

State of Vermont
WATER RESOURCES. BOARD

In re: Clyde River **Hydroelectric** Project,
§ 401 Certification
Docket No. WQ-94-10

DISMISSAL ORDER

On August 30, 1996, Citizens Utilities Company ("Citizens") filed with the Water Resources Board ("Board") a notice of withdrawal in the above-captioned appeal. On September 6, 1996, all parties to the appeal were notified that the Board would consider Citizens' notice as a dismissal request pursuant to **Rule 21** of the Board's Rules of Procedure: The parties were provided with an opportunity to file written objections or requests for oral argument on or before September 20, 1996.

The parties to this appeal are Citizens, the Vermont Natural Resources Council ("VNRC"), the Vermont Federation of Sportsmen's Clubs ("VFSC"), the Agency of Natural Resources ("ANR"), Trout Unlimited, ("TU"), the Vermont State Council of TU ("VT/TU"), and the Northeast Kingdom Chapter of TU ("NE/TU").

On September 20, 1996, TU requested an extension of time to file comments or objections. On September 20, 1996, the Board's Chair granted an extension until October 1, 1996. On October 1, 1996, the VNRC, VFSC, and TU jointly filed a written request that Citizens' appeal be dismissed with prejudice. On October 11, 1996, Citizens filed a response to the October 1 filing, opposing the joint request.

The Board deliberated with respect to this matter at its meetings on October 2 and 23, 1996. It determined that dismissal based on the appellant's notice of withdrawal is not contrary to law and therefore should be granted. Voluntary dismissal at the request of an appellant is without prejudice, unless otherwise stated in that party's notice or provided for by agreement of all the parties. This is consistent with past Board practice. See also, V.R.C.P. Rule 41(a) and V.R.A.P. Rule 42(a). It is hereby ordered that the above-captioned appeal is dismissed.

Dated at Montpelier, Vermont, this 13th day of November, 1996.

Concurring:
William Boyd Davies

Stephen Dycus
Ruth Einstein
Gail Osherenko
Jane Potvin

Vermont Water Resources Board
by its Chair


William Boyd Davies