

OHIO RIVER VALLEY WATER SANITATION COMMISSION

MINUTES

**225th Commission Meeting
Hilton Richmond Downtown
Richmond, Virginia
Thursday, October 10, 2019**

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Chairman John Kupke, Presiding

Call to Order

Chairman Kupke called the 225th meeting of the Ohio River Valley Water Sanitation Commission to order at 9:00 A.M. on Thursday, October 10, 2019.

Commissioner Paylor led the Pledge of Allegiance.

Quorum Call

Commissioner Wilson certified that a quorum was present (see Roster of Attendance, page 13).

Comments by Guests

None

Report of the Chairman

Chairman Kupke began by stating his appreciation for outgoing Chairman, Commissioner Potesta, noting that this was his third term as Commission Chairman, and then presenting him with a gift from the Commission.

Chairman Kupke then provided the following report:

We, the members and supporters of ORSANCO, are pleased to meet today in Richmond, the beautiful capital city of the Commonwealth of Virginia. We are happy to be Ohio River guests in Chesapeake Bay Country. While only over slightly 2% of the land area of Virginia lies within the overall Ohio River Valley drainage basin, we appreciate Virginia's contribution to the membership of ORSANCO via its technical and Commissioner leadership involvement. It is clear one could spend many days in Richmond and only obtain a small sampling of its extensive history, rich culture, and impressive natural and built physical attributes.

In attempting to learn more about the City of Richmond, I was struck by vast array of changes it has experienced between now and its formal founding in 1737, and even back to its roots in the founding of our country in the early 1600s. One can picture a mural sequentially tracing Richmond's importance at the time of the Revolutionary War with Patrick Henry's famous St. John's Church speech of "Give Me Liberty or Give Me Death." Next would be Richmond proceeding through the horse and buggy era as well as the hay days of river and canal transportation, to the hydro and steam power periods, to railroads, through slavery and the civil war, and most recently, through the revitalization of its urban areas. We have been most pleased to be here in a historical setting intimately connected with the history of America and have enjoyed your hospitality.

As your new Chairman for this next fiscal year, I am humbled by the responsibility of the position and buoyed by the understanding that I work in tandem with many others committed to preservation of the Ohio River...that is to say, interested members of the general public, 26 other experienced and capable Commissioners, a committed strong ORSANCO staff, a talented and engaged supportive network of professionals involved in ORSANCO committees, and all others interested in the many aspects of the Ohio River. Last year was a very busy year for ORSANCO, and that will definitely be the case again. There is no question that our resources, with a staff of only 19, are stretched for the many ongoing and new initiatives that we plan to pursue. Some programs come, are completed, and they go. However, because so many ORSANCO undertakings provide lasting value to different segments of river personnel, many become established programs or are periodically repeated. Examples of this include a number of ongoing water, macroinvertebrate, and fish sampling programs, upgrades of the Organics Detection System, and coordination assistance with communications on Harmful Algal Blooms (HABs), a current situation in progress. Additionally, this year we plan to conduct PFAS sampling, complete our mercury sampling project report, continue to work with the Army Corps of Engineers and others on the Ohio River Basin Restoration Strategy, and revisit our current strategic plan. We will also be carefully implementing the administrative and technical modifications associated with the Pollution Control Standards (PCS) changes, which were approved at our last Commission meeting in June. These last two items, the PCS changes and revisiting of our strategic plan, are two items I would like to briefly address in closing.

The first item deals with some impressions garnered from our Pollution Control Standards changes. During the Pollution Control Standards revision process over the last two years, despite our best intentions, our Commission struggled to ease public concerns and fear over retreating Ohio River water quality. Many concerns were raised about having “voluntary water quality standards” that seemed to imply all the states would now be on their own in terms of issuing permits tied to voluntary in-stream pollution levels. A better understanding of the intent of the change would be that of an alternate avenue to achieving the same desired stream protection endpoints. This involves protecting the stipulated designated uses of the Ohio River as a source of drinking water, aquatic life, fish consumption, and recreational use.

In carefully reviewing much of the expressed opinions, I know most of the Commissioners did not, nor do I, consider our water quality standards to be “voluntary.” Another path forward has simply been offered. During this meeting, there will be further information regarding the administrative and technical processes to be undertaken that I believe will assure we do not go backwards in controlling water pollution in the Ohio River. This is a very important commitment to me and, I know, to all of our Commissioners. I am certain no one would disagree with the common theme from our public participation over the last two years that their moral responsibility rests with placing primary focus on the preservation and enhancement of the water quality and aquatic environment of the Ohio River. So, in conclusion, I view that simply maintaining water quality of the Ohio River is a given...but our programs, direction, and intent go far beyond that. We seek to enhance this precious resource we are blessed to enjoy and serve. Our measuring stick is directed toward our children, our grandchildren, and future generations. This is my commitment to you this year during my chairmanship, and I know for certain that this feeling resides in each of our Commissioners.

Secondly, at the June 2019 Commission meeting, there was approval for revisiting the Commission’s strategic plan. This plan was last completed in 2008. However well-intended our process was in reassuring our water quality standards policy, I believe it was lacking in

effectively addressing the issue with regard to providing a clear understanding by the general public. While I fully support the direction the Commission approved last year on this topic, in some ways, it seemed to come as a surprise to the public in general. Were this issue to have been considered in terms of a long-term planning process and its importance placed amongst other priorities of the Commission, the overall understanding of the issue from several points of view may have been more fruitfully addressed. We will never know. However, taking the time now to look ahead especially over the next five years, a concise strategic planning process should help define ORSANCO's priorities as we seek continued implementation of our Compact.

Commissioner Kupke concluded by acknowledging the role and important work of ORSANCO staff in putting the Commission meeting together.

Chairman Kupke then entertained a motion regarding revising the Strategic Plan.

ACTION: Motion by Commissioner Woodwell, second by Commissioner Duritsa and unanimously carried, that the Commission conduct an update to its Strategic Plan, and that it be assessed and prepared within the Program and Finance Committee in conjunction with other interested Commissioners and that the Plan be completed as expeditiously as possible with a desired target of the Commission's June 2020 meeting.

Report of the Executive Director

Executive Director Richard Harrison began by mentioning that the 2019 Ohio River Sweep, coordinated by Lisa Cochran, was very successful and there were Sweep shirts available for Commissioners if interested.

He called attention to the 2019 Annual Report, written by Melissa Mann, provided to Commissioners. As per the Compact, the Report will be distributed to the Governors of Compact States as well as the office of the President of the United States. He asked that Commissioners advise him by October 24th if staff should distribute the Report on their behalf or if they wish to personally send it.

Mr. Harrison then commented on the Standards Implementation Process and provided an update on permit reviews which are typically provided in his monthly report to Commissioners. For September, staff received ten NPDES permits for review, four in draft and six final. No issues were identified.

Mr. Harrison provided an update on the Ohio River Basin Alliance (ORBA) activities, noting that ORSANCO is the fiscal sponsor. ORBA is currently working on a \$400,000 planning and assistance program with the Corps of Engineers, ORSANCO, and the State of Kentucky Division of Water, which has provided \$150,000 of the funding. A program strategy report should be drafted by May 2020. Work continues with Congress to grow the Caucus and to schedule a briefing to seek input and comments on the plan. He acknowledged that funding this undertaking through Congress is aspirational, but the attempt is important. The Ohio River will be promoted as a national treasure in need of funding.

He then thanked outgoing Commission Chairman, Ron Potesta, for his work this past year and for being such a valuable resource and providing much support to him.

He concluded by acknowledging and thanking staff for their continued excellent work.

Action on Minutes

ACTION: Motion by Commissioner Conroe, second by Commissioner Lovan and unanimously carried, that the minutes of the 224th meeting of the Commission, be adopted as presented.

Report of the Treasurer

Commissioner Wilson mentioned the good job Joe Gilligan performs with the finances and preparing the Treasurer's Report. He then noted that a Treasurer's Report, updated through June 30, 2019, was provided in the meeting agenda packet.

This report indicates a balance of \$1,194,532 in accounts receivable due the Commission. This balance represents \$1,140,990 due from Federal sources and \$53,542 due from other sources.

Additionally, the report indicates receipts of \$3,427,894, plus carryover of \$2,109,992, totaling \$5,637,886 through the end of June 2019. Of that amount, \$3,045,264 was expended on programs, leaving \$2,592,622 available for the continuation of ORSANCO's programs.

Commissioner Wilson concluded by mentioning that revenues met budgeted goals despite the 106 Grant not meeting budgeted expectations due to the addition of three special projects and the receipt of SEP funds. He also noted past concerns over investment income on Commission funds, but that recent returns on ORSANCO's sizeable checking accounts has been favorable.

Report on the Ad Hoc Committee on Mercury Studies

Commissioner Bruny provided the following informational report:

Mr. Chairman, Members of the Commission, on behalf of the Ad Hoc Committee on Mercury Studies, I am pleased to offer a brief update on our study. However, I am disappointed to report we don't have a final report for your consideration today. Please allow me to share with you some reasons for this unfortunate delay.

If you recall back to our June meeting, the draft report was sent out to TEC and Ad Hoc Committee members in early May for review and comment. We received many good comments through July 2019. Thank you to the Ad Hoc Committee members and our state members for their comments.

During this review, some of our state members identified what might be significant discrepancies in point source mercury loadings calculated from US EPA's Enforcement and Compliance History Online (ECHO) database. Mercury loads were recalculated using internal state DNR data for Ohio and Indiana, and it was determined that significant discrepancies did in fact exist. Additional concerns were also raised about intermittent stormwater discharges, non-contact cooling water discharges, the inclusion of loads from the Cumberland and Tennessee rivers, and a more accurate title for the report. These issues prompted a conference call of the Ad Hoc Committee on August 21, 2019.

Realizing that accurate, quality data is critical to a final report that will likely be scrutinized by many, the committee decided to ask all states to provide internal DNR data so that ORSANCO staff could recalculate more accurate point source loads for mercury. The states have responded well to this request; I believe we have heard back from nearly everyone to date.

During this review period, we also contracted with Marty Risch, retired USGS mercury expert, to review the report. Mr. Risch has reviewed and provided additional comments on our draft report.

Our plan moving forward is to finish re-calculating point source loads based on state DNR data. We will be asking our state agencies for some additional help in identifying stormwater and cooling water discharges. Staff will continue revising and updating the report based on comments received.

We need to improve the report in the areas of identifying the limitations and relevance of the study, and we also need to answer questions such as, “What does this all mean?” and “What is our message?” We plan to offer the TEC and Ad Hoc Committee another opportunity to review and comment on the report. Our goal is to have a final draft report for the February Commission meeting.

This completes the report of the Ad Hoc Committee on Mercury Studies.

Report of the Technical Committee

Commissioner Wilson, reporting on behalf of Commissioner Pigott, Committee Chairman, commented to the Commission prior to his Technical Committee (TEC) report that he appreciated the draft report preparation completed by David Bailey for the Secretary’s Report, Joe Gilligan for the Treasurer’s Report, and Jason Heath for the TEC Report. He especially noted that Jason Heath had completed draft reports for each Commission meeting at approximately 15 meetings over a five-year period. These draft reports were frequently five to ten pages, completed in the few hours available during the afternoon immediately following the two-day TEC meeting, and available that evening for TEC Chair review prior to presentation the next morning. The draft reports may be sometimes used for guidance or as an outline, but are often read nearly verbatim. Jason was acknowledged for this critical service.

Commissioner Pigott chaired the meeting on Tuesday and Wednesday, October 8-9, 2019. Commissioner Pigott was called to another meeting, traveling on October 10. Jason Heath drafted the report, which Commissioner Wilson subsequently modified and presented as below:

Report of the 221st Technical Committee Meeting

Good morning Mr. Chairman, Commissioners, guests, and staff. The Technical Committee met this week, including representatives from seven states, three federal agencies, and two advisory committees. I would especially like to thank our outside speaker from Virginia, Mark Richards, for his excellent presentation. A summary of the meeting follows:

Re. Biological Programs

Staff provided a summary of the final 2018 assessments which included the results of both the electrofishing and macroinvertebrate surveys from Emsworth and Pike Island Pools, which indicated that both pools were in full support of their aquatic-life use designation. The 2019 sampling season is ongoing in the pools of R. C. Byrd and Smithland. Other activities included a summary of fish tissue collections, nine aquarium displays, and dissolved metal samples. The results of these surveys, along with the nutrient, dissolved oxygen, and macroinvertebrate data, will be presented at the February TEC meeting.

Re. Harmful Algal Blooms

On September 11, Kentucky Division of Water field staff observed an algal bloom on the Ohio River near the water intake in Russell, KY. Sampling on the following day confirmed the bloom was *Microcystis wessenbergii* with microcystin concentrations near 8 ug/L. Since that time,

microcystis blooms have been observed in numerous locations along the river from Point Pleasant, WV to Louisville, KY. The highest concentrations or cautionary statements found to date were observed in Cincinnati, OH at over 1,000 ug/L. Recreational advisories have been issued by Kentucky, Ohio, and Indiana for the McAlpine, Markland, and Meldahl pools. These pools collectively span 265 miles from Louisville to Greenup, KY.

Re. Review of ORSANCO HAB Communication and Monitoring Plan

ORSANCO developed the Ohio River HAB Communication and Monitoring Plan following the 2015 Ohio River harmful algal bloom. Staff presented an overview of the plan for the Technical Committee's review. Key elements of the plan cover drinking water and recreational HAB advisory criteria, sampling, and communications during HAB events.

Re. U S-EPA HAB Risk Characterization Tool

Four years after the 2015 Ohio River HAB, water resource agencies and researchers are still trying to understand the critical factors which led to the bloom. Efforts have focused on statistical analysis of river stage and flow that compares current water level patterns to 2015 flow conditions to characterize the risk of a repeat bloom. The next phase of the project will integrate water quality data from continuous monitoring stations maintained by ORSANCO and Marshall University.

Re. Source Water Protection Programs

A status update was provided on ORSANCO's Source Water Protection and Spill Response Programs. Staff has recently participated in a number of emergency response preparedness exercises and other planning activities. An update was also provided on the Contaminant Source Inventory project which includes development of a GIS-based data management system to inventory potential contaminant threats and their associated risk to drinking water utilities. The next steps for the Organics Detection System (ODS) Next Generation evaluation were also presented. These steps will include an evaluation of 1) expanding the analyte list of volatile organic compounds, 2) pilot testing semi-volatile organic analyses at two or three existing ODS sites, and 3) the potential of hosting a web-portal to facilitate water quality data sharing among drinking water utilities.

Re. Ohio River PFAS Survey Design

Twenty sites are planned for sampling under high and low flow seasonal conditions. Remaining tasks needed to complete the survey design are as follows:

1. Secure analytical services from US EPA.
2. Confirm the use of USGS sampling method for PFAS and obtain any alternative equipment.
3. Select 2 sites to bracket the Parkersburg area of the Ohio River.
4. Finalize the Quality Assurance Plan, Sampling Plan, and Communication Plan.
5. Confirm that sites are not within a regulatory mixing zone.
6. Confirm that any adverse temporal sampling issues are addressed, such as the time it takes to collect samples is not in conflict with the time it takes for the river to flow along its length.

Re. Ohio River Basin Mercury Mass Balance Project

Staff presented updated results that point sources account for approximately 11% of instream mercury loadings, about twice the amount previously calculated. Aside from this finding, Commissioners already received a report on this topic from Commissioner Bruny.

Re. Ohio River Water Quality Conditions

The 2019 field sampling season saw above average precipitation and river flow conditions for May through July. Conditions became much drier in August and September. Frequency of exceedances of single sample bacteria criterion ranged from 27 to 37 percent in the six largest

combined sewer overflow communities along the Ohio River. Dissolved oxygen (DO) levels remained above 5.0 mg/L throughout most of the summer with the exception of several instances where DO dropped below the threshold in late August and September.

Re. 2020 305b Biennial Assessment of Water Quality Conditions

Staff presented a work plan and schedule for completion of the 2020 305b Biennial Assessment of the Ohio River Water Quality Conditions. This report covers years 2014 through 2018 based on Ohio River water quality and biological conditions, and reports on the status of the beneficial uses of the Ohio River. A meeting of the mainstem states' 305b Coordinators will be scheduled before year end to review available monitoring data and agree on assessment methodologies. Draft assessments will be presented at the February meetings and draft reporting at the June meetings. The Commission completes these tasks to assist the states in developing their required Integrated Reports as relates to the Ohio River.

Re. Virginia Department of Environmental Quality Presentation

Mark Richards of Virginia DEQ presented on the development of TMDLs in Virginia. Virginia has an important number of water bodies impaired for fish consumption use due to PCBs. They are relying significantly on pollutant minimization plans in order to meet their TMDL targets. Mark discussed TMDLs on the lower New River, upstream of the border with West Virginia, and the need for a 92% reduction in PCBs. Thanks to Mark and Melanie Davenport for arranging this presentation.

Re. State Updates on Interstate Water Quality Issues

While a more detailed review of state insights for water quality issues will be included in the full minutes for TEC distributed prior to the February meetings, several are included below:

- a) The Indiana Department of Environmental Management offered access to their recent report reviewing impairments to contact recreation from flow velocities near structures such as dams or embankments.
- b) Pennsylvania has detected PFAS in 19 of 67 samples in drinking source waters, but none in the associated finished drinking waters.
- c) The US Geological Survey has detected microcystin in two wells adjacent to the Ohio River, potentially indicating movement to or from the river through river floodplain sediments.

Thank you, Mr. Chairman that concludes my report.

Chairman Kupke requested that the minutes reflect the Technical Committee Chairman's comments on the assistance provided by Jason Heath. He also thanked Commissioner Wilson for reporting on behalf of Commissioner Pigott and noted the excellent job Commissioner Pigott is doing with the Technical Committee.

Report of the Ad Hoc Committee on Policies and Procedures Implementation

Committee Chairman Conroe provided an update on the Ad Hoc Committee's activities. Committee members included Commissioners Conroe, Flannery, Hoopingarner, and proxies Goodmann and Orr-Greene. He also recognized David Bailey's significant contributions to the work completed.

Last year, Chairman Potesta appointed the Ad Hoc Committee on Policies and Procedures Implementation. Early on, the Committee recognized this was not a simple undertaking as hoped. Staff conducted research and reviewed minutes from over 20 years looking for possible policies or procedures that had not been codified. The policies and procedures were assimilated into a draft manual. The first phase, covering staff level policies and procedures, was adopted by the Commission in October 2018. Subsequently, the Committee reviewed all external related

policies, as well as procedures applicable to Commissioners and staff, for consideration at this meeting. A draft manual was provided to Commissioners and Proxies at the June 2019 Commission meeting for review and input. This manual would serve as the basis for all codified policies and procedures. The final manual will serve existing as well as future Commissioners well.

Commissioner Conroe presented the following resolution to the Commission.

RESOLUTION 5-19

MOTION TO ADOPT UPDATED POLICIES AND PROCEDURES MANUAL AS RECOMMENDED BY THE AD HOC COMMITTEE ON POLICIES AND PROCEDURES

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

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

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

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

WHEREAS, the Commission adopted Resolution 3-18, directing the organization of ORSANCO governance documents; and

WHEREAS, the Committee, working with ORSANCO staff, has organized the governance documents into an updated Policies and Procedures Manual (attached hereto), which is recommended for adoption by the Committee,

IT IS THEREFORE HEREBY MOVED AS FOLLOWS:

The Commission adopts the updated Policies and Procedures Manual, as recommended by the Ad Hoc Committee on Policies and Procedures.

ACTION: Motion by Commissioner Conroe, second by Commissioner Flannery and unanimously carried, that Resolution 5-19, be adopted as presented.

Report of the Ad Hoc Committee on Pollution Control Standards Implementation Review

Scott Mandirola provided a report on behalf of Ad Hoc Committee Chairman Pigott.

At the June 6, 2019 Commission meeting, the Commission authorized the Commission Chairman to appoint either an Ad Hoc Committee, the Pollution Control Standards Committee, or sub-set of the Pollution Control Standards Committee, to develop protocols for implementation of the Revised 2019 Pollution Control Standards and report back to the Commission in October 2019 with recommendations. On June 28, 2019, the Commission Chairman appointed the ORSANCO Ad Hoc Committee on Pollution Control Standards Program Implementation Review. Committee members included Commissioners Pigott, Potesta, FitzGerald, Frevert, and proxy Mandirola.

The main approach taken was evaluating how current Standards are implemented into NPDES permits. The Committee reviewed ORSANCO's current process for reviewing states' permits to ensure that they are compliant with Compact goals. The Committee took the existing process and modified it in an effort to make it consistent with the 2019 Revisions to the Pollution Control Standards. The original process was somewhat vague on some issues and the committee made revisions to clarify the process ORSANCO staff will utilize in permit reviews. In many instances, it was taking the process already employed and reflecting this in the revised process document.

Scott Mandirola provided an overview and intent of the revised process document (**Attachment 1**) and highlighted the revisions.

Commissioner Fitzgerald provided the following Statement Regarding PCS Implementation Guidelines for the record:

"My fellow Commissioners:

I apologize that scheduled surgery tomorrow prevents my being with you this morning.

The Guidelines presented to you for your consideration and, hopefully, approval, fulfill the commitment made by this Commission at the last meeting, to assure that for those member states that do not utilize the PCS standards in establishing discharge permit limitations to the Ohio River mainstem, that the resulting permits will be as protective of the Compact goals and uses of the Ohio River mainstem as if the PCS standards had been utilized.

*These guidelines complete a lengthy process that has attracted much public scrutiny and concern. You are aware that maintenance of the existing standards was the goal of myself and several other Commissioners, while others sought to eliminate the standards entirely. In the final equation, instead of eliminating or weakening these standards, which were adopted unanimously by the member states over many years, these guidelines create for the **first** time, an accountability on a permit-by-permit for those few member states that choose not to utilize the PCS. That accountability is to demonstrate that the resulting permits taken as a whole will be as protective of what the French described as "la Belle Rivière," (the beautiful river), as if those standards had been utilized.*

This has been a very difficult chapter for ORSANCO and has divided a Commission who, I know to a person, seek to restore and sustain the quality and uses of this Great River. I appreciate the give and take among the committee and subcommittee members, and in particular, Scott and Bruno's input and candor.

I encourage each of my fellow Commissioners to approve these Guidelines unanimously in order to provide more clear direction to staff in their review of proposed state permits. These guidelines are not intended to supplant the informal give-and-take between commission staff and state permit writers, but to clarify through a revised guidance to staff that the question, at the end of the day, is whether each state is maintaining and implementing our joint commitment to this Great River that is reflected in the Compact Charter.

Thank you for this opportunity to address you in abstentia.

Fitz”

Commissioner Conroe expressed his compliments to the Committee for an admiral job and fully supports their undertaking and what they produced. At the same time, you can't capture everything in print and wants to add for the record that he believes there is nothing in the documented process that prohibits or restricts the normal communications that have taken place over time between the states and ORSANCO regarding permit issues.

ACTION: Motion by Peter Goodman, second by Commissioner Woodwell and unanimously carried, to accept the “ORSANCO Proposed Review Process of State-Issued NPDES Permits,” produced by the Ad Hoc Committee on Pollution Control Standards Program Implementation Review, which was charged to review and evaluate ORSANCO’s programs that involve the implementation of the June 6, 2019 Pollution Control Standards. Further moved to commend the efforts of this Ad Hoc Committee and to thank the members of said Committee for their earnest efforts.

Executive Director Harrison indicated that the approved process will be codified in the Policies and Procedures Manual adopted earlier in the meeting.

Report of the Public Information Programs Advisory Committee

Betsy Mallison reported that the Committee met, by phone, on September 19, 2019. Members have participated in several events including the River Sweep, Recycling Conference, and ORSANCO’s PFAS committee.

The Committee discussed promotion and sponsorship of the Life Below the Waterline, as well as possible future public relations strategies for HAB, Bacteria Trends, Mercury reports, and the PFAS study.

Marine litter was a big topic at the recent recycling conference, and the group discussed ways to develop a tie-in to the topic and promote the accomplishments of the annual River Sweep.

Report of the Watershed Organizations Advisory Committee (WOAC)

Angie Rosser provided the Committee report. She thanked the Commission for being so open and welcoming and noted how much she learns from attending and participating in the Technical Committee and Commission meetings.

Ms. Rosser acknowledged the complex issues and challenges the states face and how the Commission is committed to the spirit of cooperation. The challenges are big, but the Commission undertakes them in a calm way with positive results.

The WOAC formed an Ad Hoc Committee to look at restructuring the Committee. Out of this came new operating procedures, membership structure and expectations, and leadership

structure. Rich Cogen is Chair, Angie Rosser is Vice-Chair, and Heather Davis is the Coordinator. In addition, PCS, PFAS, Mercury, Nutrients, HABs, Public Notice, and Ohio River Funding sub-committees have been established.

Over the past two years, the Committee has focused attention to the Pollution Control Standards proposals. Ms. Rosser asked for clarification regarding PCS actions taken at the June Commission meeting. She asked if the process regarding evaluation of permit reviews is complete and acted on at this meeting. The Committee hopes that there is an ongoing evaluation for protecting the designated uses and would like to continue discussions on this. In addition, the Committee would like information on how the Standards will be updated in the future.

The Committee feels that the Commission's upcoming strategic planning is important to let the public to better understand the fuller context of ORSANCO and its priorities and future direction.

Adjournment

ACTION: Motion by Commissioner Lovan, second by Commissioner Woodwell and unanimously carried, to adjourn the 225th Commission meeting at 10:25 A.M.

Upcoming Meetings

Chairman Kupke noted the following schedule for upcoming Commission meetings:

- February 11-13, 2020 – Indianapolis, Indiana
- June 9-11, 2020 – Clifty Falls, Indiana

Prepared by:

David R. Bailey

David Bailey
Director of Administration

Date: November 5, 2019

Approved by:

Mike Wilson

Mike Wilson
Secretary/Treasurer

Date: November 20, 2019

ROSTER OF ATTENDANCE
225th Commission Meeting
October 10, 2019

Commissioners

Illinois	Scott Twait (PROXY for Director John Kim) Toby Frevert
Indiana	John Kupke Joseph Harrison, Jr.
Kentucky	Ron Lovan Peter Goodmann (PROXY for Lt. Governor Janean Hampton)
New York	Mike Wilson Douglas Conroe
Ohio	Craig Butler (PROXY for Director Laurie Stevenson) Stuart Bruny John Hoopingarner
Pennsylvania	Charles Duritsa Jennifer Orr-Greene (PROXY for Secretary Patrick McDonnell) Davitt Woodwell
West Virginia	David Flannery Ron Potesta Scott Mandirola (PROXY for Secretary Austin Caperton)
Virginia	David Paylor
Federal	George Elmaraghy
Legal Counsel	Chase Dressman

Executive Director

Richard Harrison

Staff

David Bailey, Sam Dinkins, Joe Gilligan, Jason Heath, Ryan Argo

Guests

Angie Rosser – WOAC/WV Rivers Coalition; Heather Davis Miller – WOAC/National Wildlife Federation; Erich Emery – USACE; Betsy Mallison – PIACO; Kathy Beckett – Steptoe & Johnson PLLC

ORSANCO Pollution Control Standards Review Process of State Issued NPDES Permits

Approved October 10, 2019

The guiding principle of the Ohio River Valley Water Sanitation Compact is stated as “pollution by sewage or industrial wastes originating within a signatory State shall not injuriously affect the various uses of the interstate waters” [i.e. the Ohio River]. ORSANCO’s Pollution Controls Standards (PCS) for discharges to the Ohio River are offered for use or consideration by signatory States as a benchmark to assess attainment of these various uses. The States issue NPDES permits for municipal and industrial wastewater discharges to establish appropriate pollution controls. ORSANCO reviews the state issued draft NPDES permits which discharge directly into the Ohio River to ensure these waste streams meet the provisions of the PCS and thus do not injuriously affect the beneficial uses of the Ohio River.

The Pollution Control Standards set forth the uses to be protected in the Ohio River as established in the Compact. Those standards also set forth certain general conditions, water quality criteria and waste water discharge requirements deemed advisable by the Commission to comply with the Compact. The standards were adopted by the Commission for use or consideration by signatory States as they develop and implement their programs to assure that those designated uses and other goals regarding pollution control and prevention set forth in the Compact will be achieved. The standards also recognize the rights of individual states to adopt and apply more stringent regulations. It is recognized by the Commission that the permitting and water quality standard development processes of the individual states may vary, as contemplated by the Compact, due to a number of factors, including administration of the federal/state National Pollutant Discharge Elimination System (NPDES) as established in federal Clean Water Act (33 U.S.C. 1342). It is recognized further by the Commission that each discharge permit issued pursuant to the Clean Water Act or other federal or state law may not contain requirements addressing one or more of the Pollution Control Standards. The Commission, and each signatory state, have committed to implementation of discharge permit limitations that provide comparable use protection and achievement of the Compact goals as provided by these standards. To that end, each signatory state will provide notice and an opportunity for comment to the Commission of any proposed or draft discharge permit to the main stem of the Ohio River. This document outlines the review process that will be used

Review Process

ORSANCO receives draft NPDES permits from each of the six states for which the Ohio River flows through or along its borders (i.e. IL, IN, KY, OH, PA, WV). The draft permits are provided to ORSANCO staff at the time that the drafts are released by the states for public review and comment. Staff reviews each Ohio River discharge permit received from the States to evaluate if the pollution control limitations prescribed in the permit provide comparable use protection and achievement of the Compact goals as provided by the PCS. In summary, these permit reviews entail the following elements:

- Identify all parameters specified in the permit which have effluent limitations.
- Determine which of these parameters, if any, have criteria defined in the ORSANCO PCS.
- For any parameter which has an effluent limitation equal to or more stringent than the criteria established for that parameter in the PCS, no further action is necessary to evaluate that individual parameter.
- The permit reviewer will review all permit limitations and other permit conditions and assumptions in order to determine whether, in the absence of a limitation for that parameter or a limitation equal to or greater than the criteria established for that parameter in the PCS, the permit provides comparable use protection and achievement of the Compact goals as would be

the case were such a permit limitation included in the draft permit. As part of that review, if the effluent limit proposed for the permit for a specific parameter is higher than the in-stream criteria, staff will review whether a mixing zone has been proposed, and the proposed mixing zone will be reviewed to assure that it is consistent with the PCS and that the resulting fully mixed, in-stream concentration meets the applicable water quality criteria at the edge of the zone. No calculations are made for the Zone of Initial Dilution (ZID) or any other point within a defined regulatory mixing zone.

- Harmonic mean flow is used for calculations for appropriate water quality-based limitations for substances identified as human carcinogens, while the minimum seven-day, ten-year flow (7Q10) is used for all other substances.
- Historical, upstream background concentration data are used (when available) to determine the available assimilative capacity.
- While as a practice, ORSANCO reviews all permits issued into the Ohio River mainstem, where necessary, priority should be given to major permits (as defined by EPA) over minor permits, and to draft permits for new or expanded discharges, draft permits proposing addition or deletion of water-quality-based effluent limitations (WQBELs) or technology-based effluent limitations (TBELs) and draft post-CSO permits. Where a draft permit carries forward all permit limits from a previously-issued permit that has been subject to review by ORSANCO staff and found to be consistent with the PCS, review will be limited to changes from the previous permit and to new or modified water-quality or technology-based limits applicable to that discharge.
- In the event provisions of an NPDES permit appear to be potentially inconsistent with the PCS, ORSANCO staff will communicate with the State in order to seek clarification and if unresolved, to provide comment during the public comment period for the draft permit on such inconsistency. Such a finding of inconsistency by Staff, if unresolved, will be noted in a communication to the ORSANCO Pollution Control Standards and NPDES Committees and in the monthly report to ORSANCO management and Commissioners as provided below.

ORSANCO staff maintains a docket file with copies of all draft and final NPDES permits received from the states and all other pertinent documentation (e.g. letters, monitoring reports, modifications, etc.). A database is also maintained for all Ohio River NPDES permits received. Staff provides monthly reports to ORSANCO management on permits reviewed during the previous period and details any permitting issues which need further clarification or resolution.