

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

737 Bunker Hill Road
Mayfield, NY 12117

350 Northern Blvd. Suite 202
Albany, NY 12204

September 14, 2021

Immediately following the Governance Committee Meeting Scheduled for 11:00 AM

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/645466829>

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CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 11:25 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, Alfred J. Candido Jr., and Timothy J. Reagan; Executive Director John C. Callaghan; and General Counsel Robert P. Leslie.

Video Feed: Board Member Richard Bird; Chief Engineer Robert S. Foltan; Chief Fiscal Officer Timothy Maniccia; and Compliance Officer Stephanie Ruzycky.

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to revise the agenda: to remove from consideration the resolution implementing certain organizational changes; to consider additional revisions to the resolution addressing amendments to Contract C032013 with Bergmann at Indian Lake; and to reflect the addition of an Executive Session at the conclusion of today's meeting during which the Board would discuss the potential promotion of individuals in connection with the reorganization plan. Mr. Rosenthal made a motion to revise the agenda. Mr. DeWitt seconded. The Board approved the motion by unanimous vote.

PUBLIC COMMENT

Chairman Finkle opened the meeting to public comment. One permit holder addressed the Board regarding the relaxation of conditions imposed in a permit issued by the Adirondack Park Agency.

APPROVAL OF THE JULY 13, 2021 REGULAR BOARD MEETING MINUTES

Chairman Finkle asked for a motion to adopt the July 13, 2021 regular board meeting minutes. Mr. Rosenthal 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 noting the New York National Guard's 109th Air-wing's recent rescue training. Mr. Callaghan passed along comments from the Guard commander praising the suitability of the Regulating District's excellent facilities in close proximity to deep water and especially noting Dave Ioele's assistance making the training session a success. Mr. Callaghan reported the successful distribution of the Regulating District's quarterly newsletter. He noted that staff have removed the workboat for the winter after having conducted a very successful season removing debris and placing over 650 tons of rip rap. Mr. Callaghan explained that due to an increase in the number of real estate sales, staff are working to address a backlog of surveys and placement of boundary stakes. He noted that staff have made significant headway to address the nearly 200 new permit requests.

CONTRACTS/ACTIONS

RESOLUTION TO APPROVE AMENDMENT #5 - INDIAN LAKE FIRST ENGINEERING ASSESSMENT CONTRACT C032013

Mr. Foltan presented a resolution authorizing a contract amendment leading to the next phase of work at Indian Lake. He reminded the Board it adopted resolution 13-45-12 awarding the work for the First Engineering Assessment at Indian Lake Dam to Bergmann Associates in 2013. The initial contract for \$169,156.00 was subsequently amended as follows: Amendment #1 for \$9,420.00, Amendment #2 for \$119,890.00, Amendment #3 for \$7,335.00 increasing the not to exceed amount to \$305,801.00 and Amendment #4 extending the contract an additional three (3) years. Mr. Foltan explained that Phase 1 of the project began April 8, 2014 with Bergman's Indian Lake Dam Engineering Assessment and Recommendation for Remedial Measures project. Bergmann completed a safety inspection and the First Engineering Assessment of Indian Lake Dam, consistent with Department of Environmental Conservation (DEC) dam safety regulations, and submitted the report to the Regulating District, in October 2015. Upon the Regulating District's submission of the Safety Inspection Report and Engineering Assessment to DEC in February 2016 and supplemental information in January 2018, DEC issued an email notice of acceptance of the Safety Inspection Report and First Engineering Assessment on September 9, 2020. Phase 2 work on the project centered on Bergmann's development and evaluation of alternatives to improve the Indian Lake dam performance and recommended improvements to address identified deficiencies and which would bring the facility into compliance with Department of Environmental Conservation (DEC) dam safety regulations. Mr. Foltan recited that safety compliance issues identified in Bergman's Engineering Assessment Report. These issues include:

- Insufficient hydraulic capacity to safely pass the design flood
- Insufficient low level outlet discharge capacity
- Inadequate spillway stability
- Inadequate embankment stability
- Seepage through the masonry dam
- Non-functioning intake gates
- Inoperable gate in log sluice

- Lack of seepage flow collection and monitoring system at toe of embankment dam; and
- Non-compliant embankment geometry.

Mr. Foltan indicated that he directed Bergmann to develop a Final Design and Construction Support Services proposal which details the third phase of this remediation project. He recommended that Bergmann be authorized to provide planning, design, project management, and construction support services required to allow the Regulating District to complete construction of repair necessary to bring the facility into compliance with DEC dam safety regulations. Mr. Foltan explained that Bergman's proposal represents an expansion of the project scope contemplated in the original contract C032013, as amended, at an increase to the project budget of \$1,332,116, bringing the total contract price to \$1,637,917.

Mr. Foltan then described a second issue to be addressed in the 5th amendment. He noted that in addition to the contract modifications outlined above, on August 16, 2021 Regulating District staff observed an increase in leakage near the abandoned bulkhead gate at Indian Lake Dam and requested that Bergmann conduct a site visit and visual inspection of the bulkhead structure. On August 18th, Bergmann's engineering staff made observations of the leakage at the bulkhead structure, as well as leakage at the spillway and stone dam and compared field notes and observations recorded during its safety inspections in September 2013 and August 2014 to the current condition of the structures. Bergmann submitted a Trip Report on September 3 and concluded: "the number and magnitude of leaks present at the dam is indicative of ongoing deterioration; however, the current conditions as observed do not require emergency action and intervention at this time. Continued regular monitoring and documentation of all of the significant leak points for changes is recommended."

Mr. Foltan explained that the bulkhead gate is scheduled for repair and replacement as part of the facility rehabilitation program anticipated to begin in the summer of 2023 and recommended that the Board accept Bergmann's *Investigation of Emergent Leak at Bulkhead* proposal and authorize a further amendment to the scope of work of Contract C032013 to include tasks presented in Bergmann's *Investigation of Emergent Leak at Bulkhead* proposal, dated September 8, 2021. Mr. Foltan noted that this would increase the project budget by \$7,076, to a total contract price of \$1,644,993. Mr. Foltan explained that the acceptance of these two proposals still remains below the amount budgeted for this project through fiscal years 2021-2022 and 2022-2023. He noted that the expanded scope of work requires an extension of the contract termination date to December 31, 2025 and that the contract will be subject to the review and approval of the Office of the New York State Attorney General and the New York State Office of the State Comptroller.

Board Chair Finkle asked for a motion to accept Bergmann's proposals and authorize, an amendment to the scope of work and term of Contract C032013 to include tasks presented in Bergmann's *Final Design and Construction Support* proposal, dated August 13, 2021, and Bergmann's *Investigation of Emergent Leak at Bulkhead* proposal dated September 8, 2021; to increase the project budget by \$1,332,116, and \$7,076, to a total contract price of \$1,644,993; to extend the termination date of the contract to December 31, 2025, and; to authorize the Executive Director to execute the amendment to the Contract. Mr. Rosenthal so moved. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO AGREEMENTS FOR BROADBAND AND PHONE SERVICES ON THE 3rd FLOOR OF 575 BROADWAY ALBANY, NEW YORK

Mr. Maniccia presented a resolution to authorize new agreements for broadband and voice-over-internet-protocol (VOIP) phone service at 3rd Floor of 575 Broadway in Albany. Mr. Maniccia noted that he had explored alternatives for each service with the assistance of Logical Net, the Regulating District’s Managed Services Provider, and that Logical Net recommended First Light Fiber for broadband and 8x8 for VOIP phone. Mr. Maniccia indicated that he researched and analyzed the benefits and costs of these options. He also considered entering into new agreements with the Regulating District’s existing providers of broadband (Spectrum) and VOIP phone (Mitel Communications) at the offices to be vacated. Mr. Maniccia concluded that the combination of First Light Fiber and 8x8 represents the best value to the Regulating District and recommended the Board authorize the Executive Director to execute agreements with First Light Fiber (for thirty-six months at an estimated total cost of \$8,782.00) and 8x8 (for thirty-eight months at an estimated total cost of \$17,643.06), effective September 1, 2021. He noted that these agreements are not subject to the review and approval of the Office of the New York State Attorney General or the New York State Office of the State Comptroller.

Board Chair Finkle asked for a motion authorizing the Executive Director to execute agreements with First Light Fiber (for thirty-six months at an estimated total cost of \$8,782.00) and 8x8 (for thirty-eight months at an estimated total cost of \$17,643.06), effective September 1, 2021. Mr. Rosenthal so moved. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

Staff/Committee Reports

Governance Committee

RESOLUTION ADOPTING AMENDED BY-LAWS OF THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT

Governance Committee Chair Rosenthal presented a resolution amending the By-Laws to reflect the new address for the Hudson River Area Office. He noted that the Board has previously enacted changes to its By-Laws, on November 12, 1979, July 13, 2010, April 10, 2012, and last amended on May 12, 2020 and now deems it necessary and appropriate to enact the change as reflected in the draft attached hereto and made a part hereof.

Chairman Finkle asked for a motion to adopt and approve the language changes in the Hudson River-Black River Regulating District By-Laws in the manner set forth in the By-Laws at Article X, Section 1, Amendments. Mr. DeWitt so moved. Mr. Candido seconded and the Board adopted the resolution by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report. He noted that he has worked with counsel at DEC to craft an agreement governing the Regulating District’s role overseeing the work performed by OGS at Conklingville and continues to work with counsel at Brookfield to secure financial data to support the efforts undertaken by Walden and New Gen to value the Regulating District’s 56’ of head at that dam.

Mr. Leslie noted that the NYS Inspector General referred a complaint by a permit holder regarding the location and orientation of an access permit boundary and noted that his investigation found no wrongdoing by staff. Counsel recounted his role securing an agreement for the new office space in Albany and an agreement for parking at that office. Mr. Leslie reported that the Town of Mayfield planning board has requested lead agency status on Lane Winney's proposed RV Park off of Woods Hollow Road. He noted that staff processed six (6) FOIL requests during the reporting period and that there have been no appeals.

Ms. Ruzycky presented her report to the Board. Ms. Ruzycky reported completion of the SFO & HRAO quarterly internal control compliance audits. She also scheduled CPR and First Aid Refresher training for staff. Ms. Ruzycky noted the completion of a successful summer employee program.

Mr. Maniccia presented his report to the Board. Therein he noted that at the close of August 31, 2021, the general fund balances for the HRA and BRA were approximately \$6,047,463 and \$1,310,185 respectively, an improvement of \$319,900 over the same period a year ago. He noted that significant disbursements for the period include: Payroll, Health Insurance, and Property Casualty Insurance. Mr. Maniccia noted that the Regulating District's transactional processing and reporting are current. He noted that the Regulating District has accepted a settlement from Travelers in the amount of \$47,832.58 and received reimbursement for health insurance premiums from Mr. Ferrara in the amount of \$1,450.33. When combined, the Regulating District has received to date a total of \$49,282.91 from Travelers and Mr. Ferrara representing 98% of what the Regulating District sought once the \$5,000 deductible associated with the crime policy is factored in. Mr. Maniccia noted that Nora Galleros of Galleros Robinson, the Regulating District's independent auditor, will join us for an Audit Committee meeting on November 9th to discuss the Fiscal Year 2020-21 audit.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the August average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 3,550 cubic feet per second (cfs). Precipitation during the month of August was near average across the Great Sacandaga Lake watershed and above average across the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 369% and 442% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 187% and 222% of historic average, respectively.

The August average daily release from Stillwater Reservoir was approximately 340 cfs. Monthly total precipitation measured 227%, 164%, and 164% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of August 31st. Precipitation in the month of August was above average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 240% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.18 and 0.46 billion cubic feet, respectively, in August. Release of water from Stillwater Reservoir averaged 79% of historic discharge.

Mr. Foltan presented a series of slides depicting the scope and schedule of the project to rehabilitate the spillway (concrete replacement and anchors), spillway channel and rock foundation (concrete resurfacing, grouting), concrete structures (abutment, outlet, channel walls), embankment, (reduce/eliminate seepage) and Dow Values (replacement) at Conklingville Dam. He noted that the project is funded through an appropriation to DEC and will be administered by the Office of General Services with assistance from the Regulating District. Mr. Foltan explained the project will involve assessment & evaluation, conceptual planning, final engineering design, construction bidding, construction, and construction monitoring. He noted the project will be completed in several phases to

be completed through the end of 2025 and that there is no plan to deviate from typical reservoir elevations through the refresh and drawdown cycles.

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

Chair Finkle asked for a motion to adopt a resolution setting the next Regular Meeting of the Board of the Hudson River-Black River Regulating District to be held on Tuesday, October 12, 2021 at the Lewis County Office Building, Legislative Board Room 7660 N. State St. in Lowville, NY at 11 AM.

Mr. Reagan moved to adopt the resolution setting the date and time of the next meeting. Mr. Candido 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 promotion of individuals in connection with the reorganization plan. Mr. Rosenthal advanced the motion, Mr. Reagan 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 conduct business upon its return from Executive Session.

The Board adjourned to Executive Session at 12:25 P.M. and returned at 12:45 P.M.

The Regular Board Meeting resumed at 12:45 P.M. Chairman Finkle noted that the Board had taken no action in Executive Session.

ADJOURNMENT

Chairman Finkle moved to adjourn the meeting. Mr. Bird seconded. The meeting adjourned at 12:45 P.M.

RESOLUTIONS

21-41-09 RESOLUTION TO APPROVE AMENDMENT #5 - INDIAN LAKE FIRST ENGINEERING ASSESSMENT CONTRACT C032013

Board Chair Finkle asked for a motion to accept Bergmann's proposals and authorize, an amendment to the scope of work and term of Contract C032013 to include tasks presented in Bergmann's *Final Design and Construction Support* proposal, dated August 13, 2021, and Bergmann's *Investigation of Emergent Leak at Bulkhead* proposal dated September 8, 2021; to increase the project budget by \$1,332,116, and \$7,076, to a total contract price of \$1,644,993; to extend the termination date of the contract to December 31, 2025, and; to authorize the Executive Director to execute the amendment to the Contract. Mr. Rosenthal so moved. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

21-42-09 RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO AGREEMENTS FOR BROADBAND AND PHONE SERVICES ON THE 3rd FLOOR OF 575 BROADWAY ALBANY, NEW YORK

Board Chair Finkle asked for a motion authorizing the Executive Director to execute agreements with First Light Fiber (for thirty-six months at an estimated total cost of \$8,782.00) and 8x8 (for thirty-eight months at an estimated total cost of \$17,643.06), effective September 1, 2021. Mr. Rosenthal so moved. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

21-43-09 RESOLUTION ADOPTING AMENDED BY-LAWS OF THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT

Chairman Finkle asked for a motion to adopt and approve the language changes in the Hudson River-Black River Regulating District By-Laws in the manner set forth in the By-Laws at Article X, Section 1, Amendments. Mr. DeWitt so moved. Mr. Candido seconded and the Board adopted the resolution by unanimous vote.

21-44-09 RESOLUTION SCHEDULING DATE, PLACE AND TIME OF THE REGULAR MEETING FOR OCTOBER 12, 2021

Mr. Reagan moved to adopt the resolution setting the date and time of the next meeting. Mr. Candido seconded and the Board adopted the resolution by unanimous vote.

Robert P. Leslie
Secretary

Mark M. Finkle
Board Chairman