

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

**196th Commission Meeting
Hilton Cincinnati Airport
Florence, Kentucky
Thursday, February 11, 2010**

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Chairman Jeffery Eger, Presiding

Call to Order

Chairman Eger called the 196th meeting of the Ohio River Valley Water Sanitation Commission to order at 9:00 A.M. on Thursday, February 11, 2010.

Commissioner Tomes led the Commission in the Pledge of Allegiance.

Quorum Call

Commissioner Duritsa declared that a quorum was present (see Roster of Attendance, page 15).

Recognition of Service

Commissioner Tomes presented the following resolution for adoption:

RESOLUTION 1-10

WHEREAS: Thomas Conway has served the Ohio River Valley Water Sanitation Commission as a representative of the State of Ohio for 2 years, and;

WHEREAS: Commissioner Conway's efforts to advancing the goals of the Commission have contributed to the environmental and water pollution control efforts throughout the Ohio River Basin, and;

WHEREAS: By his commitment to clean water, Commissioner Conway's knowledge helped advance the Commission's goals, and;

WHEREAS: Commissioner Conway's contributions to the Commission will be missed.

NOW, THEREFORE, BE IT RESOLVED: The members of the Ohio River Valley Water Sanitation Commission express their esteem and appreciation to Mr. Conway for his service and extend their best wishes for future endeavors.

ACTION: Motion by Commissioner Tomes, second by George Elmaraghy and carried, that Resolution 1-10 be adopted as presented.

Action on Minutes

ACTION: Motion by Commissioner Morgan, second by Commissioner Servatius and carried, that the minutes of the 195th meeting of the Commission and of the October 2009 Executive Session (Mailed on January 21, 2010) be adopted as presented.

Report of the Treasurer

Commissioner Duritsa noted that a Treasurer's report as of December 31, 2009 was provided in the meeting packet.

The report indicates a balance of \$1,082,735 in accounts receivable due the Commission as of December 31, 2009. The balance represents \$622,526 due from Signatory States, \$381,249 due from Federal sources and \$78,960 from other sources.

Additionally, the report indicates resources of \$4,062,728 through the end of December 2009. Of that amount \$1,717,487, was expended on programs, leaving \$2,345,242 available for the continuation of ORSANCO's programs.

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

Report of the Chairman

Chairman Eger welcomed everyone to the 196th meeting of the Commission and began by mentioning that one of the unique dimensions of ORSANCO is its ability to be of service to the sector of users of the Ohio River without compromising its duty to develop and assure adherence to its regulatory standards.

Mr. Eger directed attention to, and commented on, the historical perspective of a news article from 1953 regarding the Commission. Looking back to 1948, when ORSANCO was created, it must have been a daunting thought to the charter Commissioners to realize the broad regulatory powers bestowed on them and to succeed with limited resources. These Commissioners understood that ORSANCO was not about to approach its mission by simply adopting effluent regulations and expecting immediate action by river communities. Rather, ORSANCO started with a public campaign to educate and convince the public of the importance of constructing and operating sewage treatment plants and assuming the cost of this undertaking. ORSANCO staff played a major role in garnering local support and educating the public on the design, funding, and construction of the necessary facilities. Due in part to these activities, ORSANCO was awarded, in 1963, the American Society of Civil Engineers' most distinguished award, for what was termed "the most effective large scale water pollution abatement program ever undertaken in the Western Hemisphere."

Mr. Eger continued by stating that the richly deserved 1963 award created an intense feeling of pride around the mission of establishing clean streams. He also expressed his pride in the fact that Sanitation District No. 1 of Northern Kentucky, where he is the Director, constructed one of the first sewage treatment plants on the Ohio River.

Mr. Eger then reported that, at the previous day's Roundtable of Commissioners discussion, it became clear that ORSANCO continues to search for ways to solve problems cooperatively. Discussion also covered some of the challenges cities are facing in meeting current and anticipated environmental requirements, and further discussed ideas on how ORSANCO can play a facilitating role to help public wastewater utilities reach as far as is possible in terms of

improving Ohio River water quality. These utilities face a number of challenges, including additional pending requirements, storm water issues, and an aging infrastructure requiring millions of dollars in repairs.

Mr. Eger also mentioned that ORSANCO staff is often called on to speak to a variety of groups to describe ORSANCO and how it operates. This is in part related to the heightened interest in this country and abroad to hear successful case histories of true cooperation and collaboration on water issues. This interest will only grow in the future as water becomes scarcer and conflicts arise.

Mr. Eger concluded by noting that at the upcoming June Commission meeting in Virginia, Commissioners will have an opportunity to learn about the latest developments in the campaign to rid the Chesapeake Bay of over enrichment from nutrients. In addition, ORSANCO can evaluate if the stronger, more regulatory approach being taken there can serve as a model for the Ohio Valley.

Report of the Executive Director

Mr. Vicory directed Commissioners' attention to the 2009 Annual Report included in the meeting packet. Mr. Vicory reported that the 2009 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 then directed Commissioners' attention to a postcard asking for their preference to receive routine communications from ORSANCO either electronically or hard copy. Commissioners were asked to consider their preference and return the postcard to staff.

Mr. Vicory provided an update on activities which serve to implement the outcomes of the February 2009 Visioning Workshop, noting that a detailed report was provided in the meeting packet. Mr. Vicory added that ORSANCO staff receives a number of invitations to speak at conferences and meetings and mentioned that he was scheduled to be a keynote speaker at the upcoming Media and Science Conference in Louisville. Mr. Vicory asked that Commissioners keep staff informed of any worthwhile speaking opportunities.

Mr. Vicory reported that developments in the federal budget process indicate some movement towards increased under Section 106 of the Clean Water Act funding. However, some portion of these increased funds is likely to be directed to specific initiatives. The impact of this possible increased funding to ORSANCO is unknown.

Mr. Vicory directed Commissioners attention to a table in the Annual Report regarding the Organics Detection System (ODS) renovation benefits. Most work to date has focused on upgrading the communications network for the system. The table clearly identifies the expanded capacity and operational efficiencies of the proposed new system. These technologies and efficiencies are valuable when operating with a small staff.

Mr. Vicory concluded by reporting that the Foundation's educational facility, the PA Denny, is in need of significant hull repairs, and current funds are not available for this work. The viability of the floating classroom is in question. ORSANCO will work with Foundation staff to identify possible solutions. Mr. Vicory hopes that this historic vessel can be saved to continue its worthwhile mission.

Report of the Water Quality Review Committee

Commissioner Bruny, Committee Chairman, reported that the Water Quality Review Committee met by conference call on Monday, January 11, 2010. Two items of business were discussed: the revision of the Commission's "white paper" on its role in tributary watersheds, and the next steps to be taken in the survey of recreational use.

Revision of White Paper

The white paper was originally written to set forth the Commission's role in tributary watersheds. Since the paper was last revised, there have been several developments that have presented new opportunities and new roles for Commission involvement in tributary watersheds, including the emergence of the Big Sandy River Coalition, the interstate issues on the Monongahela River, and nutrient management challenges on the Wabash River. The Commission therefore tasked the Water Quality Review Committee to review the current paper and to update it as necessary.

Members of the Water Quality Review Committee reviewed the current paper and submitted comments to staff. The comments raised several issues that would determine how the revision might proceed, most notably concerning the purpose and intended audience of the paper. Whereas the paper was originally written as a discussion document for internal use, the Committee agreed that it should be revised to speak to a wider audience including potential partners in tributary watersheds as well as the general public. It was also agreed that while the current paper addresses only the implementation of the Compact, the revised paper should address wider issues in water management such as water allocations.

Staff was directed to proceed with developing a revised draft based on the Committee's direction.

Recreational Use Survey

Staff received the contractor's results of telephone surveys on Ohio River recreational use. Staff had also conducted a number of in-person surveys at points along the river, including observations of recreational use and interviews of persons using the river. The results of the telephone surveys differed significantly from the on-site observations. Moreover, the information from the telephone surveys on fish consumption was widely at variance from other surveys on this topic at both regional and national levels.

The Committee discussed the intended use of the results. The information on fish consumption would be used to calculate site-specific criteria for pollutants that bioaccumulate in fish tissue; these criteria would replace national criteria currently included in the ORSANCO Pollution Control Standards. The information on the amount of recreational use would be used to modify bacteria criteria, specifically the single sample maximum criteria for *E. coli* and fecal coliform. The current criteria were developed for bathing beaches. U.S. EPA guidance provides for alternative single sample maximum values for waters with less intense recreational use.

The Committee agreed that the fish consumption results should not be used at this time because they are so at odds with other information. ORSANCO will continue to use national criteria until additional local information is available.

A challenge in utilizing the recreational use data is in comparing information for a river to information developed for bathing beaches. Staff had proposed several approaches to doing this. The Committee agreed that staff should seek information on the linear extent of the beaches (for which information is available) and express those results in terms of persons recreating per mile of beach. A similar transformation of the Ohio River data could then be carried out, and a direct

comparison made. It is anticipated that the results would show that recreational use of the Ohio River is much less intense than that taking place at a bathing beach.

The Committee is aware that, before using the results of the recreational survey to modify the current bacteria criteria, the Commission is committed to await the results of current efforts by U.S. EPA to revise the national pathogen criteria, as well as studies by the Water Environment Research Foundation to determine the most appropriate pathogen criteria for inland flowing waters. The Commission is also committed to conduct a public education effort on any proposed changes to the pathogen criteria. To advance this effort, the Water Quality Review Committee intends to invite the chairman of PIACO to participate in its next call on this matter.

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

Report of the Technical Committee

Commissioner Duritsa, Technical Committee Chairman, reported that the 192nd meeting of the ORSANCO Technical Committee was held on February 9-10 in Florence, Kentucky. Six states, two federal agencies, and four Commission advisory committees were represented.

Chief Engineer's Report

Mr. Vicory reported on a number of items:

Wabash River Proposal - ORSANCO has received stimulus funds from Indiana DEM to enhance monitoring of the Wabash River. The project will include continuous monitoring and twice monthly sampling for nutrients.

TMDL Development – U.S. EPA Region 5 has set aside funds to support additional monitoring by ORSANCO to support development of a TMDL for pathogens.

Habitat Mapping – ORSANCO has applied for a grant from the U.S. Fish and Wildlife Service to develop GIS coverages for aquatic life habitat in the Basin. The project would be carried out through a partnership with West Virginia University.

Trading – Several groups have received Targeted Watershed Grants from U.S. EPA to assess opportunities for water quality trading in the Ohio and Upper Mississippi watersheds. ORSANCO staff organized a call among the recipients to discuss issues of common concern and identify opportunities for collaboration.

Funding – The President's budget contains a significant increase in 106 funding. Some of the increase will be set aside for specific functions, so the magnitude of increase that the Commission might receive is not known at this time.

Ohio River Summit - The first Ohio River Summit, which was convened by the Corps of Engineers, was held in October. The consensus was that there should be a Basin wide organization to address all water issues. A second meeting will be held in Columbus later this month; Mr. Vicory and Commissioner Duritsa will participate.

Watershed Pollutant Reduction Program – A request for \$2 million for this program will be made for Fiscal Year 2011. The funds would be used to develop an eutrophication model for use in nutrient criteria development, to carry out monitoring for contaminants that are reported but are not currently monitored, and to complete current TMDL projects.

Organics Detection System - Mr. Vicory reported that the replacement of equipment for the system is underway. Staff responsible for the system upgrade provided an overview of the capabilities of the new system.

NRC Reports – The National Response Center still will not provide complete spill reports to ORSANCO. The basis for this is that the contractor who operates the NRC does not believe that the Commission is a government agency. Staff has discussed the situation with senior U.S. Coast Guard personnel.

Chemical Industry Committee – Staff has been approached by personnel from chemical companies in the Basin who are interested in reactivating the Chemical Industry Committee. A representative of that Committee used to participate in TEC meetings.

Ohio River Basin Water Resources Association – Mr. Vicory called attention to the Memorandum of Agreement between ORSANCO and ORBWRA, and invited that organization’s Director, Larry Feazell, to join the Committee at the table.

Ohio River Recreational Use Survey

The contractor’s report from the recreational use survey has been received. Staff has attempted to utilize the survey results to answer basic questions about the amount of contact recreation that takes place on the river and the amount of Ohio River fish that is consumed. The Technical Committee had provided comments on the survey findings; staff attempted to address those comments.

The Technical Committee recommends that staff begin a public dialogue on the survey findings, with involvement by PIACO and U.S. EPA. The Committee believes that the discussion can begin with the workshops that are being held as part of the expedited review of the Commission Standards.

Ohio River Fish Consumption Advisories

The draft Protocol for development of consumption advisories for Ohio River fish has been reviewed by the state agencies. A second draft for final review will be issued shortly. The participating agencies proposed that ORSANCO establish a dedicated website for fish consumption advisories; the Technical Committee supports this proposal.

2010 Assessment of Ohio River Water Quality Conditions

Staff presented the results of the 2010 Ohio River assessment. The states are in agreement with the assessments for water supply, fish consumption, and contact recreation use. Agreement could not be reached on aquatic life use support, primarily due to differences in the consideration of different types of data (i.e., biological vs. water quality data). The Technical Committee endorsed the assessment results, as agreed to by the states, and directed staff to complete the report without conclusions regarding aquatic life support. The Committee recommends that the Commission write a letter to U.S. EPA (to Headquarters with copies to Regions 3, 4, and 5) raising the issue of assessment approaches (independent application vs. weight of evidence). The Committee directed the 305(b) Coordinators Work Group and the Biological Water Quality Subcommittee to develop a position on this issue.

Mercury Studies

The Commission’s monitoring programs have shown numerous exceedances of in-stream mercury criteria, but fish tissue levels have rarely exceeded applicable criteria. A special study, in which large top predators were sampled, was conducted last year. A significant number of samples exceeded fish tissue criteria. The results of this study could be used to develop new ambient criteria; however, the Technical Committee believes that additional data should be

collected, including samples of an additional species (Trophic Level 3) and ambient sampling for methyl mercury.

Report of the NPDES Subcommittee

The NPDES Subcommittee met by conference call on January 26, 2010. The Subcommittee continued its discussion of mercury discharges from power plants, and considered implementation of the 2009 revisions to the Commission Standards. The Subcommittee believes that implementation guidance is needed for the new ammonia criterion, which is to apply at drinking water intakes. The Technical Committee agreed, and directed staff to develop such guidance, which would be made available on the ORSANCO website.

The NPDES Subcommittee reiterated its recommendation that the Commission adopt a maximum temperature criterion for human health protection.

ORSANCO Pollution Control Standards

Staff briefed the Committee on the adoption of the 2009 revision of the ORSANCO Pollution Control Standards and the expedited review that was recently initiated.

State Reports

State members of the Committee presented reports on pollution problems within their states and on efforts to abate them. Federal agency representatives also reported on their activities that affect the Ohio River Basin. Updates were also provided by the members representing the USGS and the Corps of Engineers.

Report of the Biological Water Quality Subcommittee

The Biological Water Quality Subcommittee met in December to review the status and results of the Commission's biological programs and to recommend activities for next year. The Technical Committee endorses the Subcommittee's recommendations and will make them a part of its program guidance for Fiscal Year 2011.

ORSANCO Technical Programs for FY 2011

The Committee reviewed program recommendations for the current year, some of which could not be accommodated due to resource constraints. The Committee also considered program recommendations that emerged from earlier discussion at this meeting. The resulting list of recommendations will be used by staff to develop a proposed program and budget for consideration by the Program and Finance Committee. The Technical Committee will also provide input regarding its priorities among the Commission's technical programs.

Nutrient Issues

Staff presented a progress report on development of numerical nutrient criteria for the Ohio River. Contractor assistance is to be provided by U.S. EPA; however, the contractor's analysis of the data has not yet been completed due to administrative issues. It is hoped that the issues will be resolved and the analysis complete by the next Technical Committee meeting.

Staff next presented information on a proposed Ohio River Basin nutrient trading program. The Electric Power Research Institute (EPRI) is leading a team which includes ORSANCO in the development of this program. Funding has been received from U.S. EPA and USDA. The project team will meet in April to consider a draft Memorandum of Understanding which would need to be approved and signed by the permitting agencies.

Staff then reported on a second workshop on reduction of nutrient levels and energy use at POTWs which took place in Evansville on January 12-14, 2010. The workshop was well-attended and delivered much information to the attendees. A third such workshop is being

planned for the Lower Mississippi basin; it is hoped that funding can be found to hold another workshop in the upper Ohio River area.

Staff also noted that the Gulf Hypoxia Task Force will meet in Alexandria, Virginia on March 10-11, 2010. Among the topics to be considered is additional state members, including Kentucky and Indiana.

Status of TMDL Development

Staff presented an overview of tributary sampling for pathogens in order to improve the model application for the Ohio River pathogen TMDL. The sampling will be carried out if U.S. EPA is able to provide \$100,000 in funding.

Staff presented results of first round sampling for PCBs in the Beaver River watershed. The study is designed to better define the impacts of PCB sources in the watershed; it is hoped that the results will also inform the assessments of PCBs in other tributary watersheds.

Reports by Advisory Committees

PIAC - The Committee has been involved in the nutrient trading project and the ORSANCO/Ohio River Users program. Committee members have also been involved with site visits by EPA as part of the revision of the effluent guidelines for the Steam Electric Power industry, and in the revision of 316(b) regulations. ORSANCO staff made presentations at a recent meeting of utilities involved in Ohio River studies.

PIACO - The Public Interest Advisory Committee has not met since the last Technical Committee meeting.

WUAC – The Committee expressed appreciation for the adoption of an ammonia limit for drinking water protection into the Commission’s Pollution Control Standards. The Committee will provide input to the review of the Commission’s Monitoring Strategy.

POTW – The Committee is particularly interested in the Commission’s Recreational Use study and in the development of nutrient criteria.

Comments by Guests

Rich Cogan of the Ohio River Foundation advised that he had visited the Commission’s website and expressed concern that the Commission had not clearly stated the reasons for the expedited review of its Standards.

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

Commissioner Duritsa made a recommendation for future Commission meetings that the Report of the Technical Committee be provided in the Commission meeting packet but not continue with the past practice of reading the Report to the Commission in its entirety. Many Commissioners now attend Technical Committee meetings when this information is presented.

Chairman Eger stated that specific actions or recommendations from the Technical Committee meeting would continue to be presented verbally.

ACTION: Motion by Commissioner Duritsa, second by Marcia Willhite and carried, to accept the recommendation that the Report of the Technical Committee be provided in the Commission meeting packet but not continue with the past practice of reading the Report to the Commission in its entirety.

Report of the Congressional Liaison Committee

Mr. Alan Vicory, Executive Director, reported on the following items:

Status of Caucus Development and Planning for First Briefing

Mr. Vicory reported that Caucus activities are progressing very well and that 15 members have joined the Caucus to date. Most noteworthy, the entire Kentucky delegation has signed on as members. In addition, the Caucus currently has representation from five of the six main stem states. These results are encouraging.

Mr. Vicory noted that it is customary to conduct periodic Caucus briefings. The first such briefing will be held on February 17, 2010 in Washington, DC. Caucus Co-Chairs and Congressional staff typically attend these briefings. Agenda topics will include a general overview of water quality issues in the basin; a briefing on the Corps of Engineers Comprehensive Study; and an overview of the Ohio River Basin Summit discussion on water resources management.

Mr. Vicory then reported that ORSANCO staff issued a first report to the caucus. This report is a brief, one-page activity report. This activity status report will be distributed three times per year.

Efforts to Seek Funding Support for Watershed Pollutant Reduction Program

Mr. Vicory reported that securing continued funding for the Watershed Pollutant Reduction Program remains the highest priority for Congressional support. Based on input, a funding request will be made for \$2 million in the Federal Fiscal year 2011 budget. Staff provided a three-point rationale for the funding. The breakdown of this funding includes \$750,000 for a broad scan of regulated but unmonitored pollutants, \$750,000 for an eutrophication model used to support nutrient development, and \$500,000 to provide to support further development of a bacteria TMDL.

The funding request will be submitted to twenty-five House and Senate members in late February and in early March 2010. Caucus members will be asked to sign a joint letter of support to the Appropriations Committee. ORSANCO should have some indication in May or June as to how the funding request is progressing.

ACTION: Motion by Commissioner Duritsa, second by Commissioner Conroe and carried, to accept the Congressional Liaison Committee report as presented.

Report of the Audit Committee

Commissioner Conroe, Audit Committee Chairman, directed Commissioners' attention to the 2009 Independent Auditors' Report provided in the meeting packet.

Commissioner Conroe reported that Clark, Schaefer, Hackett & Company, Certified Public Accountants, performed a general-purpose financial audit for Fiscal Year ending June 30, 2009. 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, 2009. There were no reported material weaknesses in internal controls. The audit report is an "unqualified" report.

The Committee recommends that Clark, Schaefer, Hackett & Company be retained as auditor for 2010.

Marcia Willhite recommended changing audit firms on a five-year cycle as a good business practice. Commissioner Conroe indicated that the Committee plans to solicit proposals from other audit firms for the 2011 audit.

ACTION: Motion by Commissioner Conroe, second by Commissioner Easterly and carried, to accept the Independent Auditor's Report and the Audit Committee's recommendation to retain Clark, Schaefer, Hackett & Company to perform the June 30, 2010 financial audit.

Report of the Pension Committee

Commissioner Morgan, Committee Chairman, reported that the Actuarial Report, compiled by Buck Consultants, indicated that the Pension Plan had assets with a market value of \$1,996,335 as of July 1, 2009. Based on market value of assets, the Plan's funded ratio slipped to 69.3%.

As of December 31, 2009, the Plan had assets of \$2,177,103, and the funded ratio had improved to 75.6%.

PNC Advisors reported that fund assets are currently invested with a 50% stock and 50% bond allocation. Based on risk management, the current allocation provides the best opportunity for long-term correction. The Pension Committee recommends continuing with this investment strategy.

The Pension Committee requests that the Program & Finance Committee consider a recommendation to fund a pension contribution of \$175,000, based on available funds, for Fiscal Year 2011.

ACTION: Motion by Commissioner Morgan, second by Commissioner Tomes and carried, to accept the report and recommendations of the Pension Committee.

Report of the ORSANCO/Ohio River Users Program Advisory Committee

Commissioner Potesta reported that the Committee met at the ORSANCO offices on November 10, 2009 to discuss general program management issues and outline possibilities for future projects. Two potential project topics were discussed in detail, one being a study to investigate non-point source contributions to the main stem Ohio River. Currently, staff is working with members of the ORSANCO POTW Advisory Committee to develop a draft study proposal on this subject which will be submitted to the River Users Advisory Committee this spring for their consideration. Additionally, the Committee discussed the need for a study or report highlighting 'how far we have come' (water quality improvements over the last 30 years) and the challenges we face with moving forward with additional improvements. This subject will continue to be discussed and explored by the Committee.

Members representing river interests are appointed by the Commission for three-year terms with the availability for one-term reappointment. In December of 2009, the second terms of two members, Alan Harsin of Corning Corporation and Bud Smith of Severstal, were concluded. The Committee is proposing to fill these vacancies with Dave Altman from DuPont and Mary Ann Henderson with Bayer Corporation. Additionally, Greg Wilkins of Marathon Petroleum Company will be stepping down due to a change in responsibilities within his organization, and he has suggested that Tara Lanier, who is also with Marathon, serve as his replacement.

Specifically, the Committee is recommending that Dave Altman, Mary Ann Henderson, Leslie Hyde, and Tara Lanier be appointed to the ORSANCO/Ohio River Users Advisory Committee to fill current vacancies, with terms expiring in February 2013.

In addition, the Committee is providing formal notice to the Commission, as required in the Bylaws, of their request to amend the Commission's Bylaws increasing the Committee's membership to nine members. The ninth member would represent a river interest.

ACTION: Motion by Randy Sovic, second by Commissioner Servatius and carried, to accept the appointments of Dave Altman, Mary Ann Henderson, Leslie Hyde, and Tara Lanier to the ORSANCO/Ohio River Users Advisory Committee, with terms expiring in February of 2013.

Commissioner Conroe recommended that the Public Interest Advisory Committee (PIACO) review the study to investigate non-point source contributions to the main stem Ohio River prior to presenting a draft report to the Commission.

Report of the Pollution Control Standards Committee

Peter Tennant, Deputy Executive Director, reporting on behalf of Commissioner Komoroski, Committee Chairman, advised that the Pollution Control Standards Committee met by conference call on January 20, 2010. The call was held to discuss the accelerated review for certain portions of the Commission Standards. That review was agreed to at the October Commission meeting.

Mr. Tennant distributed a document which provides a rationale for the expedited review, including workshop dates, which is published on ORSANCO's website.

Accelerated Review of Commission Standards

Several issues were brought to the Committee's attention in the final review of the proposed revisions to the Standards that were adopted in October. The Committee felt that certain of those issues could not wait for the next scheduled review, but instead needed to be addressed on an accelerated basis. Those issues are:

Design Flow for Human Health Criteria - In an apparent oversight, the Standards do not currently specify a design flow for criteria in Sections IV.C.1, IV.C.2, and IV.C.3. This presents difficulties for NPDES permit writers in deriving limits. Use of the seven-day ten-year low flow would be proposed.

Total Dissolved Solids - Criteria for total dissolved solids were omitted from the Standards in a previous review when the criteria were rearranged to differentiate between those adopted to protect human health and those adopted to protect aquatic life. Elevated levels of total dissolved solids on the upper Ohio River the past two years have suggested a need to restore the criteria. Restoration of the drinking water criteria (500 mg/L monthly average; 750 mg/L maximum) would be proposed. Criteria for aquatic life protection might also be considered.

Selenium - Criteria for selenium in the current Standards were adopted by U.S. EPA in the 1980s, but are now considered out-of-date. U.S. EPA is in the process of adopting new criteria; the revised criteria are expected to be available in 2010. Adoption of the U.S. EPA criteria (assuming that they are available and acceptable to the Commission) would be proposed.

Use of Variance Procedure - Currently, the Variance Procedure established in Section VIII of the Standards applies only to requirements in Section V. Meanwhile, the prohibition of mixing zones for Bioaccumulative Chemicals of Concern in Section VI sets a requirement that may not be consistently attainable with current control technology. The NPDES Subcommittee has suggested that temporary variances to this requirement be considered; this would require a revision of the Standards to allow

variances to Section VI. Such variances would be for the life of the current permit, and would include alternative limits that would be attainable by current technology.

The schedule for this process will be as follows:

February 2010	Publish Notice of Proposed Rulemaking
March 2010	Public Workshops
April 2010	Comment Period closes
May 2010	PCS Committee meets to consider comments, identify alternative actions
June 2010	Commission action to authorize public hearing (and associated workshops)
August 2010	Hearing
October 2010	Commission Action

Four workshops are proposed, in the Pittsburgh, Huntington, Cincinnati and Evansville areas. Because of the compressed schedule for the review, special efforts will be made to inform the Commission's advisory committees in order to assure they have the opportunity to provide input. It should be emphasized that the accelerated review will only address the four issues set forth above; other issues that might be raised through the public comment process will be carried forward into the next review.

Petition for Relief

The Commission received notification that the Ohio Power Company intends to seek relief from a requirement in the NPDES permit for its Mitchell plant near Moundsville, West Virginia. The requirement at issue is a mercury limit based on the ORSANCO Standards which must be met by May 2010. Studies conducted by the company indicate that this limit cannot be reliably met with current technology.

The Technical Committee and its NPDES Subcommittee have worked with the Power Industry Advisory Committee to identify capabilities of existing treatment technology to remove mercury from effluents from Fluid Gas Desulfurization facilities. It has been concluded that current technology cannot consistently meet the in-stream criterion for mercury (0.012 ug/L). Based on this finding, the Technical Committee recommended that the Commission consider use of the Variance procedure to allow interim limits for mercury. While this course of action is being considered in the accelerated review of the Commission Standards, there is no means available to the Commission at the present time to allow alternate limits. The Pollution Control Standards Committee believes that this matter should be discussed by the Commission at its February 11, 2010 meeting. Subsequently, the Commission received a formal request for a Variance for the Mitchell plant on February 7, 2010. The late receipt of this request did not allow staff or the Pollution Control Standards Committee to review it nor to make any recommendations on its disposition at this meeting.

The Pollution Control Standards Committee will continue to address this issue.

ACTION: Motion by George Elmaraghy, second by Marcia Willhite and carried, to accept the report of the Pollution Control Standards Committee as presented.

Report of the Research Committee

Commissioner Servatius reported that the Research Committee met by conference call on January 28, 2010. All members of the Committee participated on the call. Also in attendance were Harry L. Jenter, PhD, Assistant Chief, BRR/ER, National Research Program, USGS, and Mindy Yeager Armstead, PhD, Senior Scientist, Potesta & Associates, Inc.

The Committee discussed the following topics:

Ongoing Research

Staff provided an update on progress being made on the *Emerging Contaminants* research project. In 2009, staff collected samples from 24 locations for EC analysis. Currently, staff is working with U.S. EPA collaborators to complete a thorough QA review of the data received from the lab. Once the review has been completed, the QA report and data will be made available to the Water Users Advisory Committee and the Publicly Owned Wastewater Treatment Works (POTW) Advisory Committee such that they can provide additional review and comment to staff prior to advancing to the data analysis phase.

Identification of Future Research Needs / Recommendations for Moving Forward

The primary focus of the call was on the development of research topics in anticipation of an upcoming spring meeting (late April / early May, 2010). Although the topics outlined for discussion on the agenda covered a broad spectrum, one subject in particular dominated the conversation and was discussed in great detail: Golden Algae. Golden Algae, is an invasive species of algae that is suspected of playing a key role in a major fish kill in Dunkard Creek, which flows along the border shared by West Virginia and Pennsylvania. Most on the call were familiar with the subject, but a discussion led by Dr. Armstead provided the group with additional details of the life history of the organism, an overview of the Dunkard scenario, and findings from around the region. The group discussed the occurrence of this algae species and potential problems that it might cause in relation to what are believed to be key water quality variables affecting its occurrence, persistence, and triggers for toxin development and release including nutrients, TDS, chlorides, and other parameters.

The Research Committee decided that this subject warrants further discussion and exploration as a potential future research topic. Therefore, the Committee has decided that for the spring 2010 meeting, the Committee will invite a couple of outside speakers to attend the meeting and present additional information on Golden Algae. In the coming weeks, staff will be working with Committee members to develop a list of potential speakers. Any suggestions regarding speakers that may be willing to attend and present information should be forwarded to Erich Emery.

ACTION: Motion by Commissioner Servatius, second by George Elmaraghy and carried, to accept the report of the Research Committee as presented.

Report of the Water Users Advisory Committee (WUAC)

Mr. Jack Wang, Committee Chairman, reported that the Committee met on January 12-13, 2010 to discuss several topics. The Committee reviewed the 2009 ORSANCO Pollution Control Standards and expressed appreciation to the Commission for including the ammonia standards, noting their importance to water treatment facilities. The Committee also discussed emerging water quality issues which are currently under consideration by the Technical Committee and the Research Committee. The Committee has no specific recommendations for consideration. However, the Committee did recognize the need for improved information, data collection, and better coordination with other agencies and Commission committees. The Committee will continue to work on specific recommendations.

ACTION: Motion by Valerie Hudson, second by Commissioner Easterly and carried, to accept the report of the Water Users Advisory Committee (WUAC).

Recognition of Staff Reaching Five-Year Employment Milestones

Chairman Eger recognized the following staff members for their years of service:

Jeanne Ison 25 years
Jeff Thomas 10 years
David Bailey 10 years

Comments by Guests

Mr. Ron Riecken provided an update on the critical issue with the PA Denny River Education Center. The Denny needs a major portion of its hull replaced. The Foundation does not have the funds for this repair and is seeking emergency funds. If emergency funds are not forthcoming the Denny will be taken out of operation. Several individuals, including Commissioners Potesta, Servatius, Eger, and Jeff Boyle volunteered to form an ad-hoc committee to help Foundation staff with this undertaking.

Mr. Jason Flickner of the Kentucky Waterways Alliance commented that KWA currently supports the accelerated review proposals on design flow for human health criteria, total dissolved solids, and selenium. KWA does not support the proposals to amend the Use of Variance Procedures section of the Pollution Control Standards. KWA requests a public education meeting be held in Louisville, Kentucky during the accelerated review process prior to Commission action on the standards. KWA would offer assistance to notify the public of a Louisville meeting.

Mr. Jeff Boyle, of Environmental Science Associates, commented that he is involved in a grass-roots effort to focus on the image and show improvement of the Ohio River involving quality of life and job related considerations. Employers are attempting to promote the region and encourage an increase in young professionals to the area. Mr. Boyle encouraged the Commission to document and publicize improvements to the Ohio River over the past 50-80 years.

Commissioner Wayland of Virginia presented information regarding the facility, surrounding area, and recreational opportunities at the Tides Inn, Irvington, Virginia, the location for the June 2010 Commission meeting.

Upcoming Meetings

Chairman Eger noted the following schedule for upcoming Commission meetings:

- June 8-10, 2010 Tides Inn, Irvington, Virginia
- October 2010 Indiana (Location to be determined)

Commissioner Eger adjourned the 196th Commission meeting at 11:10 A.M.

Prepared by:

David R. Bailey

Date: March 15, 2010

David Bailey
Director of Administration
& Human Resources

Approved by:

Charles A. Duritsa

Date: March 15, 2010

Charles Duritsa
Secretary/Treasurer

ROSTER OF ATTENDANCE
196th Commission Meeting
February 11, 2010

Commissioners

Illinois	Phillip Morgan Marcia Willhite (PROXY for Douglas Scott) Toby Frevert
Indiana	Thomas Easterly
Kentucky	Valerie Hudson (PROXY for Leonard Peters) Jeffery Eger
New York	Douglas Conroe T. Lee Servatius
Ohio	Paul Tomes George Elmaraghy (PROXY for Christopher Korleski)
Pennsylvania	Charles Duritsa Ron Schwartz (PROXY for John Hanger)
Virginia	Robert Wayland
West Virginia	David Flannery Ronald Potesta Randy Sovic (PROXY for Randy Huffman)
Federal	Stuart Bruny

Legal Counsel

Ross Wales

Executive Director

Alan Vicory

Guests

Jack Wang – Chairman, Water Users Advisory Committee;
Mike Apgar – Chairman, POTW Advisory Committee; Ron Riecken –
Chairman, Public Interest Advisory Committee; Jason Flickner – KWA;
John Hachstrasser – EHS Engineering; Jeff Boyle – Environmental
Science Associates; Larry Feazell - ORBWRA

Staff

David Bailey, Jason Heath, Jerry Schulte, Peter Tennant, Joseph
Gilligan, Erich Emery, Jeanne Ison, Greg Youngstrom, Sam Dinkins,
Tracey Edmonds, Eben Hobbins, Lila Ziolkowski, Travis Luncan, Steve
Braun, Stacey Cochran, Jeff Thomas, John Spaeth, Ryan Argo, Rob
Tewes, Heather Mayfield