

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
BOARD MEETING**

Saratoga County Office
Cornell Cooperative Extension
50 West High Street
Ballston Spa, NY 12020

November 10, 2015

Immediately following Audit Committee Meeting

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:14 A.M.

ROLL CALL

Present: Board Chairman Mark M. Finkle; First Vice-Chair Albert J. Hayes; Second Vice-Chair David W. Berkstresser, and Board Members, Jeffrey Rosenthal, and Anthony M. Neddo; Executive Director Michael A. Clark; General Counsel Robert P. Leslie; Chief Fiscal Officer Richard J. Ferrara; Chief Engineer Robert Foltan; Administrator John Hodgson; and Compliance Officer Stephanie Ruzycky.

Excused: Robert A. Moore

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to adopt or revise the meeting agenda. Mr. Berkstresser made a motion to revise the meeting agenda to reflect an executive session to discuss the Niagara Mohawk litigation and to consider approval of an expense voucher. Mr. Neddo seconded and the Board unanimously approved the motion.

PUBLIC COMMENT

Chairman Finkle solicited comments from the public. A Beaver Lake property owner asked the Board to include within the Minutes his November 2nd Memorandum outlining comments he made at the Board's October 13th meeting. The Board indicated that the Memorandum would be included in the November Minutes.

APPROVAL OF THE OCTOBER 13, 2015 REGULAR BOARD MEETING MINUTES

Chairman Finkle asked for a motion to adopt the October 13, 2015 Regular Board Meeting Minutes. Mr. Hayes advanced the motion to approve the Meeting Minutes. Mr. Berkstresser seconded and the motion was unanimously approved.

BALDWIN/KLENA ACCESS PERMIT APPEAL

Janice Baldwin presented the Board with information pertaining to the 514 Beach Association Appeal. Mike Clark presented Regulating District staff's comments. Chairman Finkle indicated that the Board would take the matter under consideration.

EXECUTIVE DIRECTOR'S REPORT

Mr. Clark provided his report. Mr. Clark reported that Erie Boulevard Hydropower, LP has paid its 2009-2015 Headwater Benefits Assessments. Albany Engineering Corp. and South Glens Falls LP have not yet paid their HWB assessments. Both Erie & South Glens Falls' requests for re-hearing and motions for stays remain pending at FERC. Mr. Clark also noted that General Counsel participated in mediation which achieved an agreement with National Grid regarding NiMo assessment challenges in State and Federal Court. Mr. Clark reported his participation in conferences with the Deputy Secretary for the Environment, MWBE agency webinars, driver safety training, senior staff meetings, and discussions with the Attorney General's office regarding potential litigation over HWB assessments. Finally, Mr. Clark reported on staff's progress developing a draft apportionment for the Black River Area.

CONTRACTS/REPORTS

REQUEST FOR BOARD AUTHORIZATION TO BID ICE SLUICE AND BEGIN CONKLINGVILLE SPILLWAY ENGINEERING

Mr. Foltan reported that staff is ready to proceed with the Conklingville Dam ice sluice repair. He noted that the Board authorized staff to solicit bids from contractors for construction of repairs at Conklingville, but that, in April 2015, the Board postponed the project pending the arrangement of funding. The project is necessary to correct structural stability deficiencies identified by the Regulating District's consultant, GEI Consultant, Inc. New York Environmental Facilities Corp. (EFC) has included the project above the "subsidy line" in its 2015 Clean Water State Revolving Fund draft Intended Use Plan. Mr. Foltan presented a preliminary schedule for the Conklingville Dam Ice Sluice Repair:

December 4, 2015	Advertise Bid
January 8, 2016	Bid Opening
January 11-15, 2016	Bid Review / Evaluation
February 9, 2016	Recommendation to Award
February 10-19, 2016	Contract Development
March 2016	Attorney General Review of Contract
April 2016	Comptroller Review of Contract
May 2016	Notice to Proceed
June 2016	Start of Construction

Mr. Foltan noted that construction access to the ice sluice is limited to the Conklingville Dam spillway channel, the Stewart's Bridge reservoir, and the roadway used by Brookfield to access the E.J. West hydroelectric plant. Mr. Foltan presented the Board with a draft "Temporary Construction License" which he prepared in an effort to provide the construction

contractor with several means of access to enter, pass through, and cross a portion of the E.J. West property. Mr. Foltan asked the Board for its concurrence with the plan to solicit bids for the construction of the Conklingville Dam ice sluice repair project and authorization for the Executive Director to enter into the “Temporary Construction License” with Erie Boulevard Hydropower, LP/Brookfield Renewable Energy.

Mr. Rosenthal moved to authorize staff to proceed with the Conklingville Dam Ice Sluice project and to authorize the Executive Director to enter into the “Temporary Construction License”. Mr. Berkstresser seconded it and the Board adopted the motion by unanimous vote.

AUDIT COMMITTEE REPORT

Audit Committee Chairman Berkstresser reported on the Committee’s November 10, 2015 meeting.

PRESENTATION OF REGULATING DISTRICT’S INDEPENDENT AUDIT

Mr. Ferrara appeared before the Board to present the findings of KBL, LLP’s unqualified independent audit of the Regulating District’s financial statements for the fiscal year ended June 30, 2015.

STAFF REPORTS

Mr. Leslie presented his report to the Board. Mr. Leslie reported that FERC issued an Order continuing its time to review the requests for rehearing filed September 21st by Erie and Boralex. Despite Erie’s payment of the HWB assessment in dispute, the parties await FERC’s final ruling on the two requests for rehearing. Mr. Leslie noted he and the Regulating District’s outside counsel from Girvin Ferlazzo met with representatives from National Grid and its Counsel before a mediator to arrive at a settlement of the pending State and Federal Court cases commenced by National Grid d/b/a/ Niagara Mohawk. The parties continue to work to finalize the settlement. Mr. Leslie noted that the federal court matter remains on the trial calendar for January 16, 2016. Mr. Leslie noted that one FOIL request arrived and was processed after he prepared his monthly report to the Board. There have been no FOIL appeals.

Ms. Ruzycky presented her report to the Board. She noted that the Regulating District’s 2nd quarter utilization report to ESD submitted October 15th showed MWBE utilization at 17.27%. Current quarter utilization includes an equipment trailer at \$19,105, \$24,701 for the garage roof at SFO, and \$920 to Interactive Media Consulting, LLC. Ms. Ruzycky reported that she anticipates that the pending truck purchase (\$25,000) for use at the Conklingville Dam will also fall under the Regulating District’s MWBE utilization.

Mr. Ferrara presented his report to the Board. Mr. Ferrara reported that due to a delay of receipt of the final independent audit, the following Public Authority reports were not posted via PARIS by the September 30, 2015 deadline: OSC Data Request, Annual Report, and Certified Financial Audit. All three reports are scheduled to be posted the week on November 12th.

Finally, Mr. Ferrara stated that KBL, LLC's final independent audit report for June 30, 2015 would be available on the Regulating District's website on November 12th.

Mr. Ferrara presented an affidavit evidencing necessary and reasonable Board expenses incurred by Jeffrey Rosenthal (\$131.30) in the course of his duties as a Board member. Chairman Finkle asked for a motion to approve payment of such expenses. Mr. Berkstresser so moved. Mr. Hayes seconded and the Board passed the motion by unanimous vote.

Mr. Foltan presented the Chief Engineer's report to the Board.

Mr. Hodgson presented his report to the Board.

BOARD MEMBER QUESTIONS AND COMMENTS

Chairman Finkle asked the Executive Director and Chief Engineer to comment upon Fulton County's plan to withdraw water from Great Sacandaga Lake for water supply and potentially water treatment purposes. Both staff members agreed that the volume of water which could be withdrawn for those purposes would have no impact on reservoir operations. Mr. Foltan noted that the 1 million gallon per day withdrawal proposed would equate to around a 1.5 cubic feet per second release. He considered such amounts of no consequence when compared to typical average daily releases in the 1,000's of cubic feet per second. Mr. Clark noted that the volume of withdrawal proposed would represent only a fraction of a percent of the water volume lost through evaporation.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR BOARD MEETING FOR DECEMBER 8, 2015

Chairman Finkle asked for a motion to adopt a Resolution setting the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, December 8, 2015 at the at the Warren County Municipal Center, 1340 State Route 9, Lake George, NY 12845 at 10:00 A.M. Chairman Finkle asked for a motion to set the meeting as indicated.

Mr. Hayes moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Neddo seconded it and the Resolution was unanimously adopted.

EXECUTIVE SESSION

Chairman Finkle called for a motion to adjourn to Executive Session to discuss the Niagara Mohawk litigation. The Chairman invited the Executive Director, and General Counsel to join the Board for the entire Executive Session. Mr. Rosenthal advanced the motion, Mr. Neddo seconded. The Board adjourned to Executive Session at 11:10 A.M. and returned at 11:38 P.M. Chairman Finkle reported that the Board took no action in Executive Session.

ADJOURNMENT

There being no further business to come before the Board, Mr. Berkstresser moved to adjourn the meeting. Mr. Neddo seconded it. The motion was unanimously approved. The meeting adjourned at 11:38 P.M.

RESOLUTIONS

15-40-11 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR BOARD MEETING FOR DECEMBER 8, 2015

Mr. Hayes moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Neddo seconded it and the Resolution was unanimously adopted.

Respectfully submitted,

Richard J. Ferrara
Secretary/Treasurer

Mark M. Finkle
Board Chairman

November 2, 2015

To: Hudson River-Black River Regulating District Board

From: Beaver Lake Property Owner Robert Hough

Re: Summary of Comments Provided at the October 13, 2015 HRBRRD Board Meeting

The following provides a record of the comments made by Beaver Lake property owner Robert Hough to the HRBRRD Board at their meeting held October 13, 2015 at the Black River Field Office, 116 Necessary Dam Road, Stillwater Reservoir, Lowville, New York 13360.

Beaver Lake is a natural lake within the Beaver River Flow which is primarily fed by Stillwater Reservoir.

Comments

1. On September 23, 2015, three Beaver Lake property owners met with Mike Clark, Robert Foltan, and John Hodgson to discuss the impact that releases from Stillwater Reservoir have on Beaver Lake. The meeting was prompted by the excessive and extended flooding of Beaver Lake during an extended high volume release from Stillwater Reservoir during early summer of 2015. The flooding causes:
 - a. Property Damage
 - b. Shore Erosion
 - c. Damage to wildlife nesting areas for Loons and other water fowl.
2. Mr. Hough expressed his appreciation for the meeting and for the HRBRRD members being receptive to the property owners' concerns and open to working together to address those concerns.
3. The group agreed to continue working together.

Key Points and Actions from September 23, 2015 Meeting

1. Beaver Lake property owners requested that the HRBRRD look at methods to minimize unnatural variation to the lake level. These include:
 - a. Monitoring rates of change of reservoir inflow and reservoir level to better predict when target levels may be reached or exceeded with the expectation that smaller releases over an extended time period could be initiated rather than large releases over a shorter time period. This will allow for target levels to be reached asymptotically and minimize excessive excursions in Beaver Lake water levels.
 - b. Reducing the reservoir target level to create a larger buffer between the target level and flood stage, which will help minimize the need for large releases.
2. Currently, HRBRRD personnel do not have visibility to Beaver Lake water levels. This puts them at a disadvantage for working with property owners to minimize the impact of reservoir releases. Beaver Lake property owner Mr. Hough offered to place a water level gauge in Beaver Lake that can be monitored via the web.