

**NC Delegation of the Roanoke River Basin Bi State Commission
(RRBBC)**

Perry Memorial Library, Henderson, NC

Summary of Minutes from December 18, 2014 Meeting

NC delegation of the RRBBC members present:

Larry Yarborough (chair),

Chuck Peoples,

Nate Hall,

Senator Joyce Krawiec, and

Senator Angela Bryant (telephone conference),

North Carolina Department of Environment and Natural Resources (NCDENR) – Division of Water Resources (DWR) Staff present:

Harold Brady, Tom Fransen, Linwood Peele, and Kim Nimmer.

Other attendees:

Gene Adesso, Roanoke River Basin Association;

Chairman Yarborough called the meeting to order. He welcomed the group to the meeting and called for introductions around the room.

Tom Fransen provided an update on the Dan River coal ash incident as well as plans for other coal ash basins around North Carolina. The current list of all known electric power plant related coal ash basins was presented and discussed as it relates to the recent Session Law 2014-122. Recent surface water (chemical and biological), groundwater, and sediment sampling efforts have found conditions in the Dan River to not be violation of water quality or toxicity standards. In fact, recent surface water sampling has noted improved biological conditions as compared to previous years.

Several members asked about the timeframe for removal of ash from the storage basins and how long the associated surface and groundwater monitoring will continue. Mr. Fransen responded that according to information he has received, Duke Energy will commence with removal activities to lined landfills within 12 months following the issuance of required permits. Mr. Adesso asked if the current monitoring reports are available to the public. NCDENR staff confirmed that some, if not all, of the current monitoring reports are available at the NCDENR website (www.denr.gov).

Mr. Adesso followed the earlier question with whether the Environmental Protection Agency (EPA) had made a ruling on considering coal ash as hazardous waste. It was believed that as

of this meeting, that ruling had not been made. This led into a discussion of the current litigation involving Duke Energy, NCDENR, and EPA. Mr. Adesso explained that several environmental/advocacy organizations had jointly filed an injunction in the case and the judge ruled that the organizations could be a party to the suit. Currently, the case is in the “discovery phase” with no specific deadline for when the next phase of the law suit will commence.

At the request of Sen. Bryant, the meeting then proceeded to discussion of the proposed Kerr Lake Regional Water System (KLRWS) Interbasin Transfer (IBT) request. Harold Brady provided a synopsis on the proposal including, background on what constitutes an IBT, the current proposal by KLRWS, and the approval process. KLRWS currently has a grandfathered IBT of 10 million gallons per day (mgd), based on a maximum daily volume, and has proposed to increase that to 14.2 mgd, based on an average daily volume calculated over a maximum month. This request necessitates approval of an IBT Certificate from the Environmental Management Commission (EMC) following a full assessment of the effects of such a request.

Several members asked if the Environmental Assessment (EA) document includes hydrologic modeling results of the impact to downstream flows and uses. NCDENR staff, indicated that the document does full evaluate the current and projected downstream flows at all nodes in the model. Additionally, the model provides projected impacts to Kerr Lake and other downstream lake levels. Concerns were also raised regarding the impacts the Tar River basin (receiving basin) from both increased wastewater volumes and anticipated residential, commercial, and industrial growth that this transfer would help facilitate. NCDENR responded that the EA document addresses these concerns in the Indirect and Cumulative Impact section which details mitigation measures the towns and cities within the receiving basin currently have in place to control growth. Furthermore, any increase in an existing permitted wastewater discharge would require separate analyses to satisfy state and federal permitting guidelines.

It was noted that KLRWS has contracted CH2MHILL to prepare the EA document and guide the applicant through the process. This consultant has significant previous experience with other IBT requests. A schedule of the process by which KLRWS will be required to follow was presented. Following this schedule, the EA document should be available for public review in late January, with a public hearing in the March of April timeframe, and the final determination by the EMC during their May meeting. Mr. Brady stressed that all comments should follow the factors identified in the “findings of fact”, which is a part of the statute, to assist the EMC with fully considering all effects, both positive and negative, of the proposed transfer.

Harold Brady then led off a short discussion on the status of the United States Army Corps of Engineers (USACE) 216 Study of Kerr Lake, with assistance from Gene Adesso on specific dates and actions. Since the last meeting in April 2014, a resolution supporting the preferred alternative to follow a more natural flow scenario was approved by the North Carolina delegation of the Roanoke River Bi-State Commission. Following that decision, the Virginia Delegation Committee provided a similar supporting document. In October 2014, the Asst. Secretary of the Environment, Mitch Gillespie, visited the John H. Kerr dam and areas downstream on the lower Roanoke River and verbally agreed with the preferred alternative. Following this meeting, the Secretary of the NCDENR wrote a letter to Colonel Baker of the Wilmington USCAE office supporting the preferred alternative. As of December 2014, the USACE has completed the EA document supporting the preferred alternative and has proposed that a change in the management operation document for the Kerr Lake dam be revised to incorporate the elements described in the preferred alternative. This requires higher-level approval with the USACE and is expected to be implemented sometime in 2015.

Mr. Adesso wanted to emphasize that the study which began nearly 22 years ago had been finally wrapped up, requiring no more funding by North Carolina or Virginia. Furthermore, the preferred alternative, a quasi run-of-river scenario, will allow for increased flows over a shorter period of time to more closely simulate natural conditions. This required significant effort by the several environmental advocacy organizations to receive support from downstream landowners, primarily farmers, to allow for more of their land to be flooded for shorter durations of time.

To conclude, the delegation discussed that Mr. Yarborough has served his term as chairman and that Sen. Bryant would be succeeding him as chairman of the North Carolina delegation of the Roanoke River Basin Bi-State Commission. This was confirmed during an electronic vote conducted in May 2014.

The decision of when the next meeting would occur was tabled until after the full bi-state commission meeting. A location for that meeting would be determined at that time based upon whether the General Assembly would be in session.

As there was no further business to discuss, the meeting was adjourned.