

# INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

## FIRST QUARTER 2021 BUSINESS MEETING DECEMBER 1, 2020

### VIRTUAL MEETING ROCKVILLE, MD

#### DRAFT MINUTES

**CALL TO ORDER:** Chairman Brakel called the First Quarter 2021 Business Meeting to order at 9:45 a.m. on December 1, 2020. The following commissioners, staff, and guests were in attendance for all or part of the meeting.

#### Commissioners

##### United States

Robert Sussman (Commissioner)  
Darryl Madden (Commissioner)  
Amy Guise (Alt. Commissioner)

##### District of Columbia

Jeff Seltzer (Commissioner)  
Willem Brakel (Chair, Commissioner)  
Tiffany Potter (Commissioner)  
Kimberly Jones (Alt. Commissioner)  
Hamid Karimi (Alt. Commissioner)  
James Tsai (Alt. Commissioner)

##### Maryland

Robert Lewis (Commissioner)  
Lee Currey (V. Chair, Alt. Commissioner)

##### Pennsylvania

Summer Kunkel (Alt. Commissioner)  
Adam McClain (Alt. Commissioner)

##### Virginia

Paul Holland (Commissioner)  
Scott Kudlas (Alt. Commissioner)  
Mark Peterson (Alt. Commissioner)

##### West Virginia

John Wirts (Alt. Commissioner)

#### Staff

Michael Nardolilli (Executive Director)  
Bo Park (Dir, Administration)  
Cherie Schultz (Dir, COOP Operations)  
Claire Buchanan (Dir, Program Operations)  
Heidi Moltz (Assoc. Dir, Water Resources)  
Curtis Dalpra (Communications Manager)  
DeeDee Hunter (Administrative Coordinator)  
Carlington Wallace (Environmental Scientist)  
Christina Davis (Sn. Water Resources Planner)

#### Guests

BG Thomas Tickner (COE, NAD)  
Valerie Cappola (COE, NAD)  
Rhonda Manning (PA DEP)  
Saeid Kasraei (MDE)  
Joel Caudill (WSSC)  
Thomas Hilton (WSSC)  
Greg Prelewicz (Fairfax Water)  
Tiffany Tran (Citizen)

Mr. Nardolilli welcomed the Commissioners, staff, and guests to this first fully virtual meeting for ICPRB. Mr. Nardolilli explained that this "virtual" meeting is allowed under a revision to the ICPRB By-laws which added Section V(g). That new section was approved by an e-mail vote of the Commission on

April 17, 2020 pursuant to Section XIII of the By-laws. Section V(g) permits public meetings by virtual conferencing under the state of emergency declared by Maryland Governor (and ICPRB Commissioner) Larry Hogan on March 5, 2020, August 10, 2020, then renewed on October 30, 2020 and still in effect.

## **ROLL CALL**

Due to the nature of the virtual meeting, Mr. Nardolilli called the names of the members, staff, and guests. Those at the meeting acknowledged their attendance.

Chairman opened the first quarter meeting with a welcome and introduced BG Thomas Tickner, Commander, North Atlantic Division, U.S. Army Corps of Engineers, who is awaiting an appointment from the White House to the Commission. BG Tickner noted his experience with collaborating with regional partnerships, citing his work with the Delaware River Basin Commission. He will keep abreast of the Commission's work through Commissioner Guise. He looks forward to working with ICPRB.

## **ADOPTION OF AGENDA**

Commissioner Kunkel noted a correction on the agenda for item #4, dated "June 23, 2020" which should be "September 1, 2020." **Commissioner Karimi made a motion to approve the agenda as modified, which was seconded by Commissioner Potter. All were in favor.**

## **September 1, 2020 DRAFT MINUTES**

Mr. Nardolilli noted a change requested by Commissioner McClain by email previously. On page 7 of the minutes, second paragraph, last line should read "Commissioner McClain" not "Commissioners McClain." Chairman Brakel also asked that the full texts for the Statement of Diversity, Equity, Inclusion and Justice and the Resolution for Thomas Jacobus be added to the final meeting minutes. **Commissioner Karimi made a motion to approve the September 1, 2020 Meeting Minutes, which was seconded by Commissioner Kudlas. All were in favor.**

## **SUMMARY FROM EXECUTIVE COMMITTEE (EC) CONFERENCE CALLS (Tab 2)**

Mr. Nardolilli gave an overview of the Executive Committee meeting held on October 20, (notes found under Tab 2 of the Meeting Book) and an update from the EC conference call yesterday.

- Implementing the resolution of the Ad Hoc Work Group on Water Supply (WS) was discussed during the CO-OP meeting earlier. The EC asked that the work group reconvene to discuss wording as suggested by the members of the work group and set the stage for additional language to support the resolution. Staff will draft additional language and return to the Ad Hoc Work Group on WS. If consensus is reached, staff will brief at the next EC meeting and again in March at the next Commission meeting.
- A new intellectual property (IP) clause has been applied to the Hazen and Sawyer contract. The Metropolitan Washington Council of Governments (MWWOG) contract that was to fund a CO-OP project was revised to reflect the intellectual property clause. ICPRB is awaiting a response back from the MWWOG. The new IP clause will ensure that ICPRB has the ability to modify program models and assertion of copyright to recognize ownership, but not necessarily for charging the public for the use of the model.
- Jeff Seltzer participated in the EC meeting on 11/30 with an invitation from the EC to discuss CO-OP matters.
- Later today, DWSPP land prioritization project presentation will be given. This is a project to help guide land conservation efforts toward areas that would be most valuable in drinking water source protection based on a number of criteria. The Drinking Water Source Protection Partnership (DWSPP) asked for action by the Commission to be discussed later today and at the

March meeting. Staff will ask the Commission to endorse the project and also to tap into tax benefits for land protection of source water.

- Status of jurisdictional funding: All jurisdictions have paid their dues. Thanks to the commissioners who have supported the Commission, which will use the funds to obtain contracts to support the work in the basin.

Commissioner Tsai asked about the intellectual property issues and the status of the Commission as a quasi-governmental agency on certain restrictions for research and funding requirements. Mr. Nardolilli added that the contract clause asserts all the rights to use the model as it is being developed, but not restricting the funding agency to use the model as well. The clause does not assert the rights for payment to use the model, but ownership of the model. In addition, the Commission would need to survey intellectual property assets going forward.

Commissioner Potter asked regarding environmental markets. Mr. Nardolilli indicated that that topic has not been discussed. Commissioner Potter added she would be interested in future discussions and to assist with advancing general strategies. There are ample data available on performance risks, money in the market, and financing. She will provide more information to Mr. Nardolilli.

## **OLD BUSINESS**

**Executive Director's Report:** Mr. Nardolilli noted that his full report is in Tab 6 of the meeting book.

- The Commission has instituted the Telework Policy to remain compliant with local and state regulations. The staff is able to continue telework to this day. Under the Manual of Operations, the office must be open with at least one staff. ED has been coming in every day. Staff comes into the office as necessary but in limited numbers at one time to enforce safety.

On the IT, as one of the strategic plan items, the computer network needs to be secured from hacking and cyber-attacks. A new server has been put in place and the IT infrastructure has been modernized to fully function in a virtual environment.

The Commission is awaiting a White House appointment for BG Thomas Tickner from the North Atlantic Division, U.S. Army Corps of Engineers as a federal commissioner.

The Comprehensive Plan workshops were successful. The Workshops served as a check-in with stakeholders and to solicit ideas for going forward.

Mr. Nardolilli, to get familiar with the Potomac River basin, took a trip to the Fairfax Stone, where the Potomac River begins. He also received a tour from Commissioner Hamid to Kingman Island, on the Anacostia in the District. He also attended Thomas Jacobus' retirement gathering. He also toured several sites near the river's mouth.

Commissioner Jones asked about any involvement in strategies on wastewater surveillance and sampling. Mr. Nardolilli stated that there are no plans, but he would interested in receiving more information. Commissioner Jones will send a separate email.

Commissioner Kudlas added that he has been following the social media feeds. He appreciates the ED's visit to the lower part of the basin where that area is often overlooked. Mr. Nardolilli plans to make additional trips to Gettysburg and lower parts of the basin.

- **Response to COVID-19:** Commission is fully compliant on COVID-19 health and safety guidelines. The Commission is operating under Maryland's Phase 2, with an option to telework or

come into the office provided that prior notice be given to keep the number at the office low. A cyber security insurance policy was purchased to further protect the Commission's data and network. The computer equipment was upgraded to ensure that the network is secure. In order to keep abreast of each agency's policies and restrictions, Mr. Nardolilli asked that each agency provide their plans.

- **80<sup>th</sup> Anniversary Celebration:** As the pandemic continues, the jurisdictions have enforced travel restrictions to at least next spring, and perhaps on to the summer. These travel restrictions impact the ability to host the 80<sup>th</sup> anniversary, as it is currently scheduled for May 15, 2021. The options at this time are to postpone further to September 2021 timeframe, cancel, or hold it virtually. **Staff will come back to the EC with recommendations.**
- **Federal Funding Activities Update:** ICPRB is working with the sister river basin commissions (RBCs) to move the liaison agency from the U.S. Army Corps of Engineers (USACE) to the Environmental Protection Agency (EPA), as the USACE funds projects rather programs. The river basin commissions are considered programs. Congress is back in session, and at top of their agenda is the Water Resources Development Act (WRDA). Section 1025 of the Act codifies the transfer of the basin jurisdiction funding to EPA. The second aspect of the issue is appropriations. As the new Administration at the White House comes in, Mr. Nardolilli is hopeful that the appropriations will appear on the President's budget.

#### **Ad Hoc Work Group on Water Supply Update**

Commissioner Seltzer, Chair of CO-OP, provided an update. The group continues to make progress for water security, flow-by, and habitat in the river. They are working to get consensus on the resolution that will allow for continued progress towards updating the Low Flow Allocation Agreement (LFAA), the Water Supply Coordination Agreement (WSCA), and also to explore technical changes in the flow-by. When consensus is reached, it will be reported at the next quarterly meeting in March. Mr. Nardolilli commended the commissioners working on this important issue. This resolution appears to be an agreement to talk, but it has spurred much discussions including various perspectives from different agencies. Mr. Seltzer is pleased with the progress that the Ad Hoc Work Group and the EC have made.

#### **Operations Report**

- **Contracts and Finance:** Ms. Park provided an overview of the grants, contracts, and finances. The Commission received one grant from WV DEP for \$91k for a two-year grant for a groundwater study. The Commission has awarded four contracts in the last quarter, three to USGS for gages, Adams County groundwater monitoring, and the USGS LiDAR project which totaled \$122,371. Of this amount, \$50k will be funded from the GenOn settlement received from the DC DOEE. The last contract was awarded to Hazen and Sawyer for \$21,154 to update the Potomac River and Reservoir Simulation Model.

The Commission is holding in the Contingency Reserve Account a total of \$635k. The General Account, which includes all operating accounts, totaled \$1.367M. In the DWSPP Account, the \$50k from the DC DOEE is being held until the USGS LiDAR project is billed.

On the signatory payments, all jurisdictions have paid their dues. Pennsylvania paid \$37,500 out of \$50,500. The Commission was informed that the remaining amount will be paid. Maryland has paid their entire dues of \$157,750 where previously MD has made 10% cuts in dues payments. On the budget for the fiscal year, as of 10/31/2020, not many activities have been recorded. The report is included in Tab 6, Attachment 2 in the meeting book.

- **Unit Reporting**

- **Administration and IT:** Ms. Park reported that the admin staff has been working on closing the Fiscal Year 2020 to prepare for the audit. The audit materials were sent to the auditors, CliftonLarsonAllen. Staff is awaiting testing samples from the auditors. It is expected that the audit field work will complete in mid-January. The auditor should be in contact with the Audit Committee, if not already. On IT, the Commission has migrated to a new server. The majority of the staff files have been migrated to the cloud using O365. The files residing on the server are GIS mapping files that are not compatible with cloud storage formatting. This week, the Commission will also upgrade the accounting software that is used for payroll, bill payments, and financial reporting. The current software version is no longer supported by Microsoft, prompting a mandatory upgrade.
- **Aquatic Habitat/Program Operations:** Dr. Buchanan reported on three major efforts in the last quarter.
  - Finalizing the update and incorporation of stream macroinvertebrate data into the Chesapeake Environmental Data Repository (CEDR) at the Chesapeake Bay Program (CBP) Data Center. The completed database will contain raw counts and ancillary stream habitat and water quality data for almost 55,000 sampling events. More than 30 federal, state, county and volunteer monitoring programs contributed data, and from that data ICPRB calculates the Chessie BIBI stream health index and more than 60 macroinvertebrate metrics. The database, the calculated index and metrics, the R-program and tables used to make the calculations, and related information will be uploaded to the CBP public website early next year.
  - Finishing two papers for publication that are based on the Chessie BIBI index. One paper looks at the impact of flow alteration on the Chessie BIBI that are caused by urban and agricultural land uses/cover. It was led by USGS Leetown Science Center staff and is currently in review at the journal of Environmental Management. ICPRB is a coauthor. Another paper describes bioregions of the geographically complex Chesapeake watershed. Bioregions are used in data analyses to reduce variability caused by natural landscape features. This allows relationships to anthropogenic impacts to become clearer. The paper was written by ICPRB staff and will be submitted to the journal of Environmental Management.
  - Continuing our field work in the western part of the Potomac River basin. Staff are wrapping up this year's North Branch Potomac River temperature monitoring. The data will eventually support temperature modeling in the North Branch. Staff are also preparing for next year's field work in West Virginia's Cacapon River. Working with the USGS and with WV resource agencies, ICPRB will investigate groundwater sources of nutrient enrichment and the related filamentous algae blooms.

With respect to Program Operations, staff are in discussions with EPA 3 about funds for two projects they would like us to perform. One project involves the Drinking Water Source Protection Partnership (DWSPP) coordinated by ICPRB

and is funding designated for source water protection. The other involves the EPA 3 states and would be a two-year study to develop and implement a survey to determine when the public feels filamentous algae impairs their recreational uses of streams and rivers in the region.

- **Communications:** Mr. Dalpra reported outreach efforts are covered mostly covered under project #802 grant.
  - **Social Media:** Through the end of this year, Facebook, Twitter and Instagram posts will be boosted to determine the increase in views. In the new year, boosts will stop, and the longevity of the limited boosting will be assessed. It can then be determined if some continued use of boosting is warranted.

Potomac River Watch, a public service announcement to the media about fishing, recreational opportunities, and commission projects finished its summer run. Some new river watchers have been found and add not only to the report, but enlarge our informal network of volunteers out on the river who will keep the commission informed of activities. This also helps grow the commission's stature with the public.
  - **PA Assistance:** The communications unit is assisting in the outreach portions of the ICPRB efforts to support Franklin and Adams counties, PA., in fulfilling their Bay Program Watershed Implementation Plans. Guidance includes production of press releases and on building coalitions of local groups and individuals.
  - **North Branch Potomac:** Opportunities to help improve water quality, habitat, recreational opportunities, and the local economy through outreach and education will be sought as the area works through issues including the fate of the Luke Mill and drinking water issues for local communities.
  - **Next Summer:** The unit hasn't felt much need in promoting open spaces as is done most summers. Parks and open spaces across the region are seeing extremely high usage, in some cases with increasing trash and other problems. Fishing license purchases also have strongly increased. Groups are beginning to hold small or diy cleanups. Communications staff are hopeful about restoration of some river festivals and other educational opportunities this summer.
- **CO-OP Section:** Dr. Schultz reported on the 2020 Annual Washington Metropolitan Area Drought Exercise. This year's drought exercise was conducted virtually on November 16, 17, and 18. Much of the time spent by CO-OP staff on these exercises is devoted to updating and further development of CO-OP's drought tools. For this exercise, the CO-OP's Data Portal website was updated with new withdrawal forecast models from CO-OP's 2020 water supply study and the R/Shiny DroughtOps app was further developed to support automated downloads of flow, withdrawal, and flow forecast data. The exercise included two additional elements: an actual test release from Little Seneca Reservoir and a webinar entitled Forecast Informed Reservoir Operations, by Hazen & Sawyer.
- **Water Resources:** Dr. Moltz reported water use research being conducted as part of the implementation of the Basin-Wide Comprehensive Plan. This project consists of two parts - estimating unreported water uses and summarizing state-reported

water uses. Estimations of unreported water uses are complete at the county and HUC 8 scale for the basin. A flier summarizing the unreported uses will be available next quarter. Staff are now working to compile state-reported water uses for an analysis of reported water uses, projected demands, and consumptive demands. Together, the reported use analyses and the unreported use analyses will provide a picture of water use in the basin.

Commissioner Kudlas was awarded a USGS grant for a two-year project to spatially identify and quantify the unreported agricultural use statewide including the Shenandoah. He asked for the methodology and data used in the study. They used readily available broad scale dataset, ag census, land use data, which differ by use sector. Dr Moltz will share the specific methodology.

- **Spotlight on Project: “Land Prioritization Mapping for Protecting Drinking Water Quality”** Dr. Moltz gave a presentation on the land prioritization project. Eight participating drinking water suppliers from the Potomac River Basin Drinking Water Source Protection Partnership (DWSPP) have been collaborating since April 2020 to rank land parcels to protect drinking water quality and their potential to degrade long-term water quality. Participating utilities include Berkeley County, DC Water, Fairfax Water, Frederick County, Leesburg, Loudoun Water, Washington Aqueduct, and Washington Water (WSSC). Funding for the project comes from the participating utilities and the US Endowment for Forestry and Communities. The technical work has been conducted by ICPRB staff. Dr. Moltz presented on the project background, showed maps of the prioritization metrics, presented the metric correlations, and displayed the final cumulative prioritization maps. This month, staff are wrapping up the final products including the geospatial files, a project flier, and a project memo. The final products are expected to be complete at the end of the calendar year. DWSPP is forming an ad hoc implementation workgroup comprised of government agencies and utility members aimed at rolling out the products. Potential users of the products to target include land conservation groups, local jurisdictions, federal and state agencies, and utility-specific stakeholders.

## **NEW BUSINESS**

### **Next Steps on the Statement on Diversity, Equity, Inclusion and Justice**

“The ICPRB welcomes the Statement in Support of Diversity, Equity, Inclusion and Justice signed on August 18, 2020 by the Chesapeake Bay Program (CBP) Executive Council, which includes all parties to the ICPRB Compact. As a longstanding CBP participant and partner, the ICPRB fully shares the commitments articulated in the above-referenced Statement, which echo and amplify references in the ICPRB’s Manual of Operations and the recently adopted ICPRB Revised Strategic Plan for 2020-2023 to a diverse workforce, broader outreach, marginalized/vulnerable communities and environmental justice.”

Mr. Nardolilli asked for different perspectives from each jurisdiction about ways to further the statement in the operation of ICPRB, such as internship program and outreach to communities specifically identified in the statement. Chairman Brakel encouraged others to look more closely on the Chesapeake Bay Program Executive Council (CBPEC) document. These are real issues at the forefront, and it is important that the Commission takes an initial importance by welcoming and endorsing of the effort. The revised Strategic Plan, for the first time, included these values, maximizing sustainability in the basin for the benefit of all citizens including those marginalized. And the outreach section of that plan is to reach

out and contact groups involved in environmental justice. This is the first time in the strategic document that the Commission has used the term environmental justice explicitly. He then asked others for comments.

Commissioner Karimi commented that one area is internship and fellowship opportunities. Another area is delivering services where traditionally these communities are located in the areas uniquely vulnerable in environmentally impacted areas, close to mining, industrial, etc. These are adversely impacted by both on-going activities and further accelerated by climate change.

Commissioner Tsai added that there are two components to this as external activities and internal processing. Within ICPRB, there are initiatives that may prompt a work group to advance this effort. He would like to take part in a work group for this effort.

Commissioner Kudlas added that VA DEQ is working internally with the leadership. He will share anything they come up with. On environmental justice which has been a primary focus for the DEQ in the last 1.5 years, they hired a consultant to advise on issues on internal processes and external functions related to permitting and planning. The issues are on the website. He will provide the information to the Commission staff. Currently, they are trying to figure out how to incorporate into the strategic plan at the agency. Additionally, at the General Assembly, there are several versions of an environmental justice bill. That bill is being refined by a number of stakeholder groups including DEQ. He expects to see one or more pieces of legislations reintroduced coming up in January. He foresees legislation resulting in future regulations that would be developed by the DEQ.

Commissioner Jones volunteered to be on the work group. At Howard University, there has been much work in this area, in equity, water accesses, water and wastewater services.

Commissioner Kunkel added that climate change and environmental justice have been priorities at PA DEP. They have an office addressing environmental justice (EJ) where they have done much in outreach, roundtable meetings, developing and EJ maps. They can be pulled into the work group meetings to provide overviews of their efforts. Most recently, they incorporated EJ languages into the coastal grants and in growing greener grants, and DEP implemented across the board diversity training.

Commissioner Currey added that MDE has had an environmental commission for a while. In the last several months, the group has been revitalized including new membership to strategically determine how EJ fits across the water, land, and air programs. The MDE Secretary recently worked on water supply for water utilities for those under served, particularly small utilities to identify how larger utilities with more experience with more resources could assist. All the technical tools that ICPRB has and its work, there are opportunities to bring those items together to help the jurisdictions. MD would like to be part of the committee to further this goal.

Chairman Brakel recalled at the last virtual workshop of the Comprehensive Plan, there was a whole section on EJ. The speaker also talked about what happens with superfund sites. There is information from that session. Also, in the declaration of the statement from the CBPEC, outreach to native American groups were considered. Internally, it may be worthwhile to take another look at the Manual of Operations to see if this is addressed with regards to employment and procurement. Some of that language may need to be refined including the diversity language in the MOO which was revised back in 2015 to be more inclusive to follow the MD law.

Commissioner Kudlas added that in the Commonwealth, six native American tribes have been identified. They are going thru the process to better understand their ancestral and traditional lands, coming into

greater focus on those tribes in the Potomac River basin. He will provide more information as that develops.

Chairman Brakel asked for the best way forward in this effort. Mr. Nardolilli have noted all the comments including the volunteers. Staff will discuss internally and return with a recommended workplan going forward.

**PUBLIC COMMENT:** None were made.

#### **ADJOURNMENT**

**Commissioner Karimi made a motion to adjourn the meeting, which was seconded by Commissioner Lewis. All were in favor.** Chairman Brakel adjourned the meeting 11:51 a.m.

Minutes Draft By: Bo Park, Director, Administration

Minutes Approved, and Submitted By: Michael Nardolilli, Recording Secretary