

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

**198th Commission Meeting
Clifty Inn at Clifty Falls State Park
Madison, IN
Thursday, October 14, 2010**

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Chairman Paul E. Tomes, Presiding

Call to Order

Chairman Tomes called the 198th meeting of the Ohio River Valley Water Sanitation Commission to order at 9:43 A.M. on Thursday, October 14, 2010.

Commissioner Duritsa led the Commission in the Pledge of Allegiance.

Quorum Call

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

Action on Minutes

ACTION: Motion by Commissioner Eger, second by Commissioner Easterly and carried, that the minutes of the 197th meeting of the Commission and of the June 2010 Executive Session (distributed on September 20, 2010) be adopted as presented.

Report of the Treasurer

Commissioner Komoroski noted that a Treasurer's report as of September 30, 2010 was provided in the meeting packet.

The report indicates a balance of \$1,952,095 in accounts receivable due the Commission as of September 30, 2010. The balance represents \$854,201 due from Signatory States, \$976,294 due from Federal sources, and \$121,600 from other sources.

Additionally, the report indicates receipts of \$1,964,090 plus carryover of \$1,619,381 totaling \$4,638,824 through the end of September 2010. Of that amount, \$928,281 was expended on programs, leaving \$2,655,191 available for the continuation of ORSANCO's programs.

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

Report of the Chairman

Chairman Tomes began by stating that standing before the Commission as Chairman, offering remarks during the 198th meeting of ORSANCO, is certainly a humbling honor and in many ways an even more daunting privilege. As he began preparing for this year at the conclusion of the June meeting, he began thinking about the numerous Commissioners who have served before with such distinction and brought dignity to the podium, each of them leaving their mark and moving the Commission forward in its mission of water pollution abatement in the Ohio River Basin. Mr. Tomes continued by commenting that in his short tenure, he has seen skills such as

superior statesmanship, excellent scientific knowledge, career-based practical experience, critical legal understanding and high-level management keep the Commission on the path of a highly respected steward of the environment.

Determining how the year of his chairmanship would positively add to such an outstanding history is what he was referring to when he made mention earlier about a “daunting privilege.” Mr. Tomes assured Commissioners that he would lead in the only way he knew how: by recognizing the gifts and skills of those surrounding him and capitalizing on those skills to bring the best person to a particular task. That process began in July when he reached out to each Commissioner with standing committee assignments which were graciously accepted. With the right people in the right positions, he feels confident that the year ahead is off to a great start.

One of the initiatives that he will focus on this year will be centered on one of ORSANCO’s core missions: maintaining the Ohio River as a drinking water supply for the five million citizens who depend upon it. He noted that they should not forget the pressure that abounds in the water industry. Under the previous leadership of Chairman Jeff Eger, the Commission heard from local wastewater treatment utilities about their extreme challenges. It is imperative that ORSANCO keep a keen appreciation for their efforts and identify what we can do to facilitate their mission. As a “potable water treatment” person, Mr. Tomes confirmed that the drinking water utilities also face huge infrastructure issues and ever-increasing regulatory mandates. Plans are already underway, with the help of the Water Users Advisory Committee, to provide an educational roundtable session at the February 2011 meeting that will focus on the challenges faced by water utilities who take their supply from the Ohio River.

As the coming months unfold, some very important decisions and directions will be prominent in the Commission activities; for instance:

- In selecting Commissioner Ron Potesta to lead the recently approved Water Resources Committee, it was evident that the Commission was fortunate to have Ron still serving the Commission because of his expertise with the regulatory oversight of water resource issues throughout his public service career.
- Commissioners participated in an excellent roundtable session under the guidance of ORSANCO’s Ad Hoc Committee Chairman, David Flannery, to address ideas for potential changes to the Compact to codify the interstate commitment in addressing water resources management.
- After months and years of planning, the Water Quality Review Committee and staff are near establishing a nutrient trading program with a pilot “first trade” approach.
- Knowing the extent of ORSANCO’s inclusion in the Federal FY 2011 appropriations remains a hot button item since a reliable and stable funding mechanism is fundamental to the Commission’s accomplishments.
- Finally, the Commission will initiate the next triennial review of the Pollution Control Standards with the help of our technical advisory committees and PIACO.

The financial outlook for ORSANCO, in the context of these issues, will continue to be challenging. However, the Commission expects that it will complete these tasks successfully, essentially due to the states’ commitment to hold fast their financial support of the Commission, even though states’ individual budgets have decreased. Indeed, ORSANCO has an obligation to make its resources work effectively and in a manner that provides maximum off-lifting of the burdens that the state environmental agencies face during this time.

Great government agencies do not dig in and stagnate from programs and policies that have outgrown their effectiveness. Great organizations listen, act, innovate, focus, and adjust for continuous improvement. Mr. Tomes suggested that ORSANCO is an effective organization due in good part to its design and small staff. Especially now, in today's social and economic climate, ORSANCO must be even better and more effective.

Mr. Tomes concluded by stating that, for organizations like ORSANCO, trying times are those that present the best opportunity to excel. ORSANCO's agenda bespeaks this. With everyone's commitment, the quality of staff, and the supporting role played by the many dedicated members of ORSANCO's various committees, the Commission is already on its way.

Report of the Executive Director

Mr. Vicory began by noting that copies of the Commission's current ByLaws and an updated Roster of Commissioners were provided in the meeting packet. He also directed Commissioners' attention to a document titled "Charting New Waters." Mr. Vicory attended a briefing in Washington, DC which served as a rollout for this comprehensive study prepared by the Johnson Foundation.

Mr. Vicory then directed attention to a recent article in the Paducah Sun regarding ORSANCO's mobile aquarium inclusion in Paducah's Barbeque on the River event. Participation in these events is an important component of ORSANCO's public education activities.

Mr. Vicory reported that he attended a briefing on September 26 at the White House Conference Center to the Council on Environmental Quality on the Ohio River Basin Water Quality Trading project. The presentation was well-received and resulted in a request by the federal agencies for a delineation of what actions they can take to advance the project. A response to this request will be taken up by the project partners in mid-November.

Mr. Vicory reported on the growing interest to define the Cincinnati region as a Regional Technology Innovation Cluster. Clusters such as Silicon Valley (focusing on technology development) and Milwaukee serve as examples. Technology clusters rely on the synergy of large and small businesses, government, and educational institutions to focus on a specific technology. Mr. Vicory is serving on the steering committee along with Commissioner Eger.

Mr. Vicory reported on a recent visit by Brigadier General John Peabody of the U.S. Army Corps of Engineers. This was an informational exchange meeting to better familiarize General Peabody with ORSANCO and its activities.

Mr. Vicory concluded by reporting that work continues to attempt to resolve the issue of the Coast Guard's response regarding ORSANCO as a non-government agency which prevents the Commission from receiving critical information on spill reports. At ORSANCO's request, the Coast Guard has informed that it will discuss this issue with U.S. EPA.

Report of the Water Quality Review Committee

Commissioner Bruny reported that The Water Quality Review Committee met by conference call on August 30 and in person on September 14. The objectives of the meetings were to provide an orientation to new members of the Committee, to review the status of issues tracked by the Committee, and to discuss specific questions raised about the project to develop an interstate water quality trading program for the Ohio River Basin.

Committee Background

The Water Quality Review Committee functions as an oversight body for issues facing the Commission; it was created to assure that issues do not “fall through the cracks.” The Committee retains a list of issues that are routinely tracked and also addresses specific questions at the request of the Commission. The Committee includes the Chairs of the Technical and Pollution Control Standards Committees plus several other Commissioners. Current members include Commissioners Frevert, Komoroski, Easterly, Phillips, and Johnson, as well as Marcia Willhite.

Current Issues

1. Oversight of the Watershed Pollutant Reduction Program
Activities in this program are on hold as federal funding has run out. Funding might be restored in the federal budget for Fiscal Year 2011.
2. Oversight of ORSANCO Protocol for Addressing Interstate Inconsistencies
There are no active applications of the Protocol. An area of possible application involves state procedures for determining permit limits for Ohio River discharges. The Committee directed staff to ensure that the Protocol is available on the Commission’s website.
3. Oversight of ORSANCO Watershed Initiative
The White Paper was recently updated; it should be reviewed again as the Commission’s role in water resources management evolves. The current White Paper includes seven possible program directions for the Commission to consider. The Water Quality Review Committee will discuss these program directions further and make appropriate recommendations to the Commission.
4. Relationship with the Big Sandy River Coalition
The Commission is administering grants from Kentucky, Virginia, and West Virginia to support the Coalition. The Coalition has recently hired a new watershed coordinator to implement the grants.
5. Development of Marcellus Shale
Staff provided a brief status summary covering New York, Pennsylvania, and West Virginia. The summary needs to be expanded in consultation with the states.
6. Role of ORSANCO on Tributaries – Review of Watershed White Paper
See Issue 3.
7. Differences in State Consumption Advisories for Ohio River Fish
A written protocol is ready for the states to sign.
8. Role of ORSANCO in Implementing the Action Plan for Reducing Hypoxia in the Gulf of Mexico
The Commission’s original role was to represent the Ohio River Basin states in the activities of the Hypoxia Task Force. Ohio, Kentucky, and Indiana are now members of the Task Force; the role of the Commission and the Ohio River Sub Basin Team needs to be revisited.
9. Hydropower Development on the Ohio River- Assurance of Licensee Compliance to Protect Dissolved Oxygen Levels
Recent activity by Commission staff has focused on relicensing the Markland facility. The status summary for hydro development at all Ohio River dams needs to be updated.
10. Role of ORSANCO in the Development of Total Maximum Daily Loads
ORSANCO’s role in providing data, assessment, and interstate coordination is well understood. Current activity involves TMDLs for pathogens and PCBs.

Questions Regarding Water Quality Trading Project

Three questions were raised regarding the trading project. These questions and the Committee's responses are as follows:

1. *Who should sign the draft Memorandum of Understanding for the project?*

The Committee believes that the program can proceed if a small number of states sign the MOU at this time. Specifically, those states that might be involved in pilot trades in the first year of the project. The Committee also believes that it is necessary only for the agency with permitting authority to sign. The Committee also believes that the draft MOU should be reviewed again by the full Commission.

2. *What level of effort should Commission staff put into this project (beyond what is supported by project funding)?*

The Committee will consider this question as the level of staff effort required becomes more apparent.

3. *What should be the ongoing role of the Commission if the project results in a formal trading program?*

The current project is led by the Electric Power Research Institute. EPRI has indicated that it will withdraw when the project is completed, and that some other entity will need to serve as the administrator for the program. The Water Quality Review Committee believes that any ongoing role for the Commission would have to be supported by funds generated from the program. The Committee would like to see a more detailed description of ORSANCO's possible role before providing a further answer.

Possible Additional Issues for the Committee

The following issues were considered as possible additions to the Committee's ongoing agenda:

1. Energy Development
2. Habitat Alteration
3. State Nutrient Reduction Strategies
4. Ohio River Stream Criteria for chemicals using a categorical approach
5. Status of Recommendations in the Watershed White Paper (including possible areas for additional Commission activities)

In addition, Mr. Vicory spoke of a water quality management plan developed by the Delaware River Basin Commission and the possibility of a similar plan for the Ohio River Basin. Mr. Vicory will provide a presentation on the Delaware Basin plan to the Committee.

Commissioner Eager inquired whether an executive summary was available for the Water Quality Trading Project. Commissioner Bruny replied that a possible summary page could be included with the Memorandum of Understanding when it is distributed for review. However, it is early in the project's development process and many details are not available. Currently, the best source for information is EPRI's website.

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

Report of the Technical Committee

Commissioner Frevert, Technical Committee Chairman, reported that The Technical Committee met on October 12-13 to consider a number of issues. Commissioner Frevert presented the following summary report. The complete report (Attachment 1) was provided in the meeting folder.

Committee discussions frequently returned to algae problems, which seem to have been unusually widespread during the hot, dry summer of 2010. However, there does not appear to be a readily discerned pattern to these problems, and the understanding that would lead to solutions continues to be elusive.

The Committee was presented with fish tissue analyses for mercury which seemed to indicate levels of concern in some species (freshwater drum, striped bass) but not in others (channel catfish, sauger). Additional study in this area seems to be needed.

The Committee addressed the lack of consensus on the 2010 assessment of Ohio River water quality conditions. The issues in dispute involve use of iron data in assessing support of aquatic life and use of mercury data in assessing support of fish consumption. Staff was directed to present a proposed methodology for the 2012 assessment at the next meeting and to include a discussion of how the iron and mercury results would affect the assessment results.

The Technical Committee will undertake a prioritization of ORSANCO programs for use in developing the Fiscal Year 2012 program and budget. Results are expected to be available for the February Committee meeting and for use by the Program and Finance Committee when it meets next spring.

The Committee considered the proposed revisions to the Commission's Pollution Control Standards. The Committee endorses the proposed revisions and also endorses the proposed list of issues to be addressed in the next review. If the Commission decides to pursue development of a process document for consideration of requests for variances, the Technical Committee believes that the document should undergo public review comparable to that which revisions to the Standards receive.

ACTION: Motion by Commissioner Frevert, second by Commissioner Morgan and carried, to accept the Report of the Technical Committee as presented.

Report of the Public Interest Advisory Committee (PIACO)

Mr. Ron Riecken, Committee Chairman, reported that The Public Interest Advisory Committee met September 30 in Newport, KY. Members representing each of the eight compact states were present with the exception of Illinois and Virginia.

Items discussed among the group were the River Watchers Volunteer Monitoring Program, Ohio River Sweep, Life Below the Waterline, Foundation for Ohio River Education, and the expedited review of the Pollution Control Standards.

Jason Heath, ORSANCO staff, presented an overview of the Standards review and advised that the Standards Committee would be recommending moving forward with the proposed issues including the variance/mixing zone issue. The variance mixing zone issue warranted a lengthy discussion. As the public interest committee for ORSANCO, the Committee members believe that if ORSANCO passes this issue as part of the Standards, it will harm the Commission's reputation. Committee members believe this change is significant enough to be in the regular review process and not the expedited review. The Committee is aware that the Commission received thousands of emails against moving forward with this change. If this is passed, the public perception could be harmful to the Commission. Since ORSANCO does such an excellent job monitoring water quality, conducting research and reaching out to the public, Committee members do not wish to see this reputable organization damaged by passing this variance/mixing zone issue.

Each Commissioner should have received a letter from a member of PIACO asking them not to pass the issue and wait until more technology has been researched.

PIACO also requested that summaries or minutes from other advisory committees be made available to committee members so other impending issues can be discussed.

Again, the Committee urges the Commission not to pass the variance/mixing zone issue that would become a part of the Standards.

Mr. Riecken concluded by providing a brief update on the Foundation for Ohio River Education, noting that educational activities will continue without the use of the PA Denny.

ACTION: Motion by Commissioner Conroe, second by Commissioner Servatius and carried, to accept the Report of the Public Interest Advisory Committee as presented.

Report of the Pollution Control Standards Committee

Commissioner Komoroski, Committee Chairman, provided the following summary report and indicated that a detailed Committee report (Attachment 2) and Resolution 4-10 (Attachment 3) were provided in the meeting folder.

Mr. Komoroski reported that the Commission traditionally performs a review of its Pollution Control Standards on a three-year cycle. However, as a result of concerns raised during the most recently concluded review, the Commission approved an expedited process to address four specific issues. The four issues considered were:

1. Critical Flow for Human Health Criteria
2. Total Dissolved Solids Criteria
3. Provision for Variances to Mixing Zone Requirements
4. Selenium Criteria

Mr. Komoroski then reported on the integrity of the expedited review process and the significant importance of Standards development. He indicated that in March of this year, the Commission initiated an expedited review of its Standards. Twelve sets of comments were received by the close of the comment period on April 16. Following consideration of those comments, the Commission proposed three revisions to its Standards. A second round of public review was conducted, including four public workshops and a formal public hearing on August 3. Eighteen sets of formal written comments were received. In addition, a number of short comments on postcards were received, as well as several thousand comments by email. After each step of the process, the Committee met to review comments and to discuss each point raised. Mr. Komoroski also commented on the importance of the review performed and input provided by a number of ORSANCO committees during this process.

Mr. Komoroski proceeded to present the following issues and outcomes of the expedited review process:

Issue: Selenium Criteria

There was considerable belief that the existing Selenium criteria value is not appropriate.

Recommendations

It was hoped that selenium would be addressed in the Expedited Review; however, the new U.S. EPA criteria have yet to be released. Addressing the Selenium criteria will be delayed until the U.S. EPA provides guidance and releases its Selenium criteria. It is still anticipated that the new criteria will be issued in the near future.

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 7-day 10-year low flow (7Q10) was proposed.

Proposed Revision

It was proposed to 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.

Recommendations

1. Adopt the revisions as proposed.
2. Investigate the basis for the criteria in Section IV.C in time for consideration in the next review of the Standards.

Issue: Total Dissolved Solids (TDS) Criteria

Stream Criteria for Total Dissolved Solids (TDS) were removed from the Commission Standards in 1993. Drinking water utilities in the upper basin have experienced levels of TDS that have led to numerous customer complaints. Industrial processes have also been affected.

Proposed Revision

Add a 500 mg/L limit for TDS to Section IV.C.2.

Recommendation

1. Add a new Section IV.D to read as follows:
D. Taste and Odor and Industrial Use Protection
To protect drinking water supplies from adverse taste and odor, and to protect industrial water use, the following criteria shall be met outside the mixing zone:
TOTAL DISSOLVED SOLIDS: Concentration shall not exceed 500 milligrams per liter at river flows equal to and greater than the seven day ten year low flow.
2. Add Total Dissolved Solids to analytes for ORSANCO bimonthly monitoring program.

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 some instances.

Recommendation

1. Amend Section VIII to allow the consideration of requests for variances to Section VI.G.
2. Further amend Section VIII to provide for additional requirements for the consideration of variance requests.
3. Develop a separate document providing specific details of the process by which a variance request is made by a discharger, and how it is considered by the Commission and the member states, including procedures for public review and comment.

Randy Sovic clarified that a state cannot grant a variance but can only agree to consider a variance request. Only ORSANCO has the authority to grant a variance to its Standards. Mr. Komoroski stated that his understanding of the proposal is that a variance request would only be brought to ORSANCO after the state has decided and agreed that consideration of the variance was appropriate.

A number of comments were made by Commissioners, and questions arose regarding the proposed TDS Standard revision.

A motion was made by Peter Goodman to amend the TDS Standard to make the Standard apply at the intake and not at the edge of the mixing zone as proposed. This motion was amended after comments by Commissioner Potesta.

After lengthy discussion, Commissioner Potesta stated that issues associated with TDS remain unresolved. He proposed that the more work be conducted on the TDS Standard revision and for the Commission to take up this issue at the February 2011 meeting. Mr. Potesta recommended voting on the two remaining Standards issues and holding TDS over until February.

ACTION: Motion by Commissioner Potesta, second by Commissioner Eger and carried (Commissioner Komoroski abstaining), to refer the TDS issue back to Committee and staff for further review and investigation of reasons for increased levels of TDS in the Ohio River, and defer action on this issue until the February Commission meeting.

Commissioner Conroe offered the following comments for the record:

“Being fortunate enough to be currently serving on the Pollution Control Standards Committee and also having the experience of serving on the committee for several years, including a term as committee chair two triennial reviews ago, and having served on the Commission for 19 years now, I have had the benefit of observing policy development and trends along with gaining a historical perspective from whence we’ve come, especially having served with charter commissioners. I understand that the standards must be a living document that will change from time to time as science advances and I therefore endorse all of the recommended changes, save one. I do not believe that it is in the best interests of the citizens of the Basin to allow variances to Section VI.G., the mixing zone and related timeline regulation. I support the proposed changes to the variance determination method but not to extending such to Section VI.G. Section VI.G. is in many respects a variance to the standards in and of itself.

Some say that this change is not about mercury; rather it is about process. Process certainly is an aspect of the discussion. Nonetheless, facts evidence that the only reason that this change is on the table is because of a mercury allowance request. This proposal would not have come before the Committee absent the request. So let’s be honest about what is really at play here. And, from my perspective, unfortunately, the response to the request has now opened the door for other dangerous substances to become allowable at risk levels.

The compact charges us to control future pollution and to abate existing pollution so that waters will be a safe public water supply and suitable for recreational use plus able to maintain fishing use and aquatic life presence.

Species are becoming extinct on this planet at alarming rates. Bioaccumulative chemicals threaten aquatic life and mankind. We should not be creating a public policy that contributes to the extinction of mankind. We need to be aggressive in abating and prohibiting pollution. Although there certainly are understandable rationales to justify the granting of variances, the granting of such will have unintended consequences that I believe we are charged to avoid. In the past, ORSANCO brought primary and secondary treatment to the basin. We now need to be vigilant to require water treatment that will address modern day challenges. I thus cannot support an action that will delay our addressing current need and will likely cause harm. I, therefore, will be voting against measure.”

ACTION: Motion by Commissioner Easterly, second by Commissioner Duritsa and carried (Commissioner Flannery abstaining on the mixing zone issue), to accept the report, and adopt Resolution 4-10, and recommendations (Critical Flow for Human Health Criteria, Provision for Variances to Mixing Zone Requirements) of the Pollution Control Standards Committee as presented.

Report of the Congressional Liaison Committee

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

FY2011 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)

The House Appropriations Committee appropriations bill did not include ORSANCO's funding request. Unfortunately, the FY2011 Senate appropriations bill is not predicted to be completed until late 2010.

Congressional Caucus Update

A second briefing to the Ohio River Basin Congressional Caucus was held on September 16. The subject of the briefing focused on the challenges of abating pollution from combined and sanitary sewer overflows. Chairman Tomes participated in the briefing which was attended by Caucus Co-Chairs, Representative Driehaus of Ohio, and Representative Capito of West Virginia.

Congressional Funding Update

Efforts continue to seek an enhanced and reliable stream of Congressional funding to address water issues in the Ohio River Valley, similar to targeted funding for the Great lakes Region and the Chesapeake Bay. A legislative strategy will be developed to seek this targeted funding.

Mr. Vicory concluded by mentioning that a 20% increase in Section 106 Clean Water Act funds is in the President's proposed budget. However, it remains to be seen what if any increase in funds will survive the budget process.

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

Report of the Ad Hoc Committee on Water Resources

Commissioner Flannery began by noting that at the June Commission meeting, actions were taken to form a standing Water Resources Committee and to charge the Ad Hoc Committee with continuing to investigate if more authority was required for the Commission to take on water resources activities. A resource document has been developed which creates a menu of possible items which the Commission might include as part of its core mission. Some of these items are natural extensions of the current Compact, while others are clearly outside the scope of the Compact, requiring additional authority for the Commission to consider.

Input from Commissioners during the Roundtable discussions regarding direction on water resources activities supports proceeding with the following items:

1. The Water Resources Committee should continue with its effort to ramp up and begin working within the existing authority of the Compact.

2. The Commission will continue the effort of integrating the Ohio River Basin Water Resources Association (ORBWRA) into the Commission's process which will help advance issues relating to water resources management.
3. The Ad Hoc Committee will work with legal counsel to identify what work can be done under the authority of the existing Compact.
4. At the February 2011 Commission meeting, a proposal will be presented on how the Compact might be modified in a simplistic form with minimal changes to provide the authority for water resources management activities. This proposal can serve as a basis for opening discussions with the governors of the Compact states.

ACTION: Motion by Commissioner Frevert, second by Commissioner Bruny and carried, to accept the report of the Ad Hoc Committee on Water Resources as presented.

ACTION: Motion by Commissioner Conroe, second by Commissioner Phillips and carried, to accept the recommendation that when the Ohio River Basin Water Resources Association (ORBWRA) dissolves, ORSANCO will subsequently accept the residual funds of ORBWRA's treasury and restrict the use of said funds and similarly accept future funds as may be paid by its participating states for support of water resources management activities. Further, so long as funds are sufficiently available, such funds are to be used in priority order: 1) for reimbursement of travel expenses incurred by state representatives in conjunction with attendance at ORSANCO water resources meetings; 2) for support of a personal services contract for Mr. Larry Feazell; and 3) for any other function related to the Committee. It should be further designated that Mr. Feazell's duty will be to assist ORSANCO in the administration of the ORSANCO Water Resources Committee and more generally in its activities to deliver programs regarding water resources management.

Report of the Personnel Committee

Commissioner Eger, Committee Chairman, noted that a Personnel Committee Report was previously distributed as an agenda attachment and reported on the following recommendation:

Recommendation to Establish Projects Coordinator Position

As an outcome of a management departure from staff, ORSANCO management has given much consideration to reorganizing various technical program responsibilities to effectively meet current and future program needs.

Management proposes the establishment of a new position to be titled Projects Coordinator – Research, ORSANCO/Ohio River Users Program, and Water Resources. The proposed position would capitalize on the expertise and tenure of current staff as well as provide for technical growth in emerging areas. The nature and responsibilities of this proposed position require a higher level of expertise and judgment than expected of the Environmental Specialist III position. The incumbent will work under minimal supervision of the Deputy Executive Director and serve as staff liaison to several Commission Committees.

ACTION: Motion by Commissioner Eger, second by Commissioner Easterly and carried, to establish a Projects Coordinator position with associated salary range as presented.

Report of the Water Users Advisory Committee (WUAC)

Mr. Jack Wang, Committee Chairman, reported that the Committee met September 28-29 in Cincinnati, OH. Two key issues were discussed: the elevated level of bromide being observed in the Ohio River, and the Commission's proposed changes to the Pollution Control Standards.

Bromide Issue

The Water Users Advisory Committee believes there to be an increase in bromide in the Ohio River and some major tributaries. To strengthen their knowledge on the issue, two presenters were invited to participate in the meeting: Dr. Jeanne VanBriesen of Carnegie-Mellon University, and Dr. Mike Elovitz of U.S. EPA Breidenbach.

Dr. VanBriesen provided the group with an overview of the bromide issue as observed on the Monongahela River in 2008. Dr. VanBriesen indicated there was a strong correlation between the bromide concentrations and the chloride levels as observed on the Monongahela River in 2008.

Dr. Elovitz provided an overview of the kinetics of bromide as it reacts when present in the drinking water treatment process.

There is no stream criterion for bromide. The problem that bromide presents to the drinking water utilities is that it adds substantially to the total THM concentration by increasing the number and amount of brominated species, i.e., bromoform, dichlorobromomethane, and dibromochloromethane. It has a much quicker reaction time than chlorine, which means that the brominated THMs will be formed first, followed by the chlorinated THMs. This is an intriguing issue in that there is a compound with no stream criterion on the Clean Water Act side, creating compounds that are problematic and regulated on the Safe Drinking Water act side. As such, the Water Users Advisory Committee unanimously adopted the following recommendation to the Commission:

The Water Users Advisory Committee has identified bromide as a river-borne contaminant that is putting drinking water utilities and consumers at risk due to the unprecedented formation of brominated trihalomethanes. Brominated trihalomethanes are regulated under the Safe Drinking Water Act and, as such, the bromide in the Ohio River may result in violations to Safe Drinking Water Act criteria for tri-halomethanes, THMs, in finished drinking water. As this situation is of grave concern to the members of the Water Users Advisory Committee, the Committee requests the Commission undertake investigations as appropriate to identify sources and determine concentrations of bromide in the Ohio River and major tributaries, and to collect or otherwise obtain all other data as necessary that would lead to the alleviation of this problem through the development of stream criteria or other such mechanisms as may be appropriate. The continued presence of bromide in the Ohio River may result in the utilities having to implement treatment technologies, i.e., granular activated carbon, which would constitute the use of other than “reasonable treatment” as provided for in the Ohio River Valley Water Sanitation Compact and as defined in the 2009 revision of the Pollution Control Standards for discharges to the Ohio River.

Pollution Control Standards

With respect to the proposed revisions to the Commission’s Pollution Control Standards, the Committee offers the following comments with respect to the review of the variance applications, should the procedure, as proposed, be adopted:

1. Require the development of a research proposal to assure that efforts are being undertaken such that the facility would be able to meet the stream criterion at the end of pipe by the termination of the variance or by date certain. The applicant would be required to fund the research necessary to meet the deadline.

2. The life of the variance shall not be longer than the stated life of the NPDES permit. The variance would expire with the stated life of the permit, not upon the date of the reissuance of the permit.
3. The applicant shall underwrite the expense associated with the required public notice process.
4. The applicant shall underwrite Commission staff time as required for the evaluation of the variance application.

Emerging Water Quality Issue

Mr. Wang reported on recently published research published indicating increased levels of manganese in drinking water supply and expressed the Committee's concern over levels in the Ohio River. The Committee suggested that consideration be given to move manganese from secondary to primary Standard status. Abandoned mines appear to contribute to this problem, and the Committee recommended that the appropriate ORSANCO committee look into this ongoing issue.

Mr. Wang concluded by noting that the members of the Water Users Advisory Committee look forward to working with the Commission Chairman in the development of the program for the Roundtable Conference of Commissioners next February. The members also look forward to working with the POTW committee in the development of cross-cutting issues that confront both industry sectors.

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

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

Mr. Mike Apgar, Chairman of the POTW Advisory Committee, commented that during the previous day's Technical Committee meeting, he discussed practical outcomes of unfunded wet weather mandates and lessons learned. One outcome is that a significant amount of money will be spent and public rates will increase. There appears to be much public outrage over the rate increases which will most likely be reflected by voting choices in November.

One example of such mandates is that large municipal communities involved in wet weather results over decades have found that using traditional practices has not yielded the environmental benefit expected. The Federal Government is now saying to do more. However, doing more of the same and expecting different results is not right, and spending money with no environmental return is unacceptable.

Mr. Apgar commented on the need for a huge public education process to ensure that the public is aware of the issues and cost associated with such mandates and the effect on utility rates. He suggested that ORSANCO should play a much bigger role in public education.

Mr. Apgar recommended major changes and that we apply what was learned from the wet weather mandate as we approach the next federally unfunded mandate with respect to nutrient reduction. He suggested that the following recommended changes do not require revisions to the Clean Water Act. These changes only require consideration of policy change.

1. There are tools in the Clean Water Act that localities are not permitted to use such as use attainability analyses.
2. Wet Weather Standards must be revisited and corrected.

3. Sound science must be utilized. POTWs recommended utilizing weight of evidence; however, research needs to be done to find a less flawed solution. Regarding nutrient criteria, the Committee fears that some hybrid of conditional probability will emerge.

Mr. Apgar formally requested an opportunity for POTWs to provide peer review for whatever method is chosen. It is of the utmost importance to get this criteria correct. He also suggested embracing the concepts of adaptive watershed management. Cost-effective solutions must be identified.

Mr. Apgar concluded by stating that we must ensure that there is an effective environmental return for the funds being exhausted by municipalities.

ACTION: Motion by Ron Schwartz, second by Commissioner Morgan and carried, to accept the report of the Publicly Owned Wastewater Treatment Works (POTW) Advisory Committee as presented.

Comments by Guests

Mr. Jason Flickner of the Kentucky Waterways Alliance (KWA) commented that 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 and will work to ensure that no such variances are permitted. 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 with others to inform and actively engage the public in opposition of the variance revision

Upcoming Meetings

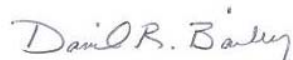
Chairman Tomes noted the following schedule for upcoming Commission meetings:

- February 8-10, 2011 Cincinnati, OH (Hyatt Regency)
- June 2011 Pennsylvania (Location TBA)
- October 2011 TBA

Adjournment

The 198th Commission meeting was adjourned at 11:55 A.M.

Prepared by:



David Bailey
Director of Administration
& Human Resources

Date: December 14, 2010

Approved by:



Kenneth Komoroski
Secretary/Treasurer

Date: December 14, 2010

ROSTER OF ATTENDANCE
198th Commission Meeting
October 14, 2010

Commissioners

Illinois	Phillip Morgan Toby Frevert
Indiana	Thomas Easterly
Kentucky	Peter Goodman (PROXY for Leonard Peters) LaJuana Wilcher (PROXY for Lt. Governor Daniel Mongiardo) Jeffery Eger
New York	Douglas Conroe T. Lee Servatius
Ohio	Paul Tomes George Elmaraghy (PROXY for Christopher Korleski)
Pennsylvania	Charles Duritsa Greg Phillips Ron Schwartz (PROXY for John Hanger)
Virginia	Robert Wayland Ellen Gilinsky (PROXY for David Paylor)
West Virginia	David Flannery Ronald Potesta Randy Sovic (PROXY for Randy Huffman)
Federal	Stuart Bruny Kenneth Komoroski
Legal Counsel	Ross Wales

Executive Director

Alan Vicory

Guests

Jack Wang – Chairman, Water Users Advisory Committee; Mike Apgar – Chairman, POTW Advisory Committee; Jason Flickner – KWA; Erich Emery – US Army Corps of Engineers; Ron Riecken – Chairman, Public Interest Advisory Committee

Staff

David Bailey, Jason Heath, Jerry Schulte, Peter Tennant, Joseph Gilligan, Jeff Thomas, Jeanne Ison, Tracey Edmonds, Greg Youngstrom, Sam Dinkins, Eben Hobbins

Report of the Technical Committee 194th Meeting October 12-13, 2010

The 194th meeting of the ORSANCO Technical Committee was held on October 12-13 in Madison, Indiana. Six states, two federal agencies and four Commission advisory committees were represented.

Chief Engineer's Report

Mr. Vicory reported on a number of items:

Familiar Faces in New Places – LaJuana Wilcher has been appointed to serve as the proxy for the Kentucky Lieutenant Governor. Erich Emery left the ORSANCO staff to assume a position with the Corps of Engineers; among his duties will be representing the Corps at TEC meetings.

Pathogen Criteria - staff is participating on a Water Environment Research Foundation Issue Area Team on new criteria for pathogens. This involvement carries out one of three activities identified by the Commission as essential to any further progress on wet weather standards (i.e., assess recreational use of the Ohio River, conduct public education on the issues, participate in the national dialogue on new and improved criteria for pathogens).

Spill Reporting - the US Coast Guard still does not recognize ORSANCO as a government agency and will not share complete information on spills. Recently, spill reports from counties in Illinois and Indiana have not been received.

Ohio River Fish Consumption Advisories - The draft Protocol for development of consumption advisories for Ohio River fish has been approved by the state agencies. The agencies agreed that a representative of one agency from each state should sign the protocol; this will likely be the state agency.

Wabash River Project - ORSANCO received stimulus funds from Indiana DEM to enhance monitoring of the Wabash River. The project includes a continuous monitor and twice monthly sampling for nutrients. Additional monitoring of the Ohio River near the confluence with the Wabash will be carried out.

Total Dissolved Solids Criteria

Virginia and Ohio are developing water quality criteria for total dissolved solids for aquatic life protection. Progress reports from both states were presented.

Report of the NPDES Subcommittee

The NPDES Subcommittee met by conference call on September 8. The Subcommittee considered the proposed revisions to the Commission Standards, continued its discussion of mercury discharges from power plants, and considered implementation of the new ammonia criterion, which is to apply at drinking water intakes.

The Subcommittee did not identify any issues in implementing the proposed revisions. The Subcommittee reiterated its recommendation that the Commission adopt a maximum temperature criterion for human health protection.

The Subcommittee developed recommendations on proposed activities by ORSANCO to support consistency in state permit requirements for power plants with scrubbers. In particular, the Subcommittee directed staff to maintain frequent contact with US EPA as the federal agency works to identify best treatment technologies for these discharges.

The Subcommittee considered several options for the implementation of the ammonia criterion. Additional information was requested, including assessment of in stream ammonia data and the amount of monitoring for ammonia at drinking water intakes.

Nutrient Issues

George Elmaraghy presented a summary of a report by the Ohio Lake Erie Task Force. Outstanding progress was made in abating nutrient pollution of the lake during the 1970s and 1980s. Since the mid 1990s, however, conditions have declined and algal blooms are again a problem. The Task Force looked at reasons for the decline and made recommendations on how to reverse it. The primary source of the nutrients causing the problems is agriculture.

Staff presented a progress report on development of numerical nutrient criteria for the Ohio River. Contractor assistance has been provided by US EPA but has not resulted in proposed criteria as of yet.

Shivi Selvaratnam spoke on blue green algae monitoring on lakes in Indiana. The monitoring is a collaborative effort by IDEM, IUPUI, and IU.

Mercury Studies

Rob Reash presented results of Ohio River fish tissue sampling sponsored by the power industry. Analyses of channel catfish (trophic level 3) and sauger (trophic level 4) did not show any exceedances of the 0.3 mg/kg criterion. Sampling by ORSANCO, however, indicated exceedances of the criterion in freshwater drum (TL3) and striped bass (TL4). Efforts are underway to explain the differences in results. ORSANCO staff is also monitoring total recoverable and methyl mercury concentrations in the river.

Beaver River PCB Study

Staff presented results sampling for PCBs in the Beaver River watershed. The study was 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.

Ohio River Water Quality Assessment

The 305(b) work group has been unable to reach agreement on all aspects of the 2010 Ohio River water quality report. The issues involve support of aquatic life (primarily due to iron concentrations) and fish consumption (due to mercury results). Staff was directed to present a proposed assessment methodology for the 2012 assessment at the next meeting, including a discussion of how the areas of disagreement in the 2010 assessment will be resolved.

Recent Ohio River Water Quality Conditions

Staff provided observations from monitoring activities conducted over the past summer. As might be expected, impacts of the hot, dry weather conditions were widespread. Impacts were observed in water quality monitoring (temperature and dissolved oxygen criteria violations), biological monitoring (below normal performance at routine sites), and algal activity (taste and odor problems at water utilities on the upper and lower river).

Status of State and Federal Agency Updates and Interstate Water Quality Issues

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. Reports from the advisory committee chairs were also presented under this item. Summaries of the reports will be included in the minutes of the meeting.

ORSANCO Program Prioritization for FY2012

At its June meeting, the Committee directed staff to develop an approach to be used in a prioritization of ORSANCO's programs. The Committee concurred with the approach presented. It was agreed that the respondents will be the Technical Committee members, who may choose to involve members of their staffs in responding. Responses will be due by December 31.

ORSANCO Pollution Control Standards

Staff briefed the Committee on the proposed revisions to the ORSANCO Pollution Control Standards and the expedited review that led to those proposals. The Committee endorsed the proposed revisions, and concurred with the issues identified for consideration in the next review. On the topic of a possible document on procedures to be used in considering requests for variances, the Committee agreed that any such document should be subject to public review before it is adopted.

Gulf of Mexico Hypoxia

Staff reported on the recent meeting of the Gulf of Mexico Hypoxia Task Force. Indiana and Kentucky are now represented on the task force and were active participants in the meeting. A number of actions were taken to promote local nutrient reduction activities, in accordance with the second goal of the Hypoxia Action Plan. The Task Force is initiating development of incremental targets that would allow the tracking of progress toward the overall goal of reducing the size of the hypoxic zone.

In conjunction with the Task Force meeting, the participating states discussed the development of state nutrient reduction strategies. The state of Mississippi is well along in the development of its strategy and has offered the components of its strategy as the starting point for a template that could be used by the other states. Most of the participating states would like to develop similar strategies but resource constraints will delay them from doing so.

Report of the Pollution Control Standards Committee October 2010

The Pollution Control Standards Committee met on September 14, 2010 to consider comments received on proposed revisions to the Commission Standards. Seven states and the federal government were represented.

Background

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.

Following consideration of those comments, the Commission proposed three revisions to its Standards. A second round of public review was conducted, including four public workshops and a formal public hearing on August 3. Eighteen sets of formal written comments were received. In addition, a number of short comments on postcards were received as well as several thousand comments by email.

Consideration of Comments

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.

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.

Comments Received

Comments opposed to the proposed revision raised the following points:

1. Use of Harmonic Mean Flow would conflict with some states' regulations which require use of 7Q10.
2. Use of 7Q10 for non-carcinogens would be overly stringent for a number of constituents for which criteria are based on long term exposure.
3. US EPA guidance documents call for use of other design flows (i.e., 30Q5) for human health criteria.

Committee Consideration

The authority of member states to adopt more stringent requirements than ORSANCO, such as use of 7Q10 for carcinogens, is clearly recognized in Section VII of the Standards. Questions still remain about the basis of certain of the human health criteria; this subject must be addressed further.

Recommendations

3. Adopt the revisions as proposed.
4. Investigate the basis for the criteria in Section IV.C in time for consideration in the next review of the Standards.

Issue: Total Dissolved Solids Criteria

Stream Criteria for Total Dissolved Solids (TDS) were removed from the Commission Standards in 1993. Drinking water utilities in the upper basin have experienced levels of TDS that have led to numerous customer complaints. Industrial processes have also been affected.

Proposed Revision

Add a 500 mg/L limit for TDS to Section IV.C.2.

Comments Received

Comments opposed to the proposed revision raised the following points:

1. The Commission has not demonstrated that total dissolved solids concentrations on the Ohio River are increasing to levels of concern.
2. The proposed criterion is a US EPA secondary Maximum Contaminant Level for finished drinking water.
3. Restoration of a Total Dissolved Solids criterion to the ORSANCO Standards will result in stringent treatment requirements for numerous dischargers.
4. Total Dissolved Solids do not impact human health.
5. The criterion should only apply at points of withdrawal.

Committee Considerations

Problems experienced by water utilities and industries in the upper basin demonstrate the need for a total dissolved solids criterion to protect existing uses. While the 500 mg/L is a secondary MCL for finished drinking water, reasonable treatment of drinking water as defined in the Standards does not remove TDS. The criterion is intended to apply in the river outside of mixing zones; states have not indicated that widespread imposition of new permit limits would be necessary to assure continued compliance with the stream criterion on most of the river. Because TDS impact aesthetics and industrial use rather than human health, the Committee believes that a new sub section D is needed to contain such criteria. Because the criterion is for protection of industrial as well as drinking water use, it would have to apply at all intakes on the river.

Recommendation

1. Add a new Section IV.D to read as follows:
D. Taste and Odor and Industrial Use Protection
To protect drinking water supplies from adverse taste and odor, and to protect industrial water use, the following criteria shall be met outside the mixing zone:
TOTAL DISSOLVED SOLIDS: Concentration shall not exceed 500 milligrams per liter at river flows equal to and greater than the seven day ten year low flow.
2. Add Total Dissolved Solids to analytes for ORSANCO bimonthly monitoring program.

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 some instances.

Comments Received

An overwhelming number of comments opposed any additional discharge of mercury to the river, especially in light of recent findings that certain fish species may contain mercury in excess of the standard for human health protection. Some comments opposed any variances to the Standards on the basis that they would become permanent.

Committee Consideration

The Committee believes that elimination of mixing zones for bioaccumulative chemicals of concern should be the objective of the Standards. While availability of adequate treatment may be an issue in some instances and may require more time than is provided by the 2013 deadline in the Standards, the Committee rejected any revision of this requirement. Instead, the Committee is recommending that provision be made to allow the Commission to consider variances to this requirement on a case by case basis. It is the Committee's hope that any such variances will be extremely rare and will be temporary. To assure that any such requests are thoroughly considered, the Committee is recommending additional provisions to the Variance procedure to include:

1. The applicant shall provide information on alternatives considered, including elimination of the discharge.
2. The applicant shall specify effluent limits that can be achieved by the treatment to be provided.
3. The Commission will provide opportunity for public comment in its consideration of each variance request.

The Committee also recommends certain editorial changes to emphasize the current requirements that the state where the discharge occurs and states whose waters might be affected concur with the variance request, and that water uses set forth in Section III be maintained.

The Committee is aware of ongoing studies by ORSANCO to further define the occurrence of mercury, both total and methyl, in the Ohio River and in fish from the river; since a variance can only be granted if water quality criteria will be met outside the mixing zone, results of these studies could further limit the number of variance requests that could be considered.

Recommendation

4. Amend Section VIII to allow the consideration of requests for variances to Section VI.G.
5. Further amend Section VIII to provide for additional requirements for the consideration of variance requests.
6. Develop a separate document providing specific details of the process by which a variance request is made by a discharger, and how it is considered by the Commission and the member states, including procedures for public review and comment.

Annex A to this report is a copy of the current Pollution Control Standards showing the proposed revisions. Annex B is a "clean" copy of the Standards as they would appear with the adoption of the proposed revisions.

Continuing Issues

Several issues were identified in the course of the Expedited Review that should be addressed in the next review of the Commission Standards. The Committee believes that the Commission should return to its regular schedule of triennial reviews; under that schedule, the next review would be initiated in March, 2011. Issues to be addressed would include:

Selenium Criteria

It was hoped that selenium would be addressed in the Expedited Review; however, the new US EPA criteria have yet to be released. It is still anticipated that the new criteria will be issued in the near future.

Bromides

Drinking water utilities report that bromides are an increasing problem in treating water for potable use.

Temperature

The NPDES Subcommittee has recommended that the Commission adopt a criterion to protect human health from heated discharges.

Design Stream Flows

Comments suggesting design flows other than 7Q10 and Harmonic Mean Flow for human health protection need to be considered further. In addition, aquatic life criteria in Sections IV.B. 2, 3, 4 and 5 are not associated with any design flow.

Other ongoing issues include numerical criteria for nutrients and wet weather standards.

RESOLUTION 4-10**POLLUTION CONTROL STANDARDS - 2010 REVISION**

WHEREAS: The Ohio River Valley Water Sanitation Commission, which was created by the Ohio River Valley Water Sanitation Compact, effective June 30, 1948, as an agency representing eight sovereign states embracing territory from which waters flow directly or indirectly into the Ohio River or its tributaries, is charged by the provisions of the Compact with responsibility for achieving, through control of pollution discharged into those waters, stated objectives deemed to be necessary in order to place and maintain those waters in condition suitable for uses contemplated by the Compact; and

WHEREAS: Article VI of the Ohio River Valley Water Sanitation Compact establishes minimum standards for the treatment of sewage discharged by municipalities or other political subdivisions, public or private institutions or corporations into the waters of the Ohio River Basin, specifies a basic level of modification or treatment of industrial wastes discharged or permitted to flow into those waters and, in addition, empowers the Commission, after investigation, due notice and hearing, to establish such higher degrees of treatment and modification as the Commission may determine to be necessary in order to achieve the objectives stated in the Compact; and

WHEREAS: On October 22, 2009, through exercise of the power thus granted to it, the Commission adopted and promulgated Pollution Control Standards (2009 Revision) which established levels of treatment and modification then considered to be required for both sewage and industrial wastes discharged into the Ohio River, but subsequently determined that clarifying amendments to or restatements of specific segments thereof were necessary and, by action on June 10, 2010 adopted a resolution approving proposed alterations of its Pollution Control Standards (2009 Revision) and designating a Hearing Board, empowered and directed to conduct a public hearing with respect to them, at a location to be specified and after due notice; and

WHEREAS: For the purpose of implementing that resolution, the Hearing Board, after appropriate notice, held public hearings with respect to the proposed alterations of its Pollution Control Standards (2009 Revision) at the Holiday Inn, Greater Cincinnati Airport, Erlanger, Kentucky, on August 10, 2010. A transcript of the hearing has been prepared and placed on file in the offices of the Commission in Cincinnati, Ohio and, thereafter, submitted to the Commission with recommendations for adoption, a final set of amended and restated Pollution Control Standards covering discharges into the Ohio River.

NOW, THEREFORE, UPON DUE CONSIDERATION of the procedures previously established by the Commission and followed by the Hearing Board in conducting the above-described hearings, the testimony and other evidence introduced at these hearings, together with various views and opinions there expressed, and the recommendations submitted by the Hearing Board; in exercise of the authority granted to it by Article VI of the Ohio River Valley Water Sanitation Compact.

THE COMMISSION HEREBY RESOLVES THAT:

1. Notice of the time and place at which the above-mentioned hearings were to be held was sufficient, in form and extent of publication, to inform all interested parties and all parties likely to be affected thereby;
2. The procedure followed by the Hearing Board in the conduct of the hearings adequately provided to all interested parties and to all parties likely to be affected thereby full opportunity to be heard and to present any pertinent testimony, evidence, opinions, or views which anyone might wish to submit for the consideration of the Commission; and
3. Pollution Control Standards (2009 Revision), as heretofore adopted and promulgated by the Commission, require clarifying amendments or restatements of specific segments.

THE COMMISSION HEREBY FURTHER RESOLVES THAT:

Subject to any subsequent revisions which the Commission may, from time to time, determine to be required by changing conditions, its POLLUTION CONTROL STANDARDS (2009 Revision) for Discharges to the Ohio River, amended and restated as set forth in "Annex 2", attached hereto and incorporated herein, shall be and they hereby are in that form readopted and repromulgated by this Commission to be hereafter designated as POLLUTION CONTROL STANDARDS – 2010 Revision.

THE COMMISSION HEREBY FURTHER RESOLVES THAT:

Public notification of this action in the readoption and repromulgation of Pollution Control Standards - 2010 Revision, as thus amended and restated, be given by publication in newspapers having general circulation in the major population centers within the Ohio River Basin and by direct mail to all persons, entities, and governmental agencies within that area known to have an interest in that action or to be affected by it.