

OPEN LETTER FOR URGENT PROBE INTO MAHARASHTRA IRRIGATION SCAM
BY A INDEPENDENT CREDIBLE AGENCY

October 4, 2012

To,

1. The Prime Minister,

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2. The Governor,

Govt of Maharashtra, Raj Bhavan, Mumbai, rajbhavan@maharashtra.gov.in,
vikasrastogi@yahoo.com (Secretary to Governor)

3. The Chief Minister,

Govt of Maharashtra, Mumbai, chiefminister@maharashtra.gov.in

4. Union Minister of Water Resources,

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5. Union Minister of State (IC) of Environment and Forests

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6. Vice-Chair and Member (Water),

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Subject: Urgent request to constitute an independent enquiry into massive irregularities and corruption and related issues in Maharashtra

"The situation today is that, since 1951, 246 big surface irrigation projects have been initiated. Only 66 out of these have been completed; 181 are still under construction. Perhaps we can safely say that almost no benefit has come to the people from these projects. For 16 years, we have poured out money. The people have got nothing back, no irrigation, no water, no increase in production, no help in their daily life."

Prime Minister Rajiv Gandhi address to Irrigation Ministers, 1986

Respected Madams and Sirs,

The Water Resources Department (WRD) in Maharashtra is facing very serious crisis, the charges of scam substantiated by official documents, the civil society, media and also top officials within the WRD. This issue has ramifications beyond the specific schemes, specific department, and specific state and also involves large number of central government agencies. We are writing this letter to you seeking your urgent intervention.

We are a group of civil society organisations and individuals who have been involved in policy issues, social and environmental impact of large dams in Maharashtra and India, some of us have also been involved in exposing the current scam.

The issues involved includes massive irregularities and corruption, which have a serious bearing on the governance of the sector, as well as wellbeing and safety of millions of people residing downstream of dams and farmers who have been waiting for benefit from the projects, despite society paying huge social, environmental and economic price for the projects. We are urgently writing to you to look into these issues in detail, appoint an independent scrutiny of all major and medium projects in Maharashtra since the last 17 years (the scam has origins going back at least to 1995 as shown below) and immediately stop work on and use of projects whose safety is questioned by the official persons/agencies.

1. Chief Engineer exposes huge Safety issues, Engineer-Politician-Contractor Nexus

We would specifically like to draw your attention to letters written by Shri Vijay Pandhare, Chief Engineer (Design, Training, Research and Quality Control), Maharashtra Engineering Training Academy (META), Nashik. META is a nodal organisation that includes Dam Safety Organisation, Quality Control Organisation and Central Design Organisation under its purview. He has been a Member of State Technical Advisory Committee to look at estimates prepared by the WRD on Dam projects.

Following unearthing of the huge Scam, Shri Pandhare wrote a detailed letter on May 5, 2012 to Chief Minister, Governor, Secretary and Principal Secretary Water Resource Department about the severe problems plaguing all aspects of dams in Maharashtra. On 21st September, 2012, Shri Pandhare addressed a letter to the Engineers Mahasangh, elucidating these points¹. Scrutiny of estimates and Quality Control for projects exposes:

- “Many serious mistakes, unviable projects made viable, projects which should not have been taken up in the first place, unnecessary projects, etc., sanctioned by officials of WRD through pressure by politicians. All the officials of WRD work under tremendous pressure from politicians as well as contractors. The officials who protest against this are transferred in no time.”
- “At every administrative clearance, new aspects get internalised in the estimate, many projects drag on for 20-25 years and are never completed, while cost keeps on escalating. Farmers get no benefit out of this.”
- Common irregularities seen are: “Useless gigantic lift irrigation schemes, unrealistic estimates, managing tenders, changing layout, designs, sections, heights, irrigated area, etc. to keep the project going.”
- Quality control of WRD dams has become a big issue. “23 kms of Gosikhurd canal (A National Project) has developed cracks in the first year itself.” Parts of that canal had to be demolished even before being tested.
- In 2012, when he was the Executive Engineer Quality Control Dept in Dhule, he had sent a 600 page report on how the construction of the Lower Tapi Dam was of poor quality. “But government constituted a committee of corrupt officials on this and killed the issue.”
- **“It will be better not to imagine what would be the scale of the calamity if this dam breaks, there are 3 large dams downstream of this one. 25-30 villages will be washed away. Who will be responsible for the deaths of thousands of people? Secretary of WRD himself has been protecting these works.”**
- Tarali Dam in Satara is a 74 mts high dam. When he went to check it in his official capacity, the register containing the materials used for the dam, when asked for, was not shown to him by the contractor.

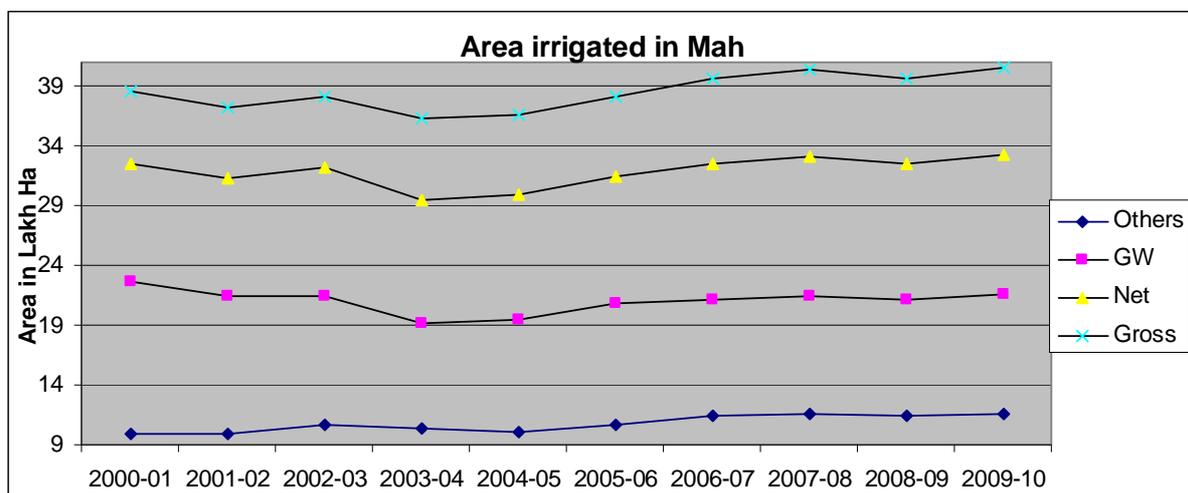
¹ The full letter in Marathi can be found at: <http://jaagalyaa-thewhistleblower.blogspot.in/2012/09/shree-pandhare-ce-wrds-appeal-to.html?spref=fb>

- “As per the tender, the compressive strength of cores should be 117 kg/cm. But in reality, the cores have strength at around 40 kg/sq cm. Construction has been of extremely poor quality. All the 66 cores have strength of 58% and not 100% as required by the tender. In dam works, even a difference of 4-6 % is taken very seriously. This construction with quality a huge 42% lower than required is poorest of the poor. CBI enquiry should be undertaken against this as our 'bogus' committee members are well known to submit 'bogus' “ok” reports to the govt. Even imagining the destruction that will happen if Tarali breaks makes me uneasy. Only god can save this department. Same is the case with Hathnur project in Jalgaon”. (Hathnur dam and Lower Tapi, both on Tapi River, are just upstream of the massive Ukai Dam in Gujarat, upstream of the Surat city).
- **“Playing with public money may be still a smaller offence, but the WRD should not play with people's lives.”²**

This address by the Chief Engineer, at his own peril itself underlines the urgent need of enquiry in Maharashtra’s Water Resources Sector, even if one may not agree with everything that he has said. Instead of taking serious note of these letters an attempt has been on to describe him insane.

2. Maharashtra’s poor track record of Major and Medium Projects Maharashtra has the highest number of large dams in the country (1821³ as per the latest issue of Register of Large Dams from the Central Water Commission). In fact the second ranked state in the country in terms of number of dams does not have even have half the number of large dams that Maharashtra has. This shows the domination of big dam agenda in Maharashtra.

However, the performance of these dams is very poor even as per official documents. For Example, the Economic Survey of the state for the year 2011-12⁴ said, “The ratio of gross irrigated area to gross cropped area for 2008-09 in the State was 17.7 per cent, which was much below the National level ratio of 45.3 per cent.” This was in a year (2011 monsoon) when rainfall was above average. The survey goes on to say that 65.1% of the net irrigation in Maharashtra is based on groundwater.



The graph above is based on the figures given in the Economic survey and show the irrigated area figures⁵ for the last decade, for ground water irrigation, Irrigation by other

² Here it may be noted that the consequences of unsafe dams may visit the state sooner than most people expect, a dam in Jawahar Taluk in Thane district is already a threat for 30 villages: <http://www.punemirror.in/article/4/201210032012100308102759874e952dc/Leaking-Khadkad-dam-threatens-to-submerge-30-villages-in-Thane.html>

³ National Register of Large Dams, 2009

⁴ Economic Survey Report of Maharashtra 2011-12: http://mahades.maharashtra.gov.in/files/publication/esm_2011-12_eng.pdf

⁵ It may be noted here that these figures from agriculture department are closest to the ground realities among all the figures about irrigation that are available. The figures from the water resources department about irrigation potential created and utilised are no more than claims that have little reflection of the ground realities.

sources (this category includes major, medium, minor (state and local level as classified in Maharashtra)) and also total net and gross irrigated area in the state. It is clear from the flat graphs for all the four sets of figures and for whole of the decade and particularly the bottom graph which include irrigation by Major and Medium irrigation projects for which an expenditure of Rs 72 000 crores have been incurred in this period, that there has indeed been hardly 0.1% increase in irrigated area for the state as even the Maharashtra government has said.

In just five out of this ten year period (i.e. 2005-06 to 2010-11), the same economic survey says, subsidies have been doled out to provide drip irrigation in 1.95 lakh ha and for sprinkler irrigation in 4.17 lakh ha, thus covering a total area of 6.12 lakh ha in these five years at an expense of Rs 1134.82 crores⁶. Compare this with the figure of 11.62 lakh ha that was irrigated by all other sources (including Major and Medium Irrigation Projects) in 2009-10, so area equal to more than half the area irrigated by all other sources also got subsidy for drip or sprinkler irrigation in just last five years. But even the huge expense involved in this water saving technique has not lead to commensurate increase in irrigation in Maharashtra.

It is not that the lack of progress in irrigation is due to lack of funds. On the contrary, as the Hon. Governor of Maharashtra in his address in March 2012 said, "The WRD has communicated that the unspent balance with the Corporations was Rs. 2438 crore at the end of the 2009-10 and Rs. 3496 crore at the end of 2010-11. These balances are of the tune of 35% and 45% of the total plan size of the respective years." The Governor expressed concern that "the balance cost of ongoing projects being executed by the Irrigation Corporations in the State as on 1.4.2011 is Rs. 75,366 crore".

This makes it clear that Maharashtra has not faced paucity of funds for water resources development, has spent a huge amount and yet, the actual picture on ground is dismal. More than 747 irrigation projects are incomplete. One of these projects, Gosi Khurd is national project (which means 90% of the money would come from the centre), but has been described as white elephant. Maharashtra has also been getting large sums under Accelerated Irrigation Benefits Scheme from the centre. All this highlights the need for an independent scrutiny of the entire sector.

3. Petitions in High Court A petition has been filed in the Nagpur Bench of the Mumbai High Court by Jan Manch, which raises a number of issues including the fact that 30 major irrigation projects were granted hurried approval in just four days: June 24, 2009 (10 projects); July 7, 2009 (5 projects); Aug 14, 2009 (11 projects) and Aug 18, 2009 (4 projects)⁷. As per another report not contradicted by anyone, during his stint as water resources minister, Mr Ajit Pawar 'hurriedly' granted project approvals totalling Rs 20,000 crore during an eight-month period in 2009 (32 of them worth Rs 17 700 crores in three months during in June-Aug 2009), without the mandatory clearance of the governing council of Vidarbha Irrigation Development Corporation⁸.

- A Petition on Kalu Dam in the Mumbai High Court has led to the court asking for stoppage of work and also asking why the officials responsible for sanctioning release of contracts and money to contractors should not be prosecuted.
- A Petition on Kondhane dam in the Mumbai High Court is ongoing in which the Govt has submitted that the contracts and permissions for the projects have been cancelled, but already large sums of money were already spent. The cancellation happened because of the Governor asking the govt report on the dam following petitions from RTI activists.

⁶ This aspect may need a separate investigation as this massive subsidy has benefited one particular corporation and to check how credible are these figures of coverage.

⁷ See e.g.: <http://www.thehindu.com/news/states/other-states/pawar-brings-down-curtain-on-resignation-drama/article3952199.ece>

⁸ See: http://articles.timesofindia.indiatimes.com/2012-09-24/india/34060889_1_irrigation-projects-project-approvals-water-resources

4. Blatant illegalities and Irregularities in on-going projects The Projects coming up in Vidarbha and also around Mumbai are shrouded with illegalities and a clear contractor-politician-bureaucrat nexus.

Examples:

- **Balganga Dam**, coming up near Pen and is 90% complete. However, its proposal for forest clearance has still not reached the MoEF, when the dam is about to submerge 260 hectares of forests in Western Ghats, a World Heritage Site. Nor is the Rehabilitation and Resettlement Plan ready. Cost of this dam has been hiked 150% post tendering.
- **Kondhane Dam**, coming up near Karjat saw post tender cost escalation from Rs 56 crores to Rs 328 crores and height increase from 39 meters to 71 meters within one month of tender approval. The entire tender clearance was done in a single day and technical clearance was also given in a single day. The contract for this dam has been cancelled following a PIL in Bombay High Court and Governor's explicit orders. No action was taken by the WRD, despite huge outcry by civil society organisations and media till the HC and Governor orders.
- According to tender conditions laid by Government of Maharashtra, one contractor can work on maximum three projects in a circle. However, bypassing this, the same contractor is working on 7 on-going projects in Konkan, for example. This has been made possible by floating another company just for the namesake (FA Construction and FA Enterprises⁹ in this case), with same registered office, same board members and even using the same projects to show their proven capacity). Everyone including media¹⁰ can see through this ploy, it is clear that this is going on hand in glove with the government including ministers, bureaucrats and engineers.
- In Vidarbha, similar irregularity is being practiced by a company belonging to BJP Member of Parliament, known to the close to the President of that party. In this case, Shakti Kumar M Sancheti Ltd ceased to exist in Nov 2005 when it was renamed as SMS infrastructure. But this defunct name of the firm was used later on to get several contracts amounting to Rs 1350 crores¹¹. In some of these projects, shockingly, the design finalisation was done *after* the issue of tender documents, violating basic norms of irrigation projects. This also shows the involvement of politicians across the parties.¹²

5. Non-existent Environmental Governance In the entire discussion and recent political controversy surrounding large dams in Maharashtra, the very crucial angle of huge social and ecological impacts of these projects is being sidelined. Environment Governance seems to be non-existent in Maharashtra today and the MoEF is taking no steps to correct this as statutorily required as per the Environment and forest clearance conditions and Environmental Management Plans of projects. Projects are sanctioned, work orders are given and work proceeds before getting any mandatory clearances from MoEF or State Forest Department and the MoEF has taken no action. Projects requiring clearances from the National Wildlife Board are going ahead without the same and the MoEF is happy to watch.

Some Examples:

- In the case of **Kalu Dam** coming up near Murbad in Thane district, work on the dam started without Forest Clearance either applied or granted. Even as the Chief Secretary and

⁹ See: <http://www.facindia.com/>, http://articles.timesofindia.indiatimes.com/2012-09-26/india/34100909_1_irrigation-projects-irrigation-scam-cost-escalation, <http://www.hindustantimes.com/India-news/Mumbai/Irrigation-projects-in-Konkan-hit-by-contractor-babu-nexus/Article1-925216.aspx>

¹⁰ See for example: http://articles.timesofindia.indiatimes.com/2012-04-27/mumbai/31421319_1_irrigation-projects-kondhane-dam

¹¹ See: <http://timesofindia.indiatimes.com/city/mumbai/BJP-MPs-company-got-Rs-1350cr-dam-deals-illegally/articleshow/16619644.cms>

¹² Newer aspects of illegalities seem to be surfacing almost everyday, here is a story about how advances were illegally given to contractors, with allegations of kickbacks: <http://www.ndtv.com/article/india/the-70-000-crore-scam-in-advances-to-contractors-some-see-kickbacks-275047>

Mumbai Metropolitan Region development Authority (MMRDA) made clear statements that funds should not be released to this project without Forest Clearance, MMRDA released the funds to the tune of at least Rs 400 Crores. However, the project was denied Forest Clearance by the Forest Advisory Committee in its meeting on 2nd April, 2012. The work on this dam has been stayed by the Bombay High Court in response to a PIL filed by Shramik Mukti Sangathana. Assessment and settlement of individual and community forest rights according to the FRA (2006) has not been completed.

- In case of **Kondhane Dam**, work started before applying for Forest Clearance, which is completely illegal. Assessment and settlement of individual and community forest rights according to the FRA (2006) has not been completed.
- In case of **Barvi Dam**, height has been increased three times without seeking any environment Clearance, the 4th height increase is now on going, again without any Clearance. Assessment and settlement of individual and community forest rights according to the FRA (2006) has not been completed. Even in cases where Forest Clearances have been considered, the MoEF does not display the project proposal documents, the clearance letters or compliance reports, in violation of the orders of the Central Information Commission.
- As stated above, work on **Balganga dam** is nearly complete without even the proposal for Forest Clearance reaching the MoEF. Assessment and settlement of individual and community forest rights according to the FRA (2006) has not been completed.

6. Huge Social and Ecological Impacts of illegal projects:

- Planned, Ongoing and proposed dams around Mumbai alone are set to submerge more than 6000 hectares of Forests in Western Ghats, a UNESCO World Heritage Site. No Environmental Impact Assessment, Social Impact Assessment, Environment Management Plan, Public Hearings are mandatory for these dams as they are for Drinking and Industrial water supply. The assumption that such dams are environmentally and socially benign is seriously flawed, shows bankruptcy of thinking on the part of MoEF. In all, these dams will displace more than 25000 tribals. Many of these dams are shrouded in illegalities and corruption charges.
- Chief Engineer Thane, has himself given a written undertaking that after Shai Dam, no other dams will be needed for Mumbai for at least a decade. So it is clear that many of these are unnecessary dams, having serious negative impact on each sector: from governance to social and environmental wellbeing as also unnecessary expenses.

7. Delay in bringing out White Paper While a White Paper on Irrigation sector in the state by itself will not solve almost any of these serious problems, but even to bring out a white paper, there has been huge delay, possibly because some people are not happy to see that real facts come out. The Chief Minister announced on May 5, 2012, following meeting with a delegation of civil society organisations the previous day, that a white paper on “irrigation projects in the past ten years” will be made public soon, see: http://articles.timesofindia.indiatimes.com/2012-05-05/mumbai/31585831_1_irrigation-projects-irrigation-schemes-irrigation-plans.

No White paper arrived for the next ten days. Eleven days later, in a statement on May 16, 2012, “soon” changed to “within 15 days” since “the public needed to be informed about the status of irrigation”, said the Chief Minister. The Chief Minister, significantly, was talking to the media after a cabinet meeting where this was discussed, see: <http://www.business-standard.com/generalnews/news/white-paperirrigation-in-15-days-chavan/9542/> and http://www.dnaindia.com/mumbai/report_white-paper-on-irrigation-in-15-days-prithviraj-chavan_1689726.

Again no white paper came for not only next fifteen days, but for two whole months. Almost two months latter, on July 14, 2012, the then deputy Chief Minister Ajit Pawar said in

Legislative Council meeting that, "a white paper on irrigation projects will be tabled before the commencement of the winter session of the council in Nagpur". This means that what was supposed to soon and then in fifteen days, would not come for six months as the winter session happens only in December, see: http://articles.timesofindia.indiatimes.com/2012-07-14/mumbai/32673963_1_irrigation-projects-white-paper-deputy-cm-ajit-pawar. Even at this stage, the deputy CM did not find it fit to resign.

8. Scam origin dates back to 1995 The scam, it seems, started with the formation of Maharashtra Krishna Valley Development Corporation (MKVDC) in 1995, involving manipulation of tenders, costs and project parameters. In 2007, Maharashtra's former inspector general of police SM Mushrif had told media that while he was posted as the Superintendent of Police, Anti-Corruption Bureau in 1998, he had sought permission to probe into a bid by irrigation contractor P. Venku Reddy from Andhra Pradesh and Avinash Bhosale for a Rs 100 crore Dhom Balakwadi project in Satara, where a renowned contractor R.M. Mohite was disqualified only to favour Pradhana Constructions of P. Venku Reddy, of which Avinash Bhosale was also a partner.¹³ Mushrif's report, which was sent to the then additional DGP, ACB, in Mumbai sought permission from the state government "for an open inquiry into the affairs of the MKVDC so that many more irregularities can be exposed and offence registered against the defaulting officers and officer-bearers." That permission was denied by the Maharashtra government, said Mushrif. In 2002, Ajit Pawar, as irrigation minister for MKVDC had taken the decision of approving a 30-year lease agreement between the MKVDC and the Lake City Corporation (the previous avatar of Lavasa Corporation) for constructing mini-dams in the backwaters of the Varasgaon dam in Pune, the deal had future ramifications as it came to light in 2005-06.¹⁴

Urgent Minimum Next Steps What all this means is that there is significant resistance to even a white paper, which at the most will only be a statement of facts. What is required is much more, including a credible independent commission of enquiry and fixing responsibility for those who are responsible for any wrong doing.

What is narrated above is only a part of the story. The extent of the actual problem is huge and all these irregularities have been going on for over a decade and a half at least. In view of these serious issues relating to irregularities, corruption, dam safety, governance, social and ecological impacts, we urgently request you to:

1. Order an Independent scrutiny of Water Resource Development Projects in Maharashtra for at least the last seventeen years, including Major, Medium and Lift Irrigation projects, Hydropower, Drinking water and Industrial water supply projects. The scrutiny should look at the design of the project, the current status, the projected and actual costs, the quality of work, dam safety requirements, the intended and actual benefits, the intended and actual environmental impacts, the intended and actual environmental management plan and its progress, rehabilitation and resettlement plan and its current status. The scrutiny should also look into the alternative proposals given by people's organizations (wherever applicable) to make these schemes more equitable, sustainable and democratic and how to make the decision making responsive to such alternative proposals from people's organisations.
2. Immediately stop filling of Lower Tapi, Hathnur and Tarali Dams and conduct a CBI enquiry as suggested by Chief Engr. Pandhare on the material used for these dams.
3. Conduct immediate enquiry into the safety of Lower Tapi, Hathnur and Tarali Dams by credible independent team. Here it should be noted that Central Water Commission, which is supposed to ensure safety of the dams along with the state WRD, has failed this respect and hence it is a responsible agency.

¹³ See e.g.: http://articles.timesofindia.indiatimes.com/2007-05-29/pune/27879158_1_mkvlc-acb-dri

¹⁴ See e.g.: <http://www.firstpost.com/politics/why-did-it-take-so-long-to-resign-ajit-pawar-468269.html>

4. Issue no further Technical, Financial, Forest, Environment or Wildlife clearances to dams in Maharashtra unless the above mentioned scrutiny of existing and ongoing projects is completed and made available in public domain, and necessary action taken.
5. Allow no further finances and cost escalations to upcoming projects in Maharashtra until the above mentioned scrutiny is complete, and more necessary action, including more participatory, transparent and accountable system of governance of this sector is in place.
6. Amend the EIA notification to ensure that (i). all large dams, irrespective of purpose, are included for Environment Clearance, EIA and Public hearings. (ii). If a project requires forest land, than an environment clearance should be mandatory.
7. All major irrigation projects need clearances from Union Ministry of Environment and Forests, Central Water Commission, Planning Commission, among others. All these agencies are supposed to ensure proper environment impact assessment and governance, dam safety, proper cost and benefit appraisal, among other aspects. That all these aspects are under question in this scam underlines the need to include all these agencies under the scrutiny since all these agencies have clearly failed to perform their role both before and after the clearances.

In the interest of safety of livelihood, food and water security of millions, safety of downstream population, irrigation benefits to farmers, drinking water supply to villages and urban areas and clean governance, the above mentioned points are minimum requirements. Keeping this in mind, we urge you to urgently act on these issues.

Looking forward to your early response,

Yours Sincerely,

Endorsed by:

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