

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

Sacandaga Field Office Conference Room
737 Bunker Hill Road
Mayfield, NY 12117
May 11, 2021

Remote Conference-In Information

As per continued COVID-19 social distancing restrictions, walk-in public access was limited. Participants were invited to join the meeting via computer, tablet or smartphone.

<https://global.gotomeeting.com/join/966979173> or via phone.

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CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:31 A.M.

ROLL CALL

Present: Board Chairman Mark M. Finkle; First Vice-Chair Jeffrey Rosenthal; Second Vice-Chair Kenneth DeWitt; Board Members Albert J. Hayes and Timothy J. Reagan; Executive Director John C. Callaghan; Area Administrator John Hodgson; and Compliance Officer Stephanie Ruzycky.

Video Feed: Board Members Richard Bird and Alfred J. Candido; General Counsel Robert P. Leslie; Chief Engineer Robert S. Foltan; and Chief Fiscal Officer Timothy Maniccia.

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to revise the agenda to reflect an executive session to discuss the potential for affirmative litigation. Mr. Rosenthal made a motion to adopt the revised agenda. Mr. DeWitt seconded. The Board approved the motion by unanimous vote.

PUBLIC COMMENT

Chairman Finkle opened the meeting to public comment. An access permit holder addressed the Board regarding the imposition of a late fee upon renewal of an annual access permit. Chairman Finkle indicated that the Board would consider the request for a waiver of that late fee as new business.

APPROVAL OF THE APRIL 13, 2021 REGULAR BOARD MEETING MINUTES

Chairman Finkle asked for a motion to adopt the April 13, 2021 regular board meeting minutes. Mr. DeWitt advanced the motion to approve the regular meeting minutes. Mr. Reagan seconded and the Board approved the motion by unanimous vote.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Callaghan presented his report to the Board. Mr. Callaghan noted that the Regulating District's outreach efforts on social media continue to be successful; noting that the post concerning the placement of buoys reached nearly 10,000. Mr. Callaghan noted that the roll-out of the on-line online permit system continues to go well. He expressed appreciation for the fine work undertaken by staff on this project.

CONTRACTS/ACTIONS

Motion to Approve Regulating District Annual Report January 1, 2020-December 31, 2020

Mr. Callaghan presented the Regulating District's annual report. Chairman Finkle asked for a motion to adopt the report and deliver it to the Commissioner of the NYS Department of Environmental Conservation as required by ECL Article 15, Title 21. Mr. Rosenthal moved to approve the Regulating District's Annual Report for January 1, 2020 through December 31, 2020 and to deliver the report to DEC as required. Mr. Hayes seconded the motion and the Board adopted the motion by unanimous vote.

RESOLUTION AUTHORIZING THE APPOINTMENT OF TIMOTHY R. HARWOOD AS BLACK RIVER AREA PRINCIPAL PLANT OPERATOR

Mr. Callaghan presented a resolution to the Board to appoint Timothy Harwood as principal plant operator in the Black River Area. Mr. Callaghan noted that the former Principal Plant Operator, Michael Dicob, has been appointed Superintendent in the Black River Area and that the Principal Plant Operator position has been posted internally in accordance with the existing CSEA contract. Mr. Callaghan explained that Timothy R. Harwood has served HRBRRD faithfully since 2006 as Plant Operator and that Mr. Harwood is eminently qualified for the position of Principal Plant Operator and has applied for same. Mr. Callaghan recommended that the Board appoint Mr. Harwood Principal Plant Operator; setting his salary at \$ 51,061, Step 4, in accordance with the provisions of the CSEA contract.

Chairman Finkle asked for a motion. Mr. Bird moved to adopt the Resolution appointing Timothy R. Harwood principal plant operator, effective May 13, 2021 and placing Mr. Harwood at Step 4 as principal plant operator in accordance with the pay scale in effect through the 2016-2020 CSEA contract. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION TO ACCEPT PAUL C. RIZZO ENGINEERING – NEW YORK, PLLC AMENDMENT # 2 PROPOSAL TO PERFORM COMPLETION OF SEISMIC STABILITY AND LIQUEFACTION & DEFORMATION ANALYSIS OF THE STILLWATER DAM

Mr. Foltan presented a resolution to the Board authorizing a second amendment to contract C022018. He explained that in August 2010, the Board authorized staff to hire Paul C. Rizzo Engineering – New York, PLLC (Rizzo) to complete a Federal Energy Regulatory

Commission (FERC) required Liquefaction & Deformation Analysis of the Stillwater Dam. In December of 2018, the Board passed Resolution 18-38-12, accepting the proposal submitted by Rizzo and authorizing the Interim Executive Director to execute agreement C022018 in the amount of \$84,926.00. In August 2019 Rizzo indicated that it did not include a work task or budget to develop a FERC-mandated Drilling Program Plan (DPP) in its November 2018 proposal; the completion of which is required prior to completing subsurface drilling and exploration activities. Then, in September of 2019, the Board passed Resolution 19-38-09 accepting Rizzo's proposal to complete the FERC-mandated DPP and authorizing the Executive Director to execute an amendment to contract C022018 increasing the not-to-exceed amount by \$13,708.00.

Mr. Foltan further noted that in July 2018 FERC, in response to recommendations made in the 7th Part 12D Independent Consultant Safety Inspection Report (February 2016), requested an update of, and completion of, additional Seismic Stability Analyses for gravity structures (earth embankment dams, concrete dam, and spillway) at the Stillwater Dam. Mr. Foltan asked Rizzo to develop a subsurface investigation program as it is currently completing the additional Seismic Stability Analyses of gravity structures. Rizzo developed a proposal to address certain 8th Part 12D Independent Consultant recommendations which are closely related to its current scope of work in Contract C022018. Rizzo's proposal includes:

- Stability analyses of gravity structures (concrete dam, spillway, gatehouse) for load conditions other than seismic loading (normal water elevation condition, flood conditions, and ice loading conditions);
- An evaluation of stability of the spillway along the concrete horizontal construction joint immediately above the top of the lowest inclined anchor; and an
- Evaluation of filter compatibility of seepage berm material and embankment dam fill material;

Mr. Foltan reported that Rizzo proposes to provide the engineering services required to complete the stability analyses and evaluate the filter compatibility of the seepage berm for a not-to-exceed fee of \$70,156 and recommended that the Board authorize the Executive Director to accept Rizzo's Contract Amendment # 2 Proposal and to execute a second amendment to contract C022018 to increase the amount of the contract by \$70,156 to a total contract price of \$168,790. Mr. Foltan noted that the amended agreement 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 accept Rizzo's Contract Amendment # 2 Proposal and to execute a second amendment to contract C022018 to increase the amount of the contract by \$70,156 to a total contract price of \$168,790. Mr. Reagan so moved. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION TO APPROVE TRANSFERS IN THE FISCAL YEAR 2020-21 BUDGET

Mr. Maniccia presented a resolution to the Board to approve a transfer within the fiscal year 2020-2021 budget. He explained that the Board adopted a budget for the July 1, 2018-June 30, 2021 triennial period on June 12, 2018; a triennial budget which requires a greater

use of estimates over a longer period than does an annual budget. This budget does not now provide sufficient authority to expend District funds in the amounts needed. Further, Mr. Maniccia explained that in order to provide sufficient funding in the current Fiscal Year for the following Expenses, staff seek authority to execute this transfer in the Fiscal Year 2020-21 budget;

Account Number	Account Name	Increase	Decrease
5350-0300	Equipment Repairs & Parts	\$5,000	
5698-0300	Consultant Fees/Access		\$5,000

Chairman Finkle asked for a motion to adopt the resolution authorizing the indicated budget transfers. Mr. Rosenthal so moved. Mr. DeWitt seconded and the Board approved the motion adopting the resolution by unanimous vote.

STAFF/COMMITTEE REPORTS

FINANCE COMMITTEE REPORT

Committee Chair DeWitt noted that, earlier on this date, Mr. Maniccia led a discussion before the Finance Committee, with the Board in attendance, concerning the July 1, 2021 through June 30, 2024 Draft Budget.

STAFF REPORTS

Mr. Leslie presented his report. Mr. Leslie noted that work continues with Counsel for Brookfield and Mercer to reach agreement for new Reservoir Operating Agreements. Counsel has supplied both companies with draft language to effect an extension of their respective Reservoir Operating Agreement to afford more time to reach final agreement. Counsel continues to pursue the appropriate avenue through which to recover funds due to the Regulating District from Richard Ferrara as noted in the April 8th report from the NYS Inspector General. Counsel addressed one FOIL request during the reporting period. After volunteering 22 twelve-hour days over the last few months at the State’s mass-vaccination site at the State University at Albany, Counsel can now re-focus to work full-time on the Regulating District’s mission.

Ms. Ruzycky presented her report to the Board. Ms. Ruzycky noted that the Attorney General and the State Comptroller have both approved contract C032018; the second amendment with HDR. Ms. Ruzycky also noted that she resolved computer and technical issues and that the new printer and postage meter have been delivered and installed at SFO. Ms. Ruzycky completed a compliance audit at the Sacandaga Field Office with respect to access permit system processes.

Mr. Maniccia presented his report to the Board. Therein he noted that at the close of fiscal April 30, 2021, the general fund balances for the HRA and BRA were approximately \$3,910,813 and \$1,503,062 respectively. He noted that significant disbursements for the period include: Payroll. Mr. Maniccia noted that the Regulating District’s transactional processing and reporting are current. Mr. Maniccia noted that he has engaged the Department of Environmental Conservation, the Executive Chamber and the Division of Budget on how to best draft a memorandum of understanding outlining the role each entity will play utilizing the \$20 million

capital appropriation for work at the Conklingville Dam. Mr. Maniccia highlighted a portion of his report which tracks the Regulating District's progress in implementing the recommendations made by the New York State Inspector General (IG) in its report dated April 8.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the April average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 490 cubic feet per second (cfs). Precipitation during the month of April was below normal across the Great Sacandaga Lake watershed and average in the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 43% and 46% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 41% and 23% of historic average, respectively.

The April average daily release from Stillwater Reservoir was approximately 60 cfs. Monthly total precipitation measured 53%, 43%, and 50% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of April 20th. Precipitation in the month of April was below average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 51% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.09 and 0.21 billion cubic feet, respectively, in April. Release of water from Stillwater Reservoir averaged 18% of historic discharge.

Mr. Hodgson presented the Area Administrator's report. Mr. Hodgson noted that staff continue to conduct encroachment inspections and to process 2021 access permit renewals. Mr. Hodgson commented upon the exceptional effort SFO staff have made to ensure a smooth transition to on-line permit processing. Mr. Hodgson applauded staff's effort to complete FERC mandated work at Conklingville to clear the toe of the slope of brush and trees. He noted the area cleared measured 20' by 1000' and required construction of a roadway. Mr. Hodgson also noted work completed by staff at Stillwater and the installation of new flashboards on the dam at Old Forge. Finally, Mr. Hodgson announced to the Board his intention, after 21 years, to retire from the Regulating District on June 24th. Chairman Finkle, Mr. Rosenthal and Mr. Callaghan lead a brief discussion congratulating Mr. Hodgson on a job well done.

RESOLUTION SCHEDULING DATE, PLACE AND TIME OF THE REGULAR MEETING FOR JUNE 8, 2021

Chairman Finkle asked for a motion to adopt a resolution setting the date, place and time for the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, June 8, 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. Rosenthal moved to adopt the resolution setting the date, place and time of the next meeting. Mr. Bird seconded and the Board adopted the resolution by unanimous vote.

Executive Session

Chairman Finkle called for a motion to adjourn to Executive Session to discuss the potential for affirmative litigation. Mr. Rosenthal advanced the motion, Mr. DeWitt seconded

and the Board approved the motion by unanimous vote. Chairman Finkle invited the Executive Director, the Chief Fiscal Officer and General Counsel to participate. He noted that the Board will not conduct business upon its return from Executive Session.

The Board adjourned to Executive Session at 11:03 A.M. and returned at 11:49 P.M.

The Regular Board Meeting resumed at 11:49 P.M. Chairman Finkle noted that the Board had taken no action in Executive Session.

ADJOURNMENT

Chairman Finkle called for a motion to adjourn the meeting. Mr. Rosenthal advanced the motion. Mr. DeWitt seconded. The meeting adjourned at 11:51 A.M.

RESOLUTIONS

21-17-05 RESOLUTION AUTHORIZING THE APPOINTMENT OF TIMOTHY R. HARWOOD AS BLACK RIVER AREA PRINCIPAL PLANT OPERATOR

Chairman Finkle asked for a motion. Mr. Bird moved to adopt the Resolution appointing Timothy R. Harwood principal plant operator, effective May 13, 2021 and placing Mr. Harwood at Step 4 as principal plant operator in accordance with the pay scale in effect through the 2016-2020 CSEA contract. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

21-18-05 RESOLUTION TO ACCEPT PAUL C. RIZZO ENGINEERING – NEW YORK, PLLC AMENDMENT # 2 PROPOSAL TO PERFORM COMPLETION OF SEISMIC STABILITY AND LIQUEFACTION & DEFORMATION ANALYSIS OF THE STILLWATER DAM

Chairman Finkle asked for a motion to accept Rizzo's Contract Amendment # 2 Proposal and to execute a second amendment to contract C022018 to increase the amount of the contract by \$70,156 to a total contract price of \$168,790. Mr. Reagan so moved. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

21-19-05 RESOLUTION TO APPROVE TRANSFERS IN THE FISCAL YEAR 2020-21 BUDGET

Chairman Finkle asked for a motion to adopt the resolution authorizing the indicated budget transfers. Mr. Rosenthal so moved. Mr. DeWitt seconded and the Board approved the motion adopting the resolution by unanimous vote.

21-20-05 RESOLUTION SCHEDULING DATE, PLACE AND TIME OF THE REGULAR MEETING FOR JUNE 8, 2021

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

Robert P. Leslie
Secretary

Mark M. Finkle
Board Chairman