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13 South Coast Air Quality Management District

14 **BEFORE THE HEARING BOARD OF THE**
15 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

16 **In the Matter of**

17 SOUTH COAST AIR QUALITY
18 MANAGEMENT DISTRICT,

19 Petitioner.

20 vs.

21 LOS ANGELES CITY SANITATION
22 BUREAU, HYPERION WATER
23 RECLAMATION PLANT

24 [Facility ID No. 800214

25 Respondent.

26 Case No. 1212-40

27 **FINDINGS AND DECISION FOR A**
28 **STIPULATED ORDER FOR**
ABATEMENT

South Coast AQMD Rule 402 and Health and
Safety Code section 41700

Hearing Dates: September 6 & 8, 2022

Time: 9:00 a.m.

Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

FINDINGS AND DECISION OF THE HEARING BOARD

This Petition for a Stipulated Order for Abatement (“Petition”) was heard on September 6 and September 8, 2022, pursuant to notice and accordance with the provisions of the California Health and Safety Code section 40823 and South Coast AQMD Rule 812. The following members of the Hearing Board were present: Cynthia Verdugo-Peralta, Chair; Robert Pearman, Vice Chair;

1 Micah Ali; Allan Bernstein, DPM, MBA; and Mohan Balagopalan. Petitioner, Executive Officer
2 of the South Coast Air Quality Management District (“South Coast AQMD” or “Petitioner”), was
3 represented by Mary Reichert, Senior Deputy District Counsel, and Erika Chavez (only on 9/6/22),
4 Senior Deputy District Counsel. Respondent City of Los Angeles, Department of Public Works,
5 Bureau of Sanitation (“Respondent” or “LA Sanitation”) was represented by Adena Hopenstand,
6 Deputy City Attorney, City of Los Angeles. The parties have stipulated to issuance of this order.
7 The public was given the opportunity to testify. Evidence was received and the matter was
8 submitted. The Hearing Board finds and decides as follows: The Hearing Board finds that GOOD
9 CAUSE exists to issue the Stipulated Order for Abatement. This finding of good cause is based on
10 the following:

11 1. Petitioner is a body corporate and politic established and existing pursuant to Health
12 and Safety Code §40000, et seq. and §40400, et seq., and is the sole and exclusive local agency
13 with the responsibility for comprehensive air pollution control in the South Coast Air Basin.

14 2. Respondent LA Sanitation operates the Hyperion Water Reclamation Plant
15 (“Hyperion”), a wastewater treatment facility subject to the jurisdiction of the South Coast AQMD.
16 Hyperion is located in southwest Los Angeles at 12000 Vista Del Mar, Playa Del Rey, CA 90293.
17 Its Facility ID Number is 800214.

18 3. **South Coast AQMD Rule 402 and California Health and Safety Code (H&S**
19 **Code”) Section 41700** prohibit the discharge, from any source whatsoever, such quantities of air
20 contaminants or other material which causes injury, detriment, nuisance, or annoyance to any
21 considerable number of persons or the public, or which cause, or have the natural tendency to
22 cause, injury or damage to business or property.

23 4. South Coast AQMD alleges that Respondent is unable to contain the sewage odors
24 at Hyperion and cannot conduct operations at the wastewater treatment plant without being in
25 violation of District Rule 402.

26 5. To date in 2022, South Coast AQMD has received more than 1,100 complaints of
27 an odor nuisance from the public, with Hyperion as the alleged source. Complaints include odor
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1 descriptions of sewage.

2 6. South Coast AQMD Inspectors have investigated the complaints, traced many of
3 them back to Hyperion, and confirmed Hyperion as the source of the odors on numerous
4 occasions. Since June 2022, South Coast AQMD has issued 11 Notices of Violation (“NOVs”)
5 against Respondent for violating South Coast AQMD Rule 402 and H&S Code section 41700.

6 7. In the month of August 2022, South Coast AQMD received more than 350
7 complaints alleging Hyperion as the source of an odor nuisance. Since September 2, 2022, the date
8 of the last NOV, South Coast AQMD has continued to receive complaints of sewage odors. South
9 Coast AQMD Inspectors continue to investigate and have confirmed Hyperion as the source of the
10 odors on several occasions.

11 8. Respondent has agreed to stipulate to issuance of this Order for Abatement pursuant
12 to South Coast AQMD Rule 806(b) and California Health & Safety Code § 42451(b).

13 9. This Stipulated Order for Abatement represents a compromise between the Parties
14 and does not serve as an admission of liability or guilt as to any of the violations alleged herein.
15 South Coast AQMD Rule 806(b) and H&S Code § 42451(b) permit the Hearing Board to issue a
16 stipulated order for abatement upon the terms and conditions set forth in the stipulated Proposed
17 Findings and Decision without making findings regarding: (a) whether Respondent is in violation
18 of H&S Code § 41700, or any South Coast AQMD rule or regulation; (b) whether the order will
19 not constitute a taking of property without due process of law; and (c) whether the order results in
20 closing an otherwise lawful business, such closing would not be without a corresponding benefit in
21 reducing air contaminants. The Hearing Board does not make any of finding whether Respondent
22 is or was in violation of H&S Code § 41700 or South Coast AQMD Rule 402.

23 10. Respondent states that it can comply with the conditions set forth below. The
24 reporting requirements and time limits set forth in the conditions below have been justified.

25 CONCLUSIONS

26 1. The parties have stipulated to issuance of this Order for Abatement pursuant to South
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- i. The sign shall be installed within 20 feet of the main entrance to the Facility;
 - ii. The dimensions of the sign shall be at least 48 inches wide by 48 inches tall;
 - iii. Lettering on the sign shall be at least 4 inches tall;
 - iv. Lettering color shall contrast with the sign background;
 - v. The lower edge of the sign shall be located between 6 and 8 feet above grade; and
 - vi. The sign shall be unobstructed and clearly visible to a person outside the Facility property.
- d. Respondent shall investigate all complaints within one hour of receipt.
- e. Respondent shall document and maintain the following information:
- i. Date and time complaint received.
 - ii. Complainant name, address, and phone number.
 - iii. Complaint description.
 - iv. Employee who investigated complaint, and date and time complainant contacted.
 - v. Verification of odors at location identified by complainant.
 - vi. Wind direction.
 - vii. Odor description.
 - viii. Odor intensity (0 – 5 scale: 0 = no odor detected; 1 = very light odor; 2 = light odor, distinguishable; 3 = moderate odor, very distinguishable; 4 = strong odor, very distinguishable, irritable; 5 = very strong odor, very distinguishable, overpowering and intolerable)
 - ix. Findings - Potential sources, location within the facility, particular equipment and/or process, and root cause analysis.
 - x. Provide written report to complainant summarizing findings within 72 hours of complaint receipt.

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xi. Date and time complaint summary provided to complainant.

Complainant may remain anonymous if requested; if so, Respondent need not include any identifying information in the complaint documentation.

f. Notify South Coast AQMD by calling 1-800-CUT-SMOG within one hour of receiving 6 or more complaints (i.e., complaints from 6 different households) in a calendar day.

g. Provide South Coast AQMD a written report that includes the information recorded under 1(e) and a summary of findings by Tuesday at 4:00 p.m. for the prior 7-day reporting period, if at least one complaint was received during that 7-day period. The 7-day reporting period begins on Saturday at 12:00 am and ends on Friday at 11:59 p.m. Report shall be submitted via email to Michal Haynes (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov).

2. Respondent shall designate within sixty (60) days of the issuance of this Order, at their expense, qualified employees at the Facility to perform odor patrols and hydrogen sulfide (H2S) monitoring using portable H2S monitors near the Facility in the adjacent communities. The employee conducting the odor patrol in the community shall not have visited the primary treatment systems area prior to conducting an odor patrol that day. Respondent shall authorize these employees to address, respond to, investigate, and take corrective action(s) as necessary and feasible to remediate the source of the odors and document the Facility's response to odor issues.

Odor patrols and monitoring shall occur at the following times:

- a. During mornings between the hours of 0400 – 1000 hours.
- b. During evenings between the hours of 2000 – 2200 hours.
- c. When wastewater influent flows are expected to be at the highest that day, according to Facility measurements and data.

Additionally, odor patrols and monitoring shall be performed when wind at the facility is expected to be onshore and <5 mph.

Respondent shall hire a consultant to provide initial training for all relevant employees on

1 odor patrol and H2S monitoring practices and procedures, including odor detection, the
 2 surveillance procedures required by this Order, and best practices to effectively track ambient
 3 odors during an odor surveillance. Respondent shall hire a consultant to provide refresher training
 4 semi-annually for all relevant employees. Respondent shall maintain records documenting both
 5 initial and refresher training. Initial training shall occur by November 7, 2022. Following the initial
 6 training, and by December 4, 2022 the consultant shall accompany Respondent on community
 7 odor surveillances during the first daily odor surveillance for a period of three weeks to provide
 8 additional instruction on conducting the odor surveillance, with each employee that conducts odor
 9 surveillance going on at least three consultant-accompanied odor surveillance trips (altogether,
 10 “Additional Training”). Respondent shall provide records of training to South Coast AQMD
 11 (attention Michal Haynes, mhaynes@aqmd.gov and Garrett Kakishita, gkakashita@aqmd.gov)
 12 upon request.

13 3. Respondent shall continue to operate the three (3) Acrulog H2S monitoring systems
 14 at their current locations, per the coordinates listed in the table below, along the eastern fence line
 15 perimeter.

| | | |
|-----------------|-----------|-------------|
| Acrulog site #5 | 33.924518 | -118.426900 |
| Acrulog site #7 | 33.926856 | -118.427632 |
| Acrulog site #9 | 33.928822 | -118.428364 |

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 20 The Acrulog at site #5 shall be operated until the Teledyne at temporary site #2 is
 21 operational, pursuant to Condition No. 4. The Acrulogs at sites #7 and #9 shall be operated until
 22 the Teledyne at permanent site #3 is operational, pursuant to Condition No. 4. These Acrulog H2S
 23 monitoring systems shall measure H2S levels at least once every 15 minutes. Data from these
 24 monitors shall be posted on Respondent’s website. Data from these monitors shall be kept on file
 25 and made available immediately to South Coast AQMD personnel upon request. Weekly records,
 26 from Saturday at 12:00 a.m. through Friday at 11:59 pm, shall be sent to Michal Haynes
 27 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov) by the following Tuesday at
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1 4:00 p.m.

2 4. Respondent shall continue to operate the two (2) Teledyne T101 H2S monitoring
3 systems at their current locations, per the coordinates listed in the table below, along the eastern
4 fenceline perimeter.

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|------------------------------|----------|------------|
| 5 Teledyne site #1 | 33.92879 | -118.42842 |
| 6 Teledyne temporary site #3 | 33.92083 | -118.42532 |

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8 Respondent shall, within ninety (90) days of the issuance of this Order, install and operate a
9 third Teledyne T101 H2S monitoring system at the following location.

| | | |
|-------------------------------|----------|------------|
| 10 Teledyne temporary site #2 | 33.92687 | -118.42778 |
|-------------------------------|----------|------------|

11
12 Respondent shall relocate the Teledynes at temporary site #2 and temporary site #3 to
13 permanent site #2 and permanent site #3, respectively, once the roadwork at the permanent sites is
14 complete. These relocated Teledynes shall be installed and operated at the following locations, per
15 the coordinates listed in the table below.

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|-------------------------------|----------|------------|
| 16 Teledyne permanent site #2 | 33.92659 | -118.42751 |
| 17 Teledyne permanent site #3 | 33.92245 | -118.42589 |

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19 Respondent shall maintain at least one (1) spare Teledyne T101 monitoring system on-site
20 in case of malfunction. These Teledyne H2S monitoring systems shall measure H2S levels at least
21 once every 5 minutes. Data from these monitors shall be posted live in real time on Respondent's
22 website. Data from these monitors shall be kept on file and made available immediately to South
23 Coast AQMD personnel upon request. Weekly records, from Saturday at 12:00 a.m. through
24 Friday at 11:59 p.m., shall be sent to Michal Haynes (mhaynes@aqmd.gov) and Garrett Kakishita
25 (gkakishita@aqmd.gov) by the following Tuesday at 4:00 p.m.

26 5. Respondent shall notify South Coast AQMD by telephone at 1-800-CUT-SMOG
27 (1-800-288-7664) no more than one hour after detecting a H2S reading of more than 30 ppb (0.03
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1 ppm) for a one-hour average in the modes of H2S monitoring described in Condition Nos. 3 and 4.

2 6. Respondent, upon detecting H2S levels in excess of 27 ppb (0.027 ppm) for a one-
3 hour average in the modes of H2S monitoring described in Conditions Nos. 3 and 4, shall employ
4 odor reduction measures within one hour, wherever practicable, including but not limited to:

5 a. Application of additional ferric salts (e.g., ferric chloride) in the influent channel.

6 b. Deployment of misting systems at identified odor sources using non-VOC-
7 containing odor neutralizing chemicals. The misting system and neutralizers shall
8 be used for a minimum of 1 hour after the last exceedance period.

9 Respondent shall provide records of odor reduction measures taken to Michal Haynes
10 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov). Respondent shall
11 remeasure H2S levels within 1 hour of employment of odor reduction measures. Respondent shall
12 perform a root cause analysis and provide a written report to Michal Haynes
13 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov) within 3 days of the elevated
14 reading(s). Respondent shall submit a Safety Data Sheet (SDS) on the odor neutralizing chemical
15 to Ray Ronquillo (rronquillo1@aqmd.gov), prior to use in the misting system.

16 7. Respondent shall, no later than twenty-one (21) days from the issuance of this
17 Order, repair or replace all non-functional pressure gauges associated with Permit numbers
18 F66769, F66770, F66771, G22329, F38896 and G15557 and provide proof of repairs to Michal
19 Haynes (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov).

20 8. Respondent shall, no later than fourteen (14) days from the issuance of this Order,
21 submit a report on the clarifier tank covers of Primary Battery A-D (PTO G48629), including the
22 condition of all tank covers and whether repairs, replacement, or improvements are needed, and a
23 timeline to make any such repairs, replacements or improvements to Michal Haynes
24 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov).

25 9. Respondent shall inspect scrubber gauges, stack emissions and process equipment
26 daily. Respondent shall notify South Coast AQMD by telephone at 1-800-CUT-SMOG (1-800-
27 288-7664) of any equipment operating contrary to its Title V permit conditions, within one hour of
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1 confirming maintenance problems.

2 10. Respondent shall inspect bar screens daily. Records of daily bar screen inspections
3 and bar screen maintenance shall be kept monthly and provided to Michal Haynes
4 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov) no later than 5 business days
5 after the conclusion of each calendar month.

6 11. Respondent shall measure the concentration of H2S at the exhaust of the Odor
7 Control System (PTO G22329) at least once per day as required in Condition No. 6 of the Permit
8 to Operate, using an approved instrument. Approved instrument specifications shall be capable of
9 measuring H2S concentrations specified in PTO G22329 (1.0 ppmv permit limit). Instrument
10 specification documentation shall be provided to Michal Haynes (mhaynes@aqmd.gov), Garrett
11 Kakishita (gkakashita@aqmd.gov), and Ray Ronquillo (rronquillo1@aqmd.gov) within ten (10)
12 days from the issuance of this Order.

13 12. Respondent shall notify South Coast AQMD by telephone at 1-800-CUT-SMOG
14 (1-800-288-7664) no more than one hour after detecting an H2S reading of more than 1.0 ppmv at
15 the exhaust of the Odor Control System (PTO G22329).

16 13. Respondent shall ensure the Odor Control System (PTO G22329) continuously
17 recirculates sodium hypochlorite and sodium hydroxide through the system without any
18 interruptions. Respondent shall maintain enough sodium hypochlorite and sodium hydroxide onsite
19 at all times so that the system does not operate without scrubbing solution at any time.

20 14. Respondent shall ensure adequate stock of all odor control products and supplies,
21 including, but not limited to, ferric salts, calibration gases, calibrated field instruments, odor
22 neutralizing chemicals, sodium hypochlorite and sodium hydroxide.

23 15. Respondent shall no later than ten (10) days from the issuance of this Order
24 authorize retention of a consultant to conduct the following assessments and studies:

- 25 a. A study in the nearby communities, including but not limited to Playa Del Rey and
26 El Segundo, based on available meteorological data to determine prevailing wind
27 patterns in the community and related meteorological conditions. This study shall
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1 include an assessment of prevailing wind direction and speeds throughout the
2 course of the past five calendar years.

- 3 b. Onsite study to characterize wind patterns and related meteorological conditions at
4 each location identified as an odor source by the consultant. Study shall include an
5 assessment of installation of potential barriers between current and future odor
6 source locations at the Facility to reduce odors impacts on the surrounding
7 communities.
- 8 c. Analysis of verified complaint trends throughout the course of the past five calendar
9 years.
- 10 d. Onsite assessment of the Odor Control System (PTO G22329) for the purpose of
11 determining whether the design capacity of the system can sustain the influent flow
12 of the plant and whether certain improvements to the operation of the system can be
13 implemented to reduce the frequency of maintenance events.
- 14 e. Onsite assessment of when odors are most prevalent and the associated operations
15 at the Facility.
- 16 f. Onsite assessment of practices throughout and at the end of the operating day that
17 mitigate odors at the Facility.
- 18 g. Onsite assessment of odor neutralizer uses and applications.
- 19 h. A list of general best management practices to mitigate potential odors from a
20 sewage treatment plant.
- 21 i. The consultant shall attend a public meeting hosted by Respondent to listen to
22 resident concerns.
- 23 j. The consultant shall receive all root cause analysis reports as described in
24 Condition 6.

25 Upon completion of the assessment of operations, the consultant shall propose adjustments
26 or modifications to sewage treatment systems or operations that the consultant reasonably believes,
27 based on their professional judgment, could reduce the potential emission of odors from the
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1 Facility and related community impacts. The consultant shall include an assessment of the
2 feasibility and limitations of any proposed operational adjustment or modification. The consultant
3 shall document its proposals in a final report (Consultant Report) to be submitted to South Coast
4 AQMD (Attention: Michal Haynes, mhaynes@aqmd.gov; Garrett Kakishita,
5 gkakishita@aqmd.gov; Ray Ronquillo, rironquillo1@aqmd.gov; Erika Chavez,
6 echavez@aqmd.gov; and Mary Reichert, mreichert@aqmd.gov) by December 6, 2022.

7 16. Respondent shall submit a proposed plan (Implementation Plan) implementing the
8 recommendations of the Consultant Report, as described in Condition No. 15, to South Coast
9 AQMD (Attention: Michal Haynes, mhaynes@aqmd.gov; Garrett Kakishita,
10 gkakishita@aqmd.gov; Ray Ronquillo, rironquillo1@aqmd.gov; Erika Chavez,
11 echavez@aqmd.gov; and Mary Reichert, mreichert@aqmd.gov) by January 6, 2023. The
12 Implementation Plan shall include timelines for submitting applications for all required approvals
13 from South Coast AQMD and any other regulatory entity, timelines for completing all necessary
14 steps for Respondent to execute contracts and purchase orders, and a manufacturing and
15 installation schedule, as applicable. On the same date that the Respondent submits its
16 Implementation Plan to South Coast AQMD, Respondent shall submit the Consultant Report,
17 Implementation Plan, and a status report to the Hearing Board (attention: Clerk of the Board).

18 17. Respondent shall retain a consultant to complete two (2) 24-hour integrated samples
19 using EPA TO 15 method, within 30 days of the issuance of this Order, in locations approved by
20 South Coast AQMD. The results shall be released simultaneously to South Coast AQMD and
21 Respondent.

22 18. Respondent shall, within 30 days of the issuance of this order, create an opt-in
23 email system for residents to receive notifications upon detecting H₂S levels in excess of 27 ppb
24 (0.027 ppm) for a one-hour average in the mode of H₂S monitoring described in Condition No. 4.
25 Respondent shall publish the availability of this opt-in e-mail system on Respondent's website,
26 with instructions on how to opt-in.

27 19. Respondent shall, within 30 days of the issuance of this order, submit a report to
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1 South Coast AQMD (attention Ray Ronquillo, rroquillo@aqmd.gov, Michal Haynes,
2 mhaynes@aqmd.gov; and Garrett Kakishita, gakishita@aqmd.gov) documenting its current odor
3 mitigation projects, timelines, and prioritizations and reasons therefor.

4 20. Respondent shall notify South Coast AQMD by calling 1-800-CUT-SMOG at least
5 24 hours in advance of removing clarifier tank covers of Primary Battery A-D (PTO G48629) for
6 capital improvement purposes.

7 21. Respondent shall return for a status hearing on **January 25, 2023**, or as soon
8 thereafter as the Hearing Board can schedule the status hearing, to report on the findings of the
9 Consultant Report, and status of the Implementation Plan and mitigation measures, and consider
10 modification or Dissolution of this Order, as appropriate.

11 22. The Hearing Board may modify the Order for Abatement upon making the findings
12 required by Health and Safety Code Section 42451(a) and South Coast AQMD Rule 806(a). Any
13 modification of the Order shall be made only at a public hearing held upon 10 days published
14 notice and appropriate written notice to Respondent.

15 23. The Hearing Board shall retain jurisdiction over this matter until and including
16 **September 6, 2023** and at that time this Order shall no longer be of any force or effect, unless this
17 Order is amended, modified or dissolved before then.

18 24. Nothing herein shall be deemed or construed to limit the authority of South Coast
19 AQMD to issue Notices of Violation, or to seek civil penalties, criminal penalties, or injunctive
20 relief, or to seek further orders for abatement, or other administrative or legal relief.

21 25. Respondent shall return for a status hearing on **December 15, 2022**, to report on
22 any notices of violations that have been issued since September 8, 2022. Respondent shall include
23 a report on the causes of those violations, if known, as well as any specific corrective action(s) that
24 were taken.

25 26. Respondent shall provide, within 30 days from today, to the South Coast AQMD
26 (Attention: Ray Ronquillo, rroquillo1@aqmd.gov; Michal Haynes, mhaynes@aqmd.gov; and
27 Garrett Kakishita, gakishita@aqmd.gov) the recirculation rate of the scrubbing solution, the
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1 pressure drop across the scrubbers, and the pH values where applicable, for the Odor Control
2 System (PTO G22329).

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5 FOR THE BOARD:



6 Allan Bernstein, DPM, MBA

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9 DATED:

9/14/22

10 Prepared by Mary Reichert and Erika Chavez
11 and approved by Adena Hopenstand

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