

VIRGINIA ROANOKE RIVER BASIN ADVISORY COMMITTEE  
Henry County Emergency Services Training Center  
Martinsville, Virginia  
August 2, 2010

**Virginia Roanoke River Advisory Committee:** Senator Frank Ruff, Senator Roscoe Reynolds, Delegate Thomas Wright, Delegate Charles Poindexter, Haywood Hamlet, John Feild, Mike McEvoy, Tim Pace, Read Charlton, Russ Johnson, John Lindsey, Evelyn Janney, Bob Jean, Billy Martin

**Others:** Bill Lindenmuth, Byron Motley, Bob Dowd, Olga Kolotushkina, Hunter Austin, Benny Summerlin, Mike Ward, Tim Wagner, Deborah Lovelace, Andrew Lester, Jim Thornton, Shane Sawyer, Randy Arno

**Staff present:**

Tammy Stephenson, VA DEQ ; Jason Ericson, VA DEQ

**Welcome**

Benny Summerlin, County Administrator for Henry County, welcomed the group to the Henry County facility in Martinsville. He gave a brief history of the facility, Dupont's role in the community, and recreational opportunities on the Smith River.

Senator Reynolds also welcomed everyone. He gave an update on the economic situation in the County.

**Call to Order**

Chairman McEvoy called the meeting to order and requested introductions from all the meeting attendees. He welcomed Evelyn Janney back, as she had missed a number of meetings due to a family situation. Ms. Janney was warmly received.

**Minutes**

Upon a motion by Delegate Wright, seconded by Senator Ruff, minutes of the June 2, 2010 meeting were unanimously approved.

**Other**

Chairman McEvoy said there were a number of items not on the agenda that he wanted to mention. He said that as of July 28, approximately two-thirds of the state was in a moderate drought. He expects some relief came with the recent rains and lower temperatures, though. While not a Roanoke River Basin issue, he wanted the group to know that there is a lot of activity with EPA and stakeholders' groups relative to the Chesapeake Bay situation.

Chairman McEvoy met with the new Director of Virginia Department of Conservation and Recreation recently, David Johnson. He said Mr. Johnson is looking at new stormwater regulations/rules and seems receptive to open development of them.

Chairman McEvoy mentioned that Gene Adesso of the Roanoke River Basin Association sent out an email alerting everyone that the public comment period is open for high speed rail between Raleigh and Richmond. He understands they plan to use the existing railroad right of way for the rail. He suggested everyone respond as they see fit.

With regard to the Dan River designation, the Virginia State Water Control Board allowed for public comment. According to Mr. Ericson, a Memorandum of Understanding is being drafted between the two states. As a matter of background, the State Water Control Board received a petition from the City of Roxboro, North Carolina to designate a portion of the Dan River as a public water supply. NC water quality standards require public water supply protections to extend 10 miles upriver from the intake, which is proposed near the town of Milton, NC. Nine miles are in NC, but one mile is in Virginia, which is the segment under consideration by the Virginia State Water Control Board. Many Virginia localities have formally opposed the designation.

John Feild mentioned the Clarksville Symposium. He had flyers of the event with him for distribution, stating the symposium is a primer on Kerr Reservoir operations. There are knowledgeable speakers on the agenda, and he urged representatives of contiguous counties to the lake to attend. Delegate Wright added that for the \$15 registration fee, breakfast and lunch are included. There is a block of rooms reserved at the Best Western. Mr. Feild encouraged anyone interested to look at the Clarksville Chamber of Commerce website for accommodations.

Chairman McEvoy said he understands Bob Conner is planning to attend the meeting in Clarksville and he plans to recognize Mr. Conner for his service to VRRBAC.

### **Water Allocation Ad Hoc Committee Report**

Chairman McEvoy gave a synopsis of the June 2 meeting discussion, then opened the meeting for comment.

Senator Ruff asked Mrs. Stephenson to review the responses received to date. Mrs. Stephenson mentioned the agencies and localities who submitted comments and the recommended alternative suggested by each.

Senator Ruff suggested that the discussion be narrowed to Alternatives 2 and 3, as these were the two of interest to the responding parties. The West Piedmont Planning District Commission had originally endorsed Alternative 4 as well as Alternative 2, but Executive Director Bob Dowd explained that the Board later dropped its endorsement of Alternative 4.

Mr. Lester asked if a position from the North Carolina Roanoke River Basin Advisory Committee Association had been received from Katherine Mull. Mr. Feild said he understood that Gene Adesso has received something and understands that something will be presented to the Bi-State Commission endorsing a hybrid of Alternatives 2 and 3, with an agreement between the states, but suggesting a third party, possibly the Bi-State

Commission, handle the allocation. Mr. Feild said he understands if the Bi-State Commission were charged with this it would probably require a change in both state's legislation to allow that authority.

Delegate Wright asked if any allocation needed to go through VA DEQ. Chairman McEvoy explained that any permitting needed to go through VA DEQ and the Corps of Engineers would also be involved in this case. Delegate Wright said he is concerned about all the water going to Raleigh and whoever made the decision on the allocation needed to be prepared to defend their position in court, if necessary. He proposed a hybrid of Alternative 3 as follows in the following motion:

The existing allocation of the Roanoke River Basin held in the J. H. Kerr Reservoir shall be divided by the states of North Carolina and Virginia. The partition of the existing allocation shall be based upon the geographical footprint or miles of shoreline contained within each state based on the U. S. Corp of Engineer's calculations of what portion lies in each state. This would have basis in Riparian Law wherein rights to water along a watercourse are based upon the footprint along the watercourse in relation to everyone else on the watercourse. Payment for the allocation shall be no greater than the provisions of the Water Supply Act of 1958 which provides for a thirty-year payment schedule to the U. S. Treasury. Payments shall be paid at such time as an allocation is awarded by the respective states. The states will be charged to administer the allocations for the Roanoke River Basin through the respective Secretaries of Natural Resources by a memorandum of understanding or agreement developed between the two states and in conjunction with the U. S. Army Corps of engineers.

Mr. Lindsey seconded the motion.

Delegate Poindexter voiced concern that the state could still approve an Interbasin Transfer, and they needed something to head this off. Delegate Wright said the court could allow an Interbasin Transfer. He suggested if an Interbasin Transfer occurred, the receiving party should be required to return 85% of the water withdrawn back to the basin.

Senator Ruff added that the need for clean water is going to grow. He thought Virginia probably needs to be more similar to North Carolina in handling Interbasin Transfers, but that would take legislation.

Senator Reynolds said he understands there are quite a few Interbasin Transfers existing in Virginia. The last big one being Lake Gaston, which was fought and lost. He does not think there is a way to prevent Interbasin Transfers in Virginia, but would like to hear ideas of how that could happen.

Mr. Feild said Interbasin Transfers exist in both states and thinks request will continue to grow. There are a number of reasons to oppose Interbasin Transfers, and he thinks legislation needs to be proposed similar to that in North Carolina, with a grandfather clause for the existing Interbasin Transfers.

Senators Reynolds and Ruff agreed, but voiced concern that such a proposal would not garner much support in the General Assembly, but hopefully they did not think it was impossible.

Delegate Wright interjected that the Interbasin Transfer is an important one that needs to be addressed, but they were really talking about two different issues.

There was much discussion on the proposed memorandum of understanding and the allocation. Chairman McEvoy suggested that a clause be added into the memorandum that Virginia would reserve some part of the allocation that would be available only for basin localities. Delegate Wright said it was his intent that all the allocation be available only to basin localities. Chairman McEvoy said he was not sure that the state could legally do that without supporting legislation. Delegate Wright said the first thing to concentrate on is the issue between North Carolina and Virginia, and then Virginia can work on these issues separately.

Mr. Feild mentioned that the Corps of Engineers is anxious for the Bi-State Commission to come up with a resolution to the allocation issue and believes they would be receptive to what is being discussed. He added that once the Advisory Committees from both states make a recommendation for consideration by the Bi-State Commission, he may have to invoke the 10-day polling provision that is allowed in the by-laws. This issue is of utmost importance to both states and 100% of the members of the Bi-State Commission should have the opportunity to vote.

The motion was restated and a vote was taken. The motion passed unanimously.

Mr. Hamlet made the following motion:

The VRRBAC adopt a resolution that requests the Interbasin Transfer issue go to the General Assembly in the 2011 session to set standards and process for such transfer in the Code of Virginia.

Mr. Lindsey made a second to the motion.

Senator Ruff asked Mrs. Stephenson to get the North Carolina legislation to see if it could meet Virginia standards rather than starting from scratch. Once he gets the NC language, he will send it to Legislative Services.

Senator Reynolds said he thought this was a good idea, that it should be proposed for all of Virginia and not attached to a particular region or resource - it should address Interbasin Transfers in general. He offered to talk with other Senators to see if there is interest in pursuing this issue.

Senator Ruff suggested the draft legislation go through the State Water Commission, then to the General Assembly.

Chairman McEvoy suggested they add the discussion of the North Carolina legislation on Interbasin Transfers to the agenda for the August 18 VRRBAC meeting.

Following a restatement of the motion, the VRRBAC voted unanimously to approve the motion.

Chairman McEvoy adjourned the meeting at approximately 12:15pm.