

**OHIO RIVER VALLEY WATER SANITATION COMMISSION**

**MINUTES**

**192<sup>nd</sup> Commission Meeting  
Embassy Suites Hotel  
Charleston, West Virginia  
Thursday, October 9, 2008**

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**Chairman David Flannery, Presiding**

### **Call to Order**

Chairman Flannery called the 192<sup>nd</sup> meeting of the Ohio River Valley Water Sanitation Commission to order at 9:00 A.M. on Thursday, October 9, 2008.

Commissioner Tomes led the Commission in the Pledge of Allegiance.

### **Remarks by Governor Joe Manchin**

Chairman Flannery introduced the Honorable Joe Manchin, III, Governor of West Virginia. Governor Manchin spoke about economic conditions and prospects in West Virginia, the importance of the Ohio River, energy issues, and the importance of ORSANCO in its service to the state and the entire Basin. Governor Manchin congratulated the Commission on observing its 60<sup>th</sup> anniversary year.

### **Quorum Call**

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

Chairman Flannery welcomed new Commissioners Tom Conway of Ohio and Greg Phillips of Pennsylvania and noted that Commissioner Duritsa of Pennsylvania and Commissioner Conroe of New York have been re-appointed to the Commission.

### **Action on Minutes**

**ACTION:** Motion by Ron Schwartz, second by Commissioner Easterly and carried, that the minutes of the 191<sup>st</sup> meeting of the Commission and of the June 2008 Executive Session be adopted as presented.

### **Report of the Treasurer**

Commissioner Tomes noted that a detailed Treasurer's Report as of August 31, 2008 was provided in the agenda packet.

The report indicates a balance of \$1,423,651 in accounts receivable due the Commission as of August 31, 2008. The balance represents \$596,025 due from Signatory States, \$772,216 due from Federal sources, and \$55,510 from other sources.

Additionally, the report indicates resources of \$3,650,876 through the end of August 2008. Of that amount, \$540,854 was expended on programs, leaving \$3,110,023 available for the continuation of ORSANCO's programs.

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

### **Report of the Chairman**

Chairman Flannery began by welcoming everyone to Charleston, West Virginia, noting that it had been 17 years since the Commission met in Charleston. He stated that he views the Compact as a Compact largely of the Governors of the States who originally signed the Compact and who now appoint Commissioners to represent their states. Commissioners remain accountable to their respective Governors.

Commissioner Flannery noted Governor Manchin's comments regarding the priority that West Virginia places on the Ohio River which serves a natural boundary for the state and defines the state in many ways. West Virginia recognizes clearly, as the Commission does, that the River is an impressive source of drinking water, recreation, and it provides a major resource for industrial activity. Much attention is being given in West Virginia to the question of water usage. Water withdrawal legislation has been considered twice over the past five years. A comprehensive program is in place that is directly tied to getting information on water withdrawal and empowers regulatory agencies to act in the event of a water crisis.

West Virginia understands that the Ohio River is a shared resource and that organizations such as ORSANCO are critical, not only in water quality, but increasingly in the water consumption area. The water usage issue reminded him of discussions with the Ohio River Basin Commission (ORBC) regarding their interest in changing the manner in which this Commission functions. This new direction might involve an effort to get ORSANCO involved in ORBC's mission in some manner. ORSANCO will be receptive to working with ORBC; however Commissioners will need to consider and define ORSANCO's ultimate role.

Commissioner Flannery commented that the October 8<sup>th</sup> Roundtable Issues Forum went particularly well. Much attention was focused on the Commission's relationship with Congress relative to line item appropriations and alternative funding sources. The Commission has challenges relating to resources. ORSANCO is a strong and healthy organization, but looking to the future, securing resources is going to be the key to accomplishing our mission. Approaching Congress is one way to accomplish this, but there may be other ways as well. The Commission will certainly approach Congress, recognizing that these are difficult financial times, and ORSANCO might not be successful in acquiring needed funds through this effort. The Congressional initiative can only be accomplished with the help of all Commissioners, Governors, and stakeholders.

Commissioner Flannery again mentioned that ORSANCO is a strong, healthy organization which he attributed in great part to the extraordinary leadership in past years. The accomplishments of Commissioner Bruny's recently completed year as Chairman, particularly his efforts to revise the Strategic Plan, places ORSANCO in a strong position to address future challenges.

Commissioner Flannery stated that as he proceeds through his term as Chairman, he will be motivated by three things. First, ORSANCO is an organization which employs good science and he is a strong believer in the good science component of ORSANCO's work. Secondly, the organization must be responsive to the states. As we proceed through day-to-day business and engage in future planning activities, Commissioner Flannery noted he will ensure that all activities are adding value to the member states. Thirdly, ORSANCO should challenge itself to look over the horizon. The Ohio River cannot be managed by looking at the River as it exists today relative to its history, but by looking into the future and preparing to meet new challenges.

A facilitated future visioning session will be conducted in February to help prepare ORSANCO to identify and plan for emerging issues. Commissioner Flannery urged Commissioners to prepare for this session to make it successful.

Commissioner Flannery concluded by thanking ORSANCO biologists and others involved in displaying the mobile aquarium during Commission activities in Charleston. The display generated much interest in Ohio River aquatic life and brought attention to the Commission's work.

Commissioner Flannery then presented a set of Commission flags to Commissioner Bruny in appreciation for his past year of service as Commission Chairman.

Commissioner Flannery then presented the following resolutions for adoption:

### **RESOLUTION 3-08**

#### **AMY WRIGHT**

**WHEREAS:** Amy Wright has served the Ohio River Valley Water Sanitation Commission with distinction as a representative of the State of Ohio for 10 years, and;

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

**WHEREAS:** Commissioner Wright served as Chairman from 2001-2002 leading the Commission into new horizons, and;

**WHEREAS:** By her unwavering commitment to clean water, Commissioner Wright's knowledge helped advance the Commission's goals, and;

**WHEREAS:** Commissioner Wright's contributions to the Commission will be duly missed.

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

**ACTION:** Motion by Commissioner Tomes, second by Commissioner Conroe and carried, to adopt Resolution 3-08 as presented.

### **RESOLUTION 4-08**

#### **MELVIN E. HOOK**

**WHEREAS:** Melvin E. Hook has served the Ohio River Valley Water Sanitation Commission with distinction as a representative of the Commonwealth of Pennsylvania for 23 years, and;

**WHEREAS:** Prior to his appointment as Commissioner, he provided many years of service and contributions, including membership on the Water Users Advisory Committee; and provided the Commission with the benefit of his expertise on water issues, especially drinking water, and;

**WHEREAS:** Reflecting his extraordinary leadership skills, he rose to and served as chairman of the Commission twice during the period July 1, 1991 to June 30, 1992; and July 1, 2004 to June 30, 2005, and;

**WHEREAS:** By his dedication and distinguished service, the goals of the Compact and the quality of life, not only in the Commonwealth of Pennsylvania, but throughout the Ohio River Valley, have been enhanced, and;

**WHEREAS:** Commissioner Hook's contributions to the Commission will be duly missed:

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

**ACTION:** Motion by Commissioner Duritsa, second by Commissioner Tomes and carried, to adopt Resolution 4-08 as presented.

**ACTION:** Motion by Commissioner Potesta, second by George Elmaraghy and carried, to accept the Chairman's report.

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

Mr. Vicory began by reporting that the River Sweep was the recipient of the 2008 Scenic Ohio Award. The River Sweep, started 19 years ago, continues to attract positive attention and draw thousands of participants. Commissioner Bruny, who attended the award ceremony, noted that this award presented an excellent recognition opportunity for ORSANCO.

Mr. Vicory then reported on a research project, spearheaded by Erich Emery, to develop and distribute an educational brochure regarding the proper disposal of pharmaceuticals. Mr. Emery obtained funding for the design and printing of one million brochures from private business and the pharmaceutical industry. The brochure will be distributed by water utilities and through other means.

Mr. Vicory continued by mentioning that the mobile aquarium is a wonderful public information tool, noting the large crowds viewing the aquarium during its display in Charleston during Commission activities. The aquarium, due to its nature, continues to be a staffing challenge during week-long out of town trips. Mr. Vicory thanked Commissioner Eger for allowing one of his staff biologists to assist with the aquarium during a recent display in Paducah, KY.

Mr. Vicory thanked Commissioners for the opportunity to travel to Budapest, Hungary and Vienna, Austria to attend conferences where he presented professional papers and delivered a key-note speech addressing general trends in water quality management in the United States. The paper presented was an overview of work being done on bacteria and the control of bacteria in the United States. Mr. Vicory directed attention to the second paper, in the meeting packet, covering the detection of methylene chloride at the Cincinnati water intake and how the compound was detected by ORSANCO's Organics Detection System (ODS). This topic was of particular interest to conference participants.

Mr. Vicory also reported that US EPA made the observation that, potentially, 40 states are expected to have non-drought related water shortages in the future. Water shortage issues will continue to be a national concern.

Mr. Vicory reported that the Commission's office was without power for a week due to a wind storm which knocked out power to 90% of the local service area. A recently developed Business Continuity Plan helped manage this disruption with minimal lost productivity. Electronic systems were inoperable, so additional field work was completed that week. Lessons learned from this week will be used to improve the Continuity Plan.

**ACTION:** Motion by Commissioner Potesta, second by George Elmaraghy and carried, to accept the report of the Executive Director.

### **Presentation of Organics Detection System (ODS) Awards of Appreciation**

Commissioner Huffman of West Virginia presented awards of appreciation and recognition to the facilities and operators within West Virginia that are participants in the ODS.

The ODS Award of Appreciation was presented to the following:

Weirton Water:	Scott Klarr, Butch Mastrantoni
Wheeling Water:	Frank Blaskovich, Phil Kowalski
Huntington Water:	Sandy Johnson, Wayne Morgan
AEP/John Amos Plant:	Joe Willard
DuPont Washington Works	

William B. Templeton of West Virginia American Water was awarded a certificate recognizing his June 2008 election by the Commission to the ORSANCO Registry of Distinguished Operators.

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

Commissioner Duritsa, Technical Committee Chairman, reported that the 188<sup>th</sup> meeting of the ORSANCO Technical Committee was held on October 7-8, 2008 in Charleston, WV. Six states, three federal agencies, and four Commission advisory committees were represented.

### **Chief Engineer's Report**

Mr. Vicory reported on a number of items:

- NRC Reports – The situation whereby the National Response Center stopped providing complete spill reports to ORSANCO appears to be resolved.
- Power Outage – Despite the loss of power at the office during the last week in September due to wind storms in the Cincinnati area, field operations continued and scheduled activities were completed.
- Pharmaceuticals Brochure – Industry support has been received for publication of a brochure on proper disposal of unused medications. The brochure will be sent out to customers by drinking water utilities.
- ICWP – Mr. Vicory is actively participating in the next meeting of the Interstate Council on Water Policy in response to the Commission's interest in water resource issues.
- Hydropower - Staff is currently working with developers for five projects: New Cumberland, Pike Island, Cannelton, Smithland (all new projects), and Markland (license renewal for existing facility). A conference call with representatives of the main stem states will be held on this issue.
- Bacteria Monitoring for River Events - Staff continues to conduct special bacteria monitoring in conjunction with major on river recreational events. The Great Ohio River Swim was rescheduled in response to high bacteria levels found by ORSANCO prior to the original date.

- Big Sandy River Coalition - A follow-up meeting, including members of the coalition and representatives of the three states and ORSANCO, was held in June to discuss the three recommendations presented to the Commission by the Coalition. It was agreed that the highest priority would be to find funding for a full-time staff person to support the Coalition. The Coalition members are investigating several alternatives to find that funding.
- Quality Management Plan - Staff has responded to the comments received from US EPA on the ORSANCO QMP. The response was sent to EPA recently, so it is too early to know if it was considered adequate.
- Fish Consumption - No progress has been made on the development of a consistent Ohio River protocol for fish consumption advisories due to the involvement of the principals in field activities. Staff efforts in this area will resume with the completion of the field season.
- Trends Report - The report has been revised in accordance with comments from TEC members and will soon be available on the Commission website.
- Mobile Aquarium – Mr. Vicory reminded the Committee that the aquarium is set up nearby and encouraged the members to see it.
- International Issues – Mr. Vicory noted that, based on his observations at the International Water Organization conference, among the leading international water issues are:
  - The global water crisis
  - Emerging contaminants
  - Phosphorus, which is in short supply in much of the world

#### Water Quality Conditions

Staff reported on summer water quality conditions on the Ohio River. In August, warm, dry weather contributed to low dissolved oxygen levels in the lower river, as well as excessive growth of blue-green algae in the Cincinnati area. No unusual conditions were observed by the biological crews.

#### Vision Statements

Staff presented vision statements for ORSANCO's technical programs, incorporating changes recommended by the Technical Committee at its last meeting. The Technical Committee suggested additional changes, including the addition of a statement on wet weather standards. The Committee also considered the need to convene a special work group on emerging contaminants, but opted instead to task the Stream Criteria Subcommittee to address this topic. The Vision Statements will be conveyed to the Program and Finance Committee for use in program planning.

#### State Reports

State members of the Committee presented reports on pollution problems within their states and on efforts to abate them. Summaries of the reports will be included in the minutes of the meeting.

#### Source Water Protection

Bill Toomey of the West Virginia Department of Health and Human Services presented a report on efforts to coordinate drinking water source protection by ORSANCO and the main stem states.

### Report of the NPDES Subcommittee

The NPDES Subcommittee has worked with the Water Users Advisory Committee to develop language for inclusion in Ohio River permits that would require reporting of upsets and bypasses of industrial waste treatment facilities to ORSANCO. The inclusion of a requirement that reporting take place within two hours of the discovery of an upset or bypass was discussed. The Technical Committee supports inclusion of such a requirement, subject to additional justification from the Water Users Advisory Committee.

### Report of the Stream Criteria Subcommittee

The Stream Criteria Subcommittee presented recommendations on seven issues from the current review of the Commission Standards; the Technical Committee supports those recommendations:

Cadmium and Silver Criteria – the current US EPA criteria for silver should be adopted. Action on cadmium should be deferred until the subcommittee has reviewed new information from studies in Idaho.

Site-Specific Criteria – use of US EPA’s biotic ligand model for copper should be allowed.

Mercury Criteria – both the fish tissue and ambient criteria should be retained. Section IV.D provides for use of alternate criteria upon adequate demonstration.

Pathogen Criteria - no change is recommended at this time.

Selenium – adoption of new criteria by US EPA has been delayed. No change to the ORSANCO criteria is recommended at this time.

Metals Translators – adoption of the translators for ten metals is recommended.

Temperature - a full-day meeting of state agency personnel is needed to fully consider the recommendations of the temperature criteria work group.

### Review of Pollution Control Standards

The Technical Committee considered three additional issues that were raised in comments on the Pollution Control Standards:

*Definition of Reasonable Treatment* – The Technical Committee recommends inclusion of such a definition, utilizing the definition of Conventional Treatment adopted by US EPA and AWWA.

*Ammonia Criterion for Water Supply Protection* – The Technical Committee recommends adoption of a 1.0 mg/L criterion for ammonia nitrogen to apply at the point of intake. Pennsylvania voted against this recommendation.

*Mixing Zones* – The Technical Committee recommends that the current mixing zone language be retained.

### Monongahela Navigation Improvements

Conrad Weiser of the Corps of Engineers, Pittsburgh District, provided a brief history of navigation on the Monongahela River and an overview of improvements to the system. The improvements will begin on the downstream portion of the river; the first and third dams will be upgraded, and the second dam will be eliminated. Expanded locks will be installed at the upgraded dams.



### Recreational Use Survey

The study of Ohio River recreational use will include telephone surveys as well as in-person interviews at recreation areas. Staff has begun the interviews, and has completed 88 individual surveys. Each survey involves counting the number of people pursuing particular recreational activities and interviewing individuals; 141 interviews have been conducted. The results to date show a dramatic increase in recreational use on a holiday weekend.

The Technical Committee recommends that staff continue the on-site surveys and interviews through the traditional non-recreation season (November through April), subject to resource availability.

### Nutrient Issues

Staff presented a progress report on development of numerical nutrient criteria for the Ohio River. Contractor assistance is being provided by US EPA; however, the contractor's analysis of the data has not yet been received. Concern was raised by the POTW Committee about the methodology being used by the contractor. Several groups, including the National Association of Clean Water Agencies, have requested a peer review of the methodology.

ORSANCO continues to coordinate activities of the Ohio River Sub Basin Committee on Gulf of Mexico Hypoxia. Federal funding to support the Sub Basin Committee ran out at the end of September. The group will continue to hold regular conference calls; several options for continued support of the group are being explored.

The Sub Basin Committee is working with US EPA and the Ohio Water Environment Association to hold a workshop on reduction of nutrients and energy use at municipal treatment facilities. The workshop will take place November 18–20 at the Drawbridge Inn.

### Ohio River TMDL for Pathogens

Staff provided a status report on the development of a TMDL for pathogens. Work is being carried out by an EPA contractor with oversight by ORSANCO and the main stem states. The TMDL will cover the entire river, and will include allocations for all direct sources. Monitoring for the TMDL has been completed, and a web page has been developed. Public meetings will be held early in 2009.

### Improvements to Ohio River Model

The Corps of Engineers is working with the National Weather Service and USGS to improve the model used to produce flow forecasts for the Ohio River. ORSANCO has also been involved, due to the importance of accurate flow forecasts in understanding water quality conditions. Calibration data for the improved model is about 70% complete, and the calibration is almost halfway complete. Challenges to further development include the Olmsted Lock and Dam (currently under construction on the lower river) and the New Madrid Floodway.

### Monitoring Comparison Study

Staff has completed a draft report on the comparison of results of monitoring at common sites by ORSANCO and USGS. The results indicate no significant differences for three parameters, but differences of varying significance for nine parameters. The report is being sent to the Monitoring Strategy Subcommittee for review.

### 2008 Assessment of Ohio River Water Quality Conditions

Results of the 2008 305(b) assessment were approved at the February meeting of the Technical Committee. The full report was sent out for Committee review. The Technical Committee established October 31 as the deadline for comments; if there are no significant comments by that time, the report should be posted on the Commission website.

### August 30 Carbon Black Spill

Mike Sherron of Ohio EPA reported on the spill which originated in Belpre, Ohio. Inaccuracies in the initial report led to under estimation of the impact of the spill. As the event unfolded, cooperation between the states (Ohio and West Virginia) was good, as was coordination with the US Fish and Wildlife Service. The spilled material was heavier than water and was found to have settled on the river bottom a short distance downstream of the spill site. Cleanup operations are underway and may be completed next week.

### Reports by Advisory Committees

*PIAC* - The Power Industry Advisory Committee has been involved in discussions on nutrient trading. The Electric Power Research Institute (EPRI) is conducting a study of treatment of wastes from Fluid Gas Desulphurization facilities. Draft revised 316(b) regulations are expected by the end of 2008.

*POTW* – The Committee is concerned about the TMDL for pathogens, and wants to be sure that nonpoint sources are taken into account. Committee members will have difficulty making all data on their CSOs available to the contractor for the TMDL.

*PIACO* – The Committee has reviewed its mission and has added representation from environmental groups. The Committee has written a letter to the Pollution Control Standards Committee expressing its belief that protection of drinking water should be the number one concern, and supporting recommendations to advance that protection. The letter also calls for public education on the standards setting process and on sources of contamination.

*WUAC* – The Committee is concerned about the issue of notification of ORSANCO by the NRC. The Committee believes that ORSANCO must develop backup communications capability for incidents such as the recent power outage. The Committee will increase its efforts to publicize ORSANCO.

### Recognition of Service

Two long-term members of the Technical Committee – Tom Van Arsdall of Kentucky and Dennis Clark of Indiana – are retiring from state service and attended their final ORSANCO meeting this week. Both Tom and Dennis have been extremely dedicated members, serving not only on the Technical Committee but on a number of other subcommittees and work groups. We will miss their valuable input at meetings, and we will miss their company away from the meeting table.

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

### Report of the Pollution Control Standards Committee

Commissioner Komoroski, Committee Chairman, reported that the Pollution Control Standards Committee met on September 10, 2008. All member states were represented. The major item of business was to continue the consideration of comments received in the initial comment period of the review of the Commission Standards.

The current review began with an open comment period from March 15 through May 15. Comments were received from 21 entities. The comments were sorted for assignment – three were referred to Legal counsel, five were referred to the Technical Committee, and the remaining comments were retained by the Committee.

Upon completion of the consideration of the comments, the Committee will adopt a Responsiveness Summary and, if appropriate, will propose revisions for consideration by the Commission. The Committee began by considering several comments that raised questions about the Standards; responses to each were adopted for inclusion in the Responsiveness Summary.

The Committee discussed a number of issues raised in the comments. Several were referred to the Technical Committee for further discussion; these include:

- the incorporation of elements of Source Water Protection in the standards;
- ammonia criteria;
- temperature criteria;
- selenium criteria;
- mixing zone requirements.

With the responses adopted by the Technical Committee this week, the Pollution Control Standards Committee can move forward to completion of its consideration of the comments received. The Committee will convene by conference call after the meeting on temperature criteria has been held. At this point, it is anticipated that the Committee will propose revisions to the Commission Standards. The Commission's Standards Revision Process requires at least one public hearing on proposed revisions, with initial public notices 45 days in advance. In order to carry this out and complete the comment period in advance of the June Commission meeting, the Committee will probably request authorization from the Executive Committee in January, 2009. Public hearings would then be held in late April or early May. After consideration of comments received, the Committee should be in a position to present recommended revisions for Commission consideration in October 2009.

**ACTION:** Motion by Commissioner Komoroski, second by Ron Schwartz and carried, to accept the report of the Pollution Control Standards Committee.

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

Commissioner Flannery, reporting on behalf of Commissioner Harrison, Committee Chairman, reported that the Committee's focus remains on mobilizing Commissioners to call on the Congressional delegation, typically held in March. The Commission was successful last year in receiving a \$295,000 appropriation for the Organics Detection System and will be seeking an appropriation for the balance of the \$2.5 million authorization in 2009.

The idea of line item appropriations remains a matter of some controversy. The Committee's attention will also focus on identifying more stable methods of funding. Efforts will be made to form a caucus involving Governors, Congressional Representatives, Commissioners, and others to identify more stable funding opportunities.

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

#### **Report of the Ad Hoc Committee on ORSANCO's 60<sup>th</sup> Anniversary Year**

Commissioner Eger reported that as the Commission's 60<sup>th</sup> year anniversary comes to a close, a Speakers Bureau has been set up to inform civic and environmental organizations, as well as others, about the Commission and its accomplishments.

It was requested that Commissioners and certain advisory committee members volunteer their services for the Speakers Bureau. The Commission would provide a PowerPoint presentation to each of the speakers as needed. Local Chambers of Commerce, Visitors Bureaus, Lions Clubs, and other groups were notified of the Speakers Bureau. Response to these presentations has been positive. To date, presentations have been scheduled in Wheeling, Moundsville, Warwood, and Huntington, West Virginia; Land Between the Lakes, Owensboro, Louisville, and Ballard County, Kentucky; Evansville and Lawrenceburg, Indiana; and Metropolis, Illinois.

A number of Commissioners, advisory committee members, and ORSANCO staff have volunteered to conduct presentations as requested.

**ACTION:** Motion by Bud Schardein, second by Commissioner Phillips and carried, to accept the report of the 60<sup>th</sup> Anniversary Planning Committee as presented.

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

Mr. Ron Riecken, Committee Chairman, reported that the Committee continues efforts to redefine its role and evaluate membership. The Committee has improved its capacity to communicate with watershed and advocacy groups on the Commission's behalf.

Mr. Riecken also reported that ORSANCO's Public Interest Advisory Committee (PIACO) met via conference call on August 19, 2008 to frame the Committee's response to issues of concern. The Committee submitted the following for consideration:

In general, PIACO believes the Committee should be a voice for recreational users, watershed organizations, and the general public. As such, protection of the Ohio River for drinking water is of vital importance to PIACO. Recreation in and on the water and waterfront development continue to increase along the river, and our goal is to work together to continue water quality improvements and increase protection of the Ohio River. The Committee does not believe standards should be less protective or that uses should be restricted or removed. Please note that the well being of the general public is the Committee's primary concern.

Specifically:

- PIACO supports the Water Users Advisory Committee's (WUAC) call for a more stringent ammonia standard. The Committee fully supports setting ammonia limits to protect the continuing use of the Ohio River for drinking water with conventional treatment. The Committee urges the PCS committee to fully consider adopting the limits recommended in the May 13, 2008 letter by the WUAC.
- PIACO joins with the WUAC, several watershed groups, and concerned citizens to urge retaining the current prohibition on new mixing zones for Bioaccumulative Chemicals of Concern (BCCs). The Committee urges a strict interpretation/plain English reading of no new mixing zones for BCCs, including mercury.
- While PIACO fully supports a methylmercury standard for fish tissue analysis, the Committee also supports retaining a water column standard for mercury and selenium. Mercury and selenium bioaccumulate in aquatic life. Therefore, the Committee is concerned that by the time significant problems would be discovered using fish tissue analyses, the vital and growing Ohio River fishery could be rendered "unsafe for consumption". Once significant levels of either mercury or selenium are measured in fish tissue, it will take extraordinary efforts, investments, and several generations to attempt to restore the river's fishery. Finally,

standards for fish tissue would ultimately need to be converted to a water column standard for use in discharge permits, so it was encouraged that these limits are retained.

- The Committee also recommends that a strong education campaign be initiated to better educate the general public on the standards process and contaminant sources.
- Finally, the Committee urges the continued protection of recreational users in and on the water by retaining the current pathogen limits.

**ACTION:** Motion by Commissioner Conroe, second by Tom Van Arsdall and carried, to accept the report of the Public Interest Advisory Committee.

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

Ms. Mary Armacost, Committee Chairman, reported that the Committee met in late September in Cincinnati. Ms. Armacost thanked the Technical, Pollution Control Standards and NPDES Committees for their support on the drinking water needs submitted to the Pollution Control Standards Committee. The Committee will provide requested data to the Technical Committee within a week on the ammonia criteria supplying scientific documentation on the 8:1 ratio of chlorine to ammonia needed to reach break-point chlorination, allowing for the disinfection of drinking water during an ammonia incident. In addition, documentation will be provided on the two hour travel-time for notification purposes.

Ms. Armacost thanked ORSANCO staff for the development of the pharmaceutical brochure and noted that many water utilities will be distributing the brochures with customer bills.

The Committee received an update on the recreational use survey and the pathogen TMDL. Ms. Armacost provided a brief update on recent spill activity. The lack of available NRC information hinders spill notification and a resolution to this issue is expected soon. The Committee also recommends that a back-up power source be installed to ensure spill notifications during power outages.

Ms. Armacost commented that when possible, water utilities should acknowledge ORSANCO's role in spill detection and notification during spill events when the media is involved, and in the utility's annual water quality reports. This will help increase public awareness of ORSANCO and its activities. The Committee also recommends that ORSANCO staff make presentations at the American Water Works Association's regional meetings.

Ms. Armacost reported on the recent microcystis bloom in Cincinnati which is a concern due to this bacteria's toxic nature. Staff responded and quickly identified the bloom and worked with the health department to issue a press release. This helped alleviate public concern.

Ms. Armacost reported that the Committee recommends the nomination of Kent Horrell of the B.E. Payne Water Treatment Plant of the Louisville Water Company to the Registry of Distinguished Water and Wastewater Operators.

The Committee received an update on ODS funding. The Committee again stressed that prior to investing funds for a new system, each ODS facility renews its commitment to fully operating the system. Ms. Armacost concluded by reporting that Phil Kowalski of Wheeling Water, a 21-year Committee member, will be retiring and ending his service on the Committee.

**ACTION:** Motion by Commissioner Tomes, second by Commissioner Easterly and carried, to accept the nomination of Kent Horrell to the Registry of Distinguished Water and Wastewater Operators.

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

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

Mr. Mike Apgar, Chairman of the POTW Advisory Committee, reported that the Committee met on September 29-30 in Cincinnati. Mr. Apgar began by reporting that, as shared in the Technical Committee meeting on October 8, US EPA Region 3 is utilizing a “Conditional Probability Approach” to develop phosphorus standards for three eco-regions in Pennsylvania. As evident in the words “conditional” and “probability”, the approach is not a thorough evaluation of the actual condition within these eco-regions.

In the wake of a lawsuit demanding TMDL development, Region 3 is utilizing “Weight-of-Evidence” and “Conditional Probabilities” using reference conditions, literature values, and assumptions. In performing this method, Region 3 relied on Maryland data for the development of TMDLs, ignoring site specific data that refuted this approach.

This approach is much quicker and far less costly. It is also, in the Committee’s estimation, unconventional, and hastily prepared with flawed data. As billions of dollars, in a time with substantial economic concerns, will potentially be spent when these TMDLs are implemented, it is very important that the waste-load allocations are properly prepared and correct.

When the Pennsylvania POTWs asked for an opportunity to conduct peer reviews on the TMDL developed, they were dismissed by Region 3, who stated “the approach used in the document to derive the nutrient TMDL end-points for use in implementing Pennsylvania’s narrative standard is a defensible approach and is consistent with EPA guidance for deriving nutrient criteria.”

The POTW work group chose to not accept this response. They have solicited the support of the National Association of Clean Water Agencies and others who have appealed to EPA Headquarters for a re-evaluation of the approach used by Region 3. ORSANCO has asked US EPA for support in developing nutrient criteria for the Ohio River.

In a progress report to the Technical Committee, it was announced that in EPA’s response to the request, they have suggested using a “Conditional Probability” approach in developing the nutrient criteria for the Ohio River. This same approach, used in Pennsylvania, is described above.

After the Technical Committee discussion over POTW concerns with this approach, it was assured that development of an Ohio River nutrient criteria will be conducted with sound science, employing conventional methods while using data that actually came from Ohio River conditions.

The POTW Advisory Committee thanked ORSANCO for their steadfast approach to ensuring thorough science and research is conducted prior to establishing something as important as nutrient criteria for the Ohio River.

Mr. Apgar also encouraged a similar approach to the development of the Region 5 bacteria TMDL. The Committee realizes that ORSANCO has less control over the development of the bacteria TMDL; however, the Committee also realizes that ORSANCO can exert a great deal of influence in its development and as such the Committee encourages ORSANCO to provide oversight to ensure solid and defensible TMDL/waste load allocations are developed while utilizing the very best in research and science.

In addition, the Committee thanks ORSANCO for providing POTW the opportunity to provide a professional peer review of the Ohio River Bacteria TMDL Quality Assurance Plan and asks that ORSANCO continue to allow the Committee to provide additional peer reviews at significant data collection and discussion points throughout its development.

In closing, the Committee has often articulated a strong desire to ensure that the money spent for needed environmental improvements be spent wisely and in a way that will ensure a significant environmental benefit. Given recent economic conditions, it is even more important that it is done right.

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

**Upcoming Meetings**

Chairman Flannery noted the following schedule for upcoming Commission meetings:

- February 11-12, 2009                      Cincinnati, OH
- June 2009                                      Nashville, TN - Tentative

**Adjournment**

The 192<sup>nd</sup> Commission meeting was adjourned at 10:55 A.M.

Prepared by:

\_\_\_\_\_ Date: \_\_\_\_\_  
David Bailey  
Director of Administration  
& Human Resources

Approved by:

  
\_\_\_\_\_ Date: \_\_\_\_\_  
Paul Tomes  
Secretary/Treasurer

**ROSTER OF ATTENDANCE**  
**192<sup>nd</sup> Commission Meeting**  
**October 9, 2008**

**Commissioners**

Illinois	Phillip Morgan
Indiana	Thomas Easterly
Kentucky	Bud Schardein (PROXY for Daniel Mongiardo) Tom VanArsdall (PROXY for Leonard Peters) Jeffrey Eger
New York	Douglas Conroe T. Lee Servatius
Ohio	Paul Tomes Thomas Conway George Elmaraghy (PROXY for Christopher Korleski)
Pennsylvania	Charles Duritsa Greg Phillips Ron Schwartz (PROXY for John Hanger)
West Virginia	David Flannery Randy Huffman Ron Potesta
Federal	Stuart Bruny Kenneth Komoroski Donald Welsh

**Legal Counsel**

Ross Wales

**Executive Director**

Alan Vicory

**Guests**

Mary Armacost – Chairman, Water Users Advisory Committee, Mike Apgar – Chairman, POTW Advisory Committee, Ron Riecken – Chairman, Public Interest Advisory Committee, Jessica Greathouse – US EPA, Stephanie Timmermeyer – Timmermeyer PLLC, Ed Ambrogio – US EPA, A.D. Mastrantom – Weirton Water Board, Scott Klar – Weirton Water Board, Thomas Beauduy – SRBC, Shanda Minney – WV Rivers Coalition, Bill Brannon – WV DEP, William Hartke – WV American Water, Billie Suder – WV American Water, David Peters – WV American Water, Sandra Johnson – WV American Water, William Templeton – WV American Water, Wayne Morgan – WV American Water, Joe Willard – AEP, Frank Blaskovich – Wheeling Water, Phil Kowalski – Wheeling Water, Randy Sovic – WV DEP

**Staff**

David Bailey, Jason Heath, Peter Tennant, Joseph Gilligan, Tracey Edmonds, Erich Emery, Jerry Schulte, Jeanne Ison, Jeff Thomas, Lila Ziolkowski, Travis Luncan