

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

FOURTH QUARTER FY2022

BUSINESS MEETING

August 30, 2022

VIRTUAL MEETING

ROCKVILLE, MD

DRAFT MINUTES

CALL TO ORDER: Chairman Lee Currey called the Fourth Quarter 2022 Business Meeting (a/k/a the Annual Meeting) to order at 9:50am on August 30, 2022. The following commissioners, staff, and guests were in attendance for all or part of the meeting.

Commissioners

District of Columbia

Willem Brakel (Commissioner)
Jeff Seltzer (Commissioner)
Tiffany Potter (Commissioner)
James Tsai (Alt. Commissioner)
Kimberly Jones (Alt. Commissioner)

Maryland

Catherine McCabe (Commissioner)
Lee Currey (Chair, Alt. Commissioner)

Pennsylvania

William Willis (Commissioner)
Adam McClain (Alt. Commissioner)
Susan Weaver (Alt. Commissioner)

United States

Robert Sussman (Commissioner)
Darryl Madden (Commissioner)

Virginia

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

West Virginia

Mindy Neil (Alt. Commissioner)

Staff

Michael Nardolilli (Executive Director)
Wendy Wang (Dir., Administration)
Cherie Schultz (Dir, COOP Operations)
Curtis Dalpra (Dir, Communications)
Heidi Moltz (Dir, Program Operations)
Claire Buchanan (Emerita Director)
Alimatou Seck (Senior Water Resources Scientist)
Sarah Ahmed (Water Resources Analyst)
Renee Bourassa (Outreach Program Manager)
Hermela Mengesha (IT Administrator)

Guests

Valerie Cappola (USACE, NAD)
Anastasiya Kononova (USACE)
Joel Caudill (WSSC Water)
Greg Prelewicz (Fairfax Water)
Chris Kimple (Rep. Commissioner Moul)
Allison Keller (West Virginia Staff)
Greg Busch (MDE)
Scott Morris (VA DEQ)
Peter Johnson (Hunton Andrews Kurth)

1. EXPLANATION FOR VIRTUAL MEETING

Executive Director Mike Nardolilli started the meeting by explaining that this "virtual" meeting is allowed under a revision to the By-laws of the Interstate Commission on the Potomac River Basin (ICPRB) 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 either Maryland (the headquarters of

ICPRB) or the federal government. The U.S. Department of Health and Human Services renewed its determination on July 15, 2022, that a public health emergency exists and remains in effect.

2. WELCOME, ROLL CALL AND INTRODUCTIONS

Chairman Currey welcomed everyone to the virtual meeting and introduced himself. 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 during the roll call as shown above or were identified from the log of the attendees at the virtual meeting.

Chairman Currey introduced Alternate Commissioner Susan Weaver from Pennsylvania as a new Member of the Executive Committee and the replacement for Lisa Daniels. Commissioner Currey asked Commissioner Weaver if she would like to say a few words. Commissioner Weaver highlighted a few parts of her background as the Acting Environmental Program Manager in the Office of Water Programs at the Department of Environmental Protection focused on Compacts and Commissions support, State Water Plan efforts and the Coastal Resources Program. Ms. Weaver has been employed in the environmental field for over 34 years, with both environmental engineering and regulatory experience. Most recently, she was in the Bureau of Safe Drinking Water where she focused primarily on the water resources used for public water supply.

3. PUBLIC COMMENT: None were made.

4. ADOPTION OR MODIFICATION OF DRAFT AGENDA

Chairman Currey asked if there were any changes to the Draft Agenda as circulated but none were suggested. **Commissioner McCabe made a motion to approve the draft agenda as circulated, which was seconded by Commissioner Potter. All were in favor.**

5. DRAFT MINUTES FROM JUNE 14, 2022

The Commission reviewed the draft Minutes the last meeting under Tab 4 of the Commission Book. **Commissioner McCabe made a motion to approve the June 14, 2022, Meeting Minutes as circulated, which was seconded by Commissioner Potter. All were in favor.**

6. SUMMARY FROM EXECUTIVE COMMITTEE (EC) CONFERENCE CALLS

Mr. Nardolilli gave a brief overview of the Executive Committee meeting held on July 26, 2022 (notes found under Tab 2 of the Meeting Book). Mr. Nardolilli directed the Commission's attention to three action items from the July 26 call. First, the Executive Committee recommended to the full Commission that Federal Commissioner Bob Sussman be elected as Chair of ICPRB with the Pennsylvania representative on the Executive Committee be elected as Vice Chair. Second, Retirement Benefit Solutions prepared an amendment and renewal of the ICPRB Retirement Plan which was adopted by the Executive Committee. Mr. Nardolilli also reported that the Executive Committee had begun their annual review of the Executive Director.

Mr. Nardolilli then highlighted two actions from the Executive Committee conference call that was held on August 29, 2022. First, the Executive Committee recommended that the full Commission adopt the recommendations in the Report of the Diversity, Equity, Inclusion and Justice (DEIJ) workgroup. Second, the Executive Committee recommended that the full Commission support the Resolution on the 50th anniversary of the Clean Water Act as circulated with certain stylistic and non-substantive changes

suggested by the Executive Committee. Mr. Nardolilli also reported that during the August 29, 2022 call, the Executive Committee received a briefing from SmithPilot on the development of a report on the competitiveness of ICPRB salaries and reviewed the draft goals of the Executive Director for FY2023.

7. OLD BUSINESS

A. Executive Director's Report

Mr. Nardolilli went through his report (Tab 6) with a focus on the following five items.

Travilah & WRDA 2022

Mr. Nardolilli reported that the House passed its version of the Water Resources Development Act of 2022 (WRDA) authorizing a feasibility study of a secondary water source for the Washington DC area. Unfortunately, the Senate version does not contain this language. On August 23 during a call with Bridget Lawson of Congresswoman Norton's Staff, we were told that the WRDA bill (HR 7776) is currently being discussed in conference by the staffs of the Senate Environment and Public Works Committee and the House Transportation & Infrastructure Committee and the House provision is likely to be included in the final bill. It is not expected to reach the floor during the two-week session in September. However, no "pushback" has been reported. Similarly, Mr. Nardolilli reported that he attended a pre-meeting that same day to plan our approach to briefing the MWCOG Board on September 14 from Noon to 2:00pm. The COG Briefing will occur during an in-person meeting at MWCOG and the group requested that Steve Bieber of MWCOG ask to have the briefing done in Executive Session. At the end of the meeting, the group will ask the MWCOG Board to adopt a Resolution supporting the authorization and appropriation for the study with a request that MWCOG Board Members "amplify" our request with Members of Congress. Finally, Mr. Nardolilli stated that Delta Point Solutions, our consultants who have been charged with coming up with a number to quantify the cost of doing nothing to secure a supplemental source of drinking water for the Nation's Capital, are 75% completed with their report.

Report on ACWA Conference

Mr. Nardolilli indicated that from August 3-5, 2022, he attended the Annual Meeting of the Association of Clean Water Administrators (ACWA) in Memphis. The highlight of the gathering was a series of presentations on PFAS. Several states and the EPA reported on their efforts to regulate PFAS.

ICPRB PFAS Conference Update

Mr. Nardolilli reported on the status of this Conference entitled *The Potomac River Conference: A Conversation on PFAS* which will be held on September 22, 2022. (This is part of our Strategic Plan). The agenda has been developed that features a Keynote Address by Adam Ortiz (Regional Administrator for EPA Region 3) and remarks on PFAS and Environmental Justice by Commissioner Jones. Other speakers include Jennifer Benjamin of Corona Environmental Consulting, Vicki Blazer & Emily Majcher of the USGS, Alice Fulmer of the Water Research Foundation, Rosa Gwinn of AECOM, and Phillip Musegass of the Potomac Riverkeeper Network. A highlight of the event will be a Panel Discussion among the Potomac Basin Jurisdictions moderated by Sarah Grace Hughes of the Environmental Council of States. [Subsequent to the Commission Meeting, Commissioner Weaver confirmed that Lisa Daniels will be participating on behalf of Pennsylvania]. Registration for the conference opened in July and we already have 225 positive responses.

Office Manager Position

Mr. Nardolilli gave Commissioners an update on filling the Office Manager position. ICPRB has extended an offer to a highly qualified candidate, and we are awaiting a response.

Office Space/Move

Mr. Nardolilli briefed the Commissioners on our discussions regarding the office space for the Commission Staff. Our Lease which expires at the end of 2024. Because of the Owners' desire to change the buildings into a "life sciences campus" they have offered us the option of terminating our lease early without penalty. We are still discussing the office layouts and our lab needs with the two "finalists," 51 Monroe Street and 401 North Washington Street, both in Rockville but closer to Metro and amenities.

B. Progress on June 2021 Resolution

Final Report on Environmental Flow-By Workshop

The Report of the May 2022 Potomac Environmental Flows workshop was included in the Commission Book (Tab 6) and is available for download at https://www.potomacriver.org/wp-content/uploads/2022/07/EnvironmentalFlowsWorkshop_7-12-2022.pdf.

Claire Buchanan of ICPRB started with the following definition from the (2007) Brisbane Declaration that "Environmental flows describe the quantity, timing, and quality of water flows required to sustain freshwater and estuarine ecosystems and the human livelihoods and well-being that depend on these ecosystems." Next, Dr. Buchanan summarized the workshop presentations and discussions. The information about various environmental flow methods and the need for additional data was included in the Report which was transmitted to the Low Flow Allocation Agreement workgroup for that group to decide whether the environmental flow-by should be re-considered. Claire Buchanan suggested several next steps that could be taken if the LFAA workgroup determined that the environmental flow-by should be reconsidered. Commissioners gave Dr. Buchanan feedback on the results of the scientific workshop. For example, Commissioner Kudlas noted that Virginia has been implementing the "percentage of flow" method since 1996 and had a high degree of confidence in this method for calculating environmental flows, even in unregulated rivers.

Interim Report on the LFAA Workgroup

The Interim Report of the LFAA Workgroup was included under Tab 6 of the Commission Book. Commissioner McCabe reported that the group made substantial progress in examining the ten issues identified in the so-called Cruden Report. For example, Commissioner McCabe noted that four issues identified in the Cruden Report have been agreed upon with some minor variations from the Interim Report found under Tab 6. Commissioner McCabe indicated that it was the consensus of the LFAA workgroup that the scientific presentations supported the view that the environmental flow-by should be reconsidered. (Commissioner McCabe states that "reconsidered" doesn't necessarily mean "changed"). The workgroup will need additional time to develop a process for such a reconsideration which may include a broader charge and bringing in scientists to supplement the original workgroup. Also, some "additional issues" (such as upstream users, stages of flow and the allocation formula) will need more time. Accordingly, the workgroup agreed to bifurcate their task to address those issues where consensus can be reached in the short-term as Phase 1 before turning to the more difficult issues in Phase 2. Commissioner McCabe indicated that it was the intention of the workgroup to report on the Phase 1 issues at the Commission meeting on December 6, 2022, and to suggest a schedule for dealing with the

remaining issues in the Cruden Report. Commissioners provided the LFAA Workgroup with some direction, asking for written recommendations by November 1 on Phase 1 (including wording of the LFAA) as well as a proposed charge to a new/expanded environmental flow-by workgroup. This would allow Commissioners time to review these materials prior to acting at the December 6, 2022, meeting. The "additional issues" listed above were placed in the "parking lot" for the time being.

[Commissioner Jones was not available to discuss the DEIJ Report at this point but because it was addressed later, it is included here in its original order from the agenda].

C. Final Report of the DEIJ Workgroup

The Final Report of the Diversity, Equity, Inclusion and Justice (DEIJ) workgroup (formerly known as JEDI) was included in the Commission Book under Tab 6. Commissioner Jones discussed the report with the Commissioners. Commissioner Brakel noted that there still is a need to develop the DEIJ policy statement referred to in Paragraph 3b and Commissioner Jones agreed. **Commissioner Potter made a motion to approve the recommendations in the Report of the DEIJ Workgroup, which was seconded by Commissioner Seltzer. All were in favor.**

D. Operations Report

Contracts and Financial Report

Mr. Nardolilli gave the "Contracts and Financial Report" found under Tab 6 of the Commission Book, noting that there were no withdrawals from the Reserve Account. There were no questions from Commissioners on this informational item.

Comprehensive Plan Update

Dr. Heidi Moltz gave the annual report on the Status of the Implementation of the Comprehensive Plan (found under Tab 6 of the Commission Book). Commissioners were directed to the Plan's "story map" on the ICPRB website. <https://storymaps.arcgis.com/stories/b202459adf6249d580cb60ba89543246> This interaction feature is an exciting illustration of progress made to date on the 15-year Plan. Commissioners noted their appreciation not only for the Report but for the significant amount of work done in hitting the four-year milestones.

Tab 7 Reports

In the interest of time, it was decided to forego receiving the reports from the Unit Heads which is included under Tab 7 of the Commission Book.

8. OLD BUSINESS

A. Adoption of Resolution on 50th Anniversary of the Clean Water Act

Staff drafted a Resolution honoring the 50th Anniversary of the Clean Water Act. The Executive Committee suggested a few stylistic changes to the draft Resolution. The modified Resolution was presented to the full Commission for adoption. **Commissioner Kudlas made a motion to approve the Resolution, as modified, which was seconded by Commissioner Holland. All were in favor.**

B. Nominations for Executive Committee by Each Delegation

It was noted that the Executive Committee has asked each Delegation to submit the name of their representative on the Executive Committee for FY23.

C. FY2023 Budget

Mr. Nardolilli presented the FY2023 Budget which is included in Tab 5 of the Commission Book. Mr. Nardolilli noted that the proposed FY23 Budget is unchanged from the “Framework Budget” adopted by the Commission in June. **Commissioner Potter made a motion to approve the Budget for FY23 as presented which was seconded by Commissioner Holland. All were in favor.**

D. FY2023 Meeting Dates

Mr. Nardolilli submitted the Staff recommendations for the meeting dates in FY2023 as shown under Tab 5 with one change. The proposed meeting dates in March were changed to March 6-7, 2023.

Commissioner Kudlas made a motion to approve the Meeting Dates, as modified, which was seconded by Commissioner Willis. All were in favor.

E. Elections of FY2023 Officers

In the absence of Commissioner Karimi (the Chair of the Nominating Committee), Commissioner Holland presented the report of the Nominating Committee. The Committee nominated Federal Commissioner Sussman to be elected as Chair and Commissioner Weaver from Pennsylvania to serve as Vice Chair. Prior to any formal motion, Commissioner Sussman and Commissioner Weaver were asked to say a few words. Commissioner Sussman spoke and praised Commissioner Currey for his work as Chair in FY22 and thanked him for his service in that capacity. Commissioner Weaver stated that she was looking forward to contributing to the important mission of ICPRB in the coming year. **Commissioner Potter made a motion to elect Commissioner Sussman as Chair of ICPRB for FY23 and Commissioner Weaver as Vice Chair of ICPRB for FY23 which was seconded by Commissioner Kudlas. All were in favor.**

9. NEXT MEETING

In the interest of time, it was decided to leave the determination of the location of the next meeting and other logistics to the Executive Committee.

10. FOR THE GOOD OF THE ORDER AND ADJOURNMENT

With no further business to transact, Chairman Sussman asked for a Motion to Adjourn. **Commissioner Kudlas made such a motion which was seconded by Commissioner Holland. All were in favor.**

Accordingly, the Commission adjourned at 12:03pm.

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