

Molly Joseph Ward  
Secretary of Natural Resources

Clyde E. Cristman  
Director



Rochelle Altholz  
Deputy Director of  
Administration and Finance


David C. Dowling  
Deputy Director of  
Soil and Water Conservation  
and Dam Safety

Thomas L. Smith  
Deputy Director of Operations

**COMMONWEALTH of VIRGINIA**  
DEPARTMENT OF CONSERVATION AND RECREATION

**Memorandum**

**To:** Balcony Falls Stakeholders: Corwin Chamberlain, Dominion; Andrew Downs, ATC; Jeremy Latimer, DRPT; John Mays, Twin River Outfitters; Randy Selleck, DRPT Lauren Stull, USFS; Bill Tanger, FORVA; Troy Creasy, CSXT; Damien D'Anna, CSXT; Sara Lu Christian, Amherst County; Tony Adams, Float Fishermen of Virginia; Harley Joseph, VDOT; Joshua Kloehn; Trudy Phillips; Norman Sykora; Howard Kirkland, Blue Ridge River Runners; David Whitmore, USFS; Rob Campbell, JRA

**From:** Clyde E. Cristman 

**Date:** July 12, 2017

**Subject:** Paddling Takeout at Cushaw Reservoir

Recently the Department of Conservation and Recreation (DCR) and the Department of Game and Inland Fisheries (DGIF) consulted the Office of the Attorney General to determine the extent to which our respective agencies should continue our involvement in this project.

Both agencies have been working on this effort for more than twenty years. More recently, since receipt of the first Letter of Intent (under HB 2088) in 2014, this project has demanded a significant amount of staff time. Yet due to the project's legal, site conditions and partner authority complexities, numerous federal and state partners, and the limitations of state resources, a resolution and path forward remain unclear.

As you all know, the challenges associated with this project are many:

- Access to the entire river corridor is cut off by an active CSXT rail line. CSXT holds the ultimate decision on whether to accept a proposal, and at-grade crossings are unacceptable.
- The terrain is rugged and steep, which further complicates the project.
- The land along the subject corridor is owned primarily by CSXT and the United States Forest Service (USFS). Neither DCR nor DGIF own property at the desired takeout location.
- The lack of an established takeout below Balcony Falls has led to continued illegal crossing of the CSXT rail line and issues of trespass by paddlers, which DGIF officers have been called on to enforce.
- With the relicensing of Cushaw Dam a decade ago, Dominion Power set aside funds to develop and implement a takeout for paddlers below Balcony Falls. An MOU was developed between Dominion and DCR, in which DCR was named as the lead agency for the project. Then in December 2009 (shortly after HB2088 was passed by the General Assembly), budget reductions in DCR resulted in the loss of the position that coordinated this effort.

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- As state agencies, neither DCR nor DGIF are in a position to take the lead on development of property that neither agency owns, nor do we have the expertise or resources to administer and supervise the project.

### Actions to Date

Early in 2014, DCR received a letter of intent from the Friends of the Rivers of Virginia (FORVA) requesting state intervention to find a solution for this takeout, the first letter of intent received in response to House Bill 2088. With input from DGIF and DRPT, DCR developed a Feasibility Study. Since that time, at the request of FORVA, or as new information has come available, the Feasibility Study has been updated ten times.

In June of 2016, a site visit was made by the stakeholders and included representatives from DCR, DGIF, DRPT, the United States Forest Service (USFS), Dominion, and FORVA. At that time, it was determined that more information was needed in order to examine the selected sites from a preliminary engineering and cost analysis basis. Utilizing FERC funds from Dominion, DCR engaged the Lane Group, an Architect and Engineering firm, which conducted an evaluation of three proposed sites in December. The Lane Group's report was received in January 2017 and subsequently distributed to stakeholders.

In August of 2016, DCR staff floated Balcony Falls as part of a scenic river evaluation. This section of river was designated a State Scenic River by the General Assembly in 2017, and the Upper James River Water Trail was also extended to include Balcony Falls.

In spring 2017, DCR asked VDOT to evaluate the feasibility of seven potential road entrances to determine the best path forward. VDOT's response is captured in the July 2017 final update of the feasibility study, which can be accessed at the link in the email accompanying this memo.

### Conclusion

Having reviewed the full history of this project and the actions taken to date, our attorneys have advised us that, through development of the Feasibility Study and associated updates, both DCR and DGIF have fully met our obligations under House Bill 2088. Neither agency has any further obligation to this project until a formal trail plan is submitted. The next steps for preparing a trail plan are spelled out in the "Next Steps" portion of the feasibility study.

At this point, we think it best that the project proceed under the auspices of the Friends of the Rivers of Virginia in cooperation with Dominion and the property owners along the river.

C: Tom Smith, DCR Deputy Director of Operations  
Danette Poole, DCR Planning and Recreation Resources Director  
Jennifer Wampler, DCR Environmental Programs Planner  
Robert W. Duncan, DGIF Executive Director  
David Whitehurst, DGIF Director, Bureau of Wildlife Resources  
Uwe Weindel, DGIF Director of Capital Planning & Facilities