

**OHIO RIVER VALLEY WATER SANITATION COMMISSION**

**MINUTES**

**197<sup>th</sup> Commission Meeting  
The Tides Inn  
Irvington, Virginia  
Thursday, June 10, 2010**

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**Chairman Jeffery Eger, Presiding**

**Call to Order**

Chairman Eger called the 197<sup>th</sup> meeting of the Ohio River Valley Water Sanitation Commission to order at 9:15 A.M. on Thursday, June 10, 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 17).

**Action on Minutes**

**ACTION:** Motion by Commissioner Servatius, second by Commissioner Morgan and carried, that the minutes of the 196<sup>th</sup> meeting of the Commission and of the February 2010 Executive Session (distributed on May 13, 2010) be adopted as presented.

**Report of the Treasurer**

Commissioner Duritsa noted that a Treasurer's report as of April 30, 2010 was provided in the meeting packet. The report indicates a balance of \$491,270 in accounts receivable due the Commission as of April 30, 2010. The balance represents \$78,176 due from Signatory States, \$368,993 due from Federal sources, and \$44,101 from other sources.

Additionally, the report indicates receipts of \$3,312,250 plus carryover of \$1,662,772 totaling \$4,975,022 through the end of April 2010. Of that amount, \$2,893,935 was expended on programs, leaving \$2,081,086 available for the continuation of ORSANCO's programs.

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

**Report of the Chairman**

Chairman Eger welcomed everyone to the 197<sup>th</sup> meeting of the Commission and began by commenting on the historical perspective of the fourth of a series of news articles from the Cincinnati Enquirer in 1953 regarding the creation of the Compact and noted that much progress has been made over the years in fulfilling the mission of the Compact to abate pollution in the Ohio River. He also commented on the importance of recognizing the Ohio River as a treasure and the role that ORSANCO plays in helping to protect this valuable resource. He noted that highlights of the past year ranged from looking at issues facing individual waste water collection and treatment utilities in February to discussing issues surrounding solving the Basin's water quality challenges in June.

Mr. Eger continued by commenting on the significance of current Commission activities which will pay great dividends in the future. These include creating the Ohio River Caucus, securing Organics Detection System funding, entering a partnership to design an interstate trading program, looking to further expand service to states through possible water resources activities, and planning frequent staff presentations to varied groups. He also mentioned that an organization of ORSANCO's size and budget has in part been successful over the years due to a committed, talented Board of Commissioners and committee member involvement.

Mr. Eger stated that great organizations have an ability to re-invent themselves to remain relevant and respond to the needs of the day. ORSANCO is indeed a great organization and continually identifies important issues and works to find solutions to these issues. However, many opportunities and challenges remain. Interestingly, one item currently under discussion is the concept of declaring the Ohio River a marine highway corridor. One view anticipates a 73 percent increase in commercial transportation activity on the Ohio River by 2035. The question arises as to what role ORSANCO can play and what can ORSANCO offer to the Governors which will add value in support of this concept.

Mr. Eger concluded by emphasizing that these are interesting times, and wonderful opportunities exist. Much has been achieved over the past 12 months. At the end of the day, it is all about people with dedication and a common purpose willing to commit their time and skills. Mr. Eger thanked the Commission for the honor of serving as Chairman this past year.

### **Report of the Executive Director**

Mr. Vicory began by noting that working on a small staff such as ORSANCO's provides opportunities to be involved in a variety of interesting activities. One such example includes interfacing and helping with logistics for Mimi Hughes who is swimming the entire length of the Ohio River to focus attention to women's educational issues. In addition, staff has also provided support by performing bacteria monitoring prior to a triathlon in Maysville, Kentucky and participating with the Kentucky Water Watch in a snapshot water quality monitoring event.

Mr. Vicory then reported that the issue with the National Response Center (NRC) remains unresolved. The NRC concluded that ORSANCO is not a government agency and therefore cannot receive critical information on spill reports. ORSANCO has sought the help of Senators Voinovich and Byrd to work to resolve this issue. ORSANCO is expecting a declaration from the Coast Guard legal staff which will likely state that ORSANCO is not a government agency.

Mr. Vicory reported that he recently participated in an Eastern Water Resources Summit panel discussion at the American Bar Association Conference in Orlando, Florida. Mr. Vicory presented a paper on water resources activities in the Ohio River Basin. In June, Mr. Vicory has been invited to present information on ORSANCO at the Americas Intercostal Summit in St. Louis focusing on the Mississippi River Valley. Mr. Vicory stated that through these activities, it has come to light that there are a number of organizations involved in water quality and water resources issues which staff knows nothing about, and it would be a benefit to familiarize ourselves with them and their activities.

Mr. Vicory reported that the 2010 Ohio River Sweep will be held on Saturday, June 19<sup>th</sup> and encouraged Commissioners to participate if possible. ORSANCO's website contains all site-related information.

Mr. Vicory reported that meetings continue with Governors or Governors' staff to heighten awareness of ORSANCO, its activities, and value to the states. To date, meetings have been held with West Virginia, Virginia, Ohio, and Illinois.

Mr. Vicory concluded by noting his appreciation to those who keep ORSANCO in mind as a recipient for Supplemental Environmental Project (SEP) funds from enforcement actions. He brought to the Commissioners attention a 1991 resolution encouraging the Governors of signatory states to consider ORSANCO as a recipient of enforcement action funds when appropriate.

**ACTION:** Motion by Commissioner Wayland, second by Commissioner Servatius and carried, to accept the Executive Director's report as presented.

### **Report of the Technical Committee**

Commissioner Duritsa, Technical Committee Chairman, reported that the 193<sup>rd</sup> meeting of the ORSANCO Technical Committee was held on June 8- 9 in Irvington, Virginia. Eight states, three federal agencies, and three Commission advisory committees were represented.

Commissioner Duritsa presented the following summary report. The complete report (Attachment 1) was provided in the meeting folder.

### **Release of ORSANCO Data**

The Committee reviewed the process of data collection from a special sampling of the river for chemicals of emerging concern. Due to requests for the data (apparently under FOIA), it was not possible to provide the data to the states in advance of the release to the public. The Committee agreed with the process used and does not see a need for a revised policy on release of data.

### **2010 Assessment of Ohio River Water Quality Conditions**

The Committee developed revisions to the draft 2010 Ohio River 305(b) report regarding the assessment of mercury. The Committee recommends publication of the report as revised.

The Committee also directed its 305(b) Coordinators work group to develop a consistent methodology for assessing aquatic life use support on the Ohio River.

### **ORSANCO Technical Programs for Fiscal Year 2011**

The Technical Committee endorses the proposed technical programs for FY11.

The Committee will undertake a program prioritization effort to assist in development of programs for FY12.

### **Pollution Control Standards**

The Technical Committee endorses the acceptance of the proposed revisions to the Commission Standards for public review and comment.

The Committee also endorses the recommendations of the Pollution Control Standards Committee for additional efforts leading up to the next review of the Standards.

### **Memorandum of Understanding (MOU) for an Ohio River Basin Water Quality Trading Program**

The Technical Committee recommends that the Commission act as the convener under the proposed MOU for discussion of an Ohio River Water Quality Trading Program.

The Committee further recommends that the Commission consider who would sign the MOU (which states and which entities within those states).

**ACTION:** Motion by Commissioner Duritsa, second by Commissioner Wayland and carried, to accept the Report of the Technical Committee as presented.

### **Report of the Ad Hoc Committee: ORSANCO and Water Resources Management**

Commissioner Flannery reported that at the February Commission meeting, interest was expressed in exploring ORSANCO's continued evaluation of a move into water resources management as distinguished from water quality. Chairman Eger appointed an Ad Hoc Committee that has been working to evaluate a course of action to present to the Commission for consideration.

Commissioner Flannery directed attention to a detailed report in the meeting packet (Attachment 2) which sets forth the recommendations of the Ad Hoc Committee. The document contains two components. The major portion of the document provides a stand-alone report that discusses the background of the issue leading to a recommendation that the Commission By-Laws be amended to create a new standing Water Resources Committee. The report contains language on the Committee structure. The Ad Hoc Committee believes that amending the By-Laws and creating a Water Resources Committee is a significant step by the Commission to provide a mechanism to convene those concerned about this issue and to assist in formulating the direction that the Commission might take on this very important issue.

The document further reports that the Ad Hoc Committee proposes it continue to exist and focus on an examination of additional authorities the Commission might need in order to address this issue. This could be in the nature of an amendment to the Compact or some other mechanism. The Committee will continue to work with staff and legal counsel.

**ACTION:** Motion by Commissioner Flannery, second by Commissioner Duritsa and carried, to adopt a By-Laws amendment establishing a Water Resources Standing Committee using the specific language contained in the detailed report, and that the Ad Hoc Committee continue its efforts to evaluate whether additional authority may be needed for the Commission to consider its role in water resources.

### **Report of the Pollution Control Standards Committee**

Commissioner Komoroski, Committee Chairman, reported that in March of this year, the Commission initiated an expedited review of its Standards. The review was limited to four issues: critical flow for human health criteria, criteria for selenium, criteria for total dissolved solids, and authorization of the consideration of variances to the Mixing Zone requirements. Four public workshops were held as part of the initial comment period. Twelve sets of comments were received by the close of the comment period on April 16, 2010.

The four issues are listed below, together with a brief summary of the comments received and the action proposed by the Committee.

#### **Issue: Critical Flow for Human Health Criteria**

No critical flow is specified for stream criteria for human health protection in Sections IV.C.1-3. Use of the seven day 10 year low flow (7Q10) was proposed.

#### **Comments Received**

Five commenters supported use of 7Q10 and three recommended use of Harmonic Mean Flow, at least for carcinogens.

#### **Discussion**

The Standards currently specify use of Harmonic Mean Flow for carcinogens and 7Q10 for other human health criteria referenced in Section IV.C.5. The basis for some of the criteria in Section IV.C.2 is unsure; it is believed that the criteria in Section IV.C.4 are based on carcinogenicity.

### Proposed Revision

Move the specification of critical flows (Harmonic Mean Flow for carcinogens, 7Q10 for other human health criteria) to make it clear that these flows apply to all criteria in Section IV.C.

### Other Recommendations

1. Compile modeling assumptions used by the states in developing permit limits for Ohio River discharges.
2. Determine the basis for each of the criteria in Section IV.C.2.
3. Consider a definition for the term *carcinogen*.

### **Issue: Selenium Criteria**

The current criteria for selenium are considered outdated. U.S. EPA has developed new criteria for selenium; however, the proposed new criteria have yet to be published.

### Comments Received

Three commenters supported revision of the selenium criteria at this time and six commenters advised waiting for U.S. EPA to adopt the revised criteria.

### Discussion

The Committee cannot propose consideration of criteria that have yet to be issued in draft form by U.S. EPA. While it is acknowledged that the current criteria are flawed, the Standards do provide for a site-specific criteria demonstration in Section IV.D. This provision could allow use of the draft U.S. EPA criteria when they are available.

### Proposed Revision

There were no proposed revisions at this time.

### Other Recommendations

The Stream Criteria Subcommittee should review the draft-revised criteria for selenium as soon as they are available and report on the advisability of adopting them for the Ohio River.

### **Issue: Total Dissolved Solids (TDS) Criteria**

Stream Criteria for TDS were removed from the Commission Standards in 1993. High levels of TDS have occurred on the Monongahela River in recent years, and water utilities on the upper Ohio report increasing levels. Restoration of the criteria from pre-1993 versions of the Standards was considered.

### Comments Received

Five commenters support restoration of the TDS criteria and five oppose it.

### Discussion

Some of the opposition to TDS criteria appeared to be based on a concern that it would be applied directly as an effluent limit. The Committee believes that the criteria should apply outside of the mixing zone. The “old” ORSANCO TDS criteria were a maximum of 750 mg/L and a monthly average of 500 mg/L. The basis of the 750 mg/L limit could not be determined.

### Proposed Revision

The addition of a 500 mg/L limit for TDS to Section IV.C.2 was proposed.

### Other Recommendations

The determination of established TDS criteria for industrial water use was recommended.

**Issue: Provision for Variances to Mixing Zone Requirements**

The current Standards provide for variances to the wastewater treatment requirements of Section V but not to the Mixing Zone Requirements of Section VI. Information has been presented to the Commission that indicates that the elimination of mixing zones for certain chemicals (notably mercury) may not be technically feasible in all cases. Allowing variances to the mixing zone requirements is being considered; an individual discharger would need to request such a variance and would be subject to conditions in the current Standards as well as any others that the Commission might choose to impose.

Comments Received

Six commenters support the proposed action and five commenters oppose it.

Commissioner Komoroski made the distinction that it is not whether or not ORSANCO would approve variances but whether there should be a variance process available that could be considered by ORSANCO. A key consideration is that a variance could only ever be issued by ORSANCO if the state agency responsible for issuing the NPDES permit actually supported and proposed issuance of a variance. In respect to this proposed approach, the Committee firmly believes that the burden be clearly on the party seeking the variance.

Discussion

The Committee agreed that there is a need to have an available means of relief from the requirements of Section VI.G such as currently exists for Sections IV (provision for site specific criteria in Section IV.D) and Section V (provision for variances in Section VIII). The Committee believes that additional requirements should be placed on dischargers who seek variances, including consideration of alternatives (including elimination of the discharge) and application of the best demonstrated technology for the particular type of discharge. The language should also be clear that the public would have an opportunity to comment on a variance request.

Proposed Revision

The Committee proposed extension of the Variance provision to Section IV.G, as well as addition of the requirements outlined above.

Other Recommendations

There were no other recommendations at this time.

**Recommendation**

The Pollution Control Standards Committee recommends that the Commission authorize the presentation of these proposed revisions to the ORSANCO Pollution Control Standards for public review and comment.

The public review will consist of four workshops at locations along the river, a single public hearing, and a 30-day comment period after the hearing. A single legal notice will be published and the notice will also be posted on the Commission's website and sent to agencies, dischargers, and interested parties.

The language for the proposed revisions was made available at or before the Commission's June 10 meeting.

**Projected Schedule**

It is anticipated that the hearing on the proposed revisions would be held in early August; this should make it possible for the Commission to take action on the proposed revisions at its October meeting.

**ACTION:** Motion by Commissioner Komoroski, second by Commissioner Easterly and carried (Edward Ambrogio Abstaining), 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 at the ORSANCO offices on May 4- 5, 2010. In addition to the full complement of committee members and select ORSANCO staff, the Committee was joined by five guests: Mr. Randy Sovic (WV DEP); Dr. Mindy Armstead (Potesta Associates); Dr. Bryan Brooks (Baylor University); Mr. Rick Spear (PA DEP); and Dr. Don Stoeckel (Stoeckel Environmental).

The committee received reports on:

### **Recent Activities by other Organizations**

- The Water Environment Research Foundation's (WERF) Virtual Research Forum

### **Status of Ongoing Research Projects**

- ORSANCO's involvement in ORBCRE (Ohio River Basin Consortium for Research and Education)
- ORSANCO's involvement in the Ohio River Basin Collaborative Initiative
- ORSANCO's Water Quality Modeling Initiatives
- Collaborations with the U.S. Army Corps of Engineers and the Electric Power Research Institute (EPRI)
- ORSANCO's Microbial Source Tracking Project
- ORSANCO's recent Emerging Contaminants research study

A motion was approved unanimously by the Committee to recommend to the Commission that, when appropriate, an external peer-review process be considered as part of the Commission's data review and release process.

As a follow up to the Committee's January conference call, the main focus of the meeting centered on *Prymnesium parvum* (golden algae). The committee received four presentations on *P. parvum* and the 2009 Dunkard Creek bloom event which killed more than 40,000 fish. Each speaker offered a slightly different background or perspective and, collectively, the presentations provided information on the status and distribution of *P. parvum* nationally and within the Ohio River Basin as well as a myriad of factors affecting bloom formation and toxicity.

The Committee did not identify specific research needs at this time but noted that two longstanding Commission strengths, collaboration and communication, would be vitally important to advancing golden algae research within the Basin. Specifically, in the event that specific research needs are identified, the Commission might be better positioned to develop and submit broad-scale (multi-state) research proposals. Additionally, the Commission might play a key communications role by providing a clearinghouse for information such as standard methods, data, research findings, or reports.

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

### **Report of the ORSANCO/Ohio River Users Program Advisory Committee**

Erich Emery, ORSANCO staff member, reporting on behalf of the Committee, reported that per the Bylaws of the Commission, the ORSANCO/Ohio River Users Advisory Committee is to comprise eleven members. Six members come from river interests, two are Commissioners, and

three additional positions are filled by the Chairmen of three ORSANCO Advisory Committees: the Water Users Advisory Committee, the Publicly Owned Treatment Works (POTW) Advisory Committee, and the Power Industry Advisory Committee. Members representing river interests are appointed by the Commission for three year terms with the availability for one term reappointment.

The ORSANCO/Ohio River Users Program Advisory Committee requests that the Commission adopt a Bylaws change to increase the number of members representing river interests from six to seven.

This action is being proposed in an attempt to continue our efforts to revitalize the program and will do so by broadening the interests of the members represented on the committee, which the Committee believes will serve to stimulate programmatic growth.

If adopted, the revised Bylaws will read as follows:

*The ORSANCO/Ohio River Users Advisory Committee shall be comprised of no more than twelve members, including two Commissioners, seven from river interests, and a representative from the Water Users Advisory Committee, the Publicly Owned Treatment Works (POTW) Advisory Committee and the Power Industry Advisory Committee as appointed by the respective Committee Chairman. Members who are Commissioners and those representing river interests are appointed by the Commission. Further, members representing river interests are to be appointed for three year terms with the availability for one term reappointment.*

**ACTION:** Motion by Commissioner Wayland, second by Marcia Willhite and carried, to adopt the recommended revision to the Commission By-Laws as presented.

A second action is also being proposed. Specifically, the Committee is seeking to fill the newly added and currently vacant position with Jonathan Pachter (CONSOL Energy Inc.) with a term expiring in June of 2013.

**ACTION:** Motion by Commissioner Frevert, second by Marcia Willhite and carried, to fill the newly added and currently vacant position with Jonathan Pachter with a term expiring in June of 2013.

### **Report of the Water Quality Review Committee**

Commissioner Bruny directed Commissioners' attention to a document that was distributed containing an additional paragraph to be inserted into the draft Watershed White Paper. Mr. Bruny also noted that references to tables in the Paper will be removed.

Commissioner Bruny continued by reporting that the Water Quality Review Committee has been reviewing the Commission's White Paper entitled *Implementation of the Ohio River Valley Water Sanitation Compact Throughout the Compact District*, also known as the "Watershed White Paper." There have been a number of developments in the past few years that have served to further define the Commission's role in the watershed and which need to be reflected in the white paper. He again noted that the Committee's recommended revision will include an additional paragraph that would reflect the outcome of the consideration of the Commission's role in water resource matters.

The following paragraph is recommended for insertion at the end of the section entitled "Recent Developments:"

"In June, 2010, the Commission established a Water Resources Committee to provide a forum for the states, federal agencies, and other interests in water

resources management, and to explore ORSANCO's role, including possible expansion of that role through revision of the Compact. Since over 95 percent of the water that flows down the Ohio River originates in tributary watersheds, any expansion of ORSANCO's role in water quantity matters will mean an expansion of its role in the entire watershed."

The Committee further recommends that specific ideas that would enable development of the Commission's role in the watershed be considered by the Program and Finance Committee in designing the program and budget for next year and in subsequent years. Several such ideas are mentioned in the draft revision and are as follows:

1. Consider monitoring waters as they cross state boundaries to identify any instances where wastes from one state impair the waters of another.
2. Identify tributaries where ORSANCO's large river monitoring capabilities might be utilized.
3. Complete a basin-wide assessment using data from the National Aquatic Resource surveys.
4. Identify drinking water utilities on the tributaries whose supply sources might be affected by discharges in other states.
5. Identify possible interstate TMDLs on tributaries.

Two other general ideas might also be considered:

1. Should a particular percentage of the Commission's budget be reserved for tributary activities?
2. Several years ago, a representative from New York DEC provided an excellent summary of water quality conditions and agency activities on the Allegheny River. It would have been even better if a similar presentation by Pennsylvania DEP on the portion of the Allegheny Basin within that state had been requested. Periodic presentations of this type would be valuable in keeping the parties informed of the states' efforts to implement the Compact, and could help identify areas where ORSANCO could provide support.

A number of editorial comments were raised by Mr. Vicory and Mr. Sovic regarding the language to be included in the Watershed White Paper. Peter Tennant stated that all comments would be considered and the revised White Paper would be posted on the ORSANCO website for review. Commissioner Bruny noted that the White Paper is a guidance document outlining the Commission's role in the Watershed and will be revisited every couple of years, because of the many ongoing activities in the Basin, to ensure the Paper is continually updated.

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

**ACTION:** Motion by Commissioner Bruny, second by Ron Schwartz and carried, to adopt the revised draft of the Watershed White Paper with editorial changes as discussed.

### **Update on Activities of the Big Sandy River Basin Coalition**

Ms. Kelly Miller from the Virginia Department of Conservation and Recreation and agency advisor to the Big Sandy River Coalition provided a brief report to the Commission on Coalition activities. Ms. Miller directed attention to a detailed report in the meeting packet.

Ms. Miller reported that Coalition activities had slowed due to a decline in grant applications and participation. Efforts have been made to reinvigorate the Board, its members, and advisors. She also mentioned that the Coalition will hold its annual meeting in June for planning, officer elections, and awards presentations.

Ms. Miller concluded by mentioning that agency representatives from Kentucky, Virginia, and West Virginia will conduct an interstate meeting on July 27<sup>th</sup> and that the Coalition has launched a new website to revitalize membership and share information.

### **Report of the Congressional Liaison Committee**

Mr. Alan Vicory, Executive Director, and Steve Dye of McAllister & Quinn, reported on the following items:

#### **FY11 Appropriations Request – Watershed Pollutant Reduction Program**

- Requested amount: \$2,000,000
- Senators Submitting the Request to the Appropriations Committee: Sherrod Brown (OH); Robert Byrd (WV) (requested \$500,000); Richard Lugar (IN) (requested \$750,000)
- Representatives Submitting the Request to the Appropriations Committee: Steve Driehaus (OH); Mike Doyle (PA); Brad Ellsworth (IN); Charlie Wilson (OH); Tim Ryan (OH); Nick Rahall (WV)

House Republicans banned all earmark and programmatic funding requests for FY11 which eliminated requests to six House offices that ORSANCO has submitted.

The House Appropriations Committee will likely draft an appropriations bill in late June or July, at which point we will see if the project is included. The Senate bill will most likely be released in July or September. Unfortunately, all predictions for the FY11 appropriations process for the remainder of the year are for it to be a very drawn out process and not completed until late 2010.

#### **US Coast Guard National Response Center (NCR) Incident Report Problem**

In March 2010, Commissioner Potesta, Alan Vicory, and Steve Dye met with staff for Senators Byrd, Brown, and Voinovich to discuss the ongoing problem of redacted incident reports from the NRC due to the Coast Guard's determination that ORSANCO is not a governmental organization. All three Senate offices found this problem disturbing and said they will help resolve the problem.

Shortly after the meetings, Senator Voinovich's Homeland Security Committee staffer contacted the Senate Coast Guard liaison's office seeking an explanation. Prior to the liaison being able to issue a response, Senator Byrd verbally brought up his concerns during an introductory meeting with incoming Coast Guard Commandant, Admiral Robert Papp, Jr. Senator Byrd sent an official inquiry letter to the Commandant in mid-April, but we have not heard back from the Senator's staff if they have received a response.

If the Coast Guard maintains their position that ORSANCO is not a governmental organization, Senators Byrd and Voinovich can take several actions to change that position, including inserting language in the Homeland Security Appropriations bill, which they draft, directing the Coast Guard to recognize ORSANCO as a governmental organization.

#### **Congressional Authorization for ORSANCO Programs**

Following the first meeting of the Ohio River Basin Congressional Caucus, Senator Jay Rockefeller's (WV) staffer for environmental issues contacted ORSANCO to discuss options and solutions to grant ORSANCO broad congressional authorization for its key programs. Commissioner Potesta, Alan Vicory, and Steve Dye met with Pat Bond on Senator Rockefeller's staff, and he expressed support for helping ORSANCO on this matter. Since ORSANCO was created by a compact authorized and ratified by Congress, he indicated that he was going to contact the Senate Legislative Council office to receive an official determination if ORSANCO can receive federal funding directly, instead of through another federal agency. Unfortunately,

Mr. Bond has been unable to devote time to this issue but has indicated his continued support and will continue to help once his responsibilities lighten.

### Congressional Caucus Issues

The Ohio River Basin Congressional Caucus held its first briefing on February 17<sup>th</sup>. The subject of the briefing was a broad overview of the activities of ORSANCO, the U.S. Army Corps of Engineers, and the U.S. Geological Survey. In attendance were 12 staff members from 11 congressional districts within the Ohio River Basin and a committee staff member from the House Science & Technology Committee.

Activities are under way to schedule the next briefing for late July, prior to the August congressional recess. Mr. Dye asked for input on possible agenda topics for this meeting and noted that a possible topic might be U.S. EPA's notice of its intent to promulgate rules on CSO & SSO issues. Commissioner Wayland suggested the topic of golden algae and how ORSANCO is engaged with the research community on this important issue. Commissioner Duritsa suggested an update on the Commission's interest in water resources.

Mr. Dye concluded by indicating that the next caucus newsletter will be written and circulated on Capitol Hill in July and that the caucus has grown to 16 representatives from six states within the Basin.

Commissioner Wayland asked if the caucus was structured to allow Senators to join. Mr. Dye indicated that he would review the caucus filing paperwork to determine if it is structured in this manner. He cautioned that Senators generally do not join a caucus.

Commissioner Easterly asked if a procedure was in place to introduce the Commission and the caucus to incoming representatives who will replace current caucus members. Mr. Dye informed him that meetings will definitely be scheduled with newly elected Representatives.

### Report of the Nominating Committee

Commissioner Flannery, Committee Chairman, reported that the Committee recommends the following slate of officers for 2010-2011:

Chair - Paul Tomes  
Vice Chair - Charles Duritsa  
Secretary/Treasurer - Kenneth Komoroski

**ACTION:** Motion by Commissioner Flannery, second by Commissioner Servatius and carried, to accept the recommendations of the Nominating Committee.

### Report of the Personnel Committee

Commissioner Servatius reported that the Commission's Administrative Procedures currently require full-time employment (37.5 hours per week) for participation in most benefit plans (health, life insurance, etc.). The Personnel Committee recommends a proposal to provide benefits to staff working 20 or more hours per week on a regular basis.

The rationale for this recommendation is two-fold. First, to reduce administrative costs and balance the FY11 budget, one current full-time staff member will be reduced to part-time status and ORSANCO would like to continue providing benefits to this 35-year employee. Second, for future staffing flexibility, it may become cost effective at times to supplement staff with part-time staff and providing benefits is a common practice in the local market.

This proposal will not increase costs to the Commission budget. This proposal provides operational flexibility while maintaining a neutral or reduced impact on the budget.

The Personnel Committee recommends changing the Administrative Procedures to provide benefits to staff working a minimum of 20 hours per week.

**ACTION:** Motion by Commissioner Servatius, second by Commissioner Easterly and carried, to accept the Personnel Committee's recommendation to amend the Administrative Procedures to provide benefits to staff working a minimum of 20 hours per week.

### **Report of the Program & Finance Committee**

Commissioner Tomes, Committee Chairman, reported that The Program and Finance Committee met at Commission Headquarters on March 30, 2010. Six states were represented.

Commissioner Tomes reported on the following items:

#### ORSANCO Visioning Session – Status of Outcomes

Mr. Vicory briefed the Committee on developments resulting from the Commission's 2009 Visioning session. In the area of a possible expansion of the Commission's role in water resources management, an ad hoc group is developing recommendations which will be presented to the Commission at its June meeting. Regarding Communications, a plan for the Commission is under development. On the topic of new sources of revenue, staff was directed to confer with other interstate commissions to identify their revenue sources; this has been done.

#### Status of Fiscal Year 2010 Programs

Staff reported that all Commission programs for FY10 are essentially on schedule and that scheduled outputs will be delivered on time.

#### Adoption of Programs and Budget for Fiscal Year 2011

The Committee carefully reviewed the proposed programs and budget for FY11. Staff had been directed to aggressively seek ways to reduce program costs. Staff found reductions of \$250,000 from what would have been required to maintain all programs at FY10 levels. These cuts included severe reductions in travel and equipment costs. The Committee recommends that the Commission adopt the program and budget for FY11.

#### Funding Outlook

The Committee considered areas of financial need in future years; these include the pension fund, replacement of equipment for the Organics Detection System (beyond the current replacement), and the possible expansion of the Commission's role in water resources management. Mr. Vicory briefed the Committee on efforts by the Congressional Liaison Committee to obtain increased federal funding.

Personnel from U.S. EPA Region 3, participating in the meeting by conference phone, informed the Committee of an additional \$66,000 in 106 funds that could be available to the Commission to support activities in permitting and enforcement. The Committee directed staff to seek these funds; however, any activities in these areas need to be coordinated closely with the states.

#### State Funding for Fiscal Years 2011, 2012 & 2013

The Committee considered the two percent increase in state funding for FY11 that was adopted last year and the four percent increase that was recommended for FY12. Given the continuing financial difficulties that the states are experiencing, the Committee recommends zero increase in

state levels for fiscal years 2011 and 2012. A four percent increase for FY13 was adopted for recommendation on a vote of five to four.

### 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 program prioritization effort should be repeated in FY11.
7. Staff should investigate use of volunteer support of the mobile aquarium.
8. Staff should investigate a change from bi-monthly to quarterly ambient monitoring.
9. The Pollution Control Standards Committee should explore reductions in the number of legal notices published in Standards reviews.
10. Staff should pursue additional 106 funds available to support permit and compliance activities.
11. Staff should pursue opportunities for the Commission to receive funding from SEPs.
12. The Commission should continue to explore possible roles in water resources management.
13. Staff should explore expanded monitoring of specific conductance/total dissolved solids.

Commissioner Tomes offered the following resolutions for adoption:

### **RESOLUTION 2-10**

#### **STATE FUNDING LEVEL FOR 2011, 2012 & 2013**

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

**WHEREAS:** The Commission wishes to reduce its budget to reflect the continuing economic conditions and to provide 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 FY11 and FY12 are hereby rescinded; and

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

2011 - \$1,363,000  
2012 - \$1,363,000  
2013 - \$1,417,600

**ACTION:** Motion by Commissioner Tomes, second by Commissioner Easterly and carried (Edward Ambrogio Abstaining), to adopt Resolution 2-10 as presented.

**RESOLUTION 3-10**

**PROGRAM PLAN AND BUDGET FOR FISCAL YEAR 2011**

**WHEREAS:** The Commission has established the sum of \$1,363,000 as the amount of appropriations to be requested from the signatory states for fiscal year 2011; and

**WHEREAS:** Funds from the United States Government for approximately \$1,633,226 may be allocated to the Commission for fiscal year 2011; and

**WHEREAS:** Funds amounting to \$376,659 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:** The Commission is anticipated to carry over obligated resources of \$1,217,448 into the 2011 fiscal year.

**NOW, THEREFORE, BE IT RESOLVED THAT:** The 2011 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 may become available.

**BE IT FURTHER RESOLVED THAT:** The expenditures in fiscal year 2011 be substantially within the framework of the following guidelines, which are made a part of this Resolution.

**2011 FISCAL YEAR BUDGET**

Payroll	\$1,306,828
Employee Benefits	513,195
Staff Travel	223,906
Commission Travel	104,370
Advisory Committees	39,575
Supplies	248,367
Telephone	23,700
Equipment Purchases	70,323
Mortgage, Utilities	104,496
Repairs & Maintenance	65,078
Contractual Services	539,773
Printing & Reproduction	24,250
Lab Fees & Delivery	<u>272,493</u>
Total Expenditure Budget	\$3,536,354

**ACTION:** Motion by Commissioner Tomes, second by George Elmaraghy and carried (Edward Ambrogio Abstaining), to adopt Resolution 3-10 as presented.

**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 on May 26-27 and had the opportunity to engage in a dialog with U.S. EPA Region 5 staff regarding development of a bacteria TMDL. Earlier in the year, several large POTWs on the Ohio River provided bacteria-related data associated with long-term control planning to this EPA study. In addition, Mr. Apgar thanked Debbie Lee, U.S. Army Corps of Engineers, for the

support provided in formation of this TMDL. The Committee also discussed some gaps existing in the data, the project schedule, additional data to be collected to verify gaps, and the ways they might be looking at tributaries.

One item becoming apparent to the Committee during the dialog, and relating to the 305b assessment, is that a third of the River is capable of meeting contact recreational use. The Committee's concern has been the small amount of funding being applied to the TMDL development on the entire length of the River. The Committee formally suggests that the focus of TMDL development should only be on the two thirds of the River not expected to meet contact recreational use. Mr. Apgar further suggested that there is no need for a bacteria TMDL on the third of the River currently meeting contact recreational use. The Committee will submit a formal list of questions and items discussed during the Committee meeting to U.S. EPA Region 5 for consideration as the TMDL is being developed.

Mr. Apgar announced a new POTW Committee member, Mr. Bruce Shipley, General Manager of Henderson Kentucky Waste Water Utility. He also noted a presentation by Mr. Marty Umberg of Cincinnati MSD, regarding the development of a predictive recreational use model, indicating that Sanitation District No. 1 of Northern Kentucky is partnering on this project and providing data. The data developed with respect to long term control plans can be used in a water quality model to predict, with a strong degree of accuracy, when it is or is not safe to recreate in the River. The vision is that one day, as part of a weather report, there would be an indicator of days when it is and is not safe to recreate in the River.

Mr. Apgar continued by reporting that on June 2<sup>nd</sup>, three POTW Committee members attended a Gulf of Mexico Sub-Committee meeting and heard updates on topics including accountability plans and nutrient reduction plans. Mr. Apgar commented that challenges arise in recognizing that although many issues and activities exist within the Ohio River Watershed, we need to recognize there are many differences between what is happening in other watersheds and how existing tools are utilized. He also emphasized the need for public education regarding the importance of and cost of clean water and suggested that there needs to be federal and state involvement. He asked the Commission to consider its role in this education.

Mr. Apgar concluded by reporting on plans to convene a joint meeting of the Water Users Advisory Committee and the POTW Committee to discuss common interests and concerns.

### **Report of the Water Users Advisory Committee (WUAC)**

Mr. Jack Wang, Committee Chairman, reported that the Committee met on May 25-26, 2010 and, in addition to discussing routine Organics Detection System (ODS) operations and source water monitoring activities, the Committee discussed its long-term direction and goals. He reported that the Committee finalized a water user's survey questionnaire which was developed to increase awareness of ORSANCO and the Water Users Advisory Committee activities and to gain long-term commitment and support of water users. The survey will be distributed in July, and the Committee expects to report on the survey results at the October Commission meeting. The Committee also discussed ways to improve its coordination and data sharing with the other Commission committees.

Mr. Wang reported on the issue of increased levels of Bromide in the Ohio River, which presents challenges to treating drinking water and meeting various drinking water regulations. The Committee will compile information and data on Bromide and provide a report to the Commission.

Mr. Wang concluded by reporting that the Committee fully supports the Commission's creation of a Water Resources Committee to focus on water management issues.

### Comments by Guests

Mr. Jason Flickner of the Kentucky Waterways Alliance (KWA) commented that the Commission's draft report to Congress revealed that 800 miles of the Ohio River are impaired or approaching impairment for mercury contamination. Despite the differences between states, there is much more fish tissue contamination for mercury than ever thought in the past. He also pointed out that the fish consumption survey revealed that 13 million pounds of Ohio River fish are being consumed annually, which does not include commercial fish harvesting.

The KWA is disappointed that the Commission is moving forward with the proposed revision to the Standards for variances for mixing zones for bioaccumulative chemicals of concern. It is believed that this revision will lead to increased mercury levels in the River and also lead to more confusion within state agencies when permitting discharges for mercury. KWA will be working to inform and actively engage the public on the variance revision during the public comment period and to generate public turnout at the workshops and hearing.

Commissioner Eger concluded the meeting by mentioning a news broadcast which always ends with the question, "What did we learn today?" Mr. Eger tries to reflect on this question at the end of meetings. Mr. Eger stated that during the June Commission meeting activities, he learned the importance of collaboration of all stakeholders. The previous day's panel discussion of all those involved in the effort to clean up the Chesapeake Bay is a perfect example of the value and benefits of collaboration.

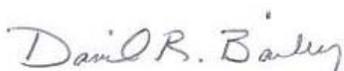
### Upcoming Meetings

Chairman Eger noted the following schedule for upcoming Commission meetings:

- October 2010                      Madison, Indiana
- February 2011                      Cincinnati, Ohio (Tentative)

**ACTION:** Motion by Commissioner Morgan, second by Marcia Willhite and carried, to adjourn the 197<sup>th</sup> meeting of the Commission.

Prepared by:



Date: July 30, 2010

David Bailey  
Director of Administration  
& Human Resources

Approved by:



Date: July 30, 2010

Charles Duritsa  
Secretary/Treasurer

**ROSTER OF ATTENDANCE**  
**197<sup>th</sup> Commission Meeting**  
**June 10, 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 Gerald Palumbo (PROXY for Pete Grannis)
Ohio	Paul Tomes George Elmaraghy (PROXY for Christopher Korleski)
Pennsylvania	Charles Duritsa Greg Phillips Ron Schwartz (PROXY for John Hanger)
Virginia	Robert Wayland David Johnson David Paylor
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**

Jack Wang – Chairman, Water Users Advisory Committee; Mike Apgar – Chairman, POTW Advisory Committee; Jason Flickner – KWA; Debbie Lee – US Army Corps of Engineers; Kelly Miller – Virginia DRC; Jack Frye – Virginia DCR; Ellen Gilinsky – Virginia DEQ; Steve Dye – McAllister & Quinn

**Staff**

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

## Report of the Technical Committee

### 193rd Meeting

### June 8-9, 2010

The 193<sup>rd</sup> meeting of the ORSANCO Technical Committee was held on June 8- 9 in Irvington, Virginia. Eight states, three federal agencies, and three Commission advisory committees were represented.

#### Chief Engineer's Report

Mr. Vicory reported on a number of items:

**Ohio River Swimmer** – A woman named Mimi Hughes is swimming the length of the Ohio River to raise awareness of women's issues. Staff has been working with the Corps of Engineers and local water utilities to assist in her effort.

**Event Monitoring** – Staff has again provided special bacteria monitoring in advance of the Maysville Triathlon to assure that conditions were safe for the swim portion of the event.

**Kentucky Watershed Watch** – Staff will again provide support to a volunteer monitoring event on Kentucky tributaries to the Ohio.

**National Response Center** – Efforts to restore the Commission's receipt of spill reports continue, but the situation is yet to be resolved.

**Quality Management Plan** – ORSANCO's Quality Management Plan was recently approved by U.S. EPA Region 3, three years after the initial submittal.

**Climate Change** – The U.S. EPA Cincinnati lab is working on a project to develop a template for small to mid-size water and sewer utilities to evaluate impacts on their operations. ORSANCO will participate through the Water Users and POTW committees.

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

**Source Water Protection Meetings** – ORSANCO continues to convene meetings of water suppliers and upstream industries to facilitate communication necessary for source water protection. A meeting was recently held in Louisville; upcoming meetings are in Cairo (June 24) and Evansville (June 25).

**Organics Detection System-** Mr. Vicory reported that the replacement of equipment for the system is underway. All but three sites are now connected to the new communications system.

**Water Resources Issues** – Mr. Vicory called attention to the report of the ad hoc committee on water resources which will be presented to the Commission on Thursday. The report calls for establishment of a standing committee on Water Resources and for investigation of a revision to the Compact to expand its purview into water resources issues.

### **Release of ORSANCO Data**

Staff reviewed the process through which the results of sampling for chemicals of emerging concern were distributed. In the past, data from special studies has been checked through Quality Assurance procedures and then sent to the states in advance of release to the public. In the recent case, however, one state was required by a FOIA request to make the data available immediately. The Committee endorsed the process followed by staff and did not feel that there is a need to develop a new policy on data release.

### **Microbial Source Tracking Study**

Erin Stelzer of USGS presented results of a study supported by the Commission. The study demonstrated the applicability of the techniques to a large river. Results indicated human contamination on four reaches of the river.

### **Beaver River PCB Study**

Staff presented results of a special study on the Beaver River to identify sources of PCBs. The results indicate that a superfund site, which has been subject to remediation, continues to be a significant source of PCBs.

### **2010 Assessment of Ohio River Water Quality Conditions**

Staff presented the results of the 2010 Ohio River assessment at the February meeting. 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.

Staff presented the completed report. The Technical Committee concurred with the assessment/conclusions regarding water supply, contact recreation, and aquatic life use support. Concerns were raised over the assessment of mercury data, which concluded that over 800 miles of the river were impaired for fish consumption use. This conclusion was based on comparison of data for total mercury to criteria for methyl mercury. This section was revised to indicate concern over the mercury results, and to commit ORSANCO to complete follow-up studies to determine if in fact the use is impaired. With the changes, the Committee recommended publication of the report.

The Committee directed the 305(b) Coordinators Work Group to develop a position on this issue.

### **ORSANCO Technical Programs for FY11**

Staff presented the proposed technical programs for next year. A number of reductions were necessary due to resource limitations. Three programs were added to take advantage of available grant funds and to carry out Technical Committee directives. The Technical Committee endorses the proposed programs. The committee will undertake another program prioritization exercise and staff will present a proposed approach in October.

### **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. Summaries of the reports will be included in the minutes of the meeting.

### **Report of the NPDES Subcommittee**

The NPDES Subcommittee met by conference call on April 14. The Subcommittee continued its discussion of mercury discharges from power plants and implementation of the ammonia criterion adopted in the 2009 revisions to the Commission Standards. The Subcommittee also discussed the expedited review of the Commission Standards and a proposed ORSANCO program to support permit issuance and compliance.

The Subcommittee endorsed efforts by staff to support issuance of consistent permits for power plants with FGD discharges.

The Technical Committee directed the NPDES Subcommittee to investigate Best Available Treatment for FGD discharges.

### **ORSANCO Pollution Control Standards**

Staff briefed the Committee on the status of the expedited review of the ORSANCO Pollution Control Standards. The PCS Committee has reviewed the comments received and is recommending that proposed revisions to the Standards be presented for public review and comment. Those revisions would establish critical stream flow for human health criteria, restore criteria for dissolved solids, apcs, and provide for consideration of variances to Section VI.G. In addition, the committee adopted the following recommendations:

1. Compile modeling assumptions used by the states in developing permit limits for Ohio River discharges.
2. Determine the basis for each of the criteria in Section IV.C.2.
3. Consider a definition for the term “carcinogen.”
4. The Stream Criteria Subcommittee should review the draft revised criteria for selenium as soon as they are available and report on the advisability of adopting them for the Ohio River.
5. Determine if there are established TDS criteria for industrial water use.

The Technical Committee endorses the recommendations of the Pollution Control Standards Committee.

### **Gulf of Mexico Hypoxia**

Staff provided an update on Gulf of Mexico Hypoxia reduction efforts. Kentucky and Indiana were recently added to the Task Force. The Task Force has identified six priority areas for activities over the next year: Accountability, Governance, State Nutrient Reduction Strategies, Iowa Wetlands Initiative, Farmable Wetlands, and Implementation of the Monitoring, Modeling, and Research Strategy. The task Force is now led by federal and state co-chairs.

The Ohio River Sub Basin Team met last week; it was the first meeting of the group since 2008. Several new members replaced those who had retired, and several potential stakeholders attended the meeting. After reviewing accomplishments to date, the team set about planning new activities including outreach and development of state strategies.

The Sub Basin Team meeting was supported by the EPRI trading project. The team reviewed a proposed Memorandum of Understanding among the states to develop the program. The team supported the MOU with some modified language. The team felt that more than one agency from each state needed to be involved and suggested that it might be signed by the Governors.

The Technical Committee supported the Commission’s involvement in development of the trading program, but raised questions as to whether or not all of the states need to sign the MOU.

### **Reports by Advisory Committees**

**POTW-** Mike Apgar spoke on the need for U.S. EPA to mount a national education effort on water quality issues and the cost of clean water.

**WUAC** – Jack Wang suggested that his committee report should be moved on the agenda to occur among the state and federal agency reports on water quality issues.

**PIAC** – Jim Stieritz reported that he will be retiring this summer and that this would be his last meeting. The Committee presented Jim with a card and a gift in appreciation for his years of service.

### **Comments by Guests**

Jason Flickner of the Kentucky Waterways Alliance suggested that the Commission set up a portal on the web site to receive comments on the proposed revisions to the Standards. Staff will look into this.

## Ad Hoc Committee; ORSANCO and Water Resources Management

### Recommendation for the Establishment of a Standing Committee on Water Resources

#### Overview of ORSANCO

The Ohio River Valley Water Sanitation Commission, ORSANCO, is a 62 year-old interstate compact Commission created expressly for the purpose of water quality management in the Ohio River Valley. Created in 1948 by the states of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Virginia, and West Virginia, the programs and activities of the Commission are overseen by a board of 27 Commissioners, three from each of the signatory states, appointed by their respective Governors, and three federal Commissioners, appointed by the President. The operating funds for the Commission are provided by its states and an annual grant from U.S. EPA (Clean Water Act, Section 106). The Commission receives additional funds through project-specific grants and private contributions.

ORSANCO is structured and operates with the support of more than 20 recognized committees. This reflects its aggressive, collaborative, and from-the-ground-up approach in fulfilling its mandate in problem identification and resolution. Residing within each of these committees and workgroups are experts from state and federal agencies, public utilities, and private industry interests that counsel and advise the Commission in the design of its many programs- programs that have been highly successful and have consistently resulted in improvements in Ohio River water quality.

The Compact gives ORSANCO broad authority to adopt, prescribe, and promulgate rules, regulations, and standards necessary to maintain the waters of the Basin in satisfactory sanitary condition for their many beneficial uses. The Compact also provides the Commission with the requisite legal authority to enforce those standards. However, as the Commission desires to cooperate with and supplement the powers of its member states, it has used its own regulatory and enforcement powers sparingly over its 62 year history, relying on the states as its first line of offense. In this manner, the Commission has the opportunity to work cooperatively with its member states as a group, an individual state as needed, or a specific facility or discharge, as indicated, to resolve water quality problems in as cooperative fashion as possible. It is through this pathway of cooperation and innovative problem solving that ORSANCO has experienced tremendous success and received many accolades.

While created for the purpose of improving and protecting the *quality* of the interstate waters of the Ohio River Basin, growing understanding of the need to interconnect water quality and water resources have prompted calls for ORSANCO to consider expanding its services toward more holistic interstate water management.

#### ORSANCO's Role in Water Resources Management

In 2008, the Commission initiated an internal dialogue on how it might expand its services to its member states. Buttressing this debate was a February 2009 Future Scenarios Planning Workshop wherein the Commissioners of ORSANCO “visioned” water issues in the Ohio Valley up to twenty years into the future. They concluded that achieving a more integrated approach to water management was a common need in all possible futures. Given ORSANCO’s long-standing relationships with its state and federal agencies, and its proven technical capacity, the

Commission concluded it should indeed be open to assuming water resources management responsibilities, similar in concept to the services it currently provides regarding water pollution abatement (e.g. monitoring and assessment, program coordination, research). Specific areas to be considered for interstate water resource coordination might include coordination of drought management planning and flood response, water withdrawals, and issues concerning inter-basin transfers. The Commission concluded that the application of the ORSANCO management paradigm, i.e., a committee-driven bottom-up approach, may substantially enhance states' efforts in interstate water resource management.

### **Recommendation to Establish a Water Resources Committee**

As an initial step aimed at providing the states, federal agencies, and key partners engaged in water resources a forum with which to jointly work, it is proposed that ORSANCO establish a new standing committee, termed herein the Water Resources Committee, to guide the development of a water resources program and recommend appropriate action to the Commission with respect to water resource management and policy issues.

### **Committee Development**

As with the development of any new standing committee of the Commission, an appropriate amount of time would be provided for initial dialogue regarding the committee's charge, structure, membership, interaction with other ORSANCO committees, and funding. As this initiative may ultimately represent a significant undertaking by the Commission, this committee would be unique in that it must be self supporting.

The initial composition of this committee would include appropriate state and federal water resource agency personnel. While the nexus of this committee would initially be the water resource agency personnel from the Commission's eight signatory states, participation from all 15 basin states would be encouraged. Inasmuch as this would be a standing committee, the by-laws of the Commission should be appropriately amended to establish it formally as a permanent component of the Commission's cooperating infrastructure (see below).

### **Prospects for the Future**

Any increase in the Commission's authority and responsibilities with respect to water resources may best be formalized through appropriate additions to the Commission's Compact. Nevertheless, the proposed Water Resources Committee is considered necessary as a permanent forum in service to the states, federal agencies, and key interests.

It is expected that the committee, as it matures, would identify an agenda and program responsive to the needs of the Ohio River Basin, and financial resources will be acquired over time to assure success.

XII. COMMITTEES

A. Standing Committees

Standing committees, with duties and functions as hereinafter set forth, shall be: Executive Committee, Audit Committee, Nominating Committee, Program and Finance Committee, Pension Trust Committee, Personnel Committee, Pollution Control Standards Committee, Research Committee, Technical Committee, Congressional Liaison Committee, Water Quality Review Committee **and the Water Resources Committee.** Except as hereinafter specified, all members of standing committees shall be duly appointed Commissioners or their proxies, pursuant to the legislative authorizations of the respective signatory states.

**XII A.12. Water Resources Committee. The Water Resource Committee shall serve to provide counsel and direction to the Commission and shall study, discuss and evaluate water resource issues of concern or interest to the Commission and Basin states. It shall be composed of a chairman, who is a Commissioner and is appointed by the Chairman of the Commission. The Committee shall include one member designated by and who is an employee of the agency in each of the signatory states that has primary responsibility for water quantity management and water resource protection for such state. The membership of the Water Resources Committee shall be open to a representative from each of the non-signatory states within the Ohio River Basin, as approved by the Commission. The Water Resources Committee shall also include members representing the US Army Corps of Engineers and US Geological Survey and other federal water resource agencies identified by the Committee and approved by the Chairman of the Commission. Up to three additional members may be appointed by the Chairman of the Commission. The Chief Engineer of the Commission shall be, ex officio, a member of the Water Resources Committee. The Chairman of the Technical Committee or designee shall be, ex officio, a non-voting member of the Water Resources Committee. The Chairman or an appropriately designated member of any technical subcommittee, any special work group or any advisory committee, formed from time to time pursuant to the provisions of these By-laws, may be invited by the Chairman of the Water Resources Committee to attend any meeting at which it is anticipated that matters of particular interest to them may be discussed. Members of the Water Resources Committee and its subcommittees or work groups shall not be reimbursed for their expenses incurred in attending meetings unless authorized by the Commission.**