

# Daily Gazette article

Thursday, March 10, 2011

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## School districts, Fulton County sue for back tax from river agency By Jason Subik

**FULTON COUNTY** – Fulton County and three school districts around the Great Sacandaga Lake filed a joint lawsuit Thursday in Fulton County Supreme Court, seeking \$3.2 million in unpaid property and school taxes from the state of New York and the Hudson River Black River Regulating District.

The three schools – central schools Northville, Mayfield and Broadalbin-Perth – had considered suing Fulton County for not making the districts whole from the unpaid taxes from HRBRRD, but instead decided to join with the county to seek restitution from either the state or HRBRRD.

The regulating district has been reeling from its funding crisis ever since a federal court in 2008 ruled it could no longer pass on the cost of its operating budget and local property taxes to downstream hydroelectric plants licensed by the Federal Energy Regulatory Commission. The ruling eliminated about \$4 million of the district's \$5.8 million Hudson River-area operating budget, money that was largely used to pay local taxes.

HRBRRD hasn't paid its school or county property taxes for the past two years. The entity is the largest single taxpayer in Northville and Broadalbin-Perth, and one of the largest in Mayfield, owing the three districts more than \$2 million.

Broadalbin-Perth is owed a combined \$475,000 for the past two school years. School officials said the money owed is equal to a 4 percent tax levy increase for the 2011-12 school year.

"I want our taxpayers to know we are working to get every penny we believe we are owed," Broadalbin-Perth Superintendent Stephen Tomlinson stated in a news release Thursday.

Under normal circumstances, county governments pay school districts an amount equal to unpaid taxes, then foreclose on the properties that owe the taxes. In this case, Fulton County officials have refused to pay the regulating district's bills. HRBRRD pays taxes on state-owned land that it controls. Fulton County officials have said there is no legal precedent for foreclosing on state land.

HRBRRD Director Mike Clark said the regulating district would like to pay its taxes, but it has no revenue to pay them with.

"We understand where the school districts are coming from. We understand the difficulties this has caused, so, as we've said all along, we're going to pay these taxes just as soon as we can," he said.

Clark said the district's only funding comes from fees it can still charge to the Brookfield Renewable Power plant located at the Conklingville Dam, about \$1 million annually, and approximately another \$400,000 from HRBRRD's lake access permit system.

In a bid to generate more revenue, the regulating district last year attempted to levy \$4.5 million in first-time-ever flood control bills to Albany, Saratoga, Rensselaer, Warren and Washington counties. All five counties have filed a lawsuit in Saratoga County court against HRBRRD and the state Department of Environmental Conservation, which oversees it. The counties have vowed not to pay the flood control bills unless ordered to do so by a court.

Clark said oral arguments began in the lawsuit over the flood-control bills in Saratoga County Supreme Court Thursday. He said HRBRRD expects to charge the flood-control bill again for this year, which would raise the total bill for the five counties to \$9.5 million, since they haven't paid last year's bill yet.

The flood-control bills prompted state legislators from the Capital Region, Assembly Majority Leader Ron Canestrari, D-Cohoes, and state Sen. Neil Breslin, D-Albany, to introduce legislation last year to abolish HRBRRD and put its responsibilities under the New York Power Authority. The legislation stalled after it became apparent Power Authority officials didn't want to take over the HRBRRD's concerns.

Another bill that would have allowed HRBRRD to borrow against the value of money in its Black River Area reserves to pay its Hudson River Area taxes has also stalled in the Assembly.