

State of Vermont
WATER RESOURCES BOARD

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

and

Re: Cavendish Hydroelectric Project (CVPS)
401 Certification,
Docket No. WQ-93-08

PRELIMINARY ORDER
MOTIONS TO STAY PROCEEDINGS

On October 22, 1993, Central Vermont Public Service Corporation (CVPS) the appellant, filed Motions to Stay Proceedings in the above-captioned matters. CVPS asked the Board to delay hearings until the United States Supreme Court issues a decision in the case, PUD No. 1 of Jefferson County and the City of Tacoma v. State of Washinaton. Department Of Ecology, Department of Fisheries and Deoartment of Wildlife, Docket No. 92-1911 ("City of Tacoma").

After providing the parties an opportunity to object to CVPS's request and reviewing the parties' filings, the Board has determined that stays of limited duration should be granted in CVPS's two appeals.

The Board has considered the objection timely filed by the Vermont Natural Resources Council (VNRC) with respect to CVPS's Motion to Stay Proceeding in the appeal, In re: Cavendish Hydroelectric Project, Docket No. WQ-93-08. The Board is not persuaded by VNRC's argument that the decision to deny a stay in the matter, In re: Appeal of VNRC, Docket No. 92-02 (April 10, 1992), is analogous to the present case. The Board believes that administrative economy warrants delay of the present proceedings until the highest court of the land has spoken on the scope of state authority to condition § 401 water certifications, an issue germane to the present appeals.

For the foregoing reasons, it is hereby ordered that stays are granted in the above-captioned proceedings. Such stays shall expire within ninety (90) days of the date of this decision or upon the entry by the United States Supreme Court of the decision in the City of Tacoma case, whichever shall occur first. In the event of the latter occurrence, the appellant shall notify the Board in




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: writing that these appeals are ready for hearing.

: Dated at Montpelier, Vermont, this 19 day of May, 1994.

Water Resources Board
by its Chair



William Boyd Davies

Concurring:

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