

OHIO RIVER VALLEY WATER SANITATION COMMISSION

PUBLIC HEARING

2019 Public Review of Pollution Control Standards  
for Discharges to the Ohio River

Cincinnati Area Hearing to Accept Public Comment

April 8, 2019

Location: Holiday Inn Cincinnati Airport  
1717 Airport Exchange Boulevard  
Erlanger, Kentucky 41018

ATTENDEES:

Hearing Board:

John Kupke

Craig Butler

Staff:

Richard Harrison

Jason Heath

Lisa Cochran

1           MR. KUPKE: It is now 6:00 on Monday,  
2 April 8, 2019, and I hereby call this hearing to  
3 order. I wish to welcome you all and thank you for  
4 attending. This hearing is being held to receive  
5 comments on a proposed revision to the Ohio Valley  
6 River Sanitation Commission's pollution control  
7 standards for discharges to the Ohio River.

8           My name is John Kupke. I'm an ORSANCO  
9 commissioner representing the State of Indiana. I  
10 currently serve as the commissioner indicated for  
11 Indiana, and I currently serve as the commission  
12 vice chairman. With me today, comprising the  
13 remainder of the hearing board, is proxy  
14 commissioner Craig Butler to my right, representing  
15 Ohio on behalf of Laurie A. Stevenson.

16           This hearing was announced in a notice  
17 that was published and distributed on March 1, 2019  
18 pursuant to the Commission's bylaws by the  
19 Commission's website through 3,266 e-mails to  
20 interested parties, to 197 media outlets, and to 719  
21 Ohio River permittees. A copy of the notice is  
22 available on the table at the entrance and a copy of  
23 the notice will be entered into the record.

24           This hearing has been called under the  
25 authority of the Ohio River Valley Water Sanitation

1 Compact. That document was signed on June 30, 1948  
2 by the governors and their appointed representatives  
3 of the States of Illinois, Indiana, Kentucky, New  
4 York, Ohio, Pennsylvania, Virginia, and West  
5 Virginia, following an enactment of enabling  
6 legislation by each of the states and approved by  
7 the United States Congress.

8 Under Article 1 of the compact, each of  
9 the signatory states promises to take such action as  
10 needed to place and maintain the waters of the  
11 compact district in a safe and sanitary condition  
12 available for use as public and industrial water  
13 supplies after reasonable treatment suitable for  
14 recreational usage, capable of maintaining fish and  
15 other aquatic life, free from unsightly or  
16 malodorous nuisance, and adaptable for such other  
17 uses as may be legitimate.

18 That is a mouthful, but those are words  
19 right out of the compact in terms of the water usage  
20 we are intent of protecting.

21 This hearing has been called under the  
22 authority of Compact Article 6, which authorizes the  
23 Commission to adopt, prescribe, and promulgate  
24 rules, regulations, and standards for treatment or  
25 modification of sewage and industrial waste to such

1 degree as may be necessary to meet the river quality  
2 objectives specified in Article 1, those were noted  
3 above, after due notice and public hearing.

4           On January 10, 2018, this Commission  
5 issued public notice of its intent to conduct a  
6 review of its pollution control standards. The  
7 Commission's Pollution Control Standards Committee  
8 is proposing to revise its pollution control  
9 standards for discharges to the Ohio River, that  
10 being 2015 revision.

11           The purpose of this hearing is to receive  
12 comments on those proposed revisions in order to  
13 assist the Commission as it considers what action it  
14 will take with respect to those proposed revisions.

15           Let me emphasize, and this is important,  
16 that no final decision has been made with respect to  
17 the proposal before you for comment. Your comments  
18 will be an important element in informing the  
19 Commission and as part of the decision-making  
20 process.

21           At this time I would like to call on  
22 ORSANCO staff to provide a brief statement  
23 highlighting the proposed revisions that ORSANCO is  
24 offering for your comment tonight. Richard.

25           MR. HARRISON: Thank you, sir.

1 MR. KUPKE: You can introduce yourself.

2 MR. HARRISON: I will, I appreciate that,  
3 sir.

4 My name is Richard Harrison. I am  
5 ORSANCO's executive director, and I am here tonight,  
6 several of our staff members are here, with me is  
7 Jason Heath in the back, and the two of us are going  
8 to go through the proposal in a little bit of  
9 detail, but this won't take long, and we're going to  
10 go ahead and talk about the proposal. I'm going to  
11 take some time and talk about ORSANCO, who we are  
12 and in some ways who we're not, and then also really  
13 what are the programs that we do, what does ORSANCO  
14 do, and then also just kind of talk going through  
15 the timeline of the last four years or so, and I'm  
16 going to try to do that in about ten minutes. So  
17 it's a lot of information to put together here  
18 pretty quickly.

19 So with us, as Commissioner Kupke  
20 presiding over the hearing board today mentioned,  
21 with us today we have John and we have Commissioner  
22 Butler, and then Commissioner Tom Fitzgerald was  
23 planning to be here, but he ended up having  
24 something come up, an emergency that he had to work  
25 through and he sends his regrets.

1           The purpose of the public review is to  
2 solicit input from the public on proposed specific  
3 revisions to the pollution control standards for  
4 discharges to the Ohio River, 2015 revision. So  
5 that is the revision that was finalized in October  
6 of 2015 and it is still in force.

7           The purpose of this hearing is to accept  
8 public comment on the proposed specific revisions to  
9 the 2015 document. So we are here to hear your  
10 testimony and then also to enter that into public  
11 comment. We will not be responding to the  
12 testimony. This is an opportunity to have outreach  
13 and to provide various means to receive comment from  
14 the public.

15           So after this brief presentation, we will  
16 be inviting you -- Commissioner Kupke will be  
17 inviting you to come and make a formal statement for  
18 the record. We have a wonderful court reporter here  
19 writing down everything that we say and will be  
20 really transcribing everything verbatim. All of  
21 your statements will be entered into the record.  
22 You may also have written comments that you'd like  
23 to leave with us. I'll be sitting up here in front,  
24 please after you make your comments, just leave  
25 those with me and I'll make sure we get those into

1 the record as well as far as the written comments.  
2 And then please limit your statements to five  
3 minutes or less to allow everyone the opportunity to  
4 comment. I have also been told it would be nice to  
5 be able for folks to make the basketball game  
6 tonight, so we will try to keep this moving as  
7 quickly as we can but still allow plenty of time for  
8 you to make your comments, and we'll start that here  
9 in a moment.

10 So who is ORSANCO. ORSANCO was formed  
11 through the foresight of its eight member states and  
12 working with the federal government. And we were  
13 brought together to basically control interstate  
14 water pollution with the compact district. Our  
15 states are Illinois, Indiana, Kentucky, New York,  
16 Ohio, Pennsylvania, Virginia, and West Virginia, and  
17 then the federal government is also a part of the  
18 compact.

19 We have three commissioners from each of  
20 the states and then three appointed by the  
21 President. And so together these 27 commissioners  
22 make up our board of directors, if you will, our  
23 policy board. And it's the compact that actually  
24 sets our mission and really provides us the  
25 operating guidance that we utilize, and that was a

1 big part of the proposal that we're going to be  
2 presenting here tonight.

3           So a little bit of background. This has  
4 been a lengthy process. The ad-hoc committee that  
5 was formed to actually begin the current discussion  
6 was in June 30, 2015. However, in 2014, there was  
7 an ad-hoc committee that started work even before  
8 this one. So we've been involved in this for  
9 probably well over four years. So it's not  
10 something that the Commission has taken lightly in  
11 any way, shape, or form.

12           And so really in working through this, a  
13 lot of it came from a question about how states are  
14 able to incorporate ORSANCO's criteria. It's  
15 important to recognize that although ORSANCO does  
16 have authority in its compact to provide  
17 enforcement, that this has largely, with very few  
18 exceptions, always been accomplished by our member  
19 states. And so when ORSANCO has put together  
20 pollution control standards or criteria, that has  
21 always been done with those standards then being  
22 implemented through the states' probating processes  
23 in working with US EPA.

24           So the states have their own criteria  
25 that have been approved by US EPA and our criteria



1 largely comes from the US EPA's recommended  
2 criteria. So if you think about the process, we  
3 typically will adopt US EPA's recommended criteria.  
4 Well, that's the same criteria that our member  
5 states are working with to adopt. A lot of the  
6 differences come in timing, but there was thought to  
7 be some potential level of redundancy with that  
8 since all of these are standards for the Ohio River.

9           And so really the committee stepped back  
10 and looked at that and really raised a question  
11 beyond just how the states are implementing our  
12 criteria, and that is, you know, has the pollution  
13 control standards of ORSANCO become potentially  
14 redundant to what the states are already doing with  
15 the Clean Water Act. So that was a pretty  
16 fundamental question.

17           It made this review a little different  
18 than our normal review. Normally every three years  
19 we would look at EPA's latest criteria, we would  
20 consider adopting them, we would look at other  
21 criteria. So every three years we would do a very  
22 specific review where we would potentially update  
23 criteria. This is a much more holistic review that  
24 really steps back and looks kind of foundationally  
25 at ORSANCO's role in pollution control standards and

1 is it really where the Commission should be right  
2 now. So that's a big difference.

3           So through this process, the ad-hoc  
4 committee, which is an ad-hoc committee of  
5 commissioners, developed five alternatives. These  
6 alternatives vary from essentially just eliminating  
7 the entire pollution control standards program to  
8 even making the program more regimented and then  
9 several in between.

10           And so the committee came from -- through  
11 a majority the committee ended up recommending  
12 something that is called preferred alternative  
13 number 2. Essentially that alternative would have  
14 effectively eliminated ORSANCO's criteria. It would  
15 have kept components of wastewater discharge  
16 requirements, our designated uses, but it would  
17 essentially sunset ORSANCO's criteria relying on our  
18 member states and their programs. So that was what  
19 was actually put out for comment.

20           ORSANCO utilizes a two-step process, a  
21 very thorough process. So the first step is a  
22 process that says, hey, this is what we're thinking,  
23 this is what the Commission is thinking, we would  
24 like your comments on this and even the other  
25 alternatives and what else should we be considering.

1 So that was done last January. That was kind of the  
2 first phase.

3 And then the second phase is a phase, and  
4 I'm not going to go through all this verbatim, but  
5 the second phase really gets into the more thorough  
6 detail of a specific proposal. And again that was  
7 centered around expanded alternative number 2 that  
8 would have effectively eliminated criteria.

9 I want to take just a moment and talk  
10 about ORSANCO's programs, what we do as an  
11 organization. We're made up of 19 great staff  
12 members. So we have a very, a very highly qualified  
13 but efficient staff. These folks work on everything  
14 from monitoring for fish health, fish populations,  
15 macroinvertebrate, bug health, to monitoring of  
16 every pool for water quality on a bimonthly basis.  
17 We do a number of special studies.

18 Anytime there's a spill in the river, we  
19 get about 600 reports a year for potential spills.  
20 Now, typically about 30 of those might require a  
21 response, but we, 24/7 we monitor those spills, and  
22 if there's a major spill in the river, you can bet  
23 that ORSANCO is part of that response group. So we  
24 pride ourselves on working with the 30 drinking  
25 water utilities that serve five million or so folks

1 on the river. So think about that with 19 staff.

2           We have a number of technical scientists  
3 that work on crews. We're centered in Cincinnati.  
4 So we haul our boats up 500 miles each way on the  
5 river and we do a lot of science on each of the 20  
6 pools. We do electrofishing. So that's really our  
7 specialty. We have great science, we have decades  
8 of data. We can really lay out the condition of the  
9 river for a number of contaminants.

10           And then our criteria has specifically  
11 supplemented that, but again the states are the ones  
12 that ultimately implement that. And in a lot of  
13 ways we are our member states. Sometimes you'll  
14 hear we tell our states what to do. I can tell you  
15 that it's the states working collaboratively through  
16 ORSANCO as a vehicle to try to be efficient, and  
17 that served us for about 70 years.

18           That's just kind of a little background  
19 as we get into the second public review. And that  
20 did work through a public hearing. A lot of you  
21 folks were probably here, gosh, last summer in the  
22 same building. We ended up having about 6,000  
23 comments. Largely the folks were not in favor of  
24 that proposal that would have essentially eliminated  
25 the criteria.

1           So the Commission listened, listened to  
2 that. They really tried to digest all the comments  
3 and through the Pollution Control Standards  
4 Committee, which is the committee that ultimately  
5 facilitates the review, and these two folks are on  
6 that committee as part of the hearing board, they  
7 listened and they really stepped back. And they had  
8 several goals. The proposal which was called  
9 expanded alternative number 2 was not unanimously  
10 supported by the Commission. So they wanted to  
11 really reach more of a consensus amongst the  
12 Commission and they wanted to listen to the public  
13 comments, but still maintain some of those  
14 fundamental goals that the states and the Commission  
15 had to make sure our program is efficient, that  
16 ORSANCO is operating in a space where our strengths  
17 are maximized, and that the states and EPA are  
18 really focusing on their strengths that rely around  
19 enforcement and the development of standards.

20           And so the Pollution Control Standards  
21 Committee asked the Commission in October to take a  
22 step back. So no decision was made in October to  
23 move forward with the proposal. So in a way we've  
24 gone into overtime here. We're actually going into  
25 a somewhat unprecedented third review. Because what

1 the committee came up with was something that was  
2 totally different than what was being proposed.  
3 Really step back and made fundamental changes to the  
4 proposal. So that necessitated another review and  
5 another round of comments, which is why we're here  
6 tonight to try to secure your input.

7           So through the work of the Pollution  
8 Control Standards Committee, a new proposal was  
9 devised and that was presented to the Commission at  
10 its February meeting, and the Commission voted to  
11 move forward with the revised proposal in terms of  
12 putting it out for public comment. So that's where  
13 we are. We had a March 1st to April 15 comment  
14 period.

15           And so with this proposal, the  
16 recognition was there that the pollution control  
17 standards should be kept, they should be there to  
18 make sure the designated uses of the river are being  
19 met. Those are uses related to making sure that the  
20 river is suitable for drinking water and industrial  
21 water supplies, drinking water supplies after  
22 suitable treatment, protecting aquatic life, fish  
23 consumption, and recreation. Those are really the  
24 main goals of this proposal.

25           And so through this, the proposal really

1 again focused on that, but we would keep the PCS.  
2 We would also make the pollution control standards  
3 available for new contaminants concerned. You hear  
4 a lot about emergent contaminants. And so by  
5 keeping the standards, this would allow that to be  
6 in place for that.

7           However, if this proposal moves forward,  
8 it would allow the states the flexibility to utilize  
9 the standards or potentially deviate as long as they  
10 are meeting the uses of the river.

11           And so there will be an element of this  
12 that would continue review of permits by our staff.  
13 And our staff instead of focusing on the specifics  
14 of each criteria, we would be focusing on the end  
15 result of a discharge into the river, making sure  
16 that the permit provides comparable protection had  
17 the states actually used ORSANCO's criteria in those  
18 cases where they're deviating.

19           So that's an important distinction. This  
20 is very different than the original proposal.

21           So at this point, I went through that  
22 very quickly, a lot of information, I'm going to  
23 turn it over to Jason Heath. Jason is our technical  
24 programs director and he manages really all of our  
25 technical programs and will be working through the

1 specifics of the current review.

2           And again, thank you all for being here  
3 this evening.

4           MR. HEATH: Good evening. And  
5 congratulations on having the largest turnout of the  
6 three hearings that we've held so far. We had about  
7 25 folks show up in Pittsburgh and 35 in Evansville.

8           So I am going to read a couple sections  
9 of paragraph 4 on page 2 of the redline version of  
10 the standards, which shows all of the changes. And  
11 this is really the crux of the, the main changes to  
12 the standards. There are other changes aside from  
13 what I'm going to point out here, and I would  
14 encourage you to either get a hard copy that we  
15 brought tonight or it's available on our website as  
16 well to look at the other changes.

17           So on page 2, the 4th paragraph, it says,  
18 "It is recognized by the Commission that the  
19 permitting and water quality standards development  
20 processes of the individual states may vary, as  
21 contemplated by the compact, due to a number of  
22 factors, including administration of the  
23 federal/state National Pollutant Discharge  
24 Elimination System as established in the federal  
25 Clean Water Act."



1           And then the paragraph goes on to say,  
2 paragraph 4 goes on to say, "It is recognized  
3 further by the Commission that each discharge permit  
4 issued pursuant to the Clean Water Act or other  
5 federal or state law may not contain requirements  
6 addressing one or more of the pollution control  
7 standards. The Commission, and each signatory  
8 state, have committed to implementation of discharge  
9 permit limitations that provide comparable use  
10 protection and achievement of the compact goals as  
11 provided by these standards. To that end, each  
12 signatory state will provide notice and an  
13 opportunity for comment to the Commission of any  
14 proposed or draft discharge permit to the main stem  
15 of the Ohio River." So that is the main change in  
16 this proposal.

17           I'm going to go on, probably have two or  
18 three more slides just talking about the  
19 administrative aspects of this public review. We  
20 opened the 45-day public review on March 1st. And  
21 then we held informational webinars on March 12 and  
22 14. The purpose of those was really to answer  
23 questions. And then the three public hearings, the  
24 one in Pittsburgh on April 1st and the hearing in  
25 Evansville on April 4th, those were both last week,

1 and then tonight's hearing. And the public review  
2 period will close at the end of the day on  
3 April 15th.

4           So in terms of notification of this  
5 public review, we sent out the public notice to  
6 approximately 200 media outlets, well over 3,000  
7 citizens and ORSANCO affiliates that we have an  
8 e-mail distribution list for, and then for all of  
9 the Ohio River permitted discharges we always send  
10 hard copy in the form of a postcard to let them know  
11 that the review has been opened.

12           We do have a website. It was established  
13 to specifically support this public review. Please  
14 visit it. You should be able to find all of the  
15 materials that you would need to submit your  
16 comments to us.

17           So how to comment. They must be  
18 submitted by the end of the day on April 15th.  
19 Instructions are on the website, but basically  
20 e-mail, that would be the preferred method for us.  
21 It makes it a little easier for us to manage the  
22 large number of comments that we receive. And they  
23 would go to PCS@ORSANCO.org. Please don't include  
24 any attachments to the e-mail. That's really an  
25 instruction from our IT support person who is

1 concerned about our data systems. And then you can  
2 always send by regular mail to our mailing address.

3 All of your comments today will become  
4 part of the official record, as Richard has already  
5 pointed out. And again there's the address for our  
6 website.

7 And with that --

8 MR. KUPKE: Thank you, Richard, and just  
9 following you, Jason.

10 I will now open the floor to statements  
11 on the proposed revision. If you are making a  
12 statement, please use the microphone which is right  
13 up here. And begin by identifying yourself and, as  
14 appropriate, the organization you represent so that  
15 it will appear correctly in the record. It will be  
16 appreciated if you could submit a written copy of  
17 your statement, and as was mentioned by Jason also,  
18 either now or within the remainder of the comment  
19 period that closes on April 15, 2019.

20 There are a number of persons that have  
21 expressed interest in offering comment today. I  
22 think the cards up here right now indicate about 21.  
23 That is a good turnout and we have a lot of people  
24 interested in speaking. To allow everyone an  
25 opportunity to comment, I ask that everyone keep

1 their comments to five minutes or less. I will  
2 advise each presenter, I'll nod or will communicate  
3 when the clock strikes four minutes remaining. I  
4 would appreciate your cooperation in bringing your  
5 comments to a close when I announce the five minutes  
6 have elapsed.

7 We will begin with those who have signed  
8 in and indicated their interest in making a  
9 statement. After those persons have spoken, we'll  
10 then ask if others would like to comment. So we'll  
11 now begin. I'll mention too that we've kept the  
12 cards in the order that you signed in. So if you  
13 came here when the room was about half full, then  
14 you will be speaking in kind of the middle here, and  
15 if you came at the very end, likewise you'll in turn  
16 be commenting at the very end.

17 Our first speaker tonight is Janet Smith.

18 JANET SMITH: I'm Janet Smith from the  
19 Cincinnati League of Women Voters. Esteemed  
20 Commissioners, thank you --

21 MR. KUPKE: Can you please speak into the  
22 microphone. If you could start again just so  
23 everybody can hear you.

24 JANET SMITH: Sure. I'm Janet Smith from  
25 Cincinnati League of Women Voters. Esteemed

1 Commissioners, thank you for listening to the outcry  
2 that is urging you to continue to develop and  
3 administer ORSANCO's pollution control standards.  
4 Many public comments say they want ORSANCO to  
5 protect the public's health and not compromise on  
6 standards in the state enforcement regardless of  
7 budget considerations, pressure by industry, or  
8 anything else.

9           The League of Women Voters of the  
10 Cincinnati area opposes the current draft of the  
11 pollution control standards which permits ORSANCO  
12 pollution control standards to be voluntary. We  
13 encourage you to keep them mandatory for all states.

14           Why now? We do not have a clear  
15 understanding why ORSANCO wants to relax pollution  
16 control standards just at the time the current  
17 administration is rolling back federal EPA  
18 regulations and industry is planning development of  
19 a new petrochemical infrastructure housed in the  
20 Ohio River Valley. This seems the time to shore up  
21 our standards and remain strong.

22           Voluntary standards for states will  
23 eliminate accountability and put health at risk for  
24 five million people using its drinking water, for  
25 recovering Ohio River ecosystems. States should be

1 allowed to deviate from the standards only with  
2 supporting scientific reasoning and a fully  
3 transparent public participation process, including  
4 public hearings.

5           ORSANCO should continue to evaluate  
6 discharge permits issued by the states. ORSANCO  
7 should develop an annual report to summarize the  
8 findings for the public so you can identify any  
9 problem areas that don't meet standards.

10           The League agrees with many others who  
11 say ORSANCO is not broke, so don't fix it. We value  
12 your 70 years of work and want you to continue  
13 making the Ohio River Valley a safer waterway for  
14 drinking, for recreation, for a strong unpolluted  
15 ecosystem along its entire length.

16           Thank you for letting us speak. We urge  
17 you to continue your good works, setting standards  
18 and monitoring the Ohio River and to vote for your  
19 pollution control standards to be mandatory in all  
20 Ohio River states. League of Women Voters of the  
21 Cincinnati area.

22           MR. KUPKE: Thank you, Ms. Smith.

23           The next speaker will be Chris Tavenor.  
24 I hope I've said that correctly. Close?

25           CHRIS TAVENOR: Close. Good evening. My

1 name is Chris Tavenor, and I am here on behalf of  
2 the Ohio Environmental Council.

3 I want to begin by thanking the  
4 commissioners for their meaningful engagement on the  
5 pollution control standards. Last year at this time  
6 we were considering a complete elimination of the  
7 numeric sections, so that we're here today  
8 considering a new proposal is worth noting.

9 However, the OEC, like many other  
10 organizations and community members, do not believe  
11 the new proposal does enough to protect the Ohio  
12 River. We oppose ORSANCO's decision to make the  
13 pollution control standards voluntary on a state by  
14 state basis. The Ohio River will not benefit from  
15 inconsistent standards amongst its bordering states.

16 If ORSANCO moves forward with the new  
17 proposal, and I emphasize "if" because the standards  
18 should remain mandatory, the OEC has three  
19 suggestions for modifying the current proposal.

20 So first, ORSANCO should require states  
21 that do not adopt the pollution control standards to  
22 provide a scientifically backed justification for  
23 their decision. The public deserves to know why  
24 their state environmental agency cannot follow the  
25 same rules as other states along the Ohio River. In

1 the justification states should also demonstrate how  
2 their rules are as equally protective as the  
3 pollution control standards.

4           Second, ORSANCO should consider  
5 developing a more transparent process through which  
6 the public can observe the interaction between the  
7 Commission and environmental agencies when  
8 commenting upon permits discharging into the river.

9 One good thing about the new proposal is that it  
10 enshrines ORSANCO's commenting process on permits in  
11 the standards. Even if it's just an easy way to  
12 subscribe to a new letter or something else like  
13 that, a more transparent process will go a long way  
14 toward helping interested individuals understand how  
15 ORSANCO engages with the permits.

16           Third, whether the pollution control  
17 standards are mandatory or voluntary, it needs a  
18 mechanism through which interested organizations and  
19 individuals can provide information regarding  
20 emerging contaminants. The US EPA is taking way too  
21 long to regulate these dangerous pollutants like  
22 PFAS or microcystin. And so if the pollution  
23 control standards are to represent an ideal water  
24 quality standard for the Ohio River, it should leap  
25 ahead of the federal process and provide the states



1 with suggested values to protect against these  
2 emergent contaminants.

3 Through the triangular review process,  
4 whether the standards are mandatory or voluntary,  
5 ORSANCO should include a clear procedure by which  
6 parties can provide scientific data about the  
7 dangers of pollutants not yet listed in the  
8 pollution control standards.

9 The OEC will be submitting more detailed  
10 comments on these points prior to the April 15th  
11 deadline. We look forward to the continuation of  
12 the process and hope in the end you will have  
13 pollution control standards that are mandatory and  
14 protect the Ohio River effectively along all its  
15 banks.

16 Thank you.

17 MR. KUPKE: Thank you.

18 The next speaker will be Joanne Gerson.

19 JOANNE GERSON: Thank you for this  
20 opportunity. We appreciate it. I also appreciate  
21 the two speakers in front of me.

22 ORSANCO commissioners, please keep  
23 mandatory pollution control standards. I'm here  
24 tonight representing over 360 people from Shomrei  
25 Olam, a nonprofit organization in Cincinnati, to

1     urge you to vote to continue to make mandatory  
2     rather than optional ORSANCO's pollution control  
3     standards along the Ohio River. Your recent  
4     proposal to change the standards into guidelines and  
5     comments on discharge permits is the reason for our  
6     tremendous concern.

7             Since 1948 when ORSANCO was formed to  
8     establish and regulate common pollution control  
9     standards for all eight states in the Ohio  
10    watershed, Article 1, as you mentioned, but you  
11    didn't mention that they also stated the abatement  
12    of the existing pollution in the waters of the Ohio  
13    River basin are of prime importance to the people  
14    and can best be accomplished through the cooperation  
15    of the states situated therein and by and through a  
16    joint or common agency. Allowing each state to  
17    determine which standards they may adhere to cancels  
18    out the function and purpose of ORSANCO.

19            Under voluntary pollution control  
20    standards any state may be swayed by greed to reduce  
21    pollution standards on industry discharge permits in  
22    order to bring industry into their state. From your  
23    outstanding history of protecting the Ohio River,  
24    ORSANCO has shown time and again that jobs and  
25    health are compatible endeavors. History has also

1 shown that without the muscle of ORSANCO's mandatory  
2 pollution standards, health loses. Only one need to  
3 look at the fights that ORSANCO has endured and the  
4 battles to maintain a clean river. Please do not  
5 quit.

6 Water sources are also contaminated by  
7 rain runoff from such things as oil slick, road  
8 construction, mining and dumping sites, and  
9 livestock waste from farm operations, leaky septic  
10 tanks, pesticides, and fertilizers, all among the  
11 other sources that contaminate our rivers.

12 Over 40 percent of the American waterways  
13 are considered unsafe for swimming and fishing.  
14 Additional water sources -- resources face an  
15 ongoing threat from man-made environmental disasters  
16 such as the 2014 fracking explosion in eastern Ohio  
17 or the 2015 train oil spill.

18 By eliminating the coordination --  
19 coordinated pollution control standards for industry  
20 and municipal waste discharges to the Ohio River,  
21 each state along the Ohio River will be able to set  
22 its own standards for what it considers appropriate  
23 for aquatic life, human health, and safe drinking  
24 water.

25 If one state chooses to lower what it

1 considers safe drinking water standards, it can  
2 adversely affect all five million people who draw  
3 their drinking water from this river. It could  
4 possibly lead to drinking water disasters that  
5 recently occurred in Flint, Michigan and Western  
6 Lake Erie.

7           We cannot understand why anyone would  
8 want a system that has been so successful for these  
9 many years to be changed to lower standards. To  
10 that end we request that the ORSANCO commissioners  
11 vote no on the ORSANCO recent proposal. Please keep  
12 the mandatory pollution standards in place.

13           Thank you.

14           MR. KUPKE: Thank you, Mrs. Gerson.

15           And this is now Myron Gerson.

16           MYRON GERSON: Yes. My name is Myron  
17 Gerson, and I'm speaking as a physician and an  
18 individual.

19           Southwest Ohio has long had a history of  
20 higher cancer rates than much of the surrounding  
21 area. One of the reasons the residents of  
22 Cincinnati and this area along the Ohio River have  
23 been able to be confident is in the quality of the  
24 water. I think this is largely a result of the  
25 efforts of ORSANCO. We are in an era of decreasing

1 regulation. I think at this point in time the  
2 expertise of ORSANCO and the enforcement by ORSANCO  
3 is critical.

4 Thank you.

5 MR. KUPKE: First, thank you, Mr. Gerson.

6 Having a little difficulty with the last  
7 name, Logan is the first, and it looks like an S,  
8 and I can't -- help us out here. For my benefit can  
9 you spell your last name.

10 LOGAN SIMMERING: S-I-M-M-E-R-I-N-G. As  
11 I just spelled, Logan Simmering, with the Democratic  
12 Socialists of America.

13 THE AUDIENCE: Can you speak up?

14 LOGAN SIMMERING: I'm Logan Simmering  
15 with the Democratic Socialists of America and also  
16 Ironworker Local 44.

17 First things first, obviously a voluntary  
18 regulation is a regulation which might as well not  
19 exist. We shouldn't let our states in the compact  
20 be dictating the standards that we choose, like West  
21 Virginia.

22 But also, the existing standards are not  
23 exactly sufficient to protect the designated uses.  
24 You can't eat fish out of the Ohio River. It's  
25 among the most polluted rivers in this country. So

1 we should work not only on protecting the existing  
2 standards, we should make them more stringent and  
3 work on actively regenerating the water's health  
4 quality.

5           It seems like a lot of this process, the  
6 reason why it's dragged on so long is that the  
7 community is trying to thread a needle between a  
8 public which doesn't want the river protections to  
9 decrease, to be deregulated, and industry interests,  
10 which do, so you just keep kicking the can down the  
11 road a little while more trying to find a compromise  
12 where you can placate the public and let industry  
13 run wild.

14           Thank you.

15           MR. KUPKE: Thank you.

16           Next would be Pinky Kocoshis. Is that  
17 close?

18           PINKY KOCOSHIS: Not too bad, Kocoshis.  
19 I am locally with the League of Women Voters of the  
20 Cincinnati area, but I am reading a statement from  
21 the Ohio League of Women Voters, which is based in  
22 Columbus and, as you know, there is no hearing in  
23 the Columbus area, so I am reading the statement on  
24 their behalf.

25           The League of Women Voters of Ohio

1 strongly supports policies and procedures that  
2 provide joint cooperative planning and  
3 administration along watershed lines and across  
4 political boundaries. Stringent water quality  
5 standards must be accompanied by strong enforcement  
6 with the means of implementation. This means  
7 adequate state funding, including local government  
8 and industry incentives, to expedite water pollution  
9 abatement.

10           Because of this, the League of Women  
11 Voters of Ohio is opposed to the current draft of  
12 the pollution control standards released for public  
13 comment on March 1st by the Ohio River Valley  
14 Sanitation Commission, ORSANCO. The voluntary  
15 nature of these pollution control standards  
16 undermines the ability of private citizens to  
17 persuade our governors and by virtue of appointment  
18 our state commissioners to act in the public  
19 interest. Is this better? Making the adoption of  
20 pollution control voluntary for states will  
21 eliminate accountability and put our health at risk.

22           Any future PCS pollution control  
23 proposals should require state adoption in the  
24 interest of protecting the drinking water supply of  
25 five million people and recovering Ohio River

1 ecosystems. States should be allowed to deviate  
2 from the standards only with supporting scientific  
3 reasoning and a fully transparent public  
4 participation process, including public hearings.

5           ORSANCO should produce a report to the  
6 public every three years with an analysis of compact  
7 states' pollution control standards, including a  
8 comparison with ORSANCO's pollution control  
9 standards. The Commission should continue its  
10 evaluation every three years of the pollution  
11 control standards with fully transparent public  
12 participation. Lastly, ORSANCO should continue to  
13 evaluate NPDES permits issued by the states and  
14 develop an annual report to summarize the findings  
15 that are available to the public.

16           Given the vital nature of clean potable  
17 water for all, any decrease in water standards will  
18 affect the health of the Ohio River Valley and the  
19 people of Ohio whose main source of water comes from  
20 the Ohio River.

21           Thank you very much.

22           MR. KUPKE: Thank you.

23           Next speaker will be Ruth Bamberger.

24           RUTH BAMBERGER: My name is Ruth  
25 Bamberger. I live in Ludlow, Kentucky, and I



1 represent the Northern Kentucky Sierra Club.

2 First of all, I want to thank the  
3 Commission for holding additional hearings on the  
4 future of the interstate compact.

5 I read the revised language in the draft  
6 and consulted documents on the proposed language  
7 from the Cumberland Chapter of the Sierra Club,  
8 which I think has already been submitted by Hank  
9 Graddy, our state water chair, as well as the Ohio  
10 River Foundation. The draft appears to be a  
11 modification of language with no substantive change.  
12 It still gives the states too much leeway in  
13 rejecting the pollution standards of ORSANCO.

14 While the Ohio River is much cleaner than  
15 it was when I was a kid growing up, and I was  
16 growing up at a time before ORSANCO was even around,  
17 we still have many, many challenges of pollution on  
18 the Ohio River. It is still a very polluted river  
19 in comparison with other rivers in the country. So  
20 I believe that no state in the compact should have  
21 undue flexibility in rejecting the pollution  
22 standards. I welcome strong regulation when it  
23 protects our drinking water, our fish population,  
24 and our opportunities for healthful, safe  
25 recreation.

1           The executive director had mentioned some  
2 issues about redundancy, and I certainly understand  
3 that when we're working with federal, state, and  
4 local regulations, redundancy is apt to appear in  
5 our laws. However, given the current Trump  
6 administration seeking to greatly weaken the clean  
7 water rule that was put into place in 2015, known as  
8 the Waters of the United States, I think we need the  
9 protection of ORSANCO even more. So I don't think  
10 right now that we have the issue of redundancy that  
11 maybe we had had four or five years ago.

12           In our culture, many companies, lots of  
13 people don't like limits on their behavior. But  
14 water is our sustenance. ORSANCO is one vehicle we  
15 have to assure the Ohio River is not abused. We  
16 need you. So please stick to your mission of  
17 setting and then enforcing pollution standards  
18 according to the best management practices of which  
19 current science informs us.

20           Thank you.

21           MR. KUPKE: Thank you.

22           Professor James O'Reilly.

23           JAMES O'REILLY: Thank you, Commissioner.

24           You as ORSANCO -- oh, I'm sorry, James O'Reilly.

25           You as ORSANCO commissioners are at a

1 historic crossroads. Will our water quality and  
2 health standards be sold down the river? This  
3 proposal would see decades of excellent science and  
4 compliance standards made optional, effectively  
5 dumped in order for one state to attract the money  
6 that an industrial polluter might wish to invest in  
7 that state. We strongly advise the other  
8 commissioners to please reject this retreat from  
9 water quality.

10           ORSANCO deserves to be praised for the  
11 uniformly high quality of its science-based  
12 standards. We applaud its efforts. As Shakespeare  
13 might say, we come to praise ORSANCO and not to bury  
14 it. The praise that ORSANCO science has earned over  
15 decades has been well-deserved. The good work would  
16 be buried by allowing this proposal because it would  
17 allow the weakest regulatory system in the weakest  
18 state to fix its own standards outside of the  
19 well-documented scientific standards of this  
20 remarkable interstate compact.

21           Ultimately this proposal is a back-door  
22 repeal of the congressionally approved interstate  
23 compact because it destroys uniform standards and,  
24 therefore, cheapens the historical benefits that  
25 ORSANCO has delivered.

1           So how does it fit with ORSANCO's  
2 history. Since 1788 we in Ohio and in sister states  
3 that used to be the Northwest territories have not  
4 had control over the water of the Ohio River. That  
5 control was passed in the Continental Congress to  
6 Virginia as the winner of the debate over the  
7 Northwest territories. And the control of the water  
8 was passed to the states that are now Virginia, West  
9 Virginia, and Kentucky. In the absence of our  
10 interstate compact, the Ohio River would have to  
11 drink whatever wastewater West Virginia's hub plant  
12 will choose to discard, and that undercuts the  
13 spirit as well as the text of the historic  
14 interstate compact agreement. It would remove  
15 ORSANCO as a science-based special protector of the  
16 Ohio constituents who voted for me as an elected  
17 official.

18           Please, Commissioners, do not discard  
19 that legacy of science-based protections.

20           The proposal to allow one state, such as  
21 West Virginia, to opt out of water control standards  
22 looks to me to be an implicit inducement to  
23 investors from China for their potential investment  
24 in chemical factories. This is particularly  
25 troubling to those of us who drink water from the

1 Ohio River.

2           So let's look west, all the way west to  
3 China's Yangtze River, which is so visible from the  
4 Shanghai offices of the investors who are  
5 considering West Virginia as a site for construction  
6 of new chemical factories. Like the Ohio River, the  
7 Yangtze runs through hundreds of miles of numerous  
8 provinces. So do the people of Shanghai depend on  
9 the willingness of provincial government in far  
10 western China to voluntarily choose to control  
11 wastewater with metals, with solvents, with acid  
12 discharges from being dumped into the Yangtze?  
13 Certainly not. Central control matters.

14           Likewise, should one of the states that  
15 signed on to the congressionally endorsed interstate  
16 compact now be welcomed to opt out of uniformly  
17 policing the quality standards for their state's  
18 industrial wastewater? Certainly not.

19           For those who claim that state and water  
20 pollution control systems are redundant to the  
21 extent it would make it acceptable to allow one  
22 state to waive or surrender the standardized texts,  
23 let's look specifically at ORSANCO Standard 1.1,  
24 paragraphs 4 and 6, In light of the drastic budget  
25 shortfalls of the Trump administration, US EPA

1 Region 4 in Atlanta does not have the travel budget,  
2 does not have the laboratory capacity, does not have  
3 the skilled personnel to enforce the Clean Water Act  
4 national standards in any Ohio River location.

5 ORSANCO does. Once that state is allowed to break  
6 out of complying with our interstate compact, the  
7 federal government lacks the funding to respond  
8 fully. So it's simply wrong to assert, oh, the feds  
9 will pick up the slack. If a state breaks loose  
10 from sustaining the quality of river water that's  
11 covered under this compact, if the state sells out  
12 the safety of downstream users with the choice to  
13 allow dumping under a weakened wastewater standard,  
14 then the spirit as well as the letter of the compact  
15 would be broken by this supposed free choice of that  
16 state to opt out of the standards in order to create  
17 new chemical opportunities.

18 Please, commissioners from other states,  
19 please prevent the subterfuge from removing the  
20 public assurance of us downstream drinking the water  
21 that your science-based standards have offered for  
22 so long.

23 I'm a boring wonk of a professor. I  
24 wrote the standard US textbooks on administrative  
25 rule making and on federal preemption, and I taught

1 rule making for many years, I've advised the  
2 European Union on its rule-making process. So I'm a  
3 wonk and I know interstate compacts are very complex  
4 procedures, but this interstate compact matters to  
5 me because I drink its results. Bringing out the  
6 quality standards to bring in foreign investors  
7 would be a bad choice indeed. There's not a good  
8 precedent for opening the back door to surrender the  
9 downstream protections that matter to my  
10 constituents. There's no assurance that a decision  
11 to allow a particular state to opt out of uniform  
12 safety would ultimately protect those of us drinking  
13 it downstream. So I urge the commissioners, please  
14 vote to reject the back door escape hatch which the  
15 proponents of this change are seeking.

16 Thank you.

17 MR. KUPKE: Thank you.

18 Next speaker, Harry VonBusch.

19 HARRY VONBUSCH: Thank you. That's a  
20 tough act to follow there.

21 My name is Harry VonBusch. I'm an  
22 Anderson Township resident. Thank you for having  
23 this hearing and in fact three hearings overall. I  
24 oppose the current proposal to in effect make the  
25 pollution control standards voluntary by state. The

1 standards should be uniform and uniformly applied.

2           Everyone uses the divide and conquer  
3 method. This is how I see it going down. Polluters  
4 are no different. States will be pushed by  
5 polluters to adopt the least restrictive  
6 regulations. Opening that door will lead to lower  
7 standards for everyone. Making pollution control  
8 standards voluntary will meet a constant assault on  
9 ORSANCO to review requests. Industries will come  
10 with their paid consultants, I think you know who  
11 I'm talking about, to change the standards. The  
12 public will not have the additional resources to  
13 defend those pollution control standards. You are  
14 the advocates. You are the publicly funded agency  
15 to foster and mandate the regulations for the whole  
16 river.

17           People have known for a long time that  
18 bad stuff flows downstream. Your mandate in 1948  
19 recognized this, it's not news. You think you are  
20 short of resources now, just wait. You'll have so  
21 many requests for lowering standards, and by any  
22 means you'll have to evaluate them, you'll be  
23 overwhelmed. Consequently, you won't be a good  
24 defender. And extra fracking pollution coming  
25 downstream to this region will affect us and our



1 economy, let alone our health.

2           When major companies are looking for new  
3 locations, this region, the Cincinnati Metro region,  
4 will get passed over. The river is already at a  
5 high pollution level. I think you've done a lot of  
6 work, and I appreciate that, but it's at a high  
7 pollution level. Maybe lower than it used to be,  
8 but that's not a good comparison. Please don't let  
9 it become worse.

10           Thank you.

11           MR. KUPKE: Thank you, Mr. VonBusch.

12           Next speaker will be Sandra Sommer.

13           SANDRA SOMMER: Good evening and thank  
14 you for this opportunity to address you, the  
15 Commissioners of the Ohio River Valley Water  
16 Sanitation Commission.

17           My name is Sandra Sommer and I live in  
18 Cincinnati, Ohio. I look upon the Ohio River every  
19 day and I'm reminded how important the Ohio River is  
20 to life up and down the great Ohio.

21           Tonight we've come to talk about  
22 standards and mandates for the Ohio River.  
23 Standards can be defined as quality, a yardstick, a  
24 measure, a criterion, even a law or canon. And a  
25 mandate is defined as a directive, a command, order,

1 or even an edict.

2           ORSANCO, you have been the standard  
3 bearer for a clean Ohio River for years. We as  
4 residents along the Ohio River and as taxpayers  
5 applaud the standards you have put in place in order  
6 to keep our Ohio River, our source of life, clean  
7 and safe now and into the future. You have the  
8 power to continue to strengthen the standards as  
9 well as mandate that each state do its part to keep  
10 the Ohio River healthy. Each state must adhere to  
11 the moral code that we as people are only as healthy  
12 as the people who live downriver from the next. We  
13 may be separate states, but we must be good  
14 neighbors.

15           In summary, ORSANCO commissioners,  
16 speaking to you, you have the sacred job of being  
17 the Ohio River caregivers. ORSANCO commissioners,  
18 you have been tasked to protect the flora and fauna  
19 and us humans who depend on the Ohio River for its  
20 life-giving water. ORSANCO commissioners, you have  
21 the moral obligation to keep the Ohio River clean  
22 and safe. ORSANCO commissioners, you have the power  
23 to mandate exemplary water standards for Ohio,  
24 Kentucky, Indiana, Illinois, Pennsylvania, West  
25 Virginia, Virginia, and New York, which will ensure

1 we all live, prosper, and grow.

2 I urge you to continue strengthening the  
3 water standards and mandate that our good neighbor  
4 states follow suit. Water is life. Our lives are  
5 in your hands.

6 Thank you.

7 MR. KUPKE: Thank you.

8 Our next speaker is Eira Tansey, and  
9 rhymes -- help me with that.

10 EIRA TANSEY: Close enough. It rhymes  
11 with Sarah, Eira.

12 MR. KUPKE: Eira, okay. I wasn't sharp  
13 enough to catch that.

14 EIRA TANSEY: That's okay.

15 My name is Eira Tansey, and I am  
16 representing myself today. I am not affiliated with  
17 an organization tonight, but I do live in Cincinnati  
18 and I am a research librarian, and that is relevant  
19 because I think we need to cite our sources here.

20 We keep hearing a lot of language about  
21 how the compact had specific language that is being  
22 reinserted back in here from 1948, but I want to  
23 read another part of the 1948 annual report. This  
24 was the first annual report that came out from  
25 ORSANCO, and it talks a little bit about how the

1 history of ORSANCO came to be.

2           It was in the year 1908 that the State of  
3 Ohio declared that its river cities need not install  
4 sewage treatment facilities until communities in  
5 other states on the banks of the Ohio River did  
6 likewise. This initiated discussion amongst several  
7 Ohio River states pointing to the desirability of  
8 joint action on pollution abatement measures.

9 However, no steps of consequence towards cooperation  
10 were taken until 1928. By then increasing  
11 industrial pollution had seriously burdened the  
12 river. This led to an informal agreement among the  
13 states of Pennsylvania, Ohio, West Virginia,  
14 Kentucky, New York, Illinois, Maryland, Indiana,  
15 Tennessee, North Carolina, and Virginia to act in  
16 concert for control of taste producing phenol  
17 discharges from coke plants.

18           Well, you might think what happened in  
19 between 1928 and 1948. Well, what happened was  
20 things got so bad with this informal arrangement  
21 that I'm sure had quite a bit of flexibility, that  
22 these Cincinnati Chamber of Commerce, the  
23 businessmen of the city, actually engaged all of  
24 these state sanitary commission officers to come  
25 together and start another 20 years of originating

1 legislation to create the group that is here today.

2           When you look at the 1948 report, one of  
3 the things you will notice is quite a difference  
4 between the commissioners back then, 70 years ago,  
5 and the commissioners of today. Back then there  
6 were only five private sector commissioners. Of  
7 those, one was a news publisher and the other was  
8 from a public transportation agency. Today we have  
9 twice as many people from the private sector  
10 represented in our Commission. So we went from only  
11 five from the private sector in 1948, 70 years later  
12 we have twice as many from the private sector.

13           We also had some really interesting  
14 federal officials in 1948 on the Commission,  
15 including, believe it or not, get ready, buckle in,  
16 the US Surgeon General. The US Surgeon General at  
17 that time was a man named Leonard Scheele. He is  
18 notable because he was responsible for mass  
19 fluoridation efforts in our country's water systems  
20 as well as massive childhood polio vaccination  
21 programs. I think this is really relevant because  
22 there were tons of public health officials on  
23 ORSANCO at that time, and if you look at the  
24 Commission today, I don't see a lot of people  
25 representing public health. We see lots of people

1 representing the coal industry, we see lots of  
2 people representing all sorts of people who are  
3 representing industry and trying to figure out how  
4 many regulations that can be destroyed. I don't see  
5 a single person on the Commission that is from a  
6 public health department. And yet all of the water  
7 issues that keep coming up in this country have to  
8 do with the public health effects of water. This is  
9 insane.

10           So I think what that story that I started  
11 with comes back to is that it takes a really long  
12 time and a disaster on the level of business people  
13 starting to freak out to make any headway. It took  
14 50 years from the beginning of these issues with the  
15 Ohio River to when we actually got ORSANCO. So  
16 what's going to happen, are we going to have to have  
17 another 50 years of slow motion disasters if this  
18 goes through for us to get back to where we might  
19 have been 70 years ago.

20           MR. KUPKE: Thank you.

21           Joan Gilmore. Did I get that --

22           JOAN GILMORE: It's Joan Gilmore.

23           MR. KUPKE: Gilmore, okay.

24           JOAN GILMORE: Those are all very tough  
25 acts to follow. I'm here to talk -- and thank you,

1 commissioners, for all the work you do on this and  
2 I'm here to ask you not to make the changes you've  
3 proposed.

4 I'm a citizen of Hamilton County, Ohio,  
5 and I used to live in Michigan and I have family in  
6 Michigan. The people of Flint, Michigan relied on  
7 the federal and state government to ensure that  
8 their water was clean, and those systems failed  
9 them. And I know West Virginia has been mentioned,  
10 but it could happen in any state, and we have to  
11 have you here to protect us. The economic fallout  
12 from one incident that cannot be managed will damage  
13 the reputation of the entire Ohio River Valley.  
14 People who can leave will leave. Companies who can  
15 leave will leave. We have to have clean water.

16 Thank you.

17 MR. KUPKE: Thank you.

18 Ruth Hardly -- Hardy, right?

19 RUTH HARDY: Hardly -- I'm just kidding.

20 Ruth Hardy, H-A-R-D-Y. I'm from Anderson Township,  
21 and thank you for the hearing.

22 ORSANCO has made vast improvements in the  
23 Ohio River's water quality since the 1950s. Yet  
24 according to the EPA toxics release inventory, toxic  
25 industrial discharges still make the Ohio the most

1 polluted river in the United States. So why would  
2 we want to diminish ORSANCO's oversight authority  
3 now and who would it benefit?

4           The likely answer is that industry is  
5 putting tremendous pressure on the states and the  
6 states are in a race to the bottom to attract and  
7 keep industry. They're in a downward spiral of  
8 offering tax breaks and other incentives and  
9 promising fewer and weaker regulations with a wink  
10 and a nod towards enforcement. Somehow they think  
11 this will make them come out on top.

12           But when public health is eroded,  
13 healthcare costs skyrocket, public education takes a  
14 big hit, qualified workers become scared, and  
15 economic outcomes tank. The successful futures of  
16 cities like Cincinnati depend on increasing the  
17 number of bright minds who can drive innovation and  
18 invention. They know that a thriving river basin is  
19 a multiplier for all the related recreational and  
20 other attractions that would generate the  
21 renaissance they're looking for. They also know  
22 that health costs can overwhelm an economy. They  
23 know that good public health policies are pro  
24 growth, and they know that water pollution can  
25 result in long-term costs to the state.



1           For example, in the Flint, Michigan  
2 catastrophe, drinking water became polluted with  
3 lead. A 2009 study predicted that the  
4 five-year-olds exposed to lead that year would cost  
5 Michigan economic losses ranging from 3.9 to  
6 4.85 billion per year in loss of future lifetime  
7 earnings.

8           We need to maintain ORSANCO as an  
9 independent body that can make accurate transparent  
10 assessments and conduct unbiased oversight to  
11 protect our water supply which provides drinking  
12 water to five million people.

13           ORSANCO provides a collaborative model,  
14 the antidote to adversarial dynamics. Their  
15 regional standards -- your regional standards  
16 provide a degree of insulation that helps buffer  
17 against changes in the political climate.

18           ORSANCO's continued independence ensures  
19 integrity in science and monitoring. Whereas the  
20 states, pushed by powerful coal and petrochemical  
21 industries, may be less apt to protect aquatic  
22 ecosystems along the entire length of the river from  
23 pollution.

24           Commissioners, the states must not be  
25 allowed to opt out. Compliance must be uniform

1 among states, and the pollution control standards  
2 must be strengthened to include emerging  
3 contaminants from petrochemical and frack waste, not  
4 weakened. Please vote no on the revisions.

5 Thank you.

6 MR. KUPKE: Thank you.

7 Next speaker, Marilyn Wall.

8 MARILYN WALL: Thank you. My name is  
9 Marilyn Wall. I'm here on behalf of the Miami group  
10 of the Ohio Chapter of Sierra Club.

11 We oppose making the standards voluntary.  
12 Standards need to be mandatory and apply to the  
13 whole river. We urge ORSANCO instead to strengthen  
14 standards, particularly over nutrients. Setting  
15 nutrient standards is long overdue. In Cincinnati  
16 our water quality has been threatened and our  
17 drinking water has been threatened by spills and by  
18 toxic blue-green algae. We're under the threat of  
19 fracking chemicals and continue to be threatened by  
20 sewer overflows to our children's health.

21 It's been over a decade since the Greater  
22 Cincinnati Metropolitan Sewer District tried to  
23 weaken the standards through ORSANCO in order to  
24 avoid having to fix sewer overflows to the Ohio  
25 River. They failed in part due to public opposition

1 and they're finally making progress.

2           It would be a shame if ORSANCO were to  
3 start making compliance with any standards  
4 voluntary. Instead ORSANCO should be leading to  
5 make and adopt strong clean water standards for the  
6 Ohio River.

7           Thank you.

8           MR. KUPKE: Thank you.

9           Next speaker, Rich Cogen.

10           RICH COGEN: My name is Rich Cogen. I'm  
11 Executive Director of Ohio River Foundation and  
12 chair of the ORSANCO Watershed Organization Advisory  
13 Subcommittee. If I refer to it again, I'll just say  
14 WOAC.

15           Thank you to the commissioners for  
16 providing this opportunity for public comment as far  
17 as the hearing is concerned as well as the 45 days  
18 for filing of comments before or by April 15th.  
19 Thank you to the private citizens who have made the  
20 trip tonight and time today to attend this meeting.  
21 I definitely have taken notes as far as some of the  
22 eloquent comments that have been made and ideas for  
23 my own comments that I plan on filing by April 15th.  
24 Thank you also to the Commission for having three  
25 meetings in three metro locations. Members of the

1 WOAC subcommittee definitely appreciated the  
2 opportunity not to have to travel four or five hours  
3 to Cincinnati for speaking before you.

4 I'm just going to list in sentence form  
5 some of the comments that will be more detailed in  
6 the written comments that will be filed by myself on  
7 behalf of Ohio River Foundation and the Watershed  
8 Organization Advisory Subcommittee.

9 The new ORSANCO proposed revisions to the  
10 PCS, the pollution control standards, are welcomed  
11 improvements to the 2018 proposal as it keeps the  
12 PCS intact. Predating the Clean Water Act, the  
13 states in the compact took it into their own hands  
14 to protect the integrity of the Ohio River and made  
15 a commitment to protecting special uses of the  
16 river. We believe that all states should adopt and  
17 implement ORSANCO's PCS, with amendments as  
18 appropriate, which is an option but only perhaps as  
19 an interim measure.

20 The current proposal makes standards  
21 discretionary, weakening their intent to protect the  
22 integrity of the river's valuable natural resources.  
23 While standards in existing permits may not be able  
24 to be removed due to anti-backsliding provisions,  
25 new permits, however, might not take the PCS into

1 consideration but instead may rely on a weaker state  
2 standard.

3           As an aside, there's been a lot of  
4 comment about West Virginia. I know some very fine  
5 people in West Virginia. There are other states  
6 also that perhaps might be of concern as well.

7           The current proposal provides a permit by  
8 permit review of standards by the states that  
9 preserves the uses of the river. But there needs to  
10 be accountability of equivalent levels of  
11 protection. ORSANCO alleges no single standard is  
12 applicable due to variable factors, but it is  
13 important that ORSANCO establish baseline uniform  
14 reference discharge standards and mechanisms for  
15 holding states accountable. Although ORSANCO's role  
16 will not change in developing standards, states  
17 should be advised that these standards represent the  
18 best means of maintaining the uses of the river.

19           Furthermore, the river and watershed need  
20 nutrient criteria and standards. By revising the  
21 PCS to only apply to entity discharging sewage or  
22 industrial waste, ORSANCO avoids its responsibility.  
23 If this is the intent, ORSANCO should be working  
24 with watershed states to create such nutrient  
25 parameters, similar to efforts on the Great Lakes

1 and Chesapeake Bay.

2           The following conditions need to be added  
3 or addressed in the 2019 PCS or the current  
4 proposal.

5           ORSANCO must work towards requiring all  
6 states to adopt and implement the PCS or equivalent  
7 ones. States are only allowed to deviate from the  
8 PCS for reasons justified under the Clean Water Act.  
9 As an aside, whether that's the best available  
10 technology or other similar types of justifications.

11           Policies and procedures are developed to  
12 respond when a state proposes to develop a PCS, such  
13 as the state needs to inform the other states,  
14 provide public notice or its intention -- of its  
15 intention to deviate from the PCS and why and allow  
16 the public and other states to comment on the  
17 proposal.

18           If policies and procedures are developed,  
19 they must be developed to continue to monitor for  
20 state deviations from ORSANCO standards that are  
21 ready for implementation by the October 2019  
22 Commission meeting.

23           ORSANCO should develop or report  
24 available to the public every three years to compare  
25 US EPA criteria, the PCS, and each state standards

1 for all parameters.

2           ORSANCO should continue to perform permit  
3 reviews and outline its process in its policies and  
4 procedures.

5           This concludes my remarks tonight. I'll  
6 be submitting more detailed written comments by the  
7 April 15th deadline. Thank you.

8           MR. KUPKE: Thank you.

9           Our next speaker, Kevin Hengehold. Help  
10 me out with that, Kevin.

11           KEVIN HENGEHOLD: Sure. It's Kevin  
12 Hengehold, H-E-N-G-E-H-O-L-D.

13           Hi, my name is Kevin Hengehold, and I'm  
14 here to ask you to maintain and improve the 2015  
15 pollution control standards. But it's not just me  
16 that asks you to uphold the PCS.

17           A couple friends and I went through the  
18 comments from the August comment session. Now there  
19 were nearly 6,000 pages of comments and we're  
20 volunteers, so we got through about a third of them.  
21 But in that analysis we found 11 comments supporting  
22 deregulation, that was it. Because those comments  
23 are clumped together at the beginning of the record,  
24 I doubt there were any more, but I'll be charitable  
25 and I'll assume that there are 11 deregulation

1 comments in every 2,000 pages of comments. That  
2 would be 33. Almost all the comments were one page,  
3 but again, being charitable, I'll give each comment  
4 two pages, so that comes out to 98.9 percent of all  
5 comments in favor of the current pollution standards  
6 and against deregulation. Moreover, there hasn't  
7 been a single person here and there wasn't a single  
8 pro deregulation comment from an actual human. The  
9 11 comments that we found were from a familiar set  
10 of faces, AK Steel, First Energy, Koppers, and the  
11 Ohio Utilities Group, which contains, among others,  
12 Duke Energy Ohio. These are companies with long  
13 documented histories of polluting our river and now  
14 they want to make your standards voluntary so they  
15 can pollute even more.

16           According to EPA's toxic release  
17 inventory, the Ohio River is already the most  
18 polluted river in the country. Don't let these  
19 corporations make it worse. Please maintain the  
20 2015 pollution control standards and improve them  
21 where possible.

22           Thank you.

23           MR. KUPKE: All right, thank you, Kevin.

24           Sister Mary Joyce Moeller.

25           SISTER MARY JOYCE MOELLER: That's right.



1 Thank you.

2 I just wanted to mention, say a few  
3 comments for the faith community, for my religious  
4 community of Divine Providence Sisters, also for the  
5 members of the Northern Kentucky Justice and Peace  
6 Committee that I'm a member of, and also a member of  
7 KFTC, and I know they all agree with what I'm going  
8 to say. So I don't want to -- and I thank you for  
9 this opportunity, of course, and for all of your  
10 work.

11 We agree basically with the comments that  
12 have been made thus far, the logical scientific,  
13 ecologically health related considerations for  
14 objecting to making your pollution standards  
15 optional for the states. We really believe they  
16 should be mandatory, not only because on the federal  
17 level the enforcement of EPA and Clean Water Act is  
18 just not happening, or it's happening far less than  
19 we would hope.

20 But I wanted to emphasize that your  
21 decision should not be based solely on economic  
22 objectives, on the value of industrial investments,  
23 capital gains, purely scientific and utilitarian  
24 advances because there are more higher, important  
25 basic values to consider. People's health and

1 well-being and that of our ecosystem, other life on  
2 the planet, this is more important. The future  
3 generation of our children and our grandchildren,  
4 like the children here, what are they going to be  
5 drinking and how is it going to affect their health,  
6 and not just the pollutants in the air but the  
7 pollutants in the soil, that gets in the soil too  
8 from the water and the fish and everything connected  
9 with the water.

10           We believe this is really a moral issue,  
11 a human rights issue, and a justice issue. And we  
12 don't want you to abdicate your role and be  
13 complicit in increasing the assault on our health  
14 and on our well-being by making it easier for  
15 industries to pollute our water and add toxins into  
16 our environment, either directly or through leaking  
17 pipes. There have been so many pipe leaks in the  
18 last ten years, thousands of them.

19           And so we just want to say that the moral  
20 obligation that you have in considering what your  
21 decision is going to be really supersedes any  
22 alliances you may have with industry or other  
23 corporate interests. And keep in mind that our  
24 health, our well-being is far more important and a  
25 far greater value. And you all have children,

1 grandchildren and future generations. We're not  
2 just deciding for people today but future  
3 generations.

4 Thank you.

5 MR. KUPKE: Thank you, Sister.

6 This is from Fort Thomas, Kentucky, an  
7 R., there's an S-T and I think it's a U.

8 RACHEL STULTZ: Stultz.

9 MR. KUPKE: I can't read the rest.

10 RACHEL STULTZ: Thank you. My name is  
11 Rachel Stultz, I'm a citizen from Fort Thomas,  
12 Kentucky. I am a member of the Sierra Club, and I  
13 appreciate everybody who has come. Thank you.

14 We also have been very fortunate to have  
15 speakers who have shared a lot of information that  
16 maybe some of us were not aware of, and one of the  
17 things that has been kind of mentioned is the format  
18 of these meetings. It's nice that we have them in  
19 three locations along the Ohio River, which is very  
20 convenient, but one thing that we haven't discussed  
21 is a quorum. We did mention that there were only 25  
22 and 35 people at the other two meetings, and I think  
23 that needs to change. We also have the librarian  
24 who mentioned we don't have a medical health  
25 services involved. Why aren't there community and

1 city leaders here? Why are the mayors not here?  
2 Why is the water department not here? We need  
3 decision makers here, not at home watching the  
4 basketball game. We need a quorum that needs to be  
5 part of the system. There should be no less than a  
6 hundred people, no less. Now, we don't need 50  
7 people from one community. We need at least  
8 50 percent of the communities who draw their water  
9 from the Ohio River, at least 50 percent of them  
10 should have at least one decision-making  
11 representative.

12 We don't want to be another Flint,  
13 Michigan, and as someone else mentioned, there were  
14 lots of checks and balances. It didn't happen. The  
15 great fire of Chicago, there's a book, a novel  
16 written about it, and there were over a hundred  
17 things that failed that if just one had been  
18 successful, just one of a hundred, there wouldn't  
19 have been the great fire of Chicago. We need more  
20 checks and balances, not less.

21 I appreciate you all giving us the time,  
22 and I do hope that you will amend part of your  
23 program to include a quorum. Thank you.

24 MR. KUPKE: Thank you.

25 Next speaker, Tanya Stager.

1           TANYA STAGER: Thank you very much. My  
2 name is Tanya Stager. I belong to Kentuckians for  
3 the Commonwealth, Northern Kentucky Justice and  
4 Peace, and I'm here today because of my interest in  
5 justice.

6           All the water that we have and all the  
7 water that we'll ever have is here now, has always  
8 been here. We get no more water. We must protect  
9 what we have, and we cannot live without clean  
10 water. It is so important that we protect our water  
11 sources from pollution. It is important that we  
12 protect humanity. Foreign and domestic concerns  
13 want to build fracking and other plants near water  
14 sources. At this time they're talking and looking  
15 at building some around the Ohio River.

16           We have already seen signs of  
17 deteriorated and damaged environment on our southern  
18 coastal area around the Gulf of Mexico, where many  
19 plants have been built over the years. And at this  
20 time we are witnessing illnesses that are usually  
21 only seen in Third World countries where the  
22 environment is not protected or with very low or  
23 unenforced standards.

24           When it can be said that the people of  
25 Virginia -- hate to bring it up again -- but of West

1 Virginia can tolerate higher levels of pollution  
2 because they are overweight and poisons will not  
3 affect them so easily, we are treating people as  
4 commodities. Humanity is not dispensable. Clean  
5 water is not dispensable.

6 I do not want to live in a country that  
7 does not care about its people or its environment.  
8 I do not want to see my country slowly destroyed.

9 ORSANCO must be maintained and its  
10 standards should be strengthened for all eight of  
11 its member states.

12 Thank you.

13 MR. KUPKE: Thank you.

14 Our next speaker, Alice Melendez.

15 ALICE MELENDEZ: Melendez.

16 So the ORSANCO commissioners may sort of  
17 project a feeling that the public is needlessly up  
18 in arms, look how far we've come since the river was  
19 on fire, we aren't the enforcement muscle anyway,  
20 and we're duplicating the Clean Water Act, and yet  
21 the authorization for the Department of  
22 Environmental Protection in West Virginia, to put in  
23 legislative rules to update their water quality  
24 standards, was blocked by their legislature, and  
25 many of the specific toxin levels have not been

1 updated since the '80s. Meanwhile, the West  
2 Virginia Gazette Mail runs this headline: Reasons  
3 for industry opposition to tighter water pollution  
4 levels remain murky.

5 For the people in this room who have  
6 spoken before me, it's not a murky issue. And so I  
7 just want to say first that those of us who are  
8 watching closely aren't just pushing on you, we're  
9 recognizing the way that our quasi democratic  
10 process in this country is skewed towards entities  
11 who can pay to influence legislation and rule making  
12 outcome to the wonky rule guy, who I really  
13 appreciate because a lot of the devil is in the  
14 detail of the rule making. And so I'm participating  
15 with Represent Us and something called the Unrig  
16 Summit, and they are getting really wonky about the  
17 rules of our democracy, fighting gerrymandering,  
18 trying to in each state, you know, it varies from  
19 place to place what it means, but really trying to  
20 make rules work for people instead of for entities  
21 who can pay.

22 That said, I want to look at 5.1. And I  
23 also appreciate the guy earlier who said ORSANCO is  
24 a science-based special protector. So considering  
25 science-based special protector and unrigging the

1 system, right now it says discharges cannot, quote,  
2 preclude the attainment of any designated use, and  
3 then it says, or cause violation of the water  
4 quality criteria. And this cause violation of the  
5 water quality criteria is what would be removed in  
6 the current revision. So if you're trying to be a  
7 scientist, the science-based protector, if you're  
8 trying to have fair and equitably administered  
9 standards, which is better, attain a designated use  
10 or water quality criteria that are numeric? And  
11 it's why these numeric standards are so important.  
12 Because if you think about 19 staff with kind of  
13 like the opportunity to comment on a proposed  
14 deviation without numeric criteria, ORSANCO has way  
15 less pull to keep parties that are discharging into  
16 the river in line.

17           So while it may not feel like your  
18 specialty, like the real heart of where your work  
19 wants to be, and we really appreciate your work  
20 cleaning up spills, we need you -- and studying the  
21 ecosystem, we really need you to manage the  
22 discharges that are happening every day in a time of  
23 proposed industrial development funded by and  
24 profitable to foreign entities all over the river,  
25 and it's not just in West Virginia, it's in Ohio too



1 and in all the states.

2           So please maintain your standards to help  
3 we, the people, have something to fall back on and  
4 something to -- a lever, you know, to try to balance  
5 the scales towards protecting people over protecting  
6 the people who can pay, not just in ORSANCO but all  
7 over our government.

8           MR. KUPKE: Thank you.

9           Next speaker is Gerry Kraus. I can't  
10 read the last --

11          GERRY KRAUS: Can I use that microphone?

12          MR. KUPKE: Sure.

13          UNIDENTIFIED SPEAKER: Mr. Kupke, I  
14 apologize for interrupting, this is wireless. Can  
15 we use this?

16          MR. KUPKE: Okay. Great idea.

17          GERRY KRAUS: Thank you very much. And  
18 thank you all for giving me the privilege of  
19 expressing my views.

20                I am a citizen of Cincinnati. I speak as  
21 a citizen of Cincinnati who has been drinking  
22 Cincinnati water from the Ohio River for over 65  
23 years. As has been stated, ORSANCO is considering  
24 terminating its current mandatory pollution control  
25 standards and it is recommending that each of the

1 ORSANCO member states be able to set their own  
2 pollution control standards based on federal  
3 standards and on a voluntary basis too.

4           According to a Pittsburgh Post Gazette  
5 article on February 4th, 2019, this proposed change  
6 by ORSANCO, quote, is driven by the shales gas  
7 industry and plastic manufacturers that want reduced  
8 regulations on wastewater discharges into the Ohio  
9 River. Mandatory compliance with existing  
10 regulations restricting pollutant wastewater  
11 discharges into the Ohio River by coal-fired power  
12 plants, oil and gas companies, and other industries,  
13 including undefined chemical waste from the fracking  
14 industry, would be made voluntary under ORSANCO's  
15 proposed change.

16           Reliance on proposals to further weaken  
17 the federal standards as stated in an article in  
18 yesterday's Cincinnati Enquirer, quote, would  
19 negatively affect a majority of streams in Ohio,  
20 many of which empty into the Ohio River.

21           If indeed pollution standards already  
22 weakened by the federal government do become  
23 voluntary and these industries do dump their  
24 chemical waste into the Ohio River, who will protect  
25 the health of the five million people who obtain

1 their drinking water from the Ohio River? Please,  
2 ORSANCO members, continue to protect my drinking  
3 water and the drinking water of these five million  
4 people, not to mention wildlife, by maintaining your  
5 mandatory high standard pollution controls, which it  
6 has successfully done since 1948. And as has been  
7 said before, if it ain't broke, why fix it.

8 MR. KUPKE: Thank you, ma'am.

9 The next speaker, Bill Cahalan. Three  
10 letters I can't quite get. Help us out here.

11 BILL CAHALAN: Cahalan.

12 My name is Bill Cahalan. I came to the  
13 August meeting in this building and had some  
14 prepared comments. Tonight I don't have anything  
15 written out, so I may ramble a little bit, but  
16 hopefully it will be short.

17 I've lived near the Ohio River most of my  
18 life. I live in East Price Hill. Every day when I  
19 drive out I can see the Ohio River. I drink, of  
20 course, the water from the Ohio every day.

21 I got a map from ORSANCO, I don't know if  
22 you still have that for sale from the Kellogg Avenue  
23 office, through the mail about 15 years ago, and I  
24 still have it up where I can see it to remind me of  
25 how interconnected we all are throughout these eight

1 states, throughout the whole watershed. That's been  
2 part of the educational effort and activity of  
3 ORSANCO. I just can say that, you know, for the  
4 sake of our kids and all the people and all the  
5 wildlife in this region, please don't effectively  
6 deregulate by having regulations that aren't  
7 mandatory anymore. As Gerry said, if it isn't  
8 broke, why fix it. I had some other things in mind  
9 but that's enough.

10 Thank you.

11 MR. KUPKE: Thank you, sir.

12 Hank Graddy.

13 HANK GRADDY: Good evening. My name is  
14 Hank Graddy. I'm the chair of the Cumberland  
15 Chapter that is the Kentucky Sierra Club Water  
16 Committee. I have served on the ORSANCO WOAC in  
17 that capacity since that advisory committee was  
18 established. These comments have been adopted by  
19 the Cumberland Chapter, and they're intended to be  
20 generally consistent with comments from other Sierra  
21 Club entities.

22 First, the Ohio River Valley Sanitation  
23 Commission, ORSANCO's latest proposed pollution  
24 control standards recommendations are an improvement  
25 over the proposed action under consideration last

1 year, referred to as alternative 2. But the  
2 recommendations are not adequate and should be  
3 withdrawn. ORSANCO should maintain PCS standards  
4 and maintain the requirement that all states revise  
5 their state water quality standards and permitting  
6 programs to utilize ORSANCO standards when issuing  
7 discharge permits into the Ohio River.

8           Rationale: First, setting Ohio River  
9 pollution control standards is the most important  
10 work that ORSANCO performs. The majority of the  
11 main stem states for which the utilization of the  
12 ORSANCO PCS standards is an issue already use these  
13 standards in their permitting decisions. Indiana  
14 and Pennsylvania do so as a matter of regulation.  
15 West Virginia does so as a matter of policy.  
16 Kentucky incorporated ORSANCO's standards into its  
17 water quality standards for the Ohio until 2009,  
18 when it determined that except for three standards  
19 the state standards were equivalent to the ORSANCO  
20 requirements. Ohio has a separate set of water  
21 quality standards for discharging into the Ohio  
22 River, which incorporates some but not all ORSANCO  
23 standards. Illinois does not use the standards in  
24 permitting decisions.

25           The pollution control standards are the

1 product of decades of deliberation by the technical  
2 committee and other committees of ORSANCO and the  
3 Commission itself based on a determination that  
4 these standards were necessary and appropriate for  
5 improving the health of the river and maintaining  
6 water quality necessary to fully support designated  
7 uses outlined in the compact.

8           That compact state commissioners would  
9 have voted without objection to approve these  
10 standards for discharges into the main stem and then  
11 determined to ignore the standards when setting  
12 permit monitoring requirements and discharge  
13 limitations is deeply cynical. I also believe that  
14 it is illegal. The Compact contains in Article 1 a  
15 legal commitment of every state to every other state  
16 and to ORSANCO to adopt the legislation necessary to  
17 accomplish the purposes of the compact.

18           In Article 6 there is the general  
19 obligations for ORSANCO to identify problems and set  
20 standards and set higher standards when necessary.  
21 And an obligation of the states to implement -- to  
22 work with ORSANCO to implement same.

23           But I want to call attention to  
24 Article 7. Article 7 in the Compact is an expressed  
25 authorization, a reservation by each state of a

1 right to set higher, more protective standards than  
2 the ORSANCO standards. That is the reservation  
3 states have, to be more protective, not less  
4 protective. There is nothing I find in the compact  
5 that authorizes the states that have signed the  
6 compact to implement what they need to implement at  
7 the state level to make it work. There's nothing I  
8 find that authorizes them to be weaker than ORSANCO.

9 I do in my letter, I won't read it  
10 because I would rather not use the time, discuss the  
11 alternative that you are not persuaded to withdraw,  
12 and I've included certain conditions that the Sierra  
13 Club would like to see if you proceed with what we  
14 believe is a flawed proposal. These include notice  
15 of opportunity, more staff involvement to review  
16 proposed permits, and annual -- periodic reports  
17 comparing state standards and ORSANCO standards.  
18 All of these are I think bandaids or small steps to  
19 try to make a poor proposal a little bit better.  
20 And that's as much as I want to say about that  
21 alternative.

22 Finally, ORSANCO must get back in the  
23 business of setting nutrient standards for the Ohio  
24 River. I share Rich Cogen's concern that language  
25 in this proposal focusing on an entity discharging

1 sewage or industrial waste may be seen as an  
2 opportunity or an excuse for ORSANCO to avoid this  
3 responsibility. Echo his comments, ORSANCO should  
4 be working with watershed states to create numeric  
5 nutrient standards similar to the efforts around the  
6 Great Lakes and the Chesapeake Bay. ORSANCO should  
7 take the lead in setting numeric standards for the  
8 Ohio. This need is long-standing, ORSANCO is in the  
9 best position to lead. In fact, this is exactly  
10 what ORSANCO reported it was doing in your annual  
11 report, which I just picked up. On page 15 it talks  
12 about excessive nutrients have long been an issue in  
13 our waterways and the Ohio River is no exception.  
14 ORSANCO staff have been working on defensible  
15 numeric standards. You purchased 60 continuous  
16 dissolved oxygen loggers to obtain the information.  
17 You're measuring all over the river. ORSANCO staff  
18 are currently analyzing the data from this paired  
19 study and early indications are promising that  
20 defensible nutrient criteria can be developed from  
21 this approach. This study is scheduled to continue  
22 during the 2018 field season. When will we see the  
23 results? The need is compelling.

24                   The 2018 annual report right after  
25 discussion of nutrient standards discusses harmful



1 algae blooms. Algae are present in the Ohio River  
2 throughout the year. Cyanobacteria can produce  
3 toxins which can be harmful if ingested. For this  
4 reason an algae bloom which consists primarily of  
5 cyanobacteria is considered a harmful algae bloom, a  
6 HAB. And on August 19, 2015, now widely noted,  
7 ORSANCO received an NRC report of a paint-like green  
8 material in the Ohio River at Pike Island Locks and  
9 Dam, mile 84, which covered 100 by 200 feet. This  
10 was quickly identified as blue-green algae. Over  
11 the next month this bloom expanded to cover the Ohio  
12 River from Pike Island to Cannelton, about  
13 700 miles.

14           Sierra Club stands ready to work with  
15 ORSANCO to improve and protect water quality in the  
16 Ohio River. We stand ready to help the public  
17 better understand what ORSANCO does. We reaffirm  
18 our opinion that setting these standards is the most  
19 important work you do. Please withdraw the current  
20 proposal.

21           I think you're standing for a reason.

22           MR. KUPKE: I'm just trying to be  
23 respectful of the other people.

24           HANK GRADDY: Thank you very much.

25           MR. KUPKE: Thank you. Thank you for

1 stating your comments too.

2 I'll just give you a check in here, we've  
3 got about a couple more here.

4 Cornelia --

5 CORNELIA RELYEA: Relyea.

6 MR. KUPKE: When I can't read a couple  
7 letters, I really -- Relyea.

8 CORNELIA RELYEA: Relyea.

9 My father was chief hydrologist in charge  
10 of the River Forecasting Center right across the  
11 river in Cincinnati for the National Weather Service  
12 and he was --

13 MR. KUPKE: That's interesting, but let's  
14 let everyone hear.

15 CORNELIA RELYEA: Okay. My father was  
16 chief hydrologist in charge of the River Forecasting  
17 Center for the National Weather Service across the  
18 river in Cincinnati, and he always had a high  
19 respect for ORSANCO. I think if he were still  
20 alive, he would be really concerned not only about  
21 the lowering of standards but what would happen to  
22 his children, grandchildren, great-grandchildren,  
23 but more importantly the Ohio River Valley that he  
24 cared for as a hydrologist, making sure that not  
25 only concerns about flood control and protecting

1 communities, but I think at this point in time when  
2 I'm thinking about I should quit Dr. Pepper, I need  
3 to get off that soft drink, but now I'm not sure if  
4 it will be safe enough to drink the water from the  
5 river, that maybe Dr. Pepper is safer.

6 But more importantly, I listened to  
7 everyone that has spoken tonight, and I'm really  
8 impressed with the articulation, the concern, the  
9 legitimacy of what they're saying. What I want to  
10 know is how ORSANCO can lower its standards, not  
11 listen to your conscience, turn your back on the  
12 people, on the communities, on this river valley,  
13 and on the ecosystem because we only have one  
14 planet, and at this point in time I'm not sure how  
15 much longer we're going to have that planet.

16 MR. KUPKE: There's two, Mary -- is it  
17 Aguilera?

18 MARY AGUILERA: Aguilera.

19 MR. KUPKE: Aguilera, okay. I  
20 understand, Mary -- is this your child?

21 MARY AGUILERA: No.

22 MR. KUPKE: Okay. Amber Creech, is that  
23 right?

24 AMBER CREECH: Yes.

25 MR. KUPKE: So you're talking and

1 presenting together here?

2 MARY AGUILERA: Yes.

3 MR. KUPKE: Okay. We look forward to it.

4 MARY AGUILERA: I'm Mary Aguilera with  
5 the Ohio Poor People's Campaign, a national cult for  
6 moral revival, and we believe that everyone has a  
7 right to live, everyone has a right to clean water,  
8 and our planet and our environment is already under  
9 attack and under stress. So deregulating these  
10 control standards are really setting us up to fail.  
11 So despite all the, even the industry and all that,  
12 there's so many other issues going on with our  
13 environment that we need ORSANCO more than ever, and  
14 this is our future. And it's up to us to protect  
15 their future. We've done enough damage. We've done  
16 enough damage to our planet and to our environment.  
17 They are the ones that are going to have to deal  
18 with the greed that has caused the damage. And  
19 we're begging you, don't turn your backs on us,  
20 please.

21 MR. KUPKE: Thank you, thank you, Mary  
22 and Amber.

23 I would just -- we're here just to seek  
24 comments, but if we had all the commissioners here,  
25 I can assure you they will read the comments and

1 there's no intention of turning the backs on people  
2 that use the river. I don't know of a one that  
3 doesn't have a strong commitment to making things  
4 better. So we'll go from there.

5           So this concludes the statements of those  
6 who signed in. If there are others that would like  
7 to make statements, what we'll do is -- I saw a hand  
8 in the background. If you could just come up and  
9 likewise state your name, if you represent an  
10 organization, you can tell us about that too, and  
11 likewise if you could keep your comments to no  
12 longer than five minutes and so forth.

13           If there's somebody else behind you,  
14 ma'am, maybe you can just -- Lisa, who is with  
15 ORSANCO, is back there, somebody might go back and  
16 line up back there, I don't know how many there will  
17 be. Thank you. Please proceed.

18           POLLY WHITTAKER: Hi, thank you. I  
19 wasn't planning to speak, but a couple things  
20 occurred to me.

21           My name is Polly Whittaker, and I live in  
22 Cincinnati. I have property down in California, the  
23 community where ORSANCO is, right on the river, one  
24 of our 52 neighborhoods. And so I have a very close  
25 relationship with the river. I love the river. So

1 I observe the river a lot. When I see the wildlife,  
2 I'm discouraged that they have to rely on that  
3 water. I don't let my dogs swim in the river. Have  
4 you ever tried to explain to a dog why they can't go  
5 into the river when they just love the water. And  
6 everywhere else we go it's cleaner, but especially  
7 when we had the algae outbreaks in recent years, and  
8 that's, you know, I see the water birds and there's  
9 a couple of species of amphibians down there that so  
10 far I've observed, and it doesn't look good for  
11 them.

12           So last year we had a terrible flood, as  
13 you probably know, in 2018, and after that we  
14 stopped growing vegetables in our garden because  
15 we're afraid of the contaminants in that garden. It  
16 was under water. So now we're going to grow  
17 flowers. I'm afraid -- I was afraid to let my  
18 horses eat the grass that had been under water for  
19 so long, what that grass is bringing up, you know,  
20 in terms of toxins and, you know, other disease, I  
21 don't know, you know, but eventually they had to go  
22 back there. When our firewood floats away and more  
23 firewood floats up, we get other people's firewood,  
24 we don't burn it, we don't burn driftwood either  
25 because we're afraid of what fire will do to the

1 chemicals that have already been saturated in that  
2 wood.

3           When it floods and stuff gets ruined, you  
4 know, if you don't get it out in time, the  
5 restoration people and the Red Cross want you to  
6 throw it all out. Anything hollow, coolers,  
7 anything that the water has gotten into and the mud  
8 and the sludge is considered dangerous. We had to  
9 wear Tyvek suits and gloves and a lot of  
10 disinfectant. You know, these restoration people,  
11 they have rubber mats in their cars that they take  
12 out with their gloves and then they sanitize, you  
13 know, they have to disinfect everything. It's -- I  
14 know the flood water is more contaminated than just  
15 river water. You know, New Orleans has to see all  
16 of that, eventually it will flow out, but in the  
17 meantime -- and we have these shellfish, as you may  
18 know, 35 species live in this area, and they're  
19 beautiful, and they take a huge hit.

20           So it's sad, it's sad and it's  
21 discouraging, and I think we need more controls and  
22 much better water quality, not less.

23           Thank you very much.

24           JUSTIN LEVY: Hello, my name is Justin  
25 Levy. Thanks for having this hearing.

1           I also wasn't planning on speaking  
2 tonight, but a few of the minutes of the executive  
3 director that opened the session kind of surprised  
4 me. I just wanted to touch on a few of them.

5           One is this point about redundancy was  
6 brought up again. I've been at the past couple of  
7 meetings and over and over again people have come up and  
8 talked about how the standards are not redundant.  
9 I'm sure the people behind me know all the numbers  
10 and the different compounds and the different levels  
11 of those compounds and why they're not redundant.  
12 It just baffles me that this talking point keeps  
13 getting repeated, despite the fact that that's been  
14 disproven over and over, you know, mentioned over  
15 and over again. I just wish that the record would  
16 be corrected for that piece.

17           The second thing that came up is  
18 Mr. Harrison mentioned this comparative use  
19 provision that was up on the board as if this was  
20 supposed to protect us against the voluntary  
21 standards. So let me just get this straight, so  
22 first the Commission indicated that they wanted to  
23 completely do away with the regulations, with the  
24 standards, and now they're proposing, oh, we'll keep  
25 the regulations but the states will have to come to



1 the Commission, the ones that try to regulate the  
2 standards and have them determine whether these pass  
3 these comparative use standards. I mean, maybe this  
4 wasn't the intention, but it sounds kind of like a  
5 scam, right, to say, oh, we don't really need these  
6 regulations at all and then, oh, we'll keep you  
7 safe, we'll determine -- I mean, I feel like this  
8 whole process has resulted in a lack of public trust  
9 and a disruption of public trust between us and the  
10 Commission. And I wish that -- and that's why these  
11 guidelines need to be clear so the public can trust  
12 the Commission to actually enforce these standards.

13 And so bottom line is that this  
14 Commission can't deregulate in a race to the bottom.  
15 Thank you.

16 MR. KUPKE: Okay. Are there any further  
17 comments?

18 WILLIAM MONTGOMERY: William Montgomery.

19 I belong to more than 15 environmental  
20 organizations, and I see a direct trend within the  
21 past few years to the age of Trump is in which we  
22 are involved in right now, his campaign promise was  
23 that he will lower federal regulations to assist  
24 industries and businesses to prosper. And Waters of  
25 the United States Resolution was passed before under

1 the previous administration, and a number of states'  
2 attorney general have found objections to this,  
3 these standards in the previously stated Waters of  
4 the United States Resolution, and that these were  
5 already public, and attorney generals will oppose  
6 that and they say that you can pollute water sources  
7 which are not connected directly to navigable  
8 rivers. And this -- if you get a source of  
9 pollution there, it can be expanded outward during  
10 flood times or by underground aquifers, you know,  
11 where there's holes in the rocks and water can seep  
12 through to pollute navigable rivers.

13 And these policies must be fought because  
14 they are not helpful and, of course, there's  
15 problems with all the frackers who want to do their  
16 work next to the Ohio River and expand their work  
17 into as many areas where they can prosper, along  
18 with other businesses, and it's dangerous and we  
19 have to be alert to these different things.

20 Thank you.

21 MR. KUPKE: Okay. Thank you.

22 The record for this hearing will remain  
23 open through the end of the day Monday, April 15,  
24 2019. All statements received within that time will  
25 be considered by the Commission in its actions

1 concerning the proposed revisions and will be  
2 addressed in a responsiveness summary that will  
3 accompany any revisions to the standards. I  
4 personally know Commissioner Butler, Director  
5 Harrison, and Assistant Chief Engineer Jason, Jason  
6 Heath, Lisa Cochran, other ORSANCO people certainly  
7 appreciate your attendance here. Many of these --  
8 all of these comments were heartfelt, articulate,  
9 and will be taken into consideration.

10 Thank you for attending this evening, and  
11 I now declare this hearing adjourned.

12 \* \* \*

13 (Public Hearing Adjourned at 8:02 P.M.)

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I, Lois A. Roell, a Registered Merit Reporter and Notary Public in and for the State of Kentucky, do hereby certify that the foregoing is a true and correct transcript of the proceedings in the foregoing matter, taken by me at the time and place so stated and transcribed from my stenographic notes.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal this 15th day of April 2019.

LOIS A. ROELL, RMR  
Notary Public-State of Kentucky  
My Commission Expires: 9/7/19  
Notary ID 539090