

**OHIO RIVER VALLEY WATER SANITATION COMMISSION**

**MINUTES**

**208<sup>th</sup> Commission Meeting  
Embassy Suites River Center  
Covington, Kentucky  
Friday, February 14, 2014**

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# OHIO RIVER VALLEY WATER SANITATION COMMISSION

## MINUTES

**208<sup>th</sup> Commission Meeting  
Embassy Suites River Center  
Covington, Kentucky  
Friday, February 14, 2014**

**Chairman Toby Frevert, Presiding**

### Call to Order

Chairman Frevert called the 208<sup>th</sup> meeting of the Ohio River Valley Water Sanitation Commission to order at 9:00 A.M., Friday, February 14, 2014.

Commissioner Frevert led the Commission in the Pledge of Allegiance.

### Quorum Call

Commissioner Conroe declared that a quorum was present (see Roster of Attendance, page 9).

### Action on Minutes

**ACTION:** Motion by Commissioner Duritsa, second by Commissioner Tomes and carried, that the minutes of the 207<sup>th</sup> meeting of the Commission and of the October 2013 Executive Session, electronically distributed on January 22, 2014, be adopted as presented.

### Report of the Audit Committee

Committee Chairman Lovan introduced Rob Ford from the audit firm Barnes Dennig to provide an overview of the audit findings. Mr. Ford reported that ORSANCO's audit was a "clean" audit with no material weaknesses found in internal controls. He noted the excellent condition of the accounting records and the cooperation of staff. Mr. Ford stated that the Commission's financial position is solid.

Commissioner Lovan continued by noting that a 2013 Independent Auditors' Report was provided in the meeting packet.

Barnes Dennig, Certified Public Accountants, performed a general-purpose financial audit for fiscal year ending June 30, 2013.

In the auditor's opinion, the general-purpose financial statements present fairly, in all material respects, the financial position of ORSANCO as of June 30, 2013. There were no reported material weaknesses in internal controls.

The audit report is an "unqualified" report.

This is the third audit performed by Barnes Dennig, and staff finds them to be very professional and thorough, with a high level of expertise and good to work with. The Committee recommends retaining Barnes Dennig to perform the 2014 audit.

**ACTION:** Motion by Commissioner Lovan, second by Commissioner Wilson and carried, to accept the Independent Auditor's Report and the Audit Committee's recommendation to retain Barnes Dennig to perform the June 30, 2014 financial audit.

**Recognition of Service**

Commissioner Tomes presented the following resolution:

**RESOLUTION 1-14**

**WHEREAS,** Scott Nally has served as a Commissioner to the Ohio River Valley Water Sanitation Commission representing the State of Ohio from 2011 until 2014, and

**WHEREAS,** Scott Nally has given unstintingly of his time, serving as member and chairman of several Commission Committees, most recently the Pollution Control Standards Committee, and

**WHEREAS,** Mr. Nally has worked diligently to protect the environment as Director of Ohio EPA from 2011 to 2014, and prior to that as assistant Commissioner of the Indiana Department of Environmental Management,

**WHEREAS,** Mr. Nally has earned the esteem and friendship of his fellow Commissioners,

**Now therefore be it resolved,** that the Commissioners of the Ohio River Valley Water Sanitation Commission express their deep appreciation for Mr. Nally's service, and wish him all the best in his future endeavors.

Commissioner Bruny presented the following resolution:

**RESOLUTION 2-14**

**WHEREAS,** Kenneth S. Komoroski has served as a Commissioner to the Ohio River Valley Water Sanitation Commission from 2003 to 2014, representing the Federal government,

**WHEREAS,** Mr. Komoroski has provided faithful and diligent service to the Commission serving on numerous Committees including service as chair of the Pollution Control Standards Committee, and

**WHEREAS,** Mr. Komoroski served as Chairman of the Commission in 2012-13, and

**WHEREAS,** Mr. Komoroski has worked tirelessly to promote bass fishing in the Ohio River, and

**WHEREAS,** Mr. Komoroski has earned the esteem and friendship of his fellow Technical Committee members,

**Now therefore be it resolved,** that the Commissioners of the Ohio River Valley Water Sanitation Commission express their heartfelt gratitude for Mr. Komoroski's service, and wish him all the best in his future endeavors.

**Report of the Treasurer**

Commissioner Conroe noted that a Treasurer's report as of January 31, 2014 was provided in the meeting packet.

The report indicates a balance of \$321,299 in accounts receivable due the Commission as of January 31, 2014. The balance represents \$145,350 due from Signatory States, \$128,286 due from Federal sources, and \$47,663 due from other sources.

Additionally, the report indicates receipts of \$3,136,981 plus carryover of \$1,661,663 totaling \$4,798,614 through the end of January 2014. Of that amount, \$1,644,033 was expended on programs, leaving \$3,154,580 available for the continuation of ORSANCO's programs.

**ACTION:** Motion by Commissioner Tomes, second by Commissioner Lovan and carried, to receive the Treasurer's report as presented.

### **Report of the Chairman**

Chairman Frevert began by expressing his appreciation for the active participation and input of all involved in the various meetings conducted during the week. He also mentioned the interesting opportunities handled during the week such as responding to major spills, permit appeals, and controversial Standards issues. Mr. Frevert concluded by commenting that he was very pleased with the participation and the level of discussion that took place during the Technical Committee meeting and the Roundtable of Commissioners.

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

Mr. Tennant stated that the February Commission meeting would be memorable due to chemical spills on the River just preceding and during the week. He noted that accomplishments are the result of Commissioners, states and staff working collaboratively. The Elk River spill provided an example of collaborative work between staff and cooperators on the Organics Detection System (ODS). This system only operates effectively due to the 15 participating water utilities and industries. Activity during the spill response also provided an opportunity to bring positive attention to ORSANCO through media coverage and content provided through the website and social media.

Mr. Tennant then reported that the EPRI Ohio River Basin Water Quality Trading Project has scheduled a March 11, 2014 credit transaction event. During this event EPRI, the states, and the first stewardship buyers will officially transfer credits. An event announcement was provided in the Commission meeting packet.

Mr. Tennant announced that the National Water Quality Monitoring Conference would be held in Cincinnati April 28 through May 2.

### **Report of the Pension Committee**

Commissioner Tomes reported that the Actuarial Report, compiled by Buck Consultants, indicated that the Pension Plan had assets with a market value of \$3,085,633 and a funded ratio of 70.0% as of July 1, 2013.

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

The Pension Committee requests that the Program & Finance Committee consider a recommendation to fund a pension contribution of \$300,000, based on available funds, for FY15. This \$50,000 increase, the first increase in three years, is sought to keep pace with increasing participant benefit payments.

### Report of the Technical Committee

Commissioner Bruny, Committee Chairman, reported that the 204<sup>th</sup> Technical Committee meeting took place on February 12-13, 2014. Five states, two federal agencies, and three advisory committees were represented. The Committee took the following actions:

The Committee recommends the Commission approve the River Users report on Total Dissolved Solids.

The Committee recommends the following issues to the Pollution Control Standards Committee for consideration in the upcoming triennial review:

- Review of the total mercury water quality criterion for both magnitude and duration.
- Review of the frequency of exceedance specified for all criteria.
- Review of the current *E. coli* criterion for protection of contact recreational use.
- Review of where in the water body the human health temperature criterion applies.
- Consideration of the newly adopted ammonia criteria by the US EPA.
- Evaluation of the appropriateness of the mixing zone prohibition to the Ohio River.

### NPDES Subcommittee

The Committee recommends that states send a letter to their applicable discharges informing them of the new date of the prohibition on mixing zones for BCCs.

### 305b Workgroup

The Committee recommends the Commission approve the 305b assessments as presented to the committee. A summary of each assessment was included in the agenda package. The assessment includes no impairments (full support) for the aquatic life and public water supply uses. About two-thirds of the river is designated as impaired for contact recreation which is consistent with past years. The entire river is designated as impaired for the fish consumption use for PCBs and dioxin as it has for many years now, and there was a concern about the aging PCBs and dioxin data. The fish consumption use was also assessed based on methylmercury fish tissue data and was found to be fully supporting based on mercury data.

The Committee also reviewed a draft protocol for use of data from outside entities in its 305b assessments and set a deadline of April 1 for the Committee to provide any additional comments to staff.

### Biological Water Quality Subcommittee

The Committee recommends approval of the four most recent pool reports as recommended by the Biological Water Quality Subcommittee.

The Committee received reports on the Integrated Pool Assessments, the FGD Sampling Study, and the Broad Scan Monitoring Study. TEC members agreed to submit comments to staff on each of these reports by April 15.

### FY2015 Technical Program Recommendations

In addition to these actions, the Technical Committee is recommending a number of activities for the FY2015 Technical Program to be considered by the Program and Finance Committee at its upcoming meeting.

Technical Committee received presentations on:

- Tools and products available from the National Water Quality Monitoring Council and the Ohio River Basin Fish Habitat Partnership.
- Initial efforts to conduct trends assessments for mercury in fish tissue.

- The EPRI Methylmercury Modeling Project.
- Status of the Nutrients Trading Program.
- Climate Change Analyses by the National Weather Service Ohio River Forecast Center and its effects on the Ohio River flows.
- The ODS renovation and its use in the Elk River spill.

**ACTION:** Motion by Commissioner Bruny, second by Commissioner Lovan and carried, to accept the Total Dissolved Solids (TDS) Report and associated Responsiveness Summary as presented.

**ACTION:** Motion by Commissioner Bruny, second by Commissioner Phillips and carried, to approve the 305b use assessments as presented in the agenda packet.

**Report of the Pollution Control Standards Committee**

Chairman Frevert announced that Commissioner Potesta was appointed Chairman of the Pollution Control Standards Committee, replacing Commissioner Nally.

Commissioner Potesta, Committee Chairman, reported that the Commission regularly reviews its Pollution Control Standards at least every three years. Therefore, the Standards Committee is recommending initiation of the 2015 triennial review of the Pollution Control Standards. The Committee will consider all recommendations, by the Technical Committee and others, for issues to take under consideration. The schedule for the review will include an initial public comment period to be held this spring, followed by intensive work by the Standards Committee to develop formal recommendations to be presented to the Commission for approval at its February 2015 meeting. A hearing on the outcomes of that Commission meeting would take place around June 2015, after which a responsiveness summary would be developed and final recommendations for revision presented to the Commission for approval at its October 2015 meeting.

**ACTION:** Motion by Commissioner Potesta, second by Commissioner Conroe and carried, to approving the initiation of the 2015 triennial review of the Pollution Control Standards.

In addition to the Standards review, the Committee will also be working on a streamlined mercury variance procedure which may be necessary regarding the mixing zone prohibition for Bioaccumulative chemicals of concern, as well as a recommended procedure to follow up on Ohio River discharges which are reported as being in “significant noncompliance” by the US EPA.

**Report of the ORSANCO/Ohio River Users Program**

Committee Chairman Potesta reported that the Committee met on December 3, 2013 to review the Total Dissolved Solids (TDS) Study. The committee members endorse the outcomes of the study.

The Committee would like to consider new scientific studies to conduct on the Ohio River. To do so, the Committee is initiating a campaign to increase participation and funding for future studies. A brochure has been created for this purpose and will be distributed to basin-wide river users.

Commissioner Potesta offered the following motions to appoint and reappoint three Committee members.

**ACTION:** Motion by Commissioner Potesta, second by Commissioner Tomes and carried, approving the reappointment of Leslie Hyde and Dave Altman to second three-year terms.

**ACTION:** Motion by Commissioner Potesta, second by Commissioner Lovan and carried, approving the new appointments of Bud Smith and Chad Isman to three-year terms on the Committee.

**Report of the Public Interest Advisory Committee (PIACO)**

Eriks Janelsins, Committee Chairman, reported that the Committee met on February 13, 2014. Items discussed included the 2015 review of the Pollution Control Standards, focusing on the public engagement process, and public reaction to the Elk River chemical spill, including ORSANCO's response. The Committee reported on these discussions at the previous day's Roundtable of Commissioners.

The Committee developed a 2014 work plan which includes a comprehensive review of ORSANCO's communications strategy, establishment of a social media plan, and consideration of conducting a stakeholder meeting to solicit public input. Mr. Janelsins noted that Chairman Frevert and Executive Director Tennant attended the Committee meeting to provide input and recommendations to the Committee as a result of discussions during the October 2013 Roundtable of Commissioners.

The Committee elected Betsy Mallison to succeed Eriks as Committee Chair.

Eriks concluded by thanking the Commission for the opportunity to serve for the past six years as a member and Chairman of the Public Interest Advisory Committee and announced that this would be his last meeting.

**Recognition of Service**

Commissioner Duritsa presented the following resolution:

**RESOLUTION 3-14**

**WHEREAS,** Eriks Janelsins has been a member of the Public Interest Advisory Committee (PIACO) of the Ohio River Valley Water Sanitation Commission (ORSANCO) since 2007, and

**WHEREAS,** Mr. Janelsins has served as Chairman of PIACO for six years, and

**WHEREAS,** Mr. Janelsins has provided extraordinary leadership to the Committee during a period when the mission of the Committee was evolving to meet changing conditions, and

**WHEREAS,** Mr. Janelsins has made numerous contributions to the field of environmental education through his work at the Oglebay Foundation and the Schrader Environmental Education Center in West Virginia, and

**WHEREAS,** Mr. Elmaraghy has earned the esteem and friendship of his fellow members of PIACO and the Technical Committee as well as the Commissioners of ORSANCO,

**Now therefore be it resolved,** that the Commissioners of the Ohio River Valley Water Sanitation Commission express their heartfelt gratitude for Mr. Janelsins' service, and wish him all the best in his future endeavors.

### **Report of the Water Users Advisory Committee**

Bruce Whitteberry, Committee Chairman, reported that the Committee met the previous week and took action to elect him as Chairman and Dave Altman as Vice-Chairman. Discussions focused largely on the Elk River chemical spill. On behalf of the water utilities affected by the spill, Mr. Whitteberry extended appreciation and gratitude to ORSANCO staff for their technical expertise and efforts in collaborating and communicating with the utilities to protect drinking water intakes. Without the Organics Detection System and ORSANCO staff involvement, downstream impacts would have been much greater.

The Committee remains concerned that there is no long-term funding strategy for the replacement of and continued operation of the system. The current system upgrade is being funded by a federal grant, which is also funding a major portion of current operations and maintenance. It is imperative that the Commission ensures that after the grant funds are exhausted, the operation and maintenance costs of the system are restored in ORSANCO's annual operating budget. The Committee also recommends the development of a mechanism to ensure long-term funding for future upgrades to the system.

The Committee also discussed the need to develop a unified strategy for timely and appropriate release of data during events such as the recent Elk River chemical spill. With the exception of the Elk River spill and treatment challenges associated with cold weather, operations for the drinking water utilities have been going very well. However, the utilities remain concerned about the long-term levels of Bromide and await the results of research studies currently underway by US EPA.

### **Recognition of Service**

The following ORSANCO staff members were recognized for service milestones:

Jason Heath – 25 years

Stacey Cochran – 10 years

Ryan Argo – 5 years

### **Comments by Guests**

Judy Petersen, representing Kentucky Waterways Alliance, commented on issues considered for the upcoming triennial review. She voiced concern over the possibility of eliminating the mercury criteria, in terms of how this would be viewed by the public and the environmental community. There has been a series of recent Commission actions which are concerning, such as inserting the variance language for mixing zones in 2010, following this in 2011 with changes to how fish tissue is calculated for the 305b water quality assessment, ORSANCO chose not to follow state or US EPA approaches by adopting a weight of evidence approach, and finally the extension of the mixing zone prohibition. Many environmental groups share concern over these series of actions which are viewed as not protecting the River or not being transparent with the public. She cautioned that if the Commission deletes the mercury water quality standard criteria without at least a translator for methylmercury, even though US EPA has also done so, there will be some level of outrage by the environmental community. Recent Commission actions seem to be a pattern in one direction and there are a number of groups paying close attention to this trend.

### **Upcoming Meetings**

Chairman Frevert noted the following schedule for upcoming Commission meetings:

- June 2014    Evansville, Indiana
- October 2014                                        TBD

### **Adjournment**

The 208<sup>th</sup> Commission meeting was adjourned at 9:50 A.M.

Prepared by:

*David R. Bailey*

Date: February 28, 2014

David Bailey  
Director of Administration

Approved by:

*Douglas E. Conroe*

Date: March 10, 2014

Doug Conroe  
Secretary/Treasurer

**ROSTER OF ATTENDANCE**  
**208<sup>th</sup> Commission Meeting**  
**February 14, 2014**

**Commissioners**

Illinois	Toby Frevert
Indiana	Thomas Easterly
Kentucky	Ron Lovan Bruce Scott (PROXY for Leonard Peters) Peter Goodmann (PROXY for Lt. Governor Abramson)
New York	Douglas Conroe Mike Wilson
Ohio	Paul Tomes Craig Butler Stuart Bruny
Pennsylvania	Charles Duritsa Greg Phillips Ron Schwartz (PROXY for Christopher Abruzzo)
West Virginia	David Flannery Ron Potesta Kevin Coyne (PROXY for Randy Huffman)
Legal Counsel	Ross Wales

**Executive Director**

Peter Tennant

**Guests**

John Hirschfield – Axiall Corporation; Laura Factor – Ohio EPA; Eriks Janelsins – PIACO; Betsy Mallison – PIACO; Judy Petersen – PIACO; Rob Ford – Barnes Dennig; Bruce Whitteberry – WUAC

**Staff**

David Bailey, Jason Heath, Tracey Edmonds, Sam Dinkins, Joe Gilligan, Lisa Cochran, Eben Hobbins, Lila Ziolkowski, Ryan Argo, Steve Braun, Jeff Thomas, Stacey Cochran, Greg Youngstrom, Daniel Cleves, John Klear, Jerry Schulte