



**Oregon Water Resources Department**  
 725 Summer Street NE, Suite A  
 Salem Oregon 97301  
 (503) 986-0900  
 www.wrd.state.or.us

# Application for a Permit to Store Water in a Reservoir

(Alternate Review)

Alternate Review Process (ORS 537.409): You may use this form for any reservoir storing less than 9.2 acre-feet or with a dam less than 10 feet high.

**Use a separate form for each reservoir**

*Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply, insert "n/a". A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).*

### 1. APPLICANT INFORMATION

Applicant: Ben McCune  
First Last

Mailing Address: 20454 S. Geiger Rd.

Oregon City OR 97045  
City State Zip

Phone: 503-327-4736  
Home Work Other

Fax: \_\_\_\_\_ E-Mail Address\*: benamccune@gmail.com

\* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

### 2. AGENT INFORMATION

**The agent is authorized to represent the applicant in all matters relating to this application.**

Agent: \_\_\_\_\_  
First Last

Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Phone: \_\_\_\_\_  
Home Work Other

Fax: \_\_\_\_\_ E-Mail Address\*: \_\_\_\_\_

\* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

### 3. LOCATION AND SOURCE

A. Reservoir Name: SAPU'S SINKHOLE

B. Source: Provide the name of the water body or other source from which water will be diverted, and the name of the stream or lake it flows into. Indicate if source is run-off, seepage, or an unnamed stream or spring.  
 Source: Runoff Tributary to: Beaver Creek

C. County in which diversion occurs: Clackamas

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App. No. <u>R-88236</u>	For Department Use Permit No. _____	Date <u>MAY 31 2016</u>
		WATER RESOURCES DEPT SALEM, OREGON

**D. Reservoir Location**

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
3S	2E	18	NW-SW	1900

**E. Dam:** Maximum height of dam: 15 feet. If excavated, write "zero feet".

**F. Quantity:** Amount of water to be stored in the reservoir at maximum capacity. List volume in acre-feet: 6

Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars)  Yes  No

**4. WATER USE**

Indicate the proposed use(s) of the stored water. **NOTE: You may wish to consider filing for "Multipurpose use" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses including: stockwater, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.** If any use will be out of reservoir use, regardless of the type of storage listed, a secondary application must be filed to appropriate the stored water.

Multipurpose

**5. PROPERTY OWNERSHIP**

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Please provide a copy of the recorded deed(s).

Do you own all the land where you propose to divert, transport, and use water?

**Yes** (please check appropriate box below then skip to section 5)

There are no encumbrances

This land is encumbered by easements, right of way, roads of way, roads or other encumbrances

**No** (Please check the appropriate box below)

I have a recorded easement or written authorization permitting access.

I do not currently have written authorization or easement permitting access.

Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040). (Do not check this box if you described your use as "Multipurpose" in #3 above.)

List the names and mailing addresses of all affected landowners:

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**6. ENVIRONMENTAL IMPACT**

- A. **Channel:** Is the reservoir:  in-stream or  off channel?
  - B. **Wetland:** Is the project in a wetland?  Yes  No  Don't know
  - C. **Existing:** Is this an existing reservoir?  Yes  No  
If yes, how long has it been in place? \_\_\_\_\_ years.
  - D. **Fish Habitat:** Is there fish habitat upstream of the proposed structure?  Yes  No  Don't know  
If yes, how much? \_\_\_\_\_ miles.
  - E. **Partnerships:** Have you been working with other agencies?  Yes  No
- Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project.

**7. WITHIN A DISTRICT**

Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

Irrigation District Name	Address	
City	State	Zip

**8. DESCRIPTION**

Provide a description of the design and operation of the proposed diversion, including a description of how live flow will be passed outside the authorized storage season. Use this space for narrative. You may also provide narrative and sketches on separate pages.

8" gate valve will be installed in addition to overflow channel.

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# Land Use Information Form



Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900  
www.wrd.state.or.us

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

**This form is NOT required if:**

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and **all** of the following apply:
  - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
  - b) The application involves a change in place of use only;
  - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; **and**
  - d) The application involves irrigation water uses only.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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# Land Use Information Form



**Oregon Water Resources Department**  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

Applicant: Ben First McCune Last

Mailing Address: 20454 S. Geiger Rd.

Oregon City OR 97045 Daytime Phone: 503-327-4736  
City State Zip

## A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
3S	2E	18	NW-SW	1900		<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Storage
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Clackamas

## B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water  
  Water Right Transfer  
  Permit Amendment or Ground Water Registration Modification  
 Limited Water Use License  
  Allocation of Conserved Water  
  Exchange of Water

Source of water:  Reservoir/Pond    Ground Water    Surface Water (name) Runoff, tributary to Beaver Creek

Estimated quantity of water needed: 6.0    cubic feet per second    gallons per minute    acre-feet

Intended use of water:  Irrigation    Commercial    Industrial    Domestic for \_\_\_\_\_ household(s)  
 Municipal    Quasi-Municipal    Instream    Other \_\_\_\_\_

Briefly describe:

Runoff will be stored in a reservoir and used for irrigation of crops.

**Note to applicant:** If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

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See bottom of Page 3. →

# For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): Sec. 401, Clarkamas Co. Zoning and Development Ord.
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
<i>N/A</i>		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

use allowed outright in EFC

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Name: Rock McIntire Title: Sr. Planner WATER RESOURCES DEPT SALEM, OREGON

Signature: *Rock McIntire* Phone: 503-742-4516 Date: 5/27/16

Government Entity: Clarkamas Co. Planning & Zoning Div.

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

**Receipt for Request for Land Use Information**

Applicant name: \_\_\_\_\_

City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_

Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

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# WATERMASTER ALTERNATE RESERVOIR APPLICATION REVIEW SHEET

Recommendations for Water Right Applications under the Alternate Reservoir review process (ORS 537.409)

In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes the criteria used to evaluate alternate reservoir applications.

The review shall be limited to issues pertaining to: a) water availability, b) potential detrimental impact to existing fishery resources; and c) potential injury to existing water rights. (ORS 537.409 (6))

Within 60 days after the department provides public notice...any person may submit detailed, legally obtained information in writing, requesting the department to deny the application for a permit on the basis that the reservoir: (a) Would result in injury to an existing water right; or (b) Would pose a significant detrimental impact to existing fishery resources. (ORS 537.409 (5))

**The review of alternate reservoirs is limited to these criteria only.**

Application #: R-      Applicant's Name: *Ben M<sup>c</sup> Cune*

1) Does the proposed reservoir have the potential to injure existing water rights?       NO       YES

Explain: *Water is not available year-round for the proposed use.*

2) Can conditions be applied to mitigate the potential injury to existing water rights?       NO       YES

If YES, which conditions are recommended: *Limit the storage season to November 1 through June 30 annually.*

3) Did you meet with staff from another agency to discuss this application?       NO       YES

Who:      Agency:      Date:

Who:      Agency:      Date:

Watermaster signature: *Amy J Kim*      Date: *4/6/2016*

WRD Contact:      Caseworker:      *Water Rights Division, 503-986-0900 / Fax 503-986-0901*

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SALEM, OREGON

**NOTE: This completed form must be returned to the applicant**

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# ODFW Alternate Reservoir Application Review Sheet

**This portion to be completed by the applicant.**

Applicant Name/Address/Phone/Email: Ben McCune 20454 S. Geiger Rd. Oregon City, OR 97045

503-327-4736 benamccune@gmail.com

Reservoir Name: \_\_\_\_\_ Source: Runoff \_\_\_\_\_ Volume (AF): 6.0

Twp Rng Sec QQ: 3S/2E-18 \_\_\_\_\_ Basin Name: Beaver Creek  in-channel  
 off-channel

Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.

**This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) District staff.**

1) Is the proposed project and AO<sup>1</sup> off channel? .....  YES  NO  
(if yes then proceed to #4; if no then proceed to #2)

2) Is the proposed project or AO located where NMF<sup>2</sup> are or were historically present?.....  YES  NO  
(if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

a. Is there an ODFW-approved fish-passage plan?.....  YES  NO

b. Is there an ODFW-approved fish-passage waiver or exemption?.....  YES  NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream?.....  YES  NO  
*Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)*

Any diversion or appropriation of water for storage during the period \_\_\_\_\_ through \_\_\_\_\_ poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.

This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

Mr. McCune is diverting his rainwater into a pond.

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<sup>1</sup> AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

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<sup>2</sup> NMF = Native Migratory Fish Species in Oregon as defined by OAR 635 - 412 - 0005 (32)

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If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?  
 NO (explain)       YES (select from Menu of Conditions on next page)

ODFW Signature: Ben Walczak      Print Name: Ben Walczak  
ODFW Title: Asst. Dist. Fish Biologist      Date: 04/25/16

**NOTE: This completed form must be returned to the applicant.**

**EXHIBIT A**

**LEGAL DESCRIPTION:** Real property in the County of Clackamas, State of Oregon, described as follows:

**Part of the Benjamin R. Mails Donation Land Claim #50 in Section 18 Township 3 South, Range 2 East of the Willamette Meridian described as:**

**Beginning at a point in the West boundary of Section 18, Township 3 South, Range 2 East of the Willamette Meridian. 9.90 chains North of the Southwest corner of Section 18 aforesaid; (a witness post stands 20 links south of the corner which is in the middle of Beaver Creek, from which an alder 10 inches in diameter bears South 45° 00' West 7.00 chains); thence North on the West line of Section 18, 2250.00 feet more or less to the Northwest corner of the Benjamin R. Mails Donation Land Claim, thence East along the North line of said Donation Land Claim 2693.00 feet to a post; thence South 400.00 feet more or less to the center of Beaver Creek; thence Westerly along the center of Beaver Creek to the point of beginning.**

**NOTE: This Legal Description was created prior to January 01, 2008.**

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Use this menu to identify appropriate conditions to be included in the permit, and indicate the abbreviations on the review form:

**fishpass:** As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across any waters of this state that are inhabited, or historically inhabited, by native migratory fish (NMF) without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers, and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.

**fishself:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

**fishapprove:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

**fishdiv33:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

**fishmay:** Notwithstanding that ODFW has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.

**b52** Water may be diverted only when Department of Environmental Quality sediment standards are being met.

**b5** The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.

**b51a** The period of use has been limited to \_\_\_\_\_ through \_\_\_\_\_.

**b57** Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.

**b58** Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir and dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enameled staff gage style A, C, E or I.

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**inlet call:** The use of water allowed herein may be made only at times when waters from the (NAME OF SURFACE WATER) would not otherwise flow into a tributary of the \_\_\_\_\_ River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

**riparian:** If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

**flow:** The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

**fence:** The stream and its adjacent riparian area shall be fenced to exclude livestock.

**div:** Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.

R-88236



# Oregon

Kate Brown, Governor

## Water Resources Department

Watermaster, District 20

10722 SE Highway 212

Clackamas, OR 97015

(503) 722-1410

Fax: (503) 722-5926

[www.wrd.state.or.us](http://www.wrd.state.or.us)

April 6, 2016

This application was prepared with the assistance of District 20 Watermaster Amy Kim. Please contact this office before returning this water right application due to any missing information or discrepancies.

Thank you,

Amy Kim

503-722-1410 - office

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