

**State of Vermont  
WATER RESOURCES BOARD**

**Re: Taftsville Hydroelectric Project (CVPS)  
401 Certification,  
Docket No. WQ-93-06**

Authority:  
10 V.S.A. § 1024(a)

**PRELIMINARY ORDER:  
Amicus Curiae Requests**

On September 29, 1993; the Secretary (Secretary) of the Agency of Natural Resources (ANR) issued a 401 Water Quality Certification to the CVPS in connection with the utility's application to the Federal Energy Regulatory Commission (FERC) for relicensure of the Taftsville Hydroelectric Project on the Ottauquechee River near the village of Taftsville in the Town of Woodstock, Vermont. Or October 14, 1993, CVPS appealed the Secretary's decision to the Board, challenging findings and conditions contained in the certification.

On November 3, 1993, the Board received a Motion to Intervene as Amicus Curiae filed by Edward V. Schweibert, Esq., on behalf of Vermont Warble Power Division of OMYA, Inc. (OMYA). Following the prehearing conference held on November 22, 1993, Chris Kilian, Esq., counsel for the Vermont Natural Resources (VNRC), indicated that his client wished to intervene as amicus curiae in CVPS's appeal. On December 10, 1993, within the timeframe provided in the Prehearing Conference Report and Order, VNRC filed a formal request for amicus curiae status.

Neither CVPS nor the ANR filed timely written objections to the participation of OMYA and VNRC as amicus curiae in this proceeding: CVPS filed written consents with respect to both OMYA and VNRC.

The Board deliberated on the amicus curiae requests on February 15 and March 9, 1994.

1. The Board has granted amicus curiae status to petitioners in certain limited circumstances consistent with the standards in V.R.A.P., Rule 29. See re: Vermont Marble Company (OMYA) 401 Certification, Docket No. WQ-92-12, Preliminary Order: Amicus Curiae Status (July 1, 1993).

2. OMYA operates a hydroelectric facility subject to federal relicensure and state water quality certification. The Board's rulings concerning CVPS's certification may serve as precedent in subsequent certification proceedings connected with hydroelectric facility relicensure. OMYA may be able to provide information, analysis, and argument that the nominal parties might not

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In re: Tattsville **Hydroelectric** Project, Docket No. WQ-93-06  
page 2 of 2

adequately present and that may materially assist the Board in **deciding** the legal issues before it.

3. **VNRC** is a **statewide conservation** organization with substantial interest and expertise in the restoration, maintenance, protection, and **enhancement of** the water quality of Vermont's rivers and streams. **VNRC** may be **able to** provide information, analysis, and argument that the nominal parties might not adequately present and that may materially assist the Board in deciding the legal issues before it.

ORDER

For the foregoing reasons, the Board, grants **OMYA** and **VNRC** leave to intervene as amicus curiae in the above-captioned appeal, subject to the following:

1. The participation of amicus curiae shall, be limited to the filing of briefs and the presentation of oral argument **on issues** that may arise during the course of this proceeding. The Board, in its discretion, **may also** request amicus curiae to provide information, analysis or **argument** in response to specific legal issues raised in the parties' filings or **at hearing**.

2. **Amicus curiae** shall **be bound** by the procedural requirements and filing deadlines specified in the Board's Rules of Procedure or in orders issued by the Board or its Chair.

Dated at Montpelier, Vermont, this 1st day of April, 1994.

Water Resources Board  
by its Chair

  
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William Boyd Davies

Concurring:

William Boyd Davies  
Stephen Dycus  
Ruth Einstein  
Jane Potvin  
Byrd **LaPrade**, Acting Member

Recused:

Mark **DesMeules**