

**State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

Date: December 8, 2009

This notice is issued pursuant to Part 617 of the implementing regulation pertaining to Article 8 of the Environmental Conservation Law, known alternatively as the State Environmental Quality Review Act (SEQRA).

The Hudson River-Black River Regulating District (HRBRRD), a New York State public benefit corporation, as Lead Agency, has determined that the proposed action described below will not have a significant environmental impact and a Draft Environmental Impact Statement will not be prepared.

Name of Action: **Addition of Part 606**, sections 606.126 through 606.134 establishing an Apportionment Grievance Hearing Procedure.

Lead Agency: Hudson River – Black River Regulating District
350 Northern Boulevard
Albany, NY 12204

SEQR Status: Unlisted Action

**Description of
Action:**

The HRBRRD is proposing to add new sections to Part 606 of Title 6 NYCRR. The proposed action will publicize rules governing the procedure which aggrieved parties will follow to challenge the Regulating District's periodic apportionment of costs among the parcels of real estate and public corporations benefitted by the operation and maintenance of the reservoirs and other facilities in the Regulating District's Black River Area and Hudson River Area.

The Regulating District was created to regulate the flow of the Hudson River and Black River, primarily for the purposes of flood control and augmentation of low flows. Pursuant to the Regulating District's enabling statute, NY ECL Article 15, Title 21, the Board of the Hudson River-Black River Regulating District must prepare an estimate of the cost of the reservoirs operated by the Regulating District and then apportion such cost, less the amount which may be chargeable to the state, among the public corporations and parcels of real estate benefitted, in proportion to the amount of benefit which will inure to each such public corporation or parcel of real estate by reason of such reservoir. The Regulating District board shall certify such apportionment to the Department of Environmental Conservation for approval.

NY ECL section 15-2121 provides the broad framework within which the Regulating District is to undertake the apportionment of costs. The proposed rule establishes notice timeframes, an apportionment date representing a snapshot in time upon which to base values, the criteria against which to evaluate complaints, and an evidence standard. By establishing such procedures, the Board hopes to streamline the apportionment grievance process and avoid costly and unnecessary judicial proceedings.

The proposed Rules under this Action are consistent with current District practices and no significant change in allowed new land use or development will occur as a result of the Action. The proposed Action will not directly result in physical alterations to any site not already permitted under the current rules. The Action is expected to result in an improvement in the efficiency of the administration of the apportionment process and therefore potentially result in a transparent assessment of costs among the appropriate parties.

The Action will not effect reservoir operations. In addition, the Action is consistent with the current rules and regulations previously approved by the NYSDEC to administer the Access Permit System.

Reasons Supporting This Determination

The lead agency has reviewed the Short Environmental Assessment Form (EAF) and the criteria contained in 6 NYCRR 617.7(c) to identify the relevant areas of environmental concern, and determined that the Action will not have a significant adverse impact on the environment for the following reasons:

In reviewing the potential for adverse impacts, it is important to consider that the proposed action—the enactment of rules—will itself create no direct impacts on the environment. Any physical projects enabled by existing Regulating District rules and having the potential for adverse environmental impacts will be reviewed by the Regulating District if and when such projects are proposed. Nothing in the proposed rules preempts necessary federal and state reviews, including SEQRA.

In addition to the above consideration, the proposed action will result in standards and procedural improvements that are intended to result in beneficial impacts, such as overall improvements to the fiscal health of the Regulating District. Such beneficial impacts are discussed below and in the short form EAF.

The following is a review of criteria for determining significance, enumerated in 6NYCRR 617.7(c);

1. The action will not produce a substantial adverse change in existing air quality, ground or surface water quality or quantity; traffic or noise levels; a substantial increase in solid waste production, a substantial increase in potential for erosion, flooding, leaching or drainage problems.

The proposed rules are consistent with current practices and no significant change in allowable new land uses or development will occur as a result of the proposed Action. The proposed Action will not result in any direct physical alterations to the site. The proposed rules will publicize standards for the prosecution of apportionment complaints, and as such will lessen or avoid potentially adverse impacts including the expenditure of Regulating Resources on unnecessary litigation.

There is no potential for the Action to impact surface or groundwater quality or quantity. The implementation of the additional rules is expected to result in no improvement of the efficiency of the administration of the Permit System.

2. The action will not involve the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant or the habitat of such a species; or other significant adverse impacts to natural resources.
3. The action will not cause the impairment of the environmental characteristics of a Critical Environmental Area (CEA) as designated pursuant to 6 NYCRR 617.14 (g) due to the fact that no CEAs exist on the lands under the jurisdiction of the proposed rules.
4. The action is not expected to create a material conflict with a community's current plans or goals as officially approved or adopted.
5. The action will not impair the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character.
6. The action will not cause a major change in the use of either the quantity or type of energy.
7. The action will not create a hazard to human health.

8. The action will not cause a substantial change in the use or intensity of use of land including agriculture, open space or recreation resources, or in its capacity to support existing uses.

The proposed rules for administering grievance hearings will facilitate oversight, transparency, and fairness in the administration of the Regulating District's periodic apportionments.

9. The combination of two or more elements of the environment being changed as a result of the action will not result in a substantial adverse impact on the environment.
10. Impacts from the action may combine with impacts of other, possible independent actions in the vicinity. The Lead Agency finds that when considered cumulatively such combination will not create a significant adverse impact on the environment.

For Further Information

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