20080807-3005 FERC PDF (Unofficial) 08/07/2008

124 FERC ¶ 62,106
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Central Vermont Public Service Corporation Project No. 2731-038 & -040

ORDER AMENDING MINIMUM FLOW UNDER ARTICLES 401 AND 402, AND APRIL 12, 2002[1] AND FEBRUARY 1, 2005[2] ORDERS

(Issued August 07, 2008)

The Central Vermont Public Service Corporation (licensee) filed with the Commission on March 15, 2007, a request to amend the minimum flow required at the Weybridge Project under articles 401 and 402 of the project license.[3] It supplemented its amendment request with the results of the 2007 flow calibration and monitoring, filed with the Commission on July 29, 2008 under paragraph (B) of the Commission's February 1, 2005 order. The 3-megawatt Weybridge Project is located on Otter Creek in the towns of Weybridge and New Haven, in Addison County, Vermont.

BACKGROUND

The small Rock Island divides the dam and extends downstream, dividing the tailrace from the bypassed reach of the river. Immediately downstream from the project dam there are several small islands, and one larger one, Wyman Island, that partition river flow. A diversion structure extends from the downstream end of Rock Island to the next small island at the entrance to the west channel around Wyman Island, reapportioning the flow in the bypassed (west) and tailrace (east) channels.

The diversion structure includes a control weir with stoplog slots at the diversion structure's downstream end, at the entrance to the west channel. A 15-feet-wide by 3.5-feet-high notch in the control weir passes water from the pool formed by the control weir and the diversion structure downstream into the west channel around Wyman Island.

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[1] Order Modifying and Approving Diversion Structure Construction Plan under Article 402 and Amending February 13, 2002 Order, 99 FERC ¶ 62,042.

[2] Order Modifying and Approving Calibration and Flow Verification Plan Recommendations Under Article 402 and April 12, 2002 Order, 110 FERC ¶ 62,091.

[3] Order Issuing New License (Major Project), August 1, 2001, 96 FERC ¶ 62, 097.

20080807-3005 FERC PDF (Unofficial) 08/07/2008

License article 402 required the licensee to prepare, after consultation with the U.S. Fish and Wildlife Service (FWS) and the Vermont Agency of Natural Resources (VANR), a plan for construction of the diversion structure at the downstream end of Rock Island. The structure was to distribute flows of 125 cubic feet per second (cfs) to the east and west channels around Wyman Island during non-generation periods, and to pass 125 cfs to the west channel during generation, and to allow fish movement through the structure. The April 12, 2002 Commission order approved the licensee's diversion structure plan.

Following completion of the diversion structure in 2002, the licensee was to calibrate the diversion structure and verify that the flow in the west channel around Wyman Island was at least 125 cfs. At an on-site meeting of the resource agencies, the licensee and Commission staff in 2004, the meeting participants agreed that the diversion structure was functioning as intended, with 80 percent of the required minimum flow in the west channel released with the diversion structure height of 11.5 inches. Meeting participants further agreed that the current reduced minimum flow of 100 cfs created in the west channel, as provided by the 11.5-inch diversion structure height, could be permanently incorporated into the license at the end of an initial 5-year monitoring period.

Following the 2004 on-site meeting, the Commission, in its February 1, 2005 order, outlined and approved the agreement reached at the meeting. Paragraph (B) of the order required the licensee to maintain the diversion structure at the 11.5-inch height. The licensee was to perform annual calibration and flow verification measurements of the diversion structure for the first five years of operation, and annually file, with the Commission in 2006, 2007, and 2008, the results of the latter three years of its annual calibration measurements, including documentation of resource agency consultation and agencies' comments.

Provided that the 2004 flow conditions in the river channels downstream from the project dam have continued, paragraph (C) of the February 1, 2005 order required the licensee at the end of the initial five years of diversion structure operation, to file, for Commission approval by April 30, 2008 a request to amend article 402 of the project license. The amendment request would reflect the lesser minimum flows that have been agreed upon as adequate to provide fish habitat in the west channel around Wyman Island, and include comments and recommendations of the FWS and the VANR on the amendment request.

Paragraph (D) of the February 1, 2005 order required the licensee to calibrate the diversion structure and verify flows at 5-year intervals for the duration of the license. It

20080807-3005 FERC PDF (Unofficial) 08/07/2008

required the licensee to file every five years, for Commission approval, the results of the calibration and flow verification, including documentation of resource agency consultation.

LICENSEE'S PROPOSED AMENDMENT

The licensee's March 15, 2007 and July 29, 2008 filings stated that project personnel visually monitored the diversion structure throughout 2005, 2006, and 2007. The licensee presented the collected monitoring data for 2002, 2004, 2006, and 2007. Monitoring indicated that the diversion structure was operating as intended. Flow distribution measurements show flows around Wyman Island to be essentially unchanged.

In its draft report and amendment proposal, filed with the Commission on March 15, 2007 and presented to the agencies for their comment, the licensee noted the diversion structure had operated successfully for five years, the structure is in good condition, and the flows below the structure remain stable. Therefore, it proposed discontinuation of the annual monitoring of the structure. The licensee asked for the resource agencies support for discontinuing the annual monitoring, and its commencement of monitoring at 5-year intervals, and for amending article 402 to reflect the achieved minimum flow of 100 cfs in the west channel around Wyman Island.

In its July 29, 2008 filing, the licensee reported the results of its 2007 monitoring, including resource agencies comments regarding the 2007 monitoring results. It repeated its request to amend article 402, and to begin monitoring the diversion weir flow at five-year intervals.

RESOURCE AGENCY CONSULTATION

The licensee's filings included comments received from the resource agencies in response to its monitoring and amendment proposals. In an email dated December 29, 2006, the VANR noted that the licensee failed to measure flows in 2005 and consult with the agencies regarding the 2005 data. It suggested postponing the amendment request until 2007 data is collected. If the 2007 data shows the flow conditions at the diversion structure continue to be stable, it would support eliminating the fifth year of annual monitoring in 2008 and beginning the 5-year monitoring cycle.

In its July 29, 2008 filing, the licensee included a letter dated June 11, 2008 from the VANR in response to its 2007 monitoring results report and recommendations. The VANR stated the 2007 monitoring measurements were consistent with previous measurements. Consequently, it supported the change to the 5-year monitoring schedule.

20080807-3005 FERC PDF (Unofficial) 08/07/2008

In a letter dated January 11, 2007, and included in the licensee's March 15, 2007 filing, the FWS commented on the licensee's recommendations. It stated the proposal to discontinue annual monitoring was premature. It observed that the licensee collected field measurements in 2002, 2004, and 2006. The FWS stated that, if the 2007 monitoring demonstrated that flows at the diversion structure remain stable, it would consider eliminating the fifth year of monitoring in 2008, and support moving on to the 5-year monitoring cycle.

In an email from the FWS, dated June 11, 2008 and included in the licensee's July 29, 2008 filling, the FWS stated that it has no objection to the proposed change to a monitoring interval of five years, or to the proposed amendment of article 402 to require a 100 cfs flow in the west channel.

DISCUSSION AND CONCLUSIONS

The licensee has collected and reported diversion weir flow data for 2002, 2004, 2006, and 2007. It consulted with the agencies regarding the diversion structure monitoring. Based on consultation with the agencies, the licensee monitored the diversion structure in 2007, and obtained the resource agencies' acceptance of its proposals to amend the minimum flow requirement and to begin monitoring the flows at the diversion weir at 5-year intervals.

The licensee monitored the diversion weir and consulted with the resource agencies regarding the partition of flows at the diversion weir. The licensee should collect field measurements at 5-year intervals and consult with the resource agencies following collection of the field measurements. Beginning in 2013, the licensee should file with the Commission, the results of the monitoring every five years, including documentation of agency consultation, as required under paragraph (D) of the February 1, 2005 order.

Based on the flow dynamics at the diversion weir, the licensee proposed to amend article 402, by reducing the required minimum flow in the west channel from 125 cfs to 100 cfs. Experience has shown that assuring a 100 cfs in the west channel is dependably achievable, while the target flow of 125 cfs in the west channel currently contained in the license is problematic. The licensee consulted with the resource agencies, and the resource agencies do not object to the amendment of article 402 to require 100 cfs in the west channel. Article 402 should be amended as proposed.

20080807-3005 FERC PDF (Unofficial) 08/07/2008

The Director Orders:

(A) The licensee's proposals regarding diversion structure monitoring and the request to amend the article 402 minimum flow requirement at the Weybridge Project, filed with the Commission on March 15, 2007 and supplemented on July 29, 2008, as described in paragraphs (B) and (C), are approved.

(B) The licensee shall monitor the diversion weir and collect field measurements at 5-year intervals, and shall consult with the resource agencies following collection of the field measurements. Beginning in 2013, the licensee shall file with the Commission, the results of the monitoring every five years, including documentation of agency consultation, as required under paragraph (D) of the February 1, 2005 order.

(C) Article 401 is amended, as follows. The third sentence in Article 401 is amended by deleting the phrase, "to ensure that 125 cfs is passed into both the East and West Channels around Wyman Island." The last sentence in the first paragraph of Article 401 is amended by changing "125-cfs" to "100-cfs."

(D) Article 402 is amended by replacing item (1) in the second sentence with: "(1) distribute the minimum flow release to assure that a flow of 100 cfs in the West Channel around Wyman Island is maintained at all times;".

(E) 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.

George H. Taylor
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and Compliance

20080807-3005 FERC PDF (Unofficial) 08/07/2008

Document Content(s)

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