

**Virginia Roanoke River Basin Advisory Committee
Minutes**

Monday April 21, 2014

Institute for Advanced Learning and Research, Charles R. Hawkins Research Center

VRRBAC members present

Read Charlton (chair), Billy Martin (2nd Vice Chair), Senator Frank Ruff, Linda Green for Congressman Hurt, Delegate Tommy Wright, John Feild, Haywood Hamlet, Al Zimmerman, and Christopher Blakeman

Guests

Delegate Danny Marshall., C. Williams, M. Wiegard, R. Beadle, B. McCrodden, J. Lovelace, G. Adesso, K. Feild, A. Lester

Staff present

Scott Kudlas, Mary Ann Massie, John Kennedy, Jeff Reynolds (DEQ)
David Grandis (Office of the Attorney General)

Call to Order

Chairman Charlton called the meeting to order. Mr. Lester welcomed the group to the Charles R. Hawkins Research Center.

Recognition of Members and Guests

Chairman Charlton welcomed Mr. Blakeman as a new VRRBAC member. Mr. Blakeman is representing the Roanoke Valley – Alleghany Regional Commission. Mr. Charlton asked about Tim Pace's confirmation as a representative on the Roanoke River Bi-State Commission. Mr. Kudlas responded that the request to approve Mr. Pace got caught in the transition between Administrations and he has been working with the Secretary of the Commonwealth to move the appointment along. He indicated that this delay would not preclude Mr. Pace from participating in the Bi-State until final confirmation.

Draft minutes of the October 23, 2013

The minutes of the October 23, 2013 VRRBAC meeting were approved unanimously after a motion by Mr. Hamlet, and seconded by Senator Ruff.

Subcommittee Reports or upcoming meetings

Mr. Hamlet indicated there was no report from the agriculture subcommittee. Mr. Feild made a motion, seconded by Mr. Martin, to revisit the roles of the subcommittees, and review leadership/membership in an effort to revitalize the subcommittees and make assignments for the future. This was approved by a unanimous vote of the Committee. Mr. Blakeman specifically requested a roster of the subcommittee membership and the focus or charge of each group.

Action item: DEQ staff will collaborate with Chairman Charlton to create and distribute the list of subcommittees, rosters, and mission. (completed May 5, 2014, May 19, 2014)

Delegate Wright asked for an update on the North Carolina Advisory Committee and issues with their legislation that may have prevented them from meeting in 2013. Mr. Kudlas responded that the issue had been resolved and they had a viable group that was meeting down the hall.

Delegate Wright is interested in more frequent meetings of the Bi-State Commission to address water allocation challenges. Mr. McCrodden and Mr. Kudlas spoke briefly on the NC DENR model updates and the collaboration between the two states. While the model will not lead to a resolution on allocation issues associated with Kerr Reservoir, it will be a tool that supports decision making and negotiations. Mr. Adesso commented on the COE's lack of action on the allocation request made by the City of Raleigh. Discussion followed on a need for protocol for allocations, Mr. Feild made a motion, seconded by Delegate Wright for the VRRBAC to support reestablishing the Water Allocation Ad Hoc Committee to draft a report for comment. Mr. Kudlas pointed out the Water Allocation Ad Hoc Committee issued a report that was accepted by the VRRBAC and presented to the Bi-State Commission. In his opinion there was not further work to be done by staff as the options for securing allocation are all outlined in the report. He reminded the Committee that without funding for an EIS or to secure the storage, no allocations can be obtained. Mr. Kudlas offered to circulate the March 2010 Report to bring the Committee back to a point of common understanding.

Discussion ensued regarding perceptions of what had happened since March 2010. After this discussion, Mr. Feild withdrew his motion and thanked Mr. Kudlas for his commitment to circulate the ad hoc committee's findings electronically following the meeting. This documentation can be used by the Virginia members serving on the Bi-State Commission to initiate discussions at meetings in 2014. Mr. Feild made a motion, seconded by Mr. Hamlet, to discuss the document at the next meeting of the VRRBAC. Motion carried.

Action item: DEQ staff to provide an electronic copy of the Water Allocation Ad Hoc Committee's report to the Roanoke River Bi-State Commission. (completed May 19, 2014).

Presentations and discussion

Mr. John Kennedy, Director of DEQ's Office of Ecology and Infrastructure, gave a presentation on DEQ activities relating to the February 2014 coal ash spill on the Dan River.

Action item: Distribute Mr. Kennedy's presentation electronically and post to the website (completed May 19, 2014)

Mr. Jeff Reynolds, Director of DEQ's Division of Enforcement, spoke briefly on enforcement actions, collaboration with EPA, local governments, interest groups, Virginia State Agency partners, and North Carolina State Agency partners. The current strategy has four parts:

1. Cost Recovery – there is a cost recovery group and DEQ is acting as the clearing house. Duke Energy has been very cooperative.
2. Administrative Order on Consent (AOC) – NC and VA are working with EPA Regions III and IV to develop a remedial strategy.
3. Natural Resources Damage (NRD) Council – this group will examine long term impacts. There is a Natural Resource Trustees group that includes NC DENR, VA DEQ, US Fish

and Wildlife Services, and assistance from VA DGIF, NC Conservation Service, and may include COE. The NRD Council will assess impacts from the spill and evaluate projects to offset damages. The Council is meeting but not 'official' since all Trustees have not signed a memorandum of agreement. Localities and other interested parties are stakeholders to this process and are invited to participate in the development and selection of projects. Contact Jeff Reynolds for additional information.

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4. Enforcement – DEQ is working with EPA Region II and IV to develop a fully informed and fully defensible action that will address water and waste violations associated with the spill.

Discussion on the coal ash spill followed.

Prior to a briefing by Mr. Grandis of the Attorney General's Office, Senator Ruff made a motion, seconded by Mr. Hamlet, to recess and reconvene in closed session. Mr. Lovelace challenged the Committee's ability to meet in closed session. Discussion followed with a determination by the Committee that a closed session was appropriate. Senator Ruff made a motion, seconded by Hamlet, to add Delegate Marshall to the closed session. Motion carried. Senator Ruff made a motion, seconded by Mr. Feild, to add Mr. Reynolds to the closed session. Motion carried. Non members left the room and a brief closed session was conducted.

The full committee was reconvened on a motion by Mr. Hamlet, seconded by Mr. Zimmerman. Mr. Feild made a motion, seconded by Mr. Martin, to disclose the topic discussed in closed session. Mr. Feild reported Mr. Grandis reviewed the VRRBAC's authority to pursue independent action against Duke Energy. The members were advised by counsel that the VRRBAC does NOT have the authority to pursue independent action against Duke Energy.

Next meeting

Members are interested in having a VRRBAC and a Bi-State Commission meeting in July.

Other Business

Mr. Kennedy reported Virginia designated a section of the Dan River as a water supply to support North Carolina's rulemaking for a withdrawal intake for the City of Roxboro, NC. Discussion followed.

A sympathy card was circulated to express condolences to the family of Mr. Bob Connor. A get well card was circulated for well wishes to Mr. Bob Jean.

Meeting adjourned at 12:30.

[These minutes were approved at the October 23, 2014 meeting in Danville.](#)