

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

**221st Commission Meeting
The Galt House
Louisville, Kentucky
Thursday, June 7, 2018**

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OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES
221st Commission Meeting
The Galt House
Louisville, Kentucky
Thursday, June 7, 2018

DRAFT
July 25, 2018

Chairman Stuart Bruny, Presiding

Call to Order

Chairman Bruny called the 221st meeting of the Ohio River Valley Water Sanitation Commission to order at 9:00 A.M., Thursday, June 7, 2018.

Comments by Guests

Mr. Gordon Garner, Co-Chairman of the Kentucky Waterways Alliance, urged the Commission not to revise the Pollution Control Standards and to be more deliberative as it considers revising the Pollution Control Standards and strongly urged the Commission to not take action at this meeting. Such action will be interpreted as the Commission is giving up its authority and responsibility as outlined in the Compact. In the current environmental climate, more, not less, oversight is needed.

Quorum Call

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

Report of the Chairman

Commission Chairman Bruny began his report (**Attachment I**) by noting that June 30, 2018 marks the 70th anniversary of the signing of the Ohio River Valley Water Sanitation Compact. Along with our member states, the federal government, business and industry, local governments and our many other stakeholders, ORSANCO has been a part of the great progress at improving Ohio River water quality the past 70 years.

Chairman Bruny continued by highlighting the Commission's many accomplishments during the past year and thanked all stakeholders for their role in these successes. He also focused attention to a number of the ongoing challenges requiring attention and action. He encouraged the Commission to stay the course and continue providing value to the states, citizens of the Basin, and the Ohio River.

He closed by thanking Commissioners, committee members, staff, and all those who supported his Chairmanship through a successful year.

Report of the Executive Director

Executive Director Richard Harrison began by commenting on the excellent work of staff and also thanked Chairman Bruny for his guidance and support this past year.

Mr. Harrison reported that the technical team led by Ryan Argo is currently undertaking the national Rivers and Streams Assessment (NRSA) monitoring field work throughout the Basin and will be completing an unprecedented number of sites. This effort will provide approximately \$600k in funding to ORSANCO. In addition, he noted that a number of other monitoring and source water protection activities are also underway.

Mr. Harrison provided a reminder of the upcoming Ohio River Sweep on June 16th, and mentioned that this program is a year-round planning effort.

Mr. Harrison then provided an update on ORSANCO's relationship with the Ohio River Basin Alliance (ORBA) and ORSANCO's opportunity to serve as its fiscal agent. This collaboration is taking on an aspirational goal of developing an Ohio River Basin restoration strategy to put the Ohio River Basin at a national priority level for Congress and US EPA. Efforts will also continue to work with states and the US Army Corps of Engineers on potential funding.

He continued by highlighting current source water protection initiatives. These programs tie together activities including harmful algae blooms (HABs) and nutrients monitoring and spill response management. A goal is to be more proactive in communication and education as it relates to potential spills. Staff is working with the Northern Kentucky Water District and Cincinnati Water Works on a pilot project, funded by US EPA, to develop a contaminant source inventory. This project may be expanded if additional EPA funding becomes available.

Mr. Harrison reported on a recent meeting with Ian Guymer from the University of Sheffield, England, who is conducting research on great rivers and is very involved in modeling and how pollution travels. This meeting is an example of how the Ohio River is becoming recognized as a national model for source water protection.

Action on Minutes

ACTION: Motion by Commissioner Kupke, second by Commissioner Frevert and unanimously carried, that the minutes of the 220th meeting of the Commission, be adopted as presented.

Report of the Treasurer

Commissioner Kupke reported that an updated Treasurer's report as of May 31, 2018 was provided as additional materials for this meeting. The report is presented in both the short form and detailed spreadsheet format. This material is to be entered into the record of this meeting (**Attachment II**).

Through the end of May, and with only one month remaining in our fiscal year, revenues of approximately \$2.9 million are trending as budgeted. Expenditures of \$2.5 million are slightly below budget, reflecting the reduced staffing for a portion of fiscal year 2018 and the yet to be realized expenditures as programs begin the spring field season.

With a total cash balance of approximately \$2.3 million, the Commission is in a solid financial position to complete fiscal year 2018 in June, achieve compliance with our annual fiscal budget, and move into fiscal year 2019 with an estimated \$2.0 million to continue the Commission's programs.

So, in conclusion, ORSANCO is less than 30 days away from successful closure of the 2018 fiscal budget. Accordingly, ORSANCO's management and staff are to be commended for achieving solid program results this past fiscal year, while working well within our established budget.

Report of the Technical Committee

Commissioner Wilson, Committee Chairman, reported that the Technical Committee met on June 5-6, 2018. Six states, three federal agencies, and three advisory committees were represented. He thanked the outside speakers for their presentations, including Peter Goodman

with Kentucky Division of Water, Donovan Henry with US Fish and Wildlife Service, Lauren McDonald with Kentucky Division of Water, Bob Miltner with Ohio EPA, Martin Risch, retired USGS, and Chris Bobay with the Louisville Water Company. A summary of selected outcomes are as follows:

Mercury

Regarding the basin-wide mercury mass balance project, Martin Risch presented an approach for estimating atmospheric deposition of mercury for each of the major sub-watersheds in the Ohio Basin. ORSANCO is contracting with Martin to guide the atmospheric deposition component of the mercury mass balance project. Martin is an expert in the field and will be a valuable asset to the project. This work will be completed by the end of 2018.

Bacteria Trends Assessment

Staff presented results of an assessment of trends on ORSANCO's contact recreation bacteria monitoring data collected around the six largest CSO communities on the Ohio River since 1992. The assessment shows that since 2001, bacteria levels have generally been decreasing. A draft report was distributed at the meeting, and TEC has been asked to submit comments to staff by the end of July.

Report of the Ohio River 305b Coordinators Workgroup

A draft 2018 Ohio River 305b report and assessments were included with the agenda materials. Assessment methodologies were identical to the 2016 assessments, and results were almost identical as well. The entire river has been assessed as fully supporting for the aquatic life and public water supply uses. The entire river is impaired for the fish consumption use due to dioxin and PCBs, and about two-thirds of the river is impaired for contact recreation due to bacteria. The Technical Committee endorsed the report and assessments.

Source Water Protection Programs

Staff reported on an assessment of spills over the period 2012-2017. It looks at things such as what types of products are most commonly spilled, locations where spills frequently occur, etc. The information will be considered in the design of the next generation Organics Detection System.

Chris Bobay with the Louisville Water Company filled in for Rengao Song and provided an update on the Water Users Advisory Committee work on the ODS renovation. The workgroup is being led by Rengao Song with the Louisville Water Company with team members including Northern Kentucky and Cincinnati Water. They are evaluating a wide array of monitoring technologies for the next replacement of the ODS network that might expand the set of contaminants, decrease the capital and operating costs of the system, and improve operations and data sharing capabilities. They are working towards having recommendations at the October Technical Committee meeting.

Staff gave a presentation on lessons learned from recent spills which will be used to update ORSANCO's spill response and communications procedures.

KY Statewide Bacteria TMDL

Lauren McDonald with the Kentucky Division of Water summarized KY's approach to development of state-wide TMDLs for bacteria. The proposed approach will streamline the completion of TMDLs for 422 stream segments over 5-6 years. They believe this effort will help inform and be beneficial to US EPA Region 5's Ohio River bacteria TMDL effort, but it does not include any of the Ohio River itself.

Ohio's Large River Eutrophication Study

Bob Miltner presented on Ohio EPA's Large River Eutrophication Study. That study has identified conditions under which Ohio's large rivers may be susceptible to experiencing Harmful algae blooms. Ohio EPA may use results of this study to inform development of nutrient criteria for large rivers in the state.

Kentucky Water Quality Standards Triennial Review

Peter Goodmann provided an overview of Kentucky's water quality standards triennial review. They are considering an extensive set of changes to their water quality standards including human health criteria for 94 compounds, aquatic life criteria for ammonia, cadmium, carbaryl and selenium, contact recreation criteria for *E.coli*, wet weather provisions for CSOs, as well as designating 52 new outstanding state resource waters. They have been conducting informal listening sessions and are planning to hold a 30-day comment period in August. Legislative review of the proposals for consideration will be held in November.

Ohio River Basin Fish Habitat Partnership

Donovan Henry presented on the Ohio River Basin Fish Habitat Partnership, a consortium of state, federal, local, and NGOs spearheaded by the US Fish and Wildlife Service. He discussed a number of projects including such things as dam removal, fish ladders, and stream restoration projects in the Ohio Basin. In addition to improving the health of aquatic communities, they are achieving other significant, multiple socio-economic benefits for local communities throughout the basin.

Pollution Control Standards

Staff provided an overview of the public review of the Commission's Pollution Control Standards for Discharges to the Ohio River. The public review was opened on January 10, closed on February 24, and requested public input on the five alternatives developed by the Commission along with the preferred alternative and minority report. 814 comments were received and categorized into 14 key themes. The Standards Committee met on May 11 to prepare a report for the Commission meeting.

Report of the Pollution Control Standards Committee

Commissioner Frevert, Committee Chairman, reported that following the October 2017 Commission meeting, the Pollution Standards Control Committee was assigned with proceeding with a public comment period for Standards review issues as directed by the Ad Hoc Committee. The public comment period began on January 10, 2018 and closed on February 24, 2018. All comments and considerations brought forward were be taken back to the Pollution Control Standards Committee for further review. The Pollution Control Standards Committee provided a more substantive report at the June 2018 Commission meeting.

Report of the Program & Finance Committee

Commissioner Potesta, Committee Chairman, reported that The Committee met on April 19, 2018. Staff presented a balanced budget as well as program recommendations for consideration. A detailed report and recommendations were provided in the agenda packet.

Commissioner Potesta presented the Committee's recommendations and actions for Commission consideration:

1. Recommend adoption of the FY19 program plan and balanced budget as presented.
2. Recommend adoption of a 0% state funding increase for fiscal year 2021.

3. Recommend developing a framework for supplemental state funding to ORSANCO through alternate resources available to states, as well as consideration of aspirational funding targets.
4. Recommend that the Pension Committee moves forward with a request for proposals for Pension Trust Fund asset management services.
5. Recommend that staff reach out to the River Users Advisory Committee to discuss the use of the Committee's existing funds.
6. Recommend amending the Commission's Reserve Funds Policy for consideration and possible adoption at the June 2018 Commission meeting.
7. Recommend that staff develop a Capital Budget for FY20.
8. Recommend setting the FY19 Defined Contribution Plan voluntary contribution at 5% of compensation, consistent with the FY18 funding level.

The Program and Finance Committee recommends that the Commission consider five separate motions.

ACTION: Motion by Commissioner Frevert, second by Commissioner Duritsa and unanimously carried, to adopt Resolution 1-18 (**Attachment III**) to approve the Program Plan and Budget for Fiscal Year 2019 as presented.

ACTION: Motion by Commissioner Pigott, second by Commissioner Hoopingarner and unanimously carried, to adopt Resolution 2-18 (**Attachment IV**) to establish the FY21 State Funding levels as presented.

ACTION: Motion by Commissioner Potesta, second by Commissioner Harrison and unanimously carried, to amend the Commission's Reserve Funds Policy (**Attachment V**) as presented.

ACTION: Motion by Commissioner Potesta, second by Commissioner Frevert and unanimously carried, to set the 2019 Defined Contribution Plan voluntary contribution at 5% of compensation.

ACTION: Motion by Commissioner Potesta, second by Commissioner Pigott and unanimously carried, 1. To develop a framework for supplemental state funding to ORSANCO through alternate resources available to states and consideration of aspirational funding targets; 2. That the Pension Committee moves forward with a Request for Proposals for Pension Trust Fund asset management services; 3. That staff reach out to the River Users Advisory Committee to discuss the use of the Committee's existing funds; and, 4. That staff develop a Capital Budget for FY20.

Report of the Ad Hoc Committee on Policies and Procedures

Commissioner Conroe, Ad Hoc Committee Chairman provided a brief overview of the Committee's activities. He also noted the importance of identifying and codifying the Commission's existing policies and procedures due to recent Commissioner turn-over and providing clarity on policies as new Commissioners are appointed. The Committee worked with staff to identify existing policies and consider which policies remain relevant and which can be considered for sunseting. The Committee also worked to determine if such policies should be categorized as policies, procedures, internal operating procedures, or associated category definitions. A detailed report dated May 8, 2018 was provided in the agenda packet.

Commissioner Conroe noted that a minor revision was recently made to the sunseting clause, indicating that this clause does not apply to the many actions taken by the Technical Committee

and endorsed by the Commission over recent years. Research will be conducted to identify such actions and a determination made as to their continued relevance and categorization.

Commissioner Conroe then presented Resolution 3-18 (**Attachment VI**), The Recommendations of the Ad Hoc Committee on Policies and Procedures and Repeal Certain Governance Documents, for consideration.

ACTION: Motion by Commissioner Conroe, second by Commissioner Fitzgerald and unanimously carried, to adopt Resolution 3-18, containing the recommendations of the Ad Hoc Committee on Policies and Procedures.

Report of the Pollution Control Standards Committee

Commissioner Frevert, Committee Chairman, reported that at its October, 2017 meeting, the Commission authorized an initial public review of five alternatives for the future of ORSANCO's pollution control standards program. The Committee met in December, 2017 and executed an open comment period on the proposed alternatives. The comments received were categorized into "key themes" representing the broad issues contained in the comments.

The Committee then met on May 11, 2018 to discuss the key themes and develop a recommendation for the June 2018 Commission meeting. The Committee adopted a motion recommending that the Commission hold a second public comment period and hearing recommending that the Pollution Control Standards of ORSANCO be revised based on preferred alternative #2, and reaffirming the Commission's commitment to cooperation and collaboration on state and federal water quality standards programs for the Ohio River.

Commissioner FitzGerald provided comments in strong opposition to this action for the record (**Attachment VII**).

Commissioner Conroe commented that there is not unanimity among the Commission's main stem states on moving this issue forward and repeated comments from the Technical Committee meeting that action should not be taken until follow-up actions for implementation and follow-up are determined.

Commissioner Pigott agreed that there are issues associated with implementation that have been expressed but that he intends to vote in favor of moving the process forward and hold a public hearing to elevate these concerns so they can be seriously considered by the Commission. His agency will be closely evaluating the validity of such concerns.

Commissioner Conroe, per Commission Bylaws, requested a recorded roll-call vote on this motion, second by Commissioner FitzGerald.

ACTION: Motion by Commissioner Frevert, second by Peter Goodman and carried 14-6 through a roll-call vote (Commissioners Butler, Hoopingarner, Pigott, Harrison, Duritsa, Bruny, Potesta, Kupke, Lovan, Frevert, Flannery, Paylor, and Proxies Goodman, Mandirola voting in favor of the motion, and Commissioners FitzGerald, Elmaraghy, Conroe, Wilson, and Proxies Orr, Konsella voting against the motion), that the Commission hold a second public comment period and hearing recommending that the Pollution Control Standards of ORSANCO be revised based on preferred alternative #2, and reaffirming the Commission's commitment to cooperation and collaboration on state and federal water quality standards programs for the Ohio River.

Report of the Nominating Committee

Commissioner Lovan, Committee Chairman reported that the Committee recommends the following slate of officers for 2018-2019:

Chair: Ron Potesta
Vice Chair: John Kupke
Secretary/Treasurer: Charles Duritsa

ACTION: Motion by Commissioner Lovan, second by Commissioner Frevert and unanimously carried, to accept the slate of officers as recommended.

Report of the Water Users Advisory Committee (WUAC)

Bruce Whitteberry, Committee Chairman, reported that the Committee met in May with approximately 10 utilities represented. In general, water quality conditions remain good from a drinking water perspective. However, the utilities are gearing up for summer HABs conditions.

Staff provided updates on the several programs including the 305b Assessment, National Rivers and Streams Assessment, and HABs monitoring activities. Staff also provided a spills trend analysis. A presentation on the River Alert Information System was also provided.

Mr. Whitteberry reported that the ODS Workgroup is making progress and will continue its research to identify the needs of the next generation of the system. He noted that there is still much work to complete prior to making a recommendation.

He also reported that the Committee extended an invitation to the Chairman of the Watershed Organizations Advisory Committee, Mr. Richard Cogen, to attend the Committee's meeting to become better acquainted with each Committees' mission and activities.

He concluded by mentioning disappointment regarding the Commission's action on the Pollution Control Standards issue, and he hopes the Commission will continue to work together and renew their commitment to the Compact to make sure these less obvious threats to the river do not become major threats.

Report of the Watershed Organizations Advisory Committee (WOAC)

Committee Chairman, Richard Cogen, commented that he appreciated the good dialog over the past few days regarding the Pollution Controls Standards (PCS) issue as well as other current matters. He will take this information back to the other member organizations for discussion and input.

Mr. Cogen then provided some comments for consideration by the Commission over the coming months, leading up to the Commission's October 2018 vote on the proposed PCS revisions. The formation of ORSANCO and composition of the Compact was based on interstate regulatory responsibility, and states' rights were preserved but subsumed to the greater good and need for an interstate guiding body.

Selection of Alternative #2 is an effort to strengthen individual states' rights, oversight and powers, and discharge relationships. The underlying and overriding beneficiaries of a cleaner Ohio River are the five million citizens who rely on it as a source for clean drinking water, as well as the business community.

ROSTER OF ATTENDANCE
221st Commission Meeting
June 7, 2018

Commissioners

Illinois	Toby Frevert
Indiana	Bruno Pigott John Kupke Joseph Harrison, Jr.
Kentucky	Ron Lovan Peter Goodmann (PROXY for Lt. Governor Janean Hampton)
New York	Mike Wilson Douglas Conroe Jeff Konsella
Ohio	Craig Butler Stuart Bruny John Hoopingarner
Pennsylvania	Charles Duritsa Jennifer Orr (PROXY for Secretary Patrick McDonnell)
Virginia	David Paylor
West Virginia	David Flannery Ron Potesta Scott Mandirola (PROXY for Secretary Austin Caperton)
Federal	George Elmaraghy Tom FitzGerald
Legal Counsel	Aaron Herzig

Executive Director

Richard Harrison

Guests

Bruce Whitteberry – WUAC; Jim Bruggers – Inside Climate; Rich Cogen – Watershed Committee; Gordon Garner – Kentucky Waterways Alliance; Tim Hagerty – Frost Brown Todd LCC

Staff

David Bailey, Jason Heath, Sam Dinkins, Joe Gilligan, Lisa Cochran

June 7, 2018 Chairman's Report

Commission Chairman Bruny presented the following report.

Good morning again.....I hope you all have enjoyed being in Louisville the past couple of days for our 217th Technical Committee meeting and today's 221st meeting of the Ohio River Valley Water Sanitation Commission.

You might be interested to know, we last met in Louisville in October 2012 at the Brown Hotel for our 204th meeting when Federal Commissioner Ken Komoroski was our chairman. Somewhat ironic, we also met here at the Galt House in September 1992 for our 143rd meeting, which was my first commission meeting, when the late Pennsylvania Commissioner Mel Hook was our chairman. Louisville and the Galt House serve as great riverfront venues for our Commission meetings.

As I review our agenda for this morning, I look forward to hearing several reports and updates from our committees.....in particular, we'll hear from our Program & Finance Committee about our FY 19 budget, we'll hear from our Technical Committee reporting on several of its programs, and from our Pollution Control Standards Committee about possible future direction of our standards program. Commissioner Conroe will also report on the activities of his Ad-hoc committee reviewing the Commissions governance documents.

This year, in fact later this month.....in 3 weeks and two days (June 30), we mark the 70th anniversary of the signing of the Ohio River Valley Water Sanitation Compact. I mentioned a few words about 2018 being our anniversary year in my February Chairman's remarks, so I won't belabor it here this morning. Along with our member states, the federal government, business and industry, local governments and our many other stakeholders, we've been a part of the great progress at improving Ohio River water quality the past 70 years. As we complete ORSANCO's 70th year of operation, staff has highlighted the remarkable Ohio River water quality improvements by updating the "State of the Ohio River" publication (included in your folders this morning). There is more work to do, but we all should be proud of the progress that has been made.

Like many before me, my year as your chairman has quickly passed by. With your support, guidance and the dedicated efforts of our great staff and many stakeholders, I think we have had a successful year, accomplishing many tasks and making good progress on many others. Please allow me to highlight some of our activities since July 1st, 2017.

- We started off the year with a very uncertain funding outlook. Our Congressional Liaison Committee was very active communicating ORSANCO's need for 106 grant funding through the federal budget process. Ultimately, Congress passed an Omnibus Appropriations Bill for FY18 that included full funding for the USEPA 106 grant to ORSANCO. Further, our Program & Finance Committee, working closely with staff has made significant strides towards improving the Commission's financial outlook, utilizing a combination of strategic reductions and new revenue opportunities to balance 5 year revenue and expenditure gaps. On a somewhat related note, we made the final mortgage payment on our office and headquarters building.
- We had a very busy year in the area of spill response, receiving nearly 500 incident reports for potential spills impacting the Ohio River. Working with numerous stakeholders we assisted in around the clock response and coordination in such major incidents as, the Ames Tool Warehouse fire in Parkersburg, the catastrophic barge failure releasing a half million gallons of urea ammonia nitrate into the river, the

partially sunken vessel releasing oil into the Big Sandy River, and the shale gas well pad fire near Powhatan Point.

- With the great help of our drinking water utilities, we were able to analyze more than 15,000 river water samples using our Organics Detection System. We proudly added West Virginia American's Kanawha Valley Water Plant to our ODS network.and our Water Users Advisory Committee is evaluating our ODS to provide recommendations for the next generation of equipment for monitoring spills to the Ohio River. In addition, staff has developed a Source Water Protection funding strategy to help cover spill monitoring and response expenses that has been supported by our drinking water utilities.
- We sponsored a HAB's Scientific Workgroup to bring numerous parties together to share Ohio River HAB's scientific research, and we are working with USEPA, USGS, and NOAA to help analyze the cause of the significant 2015 Harmful Algae Bloom. ORSANCO was selected by the University of Cincinnati Environmental Engineering Seniors to complete a project that manages the data collected from 4 HAB's continuous monitoring stations on the river to help provide real-time notification of HAB's forming conditions.
- We completed the lower Ohio River mercury total load sampling project. This 12 month effort, along with the major tributary sampling effort and ongoing work to determine the atmospheric deposition component will be utilized for the Commissions mercury mass balance study.
- We have been very engaged with the Ohio River Basin Alliance (ORBA) during the past year, and are pleased to have been selected, along with our Foundation, as the ORBA fiscal sponsor. In addition, we serve on the ORBA Steering Committee, help lead ORBA's Water Quality and Availability Work Group and hosted ORBA and the CORPS for our October Roundtable session.
- ORSANCO took part in the signing ceremony for the Second Amendment to the Ohio River Water Quality Trading Plan signed by Ohio, Indiana, and Kentucky this past October.
- The Commission had three active Ad-Hoc Committees during the past year, including the Ad-Hoc Committee on Mercury Studies, the Ad-Hoc Committee on Water Quality Standards Implementation, and the Ad-Hoc Committee on Policies and Procedures.
- Based on recommendations from the Ad-Hoc Committee on Water Quality Standards Implementation, our Pollution Control Standards Committee, with considerable thought and deliberation, spent significant time evaluating, developing, debating and arguing various alternatives for the Commission's future role in the standards program. We fully engaged our advisory committees for their input and considerable time was spent evaluating their comments and concerns, as well as those received as a result of our January Public Notice on our standards.
- We have continued to enjoy the benefits of sponsoring a great educational foundation through our Foundation for Ohio River Education, led by Heather Mayfield. Its award winning River REACH program engages 4-8 graders and high school students in applied STEM disciplines through hands-on water quality assessment. Our Life Below the Waterline aquarium program highlighting the exceptional diversity of Ohio River species had a very busy year with numerous displays at festivals, and celebrations throughout the Ohio River Valley. And let's not forget our 29th Ohio River Sweep that will be held at over 125 locations a week from Saturday on June 16th. We receive significant funding from our state and industry partners and Lisa Cochran does a great job at leading this effort.

There are many to thank for their part in contributing to our successful programs and activities over the past year. Our member states, USEPA, our other federal partners including the CORPs, USGS, the USCG, USFWS, NOAA, Emergency Response agencies, drinking water and waste water utilities, industry, watershed organizations, our advisory groups, our committees, and last but not least, our dedicated and hardworking staff. Thank you all!

As I look to the future, our challenges will continue, but we must stay the course. ORSANCO does great work and is a wealth of value to our member states, the general public and the Ohio River. We are in good hands with an excellent staff and the experience and leadership of our incoming officers. I know they will do a commendable job for ORSANCO in the future. I mentioned stay the course.....I trust you will allow me to offer some thoughts on our immediate future.

- Critical to our success is sustainable funding. We must continue to seek alternative funding opportunities, while conducting our programs and activities in the most efficient way possible.
- We must continue to evaluate the best path forward for our standards program, while seriously considering stakeholder input, basing our decisions on sound science and ultimately, protection of Ohio River water quality.
- It will be important to continue our role with the Ohio River Basin Alliance to help establish needs for the Ohio River basin, and to make sure water quality issues are well represented and appropriately prioritized. This partnership may also provide further opportunity to consider our role in water quantity and water resource issues within the basin.
- We are fast approaching a critical juncture with our Organics Detection System, as each year it gets older and perhaps outdated. How will it be replaced? Will we be successful in optimizing the system, to provide us and our public water supplies critical water quality indicators? How will it be paid for? I know our staff and the Water Users Advisory Committee are working on answers to these questions.
- I look forward to completion of our mercury mass balance study, to better understand the sources and relative contributions of both total and methyl mercury in the Ohio River. We will then, have to evaluate what, if any, programs ORSANCO can be a part of to mitigate those mercury loads. Further, we must educate the public, and for that matter, all of our stakeholders on the findings of this study.
- Our research efforts related to harmful algae blooms must continue. We know there are many contributing factors that trigger a bloom, but not the complex combination of these factors to predict the bloom. As you know, we've partnered with several other research scientists to help answer these questions. A real time warning system when river conditions support HAB growth will be invaluable to our water systems and recreational users, but we need to look beyond that, and determine what programs and activities we might undertake with the help of our member states to cost effectively prevent HABs from occurring in the first place.
- As we continue to evaluate our programs and activities, we must ask ourselves, if they are indeed, directed at addressing the most negative impacts to the Ohio River? Are we doing everything we can to tailor our programs to identified impairments? Is it bacteria from CSOs...is it mercury...is it PCBs or dioxin? Perhaps some tributaries to the Ohio River result in negative impacts to the main stem? I mention PCBs and dioxin.....due to the high cost and resource requirements, it's been several years since we've completed any water column monitoring for PCBs and dioxin. We need to continue to seek funding to complete another round of monitoring.

- While the bulk of our future work relates to water quality and public outreach programs, we must continue to give due diligence to our administrative programs. Our Ad-Hoc Committee on Policies and Procedures will report on their activities over the past year, later this morning. This effort has shown us we need to update, revise and perhaps even eliminate some of our by-laws, policies, and administrative procedures during the next year. As an example, we need to review and update our public disclosure policy that was last addressed several years ago. We've taken some important steps to improve the solvency and longevity of our staff retirement plans, and now we need to take necessary steps to enhance the return on investment for our pension funds. And last, but not least, in the administrative area, I'd like to see us have a full contingent of Commissioners. Let's commit to work with our member states and USEPA to fill the 4 vacancies we currently have. (Pennsylvania, Virginia, Illinois, Federal) We need "all oars in the water" and besides, Richard would like 4 more bosses!
- Often our focus is on our technical programs, and it probably should be, but we can't overlook the importance of our public outreach programs. There are still too many people in the Ohio River Valley that don't know who ORSANCO is, what our role is, and how much improved Ohio River water quality is. It will be important for our Ohio River Sweep, Life Below the Waterline, Volunteer Monitoring Programs and the Foundation for Ohio River Education to consider ways to be more effective in their respective outreach programs.and I know they all could use more resources to do a better job. Social media marketing and optimization, may in fact, be our best path forward as a public outreach tool.

Vice-chairman Commissioner Potesta, should you be elected later this morning as our new chairman, I truly am not attempting to set your agenda for the next year, but rather, I am suggesting a few items I feel are important to stay the course.

In closing, I thank each and every one of you for your support over my term. Richard and staff.....thank you very much for your dedicated efforts over the past year, at times I know were very trying. Thanks to our standing committees, advisory committees, ad-hoc committees, workgroups and sub-committees for your time and effort over the past year.....and a special thanks to those of you that took on the extra burden of serving as a committee chair. Fellow Commissioners, I appreciate your wise counsel and guidance on many difficult issues. I remain forever humble and thankful to you for allowing me the opportunity to be your 65th Chairman.....and thanks again for your passion and commitment to ORSANCO.

Memo

Ohio River Valley Water Sanitation Commission

SINCE 1948
*Improving Water Quality in the
Ohio River for over 60 Years*

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**Agenda Item 4
221st Commission Meeting
June 7, 2018**

DATE: June 7, 2018
TO: Commissioners
FROM: John Kupke
SUBJECT: Treasurer’s Report as of May 31, 2018

The Treasurer’s Report is presented in both the short form and the detailed spreadsheet format.

The report indicates that the Commission has accounts receivable totaling \$253,713 at the end of May 2018. The balance in accounts receivable is detailed as follows:

Signatory States	\$36,200	West Virginia
Federal Sources	\$184,629	106 Grant
Other Sources	\$32,792	Ohio River Sweep
	<u>92</u>	Foundation for Ohio River Education
	\$32,884	

The receipts of \$2,949,662 plus the carryover of \$2,000,313 equals \$4,949,975 through the end of May 2018. Of that amount, \$2,464,641 was expended on programs, leaving resources of \$2,485,334 available for the continuation of ORSANCO’s programs.

The Ohio River Valley Water Sanitation Commission

Treasurer's Report

Through May 31, 2018

RESOURCES	Carryover @ 7-1-17	Earned Income	Total	FY18 Budget	% Budget	Resources 5/31/2018
Carryover July 1, 2017						
Restricted Operating Reserve Funds	\$992,000		\$992,000	\$992,000		\$992,000
Restricted Program Funds	\$252,838		\$252,838	\$241,967		\$180,991
Unrestricted Funds	\$755,475		\$755,475	\$902,550		\$1,312,343
<hr/>						
States		\$1,418,400	\$1,418,400	\$1,418,400		
US EPA						
106 Grant Federal FY 17		\$414,192	\$414,192			
106 Grant Federal FY 18		\$773,121	\$773,121	\$1,505,000		
Other Federal Grant Programs						
WV 604(b) Contaminants in Fish Tissue		\$0	\$0	\$		
Non-Federal Projects						
Ohio River Sweep		\$103,371	\$103,371	\$113,838		
Other Non-Federal Projects		\$209,608	\$209,608	\$167,901		
Other Income		\$30,970	\$30,970	\$1,000		
<hr/>						
Total Resources	<u>\$2,000,313</u>	<u>\$2,949,662</u>	<u>\$4,949,975</u>	<u>\$5,342,656</u>	92.7%	<u>\$2,485,334</u>
<hr/>						
EXPENDITURES						
Personnel Expenses			\$1,362,981	\$1,859,064	73.3%	
Travel			\$148,788	\$311,564	47.8%	
Supplies			\$169,069	\$251,610	67.2%	
Telephone			\$15,309	\$17,657	86.7%	
Equipment			\$103,281	\$68,691	150.4%	
Office & Utilities			\$65,776	\$68,448	96.1%	
Equipment Repairs			\$57,356	\$73,686	77.8%	
Contractual Services			\$401,887	\$454,160	88.5%	
Printing & Reproduction			\$3,664	\$6,550	55.9%	
Lab Fees & Deliveries			\$136,530	\$185,493	73.6%	
<hr/>						
Total Expenses			<u>\$2,464,641</u>	<u>\$3,296,923</u>	74.8%	
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RESOURCES AVAILABLE			<u>\$2,485,334</u>			

RESOLUTION 1-18**PROGRAM PLAN AND BUDGET FOR FISCAL YEAR 2019**

WHEREAS: The Commission has established the sum of \$1,439,700 as the amount of appropriations to be requested from the signatory states for fiscal year 2019; and

WHEREAS: Funds from the United States Government for approximately \$1,725,200 may be allocated to the Commission for fiscal year 2019; and

WHEREAS: Funds amounting to \$444,097 may be available from a variety of sources to support the Ohio River Sweep, ORSANCO/USGS Gaging Stations, Life Below the Waterline; and

WHEREAS: The Commission is anticipated to carry over resources of \$2,030,308 into the 2019 fiscal year.

NOW, THEREFORE, BE IT RESOLVED THAT: The 2019 Fiscal Year Program Plan for all activities and the budget contained therein and in support thereof be approved as presented.

BE IT FURTHER RESOLVED THAT: The Executive Director is hereby authorized to make application for funding as may be available from US EPA, for other Federal funding and funding from other sources as may become available.

BE IT FURTHER RESOLVED THAT: The expenditures in fiscal year 2019 be substantially within the framework of the following guidelines, which are made a part of this Resolution.

2019 FISCAL YEAR BUDGET

Payroll	\$1,191,820
Employee Benefits	712,510
Staff Travel	190,399
Commission Travel	101,275
Advisory Committees	21,081
Supplies	251,624
Telephone	14,417
Equipment Purchases	34,000
Utilities & Maintenance	59,092
Equipment Repairs & Maintenance	70,241
Contractual Services	611,778
Printing & Reproduction	6,550
Lab Fees & Delivery	<u>181,147</u>
Total Expenditure Budget	\$3,445,934

RESOLUTION 2-18

STATE FUNDING LEVEL FOR FY2021

BACKGROUND

The Commission has the responsibility of setting levels of state funding to support its programs. By policy, such state funding is to be established two years in advance to facilitate legislative/fiscal processes of the individual states. In developing its recommendations, the Program and Finance Committee relied, in part, on current and future budget information, the current rate of inflation and the current level of funds in the reserve account. The Program and Finance Committee was presented with alternative increases in the states' 2021 funding and agreed to recommend no increase in state funding for the 2021 fiscal year. The attached listing displays each state's proportional share of the Commission's budget for 2021 in comparison with their most recent funding levels.

ACTION REQUESTED OF THE COMMISSION

Authorize a level of state funding for FY2021 by means of the following Resolution "State Funding Level for 2021."

RESOLUTION

STATE FUNDING LEVEL FOR 2021

WHEREAS: Article V of the Compact provides that the Commission shall submit to the Governor of each state, at such time as he may request, a budget of its estimated expenditures for such period as may be required by the laws of such state for presentation to the legislature thereof;

NOW, THEREFORE, BE IT RESOLVED THAT: The sum of \$1,439,700 be budgeted for operating expenses of the Commission in the Fiscal Year July 1, 2020 to June 30, 2021. Such sum to be prorated among the signatory states in accordance with the provisions of Article X of the Compact.

Restricted Reserve Accounts Policy

**Adopted by Commission Action June 23, 2005
Amended October 9, 2014
Amended June 7, 2018**

The Commission has established Restricted Reserve Accounts with the following parameters:

1. Operating Reserve Account – This account would be used to cover up to three months of salary/operating expenses in emergency times of low cash flow. The three month timeframe level was determined years ago as an appropriate business practice.
2. Building Reserve Account – This account is maintained to protect against large emergency expenses for the physical facilities, e.g. the roof or rugs or other large emergency expenses for the building. \$200,000 is an adequate level to protect ORSANCO for large unexpected expenses with the building.
3. Equipment Reserve Account – This account is to cover costs for unbudgeted emergency acquisitions, emergency repairs, or emergency replacement of equipment. Highest vulnerability would be boat engines and scientific equipment. A 10% value of this inventory in the reserve account would be adequate.
4. ODS Reserve Account – This account would be used to cover emergency expenditures for the Organic Detection System or procurement of one new system.
5. The combined funds should be maintained in a single Reserve Account.
6. Anticipated expenditures should continue to go through the normal budgeting process and be included within the proposed Commission budget and not be included in the reserve account system. All reserve expenditures are of the unbudgeted kind. Because of the emergency nature of some unbudgeted reserve expenditures and the issue of timeliness, the Executive Director is permitted to approve reserve spending, with the exception that any expenditure in excess of \$10,000 must be advance co-approved by both the Executive Director and Commission Chairman.

Current Funds by Account

Operating Reserve	\$455,000
Building Reserve	\$200,000
Equipment Reserve	\$ 87,000
ODS Reserve	\$250,000
Total	\$992,000

Background

Prior to action in June 2005, ORSANCO reserved funds for operations, building, equipment and the Organics Detection System (ODS). Of these, the three-month operating reserve was viewed as emergency funds in the event of low cash flow. The building, equipment and ODS reserves were viewed as funds available for the procurement, replacement or maintenance of the building and equipment. This enabled staff to effectively manage these assets without the constraint of having to accommodate such procurements or replacements within the annual operating budget.

Each of these reserve funds had established limits. After purchasing needed equipment or repairs to the facility from these funds, the funds were replenished in the succeeding fiscal years budgets as funds allowed to maintain the established limits.

In June 2005, the Program & Finance Committee acted to define the reserve funds as restricted for emergency use only. All projected equipment purchases and facility maintenance was to be accounted for in the fiscal year operating budget. As ORSANCO moved into tighter budgeting cycles, many times, proposed needed equipment or facility repairs could not be accommodated in the budget, therefore put off to future years.

Future Considerations

Staff has reviewed and evaluated the reserve funds, considering cash flow needs and possibly more effective methods of managing equipment procurement and facility repairs.

Option:

1. Operating Restricted Reserve Fund of \$600,000
 - Emergency funds to cover operating expenses in times of low cash flow or other emergency situations.
 - Front fund from existing reserve funds.
 - Executive Director is permitted to approve emergency reserve spending, with the exception that any expenditure in excess of \$10,000 must be advance co-approved by both the Executive Director and the Commission Chairman.
2. Building & Equipment Capital Account (Non-Restricted)
 - Front fund with \$142,000 of existing reserve funds.
 - Develop internal process to charge for vehicle and equipment usage to grants to grow this fund to accommodate future needs.
 - Expenditures for equipment procurement and facility repairs would utilize these funds following established Procurement Procedures with Executive Director approval.
 - This would provide more flexibility to manage assets and take some pressure off the annual operating budget.
3. ODS Equipment Capital Account
 - Utilize the remaining \$250,000 to front fund the ODS “sinking fund” for future system replacement.
 - Initiate marketing plan to highlight the benefits of the ODS system.
 - Develop and implement a funding plan to increase the ODS reserve balance to \$1.5M over a five year timeframe.

This option may serve to provide more effective asset procurement and facility maintenance, while at the same time preserving a reasonable level of collective funds in both restricted and non-restricted accounts to protect ORSANCO in the event of an emergency or short-term loss of funding.

OHIO RIVER VALLEY WATER SANITATION COMMISSION

RESOLUTION 3-18

MOTION TO (i) ADOPT THE RECOMMENDATIONS OF THE AD HOC COMMITTEE ON POLICIES AND PROCEDURES, AND (ii) REPEAL CERTAIN GOVERNANCE DOCUMENTS

WHEREAS, the Commission has adopted numerous items variously called resolutions, policies, and procedures (“governance documents”) since its establishment in 1948 that have not been organized in a manual or other mechanism for tracking these documents; and

WHEREAS, on July 24, 2017, Chairman Bruny established an Ad Hoc Committee on Policies and Procedures (“Committee”) to (1) inventory ORSANCO’s existing governance documents; (2) develop definitions to efficiently and effectively categorize existing governance documents; (3) develop protocols for properly naming and categorizing governance documents created hereafter; (4) review and properly categorize existing governance documents; (5) develop a recommendation to the Commission regarding the continued relevance of existing governance documents; and (6) identify gaps in governance documents and recommend a course of action to close those gaps; and

WHEREAS, the Committee held several meetings and worked with ORSANCO staff to reasonably identify existing governance documents, including a review of ORSANCO files and Commission meeting minutes over the past 30 years; and

WHEREAS, the Committee reviewed all governance documents that were identified and developed recommendations for how each should be categorized and what further steps should be taken;

IT IS THEREFORE HEREBY MOVED THAT THE COMMISSION ADOPT THE COMMITTEE REPORT AS FOLLOWS:

1. The Governance Document Category Definitions and Protocols (“Definitions”) (Attachment 4) and related Organizational Chart (Attachment 5) are hereby adopted and shall guide the categorization of all future governance documents.

2. The document titled *Policy on Dissolved Oxygen Monitoring Requirements for Ohio River Hydroelectric Power Generating Facilities* (May 26, 1988) is a potential Pollution Control Standard and shall be referred to the Pollution Control Standards Committee for potential incorporation into the Standards.

3. The document titled *Request for the Compact States and US EPA to Consider, Where Possible and Appropriate, the Commission as an Agency to Receive Funds Resulting from the Exercise of their Enforcement Authorities* (Jan. 10, 1991) is a Commissioner Applicable Administrative Procedure under the Definitions.

4. The document titled *Statement of Policies* (May 9, 1997) is redundant of ORSANCO’s Compact and strategic plan. It is hereby repealed.

5. The document titled *Development and Communication of Ohio River Site Specific Criteria* (May 13, 1999) is not an appropriate stand-alone policy. It is hereby repealed. It shall be referred to the Pollution Control Standards Committee for consideration.
6. The document titled *Principles of Ethical Conduct* (Oct. 11, 2001) is a Policy under the Definitions.
7. The document titled *Rules of Procedure for Public Hearings* (Oct. 10, 2002) is currently in the ORSANCO Bylaws under Section XIII and Appendix A thereto. Section XIII shall be unchanged, and Appendix A is a Policy under the Definitions.
8. The document titled *Protocol for Addressing Interstate Inconsistencies* (Oct. 10, 2002) is outdated. It is hereby repealed. It shall be referred to the Pollution Control Standards Committee for consideration.
9. The document titled *Policies Concerning Confidentiality and Conflict of Interest During Investigation and Enforcement Proceedings* (June 10, 2004) is a Policy under the Definitions.
10. The document titled *Establishing Commission Policy Concerning Involvement in Enforcement* (Jun 23, 2005) is an existing Pollution Control Standard, which shall remain in effect and be referred to the Pollution Control Standards Committee.
11. The document titled *Process for Executive Director Performance Evaluation* (June 14, 2007) is a Staff Applicable Procedure and shall be incorporated into the Administrative Procedures.
12. The document titled *Tuition Reimbursement Policy and Procedures* (June 12, 2008) is a Staff Applicable Procedure and shall be incorporated into the Administrative Procedures.
13. The document titled *Implementation of the Ohio River Valley Water Sanitation Compact Throughout the Compact District* (June 23, 2010) is not appropriately categorized as a governance document. It is hereby repealed and shall be referred to ORSANCO staff for consideration in the Commission's strategic planning process.
14. The document title *State Funding Collection Process and Policy on Non-Payment* (June 9, 2011) is a Policy under the Definitions. It should be placed on a future Commission agenda for potential revision.
15. The document titled *Policy on Use of Data from External Sources* (June 12, 2014) is a Policy under the Definitions.
16. The document titled *Protocol for Providing Commission Comments and Positions* (discussed but not adopted at Oct. 9, 2014 Commission Meeting) is a Commissioner Level Administrative Procedure under the Definitions. It is hereby adopted.
17. The document titled *Reserve Accounts* (Oct. 9, 2014) is a Commissioner Level Administrative Procedure under the Definitions. The Program and Finance Committee has recommended modifications, which are being considered at the June Commission meeting.

IT IS FURTHER MOVED AS FOLLOWS:

Exclusive of the Compact, Bylaws, and Administrative Procedures of ORSANCO, all resolutions, policies, procedures, or other documents (no matter how labeled) intended to govern the activities of ORSANCO that were not identified by the Committee's reasonable inventory of governance documents over the last 30 years are hereby repealed. This paragraph does not apply to or affect recommendations made by the TEC Committee and approved by the Commission.

If any such governance document is identified hereafter, it shall be reported to the Commission for specific action.

PCS Comments by Tom FitzGerald
June 2018 Commission Meeting – June 7, 2018

First of all, I would like to say that how much I appreciate the discussion that we have had as part of the Pollution Control Standards Committee on this issue. I appreciate all of the comments we have received both from the public and from the various advisory committees to the Commission. I would ask, and I did mention, that I would be opposing the motion, and I wanted to just very briefly reiterate my concerns. First, as one of the two Federal Commissioners, it has been an honor to represent one of the partners to a historic Compact among the States in the Ohio River Basin, which pre-dated by some sixteen years the adoption of the 1972 Water Pollution Control Act, and which I believe continues to have a vital role in setting standards for the control of discharges of pollutants into the Ohio River Basin.

I take my direction both from the Compact, which the Federal Government is a part of, and which has been endorsed by Congress, and I take it also from the goal of the Clean Water Act and its amendments, which was an aspirational goal of attempting to end water pollution by 1985. We have, and the States have, made great strides; however, as is reflected even using the weight of the evidence approach in the 305b report, we have a way to go yet in order to restore and maintain the health of this great River.

My concerns with going forward with alternative 2 for the second round of public comment are several. First, I believe that the proposal, which jettisons all of the numerical standards and a number of the other provisions in the current Pollution Control Standards, is inconsistent with the Compact and with our obligations as signatories to the Compact. Second, I believe that the evidence that has been developed regarding the relationship of the standards to individual state standards and of the necessity, or lack of necessity, for continuing the standards, is largely anecdotal. The only analysis that we have was prepared by staff, comparing the minimum water quality criteria of ORSANCO's 122 minimum criteria, and as you will recall, it reflects that there is not redundancy, which is the underlying premise that animated the development and the advancing of alternative 2. There are instances in which there are standards that ORSANCO has adopted that the States have not adopted, and there are instances where ORSANCO's standards are more rigorous than those that have been adopted by the individual states.

The PCS are not redundant. Understanding the very astute observation by one of my fellow Commissioners, that the presence or absence of the same standard does not necessarily correlate to better or worse protection of the aquatic resource and the functions and values of that resource, it was incumbent on us to take the next step and to measure the relative effectiveness of each state's implementation of the PCS.

We did not, as a Committee, and we have not, as a Commission, done the legwork that is necessary to determine whether, in the absence of those comparable standards, a given state's program is comparable in terms of the level of protection achieved. And until we get to that point of saying that despite the differences in the values of the standards or the number of the stringency of the standard, that the state is doing the equivalent of what would be required under the standards, we cannot, I think, in good conscience say that the standards no longer have currency and no longer give good value.

Another concern, (and I know that this has, at least on our conversations in committee, evoked some negative response), is that it is a fairly accurate to say that the current management at the Environmental Protection Agency, at the national level, has signaled that there will be delays and possibly repeals of the number of provisions that directly affect discharges into this great River.

Given the uncertainty that is occurring with respect to the national rules, I don't know that this is the time for us to signal a retreat from the historic function of the Commission of setting standards and encouraging the states to work cooperatively to assure that those standards are implemented.

I did note, and I appreciate the dry and important work of the Ad Hoc Committee on policies and procedures, that the alternative that I had offered as part of this process, which is to look at harmonizing the state implementation of standards to protect the various uses, in fact, with an existing policy dating back to 2002, which we just repealed a couple of minutes ago and are referring back to the Pollution Control Standards Committee. That is where I hope there is fertile ground for looking at and eliminating redundancy and looking at and harmonizing the way that standards are applied in permit processes in order to assure consistency, in order to prevent pollution, which of course is the premise behind the 1972 Clean Water Act, and to assure that we are continuing to make progress on restoring and maintaining the functions and values of this great River. So, with that, and because this has been such a divisive issue, not only in terms of the Commission, but in terms of the various committees, and because it has justifiably called into question in some in the eyes of some, our commitment to maintaining and advancing the Compact, because there is no unanimity among the various states that are involved in the Compact, and because of great concern that moving forward at this point will disrupt efforts to improve water quality; for all of these reasons, I would ask that we vote against sending alternative 2 out for the second round of the triennial review, and that instead, we reconsider more nuanced efforts to maintain the currency of the Pollution Control Standards and to address those rare instances in which there is conflict among the states in implementation of the PCS.