

# INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

## SECOND QUARTER FY2023

### BUSINESS MEETING

March 7, 2023

### VIRTUAL MEETING

ROCKVILLE, MD

### APPROVED MINUTES

**CALL TO ORDER:** Chair Robert Sussman called the Second Quarter FY2023 Business Meeting to order at 9:45am on March 7, 2023. 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)  
Hamid Karimi (Alt. Commissioner)

##### Maryland

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

##### Pennsylvania

Adam McClain (Alt. Commissioner)  
Susan Weaver (Vice Chair, Alt. Commissioner)

##### United States

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

##### Virginia

Mark Peterson (Alt. Commissioner)  
Scott Morris (Alt. Commissioner)

##### West Virginia

Mindy Neil (Alt. Commissioner)

#### Staff

Michael Nardolilli (Executive Director)  
Cherie Schultz (Dir, COOP Operations)  
Heidi Moltz (Dir, Program Operations)  
Sarah Ahmed (Water Resources Analyst)  
Renee Bourassa (Acting Dir, Communications)  
Laurel Glenn (Office Manager)  
Claire Buchanan (Emerita Director, Program Operations)  
Alimatou Seck (Senior Water Resources Scientist)

#### Guests

Valerie Cappola (USACE, NAD)  
Joel Caudill (WSSC Water)  
Chris Kimple (Rep. Commissioner Moul)  
Harry Johnson (attorney for Fairfax Water)

## **1. EXPLANATION FOR VIRTUAL MEETING**

Renee Bourassa began the meeting by giving an overview of the WebEx virtual meeting platform. Mr. Michael Nardolilli, the Executive Director for ICPRB, then welcomed everyone to the meeting and gave an explanation for the virtual meeting by reading the following statement: This meeting is being conducted under Section V (g) of the Commission Bylaws that allows for the Commission or any of its Sections to conduct public meetings via “virtual conferencing” during the period of a state of emergency declared by either the President of the United States or the Governor of the State in which the Commission’s headquarters are located, currently in Maryland. Section V (g) was approved by email vote of the Commission on April 17, 2020, pursuant to Section XIII of the Bylaws. On January 11, 2023, U.S. Department of Health and Human Services Secretary Xavier Becerra renewed the COVID-19 Public Health Emergency (PHE) until May 11, 2023. This means that the Commission’s “virtual” bylaw remains applicable. It should be noted, however, that the Administration has signaled that the PHE will not be renewed after it expires on May 11, 2023.

## **2. WELCOME, ROLL CALL AND INTRODUCTIONS**

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. Mr. Nardolilli then announced the recent passing of the ICPRB Director of Communications, Mr. Curtis Dalpra, who had served ICPRB for over 41 years. A moment of silence was observed by meeting attendees. Chairman Sussman then welcomed Scott Morris to the Commission who is replacing Scott Kudlas as a Virginia Alternate Commissioner, who recently retired. Mr. Morris briefly shared his professional qualifications for the job with meeting attendees.

**3. PUBLIC COMMENT:** None were made.

## **4. ADOPTION OR MODIFICATION OF DRAFT AGENDA**

Chairman Sussman asked if there were any changes to the agenda as circulated. None were suggested. **Commissioner Madden made a motion to approve the draft agenda as revised, which was seconded by Commissioner Karimi. All were in favor.**

## **5. DRAFT MINUTES FROM DECEMBER 6, 2022**

The Commission reviewed the draft Minutes of the last meeting under Tab 4 of the Commission Book. **Commissioner Karimi made a motion to approve the December 6, 2022, Meeting Minutes as circulated, which was seconded by Commissioner McCabe. All were in favor.**

## **6. SUMMARY FROM EXECUTIVE COMMITTEE (EC) CONFERENCE CALLS**

Mr. Nardolilli reported on the Conference Calls held by the Executive Committee on January 17, 2023 (under Tab 2 of the Meeting Book) and March 6, 2023. He highlighted two major action items from the January 17<sup>th</sup> meeting which are delineated below:

Action Item #1: There was a question regarding the compensation philosophy that the Commission adopted in 2015 and whether it was still in effect. After discussion, the Executive Committee determined that it remains the intent of the Commission to maintain the 2015 compensation philosophy with no changes.

Action Item #2: The Executive Committee discussed the adoption of a new lease for the ICPRB office space in downtown Rockville. Two issues were raised and requested to be added to the draft lease agreement. They are authorization for the use of chemicals in the wet lab and a confirmation that bike storage would be available in the building. The draft lease has been modified to include these two items.

The major Action Item from the March 6<sup>th</sup> meeting was discussion by the Executive Committee on future formats for the business and CO-OP meetings and the importance of having flexibility in how they are scheduled (i.e., virtual, in person or hybrid), as detailed in the attached Memorandum (under Tab 6, Att. 2). The Executive Committee recommended that the Commission adopt a modification of the Bylaws, as discussed below.

## **7. OLD BUSINESS**

### **A. Executive Director's Report**

Office Move. Mr. Nardolilli briefed the Commissioners on the status of the ICPRB lease which expires at the end of 2024. He stated that the Commission and Executive Committee have approved the new Lease and our Lease Termination Agreement with our current landlord (Thor). Mr. Nardolilli said he has signed both documents which are being held in escrow as signatures are obtained. He elaborated that while Thor has indicated their approval of the Lease Termination Agreement, they have requested permission to sign from their lender. ICPRB is awaiting the finalization of those documents momentarily. In the interest of speeding up the process of having Thor release us from the lease agreement, Mr. Nardolilli shared that he met with representatives from the Rockville City Development Office on March 3<sup>rd</sup>, 2023, to see if they could expedite the process (or facilitate action) since they have a vested interest in transitioning our current space into a life sciences center.

Commissioner/Staff Changes. Mr. Nardolilli reported that since the last Commission meeting on December 6, 2022, Governor Wes Moore has replaced Governor Larry Hogan as a Commissioner from Maryland by operation of Maryland law. Governor Josh Shapiro has nominated Rich Negrin to head the Pennsylvania Department of Environmental Protection, an ICPRB Commissioner by operation of Pennsylvania law. Alternate Commissioner Scott Kudlas from Virginia has resigned, and Scott Morris has been appointed as his replacement by

Commissioner Michael Rolband. Laurel Glenn has accepted our offer and joined us as our new Office Manager on February 15. Mr. Nardolilli mentioned again the passing of Mr. Curtis Dalpra and said that ICPRB would be moving forward with posting a vacancy position for Director of Communications. He also noted that Bob Bolle suffered a stroke in early February and will be in the hospital recovering for at least another two weeks.

Travilah and WRDA 2022. Mr. Nardolilli reported that, thanks to Congresswoman Norton, ICPRB was able to get into WRDA 2022 the authorization of the supplemental storage study. ICPRB continues to coordinate with the Banner Group (MWCOG's lobbyists) about securing funding for the study, estimated to cost \$3 million and to take 3 years. At the last meeting of the Supplemental Storage Work Group on January 25, ICPRB discussed ways to get the study into the President's Budget, which will be released on March 9, 2023. Regardless of the success of that effort, Mr. Nardolilli stated that ICPRB will work towards incorporating the funding into the regular appropriation bills. Finally, he said we are still working with our contractor, Delta Point Solutions, to create a briefing paper explaining the costs of a "do nothing scenario" to vet with the water suppliers and share with legislators.

LFAA Workgroup. Commissioner McCabe reported on the latest developments of the Low Flow Allocation Workgroup. (For more information, please see the minutes from the CO-OP Section meeting earlier in the day.) The next meeting of the LFAA Workgroup is set for March 24. The Annual Meeting of the LFAA will be held on April 18, 2023, in Richmond, hosted by the Commonwealth of Virginia. ICPRB anticipates having a new Moderator appointed at that meeting. On other "Low Flow" News, she reported that the Virginia legislature approved changes to bring Virginia into the MWCOG Drought Monitoring Plan.

Comprehensive Plan Advisory Committee. Ms. Heidi Moltz, ICPRB director of Program Operations, reported that on January 19, ICPRB held an in-person "kick-off" meeting of the Advisory Committee which plans to review our 15-year plan at the 5-year mark. She reported that the Committee is expected to transmit their report by the end of 2023. She explained that those proceedings will also help structure our new Strategic Plan. On February 3, ICPRB held the "Combating Climate Change Through Sustainable Development Lunchtime Webinar" as part of the implementation of the Comprehensive Plan. Takeaways from the preliminary discussions include a strong concern for DEIJ issues and weaving these into future milestones; the recognition that water resource issues are very integrated and the importance of communication and education, i.e., getting the right information to the right people at the time in a way that they can understand it. She noted that ICPRB is planning 5 more virtual meetings of the Advisory Committee which will be divided by topics with the next one scheduled for March 14 on Water Use and Supplies.

Compact Funding Efforts. Mr. Nardolilli reported on several recent activities with the Susquehanna River Basin Commission and the Delaware River Basin Commission (collectively the RBCs) in trying to obtain funding from the federal government as specified in the RBCs respective Compacts. He shared that we have requested our funding be included in the President's Budget (due to be released on March 9). Regardless of the success of that effort, he stated that ICPRB will turn to incorporating the funding into the regular appropriation bills. The

three RBCs met on Capitol Hill with the staffs of our respective Congressional delegations February 28 to March 1. The three RBCs held a luncheon on Capitol Hill where about two dozen staff members from the areas encompassed by the three RBCs listened to presentations by the three RBCs. During this visit, a virtual meeting was held between the three RBCs and Theodore (“Tab”) Brown, the Chief of the Programs Integration Division, HQUSACE, and Ryan Fisher, Principal Deputy Assistant of the Army (Civil Works).

Increased Outreach. Mr. Nardolilli reported on the increase in ICPRB’s outreach efforts because of the slowing down of COVID-19 cases. Mr. Nardolilli said that he recently had lunch with Bob Beal, the Executive Director of the Atlantic States Marine Fisheries Commission (ASMFC) as well as Marty Gary, the Executive Secretary of the Potomac River Fisheries Commission. In early February, Mr. Nardolilli spoke at the Winter Meeting of the ASMFC, including before the American Eel Management Board, to assist in the ways for eels to pass-by barriers such as Dams 4 & 5 on the Potomac) and the Shad and River Herring Management Board to follow-up on our work on restoring the shad to the Potomac. The next “Walk in the Woods” is scheduled for April 1, 2023. Mr. Nardolilli noted the participation of ICPRB staff in a Polar Plunge Challenge that took place in mid-February in support of the Chesapeake Climate Action Network. Staff members raised \$700 by jumping into the Potomac River near the Edwards Ferry Lockhouse in Maryland and then warming up with a fire afterwards. Chairman Sussman noted that these outreach efforts are important in raising awareness of ICPRB’s activities and it’s important to keep this up.

## **B. Future Meeting Formats/ByLaws**

Mr. Nardolilli introduced a discussion on how the Commission should respond to the termination of the Public Health Emergency (PHE) on May 11, 2023. During the pandemic, Commission and CO-OP Section meetings have been held “virtually” under Section V (g) of the Bylaws that was approved by e-mail vote of the Commission on April 17, 2020. With the end of the PHE, Section V (g) is no longer applicable by its terms. Mr. Nardolilli noted that there was a Memorandum in the Commission Book that outlined the various options. He reported that there had been a “robust” discussion at the Executive Committee meeting on March 6, 2023 as to the format of future meetings: virtual, hybrid or in-person. It was noted that each variation had strengths and weaknesses. Accordingly, Mr. Nardolilli reported that the Executive Committee is recommending that the Commission modify Section V (g) by removing language limiting its use to emergency situations only. This change would give the Executive Committee and the Commission authority to select any of the three variations as appropriate for particular meetings going forward. After further discussion, Commissioner McCabe made a motion to change Section V (g) of the Bylaws, seconded by Alternate Commissioner Karimi, to approve the following changes:

The ~~red-line~~ language is proposed to be removed and the **bold** language is proposed to be added.

“SECTION V (g) of the Bylaws is hereby amended as follows **in order to give the Commission greater flexibility in determining the format for future Commission and CO-OP Section meetings:**

(g) ~~Declared Emergencies -- In the case of emergencies declared by either the President of the United States or the Governor of the State in which the headquarters of the Commission be then located,~~ **Virtual Meetings** -- Commissioners and Alternate Commissioners may participate in a meeting of the Commission, any of its Sections or Committees, by means of a conference telephone or other communications equipment (i.e., “virtual conferencing”) if all persons participating in the meeting can hear each other at the same time. All virtual meetings of the Commission shall be open to the public. Participation in a meeting by these means constitutes presence in person at the meeting for all purposes, including the establishment of a quorum and voting. ~~At the first Commission meeting held pursuant to this provision, the Commission shall establish a process for the adoption of rules governing future meetings during declared emergencies. This paragraph shall only be operational during the time of said emergency.”~~

**All were in favor; none were opposed and there were no abstentions. [Because Section XIII of the Bylaws requires an affirmative vote of at least 12 Commissioners or Acting Commissioners to amend the Bylaws, it was noted that 13 Commissioners or Acting Commissioners voted in the affirmative: Commissioners Brakel, Seltzer, Potter, McCabe, Sussman, Madden, and Neil; and Acting Commissioners Currey, McClain, Weaver, Guise, Morris and Peterson.]**

### **C. DEIJ Committee**

Commissioner Jones said that her group has not yet met to pursue their next order of business. They will meet before the next Commissioners’ meeting in June to submit a draft DEIJ policy.

### **D. Operations Report**

#### **Contracts and Financial Report**

Mr. Nardolilli gave the “Contracts and Financial Report” found under Tab 6, Att. 3. Following the Report, Mr. Nardolilli asked if there were questions or comments. There were none.

#### **Unit Reporting**

Mr. Nardolilli requested that Unit Heads give some highlights of the activities of their Units over the past quarter. He noted that details of all these reports may be found at Tab 7 in the meeting book.

Dr. Heidi Moltz, Director of Program Operations, highlighted a technical project that her group recently completed on basin wide water usage and supplies. This study built on existing data and reports that ICPRB had on public drinking water usage and combined this with research of the

smaller uses of water (i.e., less well known and documented uses of water) that are not required to be reported to the jurisdictions. The project's findings can be found on ICPRB's website in pamphlet format.

Dr. Cherie Schultz, Director, CO-OP Operations, summarized the CO-OP Section's second quarter activities. Dr. Schultz reported on hydrometeorological conditions in the basin over the past 90 days, which are close to historical norms. She briefly mentioned meetings that took place in the second quarter and CO-OP staff support of cooperative regional efforts, including this year's updating of milestones of the ICPRB Comprehensive Plan. She also reported that a final draft of the report on the 2022 drought exercise was sent to participants for review and the report should be available on ICPRB's website soon. In addition, a draft memo on CO-OP's proposed change in Jennings Randolph water accounting rules was sent to staff at the US Army Corps of Engineers (USACE) Baltimore District Office on February 3 and discussed at a subsequent meeting where USACE requested some additional modeling.

Ms. Renee Bourassa, Acting Director of Communications highlighted the following:

- 1) ICPRB has joined the Regional Salt Communications and Outreach Coalition along with other members from Northern Virginia, the District of Columbia, WSSC and the Patuxent Water Shed. The goal is to work together with this group to coordinate our messaging and combine resources on how to talk to the public about winter salt use.
- 2) There are three upcoming public events that ICPRB hopes to increase public awareness of our mission: the first is a Walk in the Woods on April 1 with the theme of "Let's be Smart About Winter Salt"; the second Walk in the Woods is slated for April 29, and there is a Trash Pick Up event with the date yet to be determined.

### **Presentation on the 30<sup>th</sup> Anniversary of the Colonial Pipeline Spill in the Potomac**

On March 28, 1993, an oil spill from the Colonial Pipeline occurred which effected the Potomac River. Dr. Cherie Schultz gave the "Spotlight" presentation about this event and discussed lessons learned. Chairman Sussman commended the presentation and spoke of the importance of reminding the public about this event and commemorating the milestone in the coming weeks in ways that emphasize the lessons learned.

## **8. NEW BUSINESS**

### **A. FY2023 Budget Amendment #2**

Mr. Nardolilli presented Budget Amendment #2 to the FY2023 Budget. Chairman Sussman asked if there were any changes to the FY2023 Budget Amendment #2 as circulated. There were none. **Commissioner Currey made a motion to adopt Budget Amendment #2 as circulated which was seconded by Commissioner Seltzer. All were in favor.**

## **B. Resolution Commending Scott Kudlas for Service**

Chairman Sussman introduced a Resolution of Appreciation commending recently retired Commissioner Scott Kudlas for his years of service from 2004 to 2023 to ICPRB and the Commonwealth of Virginia. **Commissioner McCabe made a motion to adopt the resolution which was seconded by Commissioner Tsai. All were in favor.**

## **C. Themes for the New Strategic Plan**

Mr. Nardolilli reminded the Commission that it had already discussed the current Strategic Plan earlier in the meeting in the context of the Comprehensive Plan Advisory Committee.

## **9. NEXT MEETING**

Chairman Sussman reminded the Commissioners that the next meeting is scheduled for Wednesday, June 21 following the Juneteenth federal holiday. After discussion, it was the consensus of the Commission that the next meeting of the Commission be held virtually in June 2023 and the annual meeting at the end of the fiscal year 2023 will be in-person.

## **10. FOR THE GOOD OF THE ORDER AND ADJOURNMENT**

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

Accordingly, the Commission adjourned at 11:55 am.

Minutes Drafted: Laurel Glenn, Office Manager

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