

**State of Vermont  
WATER RESOURCES BOARD**

**In re: Deerfield River Hydroelectric Project  
§ 401 Certification  
Docket Nos. WQ-95-01 and WQ-95-02 (consolidated)**

**DISMISSAL ORDER**

On January 30, 1995, the Vermont Agency of Natural Resources ("ANR") issued a Certificate to New England Power Company ("NEP") pursuant to 10 V.S.A. § 1004 and 33 U.S.C. § 1251 *et seq.* in connection with NEP's request for federal relicensing of three hydroelectric facilities on the Deerfield River ("Project"). On February 14, 1995, NEP appealed the issuance of the Certificate to the Board. On February 14, 1995, the Vermont Natural Resources Council ("VNRC") and the Vermont Federation of Sportsmen's Clubs ("VFSC") also appealed the issuance of the Certificate to the Board on different grounds. The appeals were filed pursuant to 10 V.S.A. § 1024(a) and 10 V.S.A. § 1004. On April 1, 1996, the appeals were consolidated.

On September 10, 1996, VFSC filed a Notice of Withdrawal of Appeal. On October 11, 1996, the Board issued an Order granting VFSC's request to withdraw its appeal.

On February 24, 1997, NEP, VNRC, and ANR jointly filed a Motion to Dismiss and Waiver of Findings of Fact and Conclusions of Law ("Motion"). Subsequently, the following parties filed consents to the Motion and waivers of findings of fact and conclusions of law: the Conservation Law Foundation, the Commonwealth of Massachusetts, the Board of Selectmen for the Town of Whitingham, the Windham Regional Commission, the Appalachian Mountain Club, American Rivers Inc., New England Friends for the Liberation of Whitewater, the Deerfield River Compact, American Whitewater Affiliation, and the Deerfield River Watershed Association.

Board Rule of Procedure 21 governs dismissals and states, in part:

The Board may, on its motion or at the request of a party, consider the dismissal, in whole or in part, of any matter before the Board for reasons provided by these rules, by statute, or by law. The Board shall allow oral argument, with notice to the parties, prior to any such dismissal. A decision to dismiss shall conform with the requirements of Rule 29.

Board Rule of Procedure 29 states, in part:

As soon as practicable after the close of evidence, the Board shall issue its written decision. Unless waived by all parties, the decision shall include findings of fact, conclusions of law, and an order. A copy of the decision shall be forwarded by

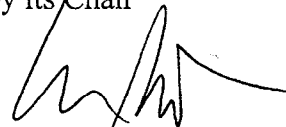
mail to each party.

The Motion states that NEP, VNRC, and ANR filed the Motion to end these consolidated appeals and to allow the Certificate issued by ANR to become final. The Motion further requests the Board to order dismissal of the appeals without issuance of any findings of fact or conclusions of law. Finally, the Motion requests oral argument only if a party or parties to the appeals fails to file a waiver of findings of fact and conclusions of law. See Board Rule of Procedure 21. All parties filed waivers of findings of fact and conclusions of law in accordance with Board Rule of Procedure 29.

On March 5, 1997, the Board deliberated on the Motion. Based on the Motion filed by NEP, VNRC, and ANR and on the consents to the Motion and waivers of findings of fact and conclusions of law filed by the remainder of the parties in this matter, the above-captioned consolidated appeals are hereby dismissed.

Dated at Montpelier, Vermont, this 17 day of March, 1997.

Water Resources Board  
by its Chair



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William Boyd Davies  
Ruth Einstein  
Gail Osherenko  
Jane Potvin