



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

June 4, 2021

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

RE: In re NPDES Permit No. NH0001465; NPDES Appeal Nos. 20-05 and 20-06

Dear Ms. Durr:

Please find the attached *EPA Region 1 Motion for Partial Voluntary Remand and Partial Re-Calendaring of Oral Argument*, and an accompanying Certificate of Service, in connection with NPDES Appeal Nos. 20-05 and 20-06.

Thank you for your assistance with this matter.

Sincerely,

/s/ Mark A. Stein
Mark A. Stein
US EPA – Region 1
Office of Regional Counsel
5 Post Office Square
Mail Code: ORC 04-6
Boston, MA 02109-3912
Tel: (617) 918-1077
Fax: (617) 918-0077
Email: stein.mark@epa.gov

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In the Matters of:)	
Granite Shore Power Merrimack LLC)	
NPDES Permit No. NH0001465)	NPDES Appeal Nos. 20-05 & 20-06
_____)	

**EPA REGION 1 MOTION FOR PARTIAL VOLUNTARY REMAND AND
PARTIAL RE-CALENDARING OF ORAL ARGUMENT**

Pursuant to the Environmental Appeals Board’s “Order Granting in Part Motion for Continuance of Abeyance” (Apr. 28, 2021) (the “Apr. 28 Order”), the Region 1 office (“Region 1” or the “Region”) of the United States Environmental Protection Agency (“EPA” or the “Agency”), in consultation with EPA’s Office of General Counsel and Office of Water, respectfully submits this Motion to request (a) that the Board grant Region 1 a voluntary remand of the effluent limits for combustion residual leachate (“leachate”) in the final Merrimack Station NPDES Permit (the “Permit”) so that the Region can reconsider and reissue leachate limits for public comment, (b) that if the Board grants the requested voluntary remand of the Permit’s leachate limits, then the Board also dismiss as moot Section VII.B of the Sierra Club’s and the Conservation Law Foundation’s (the “Environmental Petitioners”) Petition for Review (July 27, 2020) (the “Petition for Review”) challenging those limits, and (c) that the Board remove the thermal discharge issues in NPDES Appeal No. 20-05 and the cooling water intake issues

in NPDES Appeal No. 20-06 – *i.e.*, the non-leachate issues in the appeals – from the current abeyance and re-calendar oral argument to address them.

I. Procedural Background

On February 3, 2021, Region 1 filed its “Motion for Continuance of the Date for Oral Argument and Abeyance.” By Order dated February 9, 2021 (the “Feb. 9 Order”), the Board granted the motion, explaining that a continuance and abeyance to allow time for staff to brief new EPA leadership is both consistent with EPA procedures and “reasonable so that the Region and EPA Headquarters can provide the Board a coordinated legal position for these appeals.” Feb. 9 Order at 2. The Board also noted that the Region, in support of its motion, had appropriately cited to Executive Order 13,990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, Exec. Order No. 13,990, 86 Fed. Reg. 7037 (Jan. 25, 2021). Feb. 9 Order at 2.

On April 14, 2021, Region 1 filed its Motion for Further Abeyance requesting that the Board extend the abeyance of the permit appeal until June 18, 2021 (the “Apr. 14 Motion”). The Region explained that more time was needed due to the large number of issues upon which the new Administration was being briefed, and that “the requested extension of the abeyance will ultimately allow EPA to file a motion in compliance with the Board’s order that reflects the views of the new Administration.” Apr. 14 Motion at 2. While Environmental Petitioners assented to the motion, the permittee, GSP Merrimack LLC (“GSP”), responded by asking the Board not to grant an “open-ended abeyance” and, instead, to “set a firm 60-day deadline for EPA to conduct its internal briefing and

report the results of its review to the Board.” Permittee GSP Merrimack LLC’s Response to EPA’s Motion for Further Abeyance (Apr. 21, 2021), at 1.

On April 28, 2021, the Board granted in part the Region’s Motion for Further Abeyance. *See* Apr. 28 Order. Specifically, the Board ordered that the two appeals of the Merrimack Station Final Permit (Nos. 20-05 & 20-06) would remain in abeyance until June 18, 2021, and further ordered that:

... on or before Friday, June 4, 2021, the Region file with the Board:

1. A motion to remove the litigation from abeyance and re-calendar the oral argument;
2. A motion requesting a voluntary remand, see 40 C.F.R. § 124.19(j); *In re W. Bay Exploration Co.*, UIC Appeal Nos. 13-01 & 13-02, at 1-2 (Apr. 16, 2013) (Order Dismissing Petitions for Review as Moot); or
3. A motion requesting a further abeyance, including the basis for the request and the length of the abeyance being sought. Any further request must explain in detail the reasons why prior abeyances were insufficient to enable the new Administration to determine its position going forward.

Apr. 28 Order at 3.

Consistent with its representations to the Board, the Region has briefed senior-level EPA officials in Region 1, the Office of General Counsel, and the Office of Water, including officials from the new Administration. Based on the results of these briefings, the Region requests that the Board grant a voluntary remand of the Permit’s leachate limits so that the Region can reconsider and re-propose them for public review and comment. If the Board grants the requested remand of the leachate limits, then the Region also asks that the Board dismiss as moot Section VII.B of the Petition for Review, which challenges the remanded leachate limits from Part I.A.4 of the Permit. Finally, Region 1 also requests that the Board re-calendar the oral argument to address the issues on appeal

concerning the Permit’s thermal discharge and cooling water intake requirements, and that the Board then proceed to a decision on those issues. The grounds for these requests are presented in more detail below.

II. Legal Background

EPA regulations governing NPDES permit appeals are set forth at 40 C.F.R. part 124. These regulations specifically provide a limited period – *i.e.*, less than 30 days after the response to the petition has been filed – within which the Regional Administrator may *unilaterally* withdraw a permit (or portions of a permit) and prepare a new draft permit (or new draft portions of a permit) for public comment under 40 C.F.R. § 124.6. 40 C.F.R. § 124.19(j) (2018).¹ *See also, e.g., In re W. Bay Exploration Co.*, UIC Appeal Nos. 13-01 & 13-02, at 2 (EAB Apr. 16, 2013) (Order Dismissing Petitions for Review as Moot). After the period for unilateral withdrawal has passed, the regulations still allow permitting authorities to move, *at any time*, for a voluntary remand of a permit or portions of a permit so that they may be reconsidered and re-proposed. 40 C.F.R. § 124.19(j) (2018). *See also In re City of Nashua, NH*, NPDES Appeal No. 15-06, at 2, 3 (EAB July 16, 2015) (Order Addressing Partial Withdrawal of Permit Conditions and Dismissing Related Permit Challenges as Moot) (“If the Regional Administrator wishes to withdraw the permit or portions of the permit after the 30-day deadline, it must not do so unilaterally, but must seek leave from the Board.”); *W. Bay*, at 2 (“Once the 29-day period following the Region’s response to the petition has expired, a Regional

¹ As Region 1 has noted in prior filings, although EPA amended certain aspects of 40 C.F.R. § 124.19 in 2020, *see* 85 Fed. Reg. 51650, 51657 (Aug. 21, 2020), the instant permit appeals were filed prior to those amendments and are not governed by them, 85 Fed. Reg. at 51654 (“The final rule does not apply to any appeal that was filed before the effective date of this rule.”). Therefore, Region 1 cites to the prior version of 40 C.F.R. § 124.19 (2018).

Administrator must obtain, by motion, a voluntary remand of the permit before withdrawing it.”)

In past decisions, the Board has outlined several principles applicable to its review of motions for voluntary remand. First, the Board has “broad discretion” to grant a voluntary remand. *In re City of Nezperce*, NPDES Appeal No. 19-02, at 1 (EAB Sept. 30, 2019) (Order Granting Unopposed Motion for Voluntary Remand and Dismissing Petition for Review). *See also In re Desert Rock Energy Co.*, 14 E.A.D. 484, 493 (EAB 2009). Second, a voluntary remand “is generally available where the permitting authority has decided to make a substantive change to one or more permit conditions, or otherwise wishes to reconsider some element of the permit decision before reissuing the permit.” *Id.* (internal quotation and citation omitted). Third, the Board typically grants a motion for voluntary remand “where the movant shows good cause for its request and/or granting the motion makes sense from an administrative or judicial efficiency standpoint.” *City of Nezperce*, at 2 (quoting *Desert Rock*, 14 E.A.D. at 497). *See also In re Veolia Es Technical Solutions, L.L.C.*, CAA Appeal No. 17-02, at 2 (EAB Apr. 3, 2018) (Order Granting Unopposed Motion For Voluntary Remand and Dismissing Petition for Review) (quoting *In re Peabody W. Coal Co.*, 14 E.A.D. 712, 718 (EAB 2010)); 40 C.F.R. § 124.19(n) (2018) (“Board may do all acts and take all measures necessary for the efficient, fair, and impartial adjudication of issues arising in an appeal under this part ... [124].”)

The Board has also clearly articulated the policy basis for its approach to motions for voluntary remand. In *Desert Rock*, 14 E.A.D. at 495-96 (citations omitted), the Board explained that “Agency policy favors allowing the Region to make permit condition

decisions rather than the Board ... [and g]ranteeing a permit issuer's request for a voluntary remand so it may amend its permit decision is clearly consistent with this policy." The Board further explained that "allowing for remand requests makes sense in light of the purpose of the administrative appeals process, which is to ensure that the agency fully considers the relevant issues and makes a sound, reasoned final decision," *id.* at 496, and that "... it would be highly inefficient for the Board to issue a final ruling on a permit when the Agency is contemplating changes to that permit," *id.* at 497.

Finally, the Board has broad authority to manage its own docket. The regulations specifically provide that the "Board may do all acts and take all measures necessary for the efficient, fair and impartial adjudication of issues arising in an appeal" 40 C.F.R. § 124.19(n). This supports the Board's authority both to grant a partial voluntary remand and to establish procedures and schedules for briefing and deciding permit appeals to ensure efficient adjudication, including potentially bifurcating a proceeding so that different issues are addressed at different times. *See, e.g., In re USGen New England, Inc., Brayton Point Station*, NPDES Appeal No. 03-12, at 6 (EAB Feb. 19, 2004) (Order Establishing Two Phases of Briefing and Adjudication of Issues).

III. Argument/Grounds for Motion

A. The Board Should Grant Region 1's Motion for Voluntary Remand of the Permit's Limits on Leachate Discharges and Dismissal as Moot of Section VII.B of the Environmental Petitioners' Petition for Review

The primary basis for Region 1's motion for voluntary remand of the Permit's effluent limits for leachate discharges is that, after careful deliberation and consideration of, among other things, the plain language of the regulatory text codifying the steam

electric effluent limitation guidelines (“ELGs”), 40 C.F.R. part 423, EPA now views the Permit’s leachate limits as having been based on an incorrect interpretation of the Clean Water Act and EPA regulations. As a result, Region 1 intends to reconsider and re-propose leachate limits for the Permit based on a revised interpretation of the applicable law.² Under the revised interpretation, given that the steam electric ELGs do not specify applicable effluent limitations for leachate discharges under the Clean Water Act’s “best available technology economically achievable” (“BAT”) standard, *see* 33 U.S.C. § 1311(b)(2)(A); 40 C.F.R. § 423.13, the Region intends to propose for public comment new leachate limits for the Permit based on a site-specific, Best Professional Judgment (“BPJ”) application of the BAT standard to Merrimack Station, *see* 33 U.S.C. § 1342(a)(1)(B); 40 C.F.R. § 125.3.

While Region 1 has yet to determine the BPJ-based BAT limits for leachate discharges at Merrimack Station, it will reconsider the issues, make such a determination, and then issue for public review and comment a revised draft permit in accordance with 40 C.F.R. § 124.6 to address (solely) the new proposed leachate limits. *See* 40 C.F.R. § 124.19(j) (2018) (after withdrawal of portions of a permit, a new draft permit addressing those portions should be issued for public comment under 40 C.F.R. § 124.6). The revised draft permit conditions for leachate will be accompanied by a supplemental Fact Sheet, *see* 40 C.F.R. § 124.8, that will explain the new technical and legal basis for the proposed permit limits. This will provide an opportunity for interested persons to review and comment on the Region’s proposed leachate limits and their underlying

² Until new limits for leachate discharges are finalized and put into effect, the limits governing leachate discharges from the 1992 Permit will remain in effect.

technical and legal basis. After EPA considers these public comments and any other relevant information, Region 1 will then issue final permit limits for leachate and provide responses to the public comments. *See* 40 C.F.R. §§ 124.15, 124.17. At that point, interested persons will have the opportunity, consistent with 40 C.F.R. § 124.19, to appeal the new leachate limits. *See id.* § 124.19(l)(2)(iii) (2018) (such appeal would be made either directly to federal court or back to the Board, depending on whether the Board has specified that appeal of the decision on remand must be made to the Board to exhaust administrative remedies).

Region 1 respectfully submits that the Board should exercise its discretion to grant this Motion seeking voluntary remand of the Permit's leachate limits because the Region has provided good cause for the relief requested. First, the leachate limits should be remanded because the Region has decided to reconsider and re-propose those limits for public comment. Second, granting the requested voluntary remand will clearly serve the goal of administrative/judicial efficiency by avoiding further effort by the Board and parties to review permit limits that the Region plans to reconsider and re-propose. Finally, granting this Motion will also serve the policy of having permit decisions made in the first instance at the level of the Regional permitting authority, and the policy of ensuring well-considered, efficient decision-making by the Agency. Simply put, there is nothing to be gained from proceeding with Board review of limits that EPA no longer supports.

In addition, the Region respectfully requests that the Board dismiss as moot Section VII.B of the Environmental Petitioners' Petition for Review, which challenges the Permit's leachate limits of which the Region is now seeking a voluntary remand. The

challenge to the Permit's leachate limits presented in Section VII.B of the Petition for Review is moot because Region 1 has requested a voluntary remand of those limits so that it can reconsider and re-propose new leachate limits for public comment. *See In re City of Nashua, NH*, NPDES Appeal No. 15-06, at 3-4 (EAB July 16, 2015) (Order Addressing Partial Withdrawal of Permit Conditions and Dismissing Related Permit Challenges as Moot). *See also In re E.I. DuPont De Nemours & Co.*, RCRA Appeal Nos. 13-01 & 13-02, at 2 (EAB May 14, 2014) (Order Dismissing Appeals); *In re Teck Alaska, Inc., Red Dog Mine*, NPDES Appeal No. 10-04, at 4-10, 12-13 (EAB Apr. 30, 2010) (Order Dismissing Petition for Review in Part and Denying Cross Motion to Stay the Entire Permit); *In re San Jacinto River Auth.*, NPDES Appeal No. 07-19, at 4 (EAB Mar. 28, 2008) (Order Dismissing Petition for Review); *In re City of Keene Wastewater Treatment Facility*, NPDES Appeal No. 07-18, at 2 (EAB Dec. 5, 2007) (Order Noticing Partial Withdrawal of Permit and Dismissing Portion of Petition for Review as Moot). Dismissal of the claims in Section VII.B of the Petition for Review will in no way compromise the Environmental Petitioners' rights because interested persons will have the opportunity to comment on the new leachate limits proposed by the Region and the basis for them, and, consistent with 40 C.F.R. § 124.19, will also have the opportunity to appeal those limits. *See, e.g., City of Nashua*, at 4.

B. The Board Should Grant Region 1's Motion to Re-Calendar Oral Argument and Proceed to Rulings on the Thermal Discharge and Cooling Water Intake Requirements Currently on Appeal Before the Board

Region 1 also moves that the Board re-calendar the oral argument, and proceed to decision, on the thermal discharge issues from NPDES Appeal No. 20-05 and the cooling

water intake issues from NPDES Appeal No. 20-06. The grounds for the Region's request are set forth below.

Region 1 asks the Board to re-calendar the oral argument and render decisions addressing the thermal discharge and cooling water intake issues to serve the environmental goals of the Clean Water Act and the policy favoring administrative/judicial efficiency. Moving ahead in this manner makes sense because these issues have been fully briefed to the Board and after EPA deliberations during the current abeyance of the appeal proceedings, the Agency has decided to continue to defend the Permit's thermal discharge and cooling water intake requirements. As a result, the quickest way to resolution of this permit appeal – and getting new, more protective permit limits into effect – is to proceed to decision on the thermal discharge and cooling water intake issues while the voluntary remand of the leachate limits is in process. *See* 40 C.F.R. § 124.19(n). *See also In re Desert Rock Energy Co.*, PSD Appeal Nos. 08-03, 08-04, 08-05 and 08-06, at 5 n.3 (EAB Jan. 22, 2009) (Order Granting Review, Staying the Carbon Dioxide BACT Issue, and Granting Motions to File Amicus/Non-Party Briefs and Motions to File Reply Briefs) (in order to expedite final resolution of appeal, Board allowed review of certain issues to proceed through the EAB appeals process while the Region reconsidered other issues that had been withdrawn by the Region for such reconsideration). Then, if the Board rules in favor of the Region on these issues, only the leachate issue would remain for later appeal. Moreover, if no appeal of the leachate limits is filed, the Region would then be able to issue the final permit decision. *See* 40 C.F.R. § 124.19(l)(2) (2018). Alternatively, if the Board decides to remand to the Region any issue (or issues) related to the thermal discharge and/or cooling water intake requirements, then

that remand could be dealt with sooner, rather than having it occur sometime after reissuance of the remanded leachate limits.³

Proceeding to a decision on these issues also makes sense because they are entirely separate and distinct from the issues related to the leachate discharge limits. Leachate discharges involve an entirely different type of wastewater from thermal discharges, and the two wastewaters are generated from different parts of the facility and different parts of the electrical generation process. Leachate discharges are also, obviously, entirely different from cooling water withdrawals. Furthermore, the parts of the Permit addressing leachate discharges, thermal discharges, and cooling water withdrawals are all subject to distinct legal standards: the leachate limits are set based on the application of the BAT standard to leachate discharges, while the thermal discharge limits are based on CWA § 316(a), 33 U.S.C. § 1326(a), and the cooling water intake requirements are based on CWA § 316(b), 33 U.S.C. § 1326(b).

In Section 101(a) of the Clean Water Act, 33 U.S.C. § 1251(a), Congress states that it is “[t]he objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” As Region 1 has explained in prior briefing to the Board, Response by EPA Region 1 to Petition for Review by Sierra Club and Conservation Law Foundation, at 1, 45-47 (Sept. 25, 2020) (“Region 1 Response”); Response by EPA Region 1 to the Petition for Review by GSP Merrimack LLC, at 8-9, 17-18 (Sept. 25, 2020), the thermal discharge and cooling water intake requirements in the new Permit issued to Merrimack Station in May 2020 will provide for substantially

³ The Region recognizes that it cannot take final agency action on the thermal discharge or cooling water intake requirements until resolution of the entire permit appeal before the Board, *see* 40 C.F.R. § 124.19(l) (2018), but resolving the merits of the appeal of these issues sooner would contribute to a quicker resolution of the entire appeal.

greater protection of the Merrimack River than is required by the prior permit, which was issued in 1992, nearly 30 years ago. Taking reasonable steps to expedite resolution of the appeals of the Permit's thermal discharge and cooling water intake requirements – as the Region has proposed – will best serve the Act's environmental protection objectives. In addition, as the Region explained in prior briefing, *see* Region 1 Response, at 10, 30, Petitioner Sierra Club sued EPA in federal court in 2016 alleging unreasonable delay in issuing the Merrimack Station permit and, although the case was ultimately dismissed, EPA agreed that finalizing the new permit was an important priority and has endeavored to expedite its completion. Moving ahead to resolve the appeals of the Permit's thermal discharge and cooling water intake requirements will advance this goal.

Region 1 respectfully urges that the steps it proposes will result in the most efficient, fair, and impartial adjudication of the present appeal consistent with 40 C.F.R. § 124.19(n).

IV. Results of Consultation with Other Parties Regarding this Motion

In accordance with 40 C.F.R. § 124.19(f)(2), the undersigned counsel for movant Region 1, Mark Stein, contacted counsel for both the Environmental Petitioners and GSP to determine if either or both parties would assent to this Motion.

The Environmental Petitioners indicated that they take no position on Region 1's Motion at this time and reserve the right to file a response to the Motion with the Board in accordance with the Board's Apr. 28 Order.

GSP authorized the Region to report that "GSP: 1) opposes EPA's motion for voluntary remand of the combustion residual leachate provision of Part I.A.4 of the

Permit; 2) takes no position on EPA's motion to dismiss Sierra Club's and CLF's petition for review as to Part I.A.4 as moot; 3) supports EPA's motion to remove the litigation from abeyance and re-calendar the oral argument; and 4) intends to file a response to EPA's filing by Friday June 11, 2021, pursuant to the Board's Order dated April 28, 2021." Email from Stephen Gidiere, Balch & Bingham, to Mark Stein, EPA Region 1, et al. (June 4, 2021).

V. Conclusion

For the foregoing reasons, Region 1 respectfully requests that that the Board grant the Region's Motion.

Respectfully submitted,

Mark A. Stein /s/

Mark A. Stein, Sr. Assistant Regional Counsel
Cayleigh Eckhardt, Assistant Regional Counsel
Michael Curley, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square
Boston, MA 02109
Tel: (617) 918-1077 or (617) 918-1044
Email: Stein.Mark@epa.gov
Eckhardt.Cayleigh@epa.gov
Curley.Michael@epa.gov

Of Counsel:

James Curtin, Attorney
Eleanor Garretson, Attorney
Pooja Parikh, Attorney
Jessica Zomer, Attorney
Richard T. Witt, Attorney
Water Law Office, Office of General Counsel
U.S. Environmental Protection Agency
Washington, D.C. 20004

Dated: June 4, 2021

STATEMENT OF COMPLIANCE WITH WORD LIMITATIONS

I hereby certify that this **EPA Region 1 Motion for Partial Voluntary Remand and Partial Re-Calendaring of Oral Argument**, filed in NPDES Appeal Nos. 20-05 and 20-06, contains fewer than 7,000 words in accordance with 40 C.F.R. § 124.19(f)(5) (2018).

Dated: June 4, 2021

Respectfully submitted,

Mark A. Stein /s/

Mark A. Stein

Senior Assistant Regional Counsel
US Environmental Protection Agency
Office of Regional Counsel, Region I
5 Post Office Square - Suite 100
Boston, MA 02109-3912
Tel: (617) 918-1077
Fax: (617) 918-0077
E-mail: stein.mark@epa.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **EPA Region 1 Motion for Partial Voluntary Remand and Partial Re-Calendaring of Oral Argument**, filed in In re Granite Shore Power Merrimack LLC, NPDES Appeal Nos. 20-05 and 20-06, was sent to the following persons in the manner indicated:

By Electronic Filing:

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

By Electronic Filing and Electronic Mail:

Reed W. Super, Esq., Edan Rotenberg, Esq., and Julia Muench, Esq.
Super Law Group, LLC
180 Maiden Lane, Suite 603
New York, NY 10038
reed@superlawgroup.com
edan@superlawgroup.com
julia@superlawgroup.com

P. Stephen Gidiere III, Esq., Thomas G. DeLawrence, Esq., and Julia B. Barber, Esq.
Balch & Bingham LLP
1901 6th Avenue North, Suite 1500
Birmingham, Alabama 35203
sgidiere@balch.com
tdelawrence@balch.com
jbarber@balch.com

K. Allen Brooks
Senior Assistant Attorney General
New Hampshire Department of Justice
33 Capitol Street Concord, NH 03301
Allen.brooks@doj.nh.gov

Dated: June 4, 2021

Mark A. Stein /s/
Mark A. Stein, Esq.
US Environmental Protection Agency
Office of Regional Counsel, Region I
5 Post Office Square - Suite 100
Boston, MA 02109-3912
E-mail: stein.mark@epa.gov