



Agenda

- **Updates and Introductions**
- **Webinar Logistics**
- **Panel:**
 - **Scott Shapiro, Downey Brand-Martin vs. Boise Update**
 - **Helene Schneider-USICH-Addressing Encampments**
 - **Darren Suen, Elk Grove, Ca Council Member & Central Valley Flood Protection Board**
 - **Mark Strudley, Pajaro Regional Flood Management Agency**
- **Discussion**



NAFSMA

For more than 40 years, NAFSMA has benefited water focused member agencies by advocating for effective public policy, securing essential funding, and promoting innovations that help members better serve their communities.

Our members are local, regional, and state water resource agencies as well as private firms with water resource expertise.



Small ripples make big waves



Panel:

Scott Shapiro, Downey Brand-Martin vs. Boise Update

Helene Schneider-USICH-Addressing Encampments

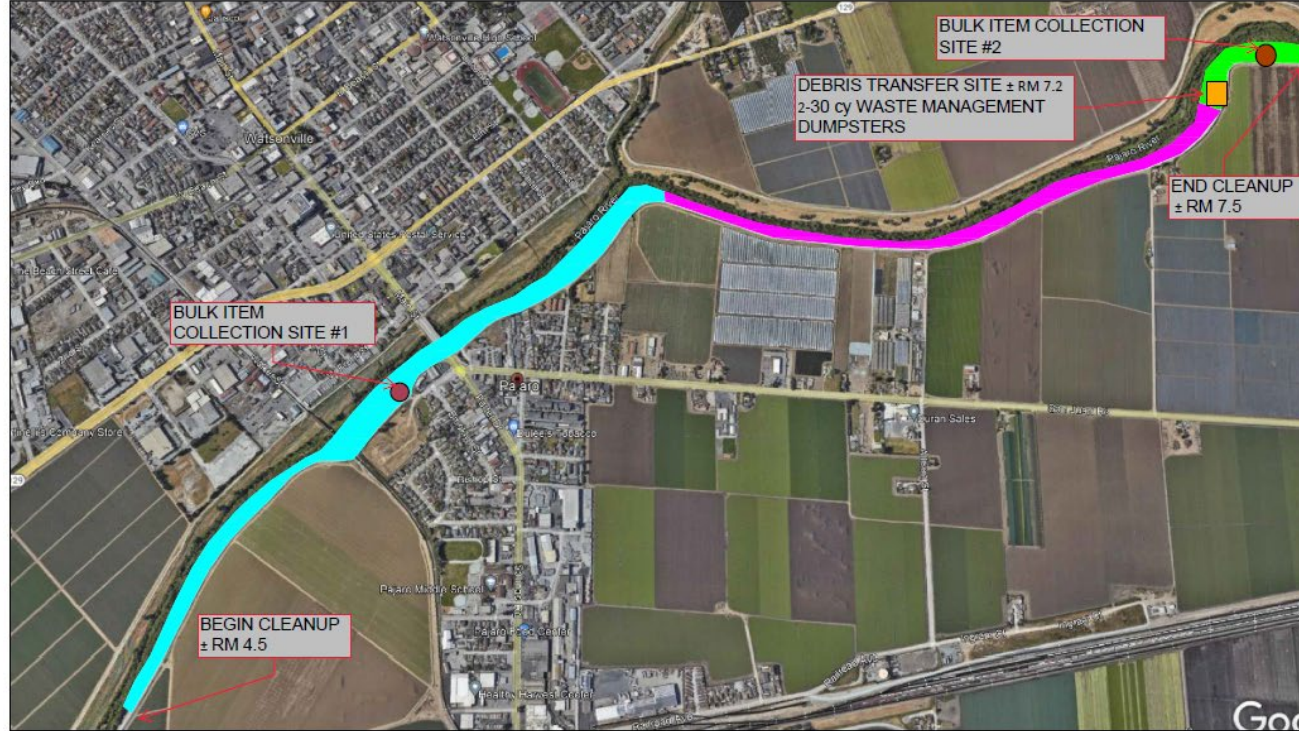
Darren Suen, Elk Grove, Ca Council Member & Central Valley Flood Protection Board

Mark Strudley, Pajaro Regional Flood Management Agency









LEGEND:

CLEANUP PRIORITIES

- #1 - Cyan
- #2 - Green
- #3 - Magenta

NOTES

1. PRIORITY #1, RM 5 TO RM 6
2. PRIORITY #2, RM 7 TO RM 7.5
3. PRIORITY #3, RM 6 TO RM 7



REVISIONS	
DATE	BY

PAJARO CLEANUP			
PAJARO RIVER LEVEE			
COUNTY OF MONTEREY	STATE OF CALIFORNIA		
PREPARED BY			
MONTEREY COUNTY WATER RESOURCES AGENCY			
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SCALE	DATE	DRAWN BY	SHEET



Ways NAFSMA is working on this issue:

- Promoting collaboration and sharing strategies
 - Mentoring video coming out this winter
 - Clearinghouse of materials
 - Annual meeting and member calls discussion
- Advocating the Federal Government for Resources

Join

NAFSMA

45th Annual Meeting



JULY 24-27, 2023 • SEATTLE, WA

www.nafsma.org

Sunnys@nafsm.org

Roundtable on Flood Risk Issues & People Experiencing Homelessness

NAFSMA Webinar
October 6, 2022



Helene Schneider, Senior Regional Advisor



How USICH Coordinates the Federal Response

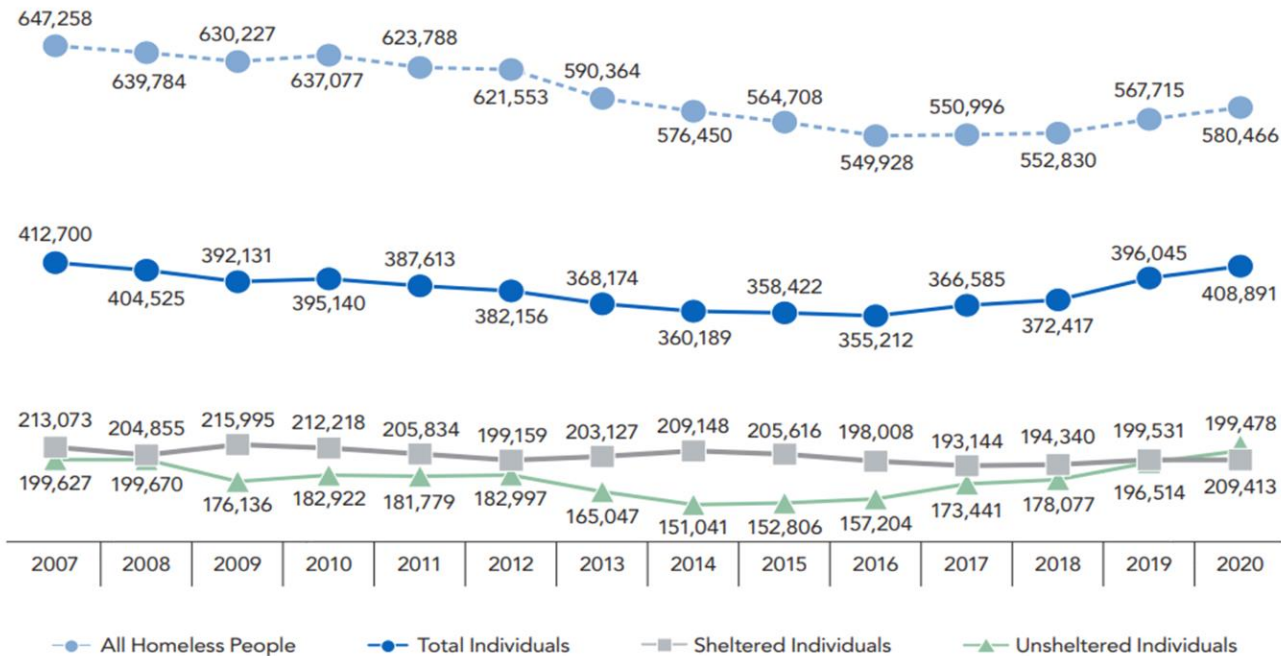
- The Council
- Council Policy Group
- Interagency Working Groups
- Performance Measurement & Accountability





State of Unsheltered Homelessness

EXHIBIT 2.1: PIT Estimates of Individuals Experiencing Homelessness
By Sheltered Status, 2007–2020



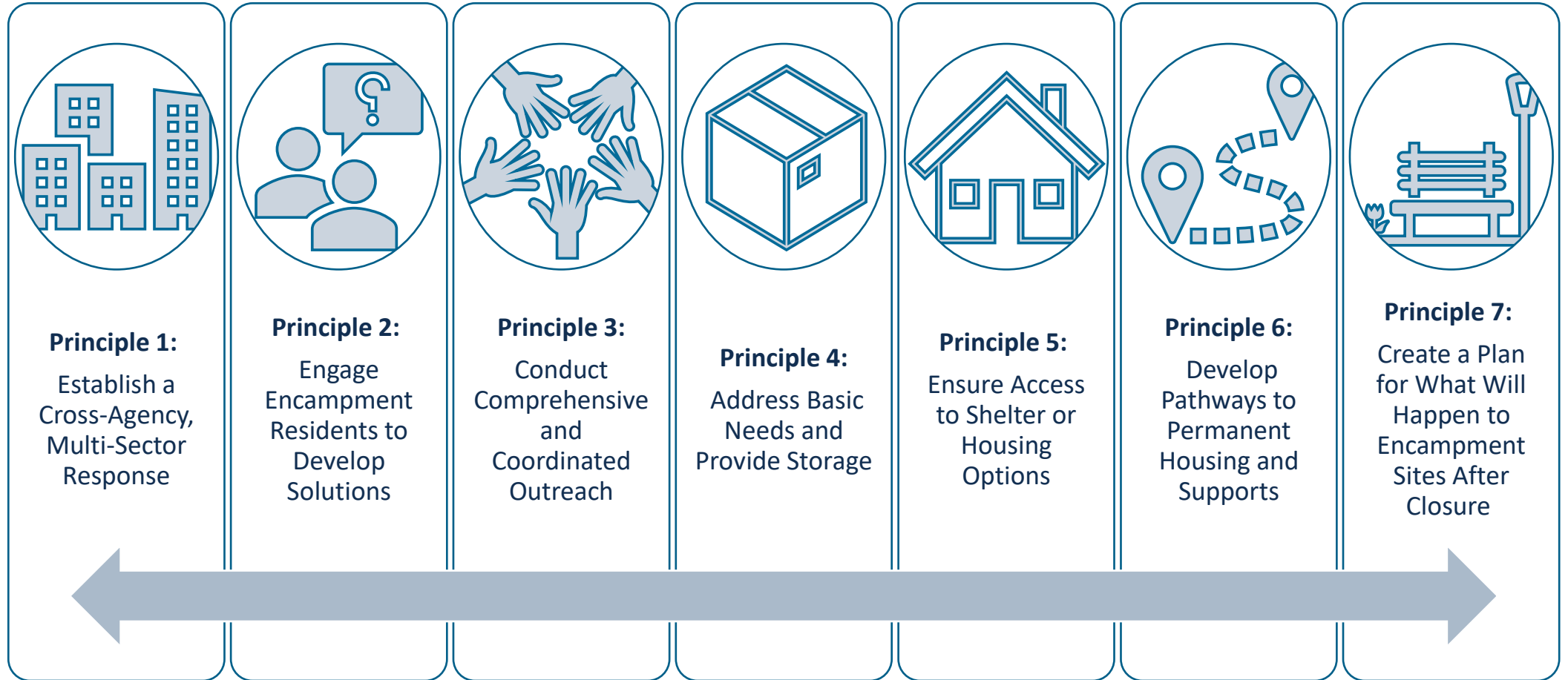
For the first time, in 2020, unsheltered homelessness exceeded sheltered homelessness among individuals.

HUD Definition of Homelessness
Individuals or families who lack a fixed, regular, and adequate nighttime residence, including someone who is unsheltered.

Definition of Unsheltered
Having a primary nighttime residence that is a public or private place not meant for human habitation.



Principles for Addressing Encampments





Principle 1: Establish a Cross-Agency, Multi-Sector Response

- Command centers approach using daily coordination for all involved with encampment planning and response.
- Law enforcement may need to play a role in but should not drive the process.



Principle 2: Engage Encampment Residents to Develop Solutions

- Elevate the lived expertise of people experiencing unsheltered homelessness.
- Adequate time for outreach teams to engage residents in finding alternative shelter, housing, and service options.



Principle 3: Conduct Comprehensive and Coordinated Outreach

- Connect people directly to shelter and housing, mental health and treatment services, and health care.
- Sharing data and information and using a coordinated map to identify coverage and or gaps in outreach.



Principle 4: Address Basic Needs and Provide Storage

- Continue to provide public restrooms, parks, and other community spaces.
- Offer public services such as garbage collection, sharps containers, maintenance, and regular cleaning.
- Access to storage and special care to avoid destroying personal belongings .



Principle 5: Ensure Access to Shelter or Housing Options

- Encampments should not be closed unless there is access to low-barrier shelter or housing.
- Provide interim solutions until more permanent affordable housing options are available.
- Ensure voluntary, sanitary, and safe shelter with few programmatic requirements.



Principle 6: Develop Pathways to Permanent Housing and Supports

- Link people with permanent housing opportunities with the right level of services.
- Coordinate effort to mobilize available resources to move people as quickly as possible from homelessness into housing.



Principle 7: Create a Plan for What Will Happen to Encampment Sites After Closure

- Plans for former encampment sites should emphasize safety, accessibility, and inclusivity.
- Facilitate coordination among public works, service providers, and volunteer organizations to serve people after the encampment is gone.



USICH and Federal Response

Publications

- [Responding to the Growing Crisis of Unsheltered Homelessness and Encampments](#)
- [7 Principles for Addressing Encampments](#)
- [Resource Roundup for Addressing Encampments](#)
- *Coming Soon: Community Spotlights*

Guidance and Resources

- USICH [Senior Regional Advisors](#)
- *Upcoming* USICH **Federal Strategic Plan**
- HUD [Unsheltered and Rural Notice of Funding Opportunity](#)
- HUD [Annual Continuum of Care NOFO](#)



Resources

- [Ending Homelessness for People Living in Encampments: Advancing the Dialogue | United States Interagency Council on Homelessness \(USICH\)](#)
- [Responses to Homelessness | Bureau of Justice Assistance \(ojp.gov\)](#)
- [COVID-19 Homeless System Response: Engaging Individuals with Lived Expertise - HUD Exchange](#)
- [Core-Components-of-Outreach-2019.pdf \(usich.gov\)](#)
- [Interim Guidance on People Experiencing Unsheltered Homelessness | COVID-19 | CDC](#)
- [Protecting Health and Well-being of People in Encampments During an Infectious Disease Outbreak \(hudexchange.info\)](#)
- [Infectious Disease Toolkit for CoCs: Preventing and Managing the Spread of Infectious Disease within Encampments \(hudexchange.info\)](#)
- [Caution Sanctioned Encampments Safe Zones 052318.pdf \(usich.gov\)](#)
- [Model Transitions Document FINAL \(hud.gov\)](#)
- [Homelessness Among People Living in Encampments | HUD USER](#)
- [Case Studies: Ending Homelessness for People Living in Encampments | United States Interagency Council on Homelessness \(USICH\)](#)
- [COVID-19 Homeless System Response: Planning a Housing Surge to Accelerate Rehousing Efforts in Response to COVID-19 \(hudexchange.info\)](#)
- [COVID-19 Homeless System Response: Housing Surges: Special Considerations for Targeting People Experiencing Unsheltered Homelessness \(hudexchange.info\)](#)
- [Microsoft PowerPoint - Crime Prevention through Environmental Design Final Presentation \(hud.gov\)](#)
- [The Curb-Cut Effect \(ssir.org\)](#)
- [spur_gehl_coexistence_in_public_space.pdf](#)
- HUD [Unsheltered and Rural Notice of Funding Opportunity](#)

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A blurred background image showing several people sitting around a table in what appears to be a meeting or conference room. The people are out of focus, and the overall scene is brightly lit.

Martin v. City of Boise and Public Camping

Scott L. Shapiro

Martin v. City of Boise, 902 F.3d 1031 (9th Cir. 2018)

- “We consider whether the Eighth Amendment's prohibition on cruel and unusual punishment bars a city from prosecuting people criminally for sleeping outside on public property when those people have no home or other shelter to go to. We conclude that it does.” We hold that “so long as there is a greater number of homeless individuals in [a jurisdiction] than the number of available beds [in shelters],” the jurisdiction cannot prosecute homeless individuals for “involuntarily sitting, lying, and sleeping in public.”

- **Actions illegal under Boise ordinances:**
 - To use any of the streets, sidewalks, parks, or public places as a camping place at any time
 - Occupying, lodging, or sleeping in any building, structure, or public place, whether public or private ... without the permission of the owner or person entitled to possession or in control thereof.

Martin v. City of Boise

- We in no way dictate to the City that it must provide sufficient shelter for the homeless, or allow anyone who wishes to sit, lie, or sleep on the streets ... at any time and at any place.

- The dicta of Footnote 8:
 - Nor do we suggest that a jurisdiction with insufficient shelter can *never* criminalize the act of sleeping outside. An ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible.
 - So, too, might an ordinance barring the obstruction of public rights of way or the erection of certain structures.

Martin v. City of Boise – the progeny

- › Frank v. City of St. Louis (Federal district court - 2020)
 - Context: City seeks to close an unauthorized encampment due to COVID risk.
 - Court says that Ms. Frank is not able to get a TRO to stop City action.
 - At most, the City is criminalizing sleeping in public *in a particular location*. And according to the health official, as well as the Order to Vacate itself, the City is doing so because it has identified that particular location as especially “high risk .. for the spread of COVID-19....
 - It is not at all clear that the City is criminalizing homelessness anywhere, even at the downtown encampments. At oral argument, counsel for the City repeatedly stated that the City had no intention of arresting the individuals who have been residing at the encampments.
 - The Notice and Order posted at the downtown encampments clearly states that sufficient alternative housing is available for everyone still sleeping there.

Martin v. City of Boise – the progeny

- › Gomes v. Kauai (Federal district court - 2020)
 - Context: Gomes sued County challenging citation for illegal camping and constructing an illegal structure in a public park.
 - The plaintiff's alleged that there the County's capacity is 19 persons at the homeless shelter in County; but there are 500 registered homeless people in the County.
 - Defendant files a motion to dismiss for failure to state a claim; Court agrees.
 - Importantly, plaintiffs were cited for sleeping at a public park; not for sleeping on public property; in other words, the ordinance just precluded sleeping at a particular location.

Martin v. City of Boise – the progeny

- › City of Eugene v. Adams (Oregon Court of Appeals - 2021)
 - Context: Appeal of a criminal conviction for trespass. Defendant was sleeping in front of an elevator to a private building blocking access for employees.
 - The Court stated that nothing in *Martin* supports the extension of that rationale to prohibitions on enforcement of criminal trespassing laws on *private* property. Here, it is undisputed that defendant was on private, not public, property.
 - We thus conclude that neither the Eighth Amendment, nor Article I, section 16, prohibits enforcement of criminal trespass laws, involving an entry onto private property, against the homeless.

Martin v. City of Boise – the progeny

- What have we learned? The following appear to be the key considerations on whether the 8th Amendment applies to public camping:
 - Only applies to public (not private) property – interesting opportunity??;
 - Doesn't apply if no criminal charges possible;
 - Probably doesn't apply if not all public property affected; best approach is to speak to specific categories of property that are off limits;
 - Doesn't apply to temporary prohibitions to achieve public policies (like cleaning or closing a particular facility due to health risks).

Martin v. City of Boise – the progeny

➤ Sacramento Homeless Union v. Sacramento

- Sought and obtained a temporary restraining order against the City in light of the high temperatures and the fact that the main designated camping location was a parking lot.
- “The Ninth Circuit held in Martin that “the Eighth Amendment’s prohibition on cruel and unusual punishment bars a city from prosecuting people criminally for sleeping outside on public property when those people have no home or other shelter to go to.” 920 F.3d at 603. In contrast, the crux of the relief Plaintiffs seek in this case is to stop the City from clearing encampments because those encampments provide some amount of respite from the extreme heat in Sacramento — not that Plaintiffs are being prosecuted criminally for sleeping outside on public property....The Court finds Martin has no bearing on the injunctive relief that Plaintiffs seek.”

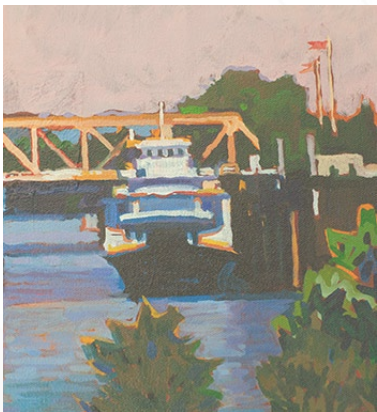
The Tennessee Approach

- SB1610 expanded the Equal Access to Public Property Act of 2012 to include city and county public property. It previously only included state and private property. Camping on any public property not designated for camping use is now a Class E felony in Tennessee.
- The law also makes soliciting or camping alongside roadways or bridges illegal as a Class C misdemeanor, punishable by a \$50 fine or community service.
- This may set up an eventual battle at the Supreme Court.

Blake v. City of Grant's Pass

- A 9th Circuit appeal challenging City ordinances in effect *before* Martin. The case challenged anti-camping and anti-sleeping ordinances punished with civil fines that ripened into criminal punishment. Anti-sleeping ordinance did not prohibit sleeping, only sleeping with any sort of shelter or bedding.
- “Our decision reaches beyond Martin slightly. We hold, where Martin did not, that:
 - class certification is not categorically impermissible in cases such as this,
 - “sleeping” in the context of Martin includes sleeping with rudimentary forms of protection from the elements
 - Martin applies to civil citations where, as here, the civil and criminal punishments are closely intertwined.”

QUESTIONS?



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Thank You

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