

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

**202nd Commission Meeting
Hyatt Regency Hotel
Cincinnati, Ohio
Thursday, February 9, 2012**

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Chairman Charles Duritsa, Presiding

Call to Order

Chairman Duritsa called the 202nd meeting of the Ohio River Valley Water Sanitation Commission to order at 9:35 A.M. on Thursday, February 9, 2012.

Commissioner Duritsa led the Commission in the Pledge of Allegiance.

Quorum Call

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

Action on Minutes

ACTION: Motion by Commissioner Tomes, second by Commissioner Phillips and carried, that the minutes of the 201st meeting of the Commission and of the October 2011 Executive Session be adopted as presented.

Report of the Treasurer

Commissioner Frevert noted that a Treasurer's report as of December 31, 2011 was provided in the agenda packet.

The report indicates a balance of \$557,826 in accounts receivable due the Commission as of December 31, 2011. The balance represents \$220,150 due from Signatory States, \$253,117 due from Federal sources and \$84,559 from other sources.

Additionally, the report indicates receipts of \$2,141,590 plus carryover of \$1,986,066 totaling \$4,127,656 through the end of December 31, 2011. Of that amount \$1,799,139 was expended on programs, leaving \$2,328,517 available for the continuation of ORSANCO's programs.

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

Report of the Chairman

Chairman Duritsa reported that as the Commission begins its first meeting of 2012, there is a lot that's new – a new year, new roles for the Commission, and new challenges to our mission of making water quality decisions based on sound science. For any organization, the departure of an Executive Director after 24 years on the job means the dawn of a new era. At the same time, we have the benefit of the years of experience represented by the Commissioners at this table and the staff that support our endeavors. We also have the longstanding relationships with the state agencies, the utilities and industries along the river, the Corps, USGS, US EPA and the Coast Guard, and with local groups as we carry out our efforts to protect the waters of the Ohio River Basin.

Chairman Duritsa said, “Having spent my first career with a state agency, I’m very aware of the critical part the state agencies perform in carrying out the objectives of the Ohio River Valley Water Sanitation Compact. I’m also very aware that the state funds to support ORSANCO come from those state agencies’ budgets. It is very important that the Commission’s efforts support and supplement those of the states. I am proud of the fact that, whenever a state legislature has performed a Sunset review of a state’s support of ORSANCO, they have concluded that the Commission provides a bargain in terms of the benefits to the state. This is a great story, and one that we must continue to tell – and continue to write.”

“We’re not spending a lot of time on water resources issues at this meeting. We’ve reached a point in the development of our new Water Resources Committee where it is necessary for the Committee to meet separately in order to take the time to flush out their mission. We expect to hear back from them at our next meeting, and we intend to move forward with development of a Memorandum of Understanding on a cooperative approach to water resource issues among the Governors of the Ohio Basin states. Last month, I took part in a meeting with one of the foundations that we have approached for funding of the water resources initiative. The meeting was very positive, and I’m very hopeful that we will receive the funds we requested.”

“We have a full agenda today, which is another sign of the many issues we face. I’ll close by once again thanking the Commissioners who serve as Committee chairs for the time and effort they give to this organization, and to thank our advisory committees for their interest and efforts on our behalf.”

Report of the Executive Director

Peter Tennant, Acting Executive Director, began by mentioning that staff was taking photographs of Commissioners and committee members as an enhancement to ORSANCO’s directories. He also noted that the 2011 Annual Report would be completed in a few weeks and available for distribution. He requested that Commissioners provide their preferred method of providing the Report to their respective Governors.

Peter Tennant followed up on Chairman Durista’s theme of collaboration, noting the high level of collaboration between various Commission Committees. He mentioned the TDS study as an example of collaboration among Water Users Advisory Committee, River Users, and the Technical Committee. He also highlighted a recent dialog exchange between the POTW Committee and the Public Interest Advisory Committee resulting in collaborative, joint recommendations to the Commission.

Peter Tennant concluded by mentioning that locations for the October Commission meeting are being considered. He also mentioned the positive impact of Ohio Governor Kasich giving the State of Ohio Address on the banks of the Ohio River in Steubenville.

Resolution on Spill Reporting

Peter Tennant presented the following resolution for adoption:

RESOLUTION 1-12 REQUEST FOR FULL DISCLOSURE OF SPILL INFORMATION BY THE NATIONAL RESPONSE CENTER

WHEREAS: Article I, Section 10, Clause 3 of the Constitution of the United States reads: “No State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State, or with a foreign Power,” and

WHEREAS: The Ohio River Valley Water Sanitation Commission, ORSANCO, is an interstate water pollution control agency created by the Ohio River Valley Water Sanitation Compact, and

WHEREAS: Authority to enter into the foregoing Compact was initially granted by act of the 74th Congress of the United States by Public Resolution No. 104, approved June 8, 1936, and subsequent consent to and approval thereof was expressly granted by the Congress of the United States by the following legislation: Public-NO- 739-76th Congress Chapter 581-3rd Session S-3617, approved July 1, 1940, and

WHEREAS: On June 30, 1948, the eight states affirmed their support for an agreement to such as signatories to said Compact, and

WHEREAS: By legislation duly enacted, each of said negotiating States, has caused said Compact to be approved, ratified, adopted, and enacted into law and has authorized its execution; and

WHEREAS: The abatement of existing pollution and control of future pollution in the Ohio River and all interstate waters of said basin are of prime importance to the people therein, and can best be administered through the cooperation of the States through a jointly supported interstate Commission; and

WHEREAS: The Ohio River is the longest, most heavily industrialized river in the conterminous United States, and

WHEREAS: The Ohio River is used as a source for drinking water serving more than 5 million people on a daily basis, and

WHEREAS: Ohio River drinking water quality and consumers are at perpetual risk due to the daily presence of crude oils, refined petro-chemicals, hazardous and nonhazardous materials that can be spilled, released or otherwise discharged to the river through accidental or intentional acts and can thereby jeopardize the water quality of the Ohio River; and

WHEREAS: ORSANCO is the only fully river-wide interstate water quality regulatory authority with uniform powers extending the entire 981 mile length of the Ohio River, and

WHEREAS: The Ohio River mainstem states have empowered, and therein rely on ORSANCO to notify drinking water intakes of releases, spills, discharges or other activities, accidental or intentional, wherein the water quality of the Ohio River has or may jeopardize water quality for drinking water uses, and

WHEREAS: The National Response Center has previously fully disclosed to ORSANCO complete information associated with pollution incidents through the issuance of unredacted, government use, incident reports, and

WHEREAS: Without notice or explanation, the National Response Center, operating under the aegis of the United States Coast Guard, did unilaterally determine that ORSANCO is no longer qualified to receive unredacted incident reports, and

WHEREAS: The United States Environmental Protection Agency, presiding as chair of the National Response Team, has determined that ORSANCO does qualify as a first responder and recommends that, “anything less than full sharing of reporting information will seriously threaten water suppliers, and in turn public health,” and

WHEREAS: The suppression (withholding) of vital information from incident reports seriously compromises ORSANCO’s ability to assess the severity of a release, spill, or accidental discharge and further, inhibits ORSANCO’s access to information and ability to contact the responsible party to obtain more accurate and complete information concerning the amount, duration, and type of material released, and

WHEREAS: Article VIII of the Compact directs the “Commission shall consult with and advise the various States, communities, municipalities, corporations, persons, or other entities with regard to particular problems connected with the pollution of waters,” and

WHEREAS: The representatives of the United States Environmental Protection Agency that co-chair the Regional Response Teams representing US EPA Regions 3, 4, and 5 and are responsible as Federal On Scene Coordinators for incidents on or along the Ohio River agree that, due to its vital role in spill and incident communication to all Ohio River drinking water utilities, ORSANCO should receive unredacted incident reports, and

WHEREAS: The US Coast Guard Commander for Sector Ohio Valley agrees that due to its vital role in spill and incident communication to all Ohio River drinking water utilities, ORSANCO should receive unredacted incident reports in order to expedite said communication;

NOW THEREFORE, BE IT RESOLVED THAT: The Ohio River Valley Water Sanitation Commission respectfully requests that the United States Coast Guard direct the National Response Center to resume providing ORSANCO with timely, complete, and unredacted incident reports to assure the continued protection of Ohio River drinking water utilities and consumers.

ACTION: Motion by Commissioner Easterly, second by Commissioner Nally and carried, to adopt Resolution 1-12 as presented.

Report of the Pension Committee

Commissioner Morgan, Committee Chairman, reported on the following:

The July 1, 2011 Actuarial Report, compiled by Buck Consultants, indicated that the Pension Plan had assets with a market value of \$2,676,083. Based on market value of assets, the Plan’s funded ration is 78.3%.

PNC Advisors reported that fund assets are currently invested with a 50% stock and 50% bond allocation. Based on risk management, the current allocation provides the best opportunity for long-term correction. The 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 \$250,000, based on available funds, for FY13. This represents a \$50,000 increase over FY12.

Staff continues to work with the actuary and investment advisors to develop a ten-year plan to improve the funded ratio and reduce the unfunded liability.

Commission Bylaws require that one Pension Committee member shall be from the Commission staff. The Pension Committee nominates David Bailey, Director of Administration, for election to the Pension Committee.

ACTION: Motion by Commissioner Morgan, second by Commissioner Tomes and carried, electing David Bailey, Director of Administration, to the Pension Committee.

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

Report of the Audit Committee

Commissioner Conroe noted that a 2011 Independent Auditors' Report was provided in the meeting packet.

Commissioner Conroe reported that Barnes Dennig, Certified Public Accountants performed a general-purpose financial audit for fiscal year ending June 30, 2011.

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, 2011. There were no reported material weaknesses in internal controls.

The audit report is an "unqualified" report.

This is the first audit performed by Barnes Dennig, and staff finds them to be very professional and thorough, with a high level of expertise. The Committee recommends retaining Barnes Dennig to perform the 2012 audit.

ACTION: Motion by Commissioner Conroe, second by Commissioner Morgan and carried, to accept the Independent Auditor's Report and the Audit Committee's recommendation to retain Barnes Dennig to perform the June 30, 2012 financial audit.

Report of the Technical Committee

Commissioner Frevert, Technical Committee Chairman, reported that the Technical Committee met on February 7-8, 2012 and provided the following recommendations:

Biennial Assessment of Ohio River Water Quality Conditions 305(b)

The Technical Committee approved the 305(b) biennial assessments of Ohio River water quality conditions for aquatic life, contact recreation, and public water supply uses. The entire Ohio River has been designated as fully supporting the aquatic life and public water supply uses. Approximately 2/3 of the river is designated as impaired for the contact recreational use.

Regarding the fish consumption use, the entire river will be designated impaired due to PCBs and dioxin. There were questions as to the use of fish tissue data from outside entities, particularly regarding the fish consumption use assessment based on mercury data. The Power Industry has asked that their data be included in ORSANCO's assessment. Staff has been directed to consider incorporation of outside entities' fish tissue mercury data in the current assessment, but because of states' timing needs, assessment based on mercury in fish tissue is

being deferred. In addition, staff has been directed to work with the 305(b) workgroup to develop a protocol for using outside data in future assessments.

Standards

Several recommendations regarding revision to the Pollution Control Standards were presented. Staff was directed to develop specific language and move forward with the public review process on the following issues:

- Temperature – Revise temperature criteria for the protection of aquatic life, including implementation procedures for the revised criteria, and add a new criterion for the protection of human health.
- Pathogens – Discontinue fecal coliform criteria for recreation protection, use a 90-day geometric mean for *E. coli*, revise the single sample maximum *E. coli* criterion to an exceedance allowance of 25%, and extend the recreation season to include April.
- Selenium – Remove the acute selenium criterion and retain the chronic criterion which is consistent with US EPA’s current recommended criteria.
- Reorganize the PCS document.

Variance Application and Process

PPG was available to answer questions regarding their request for a variance from the Commission’s prohibition on mixing zones for bioaccumulative chemicals of concern. Several TEC members have remaining questions and will submit those questions to staff in the next two weeks, after which an additional information request will be submitted to PPG prior to the next Standards Committee meeting.

2013 Program Priorities

Two primary recommendations came out of the program prioritization process:

- 1) Look at the opportunities available to increase the fish tissue program budget.
- 2) Develop a protocol for use in utilizing outside entities’ data in 305(b) assessments as discussed earlier.

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

Report of the Water Resources Committee

Commissioner Potesta, Committee Chairman, reported on the following issues:

Update on Funding of the Commission’s Water Resources Initiative

The Water Resources Committee was created with the understanding that it would be financially self-supporting, as the Compact limits the scope of the Commission’s activities to matters pertaining directly to water quality, but does not extend to issues solely concerning water quantity. In order to get this committee off the ground, staff has worked to secure philanthropic support for the Commission’s water resources efforts. To this end, a grant proposal was developed which seeks \$400,000 for a three-year effort which would provide operational support of the Water Resources Committee, as well as provide funding for the completion of three studies that would serve to characterize the water resources management needs in the Ohio River Basin and define an appropriate role for the Commission in addressing those needs.

The proposal has been submitted to several foundations for funding consideration. To date, the Heinz, Mellon, and Colcom foundations from the Pittsburgh area have collectively contributed \$80,000 to the effort with an agreement to provide an additional \$100,000 once full project funding is secured from other sources. In addition, the Benedum Foundation is currently reviewing the grant application and appears willing to provide \$60,000 to the effort.

Two grant proposals for the remaining \$160,000 have been submitted to the Nippert Foundation in Cincinnati and the Nina Mason Pulliam Charitable Trust in Indianapolis. While the likelihood of funding from Nippert is unclear, indications from a recent meeting with the Mason Charitable Trust by Chairman Durista and staff appears promising. The Trust will notify award recipients by the end of March.

Governors' Memorandum of Understanding

A draft agreement among the states to recognize the Commission's role in water resources management has been reviewed by the Committee. Minor edits requested by committee members and Commissioners were made to the Governors Memorandum of Understanding and the discussion has now turned to identifying the best strategy to advance the agreement for approval by the Governors. The Committee will discuss how to move forward with the MOU on a conference call scheduled for February 29th. The next face-to-face Committee meeting is anticipated to be scheduled in April.

ACTION: Motion by Commissioner Potesta, second by Commissioner Easterly and carried, to accept the Water Resources Committee report as presented.

Report of the Water Quality Review Committee

Commissioner Bruny reported that the Water Quality Review Committee met by conference call on Thursday, January 5, 2012. The call began with a brief summary of the status of issues tracked by the Committee. Issues for which there have been new developments since the last report of the Committee are:

Relationship with the Big Sandy River Coalition: the Coalition has used up most of the funds appropriated by the states but still has the ORSANCO share of the funding to utilize. A new watershed coordinator is being sought.

Differences in states' consumption advisories for Ohio River fish: Ohio, West Virginia and ORSANCO have signed the protocol. Copies of the protocol are being sent to Committee members in order that they may encourage the appropriate officials in their states to sign.

ORSANCO role in implementing the Action Plan for Reducing Hypoxia in the Gulf of Mexico/ Nutrient Reduction Strategies: A proposal was submitted to US EPA on September 30 for funding for ORSANCO activities that would support development of nutrient reduction strategies by states in the Ohio River Basin that were identified as significant contributors to Gulf Hypoxia. No word has been received regarding acceptance or rejection of the proposal.

Hydropower development on the Ohio River- assurance of licensee compliance to protect dissolved oxygen levels: Staff is working with the Corps of Engineers to facilitate receipt of data from the monitors at the hydro facilities.

The Committee then discussed three of the following issues in depth:

Habitat

Staff had prepared a briefing paper on the habitat issue that was presented to the Committee last year. This led to presentations at the June Technical Committee meeting by staff and by the Pennsylvania DEP and Fish and Boat Commission. For this call, staff revisited the issue paper and provided information on current efforts to address each category of habitat disruption; that information is appended to this report. The information indicates that there are efforts underway to address habitat disruption, that ORSANCO is involved in or aware of those efforts, and that no initiatives on the part of the Commission are needed at this time.

Recommendation: To most effectively work towards alleviating threats to Ohio River habitat of aquatic communities, the Committee recommends that the Commission continue to coordinate with, and support, other agencies and organizations currently addressing the issues identified by staff. In particular, the Commission should facilitate data and information exchange and dissemination as appropriate, including assisting with data collection where existing resources allow. Studies demanding significant increases in resources should be brought before the Program and Finance Committee for approval.

ORSANCO Role in Water Quality Trading

The Water Quality Review Committee discussed the potential roles for ORSANCO in an on-going Nutrient Trading Program. For discussion purposes, three options were presented by staff:

1. ORSANCO becomes the operator of the program
2. ORSANCO takes an advisory role and allows another entity to become the operator
3. ORSANCO has no involvement

Discussion Points:

ORSANCO should remain involved and focused on technical issues. Several questions and concerns were raised over the level of involvement.

- Does ORSANCO have the authority (as in the water quantity activities)?
- Is there a conflict of interest with nutrient criteria development?
- Are there legal ramifications? (Will we need a larger legal staff?)
- What organizations run other air or water quality trading programs?

Recommendation: Staff should develop a white paper identifying the options for a Roundtable discussion at the June 2012 Commission Meeting.

ORSANCO Role in Shale Gas Development

Staff presented a summary of activities that the Susquehanna River Basin Commission is carrying out with regard to shale gas development. While that Commission has water allocation responsibilities and issues permits for withdrawals by gas drillers, they are also involved with identification of sensitive waters and exchange of information, activities that could be undertaken by ORSANCO. It was noted that monitoring activities to determine background conditions in advance of gas drilling will be taking place in Pennsylvania and West Virginia. A need identified by several parties is for a data clearinghouse to facilitate sharing of information.

It was agreed that discussion of potential roles for the Commission would be a good topic for the Commission Round Table in February. Chairman Bruny noted that the discussion that took place during Commission Round Table was very enlightening. There seemed to be agreement that sharing of information on this topic was worthwhile. The Water Quality Review Committee will

consider the points highlighted in the discussions and will develop recommendations for Commission activities in this area.

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

Report of the Bylaws Committee

Commissioner Frevert reported that the Bylaws Committee met on January 12th in Cincinnati to review the Commission's Bylaws and to consider recommended revisions. Minor revisions such as addressing operational issues, replacing gender-specific language, and updating the non-discrimination policy language were discussed.

The Committee will recommend adoption of the following Bylaws revisions at the February 2012 Commission meeting.

Recommended Changes to Bylaws

Section V: Officers, Their Election, Tenure and Duties

Executive Director: Eliminate language "He shall be a registered Professional Engineer."

Section VI: Additional Staff

Replace existing non-discrimination language with currently accepted language.

Section VII: Meetings

Delete reference to telegraph and facsimile. Each Commissioner will provide their stated preference on receiving notices by electronic mail or regular mail.

Section XI: Withdrawal of Funds

For operational efficiency, add the Director of Administration to the list of those authorized to sign Commission checks.

Multiple Sections: Editorial changes, replace gender-specific language.

The Committee discussed topics that emerged from the October 2011 Executive Session, including the role of proxies and consideration of requiring a "super majority" for votes on regulatory matters. The Committee did not develop specific recommendations on these topics.

The Committee also discussed the possibility of a future review of the Commission's committee structure, therefore not recommending any changes to the "Committee" section of the Bylaws.

ACTION: Motion by Commissioner Frevert, second by Commissioner Conroe and carried, to adopt the changes to the Bylaws as presented.

Report of the Pollution Control Standards Committee

Commissioner Easterly, Committee Chairman, reported that the Pollution Control Standards Committee met at Commission Headquarters on Thursday, January 12, 2012. Seven states were represented. The Committee met to advance the review of the Commission Standards and to address matters pertaining to variances to the Standards.

Proposed Revisions

The Pollution Control Standards Committee requests that the Commission authorize the presentation of proposed revisions to the Commission Standards at a public hearing, to be held in July, 2012. The proposed revisions will include:

- Adoption of a maximum temperature for human health protection.
- Adoption of revised temperature criteria for aquatic life protection.
- Revision of pathogen criteria to include the following:
 - o Deletion of fecal coliform criteria for protection of recreation criteria;
 - o Specification of a 90 day geometric mean for *E. coli*;
 - o Extension of the recreation season to include April through October;
 - o Clarification of use of Statistical Threshold Value for *E. coli*.
- Deletion of current acute criterion for Selenium.
- Reorganization of Standards document.

ACTION: Motion by Commissioner Easterly, second by Commissioner Potesta and carried, to authorize the Pollution Control Standards Committee to develop language for the revisions discussed, and to present those proposed revisions for public review and comment.

The Committee received recommendations from the Public Interest Advisory Committee on steps that could be taken to improve the public comment process. Those steps include holding webinars on the proposed revisions, making presentations on each proposed revision available from the Commission website, and holding workshops only in response to requests from interested or affected parties in a particular area. The Pollution Control Standards Committee appreciates those recommendations and intends to follow them in completing this review.

Variance Application and Review Process

The draft document describing the process by which the Commission would consider requests for variances had been reviewed by the Technical Committee and the Commission. Comments from the Public Interest Advisory Committee and the Power Industry Advisory Committee were received just before the meeting. Committee members made additional comments regarding the document; a revised version is included with this report. In light of the issues raised in discussions at our Round Table session yesterday, the Pollution Control Standards Committee will continue to work on this document and present a revised draft to the Commission in June.

Request for Variance by PPG Industries

PPG Industries of Natrium, West Virginia has submitted a request for a variance from Section VI.G of the Commission Standards. Specifically, the company is requesting a variance from the requirement that its mixing zone for mercury be eliminated by October 16, 2013. The request has been reviewed in accordance with the draft procedures because of the imminence of the elimination date. The original submittal was reviewed by staff and a series of questions were sent back to the company. The company's responses to those questions were received a few days prior to the meeting. Initial review of the material indicates that further information will be requested.

Report of the Research Committee

Commissioner Bruny, Committee Chairman, reported that the Research Committee met by conference call on January 30, 2012. The two primary objectives of the call were to:

- 1) Review the Committee's bylaws and charge; and to
- 2) Develop an agenda for the June Commission meeting.

Review of Bylaws and Charge

The Committee reviewed the Bylaws and the Committee's charge, which is to assess and articulate current and future research needs to advance the scientific understanding of the Ohio River, its tributaries, and its water quality dependent ecosystems. In considering how to better meet this charge, the Committee identified potential improvements through strengthened communications with advisory committees and external research organizations.

More specifically, the Committee noted that the joint session held with the Water Users Advisory Committee at the previous June meeting was very helpful in understanding the unique research needs facing drinking water utilities. In addition to the Water Users Advisory Committee, however, the Commission is fortunate enough to have several other advisory committees; each one representing a distinct river user group, and each having their own specific research challenges. The Committee encouraged open-dialogue with these groups and suggested that the advisory committees be surveyed to identify the various emerging research needs within each specialized field. Communication with regional and national external research organizations, such as the Water Environment Research Foundation, was also encouraged to help identify and prioritize large river research needs.

Agenda Development for Next Meeting

In preparation for the next face-to-face meeting, the Committee discussed several potential research topics that could be explored in greater detail at the next meeting. Topics considered included:

- 1) Mussel biocriteria development;
- 2) Assessing impacts of invasive submerged aquatic vegetation;
- 3) Characterization of periphyton to aid in nutrient criteria development;
- 4) Mercury methylation in the Ohio River and its tributaries;
- 5) Potential research needs associated with shale gas development; and
- 6) Defining ecosystem flows for the Ohio River and its tributaries.

After briefly discussing each topic, the Committee decided that each one of these issues was an important research area that merited additional discussion. The Committee was particularly interested in the Commission's efforts to develop nutrient criteria and the nutrient trading program. In the coming weeks, staff will work with Committee members to finalize the agenda and to identify potential guest speakers. The next meeting is anticipated to take place in early June.

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

Report of the Personnel Committee

Commissioner Tomes reported that personnel issues were discussed at the February 9th Executive Conference of Commissioners. At the October Commission meeting, Peter Tennant was named Acting Executive Director. Commissioner Tomes then proposed the following action.

ACTION: Motion by Commissioner Tomes, second by Commissioner Morgan and carried, to appoint Peter Tennant as Executive Director and Chief Engineer of ORSANCO, and direct Mr. Tennant to implement the organization table presented and agreed upon by consensus of Commissioners during the Executive Conference of Commissioners.

Report of the Public Interest Advisory Committee (PIACO)

Eriks Janelsins, Committee Chairman, reported that the Committee has met twice since the October Commission meeting. Outcomes of those meetings included productive discussions with the POTW Advisory Committee and recommendations to the Pollution Control Standards Committee on both the review process and the variance process.

The Committee wishes to thank Commissioner Easterly and the PCS Committee for accepting and implementing some of the Public Interest Advisory Committees' recommendations.

The Committee also reviewed a PowerPoint presentation about ORSANCO developed by staff which will serve as a general presentation tool for those involved in presenting to constituency groups.

The Committee will continue with its objectives of supporting staff with the development of a comprehensive communications email database, and to increase the Committee's involvement in Commission activities. He also noted that the Committee currently has two at-large vacancies and invited nominations.

The report concluded by mentioning that the 2012 Ohio River Sweep will be held on June 16th.

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

MaryLynn Loder, Chairman of the POTW Advisory Committee, reported that the Committee has completed an analysis of information regarding recreational uses of the Ohio River which supports refinement of the recreational uses to reflect conditions when river stage make sit unsafe for primary contact recreation. The Committee provided a draft white-paper to ORSANCO and requests that the Pollution Control Standards Committee review the draft and provide comments and questions so that the Committee might finalize its recommendations for the upcoming comment period.

The Committee generally supports the Pollution Control Standards Committee's proposed criteria changes but respectfully request consideration of potential refinement to the recreational use to reflect times when the river stage is too high to allow for recreational use. The Committee would like to work with the PCS Committee to consider creative ways to use National Weather Service data, flood stage data and others, to help provide for the best use of funds expended relating to consent decrees and combined sewer overflow reductions. Of the eight utilities participating on the POTW Committee, they represent about \$10 billion worth of investments to reduce combined sewer overflows. Rate payer dollars must be utilized where they will provide the most impact.

The Committee looks forward to more collaboration with the Public Interest Advisory Committee. POTWs are collaborating to better educate the public regarding safe recreation uses of the Ohio River.

Report of the Water Users Advisory Committee (WUAC)

Committee Chairman Ron Bargiel reported that the Committee met on January 24-25.

Mr. Bargiel opened his report by articulating the Committee members concern for the presence of bromide in source waters of the Ohio River and major tributaries. Bromide, a compound not currently regulated by the Commission nor addressed by the Clean Water Act, can cause problems for drinking water utilities through the formation of brominated trihalomethanes. Chlorinated trihalomethanes are created when chlorine, used for disinfection, combine with

organic carbon in the water to form chloroform, trichloromethane, dichloromethane, etc. Adding bromide to the source water results in the formation of brominated trihalomethanes as well, i.e., bromoform, bromodichloromethane, dibromochloromethane, etc. Trihalomethane concentrations in finished water are regulated by the Safe Drinking Water act. The total of both chlorinated and brominated compounds forms the basis for compliance with the Safe Drinking Water act's 80 ppb total trihalomethane threshold as established by USEPA under the stage 1 rule. Drinking water utilities are required to collect multiple samples throughout their distribution system to determine compliance with the stage 1 rule criteria. However, starting in the second quarter of 2012, USEPA's stage 2 rule will be implemented, changing the current procedure that allows aggregation of data across all sampling points, to individual sampling location assessment. As such, drinking water utilities are extremely concerned for any source water compound that may increase their total THM formation potential. Data collected by the drinking water utilities on bromide in source water and individual plant THM formation, along with the data currently being collected in the joint Water Users/River Users bromide/TDS monitoring program will help document current levels of bromide and TDS in the Ohio River and major tributaries and may help identify sources. Interpretation of this data may prove problematic as several factors, both ambient and in the individual treatment trains influence THM formation. As such, the members of the Water Users Advisory Committee are available to assist staff in interpreting the results.

Mr. Bargiel then reported on another problematic source water contaminant observed at Hayes Mine water intake the last two summers, MIB and Geosmin. These two compounds, associated with blue-green algae, can cause taste and odor problems for consumers. PA American at the Hayes Mine plant undertook a research project to determine if modifications to the treatment process could influence the concentrations of these compounds. Results were sufficiently favorable that the American Water Works Association has accepted an abstract submitted by Ron on behalf of PA American Water for presentation at their next annual meeting.

Mr. Bargiel also stated that there is growing concern at larger drinking water utilities regarding combining wastewater and drinking water departments. The concern centers on the sharing of equipment by a combined department when repairs are being made and the potential for cross contamination from wastewater systems to drinking water systems. The utilities will continue to monitor this issue and identify potential problems.

Mr. Bargiel concluded his comments by reporting on the establishment of a new ODS location developed at the city of Ashland, KY drinking water intake. The station was established through a combination of funding sources that included federal water security funds provided the State of Kentucky and the federally funded ODS renovation project. In addition, Evansville water utility is schedule for the next upgrade and will receive a new GC/MS.

Recognition of Staff Reaching 5-year Employment Milestones

Steve Braun – 5 years

Joe Gilligan – 20 years

Upcoming Meetings

Chairman Duritsa noted the following schedule for upcoming Commission meetings:

- June 12-14, 2012 Oglebay Park, Wheeling, WV
- October 2012 TBD

Comments by Guests

Judy Peterson, Director of Kentucky Waterways Alliance, commented that she appreciates the attention that the Technical Committee is giving to PPG’s request for a variance. She stated that there are several reasons the Commission finds itself in this situation. Kentucky has a prohibition on bioaccumulative chemicals of concern mixing zones that takes effect in 2014. Therefore, Kentucky could not consider this type of variance request once the prohibition is in effect. She also feels certain that other states will have prohibitions coming into effect within the next few years. With all due respect to West Virginia, the reason the Commission is in this situation is because West Virginia allows these mixing zones and that the downstream states will be receiving the ecological harm if such a variance is approved. In addition, after reviewing the draft 305(b) Report, if the Technical Committee had taken the staff recommendation for listing the Hannibal Pool as impaired for mercury, the Commission would not be considering a variance request. From a watershed group perspective, there are a lot of reasons why this request should not be taking staff time. One of the goals of the Clean Water Act is to prohibit toxic chemicals in toxic amounts into our waters. Ms. Peterson prefers that staff time is spent on meaningful monitoring and assessment activities and not on variance procedures.

Adjournment

The 202nd Commission meeting was adjourned at 11:00 A.M.

Prepared by: David R. Bailey Date: February 20, 2012
David Bailey
Director of Administration

Approved by: Toby Frevert Date: March 5, 2012
Toby Frevert
Secretary/Treasurer

ROSTER OF ATTENDANCE
202nd Commission Meeting
February 9, 2012

Commissioners

Illinois	Toby Frevert Phillip Morgan
Indiana	Thomas Easterly
Kentucky	Sandy Gruzesky (PROXY for Leonard Peters)
New York	Douglas Conroe Mike Wilson Jeff Konsella (PROXY for Joe Martens)
Ohio	Paul Tomes Scott Nally Stuart Bruny
Pennsylvania	Charles Duritsa Greg Phillips Ron Schwartz (PROXY for Michael Krancer)
Virginia	Allen Newman (PROXY for David Paylor)
West Virginia	David Flannery Ronald Potesta Scott Mandirola (PROXY for Randy Huffman)
Federal	Kenneth Komoroski
Legal Counsel	Ross Wales
<u>Acting Executive Director</u>	Peter Tennant

Guests

MaryLynn Loder – Chairman, POTW Advisory Committee; Erich Emery – US Army Corps of Engineers; Eriks Janelsins – PIACO; Steve Dye – McCallister & Quinn; Ron Bargiel – Chairman, Water Users Advisory Committee; George Elmaraghy – Ohio EPA; Jeff Boyle – Environmental Science Associates; Bill Boria – PIACO; Judy Peterson – PIACO; Reed Coen – PIACO; Henry Connor - PIACO

Staff

David Bailey, Jason Heath, Stacey Cochran, Jeff Thomas, Jeanne Ison, Tracey Edmonds, Sam Dinkins, Steve Braun, Lila Ziolkowski, Eben Hobbins, Greg Youngstrom, Ryan Argo, Rob Tewes, John Spaeth, Jamie Wisenall