

**STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER**

**Budget Request for Hudson River-Black River Regulating District for fiscal year ending
06/30/2013**

Legal Authority: "Budget and Financial Plan Format, Supporting Documentation and Monitoring – Public Authorities" (2 NYCRR, Part 203)

PUBLIC AUTHORITY NAME & ADDRESS: Hudson River-Black River Regulating District
350 Northern Boulevard
Albany, NY 12204

BOARD APPROVAL DATE: June 12, 2012

FISCAL YEAR START DATE: July 1, 2012

PREPARED BY: Richard J. Ferrara

TITLE: Chief Fiscal Officer

PHONE NO.: 518-465-3491

E-MAIL ADDRESS: rferrara@hrbrrd.com

SIGNATURE: _____

DATE: June 18, 2012

1. The budget and financial plan shall be accompanied by all requirements listed in Section 203.6 of 2 NYCRR, including:
 - a. an explanation of the public authority's relationship with the unit or units of government, if any, on whose behalf or benefit the authority was established;

The Regulating District's mission is to comply with its enabling statute ([Article 15 Title 21 of the Environmental Conservation Law](#)) to:

- Formulate policy for watershed management
- Operate and maintain reservoir facilities
- Regulate water flow from reservoirs to minimize flooding during periods of high water flow
- Augment river flows to maintain water quality during low flow periods
- Operate a data-gathering system for precipitation, stream flow, snow depth and flood conditions
- At Great Sacandaga Lake maintain specific reservoir levels in accordance with the [Upper Hudson/Sacandaga Offer of Settlement](#)
- At Indian Lake, Stillwater Reservoir, Old Forge and Sixth Lake provide storage during period of high flow and augment naturally occurring low flows
- Maintain a sound financial status for maintenance of Regulating District facilities
- Promulgate rules and regulations necessary to fulfilling its mission

Following the 2008 decision of the U.S. Court of Appeals which preempted the Regulating District's authority to assess FERC licensed hydro power companies responsible for approximately 82% of the District's revenue, the District assessed its costs to 5 Hudson River Area continues. The Regulating District has three main revenue sources:

- i. Statutory Beneficiaries (Hudson River and Black River Areas): In accordance with the Regulating District's enabling statute ([Article 15 Title 21 of the Environmental Conservation Law](#)), the Regulating District annually assesses its operation and maintenance expenses, including property taxes, amongst the 5 counties that receive flood protection.
- ii. Hydroelectric Site Agreements (Hudson River and Black River Areas): The Regulating District receives revenues from hydroelectric site agreements that grant certain hydroelectric generators the right to use State-owned land, head and/or water rights for the production of hydroelectric power. The Regulating District is presently a party to two such agreements; one at the Conklingville Dam in the Hudson River Area and the other at the Stillwater Dam in the Black River Area.
- iii. Great Sacandaga Lake Permit Fees (Hudson River Area only): The Regulating District collects an access permit fee for use of a portion of the State-owned buffer zone encompassing the Great Sacandaga Lake.
- iv. Headwaters Benefit fees (Hudson River Area only) pursuant to Section 10f of the Federal Power Act. Fees have not been established as of this reporting.

- b. a description of the budget process, including the dates of key budget decisions;

See Exhibit 1 Attached: Budget Development Schedule

- c. a description of the principal budget assumptions, including sources of revenues, staffing and future collective bargaining costs, and programmatic goals;

- a. Principal Budget Assumptions

- i. Revenue Sources limited to Statutory Beneficiaries, hydropower agreements (\$1.17MM) and the Districts Permit System (\$423K).
 - ii. Staffing: Static environment
 - iii. Ongoing CSEA Collective Bargaining agreement for Current Budget Cycle, 2.25 or less General Salary increases for each of next three years.
 - iv. Programmatic Goals – N/A

- d. a self-assessment of budgetary risks;

- i. Risks are largely a function of our enabling legislation, which requires a 3-year plan. Despite the stability of operations, two of the District's largest statutory beneficiaries have commenced Article 78 proceedings against the District challenging the authority to apportion costs. There is a pending settlement with one of the two. Effect of a negative ruling could seriously impact the Districts ability to operate.

- e. a revised forecast of the current year's budget;

See Attached: Actual Performance_2011_2012_Current_Budget_Forecast

- f. a reconciliation that identifies all changes in estimates from the projections in the previously approved budget or plan; N/A

- g. a statement of the last completed fiscal year's actual financial performance in categories consistent with the proposed budget or financial plan;

See Attached: Actual Performance_2011_2012_Current_Budget_Forecast

- h. a projection of the number of employees, including sources of funding, the numbers of full-time and full-time equivalents, and functional classifications;

- a. 19 employees
 - b. 18 fulltime – 1 part time
 - c. 10 CSEA Union (clerical/blue collar)
 - d. 9 Management/Exempt
 - e. Funding Source is primarily Beneficiary assessment

- i. a statement of each revenue-enhancement and cost-reduction initiative that represents a component of any gap-closing program and the annual impact on revenues, expenses and staffing; - **Board reduced Hudson River Area workforce by 60%:**

- **Laid off 11 fulltime employees - \$510K annual savings**

- j. a statement of the source and amount of any material non-recurring resource that is planned for use in any given fiscal year; - **N/A**
- k. a statement of any transactions that shift material resources from one year to another and the amount of any reserves; - **N/A**
- l. a statement of borrowed debt projected to be outstanding at the end of each fiscal year covered by the budget or financial plan; the planned use or purpose of debt issuances; scheduled debt service payments for both issued and proposed debt; the principal amount of proposed debt and assumed interest rate(s); debt service for each issuance as a percentage of total pledged revenues, listed by type or category of pledged revenues; cumulative debt service as a percentage of available revenues; and amount of debt that can be issued until legal limits are met; and – No Debt. - **N/A**
- m. a statement of the annual projected capital cost broken down by category and sources of funding, and for each capital project, estimates of the annual commitment, total project cost, expected date of completion and the annual cost for operating and maintaining those capital projects or capital categories that, when placed into service, are expected to have a material impact on the operating budget. – **See attached Capital Plan**

NOTE: In accordance with Section 203.8 of 2 NYCRR, the public authority must inform the State Comptroller in writing at any point during the fiscal year when the chief financial officer learns of the potential financial impact of any adverse development that would materially affect the budget or financial plan. **See attached State Comptroller Letter**

**Hudson River-Black River Regulating District
Budget Development Schedule
Fiscal Years 2012-13, 2013-14, 2014-15**

<u>Activities/Deliverables</u>	<u>Respon</u>	<u>Target Date (MMM/YYYY)</u>
Strategic Budget Planning Sessions		
➤ Staffing/Head Count Plan around Mission	ED/Fin Chair/Sr. Staff	Nov - 2011
➤ Determine Revenues		
○ Assessments		
○ Water Power		
○ Interest		
○ Est. Permit System Costs		
○ Other		
➤ Capital Plan	ED/Fin Chair/Sr. Staff	Nov - 2011
○ Engineering & Construction		
○ Debt issuance		
➤ Reserve Utilization		
➤ Major non-capital line items		
○ Salaries/Benefits, Legal Services, Other Consulting, Data/Voice		
Finalize Budget Development Schedule	ED/Sr. Staff	Nov - 2011
Adopt Budget Development Schedule	Finance Committee	Dec – 2011 Board Mtg
Distribute Budget Worksheets to Sr. Staff	CFO	Dec - 2011
Submit Budget Worksheets to CFO	Sr. Staff	Jan - 2012
Finalize Capital Budget	Finance Chair/CFO/Staff	Feb – 2012
Produce 1 st Budget Draft	ED/CFO	Feb - 2012
Continue to Refine Budget	Sr. Staff	Feb - 2012
Review Refined Budget Draft	Finance Chair/ED/Sr. Staff	Feb – 2012
Status Report to Boards Finance Committee (Present initial Draft)	CFO	Mar – 2012 Fin Comm. Mtg
Produce Final Budget Draft	CFO	Mar - 2012
Adopt Proposed Budget	Finance Comm./ED/CFO	May – 2012 Fin Comm. Mtg
Adoption of 3 Year Budget	Board	Jun – 2012 Board Mtg

**Hudson River-Black River Regulating District
Annual Public Authority Budget & Financial Plan Request 6/30/2012**

e. a revised forecast of the current year's budget;

g. a statement of the last completed fiscal year's actual financial performance in categories consistent with the proposed budget or financial plan;

			Forecast		Budget FY 6/30/2014
	Budget FY 6/30/2011	Actual 6/30/2011	Projected FY 6/30/2012	Budget FY 6/30/2013	
Operating Revenue:					
Assessments	\$ 6,261,242	\$ 5,072,482	\$ 6,219,505 (1)	\$ 5,018,403	\$ 5,018,403
Water Power Service	1,043,728	1,105,489	1,059,958	1,171,851	1,207,007
Permit Fees	393,421	408,060	410,000	414,478	434,344
Total Operating Revenue	\$ 7,698,391	\$ 6,586,031	\$ 7,689,463	\$ 6,604,732	\$ 6,659,754
Operating Expenses:					
Salaries	\$ 1,748,063	\$ 1,260,434	\$ 1,159,424	\$ 1,380,655	\$ 1,414,908
Payroll Taxes	192,704	99,368	88,696	104,648	107,257
Pension	146,561	423,230	182,550	287,855	298,493
Health Ins & Other Employee Benefits	858,611	1,437,862 (2)	1,581,648 (2)	780,117	807,961
Real Estate Taxes	2,584,334	2,535,056	2,569,357	2,592,358	2,645,378
Depreciation		248,942			
Insurance	169,398	165,921	173,183	207,567	213,887
Engineering Fees	136,000	115,853	100,000	538,000	210,000
U.S. Geological Survey Contract	106,918	76,777	94,406	113,957	113,957
Rent	56,376	56,980	56,000	57,980	57,980
Utilities	40,800	38,164	32,455	39,178	40,367
Telephone	25,739	28,250	25,032	18,445	17,086
Travel	42,353	13,363	11,354	13,194	13,607
Repairs and Maintenance	616,120	22,326	13,198	330,000	413,000
Professional Fees	677,982	208,352	86,905	52,385	47,296
Postage	9,381	6,708	8,169	6,640	6,837
Office Expense	94,144	35,332	10,726	17,814	21,770
Minor Equipment, Material and Supplies	98,304	33,872	59,889	93,813	51,285
Miscellaneous	140,703	1,014,251	272,841	73,877	86,833
Capital Improvements	635,240	0	13,869	86,000	338,000
Erosion Control/Maintenance	68,869	906	500	60,749	62,693
Total Operating Expenses	\$ 8,448,600	\$ 7,821,947	\$ 6,540,202	\$ 6,855,232	\$ 6,968,595
Non-Operating Revenues (Expenses):					
Interest and Dividend Income	140,000	\$ 44,904	36,000	20,000	20,500
Miscellaneous Income	3,800	62,714	-	160,000	5,800
Realized and Unrealized Loss on Investments					
Settlement Expense		-			
Unappropriated Funds					
Total Non- Operating Revenues (Expenses)	\$ 143,800	\$ 107,618	\$ 36,000	\$ 180,000	\$ 26,300
Debt Service		\$ -	\$ -		
Surplus/(Deficit):	\$ (606,409)	\$ (1,128,298)	\$ 1,185,261	\$ (70,500)	\$ (282,541)

Footnote:

(1) Receipt of Hudson River Area assessments is pending litigation challenging Districts authority to apportion counties

(2) Includes Annual OPEB and Net OPEB pursuant to GASB 45

RESERVOIR FACILITY MAINTENANCE, REPAIR, ENGINEERING & OPERATION BUDGET 2012 - 2015

Black River Area

FOURTH DRAFT

Revised 05/07/12

Category	Item	2012 - 2013	2013 - 2014	2014 - 2015	Comments	
Training/Education						
Construction/Capital Improvement						
Stillwater	Purchase hydro plant				Defer to 2015-2018 Cycle	
	Refueling Station	\$ 8,000			1-250 gal gas, 1 -250 gal diesel; containment, pumps; fire supression	
	DCP		\$ 5,000			
	Security Surveillance Camera	\$ 2,000			real-time observation	
	Resurface Box Culvert Bridge -Necessary Dam Rd		\$ 5,000		resurface/seal concrete roadway	
	Sixth Lake	Engineering Assessment	\$ 50,000			CDM Proposal \$94,000 for S.L. & O.F.
		E.A. Remedial Measures - final design		\$ 10,000		
		E.A. Remedial Measures - construction				15-'18 budget / piezometer, weir, discharge capacity - to DEC Regs
		DCP		\$ 5,000		
	Security Surveillance Camera	\$ 2,000			real-time observation, non capitalized item	
	Old Forge	Engineering Assessment	\$ 6,000			\$50K total (\$44K budgeted in 10-11 cycle)CDM Proposal \$94,000 for S.L.
		E.A. Remedial Measures - final design		\$ 10,000		
		E.A. Remedial Measures - construction				15-'18 budget /concrete repair & resurfacing, replace 24" gate
		DCP		\$ 5,000		
	Security Surveillance Camera	\$ 2,000			real-time observation, non capitalized item	
Hawkinsville	Remediation	\$ 60,000	\$ 60,000		refine remediation option and removal option	
			\$ 50,000		final design	
Maintenance/Repair						
Stillwater	Repair Deteriorated Concrete at Gates 1, 2 & 3	\$ 10,000			(est. \$1.5 M total construction cost) + \$100,000 construction review to comply with DEC Reg. (supplements 09-12 carryover of \$365,000 Move out to July 2015	
	Repair Deteriorated Concrete at Gates 4 & 5		\$ 8,000			
	Repair Gatehouse roof	\$ 10,000			contracted work	
	Trash Rack Cleaning	\$ 5,000		\$ 5,000		
Sixth Lake						
Old Forge	Trash Rack Cleaning	\$ 5,000		\$ 5,000		
Hawkinsville						
Engineering Studies						
Stillwater	Dam Breach Analysis	\$ 150,000				
	Inundation Mapping		\$ 50,000			
	Ind. Consultant Review of Liquefaction Study	\$ 12,000			Kleinschmidt Assoc. proposed \$9,400 (\$ 2011)	

RESERVOIR FACILITY MAINTENANCE, REPAIR, ENGINEERING & OPERATION BUDGET 2012 - 2015

Black River Area

FOURTH DRAFT

Revised 05/07/12

Category	Item	2012 - 2013	2013 - 2014	2014 - 2015	Comments
	Sixth lake				
	Old Forge				
	Hawkinsville			\$ 50,000	
Miscellaneous Equipment	Stillwater				
Security	Stillwater	\$ 3,000	\$ 3,000	\$ 3,000	internet connection at facilities /annual, non capitalized items
Safety	Stillwater	\$ 2,000			real-time observation, non capitalized item
FERC	Stillwater				
Annual Total		\$ 327,000	\$ 211,000	\$ 63,000	
Budget Total				\$ 601,000	

RESERVOIR FACILITY MAINTENANCE, REPAIR, ENGINEERING & OPERATION BUDGET 2012 - 2015

Hudson River Area

FOURTH DRAFT

Revised 05/07/12

Category	Item	2012-2013	2013-2014	2014-2015	Comments
Training/Education					
	Engineering Staff Training	\$ 6,000	\$ 6,000	\$ 6,000	
	Professional Licenses	\$ 300	\$ 300		Rob F & Mike M
Construction/Capital Improvement					
	Conklingville				
	Dow Valve Replacement				Hold for '15-'18 - Bond pursuant to LFL Art. 2, Title 1, 11.00 (2) as bid in 2010 ~\$700,000 Supplement 09-12 Warning Siren budget of \$365,000
	Ice Sluice Remediation	\$ 300,000	\$ 400,000		
	Warning Sirens		\$ 200,000		
	SFO				
Maintenance/Repair					
	Conklingville				
	Indian Lake				
Engineering Studies					
	Conklingville				
	Supplemental Geotechnical Engineering	\$ 100,000			Additional investigation - FERC
	Embankment Core Remediation Evaluation			\$ 80,000	Construction in 2016-2017
	Extension of Breach Analysis Model	\$ 110,000			Additional to C092007 G & S proposed \$103,085 (\$ 2011)
	Part 12 Safety Inspection		\$ 30,000		3rd part 12 Independent Consultant
	Indian Lake				
	Engineering Assessment - Indian Lake	\$ 50,000			
Miscellaneous Equipment					
	Conklingville				
Security					
	Conklingville				
Safety					
	Conklingville				
FERC					
	Conklingville				
Annual Total		\$ 566,300	\$ 636,300	\$ 86,000	
Budget Total				\$ 1,288,600	



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

June 18, 2012

State of New York
Office of the State Comptroller
Thomas P. DiNapoli, State Comptroller
110 State Street
Albany, New York 12236

Dear Mr. DiNapoli:

The United States Court of Appeals ruling of November 2008 that preempted the Regulating District's authority to assess FERC licensed hydro power companies responsible for approximately 82% of the District's Hudson River Area continues to result in an ongoing structural deficit. Based on current estimates, that deficit will render the Hudson River Area cash depleted on or about fiscal May 2013.

Also as previously reported, in an effort to forestall a fiscal default, the Board approved an apportionment of cost upon the five (5) counties within its petition area receiving flood prevention benefits which was immediately challenged in Supreme Court. On April 1 of 2011, the Supreme Court ruled in the Regulating District's favor moving the litigation to a likely appeal by the counties. That appeal, received on May 10, 2012, resulted in an Opinion and Order by the Supreme Court, Appellate Division, 3rd Department which upheld the key tenants of the Districts' apportionment, but remitted the matter of determining an "Amount chargeable to the State" back to the District.

On June 12, 2012, the Attorney General's Appeals and Opinions Bureau received the Five Counties' motion for leave to appeal the Appellate Division Third Department's May 10, 2012 decision to the Court of Appeals (attached). The Motion was filed with the Appellate Division. The District's responsive papers will be due on Friday, July 6th. The matter is returnable (on submission) before the Appellate Division on July 9th.

In an effort to fund ongoing Hudson River Area operations during this continued period of litigation, the District has received an advance against its water power agreement with Brookfield Renewable Power.

If you require additional information, please free to contact the District's representative at the Governor's office or myself.

Sincerely,

Richard J. Ferrara
Chief Fiscal Officer