

ROANOKE RIVER BASIN BI-STATE COMMISSION
Rocky Mount, Virginia
March 31, 2010

Roanoke River Basin Bi-State Commission (RRBBC) members present:

NC: Representative Lucy Allen, Larry Yarborough, Nate Hall.

VA: Senator Frank Ruff, Delegate Thomas Wright, Delegate Charles Poindexter, Haywood Hamlet, John Feild, Kimble Reynolds for Congressman Tom Perriello, Mike McEvoy

Staff present:

NC: Rick Seekins, Kerr-Tar COG; Tom Fransen, NC DENR; Gene Adesso.

VA: Tammy Stephenson, DEQ; Jason Ericson, DEQ.

Virginia Roanoke River Advisory Committee: John Lindsey, Bob Jean, Billy Martin, Russ Johnson, Read Charlton, Mark Wagner, and Walter Coles.

Others: Tom Leahy, Kathy Hodges, Willie Jones, Bill Lindenmuth, Vernon Wilson, Kay Feild, Sonja Ingram, Katie Whitehead, Katherine Mull, John Crane, Randy Arno, Deborah Dix, Jim Thornton, Anne Cockrell, Andrew Lester, Hollis Strauber, Brian McCrodden, Rick Huff, Allen Piner (web call), B. Winn (web call).

Call Meeting to Order

Mr. Feild called the meeting to order.

Welcome

Rick Huff, Franklin County Administrator, welcomed everyone to the Franklin Center and gave a little background on the facility.

Recognition of Members and Guests

Minutes

Upon a motion by Mr. Hamlet, seconded by Delegate Wright, the minutes of the December 3, 2009 meeting were approved with unanimous vote of the Commission.

Committee Reports

NC Roanoke River Basin Advisory Committee

Mr. Seekins reported that North Carolina ran into an administrative snag with regard to getting the Advisory Committee up and running. Senator Swindell and Representative Allen both serve as chairs for major budget committees in the General Assembly and have not had time to commit to this effort. Information has been submitted to committee members so they can get up to speed on the RRBBC agenda.

Mr. Feild mentioned a forum to be held in Clarksville August 18 and 19 with a focus on Kerr Reservoir. He said this is to be an educational forum targeted to elected officials, local government representatives, and anyone interested in Kerr. He would like the forum to run following a meeting of the RRBBC, if possible, as many of the speakers targeted as speakers or participants for the forum are involved with RRBBC.

VA Roanoke River Basin Advisory Committee (VRRBAC)

Mike McEvoy reported that it has been a wet winter and rivers are holding steady levels; there is ground water recharge. FERC reissued the Smith Mountain/Leesville license, which was a bit of a surprise to everyone involved. There are still some issues that need to be resolved.

Mr. McEvoy said Virginia was working on new stormwater regulations, which was a topic at a recent VRRBAC meeting. However, the proposed regulations have been suspended until the federal government finishes their work on new regulations for stormwater.

Water Allocation Committee

Mr. Feild reported that the Water Allocation Committee report will be presented at the end of the agenda.

Lower Basin IBT Coalition

Gene Adesso gave a presentation on the Lower Basin IBT Coalition. The presentation is part of the minutes of this meeting. Mr. Adesso explained the origination of the coalition stemmed from a meeting held June 29, 2009, conducted by NC Representative Lucy Allen. NC Representative Michael Wray and Tom Reeder, Director of NC DWR also participated in the meeting. The purpose of the meeting was to educate the community and organization officials of their ability to participate in the IBT request process under the NC statute. The meeting concluded with the intent to form a coalition to keep abreast of all Interbasin transfer requests and to participate substantially in the process as a cohesive group. To date, by laws have been drafted, first term officers nominated, and filing as a 501(c)4 non profit corporation and federal ID has been completed. Mr. Adesso explained the current membership and asked the VRRBAC to consider whether they would want to join this membership or form a similar coalition in the upper basin.

Representative Allen explained that there is now in place a NC statute that makes it very difficult and time-consuming to obtain an IBT in North Carolina. She and Mr. Seekins will work on a presentation for the next meeting.

Presentations

Mr. Feild introduced Tom Leahy, Virginia Beach Director of Public Utilities. Mr. Leahy gave a presentation on the study VB has contracted to be completed with regard to uranium mining. Mr. Leahy's presentation is part of the minutes of this meeting. The project will include a Phase I Assessment which will:

- Assume a Probable Maximum Precipitation-type catastrophe and sediment release;
- Provide an estimate of contaminated sediment to reach Kerr Reservoir;
- Assess potential increase in background radiation levels in Kerr Reservoir.

A Phase II assessment would include a detailed analysis based on Phase I results, if Phase II is deemed necessary.

During the Phase I Assessment, the Banister and Roanoke Rivers will be modeled using a one-dimensional numerical model. The model simulates unsteady flows and sediment transport in dendritic channel networks and simulates transport and fate of radionuclides. Phase I is to be completed in the Fall of 2010.

Mr. Leahy will be present for the VRRBAC meeting to be held after lunch. Participants were asked to hold questions and comments until VRRBAC session.

Mr. Feild introduced Jason Ericson, VA DEQ, for a presentation on the Interstate Commission of the Potomac River Basin, as segue into the Water Allocation Committee report. The ICPRB presentation is part of the minutes of this meeting.

Mr. Ericson gave some of the history cooperation in the Potomac River Basin. Currently, there are two key agreements in place: the Low Flow Allocation Agreement (1978) and the Water Supply Coordination Agreement (1982). The LFAA is an agreement among Maryland, Virginia, the District of Columbia, U.S. Army Corps of Engineers USACE), Washington Suburban Sanitary Commission (WSSC), and Fairfax Water Authority (FWA). The Agreement allocates withdrawals in the event of a demand exceeding supply. All signatories are entitled to withdrawal based on their winter water use in a declared restriction or emergency stage, as long as 100 mgd flow-by is maintained. Also, in the LFAA, the parties consent to having a moderator enforce the agreement. The U.S. Army Corps of Engineers is established as the accountant. The signatories meet every April to reaffirm allocations, designated moderator, and flow-by. State water withdrawal permits must subject all future users to the Agreement.

The Water Supply Coordination Agreement is among the District of Columbia, Interstate Commission on the Potomac River Basin (ICPRB), USACE, WSSC, and FWA. The Agreement establishes the coordinated operation of water resource infrastructure during drought and optimizes collective resources to minimize chances of a shortfall.

Water Allocation Ad Hoc Committee Report

As Scott Kudlas was out due to oral surgery, Tom Fransen gave the report on behalf of the committee. Mr. Fransen's presentation is part of the minutes of this meeting. Mr. Fransen began with a disclaimer that this is a report of the Ad Hoc Committee as requested by the Bi-State Commission, but is not to be construed as a recommendation or endorsement by administration from either Virginia or North Carolina.

Mr. Fransen reviewed the proposed purposes of the draft agreement, which are 1) For the State of North Carolina and the Commonwealth of Virginia to provide the U.S. Army Corps of Engineers a set of guidelines for allocation of John H. Kerr water supply allocations; 2) to preserve and protect the water resources of the Roanoke River Basin, and 3) To facilitate integrated comprehensive water resources planning of the Roanoke River Basin.

The draft Declaration of Policy includes the following principles

1. Allocations/reallocations will enhance public health, safety, and welfare by fostering efficient and sustainable use of water in satisfaction of economic, environmental, and other social goals; factors that contribute to this end include:

- Stimulation of economic growth
- Protection of water quality
- Protection of ecological integrity and diversity
- Encouragement of water conservation
- Minimization of drought impacts on all water uses
- Minimization of conflict among competing water uses
- Maintenance of an appropriate balance between instream and offstream water uses
- Protection of property values and water infrastructure investment

2. The States and U.S. Army Corps of Engineers shall coordinate the planning and decisions pertaining to water allocation, and shall adapt and update plans and hydrologic models to ensure that actual and projected water consumption in the basin plus the water needed for instream uses does not exceed the water supply. The allocations shall be made so as to conserve the waters of the basin through suitable policies and by encouraging private efforts to conserve water and avoid waste.

3. The States and U.S. Army Corps of Engineers shall protect the public interest in the waters of the basin by providing an orderly strategy to allocate available water efficiently and equitably in times of water shortage or water emergency.

4. No person using the waters of the basin shall cause unreasonable injury to other water uses made pursuant to valid water rights, regardless of whether the injury results from the quality or the quantity impacts of the activity causing the injury.

5. Uses of the waters of the basin on nonriparian or nonoverlying land are lawful and entitled to equal consideration with uses on riparian or overlying land in any administrative or judicial proceeding relating to the allocation, withdrawal, or use of water or to the modification of a water right. Nothing in this agreement shall be construed to authorize access to the waters of the basin by a person seeking to make a nonriparian or nonoverlying use apart from access lawfully available to that person.

6. The reasonably foreseeable future water needs of users with their service areas located primarily outside the Roanoke River Basin are subordinate to the reasonably foreseeable future water needs of users with their service areas located primarily in the Roanoke

River Basin. The States shall protect the reasonable needs of the basin of origin through the regulation of withdrawals.

Mr. Fransen then highlighted the draft alternates for allocation Kerr water supply storage, as follows:

1. Status Quo;
2. Modified Status Quo;
3. The States purchase the remaining storage and handle allocation;
4. Interstate Compact;
5. Identify a third party to purchase the allocation.

Proposed next steps include 1) confirming that the ad hoc committee has fulfilled the expectations of the Bi-State Commission by drafting the Part I Purpose and Part II Declaration of Policy; 2) the Ad Hoc Committee can complete a draft agreement based on guidance from the Bi-State Commission on its preferred allocation alternative.

Mr. Feild said that, as it is the role of the advisory committees to advise the Bi-State Commission, he suggested the report go to them for consideration and recommendation back to the Bi-State Commission. He also suggested that the advisory committees try to get input from constituents in the basin. At some point in the near future after the advisory committees have had a chance to review the whole report, he would like to see the Ad Hoc Committee members sit on a panel to answer questions from the advisory committees and the public. He suggested that the Bi-State Commission might be in a position to make a recommendation on the alternatives at the August meeting. Mr. Feild asked that the Committees report initial feedback received at the Commission's June meeting.

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