

State of New York
Hudson River – Black River Regulating District
Great Sacandaga Lake
Operation and Maintenance Cost
and
Apportionment of Operation and Maintenance Cost

Approved by
BOARD OF HUDSON RIVER – BLACK RIVER REGULATING DISTRICT
March 30, 2010

Certified to
Department of Environmental Conservation
March 30, 2010

APPORTIONMENT OF OPERATION AND MAINTENANCE COST OF THE GREAT SACANDAGA LAKE RESERVOIR PREFIXED TO A RESOLUTION ADOPTED BY THE BOARD OF HUDSON RIVER – BLACK RIVER REGULATING DISTRICT March 30, 2010.

ID No.	NAME OF PUBLIC CORPORATION	PROPORTION OF COST	AMOUNT TO BE PAID
1	County of Albany	0.392563628	\$ 1,748,166.66
2	County of Rensselaer	0.215951341	\$ 961,675.78
3	County of Saratoga	0.285389349	\$ 1,270,897.53
4	County of Warren	0.066742217	\$ 297,216.83
5	County of Washington	0.039353465	\$ 175,249.08

10-11-03

**RESOLUTION TO APPROVE THE APPORTIONMENT
FOR THE HUDSON RIVER AREA WITH MODIFICATION**

WHEREAS, the Regulating District Board, served a copy of such apportionment as provided at NY ECL §15-2121, noticing and publishing the time and place at which the Board will meet to hear any public corporation or person aggrieved by the Board's apportionment determination; and

WHEREAS, the Board of the Hudson River-Black River Regulating District has determined the total cost to operate and maintain the Regulating District's Hudson River Area facilities (Great Sacandaga Lake, formerly Sacandaga Reservoir); and

WHEREAS, NY ECL §15-2121(2) and §15-2125(2) require the Regulating District Board to apportion such cost, less the amount chargeable to the state, among the public corporations and parcels of real estate benefited, in proportion to the amount of benefit which shall inure to each such public corporation and parcel of real estate by reason of such reservoir; and

WHEREAS, the United States Court of Appeals, DC Circuit determined that the Federal Power Act preempts the Regulating District's use of state law to collect the Regulating District's annual costs of operations and maintenance from the federally licensed hydropower companies operating within the Hudson River Area; and

WHEREAS, the Regulating District Board has determined that by grouping the towns, cities, villages and the individual parcels of real estate within each such public corporation, the potential for disparate treatment of one individual parcel, neighborhood or municipality when compared to others diminishes; and

WHEREAS, the Regulating District Board has determined that the Regulating District provides a negligible annual benefit to the state by diverting flow to the NYS Champlain Canal and the state has not required that a reasonable return to the state be included in the costs to be apportioned; and

WHEREAS, the attached written apportionment shows the name of each public corporation benefited and the proportion of such cost less the amount chargeable to the state to be borne by each, expressed in decimals and the amount to be paid by each such public corporation; and

WHEREAS, the amount to be paid by each such public corporation is determined by multiplying the total cost less the amount which may be chargeable to the state by the decimal representing the proportion thereof to be borne by each public corporation; and

WHEREAS, the Regulating District Board, or a majority of its members, have viewed the public corporations benefited; and

WHEREAS, NY ECL §15-2121 requires that the Regulating District Board shall, upon its approval of the apportionment, certify such apportionment to the Department of Environmental Conservation for approval; and

Approved at the March 30, 2010 Board Meeting

10-11-03

WHEREAS, following such apportionment grievance hearing, such apportionment if not modified shall become final and conclusive; or if modified, following approval of the modified apportionment by the Department of Environmental Conservation, such apportionment as so modified shall become final and conclusive; and

WHEREAS, the Board of the Hudson River-Black River Regulating District, at the January 12, 2010 Board meeting, adopted the "State of New York Hudson River-Black River Regulating District Great Sacandaga Lake Operation and Maintenance Cost and Apportionment of Operation and Maintenance Cost" apportionment for the Regulating District's Hudson River Area facilities; and

WHEREAS, on January 12, 2010, the Board certified the Apportionment to the Department of Environmental Conservation for its approval; and

WHEREAS, by letter dated February 3, 2010, the Department Commissioner approved the Apportionment; and

WHEREAS, the Board having heard those aggrieved by the Board's apportionment determination at an apportionment grievance hearing held March 30, 2010; and

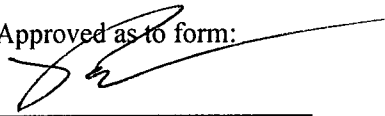
NOW THEREFORE BE IT RESOLVED, the Board of the Hudson River-Black River Regulating District does hereby adopt the "State of New York Hudson River-Black River Regulating District Great Sacandaga Lake Operation and Maintenance Cost and Apportionment of Operation and Maintenance Cost" apportionment for the Regulating District's Hudson River Area facilities with modification; and

BE IT FURTHER RESOLVED, pursuant to NY ECL §15-2121, the Board of the Hudson River-Black River Regulating District certifies such apportionment to the Department of Environmental Conservation for its approval; and

BE IT FURTHER RESOLVED, that upon approval by the Department of Environmental Conservation the Board of the Hudson River-Black River Regulating District directs staff to serve the apportionment as required by NY ECL §15-2121; and

BE IT FURTHER RESOLVED, that once approved and served, the Regulating District Board's apportionment is final and conclusive fixing the apportionment and basis of apportionment of all subsequent expenses to be incurred in the maintenance and operation of the Regulating District's Hudson River Area facilities.

Approved as to form:



Robert P. Leslie
General Counsel

Approved at the March 30, 2010 Board Meeting

10-11-03

Motion was made by Ms. Beyor and seconded by Mr. Berkstresser that the Resolution be approved.

Present and Voting:

<u>MEMBER</u>	<u>AYE</u>	<u>NOE</u>	<u>ABSTAIN</u>
Ms. Beyor.....	<u> X </u>	<u> </u>	<u> </u>
Mr. Pintuff	<u> </u>	<u> </u>	<u> </u> (Excused)
Mr. Bartow.....	<u> X </u>	<u> </u>	<u> </u>
Mr. Berkstresser.....	<u> X </u>	<u> </u>	<u> </u>
Mr. Cornell.....	<u> X </u>	<u> </u>	<u> </u>
Mr. Klein.....	<u> X </u>	<u> </u>	<u> </u>

CORPORATE RESOLUTION CERTIFICATION

I HEREBY CERTIFY that the following is a true and correct copy of Resolution 10-11-03 to Approve an Apportionment With Modification for the Hudson River Area duly adopted at a meeting of the Board of Directors of **The Board of Hudson River – Black River Regulating District** a corporation incorporated under the laws of the State of New York duly called and held on the 30th day of March, 2010, a quorum then being present; that the said resolution has been entered upon the regular minute book of the corporation and are in accordance with the certificate of incorporation and the by-laws and are now in full force and effect.

I FURTHER CERTIFY that the names of the persons holding titles referred to in the foregoing resolutions are as follows:

<u>NAME</u>	<u>TITLE</u>
Pamela Beyor	First Vice Chairperson
Philip Klein	Chairperson
John Bartow	Board Member
David Berkstresser	Board Member
Paul Cornell	Board Member

(Corporate Seal)

Treasurer: _____

Date: _____

Royal J. Fu
3/31/10