

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

**194th Commission Meeting
Doubletree Hotel
Nashville, Tennessee
Thursday, June 4, 2009**

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Chairman David Flannery, Presiding

Call to Order

Chairman Flannery called the 194th meeting of the Ohio River Valley Water Sanitation Commission to order at 9:45 A.M. on Thursday, June 4, 2009.

Commissioner Flannery led the Commission in the Pledge of Allegiance.

Quorum Call

Commissioner Tomes declared that a quorum was present (see Roster of Attendance, page 17).

Action on Minutes

ACTION: Motion by Commissioner Duritsa, second by Commissioner Wayland and carried, that the minutes of the 193rd meeting of the Commission, as amended, and of the February 2009 Executive Session be adopted as presented.

Report of the Treasurer

Commissioner Tomes noted that a Treasurer's Report as of March 31, 2009 was provided in the agenda packet.

The report indicates a balance of \$1,415,825 in accounts receivable due the Commission as of March 31, 2009. The balance represents \$117,551 due from Signatory States, \$1,264,350 due from Federal sources, and \$33,924 due from other sources.

Additionally, the report indicates receipts of \$3,321,222, plus carryover of \$1,980,159 totaling \$5,301,381 through the end of March 2009. Of that amount, \$2,847,429 was expended on programs, leaving \$2,453,952 available for the continuation of ORSANCO's programs.

ACTION: Motion by Commissioner Servatius, second by Commissioner Bruny and carried, to accept the Treasurer's Report as presented.

Report of the Chairman

Chairman Flannery began by welcoming everyone to the 194th meeting of the Commission and commented on the remarkable amount of work accomplished by both Commissioners and staff.

Chairman Flannery reported that during the Commission's February meetings, Commissioners and staff had the opportunity to reflect on the future of ORSANCO during a full-day strategic planning workshop. Much of the workshop discussion focused on financial issues, particularly relating to the weak economic climate. The message coming from the meeting was that there was no need for ORSANCO to retreat; the preference of Commissioners was to reach out, move forward, and continue to advance and expand ORSANCO's mission in the direction of total water management. ORSANCO needs to add concepts relating to water withdrawal, non-point-source runoff, particularly relating to agriculture, and water quality trading to its traditional water quality focused mission.

Mr. Flannery reported that one activity pursued relating to the workshop is dialog with the Ohio River Basin Commission (ORBC). ORBC essentially deals with water quantity issues, and its membership and mission is very closely aligned with ORSANCO's mission. ORSANCO and ORBC share a commonality of interests. The Commission is clearly at a point where some greater formality to define the relationship between ORBC and ORSANCO is in order. Several weeks ago, the Chairmen and Executive Directors of the respective organizations began a dialog aimed at defining the next steps in developing the relationship between the two organizations. This led to drafting text of a memorandum of agreement that would commit the two organizations to coordinate their programs over the next year. This draft agreement was provided in the advance agenda packet. Chairman Flannery requested a motion authorizing the Commission Chairman to execute the memorandum of agreement with ORBC.

ACTION: Motion by Commissioner Toms, second by Commissioner Conway and carried, authorizing the Commission Chairman to execute the memorandum of agreement with ORBC as presented.

Chairman Flannery noted several key focal areas during the remainder of his term as Chairman. The most important objective is to continue to seek involvement of Governors and members of Congress in Commission activities. If ORSANCO is to keep programs relevant to the states, it must find ways to justify the value of its programs. More work is needed to accomplish this goal.

A second challenging area is in ORSANCO's traditional areas of water quality management. Issues such as wet weather standards, agricultural runoff, pharmaceutical disposal, and total dissolved solids remain. Finally, the task of how to take the organization in the direction of total water management, integrating water quality and quantity, must be accomplished.

Chairman Flannery concluded by stating that it was his honor to serve the Commission as Chairman this past year and pledged his support to future chairmen.

Report of the Executive Director

Mr. Vicory directed Commissioners' attention to the 2008 Annual Report and the State of the Ohio River Report included in the meeting packet. Mr. Vicory reported that the 2008 Annual Report is available for distribution. Executive Committee members were asked to complete a postcard to advise staff on how the Annual Report should be transmitted to the respective Governors and the President. The Annual Report will not be released for general distribution until it has been transmitted to the Governors and President. Mr. Vicory commented on the State of the Ohio River Report, which is a public summary of the 305(b) Report, noting the broad distribution and multiple uses for the publication.

Mr. Vicory then reported that a pharmaceutical brochure, prepared by Erich Emery, has been nominated for an award presented by U.S. EPA Region III. Mr. Vicory thanked Commissioner Duritsa for submitting the brochure for award consideration.

Mr. Vicory reported that ORSANCO's new website has been brought online and emphasized the website's importance as the primary mechanism to provide information to the public. A website is very dynamic, and internal processes have been implemented to ensure continuous review and site updates. He asked Commissioners to review the website and provide feedback.

Mr. Vicory then directed Commissioners' attention to an excerpt from a Virginia Military Institute (VMI) Alumni Magazine article which brought attention to Mr. Vicory's work with ORSANCO. The article was intended to focus on alumni who were doing work benefitting the general public.

Finally, Mr. Vicory thanked those who sent him cards and notes after the death of his mother. He also thanked staff and acknowledged his confidence in staff carrying on operations in his absence.

Report of the Technical Committee

Commissioner Duritsa, Technical Committee Chairman, reported that the Technical Committee met on June 2-3 in Nashville. Six states, three federal agencies, and four Commission advisory committees were represented.

Chief Engineer's Report

Mr. Vicory reported on a number of items:

- The release of the updated Pennsylvania water plan.
- The redesign of the ORSANCO website.
- The first of a series of local Ohio River source water protection meetings, held recently in Portsmouth.
- The completion of the protocol for fish tissue assessment which the states will have available for use in updating their fish consumption advisories this fall.
- Funding of a coordinator position for the Big Sandy River coalition by the states through ORSANCO.
- The involvement of Commission legal counsel in the discussions with the Coast Guard over the Commission's standing as a government agency.
- High bacteria counts in the Maysville area which forced the cancellation of the swimming portion of a triathlon for the second year in a row.
- ORSANCO's participation in a nutrient "snapshot" monitoring event coordinated by Kentucky Water Watch.

ORSANCO Technical Programs

The Committee was disappointed that all its recommendations for next year's ORSANCO programs could not be accommodated with available resources, but endorses the technical programs as recommended by the Program and Finance Committee.

State Reports

Each of the state agency representatives provided reports on matters affecting Ohio River water quality conditions in their state. The reports included information on the regulation of wet fly ash disposal.

ORSANCO Pollution Control Standards

The Technical Committee tasked its NPDES and Stream Criteria Subcommittees to review the proposed revisions to the Commission Standards and identify any possible issues or impediments to the states' implementation of the Standards.

Ohio River Recreational Use Survey

Staff has received a draft report on the Ohio River recreational use survey from the contractor. Staff has identified several issues with the report. Staff was directed to resolve those issues with the contractor and send the revised draft to the Technical Committee for review.

Corps of Engineers Ohio River Comprehensive Study

Tim Higgs of the Corps Nashville District presented an overview of the study. A reconnaissance study is currently underway, with completion expected at the end of the year. A feasibility study will follow. The last such study for the Ohio River Basin was completed in 1969.

Report of the NPDES Subcommittee

Paul Novak of Ohio EPA, Chairman of the NPDES Subcommittee, reported on the joint meeting with the Power Industry Advisory Committee in April. The meeting was held to advance the dialogue on the capabilities of treatment technology for Flue Gas Desulfurization (FGD) wastewater. Attainment of mercury criteria remains a key concern. The Power Industry Advisory Committee advanced four alternative approaches ORSANCO might pursue in addressing discharges of mercury. The Technical Committee charged the NPDES Subcommittee to evaluate these alternatives and present a recommendation at the next meeting.

Treatment of Wastes from FGD Facilities

Paul Chu of the Electric Power Research Institute presented summaries of studies that the Institute has conducted on treatment of FGD wastewater. The studies looked at the capabilities of available technology to remove mercury, selenium, and dissolved solids. A key finding was the variability of wastewater from one plant to another.

Status of TMDL Development

A series of public meetings was held on the TMDL for pathogens being developed by a contractor. Key concerns raised at the meetings were the need for a stakeholder group and the consideration of nonpoint sources. The contractor has produced several reports that are being reviewed by the ORSANCO TMDL Work Group.

ORSANCO Research Priorities

Priorities developed by the ORSANCO Research Committee were distributed to the Technical Committee. It was agreed that Committee members would provide comments on the priorities within 30 days.

Nutrient Issues

Staff reported that contractor support from U.S. EPA for development of Ohio River nutrient criteria appears to be forthcoming. A report from the contractor is expected this summer; the current target date of recommending criteria in 2010 still appears to be realistic.

Staff provided an overview of the Ohio River Basin nutrient trading program. The Electric Power Research Institute (EPRI) is the lead entity on this project and will receive a targeted watershed grant from U.S. EPA shortly.

The next workshop on nutrient and energy reductions at POTWs will be held in Evansville in January 2010. The state of Mississippi is interested in holding a similar workshop.

Comparison Study of Sampling Methods

The study of results from ORSANCO and USGS monitoring at common sites is still under review. A concern identified in the study is the current reporting level for selenium for ORSANCO samples.

Ecological Assessment of the Lower Mississippi River

Staff from the Louisiana environmental and fisheries agencies reported on their state's participation in the National Assessment of Rivers and Streams. This survey represents the first coordinated monitoring effort on the Lower Mississippi.

Gulf of Mexico Hypoxia

John Kessler of Ohio DNR, chairman of the Ohio River Sub Basin Committee, reported on the revised Hypoxia Action Plan. The revised plan calls for reduction of both nitrogen and phosphorus and assigns responsibilities for carrying out actions to reduce hypoxia. It also provides for an annual work plan, as well as annual progress reports.

Doug Daigle of Louisiana reported on the activities of the Lower Mississippi Sub Basin Committee. A watershed in each of the participating states has been targeted for nutrient reduction.

Richard Ingram of Mississippi reported on his state's development of a nutrient reduction strategy. The strategy is responsive to Gulf Hypoxia, but also to TMDL needs, nutrient criteria development, and the Gulf Alliance Action Plan.

Ohio River Monitoring and Assessment

Staff presented an overview of the development and scope of ORSANCO monitoring and assessment activities. Results of comparison studies of bacterial indicators were then presented; the results indicated that, while fecal coliform and *E. coli* behave similarly in the river, enterococcus levels do not correlate with the other two indicators. Staff then presented an overview of ORSANCO's biological programs.

Comments by Advisory Committees

Mary Armacost reported information from the recent meeting of the Water Users Advisory Committee, including increases in disinfection byproducts at water utilities on the upper river. The increase appears to coincide with the drilling for Marcellus Shale. Algae-related taste and odor problems have occurred at East Liverpool and Wheeling.

Mike Apgar reported the POTW Advisory Committee's concerns with the reports of the results of public meetings held in conjunction with the pathogen TMDL and with the questions posed in the recreational use survey.

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

Commissioner Conroe raised concern over the issue of mercury and work being done through the NPDES Subcommittee relating to power plant discharges. Commissioner Conroe views mercury as a potentially controversial topic and wishes to avoid a situation comparable to the recent wet weather public criticism due to a perception of working with a particular industry “behind closed doors.” Commission Conroe is concerned that ORSANCO is making the same mistake with the power industry relating to the mercury issue. The power industry has proposed short-term actions which may face public opposition and criticism. ORSANCO has been asked to liberally interpret its mixing zone regulation to allow for larger discharges of mercury, as well as relax deadlines. Although these may be the final outcomes, more discussion is needed, and the NPDES Subcommittee may not be the appropriate place for such discussion due to the singularly inclusive nature of the group’s members. If this process continues, the group could render a recommendation to the Commission in October which may not be understandable to stakeholders. Commissioner Conroe believes strongly that ORSANCO needs to be very open, transparent, and inclusive of all stakeholders as it discusses the mercury issue. Defining an open, transparent process is critical in avoiding public criticism.

Report of the Pollution Control Standards Committee

Commissioner Komoroski, Committee Chairman, reported that the Pollution Control Standards Committee met by conference call on April 8th and April 24th to finalize revisions to the Commission Standards to be proposed for public review and comment. The proposed revisions include the following:

- Add a definition of “reasonable treatment” for drinking water.
- Add a definition of “public water supply.”
- Adopt a 1.0 mg/L criterion for ammonia nitrogen to apply at points of withdrawal for water supply use.
- Adopt Ohio River specific translators for ten metals.
- Adopt current U.S. EPA criteria for cadmium and silver.
- Adopt current U.S. EPA criteria for human health protection for 15 constituents.
- Adopt a requirement that industrial dischargers experiencing treatment upsets or bypasses report them to ORSANCO within two hours of discovery.

The Committee proposes to hold a single public hearing on June 24th in the Cincinnati area; the hearing will be preceded by five public meetings at various locations along the river – Wheeling, Huntington, Louisville, Evansville, and Paducah. The Pollution Control Standards Committee consulted with the Public Interest Advisory Committee on this approach, and PIACO members offered valuable input on how to use the meetings to assist participants in submitting comments on the proposed revisions. The PCS Committee appreciates the constructive dialogue with PIACO in this matter.

Legal notices for the hearing will be published the week of May 18th. All of the meetings and the hearing will consist of two sessions, one beginning at 4:00 pm local time and the second at 7:00 pm; which should allow more people to participate. Locations and dates of the meetings and hearing will be posted on the ORSANCO website. Notices will be sent to the Commission’s mailing list for Standards reviews, and a press release will be issued. The proposed revisions to the Standards will be posted on the ORSANCO website, together with a Responsiveness Summary that addresses each of the comments received in the initial review of the Standards.

ACTION: Motion by Commissioner Komoroski, second by Commissioner Bruny and carried, to accept the report of the Pollution Control Standards Committee.

Commissioner Komoroski commented on Commissioner Conroe's concern over the mercury issue stating that ORSANCO has received a request from the power industry with regard to procedures used to request variances from the mercury standards. The Technical Committee considered these issues and referred them to the NPDES Subcommittee. The Technical Committee believes this is the appropriate process and procedure. The Pollution Control Standards Committee Chairman will personally participate in the NPDES Subcommittee discussions to ensure consistency and to remain fully informed on the issue.

Report of the Research Committee

Commissioner Servatius, Committee Chairman, reported that the Research Committee met on May 11-12. The Committee welcomed a new member to the Committee, Dan Woltering, PhD., Director of Research for the Water Environment Research Foundation (WERF).

Ongoing Research

Staff provided presentations on progress being made in two research areas previously identified by the Committee as top research priorities: Microbial Source Tracking (MST) and Endocrine Disrupting Compounds (EDCs). Results from the ongoing collaborative MST study between ORSANCO, USGS, and the Ohio State University were presented via a webinar hosted by the USGS, and the presentation generated a lengthy follow-up discussion. While the results presented were only preliminary in nature, the Committee was very encouraged by the progress being made, and the Committee will continue to identify this work as a top priority, noting its importance and relevance to the Commission's efforts to develop more appropriate bacteria standards. The Committee encourages the Commission to ensure that all efforts are made to see that this area of research is explored to the fullest.

The second area of focus, Endocrine Disrupting Compounds, has actually been expanded in scope to include a broader list of what is best termed as Emerging Contaminants. Staff also provided an overview of continuing research in this area. This summer, ORSANCO staff will collect samples from 25 locations. Each will be screened for the presence of 121 Pharmaceutical and Personal Care Products (PPCPs), a suite of common Hormones and Sterols, and also for the presence of Perfluorinated Compounds (PFCs). This summer, research will likely again be expanded in scope as ORSANCO pulls in additional partners from the U.S. EPA and the USGS. The total cost for this phase of Emerging Contaminants research is \$85,000, and the necessary funding is coming from extra funds generated by the Commission's participation in EPA's National Rivers and Streams Assessment. EPA pays ORSANCO on a per-site basis, and 'surplus' funds from this work have been pooled to make this research possible.

The Committee discussed the summary of the recent Scenario Planning Workshop. As the meeting progressed, it became apparent that many of the common strategies which were important to all four of the final scenarios developed in February were also essential to and part of our research strategy. The areas of common interest include communication, data sharing and management, collaboration, and the optimal use of available technology.

The Committee was also provided with an overview of recent efforts by U.S. EPA and University partners throughout the Ohio River Basin to come together and form an Ohio River Observatory. Jeanne VanBriesen, a Committee member from Carnegie Mellon University, led a discussion of ongoing efforts, such as the WATERS Network and the National Ecological Observatory Network (NEON). The Committee ultimately concluded that, regardless of the program or pathway, ORSANCO should continue to be involved, and this type of observatory network in the Ohio River Basin would bring ORSANCO closer to the type of recognition

received by the Chesapeake Bay watershed and other programs which have risen to national prominence.

The Committee also discussed the issue of a Basin scale water quality model. The Committee noted that numerous models exist, each designed for a specific purpose, and that the path forward should include an initial evaluation of the types of models that are in use and the data available to populate those models. Our efforts should also include a prioritization and summary of the needs of the states and the Commission.

Identification of Future Research Needs/Recommendations for Moving Forward

The Research Committee recommends that the Commission continue to conduct research in the areas of Microbial Source Tracking and Emerging Contaminants, specifically noting that ORSANCO's earlier efforts to develop a fish health indicator as a means of determining the effects from exposure to Endocrine Disrupting Compounds should be continued. The Committee also recommends that the Commission take advantage of a Best Management Practice (BMP) Pilot Project which is being developed for the Little Miami River Watershed under the USDA Conservation Reserve Enhancement Program (CREP). The program is scheduled to begin in 2010. Since the Little Miami River enters the Ohio River within one mile of the ORSANCO headquarters, the Committee noted that this is an excellent opportunity for the Commission to conduct monitoring in an attempt to quantify the benefits of BMPs on a watershed scale. Members also discussed research needs as related to the issue of climate change and the best available technologies for the removal/treatment of mercury. Specific research needs were not identified for these last two issues, but the Committee noted that these will be challenging areas for ORSANCO to consider in the very near future.

Additionally, recognizing that in today's world, social networking through sites such as Facebook and Twitter has replaced traditional email, the research Committee met with John Klear, ORSANCO's Data Systems Administrator, to discuss the creation of a 'private' networking site which the Commission can use to discuss ideas and share information. For now, the Committee would like to keep this site as private as possible while members all become more familiar with this type of discussion forum. However, in the future, this may be a very useful tool for engaging the public in certain research discussions. At the very least, the Commission could use it as a one-way communication portal, informing 'followers' of our discussions and research agenda for the Ohio River as it unfolds.

ACTION: Motion by Commissioner Servatius, second by Commissioner Conroe and carried, to accept the report of the Research Committee.

Randy Sovic commented on a couple of issues. Regarding the BMP issue for the Little Miami River, Mr. Sovic expects that this is a water quality trading program and that the NPDES program work would already require that a necessary baseline be established; therefore, ORSANCO involvement may not be required. Second, on the modeling aspect, Mr. Sovic recalled that some years ago, the Water Users Program funded a study to review all models used on the Ohio River. This study could possibly be a resource for the Research Committee's modeling effort. Commissioner Servatius responded that the outcome of this study indicated a lack of data to support implementation of any of the existing models; therefore additional modeling work will be required.

Report of the Water Quality Review Committee

Commissioner Bruny, Committee Chairman, directed Commissioner's attention to the Committee's report and attached summary in the meeting packet. Mr. Bruny reported that the Water Quality Review Committee met by conference call on May 5, 2009. The Committee received an update on each of the issues on its agenda (see attached update summary). The Committee discussed several of the issues and provided guidance as appropriate.

Oversight of the Watershed Pollutant Reduction Program

The Committee is concerned about the continuation of the Watershed Pollutant Reduction Program which has provided important information to support the development of TMDLs. The Committee supports efforts to find additional funding to continue this program.

Relationship with the Big Sandy River Coalition

The states of Kentucky, Virginia, and West Virginia have asked ORSANCO to apply for funds that will be used to support a watershed coordinator position for the Big Sandy River. This will allow the Coalition to increase its activities to protect water quality in the Big Sandy River Basin.

ORSANCO's Role on Tributaries

Staff reported that the environmental and conservation agencies from Indiana and Ohio are working with CTIC (Conservation Technology Information Center) and conservation districts from 13 counties in the upper Wabash River watershed to reduce nutrients. This development is significant first because the Wabash has the highest nutrient loading of any Ohio River tributary, and second, because a working relationship with the conservation agencies provides new partnering opportunities for the Commission.

Staff has also been in communication with the Upper Monongahela River Association. This group has been particularly active in response to elevated levels of Total Dissolved Solids (TDS) that were detected on the Monongahela this past fall. The group is discussing the need for a Commission on the Monongahela, perhaps along the lines of the Susquehanna River Basin Commission –i.e., a Commission with authorities in both water quality and quantity. It is anticipated that discussions with this group will continue and that the Water Quality Review Committee will continue to be the Commission Committee that provides oversight to these discussion.

Oversight of ORSANCO Watershed Initiative

The White Paper prepared for this initiative, which set forth a framework for the Commission's role in tributary watersheds, is now several years old. During that time, developments on the Big Sandy, Wabash, and Monongahela Rivers have accelerated and presented opportunities for Commission involvement. The Water Quality Review Committee has been supportive of this involvement, but is concerned that a balance be maintained between activities on the main stem and on the tributaries. The Committee is considering whether or not an update of the White Paper is in order, and if that update might set forth priorities for ORSANCO involvement in, and support of, watershed groups on tributaries. The Committee requested some guidance from Commissioners.

Based on the discussion, Commissioner Bruny indicated that the Committee will evaluate the White Paper and advise Commissioners of recommended changes at a future meeting.

ACTION: Motion by Commissioner Bruny, second by George Elmaraghy and carried, to accept the report of the Water Quality Review Committee.

Report of the Congressional Liaison Committee

Commissioner Harrison began the Committee's report and then asked the Executive Director to provide further detail. Mr. Vicory reported that ORSANCO was awarded, and has received, \$295,000 in the Federal FY08 budget to support the refurbishment of the Organics Detection System (ODS). These funds will be used to upgrade the ODS. ORSANCO was also awarded, but has not received to date, \$1 million in the Federal FY09 budget to support the ODS refurbishment. This funding requires a 45% match which can potentially be covered through in-kind services performed by the participating utilities. To complete the refurbishment, an additional \$1.2 million will be pursued in the Federal FY10 budget. Based on the appropriations process, the status of this funding request will not be known until late July 2009.

An additional priority activity underway is to acquire continuous funding for the Watershed Pollutant Reduction Program through Congress. ORSANCO currently has only one year of funding remaining for this program.

The Committee will be aggressively working to create a caucus of Senators and Representatives to collectively support ORSANCO's need for aggregate, reliable funding through Congress. It is hoped that the caucus will be in place for the Commission's meeting in Washington, DC in October 2009 to begin the process of securing sustainable funding.

ACTION: Motion by Commissioner Harrison, second by Commissioner Morgan and carried, to accept the report of the Congressional Liaison Committee as presented.

Report of the Program & Finance Committee

Commissioner Eger, Committee Chairman, reported that the Committee met at Commission headquarters on March 30-31. Six states were represented. Commissioner Eger then directed Commissioners' attention to the Committee's report included in the agenda packet.

ORSANCO Visioning Session

The Committee reviewed a summary of the results of the Commission Visioning Session which was held on February 11th. While the full report of the session has not yet been accepted, Committee members felt that the summary provided an accurate presentation of the key points of agreement from the session.

The major directions forward that were presented in the summary were to expand the Commission's scope of activities to address water quantity issues and to develop new sources of funding. The Committee discussed steps that might be taken to advance toward those goals. Those steps include the following:

Authorities

- Obtain legal opinions on the Commission's authority to collect fees and on alternatives to revising the Compact to expand the Commission's scope of activities to include water quantity.
- Continue discussions with ORBC.

Communications

- Revisit/redesign communications programs to achieve objectives agreed to at the Visioning Session.
- Create a Communications Task Force.

Revenue Enhancement

- Benchmark revenue of other agencies, especially interstate commissions.
- Pursue Congressional support.

Collaboration and Cooperation

- Inventory entities with whom we currently collaborate with and define the nature of the collaboration.
- Identify any obvious entities with whom we do not yet collaborate.
- Summarize success of developing partnerships through active participation in associations, conferences, etc.

Right Sizing Technologies

- Survey other organizations to determine if they have adopted policies on incorporating new technology.
- Describe ORSANCO processes that constitute technology evaluation.
- Develop presentation(s) on data sharing and management.

Nonpoint Sources

- Develop a “model” program description.
- Track national and regional developments.
- Inventory state programs.

Trading

- Participate in EPRI project.

The Committee recommends that the Commission pursue these activities, and that the Executive Director provide progress reports on the Commission’s progress at each Commission meeting.

Status of FY09 Programs

Staff reported that all Commission programs for FY09 are essentially on schedule and that scheduled outputs will be delivered on time.

Adoption of Program and Budget for Fiscal Year 2010

The Committee carefully reviewed the programs and budget for FY10. Staff had been directed to aggressively seek ways to reduce program costs. The Committee recommends that the Commission adopt the attached program and budget for FY10.

State Funding for Fiscal Year 2011 and 2012

The Committee considered the four percent increase in state funding for FY11 that was adopted last year. It was recommended that the Commission consider reducing the increase to only two percent for FY11, but that a four percent increase should be adopted for FY12. This recommendation was adopted on a vote of four to three.

Other Recommendations

1. Staff should continue to seek additional grant funds.
2. Staff should investigate opportunities to perform TMDL development activities for the states and U.S. EPA on a contract basis.
3. Support of the Organics Detection System by all drinking water utilities that benefit from its operation should be investigated.
4. Any staff vacancies that occur in the upcoming year should be carefully considered with the Personnel Committee before moving to fill them.
5. The Personnel Committee should consider local and state salary actions when addressing ORSANCO staff salary adjustments.
6. The recommendation on increasing state funding for FY12 by four percent should be reevaluated next year in light of developing economic conditions.

Commissioner Eger presented the following resolution for adoption:

RESOLUTION 1-09

STATE FUNDING LEVEL FOR FISCAL YEAR 2010, 2011, 2012

WHEREAS: The Commission recognizes that the economic downturn experienced over the last nine months has presented unusual and unpredicted financial difficulties for the signatory states' abilities to meet their funding obligations under previous resolutions; and

WHEREAS: The Commission wishes, on a one-time basis, to reduce its budget to reflect the changed economic conditions as a small relief to the signatory states; and

WHEREAS: Article V of the Compact provides that the Commission shall submit to the Governor of each state, at such time as he may request, a budget of its estimated expenditures for such period as may be required by the laws of such state for presentation to the legislature thereof;

NOW, THEREFORE, BE IT RESOLVED THAT: Prior adopted resolutions establishing state funding levels for FY10 and FY11 are hereby rescinded; and

BE IT FURTHER RESOLVED THAT: State funding levels be established as follows:

State Funding Levels

2010 - \$1,363,000
2011 - \$1,390,200
2012 - \$1,445,800

ACTION: Motion by Commissioner Eger, second by Commissioner Duritsa and carried, to adopt Resolution 1-09 as presented.

RESOLUTION 2-09

PROGRAM PLAN AND BUDGET FOR FISCAL YEAR 2010

WHEREAS: The Commission has established the sum of \$1,363,000 as the amount of appropriations to be requested from the signatory states for FY10; and

WHEREAS: Funds from the United States Government for approximately \$2,063,411 may be allocated to the Commission for FY10; and

WHEREAS: Funds amounting to \$151,764 may be available from a variety of sources to support the Ohio River Sweep, River Users, ORSANCO/USGS Gaging Stations, and Life Below the Waterline programs; and

WHEREAS: Funds amounting to \$12,000 may be available from miscellaneous sources; and

WHEREAS: The Commission is anticipated to carry over obligated resources of \$1,554,817 into the FY10.

NOW, THEREFORE, BE IT RESOLVED THAT: The 2010 Fiscal Year Program Plan for all activities and the budget contained therein and in support thereof be approved as presented.

BE IT FURTHER RESOLVED THAT: The Executive Director is hereby authorized to make application for funding as may be available from U.S. EPA, for other Federal funding, and funding from other sources as it may become available.

BE IT FURTHER RESOLVED THAT: The expenditures in FY10 be substantially within the framework of the following guidelines, which are made a part of this Resolution.

2010 FISCAL YEAR BUDGET

Payroll	\$1,341,392
Employee Benefits	486,863
Staff Travel	261,423
Commission Travel	119,943
Advisory Committees	49,825
Supplies	333,881
Telephone	29,868
Equipment Purchases	93,000
Mortgage & Utilities	108,107
Repairs & Maintenance	74,968
Contractual Services	491,560
Printing & Reproduction	21,300
Lab Fees & Delivery	<u>553,199</u>
Total Expenditure Budget	\$3,965,148

ACTION: Motion by Commissioner Eger, second by George Elmaraghy and carried, (Edward Ambrogio abstaining), to adopt Resolution 1-09 as presented.

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

US Army Corps of Engineers Report on Ohio River Basin Comprehensive Study

Representatives of the Corps of Engineers reported on a comprehensive Ohio River reconnaissance study which is currently underway, with completion expected at the end of the year. This reconnaissance study would be followed by a feasibility study. The main goal of the reconnaissance study is to identify needs, problems, and opportunities within the Ohio River Basin and to develop solutions. The study will consider all water resource issues such as ageing infrastructure, ongoing flood damages, ecosystem deterioration, water supply, and various energy issues. The outcomes of this study may include recommendations for future studies, a basin-wide management plan for a reinvestment strategy, and the formation of an Ohio River Basin collaborative partnership.

A draft report should be completed by September 2009 with a final report expected by December 2009. The Corps of Engineers is seeking feedback on the study from all interested stakeholders by the end of July 2009.

Report of the Water Users Advisory Committee (WUAC)

Ms. Mary Armacost, Committee Chairman, reported that the Committee met in May. The Committee discussed the elevated levels of total dissolved solids (TDS) associated with the Marcellus Shale gas extraction which has caused water quality problems for drinking water utilities. Committee members are reviewing disinfection by-product formation at their facilities to determine the extent to which the frack water may be affecting downstream facilities. The Committee's next meeting will be held at U.S. EPA's Cincinnati research center at which time the Committee will seek input and advice from EPA on this issue.

The Committee discussed options for upgrading the Organics Detection System's communication system and how to best use the initial \$295,000 in grant funds earmarked for this purpose. The Committee received updates on source water protection meetings and on the development of a bacteria TMDL.

ACTION: Motion by Randy Sovic, second by George Elmaraghy and carried, to accept the report of the Water Users Advisory Committee.

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

Mr. Mike Apgar, Chairman of the POTW Advisory Committee, thanked the Commission for providing the opportunity to share thoughts and ideas with the Lower Mississippi River Conservation Committee. It was a great learning experience, especially with respect to the challenges faced in the Gulf of Mexico.

Mr. Apgar began the Committee's report with a few comments on the need to reduce nutrients.

The POTW Advisory Committee is encouraged by the creation of a Science Advisory Board panel to look at nutrient criteria development concepts. POTW's have expressed concerns over the "Conditional Probability Approach" that has been developed by the U.S. EPA. The Committee will research the status of the committee formation and explore the potential of providing POTW opinion and advice to the SAB panel.

In addition, the Committee is impressed with the EPRI / ORSANCO trading grant to explore the potential of creating a nutrient trading program. As mentioned in the Technical Committee meeting on June 3rd, Sanitation District No. 1, Greater Chicago World Resources Institute, and Limno Tech have obtained an EPA grant to study the need to potentially modify existing trading concepts to mitigate the hypoxic problem in the Gulf. Committee members agree with Peter Tennant's suggestion to pull together a meeting of all the grant recipients and look forward to participating in that dialog.

Mr. Apgar then offered comment on the Ohio River bacteria TMDL. The POTW Committee met in Northern Kentucky last week and reviewed Region 5's responses to the questions asked in the public meetings held last January. Members were surprised at their written responses because they were not in sync with the verbal responses heard at the public meetings.

As such, each municipal member of the POTW Committee will gather with their respective leadership and respond to the Region 5 document. POTW members will review each member's comments and concerns. In October, the Committee will draft a formal POTW Advisory Committee White Paper on the issue. This document will be available for the Commissioners review at the October meeting in Washington DC.

The Committee very much appreciates the effort and diligence of the Commission on conducting the Ohio River Recreational Use study. Upon review and completion of Jason Heath's initial presentation of the raw data, the Committee would like to offer a few observations and suggestions.

When the Pollution Control Standards Committee first attempted to establish a criterion for a Wet Weather Quality Standard, river current was a principle factor. Upon review of the raw data, it may be prudent to consider focusing not only on when people use the river, but also on when they do not use it and why. Logic dictates that one of the main reasons the river is not used for recreation is due to water activities not being as enjoyable when heavy rain events occur or potential safety issues with high flow and potential flood stage levels. As such, the Committee asked the Commission to balance thoughts on why river recreators are not using the river with how often they are recreating.

It was also learned in Tuesday's Technical Committee meeting that there will be an attempt to marry the Bathing Beach Act with the results of the Recreational Use survey. The Committee would advise that the Commission not only consider the likeness of this comparison but also the differences. The potential of high flows and flood stage levels are two obvious differences; however, the fact that the Ohio is very much a working river should also be considered.

In closing, Mr. Apgar stated that he hoped everyone had the opportunity to witness Richard Ingram from Mississippi DEQ's presentation of what Mr. Apgar referred to as the "Mississippi Approach." This approach considers:

- scientific limitation and economic conditions;
- the balance of cost and environmental benefit;
- an intuitive and adaptive process, open to modification as needed;
- and the involvement of stakeholders throughout every step of the journey.

The Committee believes that everyone can learn from the model and feel that it would be prudent to consider the points incorporated in the planning process as the Commission tackles the many challenges faced today.

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

Ron Schwartz requested that the POTW Advisory Committee submit the above mentioned draft White Paper to Commissioners for review prior to the October Commission meeting.

Report of the Nominating Committee

Commissioner Bruny, Committee Chairman, reported that the Committee recommends the following slate of officers for 2009-2010:

Chair: Jeffrey Eger
Vice Chair: Paul Tomes
Secretary/Treasurer: Charles Duritsa

ACTION: Motion by Commissioner Bruny, second by Randy Sovic and carried, to accept the recommendations of the Nominating Committee.

Comments

Commissioner Servatius directed attention to the Educational Foundation's Annual Report contained in the meeting packet and mentioned the excellent work Foundation staff is doing on behalf of ORSANCO. Commissioner Servatius strongly urged Commissioners to consider personal financial support for the Foundation.

Upcoming Meetings

Chairman Flannery noted the following schedule for upcoming Commission meetings:

- October 22, 2009 Washington, DC

Adjournment

The 194th Commission meeting was adjourned at 11:35 A.M.

Prepared by:

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

Approved by:

 _____ Date: _____
Paul Tomes
Secretary/Treasurer

ROSTER OF ATTENDANCE
194th Commission Meeting
June 4, 2009

Commissioners

Illinois	Phillip Morgan
Indiana	Joseph Harrison
Kentucky	Valerie Hudson (PROXY for Leonard Peters) Jeffrey Eger
New York	Douglas Conroe T. Lee Servatius Jerry Palumbo (PROXY for Pete Grannis)
Ohio	Paul Tomes Thomas Conway George Elmaraghy (PROXY for Christopher Korleski)
Pennsylvania	Charles Duritsa Greg Phillips Ron Schwartz (PROXY for John Hanger)
Virginia	Robert Wayland
West Virginia	David Flannery Randy Sovic (PROXY for Randy Huffman)
Federal	Stuart Bruny Kenneth Komoroski

U.S. EPA

Edward Ambrogio

Executive Director

Alan Vicory

Guests

Mary Armacost – Chairman, Water Users Advisory Committee; Mike Apgar – Chairman, POTW Advisory Committee; Ron Riecken – Chairman, Public Interest Advisory Committee; James Tarpy – Metro Water Services Nashville; Jason Flickner – Kentucky Waterways Alliance; Doug Duigle – LMRSBC; Deborah Lee – US Army Corps of Engineers; Chip Hall – USACE, Nashville; Mitch Laird – USACE, Nashville

Staff

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