

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

**Lewis County Office Building
7660 N. State Street
Lowville, NY 13367**

May 9, 2023
10 AM

Participants were invited to join the meeting via computer, tablet or smartphone.

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CALL TO ORDER

Board Chair Mark M. Finkle called the meeting to order at 10:06 A.M.

PLEDGE OF ALLIGIENCE

ROLL CALL

Present: Board Chair Mark M. Finkle; First Vice-Chair Kenneth F. DeWitt; Board Members Albert J. Hayes and Timothy J. Reagan; Executive Director John C. Callaghan; General Counsel Robert P. Leslie; Chief Engineer Robert S. Foltan and Chief Fiscal Officer Timothy M. Maniccia.

Video Feed: Second Vice-Chair Alfred J. Candido Jr. (Dr. Appt.) and Director of Administrative Services Stephanie V. Ruzycky.

Excused: Board Members Richard Bird and Nicole T. Allen.

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Board Chair Finkle asked for a motion to adopt or revise the agenda. Mr. DeWitt made a motion to adopt the agenda. Mr. Reagan seconded. The Board approved the motion by unanimous vote.

INTRODUCTION OF GUESTS AND PUBLIC COMMENT

Board Chair Finkle opened the meeting to public comment; hearing none.

APPROVAL OF THE MARCH 29, 2023 REGULAR BOARD MEETING MINUTES

Board Chair Finkle asked for a motion to adopt the March 29 regular board meeting minutes. Mr. Reagan advanced the motion to approve the regular meeting minutes. Mr. DeWitt seconded and the Board approved the motion by unanimous vote.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Callaghan presented his report to the Board noting that this week marks ‘Public Service Recognition Week’. Mr. Callaghan thanked the Regulating District’s small, but elite, cadre of employees for their outstanding efforts; especially Kim Scott and Megan Cole who were in attendance. Mr. Callaghan also welcomed to the employee ranks Jim Cranker; the newly appointed Maintenance Specialist in the Mayfield office. Mr. Callaghan noted that the re-appropriation of \$40 Million and an additional appropriation of \$20 Million to DEC covering work at the Conklingville Dam undertaken by the Dept. of General Services, has been approved by Governor Hochul in the NYS Budget. Language in the new appropriation also provides authority for work at Sixth Lake and Old Forge. Mr. Callaghan reminded the Board of the upcoming May 18th press conference touting the May 25th multi-agency law enforcement training exercise and boating safety awareness public information event at which the Regulating District’s new docks at Mayfield will be unveiled in conjunction with safe boating week.

CONTRACTS

RESOLUTION TO INCREASE THE PROJECT BUDGET FOR CONTRACT D012022 WITH ENVIRONMENTAL SERVICE GROUP (NY), INC. FOR ADDITIONAL WORK AT HAWKINSVILLE DAM

Mr. Foltan presented a resolution authorizing an increase in the project budget at Hawkinsville. He noted that in May 2022, via resolution 22-25-05 the Board awarded the Hawkinsville Dam Remediation construction project to the Environmental Service Group (NY), Inc. (“ESG”) for a price not to exceed \$1,722,015. Construction commenced in September 2022 with anticipated completion by December 15, 2022. Mr. Foltan explained that work slowed and then was suspended on the west side of the project in mid-November 2022 due to loose and liquefied soils encountered during excavation work adjacent to the existing west side abutment. ESG subsequently submitted to the Regulating District a shoring system plan (“Phase I Shoring Plan”) prepared by ESG’s engineering consultant and thereafter took steps to implement said plan. Subsurface site conditions, in particular the depth of, and lack of, bedrock on the west side of the project required an additional suspension of work and development of a new shoring plan (“Phase II Shoring Plan”) by ESG’s consulting engineer. ESG developed the Phase II Shoring Plan, subsequently accepted by the Regulating District, and began implementing such plan on April 10, 2023. Mr. Foltan recommended the Board accept ESG’s Phase I and Phase II shoring plans, amend the scope of work to incorporate ESG’s implementation of such plans, and increase Contract D012022 by \$583,354 to a not-to exceed amount of \$2,305,369. Mr. Foltan noted that the amendment is subject to the review and approval of the NYS Attorney General and the NYS Office of the State Comptroller. Several Board members questioned whether the Regulating District might have recourse. Staff noted the Regulating District consulting engineer’s decision to proceed

to design without subsurface investigation, but also pointed out that the contractor's excavation proceeded beyond that anticipated.

Board Chair Finkle asked for a motion to adopt the resolution accepting ESG's proposal to complete certain work and authorizing the Executive Director to execute an amendment to Contract D012022, in the amount of \$583,354.00, bringing the not-to-exceed contract value to \$2,305,369.00. Mr. Candido so moved. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report noting that the Regulating District and Erie continue to await a FERC's determination as to whether payments due for Erie's use of the Regulating District's interest in the fifty-six (56) feet of head created by the Conklingville Dam are duplicative of headwater benefits assessments FERC compels Erie to make pursuant to section 10(f) of the Federal Power Act. He also noted that staff and Stillwater Associates LP continue to negotiate a potential extension to the Ground Lease and Water Usage Agreement. CNY Pomeroy Appraisers, Inc., the third appraiser chosen to review the appraisals commissioned by the parties has determined that the rent for use of the Regulating District's land adjacent to the Stillwater Dam is above market. The parties continue to discuss the value placed upon the hydroelectric plant and whether the Regulating District's purchase of said plant is in the respective parties' best interest. Mr. Leslie reported continued work with DEC on a concurrent use and occupancy agreement facilitating use of DEC lands necessary for construction of a berm or retaining wall at the downstream toe of the Indian Lake Dam, placement of an anchor for the upstream log boom, and use of nearby lands for equipment storage during the Indian Lake Dam rehabilitation/post construction creation of a day-use parking area. As the records access officer, counsel/staff addressed the one (1) FOIL request(s) submitted during the previous reporting period. There were no other requests or appeals. Mr. Leslie reminded all Board members and senior staff that Financial Disclosure Statements are due May 15th.

Ms. Ruzycky presented her report to the Board. Ms. Ruzycky noted that she completed the SFO, HRAO & BRFO IC quarterly compliance audits. Ms. Ruzycky also reported completion of the MWBE FY 23/24 annual goal plan submission and submission of the MWBE Q3 reports. She noted that the crew at SFO are working with DEC to install buoys.

Mr. Maniccia presented his report to the Board. Therein he noted that at the close of fiscal April 30, 2023, the general fund balances for the HRA and BRA were approximately \$5,861,513 and \$2,445,396 respectively. He noted that significant disbursements for March and April include: payroll and health insurance, and the Environmental Services Group (Hawkinsville). Mr. Maniccia noted that the Regulating District's transactional processing and reporting are current. He noted that on March 1, the Regulating District made its first interest payment to the New York State Environmental Facilities Corporation (EFC) in the amount of \$5,125.31 as part of the long-term financing finalized in December 2022. Unlike the previous short-term financial arrangement with EFC, this transaction required collaboration with the Regulating District's Trustee (M&T Bank). The Regulating District also made payment in the amount of \$562 to EFC for its annual administrative fee. All aspects of this transaction went according to plan. Mr. Maniccia noted that

he and Mr. Foltan will meet with EFC soon in pursuit of funding for the Indian Lake rehabilitation effort through the Clean Water State Revolving Fund.

Mr. Maniccia presented an affidavit evidencing necessary and reasonable Board expenses incurred by Richard Bird (\$133.62) in the course of his duties as a Board Member. Board Chair Finkle asked for a Motion to approve payment of such expenses. Mr. Reagan 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. Foltan noted that the April average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 930 cubic feet per second (cfs). Precipitation during the month of April was below normal 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 103% and 110% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 78% and 37% of historic average, respectively.

The April average daily release from Stillwater Reservoir was approximately 250 cfs. Monthly total precipitation measured 111%, 83% and 111% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of April 25th. Precipitation in the month of April was above average at Stillwater and Sixth Lake and below average at Old Forge. The monthly inflow to Stillwater Reservoir was approximately 100% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.24 and 0.44 billion cubic feet, respectively, in April. Release of water from Stillwater Reservoir averaged 41% of historic discharge.

RESOLUTION SCHEDULING DATE AND TIME OF THE REGULAR MEETING FOR JUNE 13, 2022

Board Chair Finkle asked for a motion to adopt a resolution setting the date and time for the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, June 13, 2023 at a location to be determined. The meeting will be scheduled for 10:00 A.M.

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

ADJOURNMENT

Board Chair Finkle called for a motion to adjourn the meeting. Mr. Reagan advanced the motion. Mr. Hayes seconded. The meeting adjourned at 11:03 A.M.

RESOLUTIONS

23-23-05 RESOLUTION TO INCREASE THE PROJECT BUDGET FOR CONTRACT D012022 WITH ENVIRONMENTAL SERVICE GROUP (NY), INC. FOR ADDITIONAL WORK AT HAWKINSVILLE DAM

Board Chair Finkle asked for a motion to adopt the resolution accepting ESG's proposal to complete certain work and authorizing the Executive Director to execute an amendment to Contract D012022, in the amount of \$583,354.00, bringing the not-to-exceed contract value to \$2,305,369.00. Mr. Candido so moved. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

23-24-05 RESOLUTION SCHEDULING DATE AND TIME OF THE REGULAR MEETING FOR JUNE 13, 2023

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

Robert P. Leslie
Secretary

Mark M. Finkle
Board Chair