

Date of Hearing: April 14, 2026

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 2218 (Kalra) – As Introduced February 19, 2026

SUBJECT: Water policy: California Native American tribes

SUMMARY: Declares it is statewide policy to acknowledge and correct the wrongs inflicted upon California Native American tribes and directs all relevant state agencies to take steps to implement this policy. Specifically, **this bill**:

- 1) Declares it is the policy of the state to acknowledge and correct the inequities caused by state-sanctioned acts of termination, removal, and assimilation inflicted upon all California Native American tribes through compensation, legal recognition of rights, or replacement of benefits lost.
- 2) Requires all relevant state agencies, including the Department of Water Resources (DWR) and the State Water Resources Control Board (State Water Board), to consider and incorporate the policy articulated in #1, above, when revising, adopting, or establishing rights, policies, regulations, permits, or grant criteria to address identified inequities.

EXISTING LAW:

- 1) Establishes the State Water Board (Water Code § 175 *et seq.*) to administer water rights, develop, adopt, and enforce water quality standards (Water Code § 13000, *et seq.*), implement safe drinking water solutions (Health and Safety Code § 116765 *et seq.*), and enforce water efficiency standards (Water Code §§ 10608 *et seq.* and 10609 *et seq.*), among other responsibilities.
- 2) Establishes DWR (Water Code § 120) and grants it broad authority over, and responsibilities in, California water management, including dams (Water Code § 6000 *et seq.*), flood control projects (Water Code § 8300 *et seq.*), the State Water Project (Water Code § 11419 *et seq.*), sustainable groundwater management (Water Code § 10720 *et seq.*), and the California Water Plan (Water Code § 10004 *et seq.*).
- 3) Requires the State Water Board and Regional Water Quality Control Boards (Regional Water Boards) to begin outreach as early as possible to identify issues of environmental justice in planning, policy, and permitting processes. Further, requires the State Water Board, subject to appropriations, to hire environmental justice and tribal community coordinator positions to adhere to environmental justice goals and objectives, promote meaningful engagement in the decision-making process, inform regulations that address water quality issues that disproportionately impact disadvantaged communities, and solicit community input on projects to be listed on the Regional Water Boards supplemental environmental project list (Water Code § 189.7).
- 4) Declares that it is state policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes and directs all relevant state agencies to consider this policy when administering programs (Water Code § 106.3).

- 5) Protects the existing rights of California Native American tribes within the Klamath River Basin as of the adoption of the Klamath River Basin Compact in 1959 (Water Code § 5901).
- 6) Requires DWR to establish an advisory committee consisting of representatives of various sectors, including tribes, to inform updates to the California Water Plan (Water Code § 10004).
- 7) Authorizes an Indian tribe to voluntarily and fully participate in implementation of the Sustainable Groundwater Management Act of 2014 (SGMA) (Water Code § 10720.3).
- 8) Requires the State Water Board and Regional Water Boards to make concise, programmatic findings on potential environmental justice, tribal, and racial equity considerations when adopting or amending water quality control plans or state policies for water quality control (Water Code § 13149.2).
- 9) Requires the State Water Board to consult with various state agencies and California Native American tribes in establishing a Freshwater and Estuarine Harmful Algal Bloom Program to protect water quality and public health (Water Code § 13182).
- 10) Requires DWR to adopt guidelines for Integrated Regional Watershed Management (IRWM) plans that, among other things, require that the IRWM planning and implementation process be public and allow appropriate local agencies and stakeholders, including Native American tribes that have lands within the region, to participate (Water Code § 10541).
- 11) Encourages state agencies to consult on a government-to-government basis with federally recognized tribes, and to consult with non-federally recognized tribes and tribal organizations, in order to allow tribal officials the opportunity to provide meaningful and timely input in the development of policies, processes, programs, and projects that have tribal implications (Government Code § 11019.81).
- 12) Defines “consultation” as the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance (Government Code § 65352.4).
- 13) Requires a California Environmental Quality Act (CEQA) lead agency, prior to the release of a negative declaration, a mitigated negative declaration, or an environmental impact report for a project, to consult with California Native American Tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if the tribe requested notification and requested consultation for the project. CEQA must evaluate effects of the project on tribal cultural resources, historic resources, and unique archaeological resources as environmental impacts (Public Resources Code §§ 21073–21074 and 21080.31 *et seq.*).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** The author argues that this bill will provide the statutory authority and framework for state agencies to address centuries of state-sanctioned injustice inflicted upon California Native American tribes:

California Native American Tribes have lived on this land since time immemorial, developing a deep and comprehensive understanding of its ecological systems. This includes its watersheds, around which indigenous communities have cultivated highly diverse cultural and culinary practices. Unfortunately, colonization, historic land seizures, and other state-sanctioned actions have deprived Tribes of the water resources and management practices that support their communities. While many state agencies, including [DWR], have made efforts to rectify these inequities, their work remains vulnerable to legal challenges. [This bill] addresses this issue by establishing a state policy of recognizing and correcting water-related inequities perpetrated against the Indigenous People of California, giving the state the statutory backing it needs to respectfully and effectively address generations of injustice.

- 2) **Background.** California is home to the largest Native American population in the country and has 110 federally recognized tribes¹ with another 81 groups seeking federal recognition.² According to 2020 U.S. Census data, 631,016 Californians identify as “American Indian” or “Alaska Native”; when including the Californians that identify as “American Indian” or “Alaska Native” in combination with another race or ethnicity, the number of Native Americans in California increases to 1.4 million residents.³

Very few Native Americans live on their ancestral lands in California today. This is due to the repeated efforts of Spanish, Mexican, Russian, and U.S. governments to subdue and displace Indigenous peoples: “All four colonial nations sponsored policies that uprooted Indigenous People and communities from the lands in which they were created, and all four deployed violence, in the form of slavery, genocide, and an administrative state bent on eliminating California Indian people.”⁴

The federal government sent three commissioners to California to negotiate treaties with California tribes in 1851. These commissioners negotiated 18 treaties with 139 tribes that would have set aside approximately 7.5 million acres for Indian use and granted other rights to Native Californians; however, when President Fillmore submitted the treaties to the U.S. Senate for ratification in February 1852, senators from California objected and the U.S. Senate rejected the treaties during a secret session. The U.S. Senate then placed the treaties in its archive, concealing the existence of these treaties from the public for more than 50 years.⁵

¹ U.S. Department of Health and Human Services, Indian Health Service. (2022, Jan 28). List of Federally-Recognized Tribes in CA. <https://www.ihs.gov/california/index.cfm/tribal-consultation/resources-for-tribal-leaders/list-of-federally-recognized-tribes-in-ca/>.

² Center for Families, Children & the Courts. (2012, Jan). Frequently Asked Questions: Indian Tribes and Tribal Communities in California. <https://www.courts.ca.gov/documents/TribalFAQs.pdf>.

³ U.S. Census Bureau. (2020, Aug 12). Race and Ethnicity in the United States: 2010 Census and 2020 Census. <https://www.census.gov/library/visualizations/interactive/race-and-ethnicity-in-the-united-state-2010-and-2020-census.html>.

⁴ Akins, D. and Bauer, Jr., W. (2021). *We Are the Land: A History of Native California*. Oakland: University of California Press, p. 3.

⁵ U.S. National Park Service. (2004, Nov 17). A History of Native American Indians in California 1849-1879. https://www.nps.gov/parkhistory/online_books/5views/5views1c.htm.

In 1903, the federal government sent another Indian agent to California to settle Indians on reserved lands. By that time, however, many tribes no longer lived on their ancestral lands, so small plots of land were established for Indian families. California Native American tribes lost access to land, water, cultural resources, and more as a result of this tragic history.

Lands legally controlled by tribes in California today result from presidential executive order, federal statute, or action by tribes and tribal members themselves to purchase land. Water rights were not often appropriately accounted for in the protection of tribal lands.

Water is essential for all life and, like other groups across the globe, “quite often, Indigenous People chose to live on or near bodies of water.”⁶ In addition, many tribes strongly believe that water is an interconnected element that flows through all spaces in tribal communities. This stems from their own Indigenous Knowledge Systems; these systems are tribes’ own skills, perceptions, ideologies, and experiences. Additionally, some tribal communities’ creation stories include water, some of which share that water sources like springs and underground waterways are pathways that connect their ancestors from the past to the present.⁷

Executive Order (EO) N-15-19. Issued by Governor Newsom on June 19, 2019, EO N-15-19 is a formal recognition of California’s exploitation of, violence towards, and destruction of tribal communities and a formal apology on behalf of the State of California. The EO:

- Recognizes that the state historically sanctioned over a century of depredations and prejudicial policies against California Native Americans;
- Commends and honors California Native Americans for persisting, carrying on cultural and linguistic traditions, and stewarding and protecting this land we now share; and
- Apologizes on behalf of the citizens of the State of California to California Native Americans for the many instances of violence, maltreatment, and neglect California inflicted on tribes.

The EO also called for the establishment of a Truth and Healing Council to bear witness to and record the historical relationship between the state and California Native Americans.

EO B-10-11. Issued by Governor Brown on September 19, 2011, this EO recognizes and reaffirms the inherent right of Native American Tribes to exercise sovereign authority over their members and territories, establishes the Governor’s Tribal Advisor position within the Governor’s Office, reaffirms the state’s commitment to working with Tribes, and encourages all state agencies, departments, and boards to communicate and consult with California Native American Tribes and provide an opportunity for meaningful input into the development of legislation, regulations, rules, and policies on matters that may impact tribal communities.

⁶Akins, D. and Bauer, Jr., W. (2021). *We Are the Land: A History of Native California*. Oakland: University of California Press, p. 16.

⁷Larned, S. M. (2018) Water is Life: The Native American Tribal Role in Protecting Natural Resources. *Environmental and Earth Law Journal*, Vol. 8, 57-58.

State Water Board Resolution 2021-0050 Condemning Racism, Xenophobia, Bigotry, and Racial Injustice and Strengthening Commitment to Racial Equity, Diversity, Inclusion, Access, and Anti-Racism (Racial Equity Resolution). During its August 18, 2020 meeting, the State Water Board publicly acknowledged that the historical effects of institutional racism must be confronted throughout government, and it directed staff to develop a priority plan of action. The Water Board’s Racial Equity Team held public and employee listening sessions to help develop a draft resolution. After a public comment period on the draft resolution in spring 2021, the Racial Equity Team made significant updates to the resolution. On November 16, 2021, the State Water Board formally adopted the Racial Equity Resolution, which affirms commitment to racial equity and directs staff to undertake a variety of actions to achieve racial equity throughout all State Water Board programs and activities.

The Racial Equity Resolution, among other findings and provisions, acknowledges and “condemns acts of racism, xenophobia, bigotry, white supremacy, and institutional and systemic racism; adopts racial equity, diversity, and inclusion as core values; and acknowledges the role of government agencies—including the Water Boards—in redressing racial inequities and dismantling institutional and systemic racism.” In addition, it “reaffirms [the State Water Board’s] commitment to improving communication, working relationships, and co-management practices with all California Native American Tribes, including seeking input and consultation on the Water Boards’ rules, regulations, policies, and programs to advance decisions and policies that better protect California’s water resources. The State Water Board recognizes [its] parallel relationship to the people [it] serves and values tribes’ traditional ecological knowledge and historic experience with managing California’s water resources since time immemorial.”

Kings County Farm Bureau v. State Water Resources Control Board. The author has pointed to a lower court decision in the Kings County case as part of the impetus for this bill. The Kings County Farm Bureau filed this action in May 2024; the action contained nine causes of action against the State Water Board relating to its role in implementing SGMA. The State Water Board had designated the Tulare groundwater subbasin as probationary in April 2024 and began taking steps to impose groundwater well monitoring requirements and fees on groundwater pumpers in the Tulare subbasin. Fundamentally, the Kings County Farm Bureau argued that the State Water Board had exceeded its authority and harmed groundwater pumpers with its actions. The lower court agreed with the Kings County Farm Bureau that the State Water Board had exceeded its authority and made other errors. As a result, the lower court issued a preliminary injunction against the State Water Board in September 2024.

In its ruling on the preliminary injunction, the lower court cited the Racial Equity Resolution as an example of regulatory overreach by the State Water Board to bolster its decision (the fourth cause of action in the original petition does cite the application of the Racial Equity Resolution to SGMA as an unlawful expansion of State Water Board authority). The Fifth District Court of Appeal overturned the preliminary injunction in October 2025 and remanded the case back to the lower court for further review (F088720); the opinion did not cite the Racial Equity Resolution, instead laying out the authority granted to the State Water Board under SGMA and discussing potential harm to plaintiffs, among other legal issues.

State Water Board tribal consultation policy (June 2019). The tribal consultation policy

affirms the State Water Board's and Regional Water Boards' continued commitment to strengthening and sustaining government-to-government relationships with both federally and non-federally recognized California Native American Tribes. The intent of this policy is to guide State Water Board and Regional Water Board staff to engage with California Native American Tribes through timely and meaningful consultation and collaboration on actions that may have an impact to tribal lands, tribal interests and/or tribal cultural resources consistent with the mission of the State Water Board and Regional Water Boards. The policy establishes statewide general guidelines for tribal consultations across the Water Boards. The State Water Board tribal consultation policy builds upon EO B-10-11 and is similar to CalEPA's 2015 policy on "Consultation with California Native American Tribes" (updated in 2020). Among other provisions, the State Water Board's tribal consultation policy adopts the definition in Government Code § 65352.4 (see Existing Law #13).

- 3) **Arguments in support.** The Shingle Springs Band of Miwok Indians is a co-sponsor of this bill and writes that it "acknowledges the historic injustices experienced by California Native American Tribes and seeks to center Tribal equity within California's water policy framework." Shingle Springs notes that "the development of California's water rights system occurred alongside the dispossession of Indigenous peoples from our ancestral lands and waterways, resulting in profound cultural, ecological, and public health consequences that continue today." Shingle Springs argues that this bill "represents an important step toward addressing this legacy of injustice" and "advances a forward-looking vision rooted in fairness, accountability, and collaboration."

The Karuk Tribe is the other co-sponsor of this bill and argues that this bill "provides a legal basis and framework for identifying inequities and taking corrective action within existing authorities." The Karuk Tribe maintains that such a legal framework for correcting past harms is necessary given that "California's water rights system, based on the 'first in time, first in right' principle [that] has historically overlooked the true first inhabitants of this land and original water users, California Native Americans. This complete oversight, coupled with state-sponsored actions that removed Native Americans from their lands and their waters has systematically excluded Tribal Nations from crucial decision-making processes concerning our state's waterways."

- 4) **Arguments in opposition.** The California Municipal Utilities Association (CMUA) opposes this bill and contends that it has an expansive scope that creates uncertainty in implementation. CMUA argues that many terms and phrases in this bill need to be defined in order to create more certainty regarding the bill's impact: "terms such as 'inequities,' 'compensation,' 'replacement of benefits lost,' and 'legal recognition of rights' are not defined. Paired with the requirement to 'consider and incorporate,' these terms are incredibly problematic." Finally, CMUA maintains that this bill has implications far beyond just water policy:

Although this bill proposes text to the Water Code, the scope of its application may reach far beyond "water-related" decisions. The inclusion of "relevant agencies" may suggest that this policy is to be considered by many agencies beyond those that work within the Water Code, for example, the Department of Fish and Wildlife, the Public Utilities Commission, the Department of Education, the Department of Corrections and Rehabilitation, the Department of State Hospitals, etc. Should this policy be considered

by all government agencies? As written, this policy may be as far-reaching as to impact housing, healthcare, or government decisions.

- 5) **Oppose unless amended.** The Association of California Water Agencies (ACWA) has taken an “oppose unless amended” position on this bill, arguing that it is vague, expansive, ambiguous, and lacks legal guardrails. ACWA states “it is unclear how exactly an agency would be expected to implement this policy. Without clear standards, guardrails, or limits, this bill could expose state agencies and permit applicants to an increase in litigation, project delay, and financial challenges.” ACWA seeks amendments that:

...replace the current remedial framework — compensation, legal recognition of rights, and replacement of benefits lost — with language that reflects the State Water Board's [Racial Equity] Resolution, including improved consultation, meaningful government-to-government engagement, and access to safe, clean drinking water. We further request the addition of definitional provisions that identify which agencies are subject to the mandate, the process that agencies must follow to identify inequities, and an explicit savings clause confirming that nothing in the bill modifies, impairs, or supersedes any existing water right, permit, or license issued under the Water Code. Finally, we request the inclusion of language explicitly stating that nothing in this bill would create new causes of action or incur additional responsibility [for] legal users of water or any public water system.

- 6) **Proposed Committee amendments.** To reduce the broad scope of this bill and avoid unintended consequences that may be disruptive to state water management, the Committee may wish to request that the author make the following amendments to this bill:

Amendment 1

Section 187 is added to the Government Code, to read:

187(a). The legislature recognizes that the State historically sanctioned over a century of depredations and prejudicial policies against California Native Americans, including removal from ancestral land. The legislature apologizes on behalf of the citizens of the State to all California Native Americans for the violence, mistreatment, and neglect inflicted upon them.

(b) The legislature declares that the state government will support California Native Americans to maintain cultural and linguistic traditions, practice ecosystem stewardship, and engage in good faith government-to-government consultations with all California Native American tribes regarding policies that may affect tribal communities.

Amendment 2

Section 106.2 is added to the Water Code, to read:

106.2. (a) It is hereby declared to be the established policy of the state to ~~acknowledge~~ **recognize** and ~~correct~~ **address** the inequities **regarding access to, and control over, water** caused by state-sanctioned acts of termination, removal, and assimilation inflicted upon all California Native American tribes through ~~compensation~~ **financial assistance, legal**

~~recognition of rights protection of tribal water uses, consultation on water projects, plans, and policies, and incorporation of indigenous knowledge to restore and protect ecosystems or replacement of benefits lost.~~

(b) ~~The following state agencies~~ ~~All relevant state agencies, including the department and the state board,~~ shall ~~consider and incorporate~~ **implement** this policy when revising, adopting, or establishing ~~rights~~, policies, regulations, permits, or grant criteria to address identified inequities: ***The State Water Resources Control Board, Regional Water Quality Control Boards, the Natural Resources Agency and all its departments, conservancies, boards, commissions, and councils, the Delta Stewardship Council, and the Office of Land Use and Climate Innovation.***

(c) *The state agencies listed in subsection (b) shall identify and offer financial assistance to California Native American tribes consistent with existing legal and policy requirements for financial assistance programs.*

Amendment 3

Section 1051 of the Water Code is amended to, read:

1051. (a) The board for the purpose of this division may:

(1) Investigate all streams, stream systems, portions of stream systems, lakes, or other bodies of water.

(2) Take testimony in regard to the rights to water or the use of water thereon or therein.

(3) Investigate and ascertain whether or not water heretofore filed upon or any claimed riparian or appropriative right is valid under the laws of this state.

(b) ~~(4)~~ In furtherance of an investigation authorized pursuant to this section, the board:

(1) ~~May~~**may** issue an information order, as executed by the executive director of the board.

(2) ***Upon request, shall consult with a California Native American tribe whose ancestral territory includes the waterbody or waterbodies at issue for the claimed riparian or appropriative right.***

....

*If the above amendments are accepted by the author, the amendments will be taken upon passage in the Assembly Environmental Safety and Toxic Materials Committee due to time and procedural constraints.

7) **Dual referral.** This bill has also been referred to the Assembly Environmental Safety and Toxic Materials Committee.

8) **Related legislation.** AB 1881 (Ramos) of the current legislative session exempts information regarding tribal sacred and cultural sites and practices from disclosure under the

California Public Records Act, prohibits a governmental agency from substantially burdening a California Indian or California Native American tribe in the exercise of religious beliefs or spiritual practices, and requires governmental agencies to meaningfully engage with any affected tribe before taking any action that may impact a tribal sacred site or cultural landscape. AB 1881 is set for hearing on April 14, 2026 in the Assembly Judiciary Committee.

AB 2115 (Ramos) of the current legislative session requires the State of California, and the Legislature in particular, to recognize and accept responsibility for harms caused to California Native Americans and to issue and memorialize a formal apology. AB 2115 is pending in the Assembly Appropriations Committee.

AB 362 (Ramos) of 2025 would have required the State Water Board and the Regional Water Boards, when approving a project or regulatory program, to describe how that project or regulatory program would impact tribal water uses and to incorporate tribal uses of water into water quality control plans. AB 362 died on the Assembly Floor.

AB 2108 (Robert Rivas), Chapter 347, Statutes of 2022, requires the State Water Board and Regional Water Boards to make programmatic findings on potential environmental justice, tribal impact, and racial equity considerations when issuing regional or reissuing statewide waste discharge requirements or waivers of waste discharge requirements. Requires the State Water Board and Regional Water Boards to engage communities impacted by proposed discharges of waste throughout the waste discharge planning, policy, and permitting process.

AB 1284 (Ramos), Chapter 657, Statutes of 2024, establishes the Tribal Cogovernance and Comanagement of Ancestral Lands and Waters Act to encourage the state to enter into cogovernance and comanagement agreements with federally recognized tribes.

AB 2614 (Ramos) of 2024 was substantially similar to AB 362 (Ramos) of 2025. AB 2614 was held in the Assembly Appropriations Committee.

AB 685 (Eng), Chapter 524, Statutes of 2012, enacts the Human Right to Water state policy.

AB 52 (Gatto), Chapter 532, Statutes of 2014, establishes a process for a California Native American tribe to engage and consult during CEQA review to avoid significant effects on tribal cultural resources.

REGISTERED SUPPORT / OPPOSITION:

Support

Karuk Tribe (co-sponsor)
Shingle Springs Band of Miwok Indians (co-sponsor)
American River Conservancy
American Whitewater
Audobon California
Azul
CactusToCloud Institute
California Coastkeeper Alliance

California Environmental Voters
California Institute for Biodiversity
California Native Plant Society, Alta Peak Chapter
California Rural Indian Health Board, Inc.
California Sportfishing Protection Alliance
California Tribal Business Alliance
California Trout
Center for Environmental Health
Center on Race, Poverty & the Environment
Clean Water Action
Cleaneearth4kids.org
Coalition of California State Tribes
Community Alliance With Family Farmers
Consejo De Federaciones Mexicanas
Defenders of Wildlife
Endangered Habitats League
Environmental Defense Fund
Environmental Law Foundation
Environmental Protection Information Center
Fix the World Consulting, LLC
Friends of Harbors, Beaches and Parks
Friends of Plumas Wilderness
Friends of the Eel River
Friends of the Inyo
Friends of the River
GreenLatinos
Humboldt Progressive Democrats
Humboldt Waterkeeper
Inland Empire Waterkeeper
Klamath Indigenous Land Trust
Latino Outdoors
Los Angeles Neighborhood Land Trust
Los Angeles Waterkeeper
Mid Klamath Watershed Council
Mono Lake Committee
Monterey Waterkeeper
Mount Shasta Bioregional Ecology Center
Mountain Area Preservation
Natural Resources Defense Council
Northern California Tribal Chairperson's Association
Nurture Nature
Orange County Coastkeeper
Outward Bound Adventures
Pesticide Action and Agroecology Network
Planning and Conservation League
Resource Renewal Institute
Restore the Delta
Ridges to Riffles Indigenous Conservation Group
RKNDL Forestry Consultation

Russian Riverkeeper
Salmon River Restoration Council
San Diego Coastkeeper
San Francisco Baykeeper
Santa Barbara Channelkeeper
Save California Salmon
Save the Bay
Sequoia Riverlands Trust
Shasta Waterkeeper
Sierra Club California
Sierra Nevada Alliance
South Yuba River Citizens League
Sustainable Tahoe
The Otter Project
Trout Unlimited
Trust for Public Land, The
Union of Concerned Scientists
Water Climate Trust
Watershed Research & Training Center
Wholly H2O
Wildlands Network
Winnemem Wintu Tribe
Yuba River Waterkeeper

Oppose Unless Amended

Association of California Water Agencies
California Chamber of Commerce
California State Association of Counties
League of California Cities

Opposition

California Building Industry Association
California Farm Bureau
California Municipal Utilities Association
Rural County Representatives of California
Valley Ag Water Coalition

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