



Board of Hudson River-Black River Regulating District  
350 Northern Boulevard, Albany, New York 12204 Phone (518) 465-3491  
FAX (518) 432-2485

April 8, 2010

Honorable Daniel P. McCoy, Chairman  
Albany County Legislature  
Albany County Office Building  
112 State Street, Room 1114  
Albany, New York 12207

Re: Hudson River – Black River Regulating District  
Apportionment

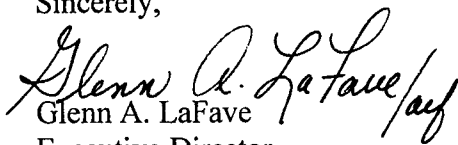
Dear Chairman McCoy:

The Hudson River – Black River Regulating District Board adopted the Apportionment for the Hudson River Area with Modification subsequent to conducting the Apportionment Hearing Grievance at its March 30, 2010 Board meeting. Following approval by the Department of Environmental Conservation, and as required by NY ECL §15-2121(5), on behalf of the Regulating District Board, please find a copy of the Apportionment for the Regulating District's fiscal year July 2009 – June 2010 served upon you as Chairman of the Rensselaer County Legislature. As required by statute, a copy of the Apportionment will also be filed in the Office of the County Clerk. Remittance is due upon receipt, but no later than June 30, 2010.

Also enclosed, please find a copy of the Resolution through which the Regulating District adopted the Apportionment for the Hudson River Area with Modification and the letter from Commissioner Grannis through which the Department of Environmental Conservation approved the Apportionment.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,

  
Glenn A. LaFave  
Executive Director

cc: Hon. Michael G. Breslin, Albany County Executive  
Craig A. Denning, Esq. Albany County Attorney  
Thomas G. Clingan, Albany County Clerk

State of New York

Hudson River – Black River Regulating District

Great Sacandaga Lake

Operation and Maintenance Cost

and

Apportionment of Operation and Maintenance Cost

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Approved by  
BOARD OF HUDSON RIVER – BLACK RIVER REGULATING DISTRICT  
March 30, 2010

Certified to  
Department of Environmental Conservation  
March 30, 2010

APPORTIONMENT OF OPERATION AND MAINTENANCE COST OF THE GREAT SACANDAGA LAKE RESERVOIR PREFIXED TO A RESOLUTION ADOPTED BY THE BOARD OF HUDSON RIVER – BLACK RIVER REGULATING DISTRICT March 30, 2010.

ID No.	NAME OF PUBLIC CORPORATION	PROPORTION OF COST	AMOUNT TO BE PAID
1	County of Albany	0.392563628	\$ 1,748,166.66
2	County of Rensselaer	0.215951341	\$ 961,675.78
3	County of Saratoga	0.285389349	\$ 1,270,897.53
4	County of Warren	0.066742217	\$ 297,216.83
5	County of Washington	0.039353465	\$ 175,249.08

10-11-03

**RESOLUTION TO APPROVE THE APPORTIONMENT  
FOR THE HUDSON RIVER AREA WITH MODIFICATION**

**WHEREAS**, the Regulating District Board, served a copy of such apportionment as provided at NY ECL §15-2121, noticing and publishing the time and place at which the Board will meet to hear any public corporation or person aggrieved by the Board's apportionment determination; and

**WHEREAS**, the Board of the Hudson River-Black River Regulating District has determined the total cost to operate and maintain the Regulating District's Hudson River Area facilities (Great Sacandaga Lake, formerly Sacandaga Reservoir); and

**WHEREAS**, NY ECL §15-2121(2) and §15-2125(2) require the Regulating District Board to apportion such cost, less the amount chargeable to the state, among the public corporations and parcels of real estate benefited, in proportion to the amount of benefit which shall inure to each such public corporation and parcel of real estate by reason of such reservoir; and

**WHEREAS**, the United States Court of Appeals, DC Circuit determined that the Federal Power Act preempts the Regulating District's use of state law to collect the Regulating District's annual costs of operations and maintenance from the federally licensed hydropower companies operating within the Hudson River Area; and

**WHEREAS**, the Regulating District Board has determined that by grouping the towns, cities, villages and the individual parcels of real estate within each such public corporation, the potential for disparate treatment of one individual parcel, neighborhood or municipality when compared to others diminishes; and

**WHEREAS**, the Regulating District Board has determined that the Regulating District provides a negligible annual benefit to the state by diverting flow to the NYS Champlain Canal and the state has not required that a reasonable return to the state be included in the costs to be apportioned; and

**WHEREAS**, the attached written apportionment shows the name of each public corporation benefited and the proportion of such cost less the amount chargeable to the state to be borne by each, expressed in decimals and the amount to be paid by each such public corporation; and

**WHEREAS**, the amount to be paid by each such public corporation is determined by multiplying the total cost less the amount which may be chargeable to the state by the decimal representing the proportion thereof to be borne by each public corporation; and

**WHEREAS**, the Regulating District Board, or a majority of its members, have viewed the public corporations benefited; and

**WHEREAS**, NY ECL §15-2121 requires that the Regulating District Board shall, upon its approval of the apportionment, certify such apportionment to the Department of Environmental Conservation for approval; and

*Approved at the March 30, 2010 Board Meeting*

10-11-03

**WHEREAS**, following such apportionment grievance hearing, such apportionment if not modified shall become final and conclusive; or if modified, following approval of the modified apportionment by the Department of Environmental Conservation, such apportionment as so modified shall become final and conclusive; and

**WHEREAS**, the Board of the Hudson River-Black River Regulating District, at the January 12, 2010 Board meeting, adopted the "State of New York Hudson River-Black River Regulating District Great Sacandaga Lake Operation and Maintenance Cost and Apportionment of Operation and Maintenance Cost" apportionment for the Regulating District's Hudson River Area facilities; and

**WHEREAS**, on January 12, 2010, the Board certified the Apportionment to the Department of Environmental Conservation for its approval; and

**WHEREAS**, by letter dated February 3, 2010, the Department Commissioner approved the Apportionment; and

**WHEREAS**, the Board having heard those aggrieved by the Board's apportionment determination at an apportionment grievance hearing held March 30, 2010; and

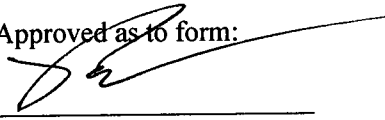
**NOW THEREFORE BE IT RESOLVED**, the Board of the Hudson River-Black River Regulating District does hereby adopt the "State of New York Hudson River-Black River Regulating District Great Sacandaga Lake Operation and Maintenance Cost and Apportionment of Operation and Maintenance Cost" apportionment for the Regulating District's Hudson River Area facilities with modification; and

**BE IT FURTHER RESOLVED**, pursuant to NY ECL §15-2121, the Board of the Hudson River-Black River Regulating District certifies such apportionment to the Department of Environmental Conservation for its approval; and

**BE IT FURTHER RESOLVED**, that upon approval by the Department of Environmental Conservation the Board of the Hudson River-Black River Regulating District directs staff to serve the apportionment as required by NY ECL §15-2121; and

**BE IT FURTHER RESOLVED**, that once approved and served, the Regulating District Board's apportionment is final and conclusive fixing the apportionment and basis of apportionment of all subsequent expenses to be incurred in the maintenance and operation of the Regulating District's Hudson River Area facilities.

Approved as to form:

  
\_\_\_\_\_  
Robert P. Leslie  
General Counsel

*Approved at the March 30, 2010 Board Meeting*

10-11-03

Motion was made by Ms. Beyor and seconded by Mr. Berkstresser that the Resolution be approved.

Present and Voting:

<u>MEMBER</u>	<u>AYE</u>	<u>NOE</u>	<u>ABSTAIN</u>
Ms. Beyor.....	<u>  X  </u>	<u>    </u>	<u>    </u>
Mr. Pintuff .....	<u>    </u>	<u>    </u>	<u>    </u> (Excused)
Mr. Bartow.....	<u>  X  </u>	<u>    </u>	<u>    </u>
Mr. Berkstresser .....	<u>  X  </u>	<u>    </u>	<u>    </u>
Mr. Cornell.....	<u>  X  </u>	<u>    </u>	<u>    </u>
Mr. Klein.....	<u>  X  </u>	<u>    </u>	<u>    </u>

**CORPORATE RESOLUTION CERTIFICATION**

I HEREBY CERTIFY that the following is a true and correct copy of Resolution 10-11-03 to Approve an Apportionment With Modification for the Hudson River Area duly adopted at a meeting of the Board of Directors of **The Board of Hudson River – Black River Regulating District** a corporation incorporated under the laws of the State of New York duly called and held on the 30th day of March, 2010, a quorum then being present; that the said resolution has been entered upon the regular minute book of the corporation and are in accordance with the certificate of incorporation and the by-laws and are now in full force and effect.

I FURTHER CERTIFY that the names of the persons holding titles referred to in the foregoing resolutions are as follows:

NAME

Pamela Beyor  
Philip Klein  
John Bartow  
David Berkstresser  
Paul Cornell

TITLE

First Vice Chairperson  
Chairperson  
Board Member  
Board Member  
Board Member

*(Corporate Seal)*

Treasurer: Royal J. F.

Date: 3/31/10



DAVID A. PATERSON  
GOVERNOR

ALEXANDER B. GRANNIS  
COMMISSIONER

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
ALBANY, NEW YORK 12233-1010

APR 02 2010

Mr. Glen A. LaFave  
Executive Director  
Hudson River-Black River Regulating District  
737 Bunker Hill Road  
Mayfield, New York 12117

Dear Mr. LaFave:

The Department of Environmental Conservation has received the Hudson River-Black River Regulating District's (District) March 30, 2010 State of New York Hudson River-Black River Regulating District Great Sacandaga Lake Operation and Maintenance Cost and Apportionment of Operation and Maintenance Cost (revised apportionment) approved by the District's Board (Board) on March 30, 2010, and certified to DEC on April 1, 2010. Environmental Conservation Law (ECL) §15-2121 provides that the Board shall prepare an apportionment, certified to DEC for its approval, to recover the District's total cost and operation and maintenance expense from the public corporations and parcels of real estate benefitted by the Great Sacandaga Lake (Reservoir) in proportion to the amount of the benefit which will inure to each by reason of such Reservoir.

In reviewing the revised apportionment, DEC has relied on the expertise of District staff who prepared the revised apportionment in identification of: (1) the most direct and clearly defined benefit derived by operation of the Reservoir, i.e. flood protection; (2) the beneficiaries which receive the flood protection benefit; and (3) the method to determine the proportion of the flood protection benefit which will inure to each beneficiary. As the revised apportionment is not inconsistent with the provisions of ECL §15-2121 and ECL §15-2125, I hereby approve said revised apportionment as required by ECL §15-2121(4).

Sincerely,

Alexander B. Grannis

RECEIVED

APR 05 2010 52

HUDSON RIVER-BLACK RIVER  
REGULATING DISTRICT  
MAYFIELD, NY