

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

**193rd Commission Meeting
Hyatt Regency Cincinnati
Cincinnati, Ohio
Thursday, February 12, 2009**

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**193rd Commission Meeting
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Chairman David Flannery, Presiding

Call to Order

Chairman Flannery called the 193rd meeting of the Ohio River Valley Water Sanitation Commission to order at 9:30 A.M. on Thursday, February 12, 2009.

Commissioner Eger led the Commission in the Pledge of Allegiance.

Quorum Call

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

Action on Minutes

ACTION: Motion by Commissioner Servatius, second by Randy Sovic and carried, that the minutes of the 192nd meeting of the Commission, as amended, and of the October 2008 Executive Session be adopted as presented.

Report of the Treasurer

Commissioner Tomes noted that a Treasurer's Report as of December 31, 2008 was provided in the agenda transmittal for this meeting.

The report indicates a balance of \$1,207,921 in accounts receivable due the Commission as of December 31, 2008. The balance represents \$485,950 due from Signatory States, \$688,498 due from Federal sources, and \$33,473 from other sources.

Additionally, the report indicates resources of \$2,401,445 through the end of December 2008. Of that amount, \$1,829,533 was expended on programs, leaving \$2,552,070 available for the continuation of ORSANCO's programs.

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

Report of the Chairman

Chairman Flannery began by welcoming everyone to the 193rd meeting of the Commission. He thanked everyone for being flexible to accommodate the slightly different schedule format for the Technical Committee meeting and the Strategic Planning Workshop. Commissioner Flannery commented that he attended the Public Interest Advisory Committee (PIACO) meeting the previous day and commended the Committee members for an excellent meeting. He also welcomed new PIACO members Ericks Janelsins and Sean Brady and commented that while ORSANCO is best known for scientific and technical work, collaboration and partnership is

what brings us all together in the interest of protecting and promoting the Ohio River as one of the nation's most significant natural resources. PIACO plays an important role in this effort.

Chairman Flannery continued by stating that it is impossible to meet today without being mindful of extraordinary financial circumstances that are being confronted by each of our states and the nation. The Planning Workshop explored whether these circumstances should be viewed as a "game changer" for ORSANCO and its activities, and he does not believe this to be the case. ORSANCO has always been considered a "lean and mean" organization. In addition, ORSANCO creates an opportunity for states to partner and collaborate on common issues, and returns added value to the member states for the investment those states make in ORSANCO and its work. Commissioner Bruny led the Commission on the road of reviewing ORSANCO's Strategic Plan prior to the current economic downturn. This effort continued with the February 11th Strategic Planning Workshop. Chairman Flannery predicted that ORSANCO will thrive in the current economic climate; not by digging in, but by reinventing itself to be better than ever.

Chairman Flannery reported that the February Commission meeting is but the latest of many steps that are being undertaken by Commissioners, staff, and stakeholders in the development of programs that are informed by science and reflect the common interest of the eight member states and the federal government. The fact that ORSANCO celebrated its 60th anniversary in 2008 is testimony to the effectiveness of this process.

The future presents significant challenges to ORSANCO and the nation. Among these challenges are such issues as the nation's response to climate change, identifying and addressing emerging pollutants, and achieving policies related to wet weather discharges. ORSANCO will continue to review and define its role in addressing national-scale water quality objectives, such as reducing nutrient loading in the Gulf of Mexico. ORSANCO will also continue to re-evaluate its relationship with non-member states in the Ohio River Basin. The Commission's June meeting in Nashville will allow ORSANCO to meet with Tennessee environmental officials as well as the Lower Mississippi River Conservation Committee as significant components of ORSANCO's outreach to non-member states.

ORSANCO must continue to break down the barriers which cause water quality to be managed separately from water quantity and continue the effort to establish additional and reliable funding from Congress. This must be achieved while reaching out to member states to ensure that the Commission is offering them maximum value. To accomplish its missions, both current and future, ORSANCO will need the continued support of its Governors, the President, members of Congress, and all stakeholders. Commissioners must assist in bringing about this support.

Report of the Executive Director

Mr. Vicory reported that 2009 Sweep program contributions have remained at an adequate level to support program activities in spite of the difficult economic times. He then directed Commissioners' attention to the 2009 Sweep poster and shirt design in the agenda packet.

Mr. Vicory reported that he attended a conference in Washington, DC focusing on the scientific aspects of climate change. Mr. Vicory was the lone presenter representing a state perspective on the role of water quality and watershed management on climate change. Mr. Vicory indicated that Commission states appear to be focusing most actions on mitigation by reducing green house gas emissions. Not much work has been done to understand the implication for water quality.

Mr. Vicory reported that there was significant media attention given to the Bacteria TMDL. He directed attention to copies of articles from the New York Times and a trade magazine in the agenda packet. The Bacteria TMDL is the largest ever TMDL undertaking in the United States. Mr. Vicory also mentioned the media's interest in the recently published pharmaceutical brochure.

Mr. Vicory briefed Commissioners regarding the fact that ORSANCO still does not receive full reports on spills from the National Response Center. A lack of information on the responsible party sometimes hampers coordination of the investigation and remediation efforts. Although a workaround is in place, efforts will continue provide a resolution to the issue.

Mr. Vicory reported on the DeGussa spill of carbon black and indicated that ORSANCO will submit a bill to recover costs incurred in responding to this spill.

Mr. Vicory reported that there is a great deal of activity and concern regarding total dissolved solids, particularly in the Monongahela River area. A drinking water advisory was issued for this area a month or so ago due to increased levels of total dissolved solids. A resolution was passed by the Morgantown City Council calling on West Virginia to take regulatory action to address the issue. There is also a call for the creation of an interstate compact to deal with this interstate water quality issue. Pennsylvania has requested that ORSANCO serve as an information clearing house to assist with this issue.

Mr. Vicory concluded by mentioning the importance of professional certifications for staff and congratulated Jason Heath for recently receiving professional certification from the American Academy of Environmental Engineers.

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

Report of the Water Quality Review Committee

Commissioner Bruny reported that the Water Quality Review Committee met by conference call on November 25th and January 19th. The purpose of the calls was to review the list of issues before the Committee and to establish priorities.

Committee Overview

Committee members include Chuck Duritsa (Technical Committee Chairman), Ken Komoroski, (Pollution Control Standards Committee Chairman), Tom Conway, and Marcia Willhite. The November call began with a review of the Committee's function.

Priority Issues for FY09

Staff provided updates on the issues before the Committee. Commissioner Bruny requested updates on three issues that were on the Committee's docket several years ago but are now considered inactive. Those issues and their status are:

- ***Consistency of NPDES Permits:*** The NPDES Subcommittee is holding regular conference calls to address permitting issues. Staff is compiling information on states' schedules for issuance of permits for Ohio River discharges.

- **Quality Assurance:** The Commission's *Quality Management Plan* has been conditionally approved by U.S. EPA Region 3. The issues raised by the Region have been addressed and full approval is anticipated.
- **Spills:** Questions about the Commission's role have been resolved; however, staff is encountering difficulties in obtaining complete spill reports from the National Response Center.

The Committee agreed that two new issues should be added: development of the Marcellus Shale and the Commission's role on tributaries. Possible roles for the Commission and for the Water Quality Review Committee are as follows:

Marcellus Shale

The Committee's overall task will be to monitor the situation. Staff is tasked to provide regular updates on the developments and to work with affected states on conducting water quality monitoring to assess the impacts. State members of the Technical Committee are asked to include information on Marcellus Shale development in their reports at upcoming meetings.

Tributaries

There are several current developments involving Ohio River tributaries:

1. The Commission has received a request from Pennsylvania DEP (supported by West Virginia DEP) to serve as a repository for Monongahela River monitoring data.
2. The Commission has been invited to participate in discussions with a group seeking to establish an interstate organization on the Monongahela.
3. A spokesperson from the Big Sandy Coalition will report to the Commission on developments pertaining to ORSANCO's partnership with the Coalition.
4. The Big Sandy River is one of the hot spots identified in the 2008 Ohio River 305(b) with elevated levels of mercury and sulfate. Some follow-up with the three states (Virginia, West Virginia, and Kentucky) is indicated.
5. One of the hot spots for PCBs identified through the Watershed program is the Beaver River. Sources to the Beaver are likely in Ohio as well as Pennsylvania. Staff would like to set up a meeting with the states' district office personnel.
6. Staff is working with the Indiana and Ohio state conservation agencies and with 13 county conservation districts on the upper Wabash River watershed to discuss nutrient reduction.

The Commission's overall task related to tributaries should be to work with the member states, watershed groups, and others to address watershed issues in order to assure that the requirements of the Compact are met. The Water Quality Review Committee believes that the Commission's first priority should be to address interstate tributaries by providing a mechanism for coordination of states' activities. The Committee further believes that staff should prepare an assessment of tributary impacts on the Ohio River in order to assist in establishing priorities.

Study of Recreation Use

The Commission is currently conducting a survey of recreational use of the Ohio River. The Pollution Control Standards Committee had called for the survey to be completed by the end of 2008. The Technical Committee, however, recommended that the survey be extended through the winter months to answer questions on whether or not designation of May through October as recreation season is appropriate. PCS Committee Chairman Ken Komoroski noted that the

survey results would not be used in the current review of the Standards and agreed that the additional survey period would yield useful information.

Northeastern States Petition on Mercury

The Committee was informed of a petition by states in the Northeast which requests that U.S. EPA convene a conference pursuant to Section 319(g)(1) of the Clean Water Act to address sources of mercury in the Ohio Valley that are believed to be contributing to fish tissue contamination in the Northeast through atmospheric deposition. The Committee does not see a role for the Commission in this matter at the present time, as the petition is aimed at the air quality programs in the states.

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

Status Report of the Big Sandy River Basin Coalition

Ms. Kelly Miller from the Virginia Department of Conservation and Recreation and agency advisor to the Big Sandy River Coalition, reported to the Commission on developments pertaining to ORSANCO's partnership with the Coalition. Ms. Miller directed attention to a detailed report in the meeting packet.

Ms. Miller thanked ORSANCO for playing a major role in the progress of the Coalition. ORSANCO facilitated the interstate agreement between Virginia, West Virginia, and Kentucky two years ago. The Department of Environmental Quality continues to share water quality data across state lines on interstate TMDLs.

Ms. Miller reported that the Coalition completed grant-supported work on abandoned mine land reclamation and residential wastewater work. In addition, many high priority projects have been funded. The Virginia legislature has maintained funding for the agricultural cost share non-point source program at record levels.

Ms. Miller concluded by reporting that a legislative bill has been introduced to change Virginia's representation to ORSANCO's Commission to include non-point source representation.

Report of the Technical Committee

Commissioner Duritsa, Technical Committee Chairman, reported that the 189th meeting of the ORSANCO Technical Committee was held on February 10th Cincinnati. Seven states, three federal agencies, and four Commission advisory committees were represented.

Chief Engineer's Report

Mr. Vicory reported on a number of items:

Hydropower – A conference call was held with state representatives to facilitate consistency in consideration of water quality protection in licenses for Ohio River Hydropower facilities.

NRC Reports – The National Response Center still will not provide complete spill reports to ORSANCO. The basis for this is that the contractor who operates the NRC does not believe that the Commission is a government agency. The Technical Committee requests that Legal Counsel address this question.

Fish Consumption – A draft Ohio River protocol for fish consumption advisories has been sent to the work group for review.

DeGussa Spill – ORSANCO will submit a bill to the responsible party for costs incurred in responding to this spill.

Water Quality Conditions – Recent elevated levels of chloride in the upper river appear to have likely been caused by road salt runoff. Elevated styrene levels have been detected at the Cincinnati ODS site.

POTW Workshop – The November workshop on nutrient and energy reductions at municipal facilities was a success; plans are being initiated to repeat the workshop at another location in the Basin.

Climate Change – Mr. Vicory participated in a national workshop on climate change last month. This has resulted in contact by a researcher from Battelle who is interested in working with the Commission in this area.

Monongahela River TDS – Elevated dissolved solids levels in the Monongahela River have led to considerable local activity, including a proposal to create an interstate compact similar to that on the Susquehanna River – i.e., addressing water quantity as well as quality.

Staff – Jason Heath has earned accreditation as a Board Certified Environmental Engineer.

Technical Program Guidance

Staff presented a report from the Biological Water Quality Subcommittee, including the accomplishments from the current year's biological programs as well as recommendations for next year. Staff then presented vision statements for ORSANCO's technical programs together with associated program recommendations to advance those visions in FY10. The Vision Statements and the program recommendations 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.

Recreational Use Study

Information collection for the study of Ohio River recreational use is nearing completion. Telephone surveys should be finished in two weeks, while in-person surveys will continue through March. Staff shared some preliminary observations from the survey results.

Microbial Source Tracking

Mr. Don Stoeckel of USGS provided a status report on this investigation, which is an attempt to quantify the relative contributions of bacteria from human and non-human sources.

Review of Pollution Control Standards

The Technical Committee considered proposed revisions to the Commission's Pollution Control Standards:

Definition of Reasonable Treatment – The Technical Committee recommends inclusion of the following definition:

“Reasonable Treatment: for the purposes of these Standards, reasonable treatment shall be defined as the conventional treatment processes of mixing, flocculation, sedimentation, filtration and disinfection.”

Cadmium – The Technical Committee recommends adoption of the most recent U.S. EPA criteria.

The Technical Committee supports the other changes proposed in the Report of the Pollution Control Standards Committee.

Report of the NPDES Subcommittee

The NPDES Subcommittee has been active on the issue of mercury emission from power plants. The Technical Committee endorsed a proposal for the Subcommittee to meet with the Power Industry Advisory Committee to jointly address this issue.

Nutrient Issues

Staff presented a progress report on development of numerical nutrient criteria for the Ohio River. Contractor assistance is to be provided by U.S. EPA; however, the contractor's analysis of the data has not yet been completed due to administrative issues. It is hoped that the issues will be resolved and the analysis complete by the next Technical Committee meeting.

Staff next presented an analysis of data from *Microcystis* outbreaks that occurred on the Ohio River this past summer. Nutrient levels at the time of the outbreaks were no higher than normal; it appears that a combination of other factors triggered these events.

Mark Kieser of Kieser Associates presented information on a proposed Ohio River Basin nutrient trading program. The Electric Power Research Institute (EPRI) is leading a team which includes ORSANCO in the development of this program. Jessica Fox of EPRI will provide a briefing on the trading program immediately after this report.

Ohio River TMDL for Pathogens

A series of public workshops was recently held on the development of an Ohio River TMDL for pathogens. Work on the TMDL 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. The Technical Committee recommends that U.S. EPA establish a Stakeholder group to assist in the development of this TMDL and with the development of an allocation strategy.

Staff presented a status report on the TMDL for PCBs, together with proposed activities for the coming year. The Technical Committee endorses the proposed activities.

Monitoring Comparison Study

Staff has completed a draft report on the comparison of results of monitoring at common sites by ORSANCO and USGS. The report was sent to the Monitoring Strategy Subcommittee for review, and a number of comments were received. Staff will revise the report to accommodate the comments and send it out again for final review.

Reports by Advisory Committees

POTW – The Committee distributed copies of comments on the TMDL for pathogens which have been sent to U.S. EPA. The Committee has concerns about the methodology being used in the development of numerical criteria for nutrients, and requests that this matter undergo peer review.

PIAC - The Power Industry Advisory Committee has been involved in the discussions on nutrient trading. The Electric Power Research Institute (EPRI) is conducting a study of treatment of wastes from Fluid Gas Desulphurization facilities; a presentation on this study could be included at the June Technical Committee meeting. It is hoped that draft revised 316(b) regulations will be issued by the end of 2009.

WUAC – The Water Users have been asked to assist U.S. EPA in monitoring for C8. The Committee spent considerable time discussing the elevated dissolved solids levels on the Monongahela River. The Committee met with personnel involved with a spill detection system on the St. Clair River; the communications network for that system is similar to what the Committee would like to see for the ODS. Operation of the ODS has improved following meetings with stakeholders to emphasize the importance of the protection provided by the system.

ACTION: Motion by Commissioner Duritsa, second by Randy Sovic and carried, to accept the Technical Committee report as presented.

Electric Power Research Institute (EPRI) Presentation

Jessica Fox of the Electric Power Research Institute presented an overview of water quality trading. EPRI will move forward with a project in the Ohio River Basin and is reaching out to stakeholder groups to engage them in the project and solicit comments and feedback.

Ms. Fox presented a snapshot of extensive research conducted on this project. The Ohio River Basin was chosen due to high nutrient loads and pending regulatory programs which create potential for water quality trading. The project area is the largest in the United States for trading.

Ms. Fox indicated that EPRI has a goal to complete the establishment of a water quality trading program within 3-5 years. Ms. Fox concluded by reviewing potential sources of funding for the \$5 million project. Ms. Fox then responded to several questions about the project.

Report of the Pollution Control Standards Committee

Commissioner Komoroski, Committee Chairman, reported that the Pollution Control Standards Committee met on September 10, 2008 to continue the consideration of comments received in the initial comment period of the review of the Commission Standards.

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.

At the October 7-8th meeting, the Technical Committee adopted the following recommendations on proposed revisions to the Commission Standards:

- Add a definition of “Reasonable Treatment” for drinking water.
- Adopt a 1.0 mg/L criterion for ammonia nitrogen to apply at points of withdrawal for water supply use.

- Adopt a requirement that industrial dischargers experiencing treatment upsets or bypasses report them to ORSANCO within two hours of discovery.

The Technical Committee referred the issues regarding temperature, selenium, and mixing zones to the Stream Criteria Subcommittee.

The Stream Criteria Subcommittee met on November 7th. The Subcommittee adopted the following recommendations regarding proposed revisions to the Commission Standards:

- Take no action at this time on temperature, selenium, and mixing zones.
- Adopt current U.S. EPA recommendations for silver.
- Adopt translators for ten metals.
- Adopt current U.S. EPA recommendations for 11 human health criteria.

The Technical Committee discussed the proposed revisions at its February 10th meeting and acted to recommend specific language for the definition of reasonable treatment and the adoption of the latest U.S. EPA criterion for cadmium.

The Pollution Control Standards Committee has considered the recommendations of the Technical Committee and the Stream Criteria Subcommittee and believes that the proposed revisions to the Standards should be considered for adoption. The Committee therefore requests authorization from the Commission to present these proposed revisions at a public hearing to be held in the spring of 2009.

Commissioner Easterly commented that, four years ago, the issue of selenium criteria was not resolved, and there is still no scientific support for the current criteria; therefore, no public comments will be taken on the appropriateness of this standard. Commissioner Easterly recommended that public comments should be taken during public hearings regarding retaining a standard which cannot be supported with good science. Adopting an unsupported standard raises questions of the validity of other standards.

Commissioner Duritsa responded that the Technical Committee voted to leave the selenium standard as is. Peter Tennant mentioned that the review process will allow opportunity for public comment on this standard.

ACTION: Motion by Commissioner Komoroski, second by Commissioner Tomes and carried, to advance the specific proposals for change as outlined in the Committee Report and have the Committee solicit public comment on the merit of the selenium criteria.

ACTION: Motion by Commissioner Komoroski, second by Commissioner Eger 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, provided an update on Committee activities. In 2007, the Commission was successful in receiving a \$2.5 million WRDA authorization for the Organics Detection System (ODS). The Commission has retained the services of McAllister & Quinn to advance the request for appropriation of these funds in the current Congress. The Committee will be meeting in Washington, DC in March to call on representatives of the member states as well as key Committee members to advance the request for appropriation.

A second effort to be undertaken, relative to Congressional fundraising, is to move beyond ODS funding and focus efforts on more general funding needs. The current mood in Congress is that the Commission should not engage further in line item appropriations; therefore, efforts will need to be made within Congress to develop a more permanent funding source. Efforts will be made to form an Ohio River Caucus involving Governors, Congressional Representatives, Commissioners, and others to identify more stable funding opportunities.

Commissioner Flannery concluded by mentioning that the previous day's visioning session indicated a high level of interest by Commissioners that additional sources of funds are necessary to broaden ORSANCO's scope.

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

Report of the Audit Committee

Commissioner Conroe, Audit Committee Chairman, reported that the June 30, 2008 Independent Auditors' Report was provided in the meeting packet.

Clark, Schaefer, Hackett & Company, Certified Public Accountants performed a general-purpose financial audit for fiscal year ending June 30, 2008. 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, 2008. There were no reported material weaknesses in internal controls. The audit report is an "unqualified" report.

The Committee recommends that Clark, Schafer, Hackett & Company be retained as auditor for 2009.

ACTION: Motion by Commissioner Conroe, second by Commissioner Servatius and carried, to accept the Independent Auditor's Report and the Audit Committee's recommendation to retain Clark, Schaefer, Hackett & Company to perform the June 30, 2009 financial audit.

Report of the Pension Committee

Commissioner Morgan, Pension Committee Chairman, reported that the Actuarial Report, compiled by Buck Consultants, indicated that the Pension Plan had assets with a market value of \$2,363,202 as of July 1, 2008. Based on the market value of assets, the Plan's funded ratio slipped to 89.5%.

As of December 31, 2008 the Plan had assets of \$1,864,897, and the funded ratio had further deteriorated to 70.6%.

PNC Advisors presented an investment review on February 2nd. Fund assets are currently invested with a 50% stock and 50% bond allocation. This allocation maintained the assets within expected negative bounds and performed marginally better than the overall market. 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 considers a recommendation to fund a pension contribution of \$150,000, based on available funds, for FY10.

ACTION: Motion by Commissioner Morgan, second by Commissioner Tomes and carried, to accept the report and recommendations of the Pension Committee as presented.

Report of the Personnel Committee

Commissioner Potesta, Personnel Committee Chairman, reported that the Personnel Committee briefed Commissioners on personnel-related matters at the Executive Conference of Commissioners. For the record, staff salaries were adjusted by an average of 2.5% on January 1, 2009. The adjustments were based on annual performance reviews and the Commission's budget and were made in accordance with the Commission's Salary Administration Guidelines.

ACTION: Motion by Commissioner Potesta, second by Marcia Willhite and carried, to accept the report of the Personnel Committee as presented at the Executive Session.

Report of the Ad Hoc Committee on ORSANCO's 60th Anniversary Year

Commissioner Eger thanked those who participated in 60th Anniversary planning activities and provided a final report of the Ad Hoc Committee on ORSANCO's 60th Anniversary. He reported that a series of press interviews were conducted throughout the Ohio River Basin. In addition, a speaker's bureau was formed and 17 presentations were conducted throughout the Basin. It was estimated that 1,400 citizens were reached during these presentations.

Commissioner Eger concluded by stating that it was his hope that the speaker's bureau activities would continue into the future.

ACTION: Motion by Commissioner Eger, second by Commissioner Easterly and carried, to accept the report of the 60th Anniversary Planning Committee as presented.

Report of the ORSANCO/Ohio River Users Program Advisory Committee

Commissioner Potesta presented the following motion for adoption:

ACTION: Motion by Commissioner Potesta, second by Commissioner Morgan and carried to elect Commissioner Conway to the ORSANCO/Ohio River Users Program Advisory Committee.

Report of the Water Users Advisory Committee (WUAC)

Ms. Mary Armacost, Committee Chairman, reported that the Committee met in January. The Committee discussed the elevated levels of total dissolved solids (TDS) associated with the Marcellus Shale gas extraction which has caused water quality problems for drinking water utilities on the Monongahela River. Committee members are reviewing disinfection by product formation at their facilities to determine the extent to which the frack water may be affecting downstream facilities. Ms. Armacost provided an update on the C-8 discharge and contamination from a DuPont plant in West Virginia. U.S. EPA plans to begin sampling for C-8 nationally, and the Committee recommends that Ohio River utilities be used as sampling sites.

Ms. Armacost reported on an 8,000 gallon gasoline spill in Pennsylvania, upstream of the PA-American Hayes Mine facility/ODS site. Fortunately, the discharge was across the river from the water intake location. She also reported that representatives from the St. Clair/Detroit River water quality monitoring network attended the Committee meeting to discuss their organics monitoring and data management system which might be an effective model for the updated Organics Detection System (ODS) data collection and archiving.

Ms. Armacost briefly discussed topics covered during the Committee meeting, including a presentation on climate change, improved ODS operations, and source water protection issues. She voiced the Committee's concern over the status of NRC's decision not to provide ORSANCO with full spills reports and hopes that the Commission will continue efforts to remedy this situation.

Ms. Armacost concluded by reporting that the chairmen of all ORSANCO advisory committees have been invited to attend the Water Users Advisory Committee meetings.

ACTION: Motion Commissioner Flannery, second by Commissioner Potesta 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 POTW Advisory Committee would like to applaud the Commission for conducting the Strategic Visioning Session and also thanked the Commission for involving the Committee in the discussion. Mr. Apgar was very impressed with the topics discussed and the approach taken during the visioning process. He noted that only time will tell what challenges ORSANCO will face; however, the display of talent, dedication, and leadership, by those participating in the session, left no doubt that ORSANCO will be able to overcome any obstacle or challenge that might arise.

Mr. Apgar reported that he had presented several documents to the technical committee relating to the POTW Advisory Committee's thoughts and advice with respect to the Bacteria TMDL. He also provided this documentation at the Commission meeting. Mr. Apgar encouraged Commissioners to review these documents as they provide useful suggestions on how the bacteria TMDL development process could potentially be enhanced while preserving the comprehensive work the Commissioners are currently engaged in with respect to bacteria reductions through the development and implementation of Long-Term Control Plans.

With respect to nutrient criteria, the Committee recommends that the Commission exercise caution with respect to utilizing a "Conditional Probability Approach" in developing nutrient criteria for the Ohio River. This method has been challenged in Pennsylvania for lack of sound science. The Committee understands that professional peer review is currently being conducted and suggests performing research on the science associated with this method prior to considering it as a tool for criteria development.

The Committee looks forward to reviewing the final results of the Recreational Use Study and is encouraged that the Commission will be making a comparison of Ohio River Use findings to Beach Use Criteria. The Committee is further encouraged to learn that ORSANCO will be seeking additional outside input. The Committee looks forward to providing input and working with the Commission to establish the criteria for the standard and educating the public on the need for a wet weather provision.

In closing, Mr. Apgar announced the POTW Committee had a very productive discussion via conference call on February 5th and was also very pleased to have a new member from ALCOSAN in Pittsburgh actively participating on the Committee. The Committee looks forward to continued involvement and looks forward to providing continued support and assistance to the ORSANCO Commission. The Committee will convene in Northern Kentucky in the latter part of May to prepare comments for the June 2009 Commission meeting.

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

Commissioner Conroe commented and voiced some concern regarding the documents provided by the Committee which were directed to U.S. EPA and elected officials. He questioned whether these documents were speaking on ORSANCO's behalf or for the Committee. He asked the Committee to be sensitive to this issue when drafting documents. Commissioner Flannery commented that ORSANCO speaks one way, through Commissioners' vote.

Report of the Public Interest Advisory Committee (PIACO)

Mr. Ron Riecken, Committee Chairman, reported that the Committee met on February 2nd with the Commission Chairman to discuss the Committee's role in supporting the Commission's activities. It was agreed that PIACO should actively serve as the interface between ORSANCO and the general public.

Mr. Riecken also reported that the Committee will consider hosting a public forum prior to the next Standards review cycle. This forum would include key stakeholders throughout the Basin. The objective will be to better educate interested constituents regarding the process and proposed revisions to the Standards.

ACTION: Motion by Commissioner Conroe, second by Commissioner Servatius and carried, supporting a Standards review public forum coordinated by the Public Interest Advisory Committee.

Mr. Riecken then reported that the Committee has scheduled a strategic planning session for late summer. He also introduced two new Committee members; Ericks Janelin, representing West Virginia, and Sean Brady, an at-large Committee member.

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

Recognition of Staff Reaching Five-Year Employment Milestones

Chairman Flannery recognized the following staff members for their years of service:

Stacey Cochran	5 years
Erich Emery	15 years
Jason Heath	20 years
Alan Vicory	30 years

Comments by Guests

Judith Peterson, Kentucky Waterways Alliance, urged the Commission to conduct multiple public hearings for the proposed Standards revisions as conducted during the last review cycle and not revert back to a single public hearing held in past years.

Upcoming Meetings

Chairman Flannery noted the following schedule for upcoming Commission meetings:

- June 4, 2009 Nashville, TN
- October 22, 2009 Washington, DC

Adjournment

The 193rd Commission meeting was adjourned at 11:40 A.M.

Prepared by:

_____ Date: _____
David Bailey
Director of Administration
& Human Resources

Approved by:

 _____ Date: _____
Paul Tomes
Secretary/Treasurer

ROSTER OF ATTENDANCE
193rd Commission Meeting
February 12, 2009

Commissioners

Illinois	Phillip Morgan Marcia Willhite (PROXY for Douglas Scott)
Indiana	Thomas Easterly
Kentucky	Valeria Hudson (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)
Virginia	Robert Wayland Ellen Gilinsky (PROXY for David Paylor)
West Virginia	David Flannery Randy Sovic (PROXY for Randy Huffman) Ron Potesta
Federal	Stuart Bruny Kenneth Komoroski

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, Kelly Miller – Virginia DCR, Judith Peterson – Kentucky Waterways Alliance, Carolyn Baker – Big Sandy River Basin Coalition, Jim Stieritz – Duke Energy, Jessica Fox – Electric Power Research Institute, Mark Kieser – Kieser & Associates, Rich Cogen – Ohio River Foundation

Staff

David Bailey, Jason Heath, Peter Tennant, Joseph Gilligan, Erich Emery, Jerry Schulte, Jeanne Ison, Lila Ziolkowski, Travis Luncan, Eben Hobbins, Beth McGuire, Stacey Cochran, Steve Braun, Sam Dinkins