



# The Override

Every Landman Wants One!

Volume III, Issue 4

September, 2008



## Los Angeles Association of Professional Landmen

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### 2008-2009 Officers & Board of Directors

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### Presidents Message

#### Joel W. Miller, Energy Asset Analyst Transamerica Minerals Company

What a crazy summer! As of Monday, Sept 2nd oil prices have dropped about 25% in 2 months while natural gas prices have dropped about 45%. Hurricane Gustav just rolled through the Gulf of Mexico; Florida and Georgia are preparing for Hanna, while Ike and Josephine just developed into Tropical Storms in the Atlantic. The American public is starting to support Larry Kudlow's mantra of "Drill, Drill, Drill". The Mickelson Golf Classic was a huge success and Summer NAPE had another record attendance. The Democrats no longer have a woman candidate but the Republicans do. The word on the street is SHALE. Talk about interesting times. Hope to see everyone at the next meeting.

Joel W. Miller, President

LAAPL 2008-2009

### September Luncheon Speaker

#### "OPERATING IN AN (LA COUNTY) URBAN ENVIRONMENT"

**Thomas G. Dahlgren** is the Land & Industrial Relations Coordinator for Warren E&P, Inc., a subsidiary of Warren Resources, Inc. He holds a BS degree in Business Management and an MS in Environmental Health and Safety. His background includes both corporate employment and independent work. Tom began his career as a geological & engineering technician with Union Oil Company in 1977. He worked for Union for 9 years, becoming a petroleum landman in 1980 upon graduation from Cal Poly State University in San Luis Obispo.

Tom will be speaking on the challenges and successes of Warren E&P's operations in the Wilmington Oil Field. Warren has been an operator in California since the beginning of 2006 and has drilled over 125 wells and invested over \$200 million in its California production and drilling program.



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## Editor's Corner

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### Joe Munsey Newsletter Chair

#### Southern California Gas Company

Did anyone seriously think I was going to leave the position of Newsletter Chair? Of course joining me again, after a marathon arm twisting contest, Randall Taylor of Taylor Land Service, Inc. has once again been coerced as our Publisher. All can agree, Randall is a major reason why "The Override" took top place (small chapter category) at the AAPL convention in Chicago.

Much has happened since the last time the LAAPL held's its luncheon way back in May; let's briefly highlight the transformation since we last met:

- ✓ As of September 3rd, the price of a barrel was trading in New York below \$105.05 - its lowest level since April and sharply down from the record \$147.27 seen on July 11th - before rising above \$108. (Can \$100.00 oil, or less, be too far off?)
- ✓ We nearly paid \$5.00 bucks a gallon for regular unleaded gasoline.
- ✓ The mantra, "Drill Here, Drill Now" was the shot heard in Washington, DC of all places.
- ✓ County of Santa Barbara Commissioners voted 3 to 2 to allow drilling offshore - I'm still bewildered that took place. (Sure does not fit our Governor's plan for going green.)
- ✓ We have a female Vice President candidate running for office. (She's an "oil man" plus more.)
- ✓ We have a candidate running for

President who claims all we need to do is inflate our tires to where they become balloons and the energy problem is solved - overnight. (That begs the question, will the price of air will go up at the local gas station as a result of that genius breakthrough.)

- ✓ T. Boone Pickens promoting windmills - but not on his ranch in Texas. (He's in good company with the Kennedy clan, his saving grace is the fact he still believes in drilling, and then more drilling, and then some more drilling.)

Much to absorb and ponder - I know, so, I'll be ever so brief as we have a newsletter packed with information for your further reading.

Our speaker for the month is our recently elected Vice President of the LAAPL, Tom Dahlgren, who himself became "famous" on the nightly news as he explained in thirty seconds, or less, the challenges of drilling and operating an oil field in an urban environment. Tom will give us the details on what he really aspired to get across to the viewing audience at our September meeting.

The last quarter of year is a busy time for the LAAPL. Starting In September we kick off our fall meetings at the Petroleum Club; the BAPL sponsoring the 26th annual West Coast Land Institute in Shell Beach and rounding out the year are the holidays - Thanksgiving and Christmas/Hanukah. As of the date we wrote this column, you have 113 days, or less depending on which holiday you celebrate, to get your shopping done.

Trusting we see you all at the Petroleum Club on September 18th; and bring a friend.



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## Lawyers' Joke of the Month

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### Jack Quirk, Esq. Bright and Brown

One afternoon a lawyer was riding in his stretch limousine when he saw two men along the roadside eating grass.

Disturbed, he ordered his driver to stop, and he got out to investigate.

He asked one of the men, "Why are you eating grass?"

"We don't have any money for food," the poor man replied. "We have no choice. We have to eat grass."

"Well, then, you can come with me to my house and I'll feed you." the lawyer said.

"But sir, I have a wife and two children with me. They are over there, under that tree."

"Bring them along, the lawyer replied. Turning to the other poor man he stated, 'You come with us also.'

The second man, in a pitiful voice then said, "But sir, I also have a wife and SIX children with me!"

"Bring them all as well," the lawyer answered.

They all entered the car, which was no easy task, even for a car as large as the stretch limousine was.

Once underway, one of the poor fellows turned to the lawyer and said, "Sir, you are too kind. Thank you for taking all of us with you."

The lawyer replied, "Glad to do it. You'll really love my place. The grass is almost a foot high."

It's true --"The law in its wisdom forbids the rich and the poor alike from sleeping under bridges." (Anatole France.)



**A Polluter That Voluntarily Initiates Clean-up Cannot Later Seek Contribution From The Federal Government**

**Dupont v. United States**

**(Case No. 04-2096, 3rd Cir., August 29, 2006)**

*by: Thierry R. Montoya, Esq. Adorno Yoss Alvarado & Smith*

Appellants are owners and operators of industrial facilities throughout the United States that are contaminated with hazardous materials. Appellants acknowledge some level of responsibility, but bring this case seeking an apportionment of fault for the US government. Their claim is based on CERCLA §§ 107(a) and 113. (All statutory references are to CERCLA). This case was originally brought when New Castle and Reading were pending (and prior to Cooper). New Castle and Reading were decided during this case, and the appellants voluntarily dismissed the §107 claim, leaving only the §113 claim for contribution. Appellate court reiterates that New Castle and Reading stand jointly for the proposition that a Potentially Responsible Party (PRP) seeking to offset clean-up costs must do so under §113 (contribution); the cost recovery (indemnity) action set forth in §107 is not available to PRP's, and that no implied cause of action for contribution survived the passage of §113.

**Background**

Two previous precedents, *New Castle County v. Haliburton*, and *Matter of Reading Co.*, limit the claim. Under *New Castle*: PRP's are limited to an express cause of action for contribution under §113, and are barred from bringing a cost recovery (indemnity) claim under §107. Under *Reading* §113 replaced any implied or common law causes of action for contribution by PRPs. In light of these rulings, the appellant here asks whether the holding in *Cooper Industries v. Aviall* (§113 not available to PRP who clean-up sites voluntarily) changes the interpretation of *New Castle* and *Reading*?

The District Court picked one of the sites (*DuPont*) as a "test case" to

determine whether *DuPont* could seek a contribution without being sued. The District Court held that *DuPont* could only bring contribution action in 3 instances: (1) during or after a civil action under §113; (2) after entering into judicially approved settlement (§113(f)(3)(B)); or, (3) in some "undefined contribution action pursuant to the savings clause of §113. Appellant had voluntarily incurred response costs, so the U.S. was granted summary judgment. District Court also granted U.S. judgment on the pleadings under FRCP 12 against the other defendants, because none had been sued, and voluntary compliance with EPA guidelines was not sufficient.

Appellant and other appellants asked this Court to stay the appeal pending the outcome of the *Cooper* case, and appellant now brings its arguments, all of which hinge on whether *New Castle* and *Reading* are still viable after *Cooper*.

**Court's Rationale**

The Appellate court reiterates that *New Castle* and *Reading* stand jointly for the proposition that a PRP seeking to offset cleanup costs must do so under §113 (contribution); the cost recovery (indemnity) action set forth in §107 is not available to PRP's, and that no implied cause of action for contribution survived the passage of §113. This Court noted that the motivation for the clean-up does not matter, unless it is the result of an enforcement action, lawsuit or settlement, the PRP cannot seek contribution.

Appellant argued that: (1) *Cooper* undercuts the holding of *Reading* because *Reading* allowed a PRP to seek contribution without being sued by virtue of the savings clause of §113. However, this Court held that

*Cooper* specifically did not answer this question, the holding in *Reading* only restated the terms of the statute (§113), in particular the savings clause, and did not endorse the proposition that a PRP could seek contribution without a lawsuit. Furthermore, *Reading*'s analysis of the savings clause of §113 was prompted by the understanding that a PRP who settles pursuant to §113(f)(3) (administrative or judicially approved settlement) can still seek contribution, the fact that the PRP was not sued under §107 won't foreclose the right to seek contribution.

Appellant next argued that: (2) the holding of *Cooper*, plus the legislative history of CERCLA, provides a basis to find an express or implied cause of action for contribution under §107 or common law, notwithstanding earlier precedent. Appellant claims that *New Castle* and *Reading* are in direct opposition to CERCLA's "broad remedial purpose", which would seem to encourage PRP's to be proactive in cleaning-up their sites. To hold otherwise would be to delay clean-ups or prohibit voluntary cleanups.

However, this Court cited to the legislative history of CERCLA with its underlying premise: to encourage PRP's to clean-up hazardous waste sites and to bear the costs of doing so. Absent from its language is any Legislative discussion permitting a PRPs to engage in voluntary clean-up and to then seek contribution. Moreover, the legislative history of SARA (amendment to §113 of CERCLA) supports *Cooper*'s holding limiting contribution to PRP's who are either sued or enter into administrative or judicial settlement. This Court noted that CERCLA's §113 was intended to

*Case of the Month*  
*continued from page 3*

encourage settlement, but voluntary clean-ups should be undertaken pursuant to structured and monitored settlement agreements that are designed to meet EPA (or similar) guidelines. Also, Congress intended CERCLA's §113 contribution to scare PRP's into coming forward and participating in settlement and clean-up, not to engage in unsupervised "behind the scenes" clean-ups that may or may not eliminate the problem or include the proper measures. This Court acknowledged that §113 does not specifically say that parties engaging in voluntary clean-ups cannot sue for contribution, but the overall scheme and background leads the Court to imply this into the statute.

For these reasons this Court held: New Castle and Reading control this case, and Cooper and CERCLA's legislative history do not require re-examination of either of these cases. As such, no implied cause of action for contribution exists under CERCLA's §107 allowing PRPs engaged in voluntary clean-ups subsequent contribution recovery.

**Conclusion**

Although seemingly a close call, the Court did not accept Dupont's argument that Cooper Industries represents intervening authority calling for this Court's review of its previous decisions.



**TAYLOR  
LAND SERVICE  
INC.**

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**Geothermal - the Political Green Solution?**

*Joe Munsey*

As promised long ago, an article regarding "green power" in California. We marvel at the fact California is one of the top producers of crude in the nation which is apparently unbeknownst to the general consensus of the uninformed Californian who "feel" California is a green state. But let them think we are turning 100 percent green and move aside while the California oil patch does what it does best – find Mother Nature below the ground and pump it out. (Wishful thinking on my part.)

Here is a basic crash course on geothermal energy. The heat below the surface, generally in the form of hot water or steam, powers turbines aboveground to produce electricity which then is wheeled on electrical transmission lines to our homes and industry. It is clean and very green. Except of course, the process of exploring and drilling for geothermal energy mirrors oil and gas exploration, even down to acquiring leases. (That could be a rub to environmentalists if you said geothermal and oil and gas in the same breath.)

The exploration process for this subterranean heat is very similar to the techniques used in the oil and gas industry, according to Hezy Ram, president of Ram Power, Inc.

Since oil companies are obligated to share geological data with the U.S. Geological Service, he said, geothermal companies like Ram Power can take advantage of the work the oil industry has already done to identify sources of geothermal energy. (There we go, back to combining geothermal with oil and gas exploration terms – must drive environmentalists into a frenzy)

"Most of the time, there is what we call a 'surface manifestation,'" Ram said; for example, a melted area in an otherwise snow-covered surface.

Once the company identifies a heat "well," it drills, extracts the super-heated water or steam, and then returns the

cooled water back underground, where the heat of the earth's core reheats it, Ram explained.

"We reinject everything we take out ... as far as we can tell, these (sites) will last for perpetuity," he added. The first geothermal plant, still in operation today, Ram said, was established in the Tuscany region of Italy in 1904.

According to Ted J. Clutter of the Geothermal Resources Council in an article he wrote for the U.S. Energy Policy, "A wave of geothermal power plants were built nationwide during the late 1980s and early 1990s, but interest cooled with rock-bottom prices for natural gas followed by utility deregulation that forced electric utilities to seek the lowest-cost power options."

Then along comes the power shortages in the Western United States and the hunt was on to find ways to produce more electricity – of course, without building any new facilities. Part of the mix for the uptick in interest in geothermal was the mandates of the Energy Policy Act of 2005 for utilities to provide a portion of their electricity from alternative power sources. Geothermal once again is being taken to the dance, but so is solar and wind power going to that dance party.

So what sets geothermal apart from other forms of alternative energy, such as solar and wind? For one thing, in comparison with solar energy, geothermal presents more attractive prices. Prior to forming Ram Power, Hezy was executive vice president of business development for a geothermal company where he inked a deal with Southern California Edison to provide electricity at 6.2 cents per kilowatt hour. Solar, on the other hand, can cost as much as 11 cents per kilowatt hour if not subsidized by state or local governments.

Furthermore, unlike with wind and solar power, geothermal plants are what Ram called a "24/7 facility." Geothermal production isn't limited only to daylight hours or windy days, meaning it can be

*Geothermal*  
*continued on page 5*

*Geothermal  
continued from page 4*

a base load source of power, available all the time, Ram said. Furthermore, as Ram said, "Solar and wind-powered facilities also can't control the voltage they produce, geothermal plants never go down."

"I think that's why geothermal is the alternative energy of choice for all utilities," he added. Of course, geothermal is not likely to replace fossil fuels as a primary energy source, Ram said. "It would be pretentious to think that," he said. (I already like this guy, he acknowledges oil and gas is still needed, and that's coming from a green business type.)

California currently gets 5 percent of its energy from geothermal plants -- not an insignificant figure, considering the state's economy surpasses most countries in size, Ram said.

The Philippines get 15 percent of their energy from geothermal, the Big Island of Hawaii is 25 percent geothermal and Nevada cities like Reno and Sparks are "basically (completely) geothermal," he said.

"We and our competitors produce 3,000 megawatts of electricity per year," Ram said. "This number could be (doubled) or even tripled in years to come."

So, there you have it, a green article from your Editor, as promised.

## CHAPTER BOARD MEETINGS

The 2007 - 2008 Board of Directors held its last official meeting at the Long Beach Petroleum Club in May. Items discussed:

- ✓ Higher check writing authority for the president. Declined by the board.
- ✓ Present Resolution to the members to allocate funds for WCLI, up to \$1000.00; and to allow initial \$7500.00 expenses for LAAPL Annual Michelson Golf Classic. As to expenses for the golf outing, those funds will be reimbursed and returned to the treasury.
- ✓ Allocate a maximum amount of \$500.00 to upgrade and bring up to date chapter website.
- ✓ LAAPL and BAPL to discuss excess funds left over from last year's WCLI.
- ✓ Increase luncheon price. Declined by the board.
- ✓ The 2008 - 2009 Board of Directors will begin meeting on the third Thursday of the month at 11:00 AM at the Long Beach Petroleum Club. Board meeting dates coincide with the LAAPL's luncheons.
- ✓ We encourage members to attend and see your Board of Directors in action.



## Treasurers Report

As of 07/01/2008, the LAAPL account showed a balance of	\$ 7,552.11
Deposit's made including 2008 Mickelson CG Tournament	\$ 9,425.00
The LAAPL account with Bank of America as of 4/1/2008, shows a balance of	\$ 7,272.10
<b>Withdrawals, transfers and Account fees</b>	<b>\$ 5,612.17</b>
The LAAPL account with Bank of America as of 08/12/2008, shows a balance of	\$11,364.94
Merrill Lynch Money Account shows a total	\$10,259.32

## OUR HONORABLE GUESTS

May's luncheon was another successful LAAPL Chapter luncheon meeting held at the Long Beach Petroleum Club. Our guests of honor who attended:

Patrick Bliesener, Eno Petroleum Corporation, NV

Tae Kim, Eno Petroleum Corporation, NV

Jim Powers, Terra Pacific Group

Hersel Zahba, Land Development Consultants

Mike Elmore, Shell Pipeline

Rob Pace, Shell Pipeline

Eric Campbell, Signal Hill

Sam Steele, Veneco

Norvell Egle

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**Terry L. Allred, Vice President**

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**Member: AAPL, BAPL, LAAPL, CIPA, NARO**

Please contact us for more information and a free copy of our "Oil and Gas Country Available Lands Report". Or you may email us at:

**[terry.allred@transamerica.com](mailto:terry.allred@transamerica.com)**

## New Members and Transfers

**Our Chapter Board of Directors welcomes the following new member to the Los Angeles Chapter:**

Tina J. Drebusenko  
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davidmgratta@me.com or  
davidmgratta@gmail.com

Vickie I. Washburn, CPL  
Washburn & Associates  
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Tulsa, OK 74101  
918-551-7119  
vickiew@panthereenergy.us

### Transfers

None to Report

## SCHEDULED LAAPL LUNCHEON TOPICS AND DATES

September 20, 2007

Thomas G. Dahlgren, Land & Industrial Relations Coordinator Warren E&P, Inc.,

“Operating in an Urban Environment”  
September 24th – 26th, 2008  
West Coast Land Institute

November 20th, 2008

Speaker – TBD

January 22nd, 2009  
Joint Meeting With Los Angeles Basin Geological Society

March 19th, 2009  
Speaker - TBD Officer Nominations

May 21st, 2009  
Speaker – TBD

Officer Elections

## LAAPL RECEIVES AWARD

“The Override,” the official organ of the LAAPL took first place (small chapter category) at the AAPL convention in Chicago. Attending the ceremony and accepting the award were Joel Miller, Chapter President and Joe Munsey, Editor.

Editors Comments: To a large extent the success of the chapter newsletter depends on the contributing writers each month; Rae Connet, Esq., of PetroLand Services for her Issue/Case of the Month column; and above everything else, Randall Taylor of Taylor Land Service, Inc. for volunteering to publish “The Override” and giving it that professional appearance.

# MPI

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Complete Oil and Gas Land Services  
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### Gary L. Plotner, RLP

*President*

BAPL President 1985-86 & 2003-04  
AAPL Director 1988-90 & 2002-03 & 2004-07

*Serving the Western United States since 1983*

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## LAAPL CHAPTER OFFICERS FOR 2008 - 2009

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At our May luncheon, the LAAPL members voted in for office:

<u>OFFICE</u>	<u>ELECTED CANDIDATE</u>
President	Joel W. Miller, Senior Energy Asset Analyst, Transamerica Minerals Company
Vice President	Thomas G. Dahlgren, Industrial Relations & Land Coordinator, Warren E&P
Secretary	Sharona Noormand, Independent
Treasurer	Charlotte Hargett, Land Technician, PXP – Plains Exploration
Director	L. Rae Connet, Esq., Independent, PetroLand Services
Director Region VIII	Joseph D. “Joe” Munsey, Senior Land Advisor, Southern California Gas Company
AAPL Director <sup>1</sup>	Joel W. Miller, Senior Energy Asset Analyst, Transamerica Minerals Company

<sup>1</sup>Not an elected position – by Board appointment.

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### BAPL Chapter to Host 2008 West Coast Landman Institute

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The BAPL officers have confirmed we are headed back to Shell Beach and the revered Cliff Resort as the venue to hold the 26th West Coast Land Institute in Shell Beach.

When: September 24th – 26th, 2008

Where: The Cliffs Resort  
Shell Beach, CA  
805-773-5000

Rates: Special room rates from  
\$139.00

Speaker and Topics

**Jack Quirk, Esq.**

Bright and Brown

New Notary Laws and Recording  
Requirements

**Allan Shareghi**, Mineral Management  
Services

Pacific OCS Update

**Rock Zierman**, CIPA

Legislative & Political Update

**Keith McCullough, Esq.**

Adorno Yoss Alvarado & Smith  
Condemnation

**Dawn McIntire, Esq.**

Meyers Nave

Endangered Species Act

**Scott Hector**, Hobby Energy  
California Exploration

**Dave Kilpatrick**, Kilpatrick Energy

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# Stanford Petroleum Investments Funds



*Photo courtesy of Rick "Redfish" Riseden, MS '68 PE*

## Investing in energy to support education and research

The alumni-managed Stanford Petroleum Investments Funds own, manage, and acquire producing oil and gas royalties and other energy investments. Income from these investments provides essential discretionary funding in support of energy and environmental education and research and other programs of the Stanford School of Earth Sciences.

If you would like to sell or donate producing oil and gas royalties or learn more, visit <http://earthsci.stanford.edu/support/pif> or call or email David Gordon, Associate Dean, Stanford School of Earth Sciences, at (650) 723-9777 or [dsgordon@stanford.edu](mailto:dsgordon@stanford.edu) to see how you can help.





**OIL, GAS, MINERAL AND  
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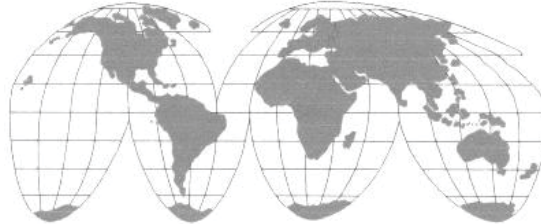
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Federal and State Land Record  
Searches

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Trust Asset Management  
Assistance  
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**Thomas Clark**, Land Manager, Sacramento Basin  
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**Vanita Menapace**, Right of Way Specialist  
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**Patricia Pinkerton**, (Contract Senior Landman)  
**Harry Harper**, (Senior Land Mngr., Special Projects)

Venoco is an independent energy company primarily engaged in the acquisition, exploration and development of oil and natural gas properties. It has headquarters in Denver, Colorado and regional offices in Carpinteria, California and Houston, Texas. Venoco operates three offshore platforms in the Santa Barbara Channel, has non-operated interests in three other platforms, operates three onshore properties in Southern California, has extensive operations in the Northern California's Sacramento Basin and operates 18+ fields in the Texas Gulf Coast and South Texas. Venoco is publicly traded on the New York Stock Exchange under the symbol "VQ".

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