

HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
BOARD MEETING MINUTES
Sacandaga Field Office Conference Room
737 Bunker Hill Road
Mayfield, NY 12117
November 10, 2020

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:25 A.M.

ROLL CALL

Present: Board Chairman Mark M. Finkle; Board Member Albert J. Hayes; Executive Director John C. Callaghan; and Compliance Officer Stephanie Ruzycky.

Video Feed: First Vice-Chair Jeffrey Rosenthal; Second Vice-Chair Kenneth DeWitt; Board Member Richard Bird; General Counsel Robert P. Leslie; Chief Engineer Robert S. Foltan; and Chief Fiscal Officer Timothy Maniccia.

Excused: Area Administrator John Hodgson.

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to adopt the agenda. Mr. DeWitt made a motion to adopt the agenda. Mr. Rosenthal seconded. The Board approved the motion by unanimous vote.

PUBLIC COMMENT

Chairman Finkle opened the meeting to public comment; hearing none.

APPROVAL OF THE OCTOBER 14, 2020 REGULAR BOARD MEETING MINUTES

Chairman Finkle asked for a motion to adopt the October 14, 2020 regular board meeting Minutes. Mr. Bird advanced the motion to approve the regular meeting minutes. Mr. Rosenthal seconded and the Board approved the motion by unanimous vote.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Callaghan presented his report to the Board. He noted that Interactive Media Consulting, LLC (IMC) and the Regulating District's team, especially Stephanie Ruzycky, are finalizing the rollout of the online access permit system capabilities. He thanked all for their efforts. Mr. Callaghan also thanked staff for their compliance with the Regulating District's COVID-19 safety plan noting that staff may be asked to again buckle-down over the next several months.

COMMITTEE REPORTS

AUDIT COMMITTEE

Chairman Finkle acknowledged Nora Galleros' presentation of the 2019-2020 Independent Audit during the Audit Committee Meeting.

CONTRACTS/ACTIONS

RESOLUTION TO APPROVE FIRST AMENDMENT TO CONTRACT D012019 WITH ATLANTIC TESTING LABORATORIES, LIMITED (ATL)

Mr. Foltan presented a Resolution to the Board to authorize an amendment to Contract D012019 and to transfer necessary funds to the appropriate budget line item. Mr. Foltan explained that on December 13, 2019, the Board approved Resolution 19-47-11 authorizing contract D012019 with Atlantic Testing Laboratories, Limited (ATL) to conduct subsurface soil sampling at Stillwater Dam in support of seismic stability analyses work being completed by Paul C. Rizzo Engineering – New York, PLLC (Rizzo) for a total not to exceed amount of \$84,084.00. He noted that Rizzo was hired to complete a Federal Energy Regulatory Commission (FERC) required Liquefaction & Deformation Analysis of the Stillwater Dam, and that staff submitted the Rizzo report to FERC, who agreed with its findings, but also requested additional Seismic Stability Analysis for gravity structures at the Stillwater Dam. The Board authorized this additional work through adoption of resolution 18-38-12. Over the last year, following the execution of contract D012019, ATL developed and submitted a detailed drilling plan to the Regulating District and Rizzo developed a Drilling Program Plan for FERC review and approval. FERC's initial review comments on Rizzo's Drilling Program Plan included recommendations for technical changes in the drilling methodology and the addition of two borings. FERC has now approved the revised drilling plan, but the scope of work included in ATL's Contract D012019 does not include the additional two borings required by FERC. Mr. Foltan further explained that ATL has provided a scope of services and fee proposal to complete the additional two borings for a fee not to exceed \$31,598. He noted that, in order to provide sufficient funding in the current Fiscal Year for this and other engineering projects underway at Stillwater, Mr. Maniccia recommends that the Board authorize transfers in the Fiscal Year 2020-21 budget from debt payment line items representing principal and interest respectively to the Engineering Consultant – Stillwater line item. Mr. Foltan noted that this amendment to the agreement with ATL is subject to the review and approval of the NYS Attorney General and the NYS Office of the State Comptroller.

Chairman Finkle asked for a motion to adopt the resolution to accept the proposal submitted by ATL, authorize the transfer in the FY 2020-2021 budget, and authorize the Executive Director to execute an amendment to Contract D012019 to include completion of the additional work increasing the price of Contract D012019 by \$31,598 to a not-to-exceed amount of \$115,682. Mr. Rosenthal so moved. Mr. Hayes seconded and the Board approved the motion adopting the resolution by unanimous vote.

RESOLUTION TO AWARD THE WORK TO PERFORM A FAIR MARKET VALUATION ON AN ANNUALIZED BASIS OF THE FIFTY-SIX FEET OF HEAD (OUT

OF A TOTAL SEVENTY-ONE FEET OF HEAD) PROVIDED BY THE REGULATING DISTRICT BY VIRTUE OF CONSTRUCTION OF THE CONKLINGVILLE DAM CONTRACT NO. C032020 TO WALDEN ENVIRONMENTAL ENGINEERING, PLLC

Mr. Callaghan presented a Resolution through which the Board would award an appraisal contract to Walden Environmental Engineering PLLC. He noted that the Regulating District solicited proposals from qualified individuals and/or firms (collectively, “Firms”) to conduct a fair market valuation on an annualized basis of the fifty-six feet of head (out of a total seventy-one feet of head) provided by the HRBRRD by virtue of the construction of the Conklingville Dam on the Sacandaga River. Mr. Callaghan explained that the Reservoir Operating Agreement through which Erie Boulevard Hydropower, L.P./Brookfield Renewable Power, Inc. uses the fifty-six feet of head in the production of hydroelectric power at its E.J. West Hydroelectric Plant located in the Town of Hadley, Saratoga County is due to expire in June 2021. He noted that the Regulating District received two bids and that upon evaluation of the two bids received, the Hudson River – Black River Regulating District determined Walden Environmental Engineering, PLLC (“Walden”) to be the low bidder. Walden’s scope of services includes, but is not limited to, an inspection, preparation of a data request, document review, system inventory, condition assessment, and development of a fair market valuation on a cost, income and sales basis for a not to exceed fee of \$93,600. Mr. Callaghan also explained that in order to provide sufficient funding in the current Fiscal Year for the necessary appraisal, staff seek authority to execute transfers in the Fiscal Year 2020-21 budget from debt payment principal and interest line items to the contingencies line item.

Chairman Finkle asked for a motion to adopt the Resolution authorizing the executive director to execute contract C032020 accepting Walden Environmental Engineering, PLLC’s proposal for a not to exceed price of \$93,600.00 and making the necessary budget line-item transfers for FY 2020-2021. Mr. DeWitt so moved. Mr. Rosenthal seconded and the Board approved the resolution by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report. Mr. Leslie noted his participation in staff’s effort to secure a valuation of the 56 feet of head and other end of term issues regarding the Reservoir Operating Agreements at Conklingville. Mr. Leslie noted that he addressed issues pertaining to the conduct of the November meeting and various encroachment appeal issues. He noted that the January meeting will also, likely, be conducted online. Mr. Leslie reported that he is working with NYS State Archives to address records retention schedules for the Regulating District’s payroll processing and retirement system records.

Ms. Ruzycky presented her report to the Board. Ms. Ruzycky noted submission of the GreenNY annual progress report required pursuant to EO 4, EO 18, & EO 166. She noted that Economic Development has imposed a new requirement to prepare and submit a four-year MWBE growth plan.

Mr. Maniccia presented his report to the Board. Therein he noted that at the close of fiscal October 31, 2020, the general fund balances for the HRA and BRA were approximately \$2,990,331 and \$2,423,019 respectively. He noted that significant disbursements for the October

period include: Payroll (\$128,252) and Health Insurance (for November totaling \$77,966). Mr. Maniccia noted that the Regulating District's transactional processing and reporting are current, Mr. Maniccia explained that the Regulating District is current in its reporting the Authorities Budget Office (ABO) and other state entities. He also reported that the Regulating District has made timely and complete principal and interest payments to the Environmental Facilities Corporation and has completed execution of documents to extend the Project Finance Agreement with EFC regarding reconstruction projects at Conklingville Dam.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the October average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 1,230 cubic feet per second (cfs). Precipitation during the month of October was below average across the Great Sacandaga Lake watershed and below average in the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 9% and 23% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 65% and 51% of historic average, respectively.

The October average daily release from Stillwater Reservoir was approximately 437 cfs. Monthly total precipitation measured 75%, 72%, and 65% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of October 25th. Precipitation in the month of October was below average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 42% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.05 and 0.14 billion cubic feet, respectively, in October. Release of water from Stillwater Reservoir averaged 71% of historic discharge.

RESOLUTION SCHEDULING DATE, PLACE AND TIME OF THE REGULAR MEETING FOR JANUARY 12, 2021

Chairman Finkle asked for a motion to adopt a revised resolution setting the date, place and time for the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, January 12, 2021 at the Regulating District's Sacandaga Field Office, 737 Bunker Hill Road, Mayfield, NY 12117. The meeting will be scheduled for 10:00 A.M.

Mr. DeWitt moved to adopt the revised resolution setting the date, place and time of the next meeting. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

ADJOURNMENT

Chairman Finkle called for a motion to adjourn the meeting. Mr. Rosenthal advanced the motion. Mr. DeWitt seconded. The meeting adjourned at 10:43 A.M.

RESOLUTIONS

20-39-11 RESOLUTION TO APPROVE FIRST AMENDMENT TO CONTRACT

**D012019 WITH ATLANTIC TESTING LABORATORIES, LIMITED
(ATL)**

Chairman Finkle asked for a motion to adopt the resolution to accept the proposal submitted by ATL, authorize the transfer in the Fiscal year 2020-2021 budget, and authorize the Executive Director to execute an amendment to Contract D012019 to include completion of the additional work increasing the price of Contract D012019 by \$31,598 to a not-to-exceed amount of \$115,682. Mr. Rosenthal so moved. Mr. Hayes seconded and the Board approved the motion adopting the resolution by unanimous vote.

20-40-11 RESOLUTION TO AWARD THE WORK TO PERFORM A FAIR MARKET VALUATION ON AN ANNUALIZED BASIS OF THE FIFTY-SIX FEET OF HEAD (OUT OF A TOTAL SEVENTY-ONE FEET OF HEAD) PROVIDED BY THE REGULATING DISTRICT BY VIRTUE OF CONSTRUCTION OF THE CONKLINGVILLE DAM CONTRACT NO. C032020 TO WALDEN ENVIRONMENTAL ENGINEERING, PLLC

Chairman Finkle asked for a motion to adopt the Resolution authorizing the executive director to execute contract C032020 accepting Walden Environmental Engineering, PLLC's proposal for a not to exceed price of \$93,600.00 and making the necessary budget line-item transfers for FY 2020-2021. Mr. DeWitt so moved. Mr. Rosenthal seconded and the Board approved the resolution by unanimous vote.

20-41-11 RESOLUTION SCHEDULING DATE, PLACE AND TIME OF THE REGULAR MEETING FOR JANUARY 12, 2021

Mr. DeWitt moved to adopt the resolution setting the date, place and time of the next meeting. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

Robert P. Leslie
Secretary

Mark M. Finkle
Board Chairman