

RECLAMATION

Managing Water in the West

Categorical Exclusion Checklist

Rock Slough Fish Screen Assistance Agreement

CEC 12-095

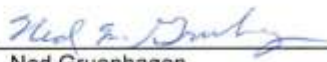
Prepared by:



Chuck Siek
Supervisory Natural Resources Specialist
South-Central California Area Office

Date: 2/15/13

Concurred by:



Ned Gruenhagen
Wildlife Biologist
South-Central California Area Office

Date: 2/15/2013

Approved by:

for 

Michael Jackson
Area Manager
South-Central California Area Office

Date: 2/19/13



U.S. Department of the Interior
Bureau of Reclamation
South-Central California Area Office

February 2013

Background

The 47-mile Contra Costa Canal (Canal) is part of the Central Valley Project's Delta Division. Water from the Sacramento-San Joaquin Delta is diverted at Rock Slough where the Canal begins for distribution by Contra Costa Water District (CCWD) for irrigation, municipal and industrial uses.

The Bureau of Reclamation (Reclamation) constructed the Rock Slough fish screen (RSFS) to comply with the Los Vaqueros Biological Opinion for delta smelt as issued by the U.S. Fish and Wildlife Service in 1993. An Environmental Assessment and Finding of No Significant Impact (EA/FONSI 97-12-MP) for construction of the RSFS was prepared for compliance with the National Environmental Policy Act (NEPA).

The RSFS is located approximately four miles southeast of the intersection of State Route 4 and Cypress Road, near the terminus of Rock Slough or approximately 500 feet east of the existing Rock Slough Headwork's structure.

An EA/FONSI (11-061) for the transfer of Operations and Maintenance (O&M) to CCWD is currently in progress. CCWD has requested financial assistance for costs associated with the transfer of O&M. All potential environmental impacts that may result from O&M activities are analyzed in EA/FONSI 11-061. This Categorical Exclusion is limited to the awarding of the Assistance Agreement for activities and obligations listed in Table 1.

Purpose and Need for Action

Reclamation does not have the resources to perform O&M activities on the RSFS. CCWD has agreed to perform interim O&M activities pending the permanent transfer and Reclamation is willing to enter into an Assistance Agreement with CCWD to provide funding for specific activities and obligations (Table 1). The purpose of this action is to complete that Assistance Agreement in order to facilitate identification of system defects, to design facility modifications, and provide reimbursements as Reclamation and CCWD work toward the transfer of O&M.

Proposed Action

Reclamation proposes to award an Assistance Agreement to CCWD in order to facilitate identification of system defects, to design facility modifications and to reimburse a property owner for utility cost increases resulting from the operation of the RSFS. The initial term would be for Federal Fiscal Year 2013 (Oct. 2012-Sept. 2013). The Assistance Agreement could be extended on a year-to-year basis.

Table 1 Itemized O&M Activities covered under the Assistance Agreement

Activity or Obligation	Description
RSFS malfunctions: Consultant evaluations	Fish deterrence evaluation, weed loading evaluation and rake system malfunction evaluation.
RSFS malfunctions: Consultant design	Fish deterrence system design and rake system modification design.
Labor	CCWD labor for design consultant management and collaboration
	CCWD past labor, April 2012 through September 2012 for oversight and trouble-shooting ¹
	CCWD ongoing labor through October 2013
Landowner obligations	Pump/motor modifications to reflect increased power use to irrigate Del Porto fields
	Land transfer
	Landowner easement modifications to reflect installation of irrigation equipment

Environmental Commitments

Table 2 Required Environmental Commitments

Resource	Environmental Commitment
Biology	Activities conducted under the Proposed Action (Assistance Agreement) may not affect listed species or designated critical habitat protected under the Endangered Species Act (ESA; 16 U.S.C. § 1531 et seq.).
	Activities conducted shall comply with all existing environmental requirements developed pursuant to ESA section 7(a) 2 consultations by Reclamation and ESA regulatory Agencies (i.e. the U.S. Fish and Wildlife Service [FWS] and National Marine Fisheries Service [NMFS]) that pertain to the RSFS. This requirement shall be extended to additional requirements enacted through compliance documents developed during the period covered by the Proposed Action and expenditure of funds provided for thereunder. For example, all activities conducted under the Proposed Action shall comply with existing and future environmental requirements in Reclamation no effect determinations, requests for concurrence, and Biological assessments. Compliance with FWS and NMFS Letters of Concurrence and Biological/Conference Opinions, including, but not limited to those developed for the Los Vaqueros Project and the FWS and NMFS Biological/Conference Opinions on Long-Term Operations of the Central Valley Project shall likewise be met. Additionally, activities undertaken under the Proposed Action would be required to comply with requirements pertaining to RSFS that may be addressed in a Joint FWS/NMFS Biological Opinion on Long-Term Operations of the Central Valley Project.
	No construction activities or modifications to the facilities are permitted without further environmental review, including those conducted out of the water.
	Evaluations of fish deterrence, weed loading and rake system malfunction shall occur through means that do not disturb water or water quality at the RSFS, unless determined with further appropriate environmental review that such activities would not affect listed species or designated critical habitat.
	Design of fish deterrence and rake system modification shall be conducted without disturbance to water or affecting water quality at the RSFS, unless determined with further appropriate environmental review that such activities would not affect listed species or designated critical habitat.
Biology	Migratory birds are protected under the Migratory Bird Treaty Act (MBTA; 16 U.S.C. § 703-712). Activities under the Proposed Action may not take migratory birds. Migratory birds such as swallows could nest on the RSFS facility. Activities conducted under the Proposed Action shall avoid take of migratory birds. If necessary, excluding barriers shall be placed on the structure before the nesting season to preclude nest establishment. Otherwise activities shall be conducted in a manner so as to not cause abandonment of nests with eggs or young, or otherwise cause take. It is expected that the activities to be conducted under the Proposed Action would avoid take of migratory birds.
	To avoid effects on listed species and designated critical habitat, activities are not permitted in the water or for which water quality would be affected. Activities desired to be conducted in the water or that would affect water quality shall undergo and complete additional appropriate environmental review before they may be authorized.

Environmental consequences for resource areas assume the measures specified would be fully implemented.

Exclusion Category

Department of the Interior Manual
CHAPTER 2; APPENDIX 1
Departmental Categorical Exclusions

1.3 Routine financial transactions including such things as salaries and expenses, procurement contracts (in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.

Evaluation of Criteria for Categorical Exclusion:

- | | | | | | | |
|---|----|-------------------------------------|-----------|--------------------------|-----|--------------------------|
| 1. This action would have a significant effect on the quality of the human environment (40 CFR 1502.3). | No | ☒ | Uncertain | ☐ | Yes | ☐ |
| 2. This action would have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA Section 102(2)(E) and 43 CFR 46.215(c)). | No | ☒ | Uncertain | ☐ | Yes | ☐ |
| 3. This action would have significant impacts on public health or safety (43 CFR 46.215(a)). | No | ☒ | Uncertain | ☐ | Yes | ☐ |
| 4. This action would have significant impacts on such natural resources and unique geographical characteristics as historic or cultural resources; parks, recreation, and refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); flood plains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas (43 CFR 46.215 (b)). | No | ☒ | Uncertain | ☐ | Yes | ☐ |
| 5. This action would have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks (43 CFR 46.215(d)). | No | ☒ | Uncertain | ☐ | Yes | ☐ |
| 6. This action would establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects (43 CFR 46.215 (e)). | No | ☒ | Uncertain | ☐ | Yes | ☐ |
| 7. This action would have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects (43 CFR 46.215 (f)). | No | ☒ | Uncertain | ☐ | Yes | ☐ |
| 8. This action would have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by Reclamation (LND 02-01) (43 CFR 46.215 (g)). | No | ☒ | Uncertain | ☐ | Yes | ☐ |
| 9. This action would have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated critical habitat for these species (43 CFR 46.215 (h)). | No | ☒ | Uncertain | ☐ | Yes | ☐ |

- | | |
|--|--|
| 10. This action would violate a Federal, tribal, State, or local law or requirement imposed for protection of the environment (43 CFR 46.215 (i)). | No ☒ Uncertain ☐ Yes ☐ |
| 11. This action would affect ITAs (512 DM 2, Policy Memorandum dated December 15, 1993). | No ☒ Uncertain ☐ Yes ☐ |
| 12. This action would have a disproportionately high and adverse effect on low income or minority populations (EO 12898) (43 CFR 46.215 (j)). | No ☒ Uncertain ☐ Yes ☐ |
| 13. This action would limit access to, and ceremonial use of, Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007, 43 CFR 46.215 (k), and 512 DM 3)). | No ☒ Uncertain ☐ Yes ☐ |
| 14. This action would contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act, EO 13112, and 43 CFR 46.215 (l)). | No ☒ Uncertain ☐ Yes ☐ |

Regional Archeologist concurred with Item 8. Their determination has been attached.

ITA Designee concurred with Item 11. Their determination has been attached.

Area Office Biologist concurred with Item 9. Their determination has been placed in the project file.

Re: 13-SCAO-051 Rock Slough Fish Screen (RSFS) Assistance Agreement

December 13, 2012

Carper, Mark <mcarper@usbr.gov>

8:55 AM (41 minutes ago)

Chuck:

Re: 13-SCAO-051 Rock Slough Fish Screen (RSFS) Assistance Agreement

The proposed action by Reclamation to award an Assistance Agreement to Contra Costa Water District (CCWD) for funding associated with the operation and maintenance of the RSFS. Specifically the award is to facilitate the identification of system defects, to design, and to implement facility modifications to the RSFS. The modifications could potentially include the replacement in kind of the screen rake mechanism.

This proposed action is the type of undertaking that does not have the potential to cause effects to historic properties, should such properties be present, pursuant to the Section 106 implementing regulations codified at 36 CFR Part 800.3(a)(1).

After reviewing Categorical Exclusion Checklist CEC 12-095, I concur with item 8 that this undertaking would not have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places. This email is intended to convey the conclusion of the Section 106 process for this undertaking. Please place a copy of this memo in the administrative record for this NEPA action.

Be aware that additional Section 106 review and consultation with the SHPO may be necessary if there are changes in project design. Thank you for providing the opportunity to comment.

Respectfully,
Mark

Rock Slough Fish Screen Assistance Agreement

December 13, 2012

**Siek,
Charles**

12:15 PM (21 hours ago)

RIVERA, PATRICIA

8:38 AM (43 minutes ago)

Chuck,

I reviewed the proposed action to approve funding for Contra Costa Water District for costs associated with operating and maintaining the Rock Slough Fish Screen. The construction activities discussed in the attached Categorical Exclusion would be analyzed separately in the actual transfer of O&M EA/FONSI. No land disturbance for this Cat Ex.

The proposed action does not have a potential to affect Indian Trust Assets. The nearest ITA is Lytton Rancheria approximately 38 miles w of the project location.

Patricia Rivera



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION

1243 "N" Street
Fresno, CA 93727

February 8, 2013



MEMORANDUM

To: Central Files

From: Ned Gruenhagen, Ph.D.
Wildlife Biologist, Endangered Species Act Branch

Subject: No-Effect Determination for (CE 12-095)

Introduction

The Rock Slough Fish Screen (RSFS) facility is located on Rock Slough at the junction of Contra Costa Water District's (CCWD) unlined Contra Costa Canal, approximately 4 miles southeast of the town of Oakley, California.

Proposed Action

Reclamation proposes to award an Assistance Agreement to CCWD in order to facilitate identification of system defects, to design facility modifications and to reimburse a property owner for utility cost increases resulting from the operation of the RSFS. The initial term would be for Federal Fiscal Year 2013 (Oct. 2012-Sept. 2013). The Assistance Agreement could be extended on a year-to-year basis. Funding for the initial term would total \$324,835 as itemized in Table 1:

Table 1 Itemized O&M Activities covered under the Assistance Agreement

Activity or Obligation	Description	Total Cost
RSFS malfunctions: Consultant evaluations	Fish deterrence evaluation, weed loading evaluation and rake system malfunction evaluation.	\$29,500
RSFS malfunctions: Consultant design	Fish deterrence system design and rake system modification design.	\$71,760
Labor	CCWD labor for design consultant management and collaboration	\$57,702
	CCWD past labor, April 2012 through September 2012 for oversight and trouble-shooting ¹	\$54,634
	CCWD ongoing labor through October 2013 ¹	\$61,746
Landowner obligations	Pump/motor modifications to reflect increased power use to irrigate Del Porto fields	\$24,498
	Land transfer	\$11,998
	Landowner easement modifications to reflect installation of irrigation equipment	\$12,997
Total:		324,835

¹ Includes costs (estimated at \$5,000 staff time and miscellaneous costs per month) for response to rake failures, response to fish entrapment issues, excess weed handling, general trouble-shooting and coordination with Reclamation.

Under the provisions of the Assistance Agreement, CCWD would identify RSFS system defects, design facility modifications and reimburse a property owner for utility cost increases resulting from the operation of the RSFS. To complete this work, CCWD would evaluate the deterrence of fish, weed loading, and rake system malfunction at the Rock Slough Fish Screen. Labor would be expended for design and consultant management and collaboration on this work, for past labor on oversight and trouble-shooting, and ongoing labor needs. Additionally, pump/motor modifications allowances (reimbursement) would be made to reflect increase power use to irrigate fields. And, resources would be used to support land transfer and landowner easement modifications.

Effects of the Proposed Action

Records for federally listed species from the Action Area were obtained from the California Natural Diversity Database (CNDDB 2013). Listed species with potential to occur in the Action Area include, the endangered San Joaquin kit (SJKF; *Vulpes macrotis mutica*), threatened giant garter snake (GGS; *Thamnophis gigas*), threatened California red-legged frog (CRLF; *Rana draytonii*), threatened Delta smelt (DS; *Hypomesus transpacificus*), threatened vernal pool fairy shrimp (VPFS; *Branchinecta lynchi*), endangered Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run chinook salmon (*O. tshawytscha*), threatened Central Valley steelhead (*O. mykiss*), and threatened North American Green sturgeon, southern Distinct Population Segment (*Acipenser medirostris*).

Rock Slough is designated critical habitat for fish species, but critical habitat for other listed species is not present in the Action Area and would not be affected. The nearest occurrence records for GGS, CRLF, VPFS and SJKF are 5 or more miles away from the Action Area (CNDDB 2013). The Proposed Action would include activities out of the water at the RSFS facility. The facility and dry areas are not suitable habitat for GGS, CRLF, VPFS or for SJKF and therefore there would be no effect to these species from the Proposed Action.

Evaluation of fish deterrence, weed loading and rake system malfunction shall be conducted out of the water and in a manner that would not disturb water at the RSFS or affect its quality. Similarly, design modification of the fish deterrence and rake systems shall occur by means that would not disturb water at the RSFS or affect water quality. As such, activities conducted under the Proposed Action would not occur in the water or affect water quality at RSFS and therefore fish species and designated critical habitat for them would not be affected by the Proposed Action. Any activities to be conducted in the water or that could affect water quality would require further environmental review and may be permitted only if such activities are determined not to affect listed species or designated critical habitat. The labor expended, including on design and consultant management and collaboration would not affect listed species or their habitat. Lastly, modifications to pumps/motors, land transfer and landowner easement modifications also would not affect listed species or their habitat.

Further, Reclamation shall implement the following environmental protection measures:

1. Activities conducted may not affect listed species or designated critical habitat protected under the Endangered Species Act (ESA; U.S.C. 16 § 1531 et seq.).

2. Activities conducted under the Proposed Action (Assistance Agreement) shall comply with all existing environmental requirements developed pursuant to ESA section 7(a) 2 consultations by Reclamation and ESA regulatory Agencies (i.e. the U.S. Fish and Wildlife Service [FWS] and National Marine Fisheries Service [NMFS]) that pertain to the Rock Slough Fish Screen (RSFS). This requirement shall be extended to additional requirements enacted through compliance documents developed during the period covered by the Proposed Action and expenditure of funds provided for thereunder. For example, all activities conducted under the Proposed Action shall comply with existing and future environmental requirements in Reclamation no effect determinations, requests for concurrence, and Biological assessments. Compliance with FWS and NMFS Letters of Concurrence and Biological/Conference Opinions, including, but not limited to those developed for the Los Vaqueros Project and the FWS and NMFS Biological/Conference Opinions on Long-Term Operations of the Central Valley Project shall likewise be met. Additionally, activities undertaken under the Proposed Action would be required to comply with requirements pertaining to RSFS that may be addressed in a Joint FWS/NMFS Biological Opinion on Long-Term Operations of the Central Valley Project.
3. To avoid effects on listed species and designated critical habitat, activities are not permitted in the water or for which water quality would be affected. Activities desired to be conducted in the water or that would affect water quality shall undergo and complete additional appropriate environmental review before they may be authorized.
4. No construction activities or modifications to the facilities are permitted without further environmental review, including those conducted out of the water.
5. Evaluations of fish deterrence, weed loading and rake system malfunction shall occur through means that do not disturb water or water quality at the RSFS, unless determined with further appropriate environmental review that such activities would not affect listed species or designated critical habitat.
6. Design of fish deterrence and rake system modification shall be conducted without disturbance to water or affecting water quality at the RSFS, unless determined with further appropriate environmental review that such activities would not affect listed species or designated critical habitat.
7. Migratory birds are protected under the Migratory Bird Treaty Act (MBTA; 16 U.S.C. § 703-712). Activities under the Proposed Action may not take migratory birds. Migratory birds such as swallows could nest on the RSFS facility. Activities conducted under the Proposed Action shall avoid take of migratory birds. If necessary, excluding barriers shall be placed on the structure before the nesting season to preclude nest establishment. Otherwise activities shall be conducted in a manner so as to not cause abandonment of nests with eggs or young, or otherwise cause take. It is expected that the activities to be conducted under the Proposed Action would avoid take of migratory birds.

Through full implementation of the above environmental protection measures, Reclamation has determined that the Proposed Action would not affect ESA listed species or designated critical habitat beyond that which is otherwise already covered, as required under ESA section 7(a)2. Further, take migratory birds would be avoided.

References:

CNDDDB. (2013). California Natural Diversity Database. Geographic Data Branch. California Department of Fish and Game. January 2013.

Environmental Commitment Program

This form must accompany all Federal discretionary action approvals that require compliance with the National Environmental Policy Act and other applicable environmental laws.

Environmental Document¹: 12-095 Rock Slough Fish Screen Assistance Agreement

On January 14, 2011 the President's Council on Environmental Quality (CEQ) issued guidance for Federal agencies to implement, monitor and evaluate environmental commitments identified in Environmental Assessments and Environmental Impact Statements completed for compliance with the National Environmental Policy Act (NEPA). This guidance also pertains to Categorical Exclusions when environmental commitments have been identified in order to meet the requirements for exclusion.

The Bureau of Reclamation's NEPA Handbook provides guidance on the establishment of an Environmental Commitment Program (ECP) to meet the CEQ guidance. The ECP is a system designed to implement, monitor and evaluate the environmental commitments identified in the NEPA document. These commitments fall under one or more of the following categories:

1. Commitments where no construction or ground disturbance is involved

These commitments are typically associated with water transfers, exchanges, Warren Act contracts and similar actions.

Required ☒ Not Required ☐

2. Commitments where construction or ground disturbance is involved

These commitments are typically associated with short-term construction impacts resulting from modifications to Federal facilities or modifications to non-Federal facilities where there is a Federal nexus such as Federal funds or approvals.

Required ☐ Not Required ☒

3. Long-term commitments

These commitments are typically associated with larger construction or ground disturbing activities where impacts to resources such as wetlands, special status species habitat or water quality may occur that require long-term mitigation and monitoring.

Required ☐ Not Required ☒

Note: If the "Not Required" boxes are checked on all three commitment categories, no further action is required. If any of the required boxes are checked please refer to the following Environmental Commitment table for a summary of the commitments required for environmental compliance. Reclamation would continue to require compliance with all commitments imposed by existing environmental documents, such as Biological Opinions and Programmatic Agreements. Please direct any questions or comments regarding the Environmental Commitment Program to:

Chuck Siek, Supervisory Natural Resources Specialist
Department of Interior, Bureau of Reclamation
1243 "N" Street, Fresno, CA 93721
(559) 487-5138 email at csiek@usbr.gov

¹ Environmental Document types include: Categorical Exclusion, Environmental Assessment/Finding of No Significant Impact and Environmental Impact Statement/Record of Decision



Environmental Commitment Table

South-Central California Area Office

Environmental Document: 12-095 Rock Slough Fish Screen Assistance Agreement								
Natural Resource Specialist: Chuck Siek (559) 487-5138 csiek@usbr.gov Wildlife Biologist: Ned Gruenhagen (559) 487-5227 ngruenhagen@usbr.gov						To be completed by [proponent]		
Resource	Commitment Category ²	Summary of Environmental Commitments ³	Timeframe for Implementation ⁴	Verification of Compliance ⁵		[Proponent] Point of Contact ⁶ <u>The Project Manager is responsible for proponent POC information.</u>	Verification of Compliance (Authorizing Official)	
				Initials	Date		Initials	Date
Biology	1	Activities conducted under the Proposed Action (Assistance Agreement) may not affect listed species or designated critical habitat protected under the Endangered Species Act (ESA; 16 U.S.C. § 1531 et seq.).	Duration of Agreement			Mark A. Seedall Principal Planner Contra Costa Water District 925 688-8119 mseedall@ccwater.com		
		Activities conducted shall comply with all existing environmental requirements developed pursuant to ESA section 7(a) 2 consultations by Reclamation and ESA regulatory Agencies (i.e. the U.S. Fish and Wildlife Service [FWS] and National Marine Fisheries Service [NMFS]) that pertain to the RSFS. This requirement shall be extended to requirements enacted through compliance documents developed during the period covered by the Proposed Action and expenditure of funds provided for thereunder. For example, all activities conducted under the Proposed Action shall comply with existing and future environmental requirements in Reclamation no effect determinations, requests for concurrence, and Biological assessments. Compliance with FWS and NMFS Letters of Concurrence and Biological/Conference Opinions, including, but not limited to those developed for the Los Vaqueros Project and the FWS and NMFS Biological/Conference Opinions on Long-Term Operations of the Central Valley Project shall likewise be met. Additionally, activities undertaken under the Proposed Action would be required to comply with requirements pertaining to RSFS that may be addressed in a Joint FWS/NMFS Biological Opinion on Long-Term Operations of the Central Valley Project.						

²List category numbers checked on first page

³ Summarize environmental commitments from environmental document completed for action

⁴ List when environmental commitments must start/end

⁵ Verification by Reclamation that all environmental commitments have been implemented and a summary report has been completed as required

⁶ Proponent point of contact may be the individual responsible for a specific commitment or the Authorizing Official responsible for overall environmental compliance



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		Evaluations of fish deterrence, weed loading and rake system malfunction shall occur through means that do not disturb water or water quality at the RSFS, unless determined with further appropriate environmental review that such activities would not affect listed species or designated critical habitat.						
		Design of fish deterrence and rake system modification shall be conducted without disturbance to water or affecting water quality at the RSFS, unless determined with further appropriate environmental review that such activities would not affect listed species or designated critical habitat.						
		To avoid effects on listed species and designated critical habitat, activities are not permitted in the water or for which water quality would be affected. Activities desired to be conducted in the water or that would affect water quality shall undergo and complete additional appropriate environmental review before they may be authorized.						

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