

10-06-01

**RESOLUTION TO APPROVE AN APPORTIONMENT  
FOR THE HUDSON RIVER AREA**

**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 corporations, 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

**WHEREAS**, the Regulating District Board, after serving a copy of such apportionment as provided at NY ECL §15-2121, shall notice or publish 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**, 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

10-06-01

**NOW THEREFORE BE IT RESOLVED**, the Board of the Hudson River-Black River Regulating District does hereby adopt the attached "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 to supercede the apportionment adopted by the Board December 5, 1924; and

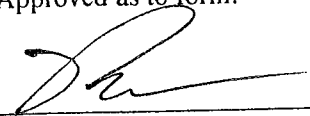
**BE IT FURTHER RESOLVED**, pursuant to NY ECL §15-2121, the Board of the Hudson River- Black River Regulating District certifies such apportionment to the Department of Environmental Conservation for its approval; and

**BE IT FURTHER RESOLVED**, the Board of the Hudson River-Black River Regulating District directs staff to publish in the Regulating District's newspapers of record notice of a date and time, to coincide with a Board meeting not less than 45 days following Department of Environmental Conservation's approval of said apportionment, at which the Board will hear any public corporation or person aggrieved by the Board's apportionment determination; and

**BE IT FURTHER RESOLVED**, that the Regulating District Board's apportionment shall, upon becoming final and conclusive, also be deemed to fix and determine 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.

Attachment

Approved as to form:



Robert P. Leslie  
General Counsel

Motion was made by Mr. Pintuff 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>	_____	_____
Mr. Pintuff .....	<u>  X  </u>	_____	_____
Mr. Bartow.....	<u>  X  </u>	_____	_____
Mrs. Dunning.....	_____	_____	_____(Excused)
Mr. Berkstresser .....	<u>  X  </u>	_____	_____
Mr. Cornell.....	<u>  X  </u>	_____	_____
Mr. Klein.....	<u>  X  </u>	_____	_____

*Approved at the January 12, 2010 Board Meeting*

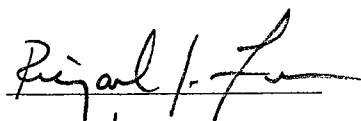
**CORPORATE RESOLUTION CERTIFICATION**

I HEREBY CERTIFY that the following is a true and correct copy of the Resolution to Approve an Apportionment 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 12th day of January, 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:

<u>NAME</u>	<u>TITLE</u>
Pamela Beyor	First Vice Chairperson
Ronald Pintuff	Second Vice Chairperson
Philip Klein	Chairperson
John Bartow	Board Member
David Berkstresser	Board Member
Paul Cornell	Board Member

(Corporate Seal)

Treasurer:   
Date: 1/12/2010

State of New York

Hudson River – Black River Regulating District

Great Sacandaga Lake

Operation and Maintenance Cost

and

Apportionment of Operation and Maintenance Cost

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

Approved by  
BOARD OF HUDSON RIVER – BLACK RIVER REGULATING DISTRICT  
January 12, 2010

Certified to  
Department of Environmental Conservation  
January 12, 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 JANUARY 12, 2010.

ID No.	NAME OF PUBLIC CORPORATION	PROPORTION OF COST	AMOUNT TO BE PAID
1	County of Albany	0.3838	\$ 1,709,342.82
2	County of Rensselaer	0.1755	\$ 781,400.61
3	County of Saratoga	0.3369	\$ 1,500,489.21
4	County of Washington	0.0385	\$ 171,357.09
5	County of Warren	0.0653	\$ 290,616.15