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## **Energy and Climate Report**

### **Afternoon Briefing - Your Preview of Today's News**

The following news provides a snapshot of what Bloomberg BNA is working on today. Read the full version of all the stories in the final issue, published each night.

#### **Peabody Mine Survival May Rest on Navajo Coal Gasification Plan**

*Posted August 04, 2017, 7:30 A.M. ET*

*By [Stephen Lee](#)*

The biggest coal-fired generating station west of the Mississippi could be replaced by a coal gasification plant, raising concerns among environmentalists as well as questions from financial analysts about the economic costs and risks.

The tribe “has considered the development of potential energy industries, including [a] gasification plant,” Navajo Nation presidential spokesman Mihio Manus told Bloomberg BNA Aug. 3. He added that the tribe hasn’t committed to the technology, which chemically transforms the fossil fuel into synthetic natural gas.

Manus’ remarks echo those of Navajo Nation President Russell Begaye, who indicated to local reporters in early July that the tribe wants to build a coal-to-gas generating station. “We’ll have a new plant there that will take advantage of the price of natural gas, but still use coal,” Begaye told Lake Powell Communications, a local news site in Lake Powell, Ariz.

Begaye did not respond to Bloomberg BNA’s request for an interview.

The Navajo Generating Station, on tribal land near Page, Ariz., provides power to customers in Arizona and Nevada. The plant’s owners—which include the Salt River Project, one of Arizona’s largest utilities, and the Interior Department’s Bureau of Reclamation—have a lease with the Navajo Nation that expires in 2019. That plant will shut down at the end of 2019 unless a new buyer steps forward to keep it running beyond then, a possibility that energy analysts say seems increasingly remote.

Should the gasification plans come to fruition, one beneficiary could be Peabody Energy, which operates the large Kayenta coal mine 78 miles to the southeast that employs many tribal members. Analysts, however, say they’re skeptical a coal gasification plant will be realized because of a range of economic and technological challenges.

Peabody spokeswoman Beth Sutton told Bloomberg BNA in an email that the Navajo’s coal gasification plan “seems speculative.”

The Kayenta coal mine will likely shut down at the end of 2019, because it only serves the massive Navajo Generating Station. Further, no outside rail link can deliver the coal to other customers.

#### **Duke's and Southern's Experiences**

Two recent stumbles in the coal gasification industry serve to illustrate the economic risk the Navajo Nation would be courting by embracing the technology, said David Schlissel, director of resource planning analysis at the Institute for Energy Economics and Financial Analysis.

Duke Energy's Edwardsport coal gasification plant in Indiana has cost \$1.5 billion more than originally planned and still doesn't run reliably, Schlissel said. More recently, Mississippi regulators concerned about the rising costs of Southern Co.'s Kemper plant ordered the company last month to transition the plant to natural gas.

"If Duke and Southern Co. couldn't do it, who is the Navajo Nation going to find who can do it?" Schlissel said. "There's no evidence that this can be done economically or reliably."

A coal gasification plant would generate power at roughly \$100 per megawatt hour, but the Navajo Nation would only be able to sell it into the grid in Arizona or Nevada at \$30 a megawatt hour, according to Schlissel.

"It doesn't make sense," he said. "You're quickly going to go down."

#### **'Costly and Risky'**

Similarly, Bill Corcoran, western campaign director for the Sierra Club's Beyond Coal campaign, told Bloomberg BNA that a "costly and risky coal gasification plant would only aggravate the underwater economics of coal-fueled power in the region. It's a loser for a tribe that can't afford a misstep in profiting from the ongoing transition of the energy market."

The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg, the majority owner of Bloomberg L.P., parent of Bloomberg BNA.

"With natural gas prices at current levels, including the recent uptick, coal gasification can't be economic," added Vincent Brisini, director of environmental affairs at investment and management firm Olympus Power. "Too much energy is needed to gasify the coal, plus the price of the coal alone is already two-thirds the cost of natural gas."

Other options on the table for the Navajo Nation include a solar farm and the development of thermal energy, Manus said. Indeed, the tribe launched a 27-megawatt solar farm in June. Manus did not respond to questions about why the Navajo Nation was considering coal gasification technology given Southern Co.'s and Duke's experiences.

Interior Department spokesman Dan DuBray told Bloomberg BNA that he couldn't weigh in on the coal gasification question, or whether the agency would provide funding to help the tribe get any plans off the ground. Rather, DuBray said, the agency is "focused on helping [Navajo Generating Station] operate beyond 2019."

The tribe has flirted with coal gasification before. In 2012, for example, the Navajo agreed to work with Lawrence Livermore National Laboratory on developing the technology.

Two years later, the tribe won a \$1 million Interior Department grant to study coal gasification's economic potential.

## **Keystone XL Foes Avoid Climate in Red State Pipeline Battle**

*Posted August 04, 2017, 7:49 A.M. ET*

*By Meenal Vamburkar*

You won't hear much about climate change coming from Keystone XL foes as they argue against TransCanada Corp.'s push to get the final state approval needed to build the pipeline.

Instead, they're spotlighting TransCanada's use of eminent domain, which Republicans traditionally oppose in support of landowner rights. Supporters, meanwhile, are pressing another issue close to Republican hearts: Jobs.

As Keystone XL faces its final hurdle in Nebraska, the starkly different political landscape under President Donald Trump versus Barack Obama is bringing new shape to a debate that will be overseen by the state's Republican-dominated Public Service Commission, set to hear a week of arguments starting Aug. 7. With Trump in the White House, a positive nod from Nebraska could remove the final regulatory barrier.

Property rights "might be the thing that stops this," said Art Tanderup, who owns farmland on the pipeline's route that's been in his wife's family for 100 years. Even some pipeline supporters say the company shouldn't be able to "take their land away," he said.

Still, the jobs issue carries weight among Republicans as well, particularly in the age of Trump, who has focused on the energy industry's ability to spark the U.S. economy. While the 2016 Republican platform says the Supreme Court's 2005 ruling in support of eminent domain undermines the Constitution's Fifth Amendment, Trump has in the past praised the decision.

### **Red State**

Designed to carry 830,000 barrels of oil a day, the \$8 billion Keystone XL pipeline will span 1,179 miles (1,897 kilometers), running through Montana, South Dakota and Nebraska. From there, the oil can flow south on existing lines to the Gulf Coast, which is an export hub and where refineries are built to process heavy crude.

Nebraska is a decisively red state: It hasn't voted for a Democratic president since 1964 and four of the last five governors have been Republican. Still, the state has been an impediment to progress on the project, with lawmakers and landowners challenging the route with legislation and lawsuits. The company eventually agreed to a PSC review instead of waging further court battles, setting up this month's hearing

Now, final approval will be decided by a commission board made up of four Republicans and a single Democrat.

"Before, knowing Obama's philosophy, we hoped it would be stopped" at the federal level, Tanderup said in a telephone interview. "But no longer can I write a letter to the president of the United States, because it will do absolutely nothing. No longer is there that hope."

## **Presidential Permit**

In 2015, the Obama administration denied the presidential permit necessary for cross-border pipelines after a State Department review found Keystone didn't serve the national interest. But Trump, who came into office vowing to support the oil industry, quickly revived it.

Among proponents, the economic argument for jobs hasn't changed from the very start of the debate. TransCanada, the president and labor unions have long touted the project is a job creator that will help the state's economy. The state will benefit from 4,400-4,500 jobs, during the two-year construction period, and \$12 million in property tax revenues, according to the Calgary-based company.

"We were very excited about it. It was an opportunity to get our people back to work," said Ron Kaminski, a member of the Laborers' International Union of North America. Kaminski, after running the local union in the state for about 10 years, shifted his focus to outreach.

In his view, this fight has revolved around the same facts and arguments for nine years: "There's nothing new."

Opponents, not surprisingly, disagree. They argue that many of the jobs promised by TransCanada are just temporary, and in the past have said that clean-energy projects can also carry the promise of added jobs.

### **'Not Main Thing'**

Jane Kleeb, of activist group Bold Alliance, was a key figure in the first fight against Keystone, which centered around its potential to add to global warming. While Kleeb continues to support investment in clean energy, and voices concern about the tar sands oil that will come from Canada, she hasn't made it the focal point of the discussion.

"Climate has not been the main thing," she said in an interview.

She, alongside groups such as the Sierra Club and 350.org, have been working with landowners, highlighting the issue of eminent domain. They argue the pipeline isn't economic anymore, citing speculation the company has had trouble securing customers. TransCanada counters that it still expects commercial support for the project, and has had discussions with existing and new shippers.

Canadian Natural Resources Ltd. President Steve Laut said the company has 150,000 barrels of space contracted on the line. Suncor Energy Inc. also said it will be a shipper on the project.

Pipelines in western Canada, which holds the world's third-largest oil reserves, can carry about 3.3 million barrels of crude a day, according to the Canadian Association of Petroleum Producers. The area's drillers are expected to produce 3.92 million barrels a day this year, rising to 4.2 million next year, which the industry says proves the need for more ways to get their product into the U.S. market.

### **Unfair Takeaways**

Kleeb and others argue this urgency won't exist by the time the project comes online, roughly two years after the regulatory approvals. The result, they say, is that it's unnecessary and unfair to take private property for the pipeline using eminent domain, particularly given certain liability provisions

the company is putting into landowner easements. TransCanada says 91 percent of landowners in the state have agreed to allow the project on their land, and the terms are consistent with industry standards.

“People do value private property,” said David Corbin, vice-chair of state’s Sierra Club, which is planning to testify before the PSC against the pipeline. “It’s not a red or blue issue in Nebraska.”

Nonetheless, the political climate is bound to make it an uphill battle for the activists, said Katie Bays, an analyst at Height Securities LLC in Washington D.C. The PSC leans conservative and the governor “has significant influence over the process from a political perspective, and he is a major advocate for the project,” she said.

Even if the outcome favors TransCanada, opponents have vowed to keep litigating. The next step would be the state’s court of appeals, said Kenneth Winston, an attorney working for Bold and the Sierra Club. While the company said it’s taking the process step-by-step, any decision is likely to be appealed, according to the Sierra Club’s Corbin.

“The longer it takes,” Corbin said, the more the “economic argument is going to say: Why would we want this thing?”

—With assistance from Kevin Orland.

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## **Duke Energy Ash Lawsuit Tossed Over ‘Forum Shopping’**

*Posted August 04, 2017, 02:01 P.M. ET*

*By [Andrew M. Ballard](#)*

A federal district judge in Virginia tossed a Duke Energy coal ash lawsuit over what he said is “strategic forum shopping” by the utility.

Duke Energy’s effort to obtain a court ruling saying it was in compliance with the Clean Water Act at its Roxboro, N.C., facility would undercut potential contrary rulings by other jurisdictions and represent “an improper race to the courthouse,” Norman K. Moon, U.S. District Court Judge for the Western District of Virginia, wrote in an order of dismissal filed Aug. 3 ([Duke Energy Progress LLC v. Roanoke River Basin Assn.](#), W.D. Va., No. 4:17-cv-00032, opinion 8/3/17).

Duke Energy filed its lawsuit in Virginia May 11, two days before a citizen suit could be filed in the Middle District of North Carolina. Case law shows that the North Carolina court “may have been a less favorable venue for Duke Energy to litigate these issues,” Moon wrote.

Allowing the case to go forward would “render useless” a 60-day notice requirement for citizen suits, which gives state and federal regulators the option to supersede “the citizen suit with their own enforcement action,” he said.

### **Citizens’ Lawsuits**

Frank Holleman, an attorney with the Southern Environmental Law Center (SELC) in Chapel Hill, told Bloomberg BNA Aug. 4 that Duke Energy sought to dismiss the claims pending in North

Carolina because the action in Virginia was “first filed.”

Holleman, who represents the plaintiffs in the case, said he expects the North Carolina jurisdiction to allow the Clean Water Act claims to proceed there now.

A Duke Energy representative told Bloomberg BNA that the conservation group’s litigation was undermining the utility’s effort to effectively manage its coal ash.

“While Duke Energy continues to work with its federal and state regulators to close ash basins in a manner that is fully protective of human health and the environment, SELC has filed a flurry of lawsuits across the Southeast aimed at disrupting those efforts and promoting their extreme agenda and ‘draconian’ remedies,” said Danielle Peoples, a Duke Energy spokeswoman.

SELC recently filed a separate [lawsuit](#) alleging violations of the Resource Conservation and Recovery Act over coal ash management activities at the Roxboro facility, which is located in Person County.

Holleman said he believes that that lawsuit, along with a similar one filed against Duke Energy over activities at the Mayo Plant, also in Roxboro, are the only citizen suits seeking enforcement of the federal coal combustion residuals rule. Clean Water Act claims involving the Mayo facility also are pending, and coal ash management by Duke Energy is the subject of lawsuits in state court.

### **Interior to Kill Obama Rule Raising Coal, Oil Royalties**

*Posted August 04, 2017, 11:25 A.M. ET*

*By [Ari Natter](#)*

An Obama-era regulation governing how royalties are calculated for coal, natural gas and oil extracted on federal lands will be repealed by the Trump administration.

The Interior Department’s Office of Natural Resources Revenue issued a public notice that it plans to scrap the valuation rule in a [final rule](#) set to be published Aug. 7 in the Federal Register, and it is set to go into effect 30 days after that. The agency proposed scrapping the rule in April, several months after it went into effect on Jan. 1.

The change would benefit coal companies that extract the fossil fuel on federal land, such as Cloud Peak Energy, which had lobbied against the regulation. It previously had been estimated to increase royalty collections by at least \$78 million.

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### **As Trump Sings Coal’s Praises, Mine Fatalities Are on the Rise**

*Posted August 04, 2017, 9:12 A.M. ET*

*By [Tim Loh](#)*

Ray Hatfield Jr. was six months into his latest coal job when he was crushed to death in a Kentucky mine.

Hatfield, a 23-year industry veteran, was cleaning a conveyor belt that shuttled coal to the surface of the Appalachian mine on the morning of Jan. 26. When his clothing got caught, he was pulled into the machine and killed. Hatfield, 42, left behind a wife and three kids.

The fatality was preventable, investigators from the Labor Department's Mine Safety and Health Administration determined, citing a host of safety violations at the facility near Pikeville.

"Hatfield was working in a deathtrap, with not even minimal safety requirements being met," said Tony Oppeward, a Lexington, Kentucky-based attorney who represents mining families and has studied the government's report and been in touch with the Hatfield family's attorney. "This is what a lot of Appalachian coal miners have to put up with."

Ten other U.S. coal workers have died on the job this year, marking the first uptick in fatalities since 2010. The deaths come at a time when the Trump administration is promising to roll back federal regulations that it says were part of a "war on coal." There have already been more fatalities so far this year than in all of 2016, as U.S. production of the fossil fuel rises.

### **Production Rebound**

Industry leaders say the rash of fatalities is a result of increased mining activity. They point out that almost all of the coal deaths—including Hatfield's—have involved workers who'd been employed at their current mine for less than a year. Overall U.S. coal output is up 15 percent through the end of July compared with a year ago amid higher prices for natural gas—a competing power plant fuel—and increased demand from China.

In June, there were 50,800 U.S. coal miners, up 3.7 percent from the same time in 2016, according to the Bureau of Labor Statistics.

"You hear the president and others in his administration talk about there being too many regulations, promoting coal jobs and bringing back coal, but never a peep about making sure those jobs are safe," said Celeste Monforton, a lecturer at Texas State University in San Marcos, who during the Clinton administration served as policy adviser to MSHA's director.

White House spokeswoman Lindsay Walters, speaking aboard Air Force One as Donald Trump flew to West Virginia Aug. 3 for a rally, said the president isn't lowering safety standards and that the administration's "main focus" is on "creating and growing jobs" in coal country.

West Virginia has had a challenging year in coal safety, leading the nation with five fatalities. There have also been two deaths in Kentucky and one each in Alabama, Montana, Pennsylvania and Colorado. The victims ranged in age from their 20s to their 60s and had on average more than a decade's worth of experience, according to fatality reports from MSHA, which oversees the sector.

### **Different Roles**

"They may be experienced miners, but they're coming into different job settings from when they worked previously," said Bruce Watzman, the National Mining Association's senior vice president for regulatory affairs. "No two mines are exactly alike. Even if it's the same company, there are differences in the geology and the environment."

MSHA in June started a new program to stem the increase in fatalities, in which inspectors visit mines to help operators improve training for people new to their jobs. That sort of good-cop approach is favored by industry leaders including Robert E. Murray, chief executive officer of Murray

Energy Corp., who in an interview earlier this year called for a “radical” change at MSHA. He criticized the agency for having too many inspectors handing out violations at a time when the coal industry had been shrinking. Murray hasn’t experienced a mine fatality this year.

#### ‘Highest Priority’

“Safety is, and always has been, the absolute highest priority at Murray Energy,” Murray said in an emailed statement this week. “There is no pound of coal that is worth getting hurt over.”

On the other hand, the United Mine Workers of America has blasted MSHA’s latest program for being too industry-friendly. The union would rather see federal mine inspectors punishing coal operators found violating safety laws. In a letter last month, union President Cecil Roberts pointed out that the agency’s staffers in the compliance assistance program can’t even issue citations if they see problems.

In an email, MSHA said its inspectors address any “imminent danger hazard” and require that it be corrected. It also said it has issued 24,377 violations through June 30, up 26 percent from a year ago.

The last time coal fatalities spiked was in 2010, when an explosion at Massey Energy Co.’s Upper Big Branch mine in West Virginia killed 29 workers. In the aftermath, MSHA came under scrutiny from lawmakers for being too soft on chronically misbehaving coal companies. In response, the agency initiated a campaign of “inspection blitzes” designed to keep mine operators from covering up violations. In the years that followed, coal fatalities kept falling, reaching an all-time low of eight last year.

The agency still carries out these types of inspections. For the third year in a row, none of America’s 13,000 mines—coal and other types—were found to be bad enough to face its toughest enforcement, according to a statement this week. Some problem mines had corrected recurring issues with MSHA’s help. “Those efforts are paying off,” Patricia W. Silvey, MSHA’s deputy assistant secretary for operations, said.

Oppegard, the miners’ attorney, is skeptical. Even today, a certain segment of the coal industry is run by “complete outlaws” who cut corners on safety, he said. Oppegard fears that such operators will create mining conditions that could lead to the next Upper Big Branch disaster.

“They don’t care for the health and safety of the people that work for them,” Oppegard said. “All they care about is getting more coal out as fast as they can.”

--With assistance from Jennifer Jacobs.

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### **Australian Prime Minister Calls Crisis Meeting with Power Bosses**

*Posted August 04, 2017, 8:50 A.M. ET*

*By Perry Williams*

Australian Prime Minister Malcolm Turnbull has called a meeting with the nation’s major power companies citing concerns over soaring electricity prices and a lack of transparency in the market.

Companies including the three largest retailers Origin Energy Ltd., AGL Energy Ltd. and EnergyAustralia have been asked to appear in Canberra on Aug. 9 to discuss whether consumers are receiving adequate information on costs and consumption in their bills. About half of residential customers haven't switched electricity retailers or changed usage plans in the past five years, according to the Australian Energy Market Commission.

"Australia is blessed with abundant energy so it is simply not good enough that some families and businesses cannot always afford to turn on their lights, heating and equipment," Turnbull said in a letter sent Aug. 3 to Energy Australia Managing Director Catherine Tanna. "The situation must be addressed urgently and directly."

AGL Chief Executive Officer Andy Vesey tweeted his support for the meeting with Turnbull, saying energy affordability was an issue that needs "urgent attention."

Consumers were last month slugged with annual increases in power bills of as much as 20 percent due to soaring gas prices and the closure of aging coal-fired power stations including Hazelwood in the state of Victoria. Turnbull convened a similar meeting with oil and gas executives in March where he extracted pledges to boost gas supplies for local use over concern exports were threatening the nation's domestic energy security.

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## **U.K. Batteries for Residential Solar to Get Tax Discount**

*Posted August 04, 2017, 9:22 A.M. ET*

*By Jessica Shankleman*

The U.K. government will offer a tax discount to homes installing batteries at the same time as solar panels, a move that could make renewable energy investments more attractive, according to an industry organization.

The Solar Trade Association lobbied Her Majesty's Revenue and Customs, the tax authority, to apply a value-added tax of 5 percent to energy storage systems used with solar, instead of the standard 20 percent rate.

The STA said it received an email from HMRC that confirmed the discount rate would apply to batteries and solar, if they are installed together. Batteries sold separately and added to existing solar systems would have the standard 20 percent VAT, according to the email seen by Bloomberg News.

A spokesman for HMRC confirmed the decision by email, saying that it applies if all qualifying conditions are met. The British government is reviewing tax rates after the European Commission said discounts for certain energy-saving materials didn't comply with its VAT Directive.

"Reduced VAT on new systems will encourage homeowners to embrace storage technologies alongside solar," said Seb Berry, vice chairman at the STA and head of external affairs at Solar Century Holdings Ltd. The panel provider on Aug. 2 announced a partnership with IKEA of Sweden AB to sell battery packs alongside solar systems.

The U.K. recently announced a plan to invest 246 million pounds in battery technology research and changed a law to define energy storage as a form of generation in a bid to spur investment into the sector.

--With assistance from Anna Hirtenstein.

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## **Week Ahead: Groundwater Group Hears EPA's Superfund Plans**

*Posted August 04, 2017, 12:29 P.M. ET*

By [Chuck McCutcheon](#)

The National Ground Water Association, Ecological Society of America, and other groups are taking advantage of August's legislative lull in Washington to hold large-scale environment and energy events during the week of Aug. 7.

The Ground Water Association's Tuesday-Wednesday [meeting](#) in Arlington, Va., will feature a speech from James Woolford, director of the Environmental Protection Agency's [Office of Superfund Remediation and Technology Innovation](#). Woolford is expected to discuss Superfund sites' remediation programs that protect groundwater by balancing regulation, science, and technology.

Another speaker will be [Maureen Sullivan](#), the deputy assistant secretary of defense for environment, safety, and occupational health. Sullivan is expected to discuss new ways that federal agencies can work with others to address groundwater treatment.

One example Sullivan [may cite](#) is a Navy-California state government partnership to treat and manage groundwater that yielded roughly \$60 million in savings. [David Schultz](#) will cover the meeting.

### **In Other News**

Food and agricultural research: The National Academies of Sciences, Engineering and Medicine will hold a [meeting and town hall](#) on Tuesday and Wednesday in Washington in connection with a study that would identify research with high potential for scientific breakthrough in agriculture. Scheduled speakers include Pamela Starke-Reed of the Agriculture Department's Agricultural Research Service. [Tiffany Stecker](#) will cover.

Chemical dispersants: The academies also will hold a Monday-Tuesday [meeting](#) on how chemical dispersants can be used in treating oil spills. Dispersants are sprayed on oil slicks to break down oil into droplets that more readily mix with water.

Communicating science: The Ecological Society of America's [annual meeting](#) in Portland, Ore., which runs Sunday through Friday, focuses on training and connecting ecologists who seek to engage the public about climate change or other research. It will offer special sessions on case studies of successful engagement approaches. Rep. Suzanne Bonamici (D-Ore.) will speak on Monday.

Cap and trade webinar: The Center for Climate and Energy Solutions will hold a Thursday [webinar](#) on the California Legislature's recent decision to extend the state's greenhouse gas cap-and-trade

program through 2030. Scheduled speakers include Aimee Barnes, a senior adviser to California Gov. Jerry Brown, and Katie Sullivan, managing director of the International Emissions Trading Association. [Carolyn Whetzel](#) will monitor.

Sage grouse review: An Interior Department review of land-use conservation plans for the greater sage grouse may be made public during the week. The greater sage grouse is protected by federal, state, and local land-use plans to keep it from being listed as threatened or endangered. Interior Secretary Ryan Zinke in early June ordered a review of federal policy on protecting it, specifically in regard to coordination with states. The review was scheduled to be completed in the first week of August. [Alan Kovski](#) will track.

Climate and coasts: Germany's Hamburg University of Applied Sciences, the International Climate Change Information Programme, and the Universite du Quebec a Montreal will hold a Thursday-Friday [symposium](#) in Montreal on how coastal areas can cope with the threat of climate change.

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