

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

Black River Field Office
116 Necessary Dam Road
Stillwater Reservoir
Lowville, New York 13360
October 11, 2017

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:00 A.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Board Chairman Mark M. Finkle; First Vice-Chair Albert J. Hayes; Second Vice-Chair David W. Berkstresser; Board Members Anthony M. Neddo and Jeffrey Rosenthal; Executive Director Robert J. Smullen; General Counsel Robert P. Leslie; Chief Fiscal Officer Richard J. Ferrara; Chief Engineer Robert Foltan; Area Administrator John Hodgson; and Compliance Officer Stephanie Ruzycky.

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to adopt the meeting agenda. Mr. Berkstresser made a motion to adopt the agenda without revision. Mr. Rosenthal seconded. The Board approved the motion by unanimous vote.

PUBLIC COMMENT

Chairman Finkle opened the floor to public comments; hearing none.

APPROVAL OF THE SEPTEMBER 12, 2017 REGULAR MEETING MINUTES

Chairman Finkle asked for a motion to adopt the September 12, 2017 regular meeting minutes. Mr. Hayes advanced the motion to approve the regular meeting minutes. Mr. Rosenthal seconded and the Board approved the motion by unanimous vote.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Smullen presented his report. He noted that Arcadis Design and Consulting representatives are in attendance to provide the Board with a presentation of their proposal for services to upgrade the Old Forge and Sixth Lake Dams. Mr. Smullen reported on a briefing that senior staff provided to public stakeholders of the Hudson River Area at a September 19th meeting hosted by Assemblyman John McDonald and State Senator Kathy Marchione. He explained that the assembled group discussed the Regulating District's strategic dam remediation plan, the

current resourcing plan, and options for future changes in resourcing. He noted that following today's meeting, he and senior staff will meet with several North Country County Officials to engage in a similar discussion regarding the Black River Area. Following that meeting, Mr. Smullen and Mr. Foltan will lead a tour of the Stillwater Reservoir dam and power plant. Mr. Smullen reported that he and the General Counsel attended the US Court of Appeals for the D.C. Circuit proceeding in the Erie v. FERC matter on September 25th in Washington D.C.

CONTRACTS

RESOLUTION TO EXTEND CONTRACT C042013 WITH BRYANT RABBINO, LLP TO PROVIDE BOND SERVICES WORK IN CONNECTION WITH THE ISSUANCE OF SERIAL BONDS

Mr. Ferrara presented a draft Resolution to the Board authorizing the extension of contract C042013 for Bond Counsel Services in connection with the issuance of serial bonds via the Environmental Facilities Corp (EFC) Project Funding Agreement (PFA) for the Conklingville Dam Ice Sluice Repair project. He noted that the existing contract, initially authorized by Board resolution in November of 2013 and extended by letter extensions dated August 4, 2014 and October 25, 2015, expired on August 4, 2017. Due to several delays in securing final DEC approval, Bond counsel work has continued past the August 4, 2017 contract date. Mr. Ferrara explained that he intended that the Bond Counsel's work would continue until final approval of the PFA and the closing is completed. He noted that EFC has scheduled the Bond closing for October 26th. Mr. Ferrara recommended extending the contract through August 5, 2018 and noted that the contract extension is subject to review and approval by the NYS Attorney General.

Mr. Rosenthal made a motion to adopt the Resolution authorizing the extension of contract C042013 with Bryant Rabbino, LLP through August 5, 2018. Mr. Neddo seconded and the Board approved the motion by unanimous vote.

RESOLUTION TO ACCEPT ARCADIS OF NEW YORK PROPOSAL TO PERFORM ENGINEERING SERVICES IN CONNECTION WITH THE OLD FORGE & SIXTH LAKE DAM RECOMMENDATION FOR REMEDIAL MEASURES

Mr. Foltan reminded the Board that via Resolution 17-01-02 it awarded work associated with the Old Forge and Sixth Lake Dam remedial measures project to Arcadis of New York, Inc. and that, as authorized, staff negotiated a scope of work through which Arcadis will complete the tasks involved therein. Mr. Foltan noted that Arcadis will perform necessary site and field investigations, hydraulic analyses, engineering assessments, and alternatives analysis to develop a conceptual and final design of remedial measures. Work tasks will include: Project Management; Planning & Data Review; Field Investigations & Data Acquisition; Hydrologic & Hydraulic Analyses; Engineering Assessments & Alternatives Analysis; Preliminary Engineering; Final Design; Permitting; Bid Phase Services; and Construction Phase Services. Mr. Foltan explained that Arcadis proposes to provide the services detailed for a not-to-exceed price of \$1,008,000 and that the contract is subject to review and approval of the Office of the

NYS Attorney General and the NYS Office of the State Comptroller. Dan Lowenstein and Bob Titus, representatives from Arcadis, then presented the Arcadis proposal to the Board.

Mr. Berkstresser inquired whether the project involves just preventive maintenance. Mr. Foltan explained that the project does involve preventive maintenance, but that it is primarily driven to ensure DEC Dam Safety regulatory compliance and to extend the useful life of the affected structures by 30 to 40 years. Mr. Neddo asked Mr. Foltan to further explain the 'optional' nature of several tasks that Arcadis outlined. Mr. Foltan explained that some early Arcadis design tasks may reveal opportunities to positively revise project assumptions and that, as a result, certain elements that have been completed, such as the Dam Breach Analysis, may have to be revisited to achieve a reduction in final project costs. Chairman Finkle entertained a request from an audience member who, on behalf of the Fulton Chain of Lakes Association, asked that the public be kept informed of the projects' progress and of opportunities for public input. Mr. Berkstresser promised to keep the commenter so informed.

Mr. Berkstresser made a motion that the Board adopt a Resolution to accept Arcadis of New York, Inc.'s proposal to provide engineering services for the Old Forge & Sixth Lake Dam and to authorize the Executive Director to execute a contract for the completion of work in the amount of \$1,008,000.00. Mr. Rosenthal seconded and the Board approved the motion by unanimous vote.

STAFF REPORTS

Mr. Leslie presented Counsel's report to the Board. He reported that on September 25th a three judge panel of the U.S.C.A. DC Cir. heard oral argument in the Erie v. FERC appeal. Erie's challenge to FERC's Orders concerned FERC's August 21, 2015 Order Calculating Dates for the Commencement of Headwater Benefits Assessments and FERC's November 19, 2015 Order on Rehearing and Dismissing Motion for Stay. Counsel and the Executive Director took part in the NYS Attorney General's Moot Court preparation and further briefed the assigned Assistant Attorney General before and at argument. Mr. Leslie offered that one panelist's questions foreshadowed a ruling in the Regulating District's favor, but noted that single vote would not alone carry the day. Cautiously optimistic, Mr. Leslie indicated that he hopes for a ruling before Thanksgiving. Mr. Berkstresser asked for an update regarding the BREIA land purchase connected to the Hawkinsville project. Mr. Leslie noted that the parties still await the abstract of title previously ordered.

Ms. Ruzycky presented her report to the Board. She noted her attendance at a regional MWBE forum and noted the MWBE utilization report for July – September, currently showing a \$6,855.18 spend, is due October 15th. Ms. Ruzycky reported that the Service-Disabled Veteran-Owned Business (SDVOB) 2nd Quarter report is due October 31st.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal September 30, 2017, the general fund balances for the HRA and BRA were approximately \$2,823,276 and \$1,339,351 respectively. He noted that the Regulating District's transactional processing and reporting are current. Regulating District bank reconciliations are complete through September 30, 2017. Mr. Ferrara noted that the EFC Project Finance Agreement ('PFA') has been approved by DEC and a closing date has been set for October 26th. He noted

that KBL's timely submission of the independent audit report on September 29th permitted the submission of the annual reports through PARIS by the September 30th deadline. Finally, Mr. Ferrara recommended that the Board commit one million dollars of the 1.8 Million dollar surplus expected in the Black River Area to the Arcadis contract; obviating the need to bond for that project.

Mr. Foltan presented the Chief Engineer's report. Mr. Foltan noted that the September average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 1,410 cubic feet per second (cfs). Precipitation during the month of September was near average 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 70% and 61% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 77% and 77% of historic average, respectively.

The September average daily release from Stillwater Reservoir was approximately 300 cfs. Monthly total precipitation measured 56%, 56%, and 54% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of September 25th. Precipitation in the month of September was below average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 54% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.04 and 0.09 billion cubic feet, respectively, in September. Release of water from Stillwater Reservoir averaged 92% of historic discharge.

Mr. Hodgson presented the Area Administrator's report. He noted that he brought DEC wildlife personnel on a tour of Sand Island to witness the Eagle's nest there and that staff continue to work on the 2017 erosion monitoring on Great Sacandaga Lake. Mr. Hodgson noted that the interior and exterior surfaces have been completed at the Stillwater garage. He encouraged the Board to take a look after the meeting, but to avoid the trench construction bringing power to the garage and a septic feed from the office building.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR NOVEMBER 14, 2017

Chairman Finkle asked for a motion to adopt a Resolution setting the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, November 14, 2017 at the Warren County Municipal Center, Conference Room 5110, 1340 State Route 9, Lake George, NY 12845 at 10:00 A.M.

Mr. Berkstresser moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Hayes seconded and the Board adopted the Resolution by unanimous vote.

ADJOURNMENT

Chairman Finkle called for a motion to adjourn the meeting. Mr. Hayes advanced the motion. Mr. Berkstresser seconded. The meeting adjourned at 10:56 A.M.

RESOLUTIONS

17-39-10 RESOLUTION TO EXTEND CONTRACT C042013 WITH BRYANT RABBINO, LLP TO PROVIDE BOND SERVICES WORK IN CONNECTION WITH THE ISSUANCE OF SERIAL BONDS

Mr. Rosenthal made a motion to adopt the Resolution authorizing the extension of contract C042013 with Bryant Rabbino, LLP through August 5, 2018. Mr. Neddo seconded and the Board approved the motion by unanimous vote.

17-40-10 RESOLUTION TO ACCEPT ARCADIS OF NEW YORK PROPOSAL TO PERFORM ENGINEERING SERVICES IN CONNECTION WITH THE OLD FORGE & SIXTH LAKE DAM RECOMMENDATION FOR REMEDIAL MEASURES

Mr. Berkstresser made a motion that the Board adopt a Resolution to accept Arcadis of New York, Inc.'s proposal to provide engineering services for the Old Forge & Sixth Lake Dam and to authorize the Executive Director to execute a contract for the completion of work in the amount of \$1,008,000.00. Mr. Rosenthal seconded and the Board approved the motion by unanimous vote.

17-41-10 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR NOVEMBER 14, 2017

Mr. Berkstresser moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Hayes seconded and the Board adopted the Resolution by unanimous vote.

Respectfully submitted,

Richard J. Ferrara,
Secretary/Treasurer

Mark M. Finkle
Board Chairman