A REPORT TO

THE HONORABLE TERENCE R. McAULIFFE, GOVERNOR,

AND

THE GENERAL ASSEMBLY OF VIRGINIA

ROANOKE RIVER BASIN BI-STATE COMMISSION

2014 ANNUAL REPORT

Executive Summary

The Roanoke River Basin Bi-State Commission was established in the executive branch of state government. Duties and powers of the Roanoke River Basin Bi-State Commission are pursuant to Virginia Code §§ 62.1-69.37 and 62.1-69.39.

This report provides information regarding the Roanoke River Basin Bi-State Commission's activities during the 2013-2014 fiscal year. The members met on April 21, 2014.

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Introduction

The Roanoke River Basin Bi-State Commission (Bi-State Commission) is composed of members from the Commonwealth of Virginia and the State of North Carolina. Pursuant to Va. Code § 62.1-69.37, the purpose of the Bi-State Commission is to:

"Provide guidance, conduct joint meetings, and make recommendations to local, state, and federal legislative and administrative bodies, and to others as it deems necessary and appropriate, regarding the use, stewardship, and enhancement of the [Roanoke River] Basin's water and other natural resources;

Provide a forum for discussion of issues affecting the Basin's water quantity, water quality, and other natural resources;

Promote communication, coordination, and education among stakeholders within the Basin;

Identify Basin-related problems and recommend appropriate solutions; and

Undertake studies and prepare, publish, and disseminate information through reports, and other communications related to water quantity, water quality, and other natural resources of the Basin."

Meetings and Locations

The Bi-State Commission meets throughout the Roanoke River Basin, alternating states, in an effort to make the meetings available to all Basin constituents. The Bi-State Commission met on April 21, 2014 at the Institute for Advanced Learning in Danville. Virginia. The meeting included reports from the North Carolina delegation and the Virginia Roanoke River Basin Advisory Committee. Additionally, there were several presentations on the Duke Energy Dan River coal ash spill and uranium mining, and there was discussion of the U. S. Army Corps of Engineers Section 216 Study of Kerr Lake Dam. The committee made no formal recommendations. The draft minutes are included in Appendix B.

Organization

Re-organization of the Commission occurred at the April 21, 2014 meeting. Larry Yarborough from North Carolina was confirmed as Chairman of the Bi-State Commission for the coming year and Delegate Tommy Wright (VA) as 1st Vice Chair. Senator Angela Bryant (NC) was elected as 2nd Vice Chair. By-Laws, adopted in August 2009, provide for the Chair to rotate annually between Virginia and North Carolina.

Current Membership

§62.1-69.38 of the Code of Virginia establishes membership on the Bi-State Commission as follows:

"The Commission shall be composed of 18 voting members that include nine members representing the Commonwealth of Virginia and nine members representing the State of North Carolina. The Virginia delegation shall consist of the six legislative members appointed to the Virginia Roanoke River Basin Advisory Committee, and three nonlegislative citizen members appointed to the Virginia Roanoke River Basin Advisory Committee, who represent different geographical areas of the Virginia portion of the Roanoke River Basin, to be appointed by the Governor of Virginia."

The nonlegislative members are recommended by the Virginia Roanoke River Basin Advisory Committee and appointed by the Governor. Legislative members are appointed by the Governor.

The North Carolina delegation is appointed in a similar fashion.

There are currently 16 members on the Bi-State Commission, eight from Virginia and eight from North Carolina. A list of current members is provided below.

Virginia
Senator William Stanley
Senator Frank Ruff
Delegate James Edmunds II
Delegate Thomas Wright, Jr.
Delegate Charles Poindexter
Delegate Sam Rasoul
John H. Feild, nonlegislative member
Haywood J. Hamlet, nonlegislative member

North Carolina

Representative Susan Martin
Senator Angela Bryant
Representative Bert Jones
Representative Bryan Holloway
Senator Shirley Randleman
Nate Hall, nonlegislative member
Larry Yarborough, nonlegislative member
Chuck Peoples, nonlegislative member

Committees

The Bi-State Commission has five legislated standing committees: Permit holders; Roanoke River Basin interest groups, Public officials and government entities, Agriculture, forestry, and soil and water conservation districts. Pursuant to the enabling legislation, the Bi-State Commission shall establish the above-mentioned standing committees, but may also establish other standing and ad hoc committees the Bi-State Commission deems necessary and appropriate. In 2009, the Bi-State Commission created the Water Allocation Ad Hoc Committee to develop alternatives for allocating water supply storage from Kerr Reservoir. Neither the standing committees nor the ad hoc committee met in 2014.

Appendix A - Chapters 5.4 and 5.5 of Title 62.1 of the Code of Virginia

Chapter 5.4

§62.1-69.34. Virginia Roanoke River Basin Advisory Committee established; purpose; membership; terms; meetings.

A. The Virginia Roanoke River Basin Advisory Committee, hereinafter referred to as the "Committee," is hereby established in the executive branch of state government as an advisory committee to the Virginia delegation to the Roanoke River Basin Bi-State Commission. The Committee shall assist the delegation in fulfilling its duties and carrying out the objectives of the Commission, pursuant to §62.1-69.39. The advisory committee shall be composed of 23 members as follows: two members of the Senate, whose districts include a part of the Virginia portion of the Roanoke River Basin, to be appointed by the Senate Committee on Rules; four members of the House of Delegates, whose districts include a part of the Virginia portion of the Roanoke River Basin, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one nonlegislative citizen member at large appointed by the Senate Committee on Rules; one nonlegislative citizen member at large appointed by the Speaker of the House of Delegates; 11 nonlegislative citizen members selected by the legislative members of the advisory committee such that two are chosen from recommendations of each of the following: the Central Virginia Planning District Commission, the West Piedmont Planning District Commission, the Southside Planning District Commission, the Piedmont Planning District Commission, and the Roanoke Valley Alleghany Planning District Commission; and one member selected by the legislative members of the advisory committee from among recommendations submitted by the New River Valley Planning District Commission; and the Virginia member of the United States House of Representatives, whose district includes the largest portion of the Basin, or his designee, and three representatives of the State of North Carolina appointed in a manner as the General Assembly of North Carolina may determine appropriate. Except for the representatives of North Carolina, all nonlegislative citizen members shall be citizens of the Commonwealth of Virginia. The Virginia member of the United States House of Representatives, the members of the Virginia General Assembly, and the representatives of North Carolina shall serve ex officio without voting privileges. Of the recommendations submitted by planning district commissions authorized to recommend two members, one member shall be a nonlegislative citizen who resides within the respective planning district. However, the New River Valley Planning District Commission may recommend either one nonlegislative citizen at large who resides within the planning district or one member, who at the time of the recommendation, is serving as an elected member or an employee of a local governing body, or one member of the board of directors or an employee of the planning district commission. All persons recommended by the planning district commissions to serve as members of the advisory committee shall reside within the Basin's watershed, represent the diversity of interests in the jurisdictions comprising the respective planning district commissions, and demonstrate interest, experience, or expertise in water-related Basin issues.

B. State and federal legislative members and local government officials appointed to the advisory committee shall serve terms coincident with their terms of office. Nonlegislative citizen members appointed by the Senate Committee on Rules and the Speaker of the House of Delegates to serve on the advisory committee, and ex officio members representing the State of North Carolina shall serve a term of two years. Initially, planning district commissions authorized to recommend two nonlegislative citizen members to the advisory committee shall recommend one member for a term of two years and one member for a term of one year. However, the nonlegislative citizen member recommended to serve on the advisory committee by the New River Valley Planning District Commission shall serve a term of one year. After the initial staggering of terms, the term of office of nonlegislative citizen members recommended by the planning district commissions shall be for two years. Nonlegislative citizen members recommended by planning district commissions shall be eligible for reappointment, if such members shall have attended at least one-half of all meetings of the Commission during their current term of service. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointment.

The advisory committee shall elect a chairman and a vice-chairman from among its voting members. A majority of the voting members shall constitute a quorum. The meetings of the advisory committee shall be held at the call of the chairman or whenever the majority of the voting members so request.

§62.1-69.35. Compensation and expenses.
Legislative members of the advisory committee shall receive such compensation as provided in §30-19.12, and non-legislative members shall receive such compensation for the performance of their duties as provided in §2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of members shall be paid from such funds as may be provided to the Department of Environmental Quality in the appropriations act for this purpose.

§62.1-69.35:1. Staffing.
The Department of Environmental Quality shall provide staff support to the advisory committee. All agencies of the Commonwealth shall provide assistance to the advisory committee, upon request.

§62.1-69.35:2. Chairman's executive summary of activity and work of the advisory committee.
The chairman of the advisory committee shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the advisory committee no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Chapter 5.5

§62.1-69.36. Definitions.
As used in this chapter, unless the context requires a different meaning:
"Basin" means the Roanoke River Basin.
"Roanoke River Basin" means that land area designated as the Roanoke River Basin by the Virginia State Water Control Board, pursuant to §62.1-44.38, and the North Carolina Department of Environment and Natural Resources.

§62.1-69.37. Roanoke River Basin Bi-State Commission established; purpose.
The Roanoke River Basin Bi-State Commission is hereby established as a bi-state commission composed of members from the Commonwealth of Virginia and the State of North Carolina and hereinafter referred to as the Commission. The Commission shall:
1. Provide guidance, conduct joint meetings, and make recommendations to local, state and federal legislative and administrative bodies, and to others as it deems necessary and appropriate, regarding the use, stewardship, and enhancement of the Basin's water and other natural resources;
2. Provide a forum for discussion of issues affecting the Basin's water quantity, water quality, and other natural resources;
3. Promote communication, coordination and education among stakeholders within the Basin;
4. Identify Basin-related problems and recommend appropriate solutions; and
5. Undertake studies and prepare, publish, and disseminate information through reports, and other communications, related to water quantity, water quality and other natural resources of the Basin.

§62.1-69.38. Membership; terms.
A. The Commission shall be composed of 18 voting members that include nine members representing the Commonwealth of Virginia and nine members representing the State of North Carolina. The Virginia delegation shall consist of the six legislative members appointed to the Virginia Roanoke River Basin Advisory Committee, and three nonlegislative citizen members appointed to the Virginia Roanoke River Basin Advisory Committee, who represent different geographical areas of the Virginia portion of the Roanoke River Basin, to be appointed by the Governor of Virginia. The North Carolina delegation to the Commission shall be appointed as determined by the State of North Carolina. All members appointed to the Commission by the Commonwealth of Virginia and the State of North Carolina shall reside within the Basin's watershed. Members of the Virginia House of Delegates and the Senate of Virginia, the North Carolina House of Representatives and Senate, and federal legislators, who have not been appointed to the Commission and whose districts include any portion of the Basin, shall serve as nonvoting ex officio members of the Commission.
B. Legislative members of the Virginia delegation, federal legislators, and local government officials, whether appointed or ex officio, shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed to serve two-year terms, unless the member is reappointed by the appointing authorities of each state. Appointments to fill vacancies, other than by expiration of a term, shall be made for the

unexpired terms. Vacancies shall be filled in the same manner as the original appointment.
C. Each state's delegation to the Commission may meet separately to discuss Basin-related issues affecting their state, and may report their findings independently of the Commission. A majority of the voting members shall constitute a quorum.

§62.1-69.39. Roanoke River Basin Bi-State Commission powers and duties.
A. The Commission shall have no regulatory authority.
B. To perform its duties and objectives, the Commission shall have the power to:
1. Develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives, including, but not limited to, selecting a chairman and vice-chairman, rotating chairmanships, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this subdivision shall be effective upon an affirmative vote by a majority of the Commission members;
2. Establish standing and ad hoc advisory committees, which shall be constituted in a manner to ensure a balance between recognized interests. The purpose of each advisory committee shall be determined by the Commission;
3. Seek, apply for, accept and expend gifts, grants and donations, services and other aid from public or private sources. With the exception of funds provided by the planning district commissions and funds appropriated by the General Assemblies of Virginia and North Carolina, the Commission may accept funds only after an affirmative vote by a majority of the members of the Commission or by following such other procedures as may be established by the Commission for the conduct of its business;
4. Establish a nonprofit corporation to assist in the details of administering its affairs and in raising funds;
5. Enter into contracts and execute all instruments necessary or appropriate; and
6. Perform any lawful acts necessary or appropriate for the furtherance of its work.

§62.1-69.40. Standing and ad hoc committees.
To facilitate communication among stakeholders in the Roanoke River Basin, and to maximize participation by all interested parties, the Commission shall establish both standing and ad hoc committees. The Commission shall appoint the members of the standing and ad hoc committees, in accordance with guidelines adopted by the Commission. The standing committees shall include, but not be limited to, the following:
1. Permit holders. The Commission shall identify those entities that hold permits issued by a federal, state or local regulatory agency pertaining to the water of the Basin. Such entities may recommend a representative to be appointed to the committee by the Commission;
2. Roanoke River Basin interest groups. The Commission shall identify interest groups that may recommend a representative to be appointed to the committee by the Commission;
3. Public officials and government entities. The committee shall be composed of representatives of each county, city and town located completely or partially within the Basin, and any other governmental entities that the Commission deems appropriate may recommend one member to be appointed to the committee by the Commission. The committee may also include the U.S. Senators from Virginia and North Carolina or their

designees, and any member of the U.S. House of Representatives or his designee, whose district includes any portion of the Basin, if such members elect to serve on the committee; and
4. Agriculture, forestry and soil and water conservation districts. The Commission shall identify persons who represent agricultural and forestry interests throughout the Basin and representatives from the soil and water conservation districts within the Basin and shall appoint representatives from these groups to the committee.

§62.1-69.41. Staffing and support.
The Virginia Department of Environmental Quality and the North Carolina Department of Environment and Natural Resources shall provide staff support to the Commission. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of such additional staff shall be determined and fixed by the Commission, within available resources. All agencies of the Commonwealth of Virginia and the State of North Carolina shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The Virginia Secretary of Natural Resources and the North Carolina Secretary of the Department of Environment and Natural Resources or their designees shall each serve as the liaison between their respective state agencies and the Commission.

§62.1-69.42. Funding.
A. The Commission shall annually adopt a budget, which shall include the Commission's estimated expenses. Funding for the Commission shall be shared and apportioned between the Commonwealth of Virginia and the State of North Carolina. The appropriation of public funds to the Commission shall be provided through each state's regular process for appropriating public funds. The Virginia planning district commissions within the Basin shall bear a proportion of Virginia's share of the expenses, which may be in the form of in-kind contributions.
B. The Commission shall designate a fiscal agent.
C. The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Virginia Auditor of Public Accounts and the North Carolina State Auditor prescribe, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by similar enterprises. The accounts and records of the Commission shall be subject to an annual audit by the Virginia Auditor of Public Accounts and the North Carolina State Auditor or their legal representatives, and the costs of such audit services shall be borne by the Commission. The results of the audits shall be delivered to the appropriate legislative oversight committees in each state.

§62.1-69.43. Compensation and expenses.
A. Legislative members of the Virginia delegation to the Commission shall receive such compensation as provided in §30-19.12, and non-legislative members shall receive such compensation for the performance of their duties as provided in §2.2-2813. All voting members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§2.2-2813 and 2.2-2825. However, all such

expenses shall be paid from existing appropriations and funds provided to the Commission or, if unfunded, shall be approved by the Joint Rules Committee.
Members of the Virginia House of Delegates and the Senate of Virginia, and members of the Virginia Congressional delegation, who have not been appointed to the Commission, whose districts include any portion of the Basin, and who serve as nonvoting ex officio members of the Commission shall serve without compensation and expenses.
Nonlegislative citizen members appointed to any standing committees or ad hoc committees shall serve without compensation and expenses.
B. The North Carolina members of the Commission shall receive per diem, subsistence, and travel expenses as follows:
1. Ex officio legislative members who are members of the General Assembly at the rate established in North Carolina G.S. 138-6;
2. Commission members who are officials or employees of the State or of local government agencies at the rate established in North Carolina G.S. 138-6; and
3. All other members at the rate established in North Carolina G.S. 138-5.

§62.1-69.44. Annual report required.
The Commission shall submit an annual report, including any recommendations, to the Governor and General Assembly of Virginia and the Governor and General Assembly of North Carolina.

Appendix B – Meeting Minutes

Roanoke River Basin Bi-State Commission (RRBBC)
Institute for Advanced Learning, Danville, VA
DRAFT Minutes from April 21, 2014 Meeting

RRBBC members present:
Larry Yarborough (Chair), Delegate Tommy Wright (First Vice Chair), Senator Angela Bryant, Chuck Peoples, Nate Hall, John Feild, Haywood Hamlet, Linda Green for Congressman Hurt, Christopher Blakeman, and Senator Frank Ruff

Other attendees:
Billy Martin, Read Charlton, Al Zimmerman, Christy Lipscomb, Andrew Lester, Gene Addesso, Sam Pearsall, Bob Beadle, Brian McCrodden, Jerry Lovelace, and Kay Field
North Carolina Department of Environment and Natural Resources (NCDENR) – Division of

Water Resources (DWR) Staff present:
Corey Basinger, Harold Brady, Tom Fransen, Ian McMillan, and Dianne Reid

Virginia Department of Environmental Quality (VADEQ) Staff present:
John Kennedy, Scott Kudlas, Mary Ann Massie, and Jeff Reynolds

Chairman Yarborough called the meeting to order. He welcomed the group to the meeting and called for introductions around the room. Chairman Yarborough then called for a procedural discussion on the appointment of the RRBBC First Vice Chair, Delegate Tommy Wright, to the chair of the RRBBC. After some discussions on the subject, John Feild proposed that Chairman Yarborough retain the chairmanship for another year, due to the recent inactivity of the NC delegation and appointments. The proposal was seconded and chairman Yarborough accepted. It was announced that Senator Bryant has been nominated as Second Vice Chair from the North Carolina delegation, but that an electronic vote will need to be conducted to confirm the appointment.

Chairman Yarborough provided a report from the North Carolina delegation on the discussion items from the delegation meeting from earlier in the day. These included the status of the Roanoke River basin hydrologic model and basin-wide plan from Harold Brady, current activities regarding the Dan River coal ash incident, current status of the USACE 216 study from Sam Pearsall and Chuck Peoples, and an update on the Uranium Mining proposal in Virginia.

Chairman Charlton then gave a short report on the proceedings of the Virginia Roanoke River Basin Advisory Committee meeting that occurred earlier in the day. The presentations from this meeting focused on the activities and implications of the recent Duke Energy coal ash incident.

The first presentation to the RRBBC was from Ms. Dianne Reid, DWR Water Sciences Section Chief, on the recent activities stemming from the Duke Energy Dan River coal ash incident. Ms. Reid provided a timeline of events since the spill in early February and

described the known implications of the spill on the environment including details on water quality monitoring. John Kennedy, VADEQ Director of Ecology and Infrastructure, provided additional background information on the subject and together (along with Corey Basinger, DWR Winston-Salem Regional Engineer) they answered the many questions from delegates as well as interested individuals present. Ms. Reid emphasized that all pipe closures and river remediation activities have gone through significant review by a comprehensive partnership group including representatives from the Environmental Protection Agency (EPA), Duke Energy, NCDENR, VADEQ, and many others. This group meets weekly to discuss the ongoing activities and concerns. John Kennedy distributed a map of the DEQ long-term monitoring plan.

Monitoring data is being compiled by several agencies, including NCDENR, VDEQ, EPA, USFWS and Duke Energy. Sampling has been conducted at the intakes of several downstream water treatment plants (Danville, South Boston, and Clarksville). The results have shown no observed drinking water issues. The North Carolina Department of Public Health (NCDPH) has deemed contact with the water (including drinking) in the Dan River safe for wildlife and domestic animals. Another issue discussed was the maintenance and sharing of the extensive monitoring data. This data is now being shared on a limited basis, but the analyses are fully shared during the weekly operations meeting (mentioned in the preceding paragraph) and will eventually be housed on a 'collaboration site' with access to the public via the internet. In presentations and other materials generated for public information, reminders are included about the pre-existing fish consumption advisories for the Dan River due to mercury and PCB contamination which are unrelated to the coal ash spill.

After significant discussion on the Dan River coal ash incident, Ethan Lane, consultant with Foundation Earth, gave a presentation on the proposed Uranium Mining project in Virginia. Discussion followed. Mr. Lane's power point presentation is posted to the RRBBC web page. Following the Uranium Mining Report, Chairman Yarborough asked for any other issues that the Commission should take up before discussing general business. Gene Addesso, Roanoke River Basin Association President, asked that the Commission consider issuing a resolution to formally request that the United States Army Corps of Engineers (USACE) properly evaluate the "alternative" scenario to the existing operation protocols on Kerr Lake Dam presented in the draft USACE Section 216 Study. Furthermore, this study should be completed in its entirety by the end of 2014. This resolution would be shared with the North Carolina General Assembly and the Virginia Legislature. Sam Pearsall and Chuck Peoples provided some background information and answered questions regarding the Kerr Lake USACE 216 Study. This active study is investigating the need for changes to the Kerr Lake dam operational protocols, particularly the scheduling of water releases. The study has been ongoing for nearly 20 years and is planned to lose federal and state funding and support by the end of 2014. According to Mr. Pearsall, the "alternative" scenario provides increased variability to the flows in the Roanoke River downstream of the dam. However, the primary hindrances of the selection of the "alternative" scenario are the agricultural property owners who would observe increased land area inundated. Even though there will be greater occurrences of flooding, the duration of those individual events would decrease.
It was decided that due to time constraints with the short session of the North Carolina General Assembly, that a resolution should be composed and distributed among the members of the RRBBC as soon as possible. This would allow for an electronic vote of the resolution via email prior to the next meeting of the RRBBC. Should it be approved, the resolution

would be delivered to the North Carolina General Assembly while in session. The resolution would be presented to the Virginia Legislature during their next session. Mr. Addesso agreed to draft the resolution and forward it to Chairman Yarborough.

After this topic had been fully vetted, Chairman Yarborough asked if there was any additional business before discussing the timing and location needs of the next RRBBC meeting. It was decided that a meeting should take place in the July/August timeframe, to be hosted at a North Carolina location. Agenda items should include details of the impending Kerr Lake allocation process and updates on the Dan River coal ash spill as well as the Section 216 USACE Study. Representatives from NCDWR and VADEQ would work in concert to arrange for the next meeting agreeable to both delegations.

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