

ANDREW M. CUOMO
GOVERNOR



JOE MARTENS
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ALBANY, NEW YORK 12233-1010

APR - 3 2013

Mr. Michael A. Clark, P.E.
Executive Director
Hudson River-Black River Regulating District
737 Bunker Hill Road
Mayfield, NY 12117

Dear Mr. Clark:

Thank you for your letter seeking the Department's approval of the Hudson River-Black River Regulating District's (District) apportionment of its costs, as approved by the District's Board (Board) at a March 12, 2013 Board meeting and subsequently certified by the District to the Department on March 12, 2013. The apportionment implements an agreement entered into on or about March 11, 2013 by the District and Albany, Rensselaer, Saratoga, Warren and Washington Counties which resolves a long-standing disagreement regarding the apportionment.

ECL §15-2121(2) requires the Board to prepare an apportionment to recover the District's total cost and operation and maintenance expense from the public corporations and parcels of real estate benefitted by the Great Sacandaga Lake (Reservoir) in proportion to the amount of the benefit which will inure to each by reason of such Reservoir. ECL §15-2121(4) requires the Board to certify the apportionment to the Department for its approval and provides in effect that such apportionment is not effective until so approved.

The District has determined that the amount chargeable to the state will be \$841,583 which constitutes 22.18 percent of the District's annual Hudson River Area expense. Consistent with County of Albany, et al. v. Hudson River-Black River Regulating District, et al (Third Department, May 10, 2011) (County of Albany), the District deducted this amount from the apportionment. The remaining 77.82 percent of the District's expenses will be apportioned among the downstream counties who are provided flood control by the District's Conklingville Dam.

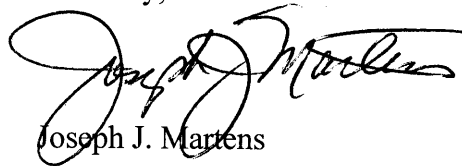
Specifically, for each of the next five years the following counties will be apportioned the following amounts and percentages of the District's Hudson River expense:

<u>County</u>	<u>Amount</u>	<u>Percent of District's Hudson River Expense</u>
Albany	\$1,034,698	34.5579
Rensselaer	\$542,447	18.1172
Saratoga	\$1,035,809	34.5950
Warren	\$242,908	8.1129
Washington	\$138,238	4.6170

The Department finds that the District's March 12, 2013 State of New York Hudson River – Great Sacandaga Lake Operation and Maintenance Cost and Apportionment of Operation and Maintenance Cost is not inconsistent with the provisions of ECL §15-2121, ECL §15-2125 or the decision of the Appellate Division in the County of Albany. Therefore, as authorized by ECL §15-2121(4), I hereby approve said apportionment. In approving the apportionment, the Department relied on the expertise of District staff regarding the following: 1) computation of the District's total cost of the Reservoir; 2) identification of flood protection as being the most direct and clearly defined benefit derived by operation of the Reservoir; 3) identification of the methodology used to determine the proportion of the flood protection benefit inuring to each beneficiary; 4) amount of such benefit chargeable to the state; and 5) the amount of such benefit to be apportioned among the public corporations benefitted from such flood protection.

Please call Kenneth Hamm of our Office of General Counsel at (518) 402-9521 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph J. Martens". The signature is fluid and cursive, with a large initial "J" and "M".

Joseph J. Martens

c: K. Hamm