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Sacandaga property owners' group fights utility's lawsuit

By Bethany Bump

GREAT SACANDAGA LAKE – The group representing Great Sacandaga Lake property owners is seeking to intervene in National Grid's lawsuit challenging the millions of dollars in fees it pays to the Hudson River Black River Regulating District.

The Sacandaga Protection Committee hopes to avoid an increase in property taxes for residents of Fulton, Hamilton and Saratoga counties, where the lake is located. The tax hike would result if National Grid's repeated challenges – dating back to when the company was still Niagara Mohawk – to the regulating district's assessment and lake permit system were to succeed, said committee Co-Chairman Joe Sullivan.

"The primary reason we got involved in this lawsuit is because NiMo continues to contend that the permit system in and of itself is illegal," Sullivan said. "They say property owners who surround the lake and the back lotters who have the permits should not have them."

The committee filed a motion July 26 asking state Supreme Court Judge Richard T. Aulisi to allow it to intervene in the case of Niagara Mohawk Power Corp. v. State of New York and Board of Hudson River-Black River Regulating District et al., which is currently pending in Hamilton County.

As a representative of front and back lot property owners, businesses and recreational patrons of the lake, the committee stated in its motion that it has a substantial interest in protecting the lake community from the financial consequences that would result from National Grid's request for annulment of its approximately \$6 million assessment.

The case is one of about 20 pending assessment challenges initiated by NiMo or National Grid against the regulating district since 2000, leaving Aulisi to decide whether a motion to consolidate the state court assessment challenges is appropriate.

"We believe that NiMo has been [bringing] the same lawsuit year after year on very similar issues," Sullivan said. "And we would think it's in the best interest of everyone and with the court's time to have one lawsuit. They're basically shopping for the most favorable jurisdiction."

Mark Lansing, a lawyer with the Albany firm of Hiscock & Barclay, which is representing National Grid in the case, declined to comment on the pending litigation.

After the state Public Service Commission ordered then-Niagara Mohawk in 2000 to divest itself of hydro-generating plants within the regulating district, National Grid objected to the district's continued assessment of fees, said National Grid spokesman Patrick Stella.

National Grid, now just a power distributor, said the regulating district had no authority to charge assessments and force payment on fees to cover the cost of what it argued is an unlawful permit system.

"We ended up with some of that land that bears no benefit from being on the water or near the water," Stella said. "We don't use the land, and we feel that we shouldn't be assessed a fee for land that's not benefiting from the use of water. And in that time, we've also tried to donate that land, but we have been unable to do that because of the assessment fees."

Under the permit system, property owners pay taxes on lakefront properties and annual fees for the exclusive use of the state land between their property and the lake. The property owners' committee argues the permit system directly benefits the entire local economy through a stable tax base.

"We contend that our permit holders are holding higher valuations for homes and businesses and that the whole community would suffer if our valuations go down," Sullivan said. "If they do, then they are going to have to make up the difference in taxes. The permit system in and of itself promotes a stable tax base."

Sullivan said state Sen. Hugh Farley, R-Niskayuna, Assemblyman Marc Butler, R-Newport, and the Fulton County Board of Supervisors have all shown support for the citizens group's mission to maintain a stable tax base. The group has received nearly 2,000 donations from permit holders in the last three years, he said.

"One of our tougher battles is because this is slow moving and it's not a very sexy issue, filing lawsuits and such, it's hard to keep people's attention as to how important this is," Sullivan said. "So we don't want to lose our permit system on a technicality with this lawsuit. And we feel we're the best organization that exists to protect the rights of these property owners."

The committee's motion to intervene will go before Aulisi on Aug. 25. Sullivan said the group's legal team expects a slow response.