

## VARIATIONS IN IRRIGATION DISTRICT VOTING AND ELECTION PROCEDURES

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### ABSTRACT

Fair and clear voting and election procedures are necessary for an effective water users association, but these procedures have considerable variety. Voting may be limited to owners of irrigated land, or may also include tenants and sharecroppers. Decisions must be made on how voting privileges will be allocated for situations like multiple owners, corporations, municipalities, and lands held in trust. The weight given to each vote is another major consideration. "One person-one vote" is common. Or votes may be proportional to the amount of irrigated land owned or number of shares owned in the corporation. The "one person-one vote" method may lead to unfair domination by small landowners, which in the United States and similar countries may lead to domination by non-farmers. However, voting power in proportion to land owned or shares owned may lead to domination by a few powerful individuals. An example compromise system is irrigation district law in the State of Oregon, USA, which provides for one vote for up to 40 acres (16 hectares), two votes for 40 to 160 acres (16 to 65 hectares), and three votes for more than 160 acres (65 hectares). An example "blended" system generally uses acreage-based voting, but uses "one person-one vote" for "at-large" directors. Elections require procedures on notification, nomination of candidates, maintenance of voter registers, proxy voting, quorums, and conducting the election. Maintenance of secrecy is pretty much essential for effective elections. Where voting power varies with the amount of irrigated land owned or shares owned in the corporation, use of colored ballots representing different numbers of votes can be an effective method of maintaining secrecy.

### INTRODUCTION

*Reforming the election process within WUAs... is the single most effective way to substantially improve small-scale farmers' inclusion in the WUAs. (IWMI, 2004)*

Fair and clear voting and election procedures are necessary for an effective water users association (WUA), but these procedures often have considerable variety. Some of this variety may be appropriate, based on local conditions, but some procedures are more effective than others. Those involved in writing legislation or bylaws for irrigation associations will have an interest in reading what others have used or proposed. The examples cover a range of types of organization, but should not be considered a random sample. Examples are listed by subject and

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source, sometimes with commentary. Some are direct quotes as indicated by quotation marks; some are paraphrased. Sources are described by organization name or government law, sometimes in association with the source author. Examples were selected to illustrate the variety and range of practices. A complete list of sources is in the References section.

## **QUALIFICATIONS FOR VOTING MEMBERSHIP**

### **General**

"Most bylaws restrict membership of the WUA to the registered land owners in the hydraulic unit, who are engaged on a full-time basis in farming". Some countries extend the right to tenants and sharecroppers. (World Bank, 2001)

Examples where membership is limited to landowners: East Bench, Folsom, Maricopa, Greenfields, and Kyrghyz (Hagan). But for Kyrghyz, model bylaws provide: "Holders of land-use rights who lease their land, may delegate their voting-rights to their tenants."

Examples where membership can also include tenants or operators: Sidney, State of Maharashtra - India (World Bank, 2001), and Andhra Pradesh - India. (Lok Satta, 2000)

Voting may also be limited to those over 18 years of age, such as at Greenfields or as specified by State of Washington irrigation district law.

Two Leggins: "Shares may be voted by the guardian of an owner".

Kyrghyz (Hagan): "Minor members will be represented in the General Assembly by their trustees who will exercise the voting rights in their name."

Palo Verde: Voting membership is open to "Any person, firm or corporation owning any real property or improvements or any assessable interest in such".

In the case of canal companies (corporations), voting membership is restricted to shareholders, such as at Big Ditch: "Every stockholder who is not delinquent... for assessments made against said stockholder's stock is entitled to cast one vote for each share of stock".

Non-voting memberships may be extended to representatives of associated organizations with an interest in the irrigation system, such as local communities, non-governmental organizations, supply or marketing organizations, or extension workers.

**Multiple Owners**

If there are co-owners on a particular parcel of land, a common requirement is that the co-owners must designate in writing one person who will vote for them at meetings.

Folsom bylaws, Section 1: “Only one (1) person of any number of such co-owners shall be a member of this Company. Such co-owners shall be required to designate in writing to the Company who shall represent them at Company meetings.”

Greenfields: “A man and wife co-ownership must provide acknowledgment from both partners to cast a vote”, or “a Designation of Voting Authority can be filed at the District to grant the voting privilege to one or the other.” “Corporation - If all shareholders are not identified in the title of the corporation, a corporate resolution, or similar, must be presented which designates the voting agent.” “Partnerships - If all partners are not identified in the title... an appropriate legal document... must be presented to illustrate all names of the partnership.” “Trusts - Trustees, not beneficiaries, will have the voting privilege.”

Two Leggins: Shares owned by another corporation “may be voted by such officer, agent or proxy as the bylaws of such corporation may prescribe, or, ... as the Board of Directors of such other corporation may determine.” “Shares of its own stock belonging to the (Two Leggins) corporation ... shall not be voted.”

Washington: “when land is held as community property, the accumulated votes may be divided equally between husband and wife.” “An agent of an entity owning land in the district, duly authorized in writing, may vote on behalf of the entity by filing with the election officers his or her instrument of authority.”

Salt River Project Agricultural Improvement and Power District: Land held in trust or partnership, or owned by corporations or municipalities, cannot be voted.

**Voting Restriction to Those Who Have Paid Their Assessments**

This restriction encourages payment of assessments.

Commonly, the general body consists of “all registered members who are current in the payment of their dues, as in Mexico, Nepal,” and some Indian states. (World Bank, 2001).

Big Ditch: “Every stockholder who is not delinquent... for assessments made against said stockholder’s stock is entitled to cast one vote for each share of stock”.

Sidney: “Members not delinquent in the payment of membership fees and assessments shall be entitled to vote”.

Kyrgyz (Hagan): “Only members which have paid their dues to the association, and not in arrears, are voting members and have the right to vote in the General Assembly.” “The Secretary of the Association will circulate a list of members who are not entitled to exercise their voting rights, due to non-payment of dues one week before the scheduled meeting of the General Assembly. The defaulters listed may recover their voting rights if they pay their dues before the beginning of the General Assembly.”

Bylaws proposed for the State of Karnataka, India: “If any Member becomes defaulting to the Society in any manner, such Member shall not be eligible to vote in the General Body Meeting”. (Saciwaters, 2004.)

### **Weighting of Votes**

Some examples of methods:

1. One vote per member: An advantage of this method is simplicity. A small landowner’s vote is given the same weight as that of a large landowner, which may be an advantage or disadvantage. “Under most WUAs, each member of the WUA has one vote” (World Bank, 2001). This method may encourage small farmers to participate in the WUA. However, in the United States and similar countries, it may lead to domination by non-farmers.
2. One vote per share of stock owned. Shares are typically in proportion to the area of land owned in the service area. Most canal companies use this method.
3. One vote per acre, or one vote per 40 acres. This method is most common on irrigation districts. Voting power is thus proportional to the amount of irrigated land owned on the system. In the United States, “weighted voting, either by acres or shares of stock, is generally favored. According to irrigation enterprise representatives, this is because weighted voting better reflects the cost borne by individual water users, relative to the overall cost of operating the enterprise.” (Wilkins-Wells, 1999).
4. State of Oregon irrigation district law provides for one vote for up to 40 acres, two votes for 40 to 160 acres, and three votes for more than 160 acres. This simplifies voting, but still partially reflects the amount of irrigated land owned on the system.

For fractional shares or fractional areas, sometimes the number of votes will be rounded up to a whole number, sometimes not. Most systems guarantee at least one vote, no matter how little land is owned.

A variation is practiced by the Salt River Project Agricultural Improvement and Power District. Voting is primarily in proportion to acreage of land owned. However, the four 'at-large' Board members (of the 14 total) are elected on a "one-landowner, one vote" basis.

Palo Verde Irrigation District specifies "one vote for each \$100 of assessed valuation."

Weighting the votes by the amount of land or shares owned can lead to dominance by a few large powerful landowners. The author knows of an irrigation district that is dominated by three farmers, and another system where one landowner owns 40% of the land. To prevent domination by a few, individuals could be restricted to no more than a specified percentage of the votes. State of Washington irrigation law specifies "No one ownership may accumulate more than forty-nine percent of the votes in one district." In Germany, a member of a Water and Soil Association is limited to no more than 40% of all votes (Monsees, 2004). These limits are very high, and could still lead to domination by a few.

### **Proxy Voting**

Folsom: "Members shall not be entitled to vote by proxy." Proxy voting is also not allowed at Sidney.

Big Ditch: "Any person may vote the stock of another... by presenting a written proxy to the secretary at the time of the meeting."

Two Leggins: "a stockholder may vote in person or by proxy executed in writing by the stockholder". "Such proxy shall be filed with the Secretary... before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy."

Absentee voting is generally not allowed. Perhaps this is intentional to reduce the possibility of absentee landlords dominating elections. However, absentees may still be able to vote by proxy on systems where that is allowed.

### **Voting Registers**

Irrigation organizations typically maintain voter registers, which list eligible voters and the number of votes each is entitled to cast.

Kyrghyz (Hagan): The Secretary "Maintains the records of the members of the association, of the voting rights of the members, and of the number of shares of each member."

State of Arizona, 48-3015, Registration of Voters: “The registration books shall be opened for a period beginning on the thirtieth day after an election and closing on the fiftieth day before the date of the next election.” “a qualified and registered elector who voted at the last preceding district election and who continues to possess the qualification of a qualified elector... shall not be required to reregister.” “The election register shall denote the names of the holders of lands within the district, the number of acres held by each and the number of votes which they are entitled to cast.”

Two Leggins: “The officer... shall keep a complete list of the stockholders entitled to vote at each meeting... with the address and the number of shares held by each, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the registered office of the corporation and shall be subject to inspection by any stockholder at any time during usual business hours. Such list shall also... be kept open at the time and place of the meeting and shall be subject to the inspection of any stockholder during the whole time of the meeting.”

Lists of registered voters and vote entitlements may be required to be posted in public places, such as the district office and/or county courthouse(s) for a specified period before the election, to provide opportunities for corrections.

## **NOMINATION OF CANDIDATES FOR ELECTION**

### **Officers of the Organization**

Some officers may be elected by and represent specific territories in the organization. Others may be elected “at large” by members of the whole organization. Some organizations, like the Salt River Project mentioned earlier, have both types of officers.

Palo Verde: The Governing Board consists of 7 trustees, elected at large; all must be owners of real property in the district and a majority must be residents.

Big Ditch: “The corporate powers of this company shall be vested in a board of seven directors, each of whom at the time of his election, shall be a stockholder in the company and the owner of land located in the district from which said director is elected.” Districts 1 (upper section of the canal system) and 2 (central section) are entitled to two directors each. District 3 (tail section) is entitled to three directors (section boundaries are specified in the bylaws). “The secretary and treasurer may or may not be directors or stockholders in the company.”

Alberta, Canada: Where a district has electoral divisions, “an irrigator must vote in the electoral division in which that irrigator has irrigation acres, or if that irrigator has irrigation acres in more than one electoral division, the division in which the irrigator has the largest number of irrigation acres.”

In Andhra Pradesh (India), every WUA has a Managing Committee, with one representative from each territory, and a President elected by the "farmers and tenants" of the whole association. (Lok Satta, 2000)

Kyrghyz (Hagan): A Commission for Conflict Resolution consisting of a Chairman and four other members will be elected by the General Assembly (with staggered terms of three years) to resolve conflicts between members. Decisions on conflicts must be made within one week, by majority vote of a quorum of at least three members. Rulings may be appealed to the General Assembly.

"The most favored number for a board of directors was 5." "Boards are always odd-numbered to ensure a tie-breaking vote." "All boards were found to be rotating boards, with elections every year for one or more board members." (Wilkins-Wells, 1999. From a survey of 36 irrigation organizations in the United States)

### **Nomination Process**

Midvale: There are five commissioner districts. A water user "may nominate any qualified landowner who is a resident of the Commissioner District... and who is qualified to vote by getting 10 signatures of qualified landowners upon a nominating petition. He must file the completed petition with the Bookkeeper not less than 10 days before the election to have that nominee placed on the official ballot."

State of Oregon: "Openings for the board of directors of an irrigation district shall be advertised in a newspaper of general circulation within the boundaries of the district for which the candidate would be elected or posted in three public places within the district at least 60 days prior to the election. All nominations shall be filed with the secretary of the board not more than 75 nor less than 35 days before the date of the election." "Nominations for candidates for the board of directors may be made by petition, signed by at least 10 electors in the proposed district or division who are qualified to vote for the directors nominated by them. Nominations may also be made at an assembly of not less than 25 electors." "Nominations by petition or by assembly shall be filed with the county clerk at least 35 days next preceding the date of election."

Greenfields: A commissioner "must be an owner of irrigable land within the division of the District he/she is to represent" and "be actively engaged in the actual farming of his/her own farmland and derive at least 50% of his/her net income from his/her farm operation." "Candidates for the office of commissioner may be nominated by petition filed with the election administrator... at least 75 days before the election and signed by at least five electors of the district." "If no nominations are made... the electors of the District may either accept nominations

from the floor or write on the ballots the name of the person or persons for whom they desire to vote.”

Alberta, Canada requires that nomination papers be signed by at least 2 irrigators, and “contain a signed statement by the candidate consenting to the nomination”.

Two Leggins: “The Board of Directors shall consist of five (5) members. Each director shall be elected for a term of three years”. “Directors must be a stockholder in the company and the owner of land located in the district from which said director is elected.” “It shall be the duty of the Board of Directors to appoint, not less than thirty (30) days, nor more than sixty (60) days before the date of meeting... a committee on nominations consisting of not less than three (3) stockholders. The Committee shall prepare a list of nominations for directors... at least thirty (30) days before the annual meeting. At least two candidates shall be nominated for each district” where a director needs to be elected. In addition, nominees “may be nominated from the floor during the annual meeting.”

## **ELECTION PROCEDURES**

### **Notification of Elections**

Big Ditch: Notice of the annual meeting “shall be mailed to each stockholder at his last known address...at least twenty days before the date of said meeting”.

Two Leggins: “Written notice... of annual meeting shall be delivered not less than ten (10) days before the date of the meeting. Said notices shall be delivered either personally or by mail... to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed delivered when deposited in the United States Mail”. “Notice of the Annual Meeting of the Stockholders shall be published at least once a week for the three consecutive calendar weeks preceding the date of the meeting, in one or more newspapers published and of general circulation” in the area.

Folsom: “The failure of any member to receive notice of an annual or special meeting of the membership shall not invalidate any action which may be taken by the members at any such meeting.”

In the State of Karnataka, India, model bylaws specify “Notice of the meeting shall be sent to the Members 15 days before the Annual or Special General Body Meeting. The meeting notice shall include the agenda, venue, time, and date of the meeting.” (Saciwaters, 2004)

Notices may allow an opportunity to update the voting register, and an opportunity to pay by those who are delinquent in their assessments.



### **Quorums**

Big Ditch: “A majority of the outstanding stock of this company represented, in person or by proxy, shall constitute a quorum at any... meeting of the stockholders.”

Sidney: “Thirty per cent (30%) of members shall constitute a quorum”. Folsom requires 10%; Two Leggins requires that 1/3 of the shares be represented. In the State of Karnataka, India, model bylaws state one fifth of the members or 25 members, whichever is less. (Saciwaters, 2004)

Kyrghyz (Hagan): “A quorum of more than half of its voting members” is required. “If there is no quorum, the session is postponed for one week. At the second session... decisions are taken irrespective of the number of its present members.”

### **Conducting the Election**

Officers are most commonly elected for three year terms, with the terms expiring on a “staggered” basis (not all the same year) to provide continuity of leadership.

Voting, at least in the United States, is typically done by secret ballot, particularly for election of directors. This reduces the chance of a director being hostile to those who did not vote for him. In a survey of 36 irrigation organizations in the United States, secret ballot elections were found to be the norm (Wilkins-Wells, 1999). Elections are sometimes conducted by an outside organization, or at least monitored by outside observers, to reduce the chance of election fraud.

East Bench: (A specific local legal firm) “is responsible for the administration of all procedures relating to the conduct of elections and will keep all records relating to the elections.”

Greenfields: “The Teton County Clerk and Recorder is the election administrator and is responsible for the administration of all procedures relating to the conduct of elections and will keep all records relating to the elections. The commissioners may request the election administrator to appoint the District secretary, or any other person it desires, as deputy election administrator”. “There shall be two or more election judges assigned to each” voting area. Election judges are appointed by the commissioners, and must be qualified electors in the District. “No election judge may be a candidate or a spouse, ascendant, descendant, brother, or sister of a candidate appearing on the ballot.” “The names of all candidates printed upon the ballot shall be in type of the same size and character.” “A sample ballot shall be posted near the entrance of the polling place”. “Electors are entitled to one ballot per forty acres or major fraction thereof.” After voting is completed, the election judges “shall immediately count the votes publicly without adjournment

until completed and the result publicly declared”. Greenfields has very detailed election procedures, from which the above provisions were selected.

Two Leggins: “The polls shall be opened and closed, the proxies received and taken charge of, and all ballots shall be received and counted by three inspectors, who shall be chosen from the stockholders, at each meeting... and shall, in writing, certify to the results. No candidate for election as director shall be named or act as inspector.”

Alberta, Canada: The results of the election must be posted “in a conspicuous place showing the total number of votes for each candidate”.

Ballot secrecy can be difficult to maintain when votes are proportional to the numbers of shares owned or area of land irrigated. To protect secrecy, State of Montana (United States) irrigation district law (Code 85-7-1710) provides that for “10 votes or less, separate ballots will be used; more than 10 votes, the elector shall vote in blocks of 10 using one ballot for each 10 votes and separate ballots for odd votes over multiples of 10.” This is an alternative to each irrigator being given a ballot that includes the number of acres he owns and the number of votes being cast. East Bench uses this system, using one color of ballot for 1 vote and a second color for 10 votes.

### **Vacancies in Offices**

At Tumalo, “When a vacancy exists in the office of Director, a majority of the remaining Directors shall appoint an eligible person from the electoral division in which the vacancy exists to serve until a successor shall be elected at the next regular election to fill out unexpired term.” This is the most common method used by irrigation organizations. However for Kyrghyz (Hagan), the model bylaws provide that when a vacancy occurs, “an extraordinary meeting of the General Assembly will be called to elect a replacement for the rest of the tenure.”

The Madhya Pradesh (India) Farmers' Participation in Irrigation Management Act of 1999 has a provision for recall of elected representatives. Recall can be initiated if more than one third of the members give written notice to that effect. The motion of recall is carried with the support of more than two-thirds of the general body members present and voting and representing over half of the electorate body, in a meeting specially convened for that purpose. As of 2003, this action had not yet been attempted (Arya, 2003). Recall of elected officials should not be easy, but not excessively difficult either. In Germany, members of the board may be dismissed by a two-thirds majority of the general assembly (Monsees, 2004).

## OTHER

Most decisions are made by simple majority vote, but a two-thirds majority may be required for such things as borrowing money or changing the bylaws.

Sidney: “These bylaws, as well as any rules and regulations of the association may be amended at any time by a two-thirds (2/3) vote of the members present at any meeting according to one vote per member, the notice of call for said meeting having stated the amendment to be submitted thereat.”

Kyrghyz (Hagan): “Decisions regarding the modification of the by-laws, the liquidation or the merger of the Association will have to be approved by 2/3 of the present voting members, provided that these 2/3 represent at least 50% of the members of the Association.

Two Leggins: “The Articles of Incorporation and these bylaws can be amended only by the shareholders, at a regular annual meeting, or at a special meeting called for such purpose, by a majority of the outstanding shares. The proposed amendment shall be delivered by mail to the stockholders... prior to the meeting at which the vote upon the proposed amendment is held” (not less than 10 days prior to the meeting).

## REFERENCES

Alberta Irrigation Districts Act, Chapter I-11. (Edmonton, Alberta, Canada)  
[http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/acts6476?opendocument#53](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/acts6476?opendocument#53)

Arizona Revised Statutes (Phoenix, Arizona USA), Title 48, Chapter 19:  
Irrigation and Water Conservation Districts (48-3015 Registration of Voters).  
2004. <http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=48>

Arya, Ved and Ujjal Ganguly. 2003. Pro- Poor Interventions in Irrigation in the State of Madhya Pradesh. by Self Reliant Initiatives through Joint Action. (SRIJAN). New Delhi, India.

Big Ditch Company Bylaws, Billings, Montana USA. (undated, about 1996).  
East Bench Irrigation District, Dillon, Montana USA. Board Policies & Bylaws. 1996.

Folsom Lake Mutual Water Company, Loomis, California USA. Bylaws. 2001.  
<http://www.waldenwoods.org/waldenwoods/BYLAWS%20OF%20FOLSOM%20LAKE%20MUTUAL%20WATER%20COMPANY.htm>

Greenfields Irrigation District, Fairfield, Montana USA. Board Policies. 1999.

Hagan, Ross E. Model By-laws of Water Users' Associations – Kyrgyz Republic. (undated, accessed on the Internet in 2004).  
[http://www.wiz.uni-kassel.de/kww/projekte/irrig/wua/vli\\_25079.html](http://www.wiz.uni-kassel.de/kww/projekte/irrig/wua/vli_25079.html)

IWMI (International Water Management Institute, Colombo, Sri Lanka). Water Policy Briefing Series: Pro-poor Irrigation Management Transfer? Accessed in 2004 from: <http://www.iwmi.cgiar.org/waterpolicybriefing/files/wpb06.doc>

Lok Satta. Foundation for Democratic Reforms, Lok Satta 401, Nirmal Towers, Dwarakapuri Colony, Panjagutta Hyderabad-82, India. 2000.  
[http://www.loksatta.org/water\\_users.htm](http://www.loksatta.org/water_users.htm)

Maricopa Water District, Waddell, Arizona USA. Information Guide. 2003.

Midvale Irrigation District, Pavillion, Wyoming USA. Handbook of Information, Policies & Rules. 1988.

Monsees, J. 2004. The German Water and Soil Associations - self governance for small and medium scale water and land resources management. Journal of Applied Irrigation Science, Vol. 39. No. 1/2004. pp 5-22.  
<http://www.vl-irrigation.org/cms/index.php?id=377>

Montana, State of (Helena, Montana USA). Code: Title 85 - Water Use, Chapter 7 - Irrigation Districts. 2003. [http://data.opi.state.mt.us/bills/mca\\_toc/85\\_7.htm](http://data.opi.state.mt.us/bills/mca_toc/85_7.htm)

Oregon, State of (Salem, Oregon USA). Revised Statutes. Chapter 545: Irrigation 545.007: Voting Rights. 2003. <http://www.leg.state.or.us/ors/545.html>

Palo Verde Irrigation District, Blythe, California. USA. 2004.  
<http://elib.cs.berkeley.edu/kopec/b155/html/tab-255.html>

Saciwaters (South Asia Consortium for Interdisciplinary Water Resources Studies), Hyderabad, Andhra Pradesh, India.. Report of the Sub-Committee on Legal Provisions for Community based management of Tank Systems. Attachment II (model By-laws of Minor Irrigation Water Users' Co-operative Society) (in State of Karnataka, India). 2004. <http://www.saciwaters.org>

Salt River Project Agricultural Improvement and Power District, Phoenix, Arizona USA. 2001. <http://www.srpnet.com/about/governing.aspx>

Sidney Irrigation Cooperative, Jefferson, Oregon. USA. Bylaws. 2001.  
(A non-profit cooperative association without capital stock)

Tumalo Irrigation District, Bend, Oregon USA. Policies - Bylaws. 2001.  
<http://www.tumalo.org>

Two Leggins Water Users Association, Hardin, Montana USA. Bylaws. 1995.  
(a corporation)

Washington, State of, Revised Code, Title 87 - Irrigation RCW 87.03.051. 2004.  
(Olympia, Washington, USA)  
<http://www.leg.wa.gov/rcw/index.cfm?fuseaction=title&title=87>

Wilkins-Wells, John. The Irrigation Enterprise Management Practice Study.  
Colorado State University, Fort Collins, Colorado USA. 1999.  
<http://waterlab.colostate.edu/csuhome.htm>

World Bank, Washington, DC 20433 USA. Legal Framework - Bylaws of the  
Water User Association. Electronic Learning Guidebook for Participatory  
Irrigation Management. 2001. <http://www.worldbank.org/wbi/pimelg/bylaw.htm>