

Friday, August 12, 2011

## Lake group gets involved in suit against district

By JAIME STUDD  
Recorder News Staff

The Sacandaga Protection Committee filed a motion recently to intervene in the Niagara Mohawk Power Corporation's suit against the state of New York and the Hudson-River Black River Regulating District. If granted, the motion would allow the SPC to present its own arguments in defense of the permit and assessment systems being challenged by Niagara Mohawk.

Much like the other 20 pending assessment challenges brought by Niagara Mohawk against HRBRRD since 2000, the current case, filed in Hamilton County, contests the regulating district's right to levy assessments against the power company as unconstitutional. It also questions the legality of the current permit system, contending that the expenses of the permit system cannot be subsidized by assessments against the power company.

A motion to consolidate all of Niagara Mohawk's (now National Grid) assessment challenges is currently before State Supreme Court Judge Richard Aulisi. Should that be granted, the SPC has asked for permission to intervene in the entire case.

As a legally and financially established organization representing a wide range of property owners, business and recreational users of the Great Sacandaga Lake, the SPC claims a substantial interest in ensuring the financial success of any organization that shares its mission to protect the lake and the surrounding community, including the HRBRRD.

According to Joe Sullivan, co-chairman of the Sacandaga Protection Committee, the financial consequences of Niagara Mohawk successfully retaining approximately \$6 million in assessment fees would be dire, for both the already struggling HRBRRD and the lake as a whole. "This motion to intervene gives us a seat at the defense table to protect our interests," said Sullivan.

The SPC won a similar motion to intervene in Niagara Mohawk's federal lawsuit against the HRBRRD, a case won by the HRBRRD and currently being appealed by Niagara Mohawk. In that case, the SPC successfully argued that the current permit system sustains higher values on lakefront properties, consequently maintaining lower property taxes in the surrounding counties and stabilizing the tax base.

In justifying the SPC's intervention in the federal lawsuit prior to the state, Sullivan said, "the federal case was more pressing at that point in time. We only have limited [assets](#). We are relying on the donations from the community, so we are picking our battles as prudently as we can."

According to Sullivan, a decision is not expected until after the first of the year. In the meantime, Sullivan says the SPC will continue its efforts to find a permanent solution to the conflict surrounding the appropriate designation of the band of land surrounding Great Sacandaga Lake. "That's our number one priority," said Sullivan.

In addition, the SPC will also continue dedicating itself to finding alternative solutions to ensuring a viable revenue stream for the HRBRRD.

Sullivan looking forward the results of a Beneficiary Study ordered by the Federal Energy Regulatory Commission, the first of its kind since the formation of the reservoir. The study will determine who actually benefits from the reservoir and, therefore, who should be contributing to the HRBRRD funds.

"We are anxiously watching that," said Sullivan "The \$4.5 million dollars paid by the regulating district (in taxes) has to come from somewhere and we want to make sure that it fairly represents the beneficiaries. The SPC feels very, very strongly that the power companies, the power producers , the people that are making the money off of the dam, and who agreed, in 2000, to pay these fees, need to be part of the solution. "We're working very hard to see that that happens."

Formed in 2009, the Sacandaga Protection Committee, seeks to provide constituents, residents, business and recreational users of the Great Sacandaga Lake with the legal and political means to ensure that the current permit access system remains unchanged