

**INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN
SECTION FOR COOPERATIVE WATER SUPPLY OPERATIONS
ON THE POTOMAC RIVER (CO-OP)**

**FOURTH QUARTER 2021
AUGUST 31, 2021**

**VIRTUAL MEETING
ROCKVILLE, MD**

DRAFT MINUTES

CALL TO ORDER: Chairman Seltzer called the Fourth Quarter 2021 CO-OP Meeting to order at approximately 8:30 a.m. on August 31, 2021. The following Commissioners, staff, and guests attended the meeting in whole or in part.

Commissioners

United States

Robert Sussman (Vice Chair, Commissioner)
Darryl Madden (Commissioner)
Amy Guise (Alt. Commissioner)

District of Columbia

Jeff Seltzer (Chair, Commissioner)
Willem Brakel (Commissioner)
Kimberly Jones (Alt. Commissioner)
Hamid Karimi (Alt. Commissioner)

Maryland

Robert Lewis (Commissioner)
Lee Currey (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)
Bob Bolle (General Counsel)
Heidi Moltz (Dir, Program Operations)
Cherie Schultz (Dir, COOP Operations)
Harold Hodges (Dir, Administration)
Curtis Dalpra (Dir, Communications)
Renee Bourassa (Communications Specialist)
Sarah Ahmed (Senior Water Resources Engineer)
Alimatou Seck (Senior Water Resources Scientist)
Christina Davis (Senior Water Resources Planner)
DeeDee Hunter (Administrative Coordinator)
Claire Buchanan (Emerita Dir., Program Operations)

Guests

Valerie Cappola (COE, NAD)
Anastasiya Kononova (COE, Baltimore)
Kristina Peacock-Jones (PA DEP)
Chris Kimple (PA DEP)
Lily Tromblay (VA DEQ)
Joel Caudill (WSSC)
Greg Prelewicz (Fairfax Water)
Taylor Kalajian (RSM)

Mr. Nardolilli explained that this "virtual" meeting is being conducted under Section V(g) of the Commission By-Laws that allows for the Commission or any of its Sections to conduct public meetings by virtual conferencing under the state of emergency declared by either the President of the United States or the Governor of the state in which Commission headquarters are located, currently in Maryland. Section V(g) was approved by an e-mail vote of the Commission on April 17, 2020 pursuant to Section XIII of the By-laws. Maryland Governor Larry Hogan declared a state of emergency related to the covid

pandemic on March 5, 2020, and renewed the emergency declaration several times, most recently on August 12, 2021. Accordingly, the emergency declaration by Governor Hogan is still in effect. Because of uncertainty regarding the Delta variant, on July 27, 2021, the Executive Committee voted to extend Bylaw Section V(g) to the end of calendar year 2021.

Chairman Seltzer then thanked the participants for joining this meeting.

ROLL CALL

This meeting being virtual, Mr. Nardolilli called the names of the attendees by jurisdiction, the staff, and guests. Those in attendance acknowledged their presence when called.

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

APPROVAL OF JUNE 15, 2021 MINUTES: Dr. Schultz requested that the minutes be amended with the addition of the following sentence at the end of the third paragraph on page 4: “Subsequently, Commissioner Guise clarified that ‘The Value Planning study was a start at assessing viable options, but does not conform to Civil Works policy or NEPA analyses.’” With that one change, Commissioner Kudlas made a motion to approve the minutes, which was seconded by Commissioner Karimi All were in favor.

OLD BUSINESS

Follow-up from June Action Items: Dr. Schultz informed the Section that there were two items. First, she had been asked to organize a meeting on the selection of a new LFAA Moderator to replace Brian Ramaley when his term expires at the end of December. In corresponding with Commissioner Currey, her understanding was that the Maryland Department of Environment was having internal discussions about potential candidates and also about the possibility of asking Mr. Ramaley to continue as Moderator. Commissioner Currey said this was accurate, and that he did not have a list of candidates at this time. As a second item, Dr. Schultz was to work with Commissioner Guise to arrange a meeting with Corps Headquarters on the Travilah Quarry project. This effort is underway.

Section’s Quarterly Report

Dr. Schultz gave an overview of the last quarter’s progress. The details are included in the meeting book in Tab 3, Attachment 3.

She reported that CO-OP conducted daily drought monitoring from July 27 through August 17. Although the DC metropolitan area has been rather wet, the basin, which lies west of DC, has been quite dry resulting in low river flows. The precipitation deficit for the past 180 days is 4 inches, or almost 20 percent, which is an indication that low flows may occur. Daily monitoring and reporting is triggered when Potomac River flow at Point of Rocks falls below 2,000 cubic feet per second (cfs). According to CO-OP’s August Water Supply Outlook, there is a slightly elevated conditional probability of reservoir releases in the upcoming months, ranging from 7-21% compared to the historical probability of 7-15%. Finally, there is significant rainfall from Ida expected, which may erase the precipitation deficit. Dr. Schultz said that when daily drought monitoring commences, staff focus on maintenance and enhancement of CO-OP’s drought operations tools: the Data Portal – an online website for data exchange built by Sarah Ahmed and maintained by Sarah and Luke Vawter; the Low Flow Forecast System – a real time system based on the Deltares FEWS model and maintained and developed by Alimatou Seck that downloads and processes National Weather Service data and runs and the Chesapeake Bay Program Phase 5 watershed model to give us river flow forecasts; and the DroughtOps Shiny App – a tool

that pulls together all of this information to inform COOP staff of current conditions and the potential need for reservoir releases, developed and maintained by Cherie Schultz.

Dr. Schultz summarized the support provided by COOP staff on the Travilah Quarry outreach effort, which has included briefings of staff of 10 Congressional members and a briefing of the Council on Environmental Quality (CEQ) arranged by Commissioner Sussman. There was also a briefing of the National Capital Region's office of the Cybersecurity and Infrastructure Security Agency (CISA). She said that our contact there is Mr. William McNamara and that we have talked about needing a champion for this issue and that what Will is doing is encouraging. Finally, ICPRB staff submitted WRDA 7001 proposal, as suggested by Commissioner Guise, and received letters of support from the Metropolitan Washington Council of Governments, DC Water, Arlington County, Fairfax Water, and WSSC Water. Upcoming briefings are planned with two more Congressional members and with CISA Headquarters. Bob Bolle asked how the CEQ briefing went and who was briefed. Schultz responded that the CEQ representative was Sarah Gonzalez-Rothi and that in her view the briefing went very well. Commissioner Sussman agreed, saying that Gonzalez-Rothi was very attentive and engaged and seemed to have a good understanding of the issues, and that the challenge is to connect the dots among the various White House offices and get them to start talking to each other. He added that we need to connect with the National Security Council and the Office of Management and Budget. Mr. Nardolilli concurred with Dr. Schultz's read on Will McNamara as a potential leader, explaining that he is a CISA field representative who interfaces with the local and state governments.

Dr. Schultz also summarized CO-OP's proposed FY2022 work plan and budget, presented on August 2 at the Operations Committee meeting of the CO-OP suppliers' General Managers. She noted that in a typical year, 100% of CO-OP funding is provided by the water suppliers. This year the proposed work plan and budget is receiving unprecedented scrutiny from the water suppliers. They are asking for detailed past financial data, information on ICPRB's indirect rate, and want projections of the dollar amounts that will be expended on each work plan task. General Counsel Bolle requested that Dr. Schultz send him a list of all the information requested by the water suppliers and she agreed to do so. Key tasks contained in the proposed work plan were: the rebuilding of our Potomac Reservoir and River Simulation Model (PRRISM) – which is a substantial undertaking that needs to begin now in order to be completed before CO-OP staff begin the 2025 water supply study; the Travilah outreach effort; implementation of the Commission's June 15th Resolution; maintaining CO-OP's drought operations tools; spill response; and the annual drought exercise. The suppliers have not approved the proposed work plan and have sent a list of questions and comments, including requests for detailed past financial information. In one of the comments, the suppliers stated that their funds should not be used on tasks supporting implementation of the Resolution. Instead, they said that in the category of facilitation of regional cooperation, their priority is a Jennings Randolph Reservoir (JRR) Water Control Plan (WCP) update, which potentially would allow use of water quality storage for water supply purposes during drought emergencies, which is Alternative 8 in ICPRB's 2017 water supply alternatives study. CO-OP conducted a scoping study with the Corps' Baltimore District Office which has three recommendations related to Alternative 8. The easiest to implement at this time is a revision of water accounting rules, and we are currently working to set up a meeting with Corps staff to discuss this topic.

ICPRB General Counsel, Bob Bolle, said that the water suppliers do not really have control over what COOP spends money on assuming we meet our contractual obligations under the Water Supply Coordination Agreement (WSCA). Dr. Schultz responded that they could reduce CO-OP's budget, potentially to bare bones for drought operations and spill response. Commissioner Sussman said it seems that the big sticking point is the Resolution and that there's no significant skepticism in the quality of CO-OP's work in other areas. It seems that there is pretty strong support for the work we're doing on Travilah so if they're putting their foot down regarding implementation of the Resolution we need to accept that

and find a way to work on it while at the same time trying to make a strong case for the rest of CO-OP's activities and avoiding an additional haircut. He concluded, "I don't think this is the time to go to war with these folks." Dr. Schultz reminded Commissioners that though ICPRB was designated to provide technical, administrative and managerial support in the WSCA, that agreement also says that CO-OP can be terminated.

Commissioner Kudlas said there has always been a gray area that has made him uncomfortable, and he has brought up the possibility of asking for legal opinion from counsel. He pointed out that there are two things operating at ICPRB's CO-OP Section: first, a contractual arrangement between staff and the water suppliers, and second, a special Section under the Compact. The reason that the CO-OP Section does not have authority over the budget decision-making is because of the historic implementation of a moral obligation to the water suppliers because the funding for those activities are 100% provided by the water suppliers. Scott questions if there is truly legal authority for that arrangement under terms of the special section. Bob Bolle asked exactly what arrangement that Commissioner Kudlas was referring to and Commissioner Kudlas replied asking why present the budget to the special section for approval if they cannot make changes to it based on the priorities of the special section, which is an entity of the states? He reminded Commissioners that Virginia in the past has expressed concern about activities that they found redundant and at one point that resulted in the Commonwealth reducing and considering elimination of payment of dues.

Bob Bolle said that he recalled that Virginia started motions toward withdrawing from the Compact and there was legislation introduced to do that. He said he's not sure exactly what Commissioner Kudlas' concern is and what it is that he wants. Bob Bolle said that COOP is a section of ICPRB and they are not entirely separate entities. ICPRB has gotten away from providing COOP with a separate audit because the utilities did not want to spend the money and ICPRB did not want to spend the money. The utilities are changing what they are wanting and expecting, partly because of the new players. Mr. Bolle suggested that to protect itself legally, ICPRB may need to go back to conducting separate audits. The Commission still has an obligation to look at things from the standpoint of the basin as a whole. And the Section has a conflict with that ultimately since the interest of the CO-OP utilities is not necessarily the same as the interest of the basin as a whole. There is an inherent conflict of interest there, and we have walked a fine line over the years. We have to be prepared to deal with that. Commissioner Seltzer clarified that what Commissioner Kudlas is asking us to get clarity on the conflict of interest and to understand what the authority is for the COOP special section versus the water suppliers. Commissioner Kudlas said that was correct and he does not want to spend his time coming to a CO-OP meeting that is talking about a staff contractual obligation to a third party. Bob Bolle opined that that is what this is, a contractual obligation to a third party pursuant to the WSCA.

Dr. Schultz noted that originally the states funded activities of the CO-OP Section. When the water suppliers hired CO-OP, the states stopped providing funding. So, at times, some people have envisioned a CO-OP Section where the water suppliers' contract is just one project of CO-OP, and the states provide funding to do other things, and that would be a bigger CO-OP. Commissioner Kudlas said that was the point he was making, and that states make their contributions to ICPRB, and that the CO-OP Section is not a distinct and separate entity from ICPRB. Therefore, since the states are already contributing to ICPRB, and if the states have a high priority, for example, the Resolution implementation, then "we could stipulate that part of that \$150,000 that we give you every year should go to that." Dr. Schultz asked if he was saying that some salary could be taken from general funds. Commissioner Kudlas said, yes, that was what he was suggesting.

Commissioner Seltzer said that because of the complexity of this topic, we probably need a separate focused discussion on this issue. For this list of tasks we need to prioritize and lay out how we get these

things done and look at capacity. Dr. Schultz did say that before this happened, she was concerned about how to both make the needed progress on the new PRRISM model and support the Resolution, and that realistically, this would call for hiring a new staff person. Commissioner Sussman said that because of the complexity of this topic, this needs to transition to a separate discussion. But he wanted to say that many Commissioners are very invested in the Resolution and think it was a very significant statement by ICPRB and an important effort. So we shouldn't be too quick to back away from this because of the potential for limited funding. It's important to look at all the options for implementing the Resolution and also to better understand the actual costs of the Resolution. He would like more insight into where the suppliers are coming from. Dr. Schultz said a discussion of how to implement the Resolution was on the agenda of the Business meeting, so there would be more opportunity for discussion there.

Bob Bolle asked if we had a contract to update the PRRISM model. Dr. Schultz said that contract was to update the OASIS model.

Financial Statement

Dr. Schultz stated that the CO-OP Section is on budget and on track.

NEW BUSINESS

Effort to secure Federal funding for supplemental storage

Commissioner Seltzer said that efforts to date were covered well in Dr. Schultz's report and he wanted to thank Mike Nardolilli and the ICPRB team for their great job in leading this effort. Next steps are to reach out to the remaining members of Congress that we think are key players: Connolly, Sarbanes, and Wexton, and to meet with CISA Headquarters. We need to explore how to put together a WRDA proposal, since from what we've heard in our discussions with Congressional staff, this is our most likely path forward for significant funding, and we may need to tap into some expertise from folks who have worked on WRDA in the past. We also need to make sure the Montgomery County Executive is briefed, and ICPRB and COG are working together collaboratively to try to get this scheduled. Mike Nardolilli stressed that for those offices where we only spoke to staff, we also want to go back and speak with actual Congressional members directly. This includes the senators of Maryland and Virginia, Congressman Steny Hoyer, and also the Mayor of the District of Columbia.

Selection of New LFAA Moderator

Commissioner Seltzer noted that this was discussed briefly earlier in the meeting, and that it was something that Maryland, the District, and Virginia need to collaborate on. Commissioner Currey is working with the state to identify other potential candidates. Seltzer stressed that this task has to be done by the end of the year, so once progress is made, a separate discussion should be scheduled.

Election of FY2022 CO-OP Section Officers

Commissioner Seltzer turned to the last item on the agenda, the election of CO-OP Section Officers. The Nominating Committee consisted of Commissioners Currey, Kudlas, and Karimi. Commissioner Karimi said the Committee had concluded that because of the important and complex issues facing the Section, it was reasonable to ask the current Officers to continue in their positions for the coming fiscal year, and they had agreed. Commissioner Karimi moved that Jeff Seltzer remain as Section Chair and Bob Sussman remain as Vice Chair. The motion was seconded by Commissioner Kudlas. All voted in favor of keeping the current officers through the next fiscal year.

ADJOURNMENT

Commissioner Currey made a motion to adjourn the meeting, which was seconded by Commissioner Karimi. All were in favor. The CO-OP Section meeting adjourned at approximately 9:35 a.m.

Draft Minutes written by: Sarah Ahmed, Senior Water Resources Scientist
Reviewed and edited by Cherie Schultz, Director, CO-OP Operations
Approved by: Michael Nardolilli, Executive Director