipper interest to points east of Eldorado.

- d) The referenced statement by Mr. Webb is also unrelated to shipper interest in movements of petroleum products to points east of Eldorado. Indeed, both sentences speak to general market trends regarding Midwestern refining capacity and the general interest of these entities in increasing supply into Pennsylvania. This statement does not refer to any indication(s) of interest by these entities to Laurel; it simply references movements that Midwestern refiners determined are “in their interest.” Application, at p. 18, lns. 16-19.

11. Contrary to Giant Eagle’s assertions, referenced Shippers committed to eastbound capacity to Eldorado and not further east. Giant Eagle confuses these Shippers’ committed interest with general indications of interest by Midwestern refiners that are responsive to long-developing trends in the petroleum products transportation market. Such general indications of interest bear no relationship to specific Shipper commitments for eastbound movements on Laurel’s system to Eldorado and points west, *i.e.* the subject matter of the Application.

12. The information sought by Giant Eagle Set I, No. 15 is outside the scope of this proceeding. Giant Eagle should not be permitted to engage in a fishing expedition for highly sensitive, irrelevant information.

13. The information sought by Giant Eagle is not relevant to testing the veracity of Laurel's allegations about shipper interest and, for the reasons explained above, Giant Eagle's assertions about Laurel's shippers lack context and are misleading. Regardless of whether shippers have approached Laurel in the past regarding interest in shipping petroleum "into and across" Pennsylvania or "to points east of Pittsburgh," the only expressions of shipper interest that are relevant to the consideration of Laurel's Application to reverse the direction of flows to Eldorado and points west, are the expressions of shipper interest regarding these affected points.

14. Indeed, the preferences of shippers who indicated that they were interested in eastbound movements of petroleum products to Eldorado and points west should be afforded significant weight, and those interests are directly relevant to Laurel's Application.

15. The Shippers who participated in a binding open season limited their interest in shipping petroleum products solely to Eldorado and points west. *See* Application ¶ 23, n. 9; *see also* Buckeye Open Season Notice (Oct. 21, 2016) ("Once complete, the second phase of the Project will allow Buckeye to offer expanded transportation service...to a destination point *in the Altoona area of central Pennsylvania.*") (emphasis added). Giant Eagle's claims to the contrary disregard the scope of Laurel's Application, the scope of Laurel's proposal to reverse a portion of its pipeline system, and the scope of committed Shippers' interest in movements over the affected portion of Laurel's system.

16. Laurel's proposed limitation on Set I, Interrogatory No. 15 adequately addresses the scope of this proceeding. In its Objections, Laurel proposed to limit Set I, Interrogatory No. 15 "to pertain to shipper interest in eastbound movements of Midwestern-sourced petroleum products to points east of Pittsburgh to Eldorado, Pennsylvania, and the time period January 1, 2012 through the present." Objections, at p. 4. Giant Eagle incorrectly claims that:

By definition, any expression of interest in shipping product to a destination point east of Eldorado (which Laurel says is irrelevant) *necessarily encompasses* an expression of interest to ship that product at least *to Eldorado* (which Laurel admits is relevant). For example, if a Midwest Shipper has indicated an interest in shipping Midwestern-sourced petroleum product into the Philadelphia market on the Laurel Pipeline, that—by definition—is *an indication of that shippers' interest in shipping petroleum products to Eldorado*.

Motion ¶ 16 (emphasis in original). This statement by Giant Eagle is untethered to the realities of the petroleum products transportation market, and inconsistent with Your Honor's prior ruling on previous discovery requests that sought information relative to points east of Eldorado.

17. Giant Eagle's arguments and email example arguments in this Motion continue to misconstrue the two issues raised by Laurel in its Application. Laurel's Application requests that the Commission: (1) determine that no approval is required to effectuate the proposed reversal; **or** (2) if the Commission determines that Laurel must receive its approval for the proposal, that the Commission find Laurel's proposed reversal, as described by the Application, to be in the public interest.

The first determination is a question of law involving, in part, what authority was granted to Laurel by the Commission in its Certificate of Public Convenience. Under this determination, the proper subject matter to determine relevance is the authority granted to Laurel in the Certificate of Public Convenience issued by the Commission and federal law. The issue of whether Laurel considered or any of its affiliates received expressions of interest in any shipments into and/or across Pennsylvania is entirely irrelevant to determining whether Commission approval is required to effectuate the proposed reversal.

The second determination involves an evaluation of facts to determine whether Laurel's proposal is in the public interest, if and only if the Commission determines that approval is

required. Under this determination, the proper subject matter to determine relevance is the proposal as stated in Laurel's Application, *i.e.* the reversal of the direction of flow to Eldorado and points west. Any information on expressions of shipper interest to points east of Eldorado, would necessarily fall outside the scope of issues to be considered in evaluating Laurel's proposal to reverse the direction of flows to Eldorado.

Importantly, Your Honor's March 8, 2017 Order Regarding Motions to Compel recognized these two issues are the relevant subject matter that define and limit the scope of discovery in this proceeding. *See* Order Regarding Motions to Compel, Docket Nos. A-2016-2575829; G-2017-2587567, at pp. 2-3 (Order Issued by ALJ Vero March 8, 2017). This Order denied both PESRM's and Gulf Operating, LLC's attempts to discover information about potential projects that were not proposed by Laurel in this proceeding. Therefore, any discovery that seeks information unrelated to these issues falls outside the scope of this proceeding.

For the reasons explained above, Giant Eagle's email example is a non-sequitur that fails to address either of the issues that define the scope of this proceeding, and should be disregarded.

18. Giant Eagle's contention that Laurel can argue relevance at the hearing should be disregarded. This is not the test for determining the scope of permissible discovery. The highly sensitive nature of the information sought by Giant Eagle Set I, Interrogatory No. 15 enhances the need to deny disclosure given the information's lack of relevance. Due to the lack of relevance, this question appears to be an attempt to gain access to highly sensitive commercial information that would provide certain market participants with an unfair competitive advantage over other market participants in the highly competitive petroleum products market and, in particular, over other shippers on Laurel's system. As such, requiring Laurel to argue the inadmissibility of the irrelevant information sought by Giant Eagle, Set I. No. 15 would be

insufficient to protect the commercial interests of both Laurel and its shippers. Therefore, Giant Eagle's Motion should be denied.

B. Giant Eagle Set I, Number 26

19. Laurel's Application pending before the Commission only involves transportation over Laurel's intrastate assets, and Laurel is the only entity that is subject to the jurisdiction of the Commission. Therefore, Giant Eagle's attempts to discover information about the costs of Buckeye's assets and facilities should be denied.

20. Giant Eagle's attempts to misconstrue Laurel's testimony regarding the Broadway II Project should be disregarded. The referenced testimony by David W. Arnold merely refers to the actions by Buckeye, a non-PUC jurisdictional interstate petroleum products pipeline, to increase the capacity of Buckeye's interstate pipeline system. More importantly, the cost of the expansion of Buckeye facilities to be used in interstate commerce, and the specific engineering and technical details of those new/expanded facilities, have no bearing on the issues in this proceeding, for the reasons discussed below.

21. Mr. Webb's testimony provides context for the Laurel Application. As explained above, Buckeye is not a PUC-jurisdictional entity and, as with regard to Mr. Arnold's testimony, the cost and nature of those facilities has no bearing on Mr. Webb's conclusions, or to the issues in this proceeding.

22. Giant Eagle should not be permitted to use Laurel's Application proceeding before this Commission to discover information related to the costs of a project and assets that are not subject to the Commission's jurisdiction, and are not relevant in the context of FERC's regulation of Buckeye.

23. Regardless of any relevance that the first phase of the broader project's construction or timing may have to the Commission's consideration of Laurel's proposal, the costs associated with Buckeye's interstate facilities and any work performed on those facilities is irrelevant to Laurel's proposal. Cost information for these FERC-jurisdictional assets and related work are irrelevant because (a) Buckeye's rates to the Pittsburgh market as a general matter are market-based, and are not set or evaluated by FERC on a cost-of-service basis; and (b) the contractual committed rates, set through Buckeye's open season, for the use of these assets will not be subject to cost-of-service regulation.¹ The contract shippers will be paying rates based on the contract rates, and those contract charges should be the relevant "costs" in assessing the project, not the accounting costs incurred by Buckeye, which will not affect the contract rates. In addition, Laurel already intends to provide information related to Buckeye's open season as well as the contractually committed rates in response to other interrogatories, once an appropriate Protective Order is in place. As such, any information related to the costs associated with Buckeye's facilities and work conducted as a part of the first phase broader project has no bearing on the evaluation of the benefits to the public that will result from the Application.

24. Finally, Giant Eagle continues to argue that Buckeye's broader interstate project is subject to the jurisdiction of the Commission and is relevant to the Commission's consideration of an intrastate pipeline's Application. Regardless of whether Laurel discussed the work that Buckeye will complete on its interstate petroleum products pipeline facilities and assets to explain the context of its proposal, Giant Eagle cannot claim that the Commission must

¹ The Federal Energy Regulatory Commission has recently reaffirmed its policy permitting interstate oil pipelines to set contractual committed rates through an open season process, and that such rates need not be based on the cost of service. *See Seaway Crude Pipeline Company LLC*, Docket No. IS-12-226-002, 154 FERC ¶ 61,070 (Feb. 1, 2016).

evaluate the costs associated with interstate assets over which it has no jurisdiction as a part of this proceeding.

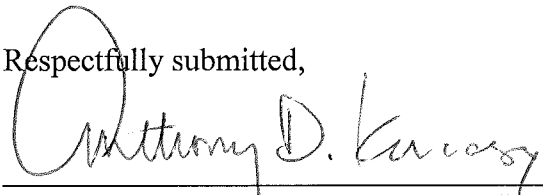
III. CONCLUSION

WHEREFORE, Laurel Pipe Line Company, L.P. respectfully requests that Administrative Law Judge Eranda Vero grant Laurel Pipe Line Company, L.P.'s objection and enter an appropriate order directing the following:

(I) Giant Eagle Set I, Interrogatory Nos. 15 and 26 are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and therefore Laurel Pipe Line Company, L.P. is not required to respond to these questions; and

(II) Giant Eagle's Motion to Compel is denied.

Respectfully submitted,



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Date: March 28, 2017

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