

NC Roanoke River Basin Advisory Committee

Water Allocation Ad Hoc Committee

Update

February 28, 2011

Ad Hoc Committee Members

Name	Organization
<i>Committee Member</i>	
Gene Adesso	Roanoke River Basin Association
Bill Cox	Civil and Environmental Engineering, Virginia Tech.
Tom Fransen (Co-Chair)	Division of Water Resources, NC DENR
Bill Holman	Nicholas Institute, Duke University
Scott Kudlas (Co-Chair)	Office of Water Supply Planning, VA DEQ
Brian McCrodden	HydroLogics, Inc.
Rick Seekins	Kerr-Tar Regional COG
<i>Support Staff</i>	
Jason Ericson	Office of Water Supply Planning, VA DEQ
Steve Reed	Division of Water Resources, NC DENR
Tammy Stephenson	Office of Water Supply Planning, VA DEQ
Allen Piner	US Corps of Engineers
Richard Whisnat	UNC Institute of Government

Disclaimer

The Allocation Scenarios are options identified by the Ad-Hoc Committee for the Commission's consideration. The Committee is not recommending any scenario as the preferred option. We can not official support any of the alternatives at this time. Neither State representative at this time can say which if any of the alternatives our State supports, that needs to come from the Governors' Office. Our role is to provide technical expertise to assist the Commission.

AD HOC WATER ALLOCATION COMMITTEE'S ASSIGNMENT

The ad hoc committee's objective is to develop a draft agreement of understanding that can be used Virginia, North Carolina, and the USACE regarding the allocation and withdrawals of water out of the John H. Kerr Reservoir.

AD HOC WATER ALLOCATION COMMITTEE'S STARTING POINT

- We started with a misinterpretation of the Water Supply Act of 1958.
- We assumed up to 50,000 ac-ft can be reallocated to water supply.
- To be able to reallocate more than 50,000 ac-ft would require Congress to change the project's authorization.
- We were developing an agreement to allocate the unallocated amount 28,621 ac-ft.

Significant Events

- March 2010 – Ad Hoc Water Allocation Committee presented Status Report to the RRBC.
- August 2010 – Symposium in Clarksville, VA. One of the presenters stated the 50,000 ac-ft limit is a “myth”. The 50,000 ac-ft is a USACE internal “rule of thumb”.
- December 2010 – Letter from the USACE clarifying the 50,000 ac-ft.
- December 2010 – Settlement of the SC vs. NC Supreme Court Lawsuit.

USACE Water Allocation Guidelines

- Water supply is NOT an authorized project purpose at J.H. Kerr.
- Water supply requires reallocation of the power storage to water supply.
- Headquarters can approve reallocations for allocations of 15% of the total storage or **50,000 ac-ft**, whichever is less.
- Large allocations require approval from the Assistant Secretary of the Army.
- Reallocations that significantly impact authorized project purposes require Congressional approval.

Settlement of Supreme Court Lawsuit - SC vs. NC

- Originally filed by SC in 2007
 - Disputed NC's use of Catawba River water
 - Precipitated by Concord-Kannapolis IBT
- Parties reached a settlement in November 2010
 - SC/NC/Duke Energy/Catawba River Water Supply Project
 - **Settlement includes an agreement to share data and do joint basin modeling and planning.**
- Dismissed from Supreme Court in December 2010
- Catawba Bi-State Commission played a pivotal role in negotiating the settlement.

Ad Hoc Water Allocation Committee's Revised Starting Point

- Clarification from the USACE on the reallocation process.
 - No 50,000 ac-ft limit. A different approval process depending on the size of the allocation.
- Received comments on the *March 2010 Status Report*.
- December 2010 Catawba agreement between NC and SC.

■ Draft Agreement

■ Part I – Purpose

■ Part II – Declaration of Policy

■ Part IV – Allocation of Water Supply Storage

■ Alternative 1 – Status Quo

■ Alternative 2 – *Modified Status Quo*

■ Alternative 2A – *Modified Status Quo with Basin Water Supply Plan*

■ Alternative 3 – *States purchase the storage.*

■ Alternative 4 – Interstate Compact

■ Alternative 5 – A 3rd party purchase the storage

PART I. PURPOSES

The purposes of this agreement are:

1. For the State of North Carolina and the Commonwealth of Virginia to provide the U.S. Army 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.
3. To facilitate integrated comprehensive water resources planning of the Roanoke River Basin.

PART II. DECLARATION OF POLICY

Summary of the 6 policy statements.

- 1. Sustainable use of the basin's water resources.**
- 2. Coordinated planning.**
- 3. Drought management.**
- 4. Use of the water shall not cause injury, quality or quantity.**
- 5. Allows for nonriparian use of the water.**
- 6. Use of water outside the basin is subordinate to in basin uses.**

2A - *Modified Status Quo with Basin Water Supply Plan*

Let the USACE handle the allocation based on a jointly developed Basin Water Supply Plan.

JH Kerr Allocation concept is to do a joint bi-state water supply plan that includes Kerr allocation recommendations. The USACE would use the plan's recommendation to make allocation decisions. An allocation would be approved if it is consistent with the plan and there are no adverse impacts.

Why this new “Status Quo” Approach?

- **It is going to be difficult to find an allocation split that all (most) parties can agree upon as being fair.**
- **There is not a fixed amount of available storage. To re-allocation more than 50,000 ac-ft to water supply is possible just requires a higher level approval and more supporting documentation.**
- **The planning approach is more flexible and easier to handle the fact we are not limited to 50,000 ac-ft. This approach will allow both States to be sure the needs of the towns and industries are met while protecting the resource.**

Discussion - Questions

- Draft Agreement
 - Part I – Purpose
 - Part II – Declaration of Policy
 - Part IV – Allocation of Water Supply Storage
 - Alternative 1 – Status Quo
 - Alternative 2 – ***Modified Status Quo***
 - Alternative 2A – ***Modified Status Quo with Basin Water Supply Plan***
 - Alternative 3 – ***States purchase the storage***
 - Alternative 4 – Interstate Compact
 - Alternative 5 – A 3rd party purchase the storage