

**INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN**

**THIRD QUARTER 2017  
BUSINESS MEETING  
JUNE 6, 2017**

**MICROTEL INN, CONFERENCE ROOM  
KEYSER, WV**

**FINAL MINUTES**

**CALL TO ORDER:** Chairman Sussman called the Third Quarter 2017 Business Meeting to order at 10:05AM on June 6, 2017. The following Commissioners, staff, and guests were in attendance for all or part of the meeting.

**Commissioners**

**West Virginia**

Patrick Campbell (Alt. Commissioner)

**District of Columbia**

Hamid Karimi (Commissioner)

Willem Brakel (Commissioner)

Tiffany Potter (Alt. Commissioner)

**United States**

Robert Sussman (Chair, Commissioner)

**Maryland**

Robert Lewis (Commissioner)

Virginia Kearney (Alt. Commissioner)

**Virginia**

Scott Kudlas (Alt. Commissioner)

Jackson Miller (Commissioner)

**Pennsylvania**

Jennifer Orr (Alt. Commissioner)

Ronald Stanley (Commissioner)

**Staff and Guests**

**Staff**

Carlton Haywood (Executive Director)

Robert Bolle (General Counsel)

Bo Park (Dir, Administration)

Curtis Dalpra (Communications Manager)

Claire Buchanan (Dir, Program Operations)

Rebecca Wolf (Watershed Coordinator)

Mike Selckmann (Aquatic Biologist)

**Guests**

Henry Gruber (USACE, NAD)

Carol Cain (USACE, Baltimore)

Chris Kimple (for D. Moul, PA)

Saeid Kasraei (MDE)

Scott Boylan (MDE, Presenter)

Brad Metzger (MDE, Presenter)

Olivia Lewis (MDE, Intern)

Frank Rogers (Cacapon Institute, Visitor)

**ADOPTION OF AGENDA: Commissioner Kudlas made a motion to approve the agenda, which was seconded by Commissioner Lewis. All were in favor.**

**MARCH 7, 2017 DRAFT MINUTES: Commissioner Lewis made a motion to approve the March 7, 2017 Meeting Minutes, which was seconded by Commissioner Stanley. All were in favor.**

**SUMMARY FROM EXECUTIVE COMMITTEE CONFERENCE CALL:** Mr. Haywood reported on an action item from the EC conference call on April 24, related to the proposed natural gas pipeline under the Potomac River near Hancock, from Pennsylvania to West Virginia. The committee agreed that there was no threat to the Washington metro area drinking water and, since the state regulatory agencies have review and approval authority, this is not an issue for the Commission beyond monitoring the

progress. Commissioner Lewis added the importance of aquatic resources in addition to water quality. Mr. Haywood responded that aquatic resources surrounding the pipeline was discussed during the EC conference call but it is expected that the state agencies would incorporate appropriate conditions and assurances to protect aquatic resources into the relevant permits.

Commissioner Brakel added that there also is a broader question of whether the ICPRB should more systematically review and comment publicly on major proposed infrastructure projects with interstate and basin-wide ramifications, when appropriate. Article II (E) of the 1970 Compact explicitly empowers the Commission to do this, at its discretion, for any plans relating to water or associated land resources. The Advisory Committee for the Comprehensive Plan discussed this issue, but has not come to any final conclusion. Chairman Sussman agreed but added that, in this particular case, the EC agreed that the existing procedures by the state agencies were sufficient and presented no issue from the Commission's perspective.

Commissioner Karimi suggested that the Commission is a platform for all the jurisdictions to be informed of water related news for the Potomac basin and he would like to receive direct communication from the staff alerting Commissioners about projects with potentially significant impact on the basin. Mr. Haywood responded that currently general news about the basin is sent out to the commissioners and to the public via the weekly Reservoir News email.

Mr. Haywood gave a summary of the Executive Committee meeting from Monday, 6/5. The committee discussed the COOP and Business Meeting agendas for Tuesday. The committee was informed of the ongoing OMB M-17-22, Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce, initiated by the Trump Administration. ICPRB is on the OMB's agency listing. Mr. Haywood has been in touch with the OMB staff to obtain an exemption, as the Commission is neither federally funded nor employs federal staff. He will keep the EC informed of its development.

Also, discussed during the meeting was the structure and relationship between ICPRB, COOP, and the utilities. Discussions on this matter will be on-going. The EC further decided that the COOP chair will be invited to participate in the EC meetings if and when COOP related topics are discussed. Mr. Bolle stated that there is no need to make a change in the By-Laws to reflect the inclusion of the COOP chair, and recording the decision in the Minutes would be sufficient.

Mr. Haywood continued that the LFAA review was also discussed. A Scope of Work for the review will be developed in the next several weeks with an intent to advertise for an independent consultant by summer.

## **OLD BUSINESS**

**Executive Director's Report:** Mr. Haywood gave highlights of some of the activities at the Commission for the last quarter.

- Commissioner: In Pennsylvania, Dana Aunkst has been named as the commissioner and Jennifer Orr will remain as the alternate commissioner. An official letter will be forthcoming.
- Financial Statements: Contingency Reserve Account remains intact. The signatory dues are up-to-date. As previously, MD paid 90% of their dues. The Commission is on track as budgeted for the fiscal year.
- Grant/Contracts: A new 6-year term Chesapeake Bay grant (EPA Section 117) started on June 1. A WV DEP algae project was awarded for the sixth year and the Virginia Accotink TMDL contract was amended to add \$15k.
- ED activities: Mr. Haywood has been involved in developing the Comprehensive Plan. He has been working with the USACE, Baltimore District, on three cost-share projects under their Planning Assistance to States (PAS) program. One agreement was signed last week for the Comprehensive Plan assistance. The second project is on the Jennings Randolph Reservoir Water

Control Study scoping work. The third project is to provide funding for the Corps to participate in the LFAA review.

- Mr. Gruber reported that documents for the two pending projects, Jennings Randolph Reservoir Water Control Plan and the LFAA review, are circulating within USACE, Baltimore, and will be executed shortly.
- Mr. Haywood stated that due to the passage of time, the deadline to expend the cost-share amount for the Comp Plan and Jennings Randolph projects by 9/30 will be difficult. Thus, amending the scopes of work will be necessary. He will further discuss with USACE Baltimore staff.
- Correction to Item K on the ED Report. The comment letter for the proposed Water Supply Rule was **not** submitted to the USACE. The deadline to submit comments has been extended and the letter will be submitted later in the summer.

**Financial Report:** Mr. Haywood reported that the accounts receivables are up-to-date and the Commission is on track within the budget.

**Project Status Summary:** There were no questions.

**Update on Comprehensive Plan Project:** Mr. Haywood reported that the Comprehensive Plan is in the middle of its development schedule. The Advisory Committee met two weeks ago and discussed water resources challenges. More information gathering will occur during summer. Thereafter, a strawman draft of the Comprehensive Plan will be drawn. The challenge he foresees is that the document will need to recognize the various authorities of the states and federal agencies while also presenting the Commission's recommendations for achieving its objectives for clean and adequate water for multiple uses. A second challenge is figuring out how the Comprehensive Plan can present or reference the enormous amount of data that the state and federal agencies have. It should not be an intent of the Comprehensive Plan to maintain duplicate copies of that data.

At the next Commission meeting, there will be time allotted for extensive discussions with the commissioners. The facilitator hired to assist with the Advisory Committee will be attending the 8/29 meeting. Following the Commission meeting, there will be an Advisory Committee meeting on 9/8 at which that group will hear Commissioners' perspectives. Then, during September-November, staff will draft a document incorporating all the information gathered. By end of November at the Commission meeting, a more concrete document will be presented. The final Comprehensive Plan document is scheduled to be complete around March 2018.

Commissioner Brakel clarified that the Commission has participation on the Advisory Committee via commissioners Kudlas, Orr, Campbell, and Brakel. He also added that he does not think it has been clearly articulated whether the Comprehensive Plan is for ICPRB or for the stakeholders at large and he thinks there needs to be further discussions on this matter.

**Update on LFAA and WSCA Reviews:** Mr. Haywood reviewed the progress on the WSCA review. Each signatory including MD, VA, DC, and COE (for US) agreed to contribute \$15k to hire a contractor to review the WSCA. The Commission will be procuring a contractor with the funds collected. The advertisement would need to go out in June/July timeframe to move forward.

The WSCA review is progressing at a slower pace than the LFAA review as the utilities are somewhat cautious about the implications for them. The ICPRB perspective is that the two reviews, while related to each other, some of the work can be done simultaneously. This topic will be brought up again at the next COOP Operations meeting on 6/26. Recalling from the last COOP Operations meeting, the general managers agreed to form a workgroup to explore options. To that end, the utilities will be asked to identify the workgroup members at the 6/26 meeting.

Commissioner Brakel noted that currently the LFAA moderator position is vacant and has been for some time. Commissioner Kudlas added that he will be following up on that matter. Mr. Haywood added that the appointment of a standby moderator, which is a rotation between the members, currently DC, has been vacant as well. Commissioner Karimi added that Colin Burrell is working on appointing a standby moderator.

## **NEW BUSINESS**

**Resolution Honoring Herb Sachs:** Chairman Sussman presented a resolution recognizing the late Herb Sachs for his service as a former ICPRB Executive Director and an ICPRB Commissioner who was a seminal figure in the basin. The resolution signed by the Chairman will be presented to his wife and a second copy will be displayed at the Commission office. Commissioner Stanley suggested inviting other interested commissioners as delegation to present the resolution to his wife. **Commissioner Stanley made a motion to approve the resolution, which was seconded by Commissioner Kudlas. All were in favor.**

**FY2017 Budget Amendment #4:** Mr. Haywood discussed the changes to the budget. There was a new project from MDE that replaced a project from NYDEP which fell through and part of the effort for the VA DEQ GIS project has been pushed to FY18. On the expense side, due to changes in projects, the expenses decreased. And there was a positive net change in the budget of \$56,500, an amount which warrants approval of an amended budget. **Commissioner Kudlas made a motion to approve the budget amendment, which was seconded by Commissioner Stanley. All were in favor.**

**FY2018 Framework Budget:** Mr. Haywood presented the FY2018 framework budget. The federal payment revenue of \$650k was included, although not expected, as a continued effort to restore federal contributions to the Commission. Not included in this budget are an “unidentified projects” line used to balance revenue shortfalls. As federal budget cuts seem possible in the upcoming year with consequent impacts on state budgets, it was appropriate to present a deficit budget that reflects the reality of circumstances. Expenditures reflect vacant positions that will not be filled until firm projects are identified. Commissioner Karimi asked that subsection titles on the budget revenue page be revised to avoid confusion. Staff will change the format for future printing. **Commissioner Karimi made a motion to approved the FY2018 framework budget, which was seconded by Commissioner Stanley. All were in favor.**

**FY2016 Audit:** Commissioner Potter reported that the financial statement disclosures are consistent and clear. The Audit Committee did not identify any uncorrected items in the financial statements. FY2016 concluded with a sound and clean audit. **Commissioner Kudlas made a motion to accept the audit, which was seconded by Commissioner Lewis. All were in favor.**

**Nominating Committee for FY2018 Officers:** Chairman Sussman announced that Commissioner Kearney will chair the Nominating Committee, including commissioners Kudlas and Orr.

**Development of Large River Assessment Tools:** Mr. Selckmann presented an overview of ICPRB’s Large River project supported by USEPA CWA 106 funds. The project’s overall goal is to develop a reliable approach for evaluating the condition of large rivers of the Potomac River basin. Between 2012 and 2014, the project surveyed the macroinvertebrates, freshwater mussels, filamentous algae, and underwater grasses at three hard-to-reach Potomac mainstem locations: Knoxville, Carderock, and Little Falls. The results filled state monitoring gaps and established a biological baseline that can be used to evaluate impacts of future disturbances. The sampling design allowed staff to estimate the level of effort that will be required to measure significant change in mainstem macroinvertebrate communities, given their natural variability. In 2016 and 2017, ICPRB staff explored the tendency of Potomac and Shenandoah waters to remain separate for 20 or more miles downstream of their confluence at Harpers Ferry. Staff also collaborated with Pennsylvania Department of Environmental Protection (PADEP) to

develop a large river index of biotic integrity. Summer and fall macroinvertebrate samples collected in the North Branch, South Branch, Shenandoah, and Potomac mainstem were combined with samples from the large Pennsylvania rivers to develop the SWMMI, or Semi-Wadeable Multi-Metric Index. The index correctly identifies a site's condition over 80% of the time. Regional differences reminiscent of those found in filamentous algae and macroinvertebrate communities of small streams suggest natural differences in regional geology and water chemistry are responsible.

**Resolution of Pollution Problem at Mexico Farms:** Guest presenters, Scott Boylan and Brad Metzger of the Maryland Department of the Environment, Water Management Administration, presented a case study on the successful conclusion of an enforcement action by MDE and the Maryland Attorney General against Mexico Farms LLC and Fibred-Maryland, Inc. Fibred-Maryland, Inc. is a manufacturer of dietary fiber located in Cumberland, Maryland. Mexico Farms LLC was the wastewater treatment facility created by Fibred for the sole purpose of treating their industrial wastewater. The treatment plant is located along the North Branch Potomac River, south of Cumberland.

The enforcement action resolved water pollution violations resulting from leaking storage lagoons, accumulated wastewater, and violation of the state discharge permit conditions allowing disposal of wastewater by land application. The wastewater has a chemical profile marked by high pH, high nutrient content, elevated levels of sodium, and nuisance odors. The enforcement action resulted in an Administrative Order issued in 2011 and upheld by the Circuit Court for Allegany County in 2013. The order required removal of wastewater, elimination of storage lagoons, extensive upgrades to the wastewater treatment facility, and rehabilitation of farm fields used for wastewater spray irrigation. Corrective actions required by the Order are now substantially complete.

**DATE AND LOCATION FOR AUGUST MEETING:** The next Commission meeting will be held at the Rockville office on Tuesday, August 29, one day only. There will be no tour.

**ADJOURNMENT:** Commissioner Karimi made a motion to adjourn the meeting at 12:50 PM, which was seconded by Commissioner Lewis. All were in favor.

Minutes Draft By: Bo Park, Director, Administration

Minutes Reviewed, Approved, Submitted by: H. Carlton Haywood, Recording Secretary