

**134 FERC ¶ 62,151**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Central Vermont Public Service Corporation

Project No. 11478-009

ORDER MODIFYING AND APPROVING, IN PART,  
RECREATION FACILITY DESIGN PLANS

(February 17, 2011)

1. On August 26, 2009, Central Vermont Public Service Corporation (licensee) filed recreation facility design plans (plan) pursuant to article 401 of the license for the Silver Lake Hydroelectric Project (FERC No. 11478).<sup>1</sup> The plan includes measures to control the associated erosion during the development and use of the recreational facilities. On February 25, 2010, the licensee filed its designs for recreation facility interpretive signs as a supplement to the plan. The project does not occupy any federal lands but is surrounded by the Green Mountain National Forest. The project is located on Sucker Brook in Addison County, Vermont.

2. The project consists of three major components: 1) Sugar Hill storage reservoir and Goshen dam; 2) Sucker Brook diversion dam; and 3) Silver Lake Development. Existing recreation facilities at the project include a viewing area at the Falls of Lana, which is a scenic gorge located within the bypassed reach of Sucker Brook, foot trails at the Falls of Lana viewing area, and an access road and boat ramp at Sugar Hill reservoir. The lands around the Sugar Hill reservoir boat launch and Sucker Brook diversion dam are owned by the licensee. The other recreation sites are on lands of the Green Mountain National Forest and under the control of the U.S. Forest Service (FS).

**BACKGROUND**

3. Article 401 requires the licensee to file various plans, for Commission approval, pursuant to Vermont Agency of Natural Resources (VANR) final water quality certification (WQC) conditions. The licensee is also to include a letter from the VANR approving the plans. WQC condition P requires the licensee to consult with the VANR and the FS in the development of the plan, and that the recreational facilities be constructed and maintained consistent with the plan. WQC condition Q requires the

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<sup>1</sup> Order Issuing Original License issued February 26, 2009 (126 FERC ¶ 62,148)

licensee, upon request by VANR, to design and implement erosion control measures to address erosion occurring as a result of use of the recreational facilities. Any work that exceeds minor maintenance would be subject to prior approval by the VANR and the Commission.

#### DESCRIPTION OF PROPOSED PLAN

4. The plan provides for recreational enhancements for the Sugar Hill reservoir and the Silver Lake Penstock (Falls of Lana). The plan includes photographs and drawings of the proposed recreational enhancements for the project. The plan also includes a plan for the design of interpretive and directional signage at the project recreation facilities and measures for the control of erosion.

##### *Sugar Hill Reservoir*

5. Existing facilities at this site include a boat ramp and informal parking, accessed by a gravel road owned and maintained by the licensee. At the end of the gravel road is a turn-around used by vehicles with trailers to launch boats. This site is also used in the winter by snowmobilers. The plan describes recreational improvements including re-grading, resurfacing, and extending the boat launch, widening the circular turn-around to allow for parking along the sides of the road, planting native vegetation within the circular drive, providing a parking area with two handicapped-accessible parking spaces, and installing a new handicapped-accessible trail near the base of the boat launch for fisherman access to the reservoir. The new trail would consist of sure-pack aggregate over a crushed gravel base to provide a smooth, gently-sloped access. The fishing access landing would consist of the same sure-pack aggregate over crushed gravel base at an elevation of 1767.0 feet mean sea level (msl). The fishing access landing would be 20 feet in diameter with boulders with 24-inch gaps, in between, and an 8-inch safety curb. The plan proposes the installation of a register at the site to monitor the public's use of this location and to evaluate the need for future enhancements.

##### *Falls of Lana*

6. Existing facilities at this site include a foot trail along and beneath the penstock leading to an overlook area with viewpoints of the Falls of Lana. The plan proposes recreational improvements including improving drainage along the foot trail and repairing minor erosion pockets, installing more secure fencing at the Falls of Lana overlook, and removing vegetation currently obscuring the view of the falls. The improvements are consistent with the Green Mountain National Forest's Land and Resource Management Plan which identifies the area for management as a "Semi-Primitive" recreation site.

### *Signage Plan*

7. The licensee developed interpretive and directional signage to provide information about the significance and history of the project and to direct visitors and recreationists to the project's features. The plan proposes signage for installation as follows:

- directional and interpretive signage at Sugar Hill reservoir;
- interpretive signage at Silver Lake;
- interpretive signage at Sucker Brook diversion dam; and
- interpretive signage on the penstock (Falls of Lana).

### *Consideration of Needs of the Disabled*

8. The plan considers the needs of the disabled in the development of recreational enhancements. At the Sugar Hill reservoir, a handicapped-accessible parking area adjacent to the boat launch is included in the plan. The plan also provides for a trail from the parking area which would maintain a grade suitable for wheelchair access and lead to the handicapped-accessible fisherman access site. The topography at the penstock area and overlook, and the FS preference to keep the informal foot trail undeveloped, preclude wheelchair accessibility at the Falls of Lana.

### *Erosion Control*

9. Associated erosion control measures for the development and subsequent use of recreational facilities are incorporated into the design of the improvements. The plan provides for improved drainage of stormwater runoff by surface re-grading, use of swales, and crowning the middle of the boat launch. The plan proposes the installation of a geotextile filter curtain to contain turbidity during any in-water construction.

## CONSULTATION

10. The licensee prepared the plan in consultation with the VANR and FS. A site visit was performed with the FS on April 30, 2009. By letter dated June 30, 2009, a draft of the plan was distributed to the VANR and FS for review and comment. The licensee consulted with the VANR and FS, in addition to local recreation groups, in the development of interpretive signage for the project recreation facilities. The comments from the VANR, FS, and local recreation groups were incorporated into the interpretive signage and submitted as a supplement to the plan on February 25, 2010.

11. The VANR submitted several comments on the draft plan which have been incorporated into the final plan. The VANR, in its July 31, 2009 response to the draft plan, requested that the licensee reconsider the fishing access at the Sugar Hill reservoir.

The licensee's proposed fishing access site would consist of a 20-foot-diameter area along the reservoir. Boulders with 24-inch gaps, in between, and a safety curb would delineate the fishing access site and the reservoir. The VANR requested that the licensee consider the use of options, such as a fishing pier or dock, that place the fisherman out into the reservoir. During the recreation season, water levels in the reservoir may vary between elevation 1757.5 feet msl and 1765.5 feet msl. The edge of the water may be up to 50 feet away at times from the fishing access area and the fishable area would be very shallow. In addition, the VANR contends that the use of a pier or dock would create less of an earth disturbance and better retain the existing riparian vegetation.

12. The licensee, in declining the recommendation of the VANR, noted that the fishing access was developed in consultation with the FS. The licensee stated that the proposed fishing access improvements at the Sugar Hill reservoir were designed to meet the stated objective of protecting "the present pristine character" of the reservoir. In the licensee's final plan, filed on August 26, 2009, the design of the fishing access facility remained unchanged.

13. The VANR, in its letter to the Commission, filed August 27, 2009, reiterates its comments on the Sugar Hill reservoir fishing access. The VANR states that the designated purpose of the fishing access is to provide reasonable access to the reservoir for anglers with disabilities. Given the fluctuating elevations during the recreation season, which may vary up to 8 feet, disabled fishermen would be unable to adjust their access to the reservoir in relation to the shifting water levels. The licensee's proposed fishing access would place anglers too far from the edge of the water. The construction of the fishing pier or dock would place anglers over the water and would not be impacted by changing water surface elevations; enabling the fishermen to cast out in a larger area or just drop the line into the water. Furthermore, it would avoid an angler hooking a fish and having to drag it over the ground.

14. In addition, the VANR states that the fishing pier and dock would reduce the impacts of fishing on the riparian vegetation. The long-term adverse impacts of erosion along the shoreline would be avoided due to the reduced fisherman traffic.

15. The VANR rebuts the licensee's argument that the proposed fishing access design protects the pristine character of the reservoir. The VANR, in its letter filed August 27, 2009, proposes that the licensee redesign the angling access in consultation with the Vermont Department of Environmental Conservation (DEC) and the FS. The VANR states the Vermont DEC, Facilities Engineering Division, has designed and constructed almost twenty universal shore fishing accesses for the Vermont Department of Fish and Wildlife. Further, the VANR states the Vermont DEC agreed to consult on the final design.

## DISCUSSION

16. The licensee's plan, filed August 26, 2009, fulfills most of the requirements of article 401 and VANR WQC conditions P and Q. The proposed improvements to the parking, access trail and boat ramp at the Sugar Hill reservoir and the foot trail at the Falls of Lana, along with improved interpretive and directional signage and associated erosion control measures should enhance recreational opportunities at the project. In addition, the licensee's plan adequately considered the needs of the disabled in the development of the recreational enhancements, except for one. The proposed handicapped-accessible fishing access at the Sugar Hill reservoir requires additional consultation and discussion.

17. License article 401 requires the licensee to file various plans, for Commission approval, that were previously approved by the VANR, pursuant to its WQC conditions. The VANR recommends that the Commission approve the plan conditional on the licensee redesign and re-file the plans for handicapped-accessible fishing access in Sugar Hill reservoir.

18. Given that the recreation facility design plans are a requirement of the WQC issued by the VANR and as stated in the article require VANR approval, the VANR's recommendation for a handicapped-accessible fishing pier or dock needs to be addressed. While the fishing pier or dock would enable anglers, both non-disabled and those with disabilities, with comparable opportunities in Sugar Hill reservoir, the feasibility of such a structure should be discussed in consultation with the VANR, Vermont DEC, and FS. The licensee should work with the VANR to develop a facility that will adequately provide handicapped-accessible fishing access that is acceptable to the VANR.

19. After the proposed permanent recreation facilities are constructed, the licensee should submit full-size drawings showing the location and layout of these completed facilities, as built, in relation to the project boundary.

20. In order to accurately include the proposed permanent recreation facilities in the Commission's database for the project, the licensee should file site-specific geographical location point data for each of the approved recreation sites under the approved plan.

21. The plan as modified above should facilitate public access, enhance recreational opportunities, and minimize erosion at the project. The plan adequately addresses the requirements of article 401 and WQC conditions P and Q with the above modification, and should be approved in part.

The Director orders:

(A) The licensee's recreation facility design plans for the Silver Lake Hydroelectric Project, filed August 26, 2009, and supplemented on February 25, 2010, pursuant to article 401 and WQC conditions P and Q, is approved, in part.

(B) The proposed handicapped-accessible fishing access is not approved. The licensee shall file, within 180 days of the date of this order, a proposal for a handicapped-accessible fishing access area that is acceptable to the Vermont Agency of Natural Resources (VANR). The licensee shall consult with the VANR, the Vermont Department of Environmental Conservation (VDEC), and the U.S. Forest Service (FS) on the handicapped-accessible fishing access area. The licensee shall include in its filing documentation of its consultation with the VANR, VDEC, and FS. The licensee shall include copies of comments and recommendations made by each agency. Further, the licensee shall include a letter from the VANR approving the plan as originally required by article 401 of the project license.

(C) The licensee shall file location point data representative of each of the recreation facilities provided under the recreation facility design plans approved in ordering paragraph (A), above. Each location point must be positionally accurate to comply, at a minimum, with National Map Accuracy Standards for maps at a 1:24,000 scale. The location points must include latitude/longitude, in decimal degrees, based on the horizontal reference datum of the North American Datum of 1983 (NAD 83).

(D) Within 90 days after completing construction of each of the permanent recreation facilities to be provided under the approved recreation facility design plans, the licensee shall file with the Commission for approval, as-built drawings of the completed facilities. The drawings shall show the location and layout of the facilities in relation to the project boundary.

(E) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2010). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

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Document Content(s)

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