



Board of Hudson River-Black River Regulating District  
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February 4, 2010

Honorable Daniel P. McCoy, Chairman  
Albany County Legislature  
Albany County Office Building  
112 State Street, Room 710  
Albany, New York 12207

Re: Hudson River – Black River Regulating District  
Apportionment  
Apportionment Grievance Hearing – March 30, 2010

Dear Chairman McCoy:

The Hudson River – Black River Regulating District maintains facilities in the Hudson River Area, including the Great Sacandaga Lake, which provide flood protection to Albany County. As it has done for the last eighty-five years, and pursuant to NY Environmental Conservation Law Article 15, Title 21, the Regulating District Board is required to apportion and assess the cost to maintain such facilities among the parcels of real estate and public corporations benefited by such facilities. Between 1930 and 2008, the owners of hydroelectric projects downstream of the Great Sacandaga Lake comprised 82% of the Regulating District's beneficiaries. Recently, in Albany Engineering Corp. v FERC (548 F3rd. 1071, 2008) the D.C. Circuit Court of Appeals ruled that the Federal Power Act preempts the Regulating District -- a FERC license holder in the Hudson River watershed -- from assessing under State law hydroelectric projects that are downstream from the Conklingville Dam which creates Great Sacandaga Lake. As a result, the Regulating District was compelled to prepare a new apportionment through which Albany County will now share a portion of those costs. Following approval by the Department of Environmental Conservation, and as required by NY ECL §15-2121(4), 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 Albany 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 a legal notice identifying the time and place where the Regulating District Board will meet to hear any public corporation or person aggrieved by the Apportionment. In addition, please find enclosed: copies of the Resolution through which the Regulating District adopted the Apportionment at its January 12, 2010 meeting; the letter

from Commissioner Grannis through which the Department of Environmental Conservation approved the Apportionment; the Regulating District's rule governing the Apportionment Grievance Hearing process; and the documents prepared for the Regulating District Board in support of its determination.

Staff will give a short presentation beginning at 9 a.m. March 30<sup>th</sup> immediately preceding the meeting at which the Regulating District Board will conduct the Apportionment Grievance Hearing. This presentation will provide a brief history of the Regulating District and outline the issues guiding the Board to determine the new 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