



CLEARING THE PATH

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?Akisq'nuk First Nation implements service tax to upgrade water system infrastructure for leased properties



This past year, the ?Akisq'nuk First Nation (AFN), located in the Columbia Valley near Invermere, became the first First Nation in Canada to implement a service tax under the *First Nations Fiscal Management Act*. ?Akisq'nuk is part of the Ktunaxa nation and is home to 300 members in the Columbia Valley, near Columbia Lake. The First Nation was one of the first to enter the FMA with laws developed in 2008. The new service tax will cover the cost of the water system infrastructure to a leased section of AFN's lands named Indian Beach Estates.

"This is great for both the community and our taxpayers. Being the first First Nation in Canada to implement a service tax law, it's been a learning process for us and we're excited about where we are at. We're looking forward to starting construction on the upgrades to the water system and the service tax law has been the biggest step to making that happen," said AFN Chief Lorne Shovar.

"Our taxpayers receive a direct benefit from getting the water system upgraded and for the community, it strengthens our relationship with our taxpayers. The revenues generated from those land leases and property taxes will serve the community for years to come."

Indian Beach Estates is a recreational lakeside community situated on Lake Windermere located on AFN lands, just outside Invermere, with a head lease managed by Indian Beach Estates Management Corporation (IBEMC), which created the subdivision and provides services to the small community.

The water system was in need of significant repairs and maintenance, so IBEMC requested, on behalf of the

property holders, that AFN provide the service and that the costs of the service be paid for by the service tax.

"The IBE community is thrilled to be able to start the construction on our new water distribution system. This will provide our residents and future generations with a stable and reliable system for many years to come. The relationship between Indian Beach Estates and AFN is very strong and we look forward to our continued partnership," said IBEMC Board Member Paul Nevatte.

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Chief Commissioner's Message



This year provides us with an historic opportunity. On its 150 birthday, Canada is committing to developing a nation-to-nation framework, implementing the United Nations Declaration on the Rights of Indigenous Peoples, and establishing a new fiscal relationship, all in the name of reconciliation. There is widespread support for these commitments but how do these commitments provide a means to reconcile aboriginal governments into the Canadian federation?

150 years ago, the formation of Canada reconciled the provincial governments within the federation while simultaneously removing aboriginal governments. Provinces wanted the advantages of Confederation, particularly scalability and improved access to capital. They didn't want the federal government interfering in purely local affairs or draining funds from one region to support another.

The constitution reconciled these differences by dividing responsibilities between the federal and provincial governments and providing sufficient independent revenue jurisdictions to exercise those jurisdictions. Since that time, each province has used self-determination to implement its jurisdictions in a manner that reflects their values and interests. Stated differently, Canada created a government-to-government relationship (nation-to-nation from Quebec's perspective) with the

provinces based on a strong fiscal relationship that respected their right of self-determination.

Unfortunately, our interests and our governments were not a consideration when Canada was formed. Aboriginal title and jurisdictions were recognized in the Royal Proclamation and pre-Confederation treaties. After Confederation, title and jurisdiction were no longer recognized because of the *Indian Act* and other legislation. Instead of having title and independent revenue authorities, it was made a crime for First Nations to raise monies to advance their own interest.

It is time for us to use the lessons from confederation and finally reconcile our place within Canada. This will require a new fiscal relationship that recognizes and expands our tax jurisdictions to include resources and tobacco, and removes the cap on the FNGST. This fiscal relationship must also recognize our exclusive jurisdictions that can be financed by our tax jurisdictions so we have the independence to assert and protect our language, culture, lands, citizens and other interests.

A new fiscal relationship means recognizing our title in our territories and restoring our nations to assert our jurisdiction. It means creating our own land title registry so we can finally raise the title to our lands. It means developing our institutions to support our governments with respect to infrastructure, health, child welfare, statistics and other jurisdictions. Self-determination means working together to advance our own reconciliation option.

While we are working on these new ideas, we remain resolutely committed to supporting First Nation governments build and maintain strong property tax systems. There are now 146 First Nation governments implementing property taxation. First Nations are also leading the way in expanding revenue options, such as ?Akisq'nuk and their new service tax. We are proud of the fifteen new graduates of the Certificate in First Nation Tax Administration. We know these graduates will go on to support their communities' development and growth.

In the past few months I have been meeting with a number of leaders and communities to present a comprehensive legislative proposal that recognizes our title and jurisdictions, provides a new fiscal relationship and tax powers, and builds new institutions to support our governments. This approach is supported by the First Nations Financial Management Board (FMB) and the First Nations Finance Authority (FNFA) and a number of interested communities.

We are calling it the 91.24 option to s.35 reconciliation for three reasons. First, it reflects how provinces were reconciled into Canada – through federal legislation and constitutional recognition. Second, our jurisdictions, governments and citizens would be supported by our institutions instead of provincial ones. Third, it provides an option for interested communities to systematically move away from the *Indian Act* and implement their jurisdictions.

FNTC, FMB and FNFA presented this option to the federal justice minister on April 6, 2017. Following this on June 7, 2017, we presented a jurisdiction based new fiscal relationship option to the First Nations Summit Chiefs-in-Assembly, which you can read more about in this edition of our newsletter. We are engaging in a dialogue with First Nations and Canada and also hope to report on our progress to FMA First Nations in the fall.

Only by working together can we make the next 150 years better and achieve reconciliation.

Sincerely,



C.T. (Manny) Jules
Chief Commissioner

First Nations Summit Chiefs-in-Assembly support a jurisdiction-based fiscal relationship for First Nations and the Crown



FNTC Chief Commissioner C.T. (Manny) Jules, First Nations Financial Management Board Executive Chair Harold Calla and First Nations Finance Authority President Ernie Daniels presenting to the FNS Chiefs-in-Assembly on elements of a new fiscal relationship and adequately resourcing First Nation governments.

On June 7, 2017, First Nations in BC participated in a province-wide strategic dialogue session on defining a new fiscal relationship for First Nations and the Crown. Discussion focused on the principles of a new fiscal relationship that could support stable self-government. First Nations Summit (FNS) Chiefs-in-Assembly discussed supporting and advancing the principles with the Assembly of First Nations through a resolution.

A First Nations-Crown fiscal relationship determines many things for First Nations, including jurisdiction over taxation, the ability to generate revenue and engage in revenue sharing services and the transfer amounts from other governments to ensure First Nation services are delivered to national standards.

The current fiscal relationship does not recognize sufficient First Nation tax or service jurisdiction and does not provide stable, long-term revenues to support First Nation planning, services and infrastructure at national standards. In essence, it is not a nation-to-nation relationship.

The principles of a new fiscal relationship that support stable self-government were identified and discussed during the session, including:

New relationship to reflect the United Nations Declaration on the Rights of Indigenous Peoples, in particular, Article 4

A new First Nations-Crown fiscal relationship must reflect Article 4 of the United Nations Declaration on the Rights of Indigenous Peoples: “Indigenous Peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”

Expanded tax powers and clear revenue and service jurisdiction

First Nations need protected and certain tax powers and clear jurisdictions that are similar to other governments. Also needed is a legislative framework for the transfer payment system that provides autonomy and flexibility. Finally, First Nations must be consulted on any legislation from other governments that may impact the First Nations fiscal relationship.

Incentives for economic development

First Nations need broader and more certain transfers and tax jurisdictions so they are not forced into commercial enterprises to create revenue. They also need incentives to develop better quality services and seek service efficiencies. The relationship between own source revenue (OSR) and transfers must create incentives and not unduly penalize First Nations for developing their revenue base.

Revenue related to service responsibilities

First Nations should have a clearly defined bundle of service responsibilities and a related bundle of clearly defined revenue options to help meet the costs of these services. Tying specific revenue jurisdictions to specific service responsibilities leads to better services and infrastructure and supports accountability from all governments to citizens.

Comparability

First Nation jurisdictions and revenue authorities need protections comparable to the provinces and First Nations should have comparable quality and access to government services. First Nations need the revenues to be able to provide services up to the national standards in order to “catch up” and “keep up” to the quality of life enjoyed by other Canadians.

Improved statistics

The quality of and access to First Nation statistics must be improved and First Nations will need independent capacity to develop statistics to support a new fiscal relationship.

Institutional support

First Nations require our own institutions to support, protect and expand jurisdictions and for capacity development, training and advice. First Nations also require our own institutions to establish standards and tools, and carry out research, advocacy and government-to-government relationship building.

The resolution was passed and the FNS Chiefs-in-Assembly are encouraging First Nations to review and discuss these principles within their respective communities and to refine them as necessary to meet each community’s unique vision. 🇨🇦

Celebrating Tulo graduates of the 2017 Certificate in First Nation Tax Administration program

The 2017 graduates from the Certificate in First Nation Tax Administration program were recognized at a graduation celebration dinner held in their honour. In attendance were the 15 graduates, their guests, and representatives from the Tulo Centre and the First Nations Tax Commission.

After the welcome from Tulo Centre Chair, Michael LeBourdais, students received their Tulo/FNTC certificates from Tulo Centre Director and Instructor, Dr. Andre Le Dressay.

Valedictorian Jesse James delivered a speech reflecting on his experience in the program and his fellow classmates, "Jurisdiction. It's something that's important. It's a very interesting word. There's other words to describe jurisdiction; including authority, power, control and sovereignty. Because we are all from the First Nation world and in administration, we know those words have worth. And to be able to go back home and apply what you learned over the eight courses, it's really important and it shows the leadership in the room here tonight."

Tulo Centre Chair, Mike LeBourdais congratulated the graduates, "There is no doubt you will all accomplish great things for yourselves and for your communities. Remember to celebrate and share your success. You encourage all of us to continue and provide an example to follow. You give us hope for a bright future for all First Nations."

This year's graduating class included:

- Kimberly Albinet, Stelat'en First Nation
- Mercedes Brown, We Wai Kai Nation
- Jennifer Doss, Xaxli'p First Nation
- Heather Fader, Shackan Indian Band
- Rena Gregoire, Adams Lake Band
- Lisa Hall, Kwaw-kwaw-Apilt First Nation
- Jesse James, Shxw'ow'hamel First Nation
- Winston Lapatak, Saddle Lake Cree Nation
- Kenneth Large, Saddle Lake Cree Nation
- Keith Morgan, Kispiox Band
- Beth Nicholas, Tobique First Nation
- Tania Solonas, McLeod Lake Indian Band
- Miranda Squakin, Upper Similkameen Indian Band
- Bernice Whalley, Kwantlen First Nation
- Gailene William, Williams Lake Indian Band

The graduates also participated in the Thompson Rivers University convocation. The graduates received their certificates along with 300 other graduates from TRU's School of Business and Economics.

The certificate program is delivered in partnership between Thompson Rivers University, the First Nations Tax Commission and the Tulo Centre of Indigenous Economics. The program focusses on establishing the legal framework required to support a First Nation taxation system and economic development. 

Images from the graduation dinner and ceremony



Tulo student profile: Jesse James, class of 2017 valedictorian Shxw'ow'hamel First Nation tax administrator



Shxw'ow'hamel First Nation's tax administrator Jesse James was in the 2015/2016 cohort for the Certificate in First Nation Tax Administration and graduated from the program earlier this month. Three years ago, Jesse was hired by Shxw'ow'hamel as the band administrator and as the organization transitioned, he also began serving as the tax administrator. Jesse is a member of Peguis First Nation in Manitoba and has lived in BC for most of his life. Jesse

was chosen by his fellow classmates as valedictorian for their cohort and delivered a speech at Tulo's graduation dinner.

Recently *Clearing the Path* had the opportunity to sit down with Jesse to learn more about his experience as a tax administrator and as a student at the Tulo Centre of Indigenous Economics.

How did you first learn about the Tulo Centre and its programs?

The program description came across my desk and really interested me. When I started at Shxw'ow'hamel, we were transitioning from taxing using section 83 by-laws to taxation under the FMA. At the time, I didn't fully understand how the tax system works or why we did things a certain way, so I jumped at the opportunity to strengthen my knowledge in that area.

It worked out great because all the course material I was working on, had just completed, or was preparing to do was all falling in-line with how our transition to the FMA was progressing at Shxw'ow'hamel.

How does your experience at Tulo relate to your work at Shxw'ow'hamel?

Understanding how the laws are made, and understanding the benefits of a budget-based tax system as opposed to using reference jurisdiction was invaluable. With a budget-based system, you have to actually think about the services you will be providing ahead of time rather than figuring out expenditures after the revenues start coming in. I learned more about how to think more like a government, and it was definitely helpful to be able to ask questions of the instructors who have an incredible depth of experience and expertise.

Through the courses, I began to see how taxes can be used to benefit, support and fund initiatives the community wants. You're creating own-source revenue and your own laws to expend funds in ways that best serve your community. It allows the community to decide how they want to spend their money and where they want to focus their priorities. Just by having that, it provides a stronger

sense of community and inclusiveness. At Shxw'ow'hamel, there's a really good sense of community so having this system in place builds on that.

You are currently working toward earning a Certificate in First Nation Applied Economics. What made you want to pursue another certificate through the Tulo Centre?

The quality of instruction is great and I like the way the curriculum is presented. Tulo's cohort model is community-minded and that seems to work well. You get a lot from the instructor but you also get a lot from the students in the class too. Everyone shares best practices and the lessons learned, both good and bad. When we can bring that knowledge back home, that makes all of our communities better.

There were students in our class from all areas of Canada, and you can really see the similarities even though we're separated by provinces and legislation. The issues we face and the successes we have are so similar and to be able to rely on a whole group going through the same process, doing assignments and sending out an email or picking up the phone, it really helps to have that initial support. You want to see each other do well, so you're going to reach out and give the support, offer and in some cases, seek support. It really works.

The Tulo programs showed me there's a lot of different ways you can create own source revenue through development cost charges or having small developments. Currently Shxw'ow'hamel doesn't have any residential leaseholds but if we did, we'd have to set that up in advance and it's nice to have the theory behind it. By immediately applying the theoretical knowledge we've learned – I've been able to participate in some conversations with my fellow classmates on opportunities and issues they're going through in their communities – it is so helpful in expanding my own understanding.

Shxw'ow'hamel is a proponent of two key FNTC initiatives: the Aboriginal Resource Tax and the Indigenous Land Title Initiative. Why does Shxw'ow'hamel support these initiatives?

We're definitely interested in seeing both initiatives go forward. With the ART, I understand it's been a concept for a while now so we are trying to gain momentum within the group of proponents and hopefully for all First Nations in Canada. It's just one other source of revenue for First Nation governments and it's going to make our economies stronger and more flexible.

It's critical to our success to have own source revenue to do what you want on your land or to purchase more land. With setting up a land registry system through ILTI, we need First Nations exercising their jurisdiction in either taxation or land ownership, that's the bottom line.

We've got momentum now, we just need to keep pushing forward. 🌱

Innovations in property taxation: Anticipating online assessment appeals

As technology continues to evolve and advance, so does the way we interact with and access information, from social networking, to shopping, to accessing services. Many reading this newsletter will also do so online. More of what we do every day occurs online, with services growing, adapting, and improving all the time.

First Nation administrations and the public sectors are also beginning to deliver more services online. For example, the BC provincial government has made strides in developing their online presence. However, while a number of appeals and mediation services can be initiated online, such as the Civil Resolution Tribunal or Small Claims BC's Online Dispute Resolution, the provincial government has not yet developed an online assessment appeals process.


Online assessment appeals, both informally and formally, provide the assessor and property owner with the platform to adjust errors and resolve disputes. All levels of appeals, from administrative to judicial, have the potential to flow through an online system. Moving these services online improves accessibility and visibility. Work can be done remotely with both parties having access to a service happening in real time.

Appeal documents, such as assessed values, collected data, support documents, and operating procedures can be filed and viewed online. Property owners are able to see the progress of their appeal, creating a transparent, open, and engaging process. Developments such as tele-conferencing and video-conferencing also improve infrastructure as well as options for housing an assessment appeals process online.

While there are several benefits to an online system, there are important points to consider in the development of online systems. Access can be an issue for remote or rural communities and this can contribute to a potential knowledge gap. Online assessment appeals can also be impersonal and easily disrupted by a misunderstanding, or a technical failing.

There is also a risk in removing the human connection in face to face meetings between assessors and property owners, and at the appeal boards, hearings, and tribunals. Understanding the barriers of moving a system online helps to ensure these risks are mitigated to offer users the best online experience possible.

The issue in anticipating the potential arrival of online assessment appeals is whether the assessment system's gains exceed what they may lose. Interest in this area is growing and work is ongoing. The International Association of Assessing Officers (IAAO) are undertaking studies and looking to appraisers in jurisdictions using online assessment appeals to collect data on the effectiveness of these systems.

As a part of its research agenda, the First Nations Tax Commission will examine the online assessment appeals process and its potential application for First Nation property tax systems. Ultimately, improving access to dispute resolution mechanisms that follow due process and standards, advances equity between all parties and cultivates stronger working relationships moving forward. 


(Continued from Page 1)

AFN service tax

"This project is truly a win/win for us both and we want to thank Chief Lorne Shovar and Council for their hard work finalizing the service tax and the water infrastructure. Being the first First Nation to implement this service tax is truly an accomplishment."

AFN developed a law for the provision of a water system replacement service for Indian Beach Estates and to provide for the costs of the service to be paid for by a service tax on property within that area of the reserve.

The existing water distribution infrastructure will be removed and new water distribution infrastructure will be installed for all the lots within Indian Beach Estates, with an estimated project cost at \$2 million.

The service tax is a fixed rate charged each year to all properties within Indian Beach Estates for up to 25 years. All revenue collected from the service tax will be used for the sole purpose of the service. With the law enacted in November 2016, AFN hopes to begin construction this year with a target completion date of next spring. 

Four First Nations added to the FMA Schedule

Congratulations to the four First Nations that were added to the Schedule of the FMA through an amendment to the Act on April 26, 2017.

The four First Nations added to schedule are:

- Kehewin Cree Nation, ON
- Namgis First Nation, BC
- Salt River First Nation #195, NT
- Taykwa Tagamou Nation, ON

There are now 215 FMA First Nations in Canada.



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Two decades of supporting the legal voice of First Nations

On June 21, 2017, the *First Nations Gazette* will be celebrating its 20th anniversary. For the past two decades, The *First Nations Gazette* (FNG) has been supporting the legal voice of First Nations and continues in its role supporting the emerging voice of First Nation self-determination.

Laws and regulations that govern the daily lives of Canadians are published in the Canada Gazette. The role of the Canada Gazette is to provide access to these laws and regulations, to engage citizens and to assist the private sector in meeting legal requirements. However, in 1987, the Canada Gazette made a rule that excluded First Nation by-laws from its publication.

Around this same time, many First Nations were accessing new legislative options that enabled them to enact their own by-laws - such as property taxation by-laws. First Nations were required to take steps to provide notice of by-laws without the benefit of access to a Gazette to provide this service with ease and consistency.

It was clear that First Nation governments needed a gazette to fulfill the responsibility of informing their communities and citizens. This was becoming increasingly important as more and more First Nations were exercising and expanding their jurisdictions. The Indian Taxation Advisory Board – the First Nations Tax Commission's predecessor – began to explore options for the creation of a gazette for First Nations law.

The original vision for the FNG, which holds true today, was to support First Nations in their need to provide public notice and information regarding their enactments of First Nation legislation.

On Aboriginal Day in 1997, the FNG was officially launched through a working relationship between the Indian Taxation Advisory Board and the Native Law Centre. First Nations now had a voice for their laws, which provided transparency and informed their citizens of their laws supporting the enforcement of their jurisdiction on the land.

FNG's success and longevity is, in part, due to its recognition that First Nations want to ensure there is a reliable and easily accessible source of legal information available. Most importantly, First Nations publish their laws in the FNG to support the enforcement and governance of their laws. Because of this, First Nations have been moving the FNG forward, and have requested new services that have led to many of FNG's technical innovations.

The FNG has grown steadily and evolved with First Nations. Originally published as a subscription-based printed book published semi-annually, today it has become available online-only, free to use, with a state-of-the-art database that is updated daily.

“Over the course of its twenty-year history, the *First Nations Gazette* has firmly established itself as an important information source for laws, by-laws and codes enacted by First Nations and, more recently, for notices with regard to matters affecting First Nations.

Today's exclusive electronic First Nations Gazette evolved from changes made to the editorial and production processes to improve operational efficiency, to make the information more accessible, and to stay true to the purpose to inform.

Innovation and change always raise uncertainties. The proposal to launch a First Nations Gazette was no different. Its success is demonstrated in its achievements. No doubt the First Nations Gazette will continue to be a dynamic resource and serve those who consult it or need its information.”


Zandra Wilson

Former Managing Editor of the *First Nations Gazette*

The FNG is a comprehensive source for First Nation legislation in Canada, including current and archived laws, by-laws and codes, as well as providing public notification service for matters affecting First Nations.

The public notification service is also used by other governments (federal, territorial provincial and municipal), institutions, corporations, law firms and individuals.

The FNG is widely used and has been accessed for the past 20 years by First Nation governments, First Nation members and citizens, the public, the courts and legal professionals. As a cloud based service, the accessibility and steady use help to ensure the FNG will remain adaptable and relevant.

As First Nations continue to expand their jurisdiction and take on more responsibilities, the FNG looks forward to transforming to reflect these important changes. 

Arrowhead technology and its importance to the pre-contact Secwepemc trade economy



Ed Jensen, from Tk'emlups te Secwepemc, grew up in a big family and spent much of his time as a young boy playing with things he made himself. He started bow-making in his backyard, progressively evolving his creations, making them more sophisticated with materials that were traditionally used by the Secwepemc, located in the interior of BC. As Ed grew up, he started doing research on flint knapping and spent much of his time in the museum.

Ed credits Secwepemc ancestors for teaching him and inspiring him through their work. Ed would examine their work to understand their techniques and then would go home and work at replicating what he saw, returning to the museum if he was unable to recreate what he had seen. Today, Ed is a well-known Secwepemc weapons specialist.

Ed believes stone tool technology had a wide-reaching effect on the Secwepemc economy, largely due to glassy basalt - a high grade volcanic material unique to the territory and an important part of how the Secwepemc were able to manage a larger territory and maintain their borders.

Clearing the Path had an opportunity to sit down with Ed to learn about arrowhead technology and the pre-contact Secwepemc economy:

“Our technology advanced a little quicker than many other nations who didn’t have basalt. As a modern-day flint knapper, I know that basalt, being harder, is more of a challenge to knap finished points than obsidian, which is like glass and is fairly easy to work with.

Using bone tools, however, 500 years ago or 5,000 years ago, would have made working this material considerably harder to do, so the ancestors compensated for that with perfect technique. Technique in stone tool technology is very important, so the masters of the day became just that, masters. Our ancestors’ superior workmanship was prevalent and the craftsmanship is evident in the museum.

Those masters would have created these pieces and traded for things they needed in everyday life. I think if we look at our civilization in a common-sense way, today we have plumbers, doctors and all of these professions, I think it existed pre-contact as well.

Not only that, the materials moved in and out of the territory as well. If you look in the archaeological record, you’ll see basalt all over the place and you’ll see one or two pieces of obsidian. The reason is obsidian is nice, it’s pretty and it creates a sharp edge but it’s a one-use product. As soon as you use this, it’s going to break. Glassy basalt is a lot more durable, it gets just as sharp, and has a little more density so it creates a better tool.

You’ll typically see a lot more of it outside our boundaries than inside, so the trade would have been an export.

Technology spread through neighbouring nations and evolved through the ages. We went from rock throwing to the hand-held atlatl (spear thrower), to bows, and when the bow hit the territories, it changed everything. From that point, they worked on fine tuning technology to create bows that would be faster, stronger, more compact. Our ancestors were lucky to have all the right materials in our territory. As a result, our tools and what we could create with them were superior.

Arrowheads were a big part of our economy but we traded other items of value as well, such as our paints and our medicines. We live in a very harsh environment with very cold winters and very hot summers, and what that does is it creates a very strong medicine because the plants have to be stronger to survive and as a result, they became very sought after for the strength of their medicine.”

Clearing the Path thanks Ed for sharing his knowledge of the pre-contact Secwepemc trade economy. If readers are aware of pre-contact markets and economies in their nation and would like to see these stories featured in *Clearing the Path*, please contact us at communications@fntc.ca or 250.828.9857.

More information about Ed and his work can be found by visiting his Facebook Page, Tk'emlups Traditions: <https://www.facebook.com/tkemlupstraditions1967>.



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