

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

187th Commission Meeting
Millennium Knickerbocker Hotel
Chicago, Illinois
Thursday, February 8, 2007

Chairman T. Lee Servatius, Presiding

Call to Order

Chairman Servatius called the 187th meeting of the Ohio River Valley Water Sanitation Commission to order at 9:00 AM on Thursday, February 8, 2007.

Commissioner Flannery led the Commission in the Pledge of Allegiance.

Quorum Call

Commissioner Flannery declared that a quorum was present (see Roster of Attendance, page 16).

Recognition of Service

Chairman Servatius proposed the following resolution for adoption.

RESOLUTION 1-07

THOMAS HEEKIN

WHEREAS: Thomas Heekin has served as legal counsel to the Ohio River Valley Water Sanitation Commission for over 18 years; and

WHEREAS: Mr. Heekin has consistently given his wise counsel, reflecting his full conceptual understanding of interstate compacts as a legal instrument for interstate cooperation, and of the history and operations of this Commission; and

WHEREAS: By his steady and gentlemanly style, his service to this Commission has, in turn, served as a steady influence to the continued march forward to cleaner streams in the Ohio Valley.

NOW, THEREFORE, BE IT RESOLVED: The Commissioners and staff of the Ohio River Valley Water Sanitation Commission extend their deep appreciation and esteem for his dedication and service, and extend their best wishes for a long and happy retirement.

ACTION: Motion by Commissioner Flannery, second by Commissioner Morgan and carried, to adopt Resolution 1-07 as presented.

Mr. Heekin introduced Mr. Ross Wales who will be assuming the position of legal counsel to the Commission.

Action on Minutes

ACTION: Motion by Commissioner Duritsa, second by Commissioner Wright and carried, that the minutes, as amended and mailed on March 2, 2007, of the 186th meeting of the Commission and of the October 5, 2006 Executive Session be adopted as presented.

Report of the Treasurer

Commissioner Flannery noted that an updated Treasurer's Report as of December 31, 2006 has been provided in the meeting folder.

The report indicates resources of \$3,494,717 through the end of December 2006. Of that amount \$1,706,931 was expended on programs, leaving \$1,787,783 available for the continuation of ORSANCO's 2007 fiscal year programs.

ACTION: Motion by Commissioner Conroe, second by George Elmaraghy and carried, to accept the Treasurer's report as presented.

Report of the Chairman

Commissioner Servatius began by mentioning that his report would focus on the concept that planning facilitates commitment. Discussions have taken place over the past several days regarding planning for new and ongoing programs. Staff exhibits a high level of commitment to appropriate planning and implementation to meet the goals of the Commission. Planning also extends to the effective use of staff and financial resources. Staff members are utilized within various program areas where expertise is needed. Ongoing financial planning is critical to make the most effective use of available financial resources. Commissioner Servatius mentioned the commitment of staff to seek out additional resources, generally through grants. He also mentioned the importance of state funding and the challenge of procuring additional state resources and mentioned that some discussions have taken place regarding the acquisition of regionally targeted funding from Congress.

In 2008 the Commission will celebrate its 60th anniversary and planning is under way to make this celebration an educational experience. Education is the key to heightened awareness of the Commission in order to gain needed cooperation and financial support. The challenge is to balance what is needed to be accomplished and the available resources to carry out these tasks.

Commissioner Servatius noted that planning facilitates setting a direction, and once a direction is set, commitments follow. Commissioner Servatius mentioned that the staff's personal commitment and accomplishments were discussed in detail during the Executive Session and the only way to retain a committed staff is to have committed Commissioners. Commissioner Servatius mentioned the commitment and dedication of Commissioners and recognized their continuing commitment to good science.

Commissioner Servatius mentioned that the Commission needs to have a commitment to all parties that are involved in the issues at hand. More important than ever before, the Commission needs to have a commitment to the people who are financing the Commission, particularly the Compact states. The Commission needs to regain the commitment and support of Congress prior to seeking Congressional funding. The Commission also needs to refocus on communicating with citizens and politicians all along the River to educate and gain their commitment. This can be accomplished if all Commissioners and staff take every opportunity to communicate with the general public about what the Commission does and how committed it is to achieving positive results.

Report of the Executive Director

Alan Vicory reported on continuing efforts to provide support to the Big Sandy River Coalition in addressing that Basin's interstate issues. A meeting was held in November with representatives of the Kentucky, Virginia and West Virginia environmental agencies to discuss the development of an interstate cooperative agreement on improving water quality conditions in the Basin. This agreement, when completed, will be proposed to the Governors of the three states for signature.

Mr. Vicory reported on a communication received from the Executive Director of the Ohio River Basin Commission (ORBC) indicating interest in having more interaction with ORSANCO and suggested a joint meeting to discuss common regional issues. Mr. Vicory suggested scheduling a joint session with representatives of ORBC at a future roundtable to discuss a cooperative relationship.

Mr. Vicory concluded by reporting on his recent participation in the United States – Japan Governmental Conference on Drinking Water Quality Management & Wastewater Control held in Okinawa, Japan. Mr. Vicory indicated that his invitation to participate was based on ORSANCO's involvement in local, national and international water quality and wastewater control issues and the fact that ORSANCO has the reputation of remaining on the edge of policy and technical expertise. Mr. Vicory provided examples of ORSANCO's past leadership, accomplishments and expertise in developing wastewater treatment methods. Mr. Vicory also mentioned several ORSANCO technical programs which are revolutionary and remain on the cutting edge of technology, noting that the synergy of the Commission allows all this to happen.

Edward Ambrogio inquired about the accomplishments and programs of ORBC. Mr. Vicory indicated that ORBC has been involved in flood plain mapping and conducting various conferences. ORSANCO previously partnered with ORBC to develop a report titled "What's a River Worth." Mr. Vicory noted that perhaps it is time to refocus on additional cooperative activities with ORBC.

Commissioner Flannery requested that staff researches and provides information to Commissioners on the history and current activities of ORBC prior to the proposed joint meeting.

Report of the Technical Committee

Commissioner Duritsa, Technical Committee Chairman reported that the ORSANCO Technical Committee held its 183rd meeting on February 6-7 2007. All eight member states were represented as well as three federal agencies and four Commission advisory committees.

Minutes of 182nd Meeting

The Technical Committee wishes to clarify that its recommendations on nutrient monitoring, which were presented to the Commission in October, should not have called for analysis of ortho phosphate.

Chief Engineer's Report

Alan Vicory briefed the Committee on several matters. Mr. Vicory updated the Committee regarding efforts by the Big Sandy Coalition to develop an agreement among the Governors of Kentucky, Virginia and West Virginia. Mr. Vicory mentioned the recognition of ORSANCO's leadership in monitoring large rivers by the US EPA EMAP program.

Mr. Vicory reported on ORSANCO efforts to coordinate source water protection efforts by the Cincinnati and Northern Kentucky drinking water utilities and concluded by briefing the Committee on his participation in the US – Japan Government Forum on Water Supply Technology and Waste Water Control.

Jerry Schulte then briefed the committee on two recent spills, one of ethanol in New Brighton, Pennsylvania, and one of urea in Louisville.

Total Maximum Daily Loads

Staff provided a status report on the Special TMDL Task Force. The Task Force reviewed information on current levels of PCB in the Ohio River and directed staff to conduct additional data assessment. The Task Force will hold a meeting later in the spring to review the results of the assessment and to determine the next steps in the process.

Staff presented a report on the development of a TMDL for pathogens and raised several issues for discussion by the Technical Committee. The Committee directed the following:

- The TMDL must take differences in state water quality standards into account, and must be designed in anticipation of possible changes in standards.
- The TMDL should cover the entire river.
- The TMDL should be only for the main stem; tributaries should be treated as point source inputs.
- The TMDL should not include an implementation plan.
- Public workshops should not be held until the work plan is finalized.

Mercury Emissions from Power Plants

Paul Novak, Chairman of the NPDES Subcommittee reported on a conference call of the subcommittee which addressed increased mercury discharges from power plants to water as a result of increased treatment of air emissions. The subcommittee identified several issues, and agreed that monitoring of these discharges should be consistent, that current state treatment requirements should be compiled, and that research on new treatment techniques should be encouraged.

Rob Reasch of the Power Industry Advisory Committee presented an industry perspective on the issue. The installation of treatment of air emissions has significantly reduced the release of mercury to the environment by entraining mercury on scrubber solids. The industry is looking at treatment technologies to reduce the discharge to water bodies.

Status of Nutrient Criteria Development

Staff reported that the Commission's Nutrient Criteria Development Plan called for completion of development by the end of 2006. However, cause and effect relationships were not found in the sampling data. Therefore, in accordance with the Development Plan, the completion date needed to be changed.

The Committee adopted a revised plan, which calls for additional efforts to complete criteria development by 2009. The efforts would include convening a panel of experts.

Report of the Temperature Criteria Work Group

Staff reported on the deliberations of the temperature criteria work group. The work group has reached agreement on a proposed recalculation of Ohio River temperature criteria, and on guidance for implementing the criteria. A significant difference from the current criteria is that the proposed criteria divide the river into three sections whereas the current criteria are uniform for the entire river. The Technical Committee will review the criteria with the intention of submitting them to the Pollution Control Standards Committee for inclusion in the next review.

Report of the Biological Water Quality Subcommittee

The Biological Water Quality Subcommittee presented the status of current ORSANCO Biological programs together with recommendations for next year. The Technical Committee accepted those recommendations and will include them in its technical program guidance for FY08. A matter of concern is that staff resources currently do not allow completion of four intensive pool surveys per year as called for in the Biological Monitoring Strategy.

Status of Ohio River Wastewater Discharges

State members of the Committee presented reports on pollution abatement efforts on the Ohio River within their states and on other water quality issues that might affect Ohio River water quality. The information regarding wastewater discharges will be forwarded to the Pollution Control Standards Committee.

Report of the Monitoring Strategy Subcommittee

The Monitoring Strategy Subcommittee is about to initiate a review of the current ORSANCO Strategy. An important component of the review is the establishment of Data Quality Objectives for each monitoring program. This process will require input from several subcommittees and work groups. The Subcommittee will develop an approach to this process and present it at the June Technical Committee meeting.

Assessment of Ohio River Water Quality Conditions

Staff presented a status report on special monitoring that is being conducted to attempt to reconcile results of biological and water quality monitoring. Data collection is complete on one pool and underway on two others. Assessment results are not yet available.

Staff then presented the proposed methodology for the 2008 assessment of Ohio River Water Quality Conditions (i.e., 305[b] report). The technical approach will be essentially the same as was used in 2006. An issue raised was whether to attempt to meet Indiana's requirement to have assessment results by July; this would mean that the 2008 assessment would have to be based on 2005-06 data. The Technical Committee believes that the assessment should be completed using the most current data possible and thus does not support attempting to meet Indiana's deadline.

Wet Weather Issues

Staff presented a status report on abatement of combined sewer overflows. The number of overflows to the Ohio River has been reduced, and the nine minimum controls are in place for the most part, but Long Term Control Plans are still incomplete for many communities.

US EPA has asked if ORSANCO would be interested in co-sponsoring a workshop on developing Long Term Control Plans for small communities. The Technical Committee supports this activity.

Staff presented a concept paper for a study of Ohio River recreational use. The Technical Committee supports the implementation of this study. Several comments on the concept paper were offered; Committee members agreed to submit any additional comments they may have within 30 days.

Technical Program Guidance for FY2008

The Committee reviewed program recommendations adopted during the first part of the meeting. There was not sufficient time to have any discussion regarding additional program recommendations; it was therefore agreed that Committee members would submit any additional recommendations within 30 days, after which the Committee's recommendations will be forwarded to the Program and Finance Committee for incorporation into the proposed program and budget for FY08.

ACTION: Motion by Commissioner Duritsa, second by Commissioner Eger and carried, to accept the Technical Committee report as presented.

Report of the Pollution Control Standards Committee

Commissioner Flannery, Committee Chairman, reported that Pollution Control Standards Committee met by conference call on January 8, 2007. The purpose of the call was to address comments received in last year's public comment period that addressed issues other than the proposed revisions, and to identify activities that should be completed prior to the next review.

Consideration of Comments

In the public review of proposed revisions to the Commission Standards, comments were requested on five specific topics: criteria for selenium, criteria for mercury, rate of consumption of Ohio River fish, relative exposure of Ohio River valley residents to contaminants in different environmental media, and provision for "blending" at treatment facilities serving separate sanitary sewer systems. The Committee agreed to the following in response to the comments received:

Criteria for selenium and mercury

The majority of comments on both criteria questions held that the current ORSANCO criteria are overly stringent and that less burdensome criteria or control approaches are under development. The Committee agreed that developments on both constituents should be followed closely, that Section IV.D. of the Standards provides for development of site – specific alternative criteria, and that the questions should be revisited in the next review.

Fish Consumption and Relative Exposure

These two factors are important considerations in the development of criteria for human health protection. The Commission's request was for information specific to the Ohio Valley. A fish consumption study by the West Virginia Health and Environmental Departments was identified; no information was received on studies of relative exposure. Staff was directed to distribute the West Virginia study to Committee members, together with information developed by the Indiana Department of Environmental Management, and to look into development of a study to address the question of relative exposure.

Blending

Comments received favored allowance for blending at all POTWs. Staff was directed to review emerging US EPA policies and assess how they might be incorporated into the Commission Standards.

A number of comments were received on other issues. Two issues raised in the comments that are of continuing concern were criteria for ammonia and for pathogens for drinking water supply protection.

Wet Weather Considerations

In October, the Commission adopted revisions to its Standards, including a provision for wet weather conditions. Additional revisions had been proposed to address wet weather but were not recommended for adoption due to overwhelmingly negative comments received in the public review. Three issues were identified from the comments received:

1. Inadequate characterization of recreational use of the Ohio River.
2. Technical inadequacies of current pathogen criteria.
3. Need for increased public education on the issues involved.

Questions regarding pathogen criteria are being addressed on a national basis, and the Commission is involved in the discussions. The characterization of Ohio River recreational use, however, is a regional issue that would seem appropriate for the Commission to address. The Committee has therefore directed staff to develop a proposed approach to a study of Ohio River recreational use, and asked that a document be available for discussion at the February 6-7 Technical Committee meeting. The results of that discussion, as well as any direction received from the Commission, would be used to develop a full proposal for consideration by the Commission. At this time, the Pollution Control Standards Committee seeks concurrence by the Commission in this approach.

ACTION: Motion by Commissioner Flannery, second by Cathleen Meyer and carried, to accept the report of the Pollution Control Standards Committee.

Commissioner Bruny commented on the issue of Commission concurrence regarding the proposed approach of the Pollution Control Standards Committee to wet weather issues as outlined in the Committee's report. He suggested that the Commission affirmatively indicate its position regarding the efforts and proposed approach of the Committee.

Commissioner Flannery commented that the Pollution Control Standards Committee is operating on the assumption that the Commission has taken a first step in addressing the wet weather issue, but certainly not the last step. Unless the Committee receives different direction from the Commission, the Committee assumes that the action taken in October by the Commission was in fact just a first step in resolving wet weather issues. Other steps will likely be taken, the nature of which cannot be currently identified without further investigation and until the results of the recreation use survey are available for review. While action taken in October was not identified as a first or last step, the Committee welcomes assurance that it has correctly interpreted what the Commission meant with that action.

ACTION: Motion by Commissioner Duritsa, second by Commissioner Bruny and carried, to affirm the Commission's endorsement of the Pollution Control Standards Committee's proposed course of action in addressing wet weather issues.

Report of the Audit Committee

Commissioner Eger, Committee Chairman, directed Commissioner's attention to the 2006 Independent Auditors' Report provided in the meeting packet.

Commissioner Eger reported that Clark, Schaefer, Hackett & Company, Certified Public Accountants performed a general-purpose financial audit for fiscal year ending June 30, 2006. In the auditor's opinion, the general-purpose financial statements present fairly, in all material respects, the financial position of ORSANCO as of June 30, 2006. There were no reported material weaknesses in internal controls. The audit report is an "unqualified" report.

The Committee recommends that Clark, Schafer, Hackett & Company be retained as auditor for 2007.

ACTION: Motion by Commissioner Eger, second by Commissioner Morgan and carried to accept the report and recommendation of the Committee as presented.

Report of the Personnel Committee

On behalf of the Committee, Commissioner Harrison reported that the Personnel Committee reported on and discussed several personnel related actions at the Executive Conference of Commissioners Wednesday afternoon. These actions included staff salary adjustments, a redesigned health insurance plan, a reclassification of the administrative management position, and the Executive Director's salary adjustment.

ACTION: Motion by Commissioner Harrison, second by Commissioner Flannery and carried to accept the report of the Personnel Committee as presented at the Executive Session including the reclassification of the administrative management position from manager to director.

Report of the Pension Committee

Commissioner Morgan, Committee Chairman, reported that PNC Advisors presented an investment review on September 18th. Fund assets are currently invested with a 50% stock and 50% bond allocation. This investment strategy appears to be working reasonably well. The Pension Committee recommends continuing with this investment strategy.

The July 1, 2006 Actuarial Report, compiled by Buck Consultants, indicates that the Pension Plan has assets of \$2,114,452 with a 99% funded ratio. The Plan's funded ratio has declined in recent years. To maintain a funded ratio of no less than 100%, Buck Consultants recommends a contribution of \$125,000 to the Plan for FY08 and continued budgeting of 7-9% of payroll in future years.

The Pension Committee requests that the Program & Finance Committee consider the recommendation to fund a pension contribution of \$125,000, based on available funds, for FY08.

ACTION: Motion by Commissioner Morgan, second by George Elmaraghy and carried to accept the report and recommendation of the Pension Committee.

Report of the Public Interest Advisory Committee (PIACO)

Ron Riecken, Committee Chairman, reported that the Committee met December 5- 6 in Newport, KY and that reports on public information programs, the ORSANCO Educational Foundation, and the Pollution Control Standards were reviewed.

Mr. Riecken reported that an open discussion was held regarding Committee membership. There is a need for an at-large membership appointment. The Committee suggests that the Commission appoint an individual from the environmental community. This appointment would be beneficial to both the Commission and the Committee.

Mr. Riecken mentioned that, considering the reaction of the general public concerning revisions to the Pollution Control Standards, the Committee would like to recommend that a more understandable version of the Standards be produced for the general public. The Committee believes the current version is difficult for the non-technical public to understand.

Finally, Mr. Riecken reported that the Committee would like to recommend that the Commission plan a 60th anniversary conference in 2008, inviting all river entities to participate. In 1998, groups representing drinking water, transportation, waste water, general industry, chemical manufacturers, power generators and public/recreational users, met for two days to discuss Ohio River related issues. The Committee would be willing to help in any way possible with this event.

ACTION: Motion by Toby Frevert, second by Commissioner Eger and carried to accept the report and Public Interest Advisory Committee.

Report of the Publicly Owned Wastewater Treatment Works (POTW) Advisory Committee

Mr. Mike Apgar, Chairman of the POTW Advisory Committee, reported that the Committee met via conference call on January 26. The Committee found that meeting by conference call increased member participation and is a cost effective meeting format.

Mr. Apgar advised that the Committee requests the opportunity to review and make comments on the work plan for the development of a bacteria TMDL. The Committee complimented the Commission on moving this TMDL forward and would like to have an opportunity to review this work and offer comments. Also, relating to the PCB/Dioxin TMDL development, the Committee appreciated the opportunity to provide input on the TMDL being considered and applaud the approach of collecting additional data before developing the TMDL.

The Committee thanked the Commission for the good work done to date on the Wet Weather Quality Standards. The Committee is encouraged by the language placed in the 2006 revision of the Pollution Control Standards calling for alternative criteria. The Committee applauds the work of the PCS Committee in utilizing public comment and identifying three areas requiring additional work, which include characterization of recreational use of the Ohio River, pathogen criteria and the need for increased public education on the issues involved.

Mr. Apgar commented on information provided by Toby Frevert during the technical Committee meeting which outlined much of the long term control plan work being conducted in Chicago. The information presented is indicative of the work that is being done by many communities as they develop long term control plans. The presentation pointed to the need for wet weather water quality standards. Additionally, it points to the need to consider the utilization of a use attainment analysis at some point in the implementation of the long term control plan in order to ensure that we are getting a credible and valuable environmental return for the financial investment.

Mr. Apgar noted that the Committee requests that the Commission consider utilizing or creating a work plan to resolve the three previously mentioned issues and how to move forward with Wet Weather Standards. The Committee also asks for consideration of including milestone dates in the work plan to track incremental steps.

Mr. Apgar concluded by mentioning that the Committee continues to seek members to represent Evansville, Pittsburgh, Paducah, Portsmouth and Steubenville. The Committee will meet in Cincinnati on May 8-9. The main agenda item will be the forming of a wet weather partnership comprised of stakeholders impacted by wet weather, and to form a collaborative to seek federal funding to support work on wet weather issues.

ACTION: Motion by Commissioner Wright, second by Toby Frevert and carried to accept the report of the Publicly Owned Wastewater Treatment Works (POTW) Advisory Committee.

Report of the Water Users Advisory Committee (WUAC)

Mary Armacost, on behalf of the Committee, reported that there is concern over a lack of participation and that several utilities will be moved to inactive status to allow other interested utilities to participate.

Ms. Armacost reported that the Department of Homeland Security has been contacted to seek potential funding for the Organics Detection System (ODS). A focus of Homeland Security funding is body counts and the potential number of citizens who might become ill from a waterborne problem. The Committee indicated that it is having difficulty determining the number of citizens who receive drinking water from the Ohio River. A potential strategy is to determine the volume of water taken from the Ohio River for drinking water purposes and compute a per capita calculation to determine how many citizens are estimated to be served by the River. Once this calculation is completed the Committee will again discuss funding with the Department of Homeland Security.

Ms. Armacost reported that all ODS stations are currently operational and staff is developing a data summary for all stations along the River. Staff presented an option to develop a secure online system for utilities to input and share data on all water quality parameters.

The Committee met with Mr. Paul Novak, Chairman of the NPDES Coordinating Subcommittee, to discuss the Pollution Control Standards. The Committee requested a definition of “reasonable treatment” be included in the Standards. The Committee has developed alternatives for potential definitions and further discussion will take place. Ammonia criteria were also discussed. Mr. Novak requested that the Committee develop a list of contaminants, the MCL limits, and whether they are a one time limit or a rolling annual average. Three members of the WUAC will participate on the next NPDES Subcommittee teleconference. Cryptosporidium and testing for potential sources was also discussed. Focus remains on POTWs but the Committee would like storm water runoff investigated as a potential source. There was also discussion of immediate notification to water utilities when an NPDES permit limit has been exceeded, but not a violation, before the monthly report is available. Another issue brought to Mr. Novak’s attention was the cost sharing of water treatment. It was recommended that a Committee be formed to work with Mr. Novak on these issues.

Ms. Armacost reported that Dr. Jim Goodrich, of US EPA, attended the Committee meeting. Dr. Goodrich has interest in improving coordination of the Safe Drinking Water Act and the Clean Water Act and requested the Committee's support. There are several conflicts between the two Acts, including ammonia and manganese limits.

Ms. Armacost further reported that Cincinnati and Northern Kentucky are working together on source water protection plans. They have met with ground water utilities and large industries in the area. Communities along the River should be encouraged to take this cooperative approach to developing their plans.

The City of Columbus, Ohio is doing excellent work in reducing Atrazine in their source water. A Committee member will be meeting with representatives in Columbus to determine how similar reductions could be achieved in Indiana. ORSANCO's involvement might be requested to help implement these findings along the River.

Ms. Armacost concluded by reporting on three spills of significance that affected water utilities and mentioned the Organics Detection System proved useful in tracking these spills.

ACTION: Motion by Commissioner Conroe, second by Commissioner Eger and carried, to accept the report of the Water Users Advisory Committee as presented.

Randy Sovic requested a list of nonparticipating water utilities as mentioned in the Committee's report. Jerry Schulte responded that he will compile and provide such a list. Regarding the mentioned water survey, Mr. Sovic reported that West Virginia has completed a water usage survey which was presented to the Legislature in December 2006. This survey might provide benefit to the Committee's proposed survey. Mr. Sovic applauded the Committee's investigation and request to define "reasonable treatment." A request had been made for a similar definition in previous comments from West Virginia to the Pollution Control Standards Committee.

Alan Vicory commented that investigating a generally accepted legal definition of "reasonable treatment" would be an appropriate starting point and requested that legal counsel provide input on this matter.

Report of the ORSANCO Educational Foundation

Ron Riecken, Foundation Chairman, reported that the Foundation Board of trustees met on January 11th to discuss issues relating to providing some additional level of separation between ORSANCO, the regulatory entity, and the Educational Foundation. A gradual transition will be employed to achieve this proposed level of separation.

Mr. Riecken then reported on various actions taken by the Foundation Board of Trustees.

Board of Trustees Realignment

The following actions were taken: as of June 30, 2007, the following board members will end their service to the Foundation: Ron Potesta, Melvin Hook, T. Lee Servatius and ORSANCO Executive Director Alan Vicory. Stuart Bruny's term on the Foundation Board will end when his term expires on June 30, 2009. ORSANCO will name two ex-officio members to the foundation board at its June (2007) meeting. The ex-officio members will not be ORSANCO Commissioners or staff. The purpose of this action is to retain an appropriate level of ORSANCO representation on the Foundation Board. The terms of Jeanne Ison and David Bailey will end on June 30, 2008. They will not be re-appointed. Jeanne Ison will serve as Executive Director throughout 2007 and will work with Heather Mayfield, so Heather may become more active in the leadership of the Foundation. Ron Riecken and Alan Bernstein were re-appointed to three-year terms.

New OEF Board Appointment

By action of the Board, the following new board members were appointed. Their term (3-year) will begin July 1, 2007:

Marianne Quinn	Duke Energy
Reed Coen	Frisbie Engine and Machine
Scott Labansky	PFC Fundraisers

Election of Officers - Effective July 1, 2007

Alan Bernstein	Chairman
Ron Riecken	Vice Chairman
David Bailey	Secretary/Treasurer

Name Change

The legal name of the Foundation will remain ORSANCO Educational Foundation. More focus (marketing) will be placed on the River Education Center and the Ohio River Sweep.

Fundraising

The OEF Board will continue to pursue fundraising through every possible means and work with a disciplined plan to follow-up with current investors and capitalize on new activities.

ACTION: Motion by Commissioner Morgan, second by Commissioner Bruny and carried to accept the report the ORSANCO Educational Foundation

Commissioner Conroe commented on his reservations and opposition to a total separation of the Foundation from ORSANCO. He suggested retaining Commission involvement through Commissioners of unregulated states such as New York and Virginia to avoid the conflict of interest perception.

Commissioner Wright commented that she is strongly opposed to the possibility of dropping the ORSANCO name from the Foundation and related programs.

Commissioner Servatius commented that current Trustees who will rotate off the Board were originally involved in the formation and development of the Foundation and their terms are expiring. It was always the intent of the Foundation, from its inception, to eventually move from an ORSANCO Commissioner dominated board to a more diverse Board, but retaining an appropriate level of ORSANCO oversight and involvement. Retaining ties with ORSANCO is a strong desire of the Board. To achieve this result, the Board approved an action that ORSANCO will name two ex-officio members to the foundation board at its June (2007) meeting. The ex-officio members will not be ORSANCO Commissioners or staff. The purpose of this action is to retain an appropriate level of ORSANCO representation on the Foundation Board.

Discussion ensued regarding the process and details of the Commission's appointment of two ex-officio Foundation Board members. Chairman Servatius requested that Commissioners provide him with names of individuals to be considered for appointment. Commissioner Conroe again expressed his strong opposition to complete separation and indicated that he feels that it is appropriate for one or more Commissioners to serve on the Foundation Board.

Commissioner Duritsa suggested that immediate past Commissioners should be considered as good candidates for appointment. These individuals have a good understanding of the Commission and how it operates.

Commissioner Bruny commented that Virginia and New York Commissioners might not be in a good position to solicit funds for the Foundation.

Commissioner Flannery commented that he is not necessarily opposed to a Commissioner serving as a Foundation Trustee, but would not recommend that Commissioners hold the majority vote on the Foundation. He also suggested there might be a role for the past Chairman of the Commission serving on the Foundation Board and also has concern over the current Commission Chairman serving as Foundation Board Chairman. He believes there is a role for Commissioners with the Foundation to retain a viable connection but not to dominate or control the Board.

Ellen Gilinski, of Virginia, commented that Virginia Commissioners are not in the best position to be soliciting funds for the Foundation due to other competing interests. Ms. Gilinski supports past Commissioners and the former Commission Chairman serving as ex-officio Board members. Ms. Gilinski also commented that separation of the entities is desirable to protect both the Commission and member states.

Ed Ambrogio, of US EPA, commented on his concern regarding the perceived conflict of interest if active Commissioners are involved in Foundation fundraising.

Commissioner Servatius indicated that he will convene a small group to consider all comments and input relating to the Foundation Board make-up and develop a recommendation for action at the June Commission meeting.

Alan Vicory stated for clarification that this group is working within the context of the approach that the Foundation has adopted, exclusively within its purview to do so, that invites the Commission to appoint two individuals to the Foundation's Board of Trustees. It remains within the Foundation's authority to adopt any recommendation and to revise the Foundation's By-Laws accordingly.

Additional Comments

Commissioner Conroe thanked the POTW Committee for adjusting their meeting schedule to accommodate this year's budget. He also commented that PIACO has not conducted a second meeting this year which was authorized in the current year's budget and encouraged the Committee to do so.

Commissioner Servatius reported that plans are underway to celebrate the Commission's 60th anniversary with an event that will reach out to the community to educate and promote better understanding of common issues. Commissioner Eger has offered to chair a planning committee for this event.

Commissioner Bruny reported that the Program & Finance Committee meeting will be held in Cincinnati on April 18-19.

Commissioner Easterly voiced concern about public reaction to the Wet Weather Standards and the Commission's view of the reaction. Environmental groups need funds and need an issue on which to continue raising funds. Communicating with these groups is beneficial but the Commission should be cautious in these dealings because it will be difficult to ever reach a consensus with environmental groups and have them say yes to Commission actions. Commissioner Flannery stated that the Pollution Control Standards Committee is not about to turn over decision making to anyone. The Committee is capable of advancing controversial proposals, adopting these proposals, or demurring on a proposal when appropriate.

Cathleen Myers commented, with respect to the proposed TMDL for pathogens, that there was a request for letters of support from the states. Pennsylvania was not rapidly forthcoming with a letter of support, and in fact, just submitted a copy of their letter which cannot be characterized as unequivocal support. Ms. Myers indicated that Pennsylvania had never done state wide pathogen assessments but had embarked on doing an assessment and shoring up its pathogen metrics and assessment protocols when several converging reports and research seemed to indicate that they might be headed in the wrong direction on pathogens. Pathogen criteria being used are not necessarily the best indicator of public health. Pennsylvania would strongly endorse a TMDL approach for the Ohio River that uses the excellent technical capabilities of the Commission to help inform the national reinvestigation of appropriate pathogen criteria. It is hoped that this will be part of the front end of phase one of this process to rethink the pathogen criteria that would be used for undertaking such a large and important effort as developing a TMDL for the entire Ohio River.

Comments by Guests

Brad Klein, of the Environmental Law & Policy Center, expressed his appreciation for the Chairman's remarks regarding ORSANCO's commitment to serving all parties in the Basin and supporting the inclusion of environmental groups. Mr. Klein noted that the Commission and all environmental groups share common goals for the Basin.

Peter Tennant, ORSANCO staff, reported that the Mississippi River - Gulf of Mexico Hypoxia Task Force was discussing the possibility of meeting in Cincinnati. The current Task Force only consists of main stem Mississippi River states, plus more recently the State of Ohio. This meeting would provide an opportunity for states in the Ohio River Basin to participate with the Task Force. During a recent teleconference, New Orleans was identified as a more appropriate site for the meeting. Cincinnati will be considered for the next meeting. Peter will keep the Commission informed of future developments.

Upcoming Meetings

Chairman Servatius noted the following schedule for upcoming Commission meetings:

- June 12-14, 2007 Albany, NY
- October 2007 Marietta or Columbus Ohio suggested
- February 2008 Cincinnati - Tentative

Adjournment

The 187th Commission meeting was adjourned at 11:00 A.M.

Prepared by:

_____ Date: _____
David Bailey
Director of Administration
& Human resources

Approved by:

_____ Date: _____
David Flannery
Secretary/Treasurer

ROSTER OF ATTENDANCE
187th Commission Meeting
February 8, 2007

Commissioners

Illinois	Toby Frevert (PROXY for Douglas Scott) Phillip Morgan
Indiana	Thomas Easterly Joseph Harrison
Kentucky	Jeffrey Eger Lloyd Cress (PROXY for Teresa Hill) Bud Schardein (PROXY for Stephen Pence)
New York	Jerry Palumbo (PROXY for Denise Sheehan) Douglas Conroe T. Lee Servatius
Ohio	Amy Wright George Elmaraghy (PROXY for Christopher Korleski)
Pennsylvania	Charles Duritsa Cathleen Myers (PROXY for Kathleen McGinty)
Virginia	Ellen Gilinski (PROXY for David Paylor)
West Virginia	David Flannery Randy Sovic (PROXY for Stephanie Timmermeyer)
Federal	Stuart Bruny Kenneth Komoroski Edward Ambrogio (PROXY for Donald Welsh)

Legal Counsel

Tom Heekin

Executive Director

Alan Vicory

Guests

Ron Riecken – Chairman, Public Interest Advisory Committee, Mary Armacost – Water Users Advisory Committee, Mike Apgar – Chairman, POTW, Jason Flickner – KWA, Brad Klein – Environmental Law & Policy Center, Ron Schwartz – Pennsylvania DEP

Staff

David Bailey, Jason Heath, , Peter Tennant, Joseph Gilligan, Tracey Edmonds, Erich Emery, Sam Dinkins, Greg Youngstrom, Jerry Schulte, Jeanne Ison