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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Central Vermont Public
Service Corp.

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Project No. 2489-007

ORDER MODIFYING AND APPROVING SCAMPIA UMBROSA STUDY PLAN
MAY 10 1996

On February 13, 1996, Central Vermont Public Service Corporation (licensee) filed a *Scampia umbrosa* study plan, pursuant to article 409 of the license for the Cavendish Project, issued November 4, 1994. The plan was amended by letter filed March 26, 1996. The March 26, 1996 plan replaces an earlier plan filed April 28, 1995. The Cavendish Project is located on the Black River in Windsor County, Vermont.

Article 409 requires the licensee to file a plan for assessing the impact of alternative bypass flows on the bryophyte *Scampia Umbrosa*, located within the Cavendish Gorge area, for 5 years of project operation following license issuance. The filing shall include a schedule for implementing the study, consultation with the Vermont Agency of Natural Resources (VANR), and filing the results and agency comments with the Commission.

Article 402 requires a minimum flow of 10 cfs in the bypass reach. Article 409 states that minimum flows can be increased by the Commission up to 20 cfs based on the results of the bryophyte studies.

In 1993, 6 colonies of *S. umbrosa* were identified within the Cavendish Gorge; permanent reference points and staff gage locations were marked to locate these colonies. Field studies of these colonies and any others identified later will be conducted twice annually. A late spring or early summer site visit by a trained bryologist will be made after June 15 to evaluate winter survival of the populations and the effects of spring scouring. Additional bypass flows for downstream fish passage are discontinued on June 15, allowing better access to the bryophyte colonies. The 10 cfs minimum flow will need to be suspended to examine several of the colonies. When the minimum flows are suspended, leakage provides about 3 cfs within the bypass reach. A second study will be made in early to mid fall to evaluate the vigor of the remaining colonies and to document reproductive success and population expansion should it occur.

The area of each colony will be determined and will be compared to the documented previous year's area. A spreadsheet will be developed that tracks the net gain or loss of the *S. umbrosa* colonies from baseline conditions in 1993 throughout the 5 years of the study. A final report will assess the overall health of the rare bryophyte and recommend a minimum flow based

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on the tolerance or intolerance of the bryophyte to increased flow and interspecific competition. Annual reports will be sent to the VANR, the U.S. Fish and Wildlife Service (FWS), and the Commission by November 1 of each year. A final report will be filed with the Commission by January 1, 2000, after consultation with the VANR and the FWS.

In letters dated March 6 and 12, 1996, the FWS and the VANR, respectively, concurred with the assessment methodology but they were concerned because the filed plan does not examine the effects on bryophytes at higher flows. The agencies recommended that the final report documenting effects on the bryophytes at 10 cfs should include proposals to either establish a permanent flow release or to conduct further studies as appropriate.

In a letter dated March 22, 1996, the licensee stated that the first year of investigation indicates the plants that were inundated at 10 cfs were destroyed. Although 50% of the plants were inundated at 10 cfs, 60% of the plants were destroyed. Higher flows would result in higher plant mortality. The licensee stated that studying the effects of increased flows at this time is premature and that changes in flows cannot be evaluated until the final study is completed.

In review of the first year's study results, it was noted that a new colony of *S. umbrosa* was identified. This indicates that it may be possible for the bryophyte to adjust to changes in water levels. However, the Commission agrees that the significant losses of the bryophyte at the minimum flows of 10 cfs do not support studies of higher flows at this time. If, at the end of the study, evidence is found that the colonies are able to migrate or adapt to the flows, the licensee should file a plan to investigate higher flow regimes.

The *Scampia umbrosa* study plan filed February 13, 1996 and modified March 26, 1996, should provide adequate documentation of the effects of flows within the Cavendish Gorge on *S. umbrosa*. This plan should be approved as modified below.

The Director orders:

(A) The *Scampia umbrosa* plan filed on February 13, 1996, and modified March 26, 1996, as modified by paragraph (B), is approved.

(B) The final monitoring report should be filed for Commission approval by January 1, 2000, and include any recommendations for further study, if evidence is found indicating the *Scampia umbrosa* can adapt to changes in flows. The licensee shall allow a minimum of 30 days for the Vermont Agency of Natural Resources and the U.S. Fish and Wildlife

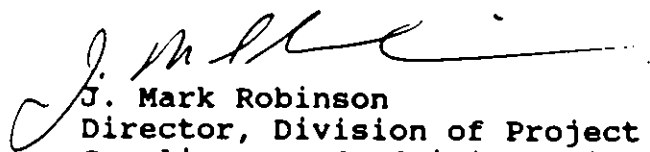
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Service to comment prior to filing the report with the Commission. If the licensee does not agree with a recommendation, the plan shall include the licensee's reasons, based on project-specific information.

(C) The Commission reserves the right to require changes to the *Scampia umbrosa* study plan.

(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 CFR § 385.713.


J. Mark Robinson
Director, Division of Project
Compliance and Administration