

**Roanoke River Basin Bi-State Commission**  
**DRAFT Meeting Summary**  
**Wednesday, October 14, 2015**  
**New College Institute, Martinsville, Virginia**

**RRBBC members present**

Delegate Tommy Wright (Chair), Senator Angela Bryant (1<sup>st</sup> Vice Chair), Haywood Hamlet (2<sup>nd</sup> Vice Chair), Representative Susan Martin, Representative Larry Yarborough, Senator Frank Ruff, Senator Joyce Krawiec, Tim Pace, Chuck Peoples, Haywood Hamlet, Jerry Lovelace

**Guests**

Christopher Blakeman, Al Zimmerman, Read Charlton, Don Smith, Linda Green (representing Congressman Robert Hurt), Phil Rapp (representing Senator William Stanley), Mike Pucci, Bob Jean, Christy Lipscomb, Susan Kyte, Greg Godard, David Hoback, William Pace, Andrew Lester, Barry T. Dunkley

**VADEQ Staff present**

Scott Kudlas, Curt Thomas

**NCDEQ Staff Present**

Tom Fransen, Harold Brady, Linwood Peele

**Call to Order**

Chairman Wright called the meeting to order. Mr. Pace thanked New College Institute for hosting the RRBBC meeting.

**Recognition of Members and Guests**

Chairman Wright welcomed members and guests. Introductions of members and guests were given.

**Succession and Election of Officers**

Mr. Kudlas updated the Commission on the established By-Laws and the process of succeeding and electing officers. Representative Susan Martin moved to succeed the Chair position to Virginia, and seconded by Senator Frank Ruff. Delegate Tommy Wright (VA) assumed Chair, Senator Angela Bryant (NC) assumed 1<sup>st</sup> Vice-Chair, and Haywood Hamlet (VA) assumed 2<sup>nd</sup> Vice-Chair. Mr. Jerry Lovelace was welcomed to the Commission as the third non-legislative member from Virginia.

*Action Items: Send RRBBC updates to webmaster (completed Oct. 26, 2015)*  
*Send appointment materials for Mr. Lovelace to the Office of the Governor*

**Approve Draft Meeting Minutes from December 18, 2014**

The minutes of the December 18, 2014 RRBBC meeting were unanimously approved after a motion by Haywood Hamlet, and seconded by Senator Angela Bryant.

*Action Item: Send approved meeting minutes to webmaster (completed Oct. 21, 2015)*

### **NC Delegation to the Roanoke River Basin Bi-State Commission Report**

Senator Angela Bryant provided a report on the activities of the NC Delegation to the RRBBC. The NC Delegation met on the morning of October 14, 2015 and received presentations regarding the Kerr Lake Regional Water System interbasin transfer request, uranium mining, coal ash spill, and discussions about water allocations with the RRBBC.

Chairman Wright thanked Senator Bryant for her update and agreed that the RRBBC should continue moving forward with conversations regarding water allocation topics.

### **Virginia Roanoke River Basin Advisory Committee Report**

Mr. Pace provided a report on the activities of the VRRBAC to the RRBBC. The VRRBAC met on the morning of October 14, 2015 and received presentations on the water expansion project at Philpott Lake with the Henry County Public Service Authority and an update on the current state of stormwater regulations from VADEQ staff. Mr. Pace also reported that the VRRBAC met previously to perform strategic planning and organize itself to enhance the advisory committee's effectiveness.

Chairman Wright thanked Mr. Pace for his update.

### **Kerr Lake Regional Water System Interbasin Transfer Update**

Mr. Brady presented an update on the Kerr Lake Regional Water System (KLRWS) interbasin transfer request to the Commission. The presentation followed the project timeline, the current status of the project, public comments received, and the authority of the North Carolina Environmental Management Commission (EMC). The current 10 MGD interbasin transfer allowance for KLRWS is based on the grandfathered existing basin transfer capacity of the water system in 1993. The KLRWS has an existing allocation from the United States Army Corps of Engineers allowing withdrawals up to 20 MGD from Kerr Lake. This interbasin transfer request would raise the current 10 MGD allowable basin transfer to 14.2 MGD based on 2045 projected water use demands. Many of the public comments asked for an environmental impact statement to be completed for the project; however, an Environmental Assessment was produced and fully reviewed per state IBT and SEPA statutes. The EMC is expected make a final determination on the KLRWS interbasin transfer request at their November 2015 meeting.

NCDEQ and VADEQ staff then responded to questions from RRBBC members and guests. Senator Martin asked about the main differences between North Carolina and Virginia legislation for water transfers. Mr. Kudlas answered that Virginia does not have a separate certificate for interbasin transfers. Virginia requires any withdrawal of 300,000 gallons per month or greater to be permitted. Senator Martin also asked about the order of magnitude of this withdrawal. Mr. Brady and Mr. Fransen responded that it is about a 2 inch difference in terms of lake level and less than 1% in average flow of rivers; a small percentage of volume in Kerr Lake. Mr. Dunkley

asked about the details of the Environmental Assessment. Mr. Brady stated that it looks at a slew of alternatives, conducts a full model evaluation on Kerr Lake, and includes a water conservation plan in the conditions for the interbasin transfer certificate. Mr. Blakeman inquired if 2045 is a long enough horizon from a planning perspective. Mr. Brady answered that the EMC uses a 30-year timeframe when looking at interbasin transfer certificates. Mr. Lovelace commended the Hearing Officers Report and commented that legislative judgment should not be taken over science in regards to an environmental impact statement. Senator Bryant explained that an environmental impact statement would have occurred had there not been a Finding of No Significant Impact but in this case an environmental assessment was sufficient. Senator Ruff reflected that there is need for cooperation in order to make sure an exemption does not become a precedent. Delegate Wright and Senator Bryant concurred with the need for further cooperation.

### **Duke Energy Dan River Coal Ash Incident Enforcement Update**

Mr. Thomas presented an update on the Virginia related monitoring and enforcement of the Duke Energy Dan River coal ash incident. The coal ash spill occurred on February 2, 2014, releasing an estimated 39,000 tons of coal ash into the Dan River. The EPA, VADEQ, NCDEQ, and U.S. Fish and Wildlife Service (USFWS) responded to the event and continue to monitor that status of the watershed. Based on VADEQ monitoring and analysis, there is no observable risk in the waterways based on the coal ash spill related to water quality standards. However, this is not a statement that there is no overall damage to the Dan River.

Mr. Thomas then went over the recent actions taken against Duke Energy and ongoing activities related to the spill. VADEQ issued a consent order against Duke Energy, which resulted in a settlement of \$2.5 million. \$2.25 million will be used in a fund for Virginia environmental projects and the remaining \$250,000 will go into a fund for environmental emergency responses. VADEQ is also collaborating with NCDEQ and USFWS on a natural resource damage assessment and restoration plan (NRDAR) funded by Duke Energy. The goal of NRDAR is to assess the potential natural resource injuries from release of the coal ash into the Dan River. Mr. Thomas also informed the Commission about the Water Resources Fund, a \$10 million fund for projects benefiting waterways in the Carolinas, Virginia, Tennessee, and Georgia. Grants are distributed to projects related to water quality, quantity, and conservation, enhancing fish and wildlife management habitats, and expanding public use and access.

The following responses relate to questions posed by RRBBB members during the presentation. Mr. Thomas and Mr. Brady compiled answers from experts dealing with the Dan River coal ash spill. The Duke Energy Water Resources Fund is not a national fund, but rather a regional fund limited to projects in North Carolina, South Carolina, Virginia, Tennessee, and Georgia. Virginia's long-term, post-spill assessment monitoring is scheduled to last 3 to 5 years, depending on the results of those reports. Thus far, there has been no indication of aquatic life

impacts based on: 1) no exceedances of water quality standards (with exception of a few lead values near a Danville intake shortly after the release; related to drinking water criteria); and 2) no sediment concentrations for metals of concern above VADEQ's screening values. VADEQ staff is completing the first year fish tissue analysis (160 samples) and will release those results shortly, but early indications are that metal levels are not a concern. There has not been an effect on VADEQ staff resources for other monitoring sites as all costs for this special Dan River monitoring are reimbursed by Duke Energy.

*Action Item: Circulate presentations to all RRBBC members (completed Oct. 27, 2015)*

Chairman Wright and the RRBBC members thanked Mr. Brady and Mr. Thomas for their presentations.

### **Other Business**

Representative Martin mentioned that it would be beneficial for the RRBBC to understand the differences and similarities between North Carolina and Virginia regarding water allocation legislation. Several members reiterated this point and suggested it could also improve collaboration amongst the Bi-State Commission. This was tabled as a possible agenda item for future meetings.

Mr. Pucci provided a brief update on the uranium mining case with Virginia Uranium and the Commonwealth of Virginia. The Roanoke River Basin Association and Dan River Basin Association asked to be intermediaries on the case.

*Action Item: VADEQ and NCDEQ to look into the options for the RRBBC to submit a letter about uranium mining*

### **Future Meetings**

Both North Carolina and Virginia delegations to the Bi-State Commission expressed interest in holding a follow-up meeting. Due to legislative sessions, several members recommended scheduling a full Bi-State meeting in the April to May timeframe. Chairman Wright noted that the next Bi-State meeting will be held in North Carolina and suggested holding it in the lower section of the Roanoke Basin. Mr. Thomas will be in contact with members to circulate dates and locations for the next meeting. All suggestions for dates, locations, and agenda items can be sent to Curt Thomas (Curtis.thomas@deq.virginia.gov, 804-698-4024) or Harold Brady ([harold.m.brady@ncdenr.gov](mailto:harold.m.brady@ncdenr.gov), 919-793-6170).

Potential agenda items for the next meeting were also discussed. Chairman Wright summarized the topics in the following list:

1. Water allocation policy and legislation overviews from North Carolina and Virginia
2. Army Corps presentation on 216 studies and water allocations
3. Further update on Dan River coal ash spill
4. Legal update on Virginia Uranium lawsuit

Meeting adjourned at 2:45pm.

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