

# INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

## THIRD QUARTER 2021 BUSINESS MEETING June 15, 2021

### VIRTUAL MEETING ROCKVILLE, MD

#### DRAFT MINUTES

**CALL TO ORDER:** Because of the extra time spent at the earlier CO-OP meeting, Chairman Brakel called the Third Quarter 2021 Business Meeting to order at 10:15 a.m. on June 15, 2021. The following commissioners, staff, and guests were in attendance for all or part of the meeting.

#### Commissioners

##### District of Columbia

Willem Brakel (Chair, Commissioner)  
Jeff Seltzer (Commissioner)  
James Tsai (Alt. Commissioner)

##### Maryland

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

##### Pennsylvania

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

##### United States

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

##### Virginia

Paul Holland (Commissioner)  
Del. Alfonso Lopez (Commissioner)  
Scott Kudlas (Alt. Commissioner)  
Mark Peterson (Alt. Commissioner)

##### West Virginia

John Wirts (Alt. Commissioner)

#### Staff

Michael Nardolilli (Executive Director)  
Robert Bolle (General Counsel)  
Harold Hodges (Dir., Administration)  
Cherie Schultz (Dir, COOP Operations)  
Heidi Moltz (Dir, Program Operations)  
Curtis Dalpra (Dir, Communications)  
Claire Buchanan (Emerita Director)  
Christina Davis, (Senior Water Resources Planner)  
Alimatou Seck (Senior Water Resources Scientist)  
DeeDee Hunter (Administrative Coordinator)

#### Guests

Valerie Cappola (USACE, NAD)  
Chris Kimple (Rep. Commissioner Moul)  
Joel Caudill (WSSC)  
Greg Prelewicz (Fairfax Water)  
Christopher Ramo (General Public)

Mr. Nardolilli welcomed the Commissioners, staff, and guests to this virtual meeting of 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

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conferencing under the state of emergency declared by Maryland Governor (and ICPRB Commissioner) Larry Hogan on March 5, 2020 and renewed on May 12, 2021.

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

Chairman Brakel welcomed everyone to the virtual meeting. 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 Brakel announced that we had two new Commissioners: Harold Ward (the newly appointed Secretary of the West Virginia Department of Environmental Protection); and Catherine McCabe of Bethesda, MD. Neither was present to say a few words. Nonetheless, Commissioner Currey gave some background on Commissioner McCabe, explaining that she has served as an environmental lawyer and high-level government executive at the federal and state level. Chairman Brakel introduced Harold Hodges, the new ICPRB Administrative Director, who did say a few words.

**PUBLIC COMMENT:** None were made.

### **ADOPTION OF DRAFT AGENDA**

Chairman Brakel suggested modifying the Revised Draft Agenda as follows: (1) substituting a presentation on Planning by Dr. Moltz for the Project Spotlight on Modeling by Dr. Schultz; and (2) adding a Resolution commending Rhonda Manning under “New Business.” **Commissioner Lewis made a motion to approve the Revised Agenda as modified, which was seconded by Commissioner Seltzer. All were in favor.**

### **MARCH 2, 2021 DRAFT MINUTES**

**Commissioner Holland made a motion to approve the March 2, 2021 Meeting Minutes, which was seconded by Commissioner Lewis. All were in favor.**

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

Mr. Nardolilli gave an overview of the Executive Committee meeting held on April 20, 2021 (notes found under Tab 2 of the Meeting Book). Mr. Nardolilli then highlighted an update on two matters from the Executive Committee conference call that was held on June 14, 2021 as follows:

#### Supplemental Storage Work Group

Mr. Nardolilli indicated that the Executive Committee discussed a number of items relating to the Supplemental Storage Work Group (SSWG). Meetings relating to this group were held on May 11, 14, 21, 27 and June 10. Progress is being made: (1) Washington Aqueduct reports that the request for an authorization for Travilah Quarry is now working its way up the chain of command to the North Atlantic Division in the Corps of Engineers and that they have briefed Congresswoman Norton; (2) the group spoke with Christophe Tulou of the Staff of the Senate Environment & Public Works Committee (EPW) on Travilah; (3) the group is scheduled to meet with Ryan Seiger, the Staff Director of the Subcommittee on Water Resources and the Environment of the U.S. House Committee on Transportation and Infrastructure next week; (4) DC has received authorization to sign the “three agency heads letter,” a decision from Maryland is expected soon, and Fairfax water has asked Governor Northam to sign onto the letter; and (5) wording on the Implementing Resolution has been agreed to by Maryland and Virginia.

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## Resolution

The main item for the Executive Committee at its June 14 meeting was the consideration of the Resolution on “Enhancing Water Supply Resilience for the Washington Metropolitan Area.” The Resolution sets out three activities that will implement the March 7, 2017 Resolution of the Commission as follows: (1) incorporate the recommendations of the Cruden report into the Low Flow Allocation Agreement; (2) convene a scientific workgroup to review the literature regarding environmental flows; and (3) update the Water Supply Coordination Agreement. In February, the Executive Committee recommended adoption of the draft dated February 2. This draft was before the Commission on March 2, 2021. There it was decided that the document needed more work. Recently, Maryland and Virginia came to an agreement as to the wording and that draft called the “Mark-up” was sent as a supplemental item. The Executive Committee made further changes to the Resolution that was memorialized in a draft dated June 14 that was sent to the Commission. The Executive Committee voted unanimously that the Commission should adopt the amended Resolution at its June 15 meeting.

## **OLD BUSINESS**

**Executive Director’s Report:** Mr. Nardolilli noted that his full report is in Tab 6 of the meeting book. Because that report was prepared on April 23, 2021, Mr. Nardolilli updated some of those items in his oral presentation.

- **Response to COVID-19**

As the pandemic began to ease, Harold Hodges was asked to convene a representative group of ICPRB Staff to develop a “Return to the Office” Protocol. That group submitted their report and Mr. Nardolilli is reviewing it. As of now, we are leaning to a hybrid model and have individuals required to come to the office at least two days a week and more so for Unit Directors. No decision has been made yet. The State of Maryland is about to release their policy and we will be examining it for possible use as a ICPRB template.

- **Commissioner/Staff Changes**

Federal Earlier this year, West Virginia Governor Jim Justice appointed **Harold Ward** as Secretary of the West Virginia Department of Environmental Protection. By virtue of his office, he replaces Austin Caperton as an ICPRB Commissioner from West Virginia. Governor Hogan has appointed **Catherine McCabe** as a Commissioner from Maryland. The Bethesda, Md., resident had a long career in public service in the field of environmental protection, serving as an environmental attorney and high-level government executive at the federal and state levels, including the U.S. Department of Justice, the U.S. Environmental Protection Agency, the New Jersey Department of Environmental Protection, and the New York State Attorney General’s office. **Harold Hodges** has joined us as the new Administrative Director, replacing Bo Park. He comes to us after serving 9 years as the Budget Director at the Bureau of Medical Services of the U.S. Department of State. Before that, Harold directed the budget and financial management operations of various embassies at the State Department. Finally, **Dr. Erfaneh Sharifi**, a Water Resources Scientist at ICPRB, has resigned to accept an offer for a new position. Dr. Sharifi’s last day will be June 18. We have begun the recruitment process to fill the vacancy.

- **Federal Funding Activities**

This year, ICPRB Staff will continue to work with the other two Mid-Atlantic River Basin Commissions in securing federal funding for ICPRB, the Susquehanna River Basin Commission

and the Delaware Basin River Commission. Except for one Congressional earmark in FY2009 secured by former Senator Frank Lautenberg (D-NJ), the United States has not met its statutory obligation (under Public Law 91-407) to support the ICPRB since 1996. This year, earmarks have been reborn as “Community Project Funding” requests. The three Mid-Atlantic River Basin Commissions (RBCs) have decided to submit separate requests to Senator Bob Casey (D-PA) (a Member of the Senate Appropriations Committee) because Pennsylvania is part of all three RBCs. Additionally, we did not want to distract the rest of the Congressional delegations in the Potomac River Basin (who are Members of CO-OP) who we want to be focused on securing funding for Travilah Quarry. Mr. Nardolilli reported that he has prepared and submitted the detailed application.

- **80th Anniversary Planning Update**

Mr. Nardolilli reported that because Commissioners may still not be able to travel outside their jurisdictions yet, we are looking for a date for the planned boatripe either in October 2021 or the Spring of 2022.

- **Meeting of the Three Agency Heads**

Mr. Nardolilli reported that the meeting between the Three Agency Heads (Tommy Wells, Ben Grumbles and David Paylor) led to the development of a letter for their signatures that explains their support for the funding of Travilah Quarry. While DC is ready to sign the letter, Maryland and Virginia are still working through their chains-of-command to seek authorization to sign.

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

Commissioner Seltzer described the history of the draft Resolution on “Enhancing Water Supply Resilience for the Washington Metropolitan Area.” Over the past year, the Ad Hoc Work Group on Water Supply (WGWS), with support from the Executive Director and staff of the Interstate Commission on the Potomac River Basin, has worked to develop a Resolution on water supply agreements for eventual consideration by the full Commission. At its meeting on February 2, 2021, the ICPRB Executive Committee recommended the adoption of a draft by the full Commission at its meeting on March 2, 2021. At its March 2 meeting, the Commission determined that more work needed to be done on the Resolution. A June 10 draft incorporating certain changes was circulated to the Commission. At its meeting on June 14, the Executive Committee made some additional changes which were also circulated to the Commission and recommended that the Commission adopt the June 14 Mark-up.

After some background remarks, Commissioner Brakel made the following statement:

“We have a unique opportunity today to take a major step forward for the Basin and the National Capital Region. In the late 1970s and early 1980s our predecessors had the vision and courage to establish what was at the time a revolutionary cooperative arrangement enshrined in the Low Flow Allocation Agreement, the Water Supply Cooperation Agreement and related accords. That framework served us admirably for over four decades, but increasingly we have started to realize that these original agreements are becoming outdated, outmoded and less than fully capable of meeting the region’s needs and challenges as conditions change over the coming years and decades. We -- the Commission -- took an important first step to enhance the resilience of the system we currently have in March 2017 by calling for reviews of the LFAA and the WSCA. And we learned a lot from that process. But that was more than four years ago. Since then, particularly over the last two years, a number of us -- a number of you -- have been working diligently to map out the next steps. There were the perspectives, concerns and interests of

multiple jurisdictions and stakeholders to be reconciled. This required hours of patient and diligent discussions and negotiations, often in small subgroups or even directly between just two or three parties. At our last business meeting in March, we were almost there; but we were not quite able to reach a consensus. I must admit that I was disappointed at the time. But with commissioners' input from that discussion, we have been able to identify and resolve the few remaining concerns and sticking points in the past three months. The result is the draft resolution that is before this body today. As often happens in situations like this, there were minor last-minute tweaks and details to be resolved. And in this case this happened just yesterday during the meeting of the Executive Committee, and so a final, final version was not circulated until last night -- one that differs only very slightly from the version in your supplemental meeting book. Our apologies for the short notice. Now we have a recommendation from the Executive Committee urging the Commission to adopt the text currently before us. And now, my fellow commissioners, is the time for us to act."

Lee Currey thanked his fellow Commissioners for their agreement at the March 2 meeting to postpone any vote on the Resolution so that further discussions --- both within and outside the Commission --- could take place. **Commissioner Currey then made a motion to approve the June 14 draft Resolution on Enhancing Water Supply Resilience for the Washington Metropolitan Area which was seconded by Commissioner Kudlas.**

There was discussion on the motion. Commissioner Lopez was assured that the Resolution called for the participation by the water suppliers. Commissioner Tsai asked that the Resolution be clarified under the Second Therefore Paragraph to spell out the governing parties (the United States, Maryland, Virginia, and the District of Columbia) and the member parties (WSSC and Fairfax Water). Because both the maker of the motion (Commissioner Currey) and the seconder (Commissioner Kudlas) viewed this as a "friendly amendment" the draft Resolution was amended accordingly. Commissioner Tsai inquired about whether a date could be used instead of the phrase "as soon as practicable" in the First Therefore Paragraph. Commissioners involved in the drafting of that section assured Commissioner Tsai that given the complexity of the matter that was the best language that could be agreed upon. Commissioner Holland asked about the word "should" appearing in the last sentence of the Resolution and was told that the language was consistent with the agreements. Chris Kimple asked about whether the limitation in the First Therefore Paragraph to "increased drought severity due to climate change" was necessary. Cherie Schultz responded that we currently had the ability to respond to a repeat of historic droughts but that the variability caused by climate change could make droughts even more severe than the historical record.

**Chairman Brakel called the question. All were in favor of the Currey/Kudlas motion except for abstentions by Commissioners Wirts and Kunkel. (COPY OF APPROVED RESOLUTION ATTACHED TO THESE MINUTES).**

#### **Funding For Travilah Quarry**

Because the meeting of the CO-OP Section earlier in the day had a full discussion of the status and strategy for the funding of Travilah Quarry, there was no detailed examination of the issue at the Business Meeting. Nonetheless, after the meeting, Commissioner Guise sent us this explanation of the position of the Army Corps of Engineers on their engagement in the process: "The request of the Baltimore District office for shovel-ready projects was not a request from Congress, but a request from our North Atlantic Division to 'be prepared' for potential upcoming data calls. Because this was a proactive, internal request, there was no criteria for shovel ready, as that would be defined by Congress or Corps Headquarters if or when they officially ask for a list of projects. "

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## **Land Conservation Policy**

As Chair of the Drinking Water Source Protection Partnership's Land Prioritization Implementation Work Group, Mr. Nardolilli reported on his meeting with Hedrick Belin of the Potomac Conservancy to set up a process by which the two entities can work together to conserve lands identified in the Land Prioritization Project. Mr. Nardolilli has been working with Glenda Booth of the Virginia Land Conservation Fund (VLCF) about modifying the Scoring Manual at the VLCF to award points for source water protection projects. Fairfax Water and the Town of Leesburg sent letters of support to VLCF as well. At the VLCF Board Meeting on June 10, Chairman Strickler agreed to set up a Subcommittee to examine changes to the Scoring Manual based upon the project's value as a source of drinking water.

## **Work Group on Justice, Equity, Diversity & Inclusion (JEDI)**

Because of a conflict, Commissioner Jones was not able to attend. In the absence of the Chair, Mr. Dalpra briefed the Commissioners on the progress of the Justice Equity, Diversity, and Inclusion (JEDI) Workgroup. He noted that the group had met several times and discussed what other organizations and agencies had done, and how these activities might be used in developing a policy for the Commission. He noted that environmental justice issues were being given increased focus on the ICPRB's social media and web platforms. Workgroup members exchanged information about webinars and other sources of JEDI information. Other members of the workgroup contributed to a brief discussion about the definition of JEDI and other aspects and discussed outcomes with other Commissioners in attendance at the meeting. It was generally agreed that the workgroup would produce a report and update for Commission discussion at its next (August) business meeting.

## **Operations Report**

- **Contracts and Finance:** Mr. Hodges gave a summary of the grants and contracts, which can be found in Tab 6, Attachment 2 of the meeting book. The COG River Spill Model Project (\$125,000 value) deadline is now September 30, 2021. PA ACCD Support (project #291) is being replaced under a different contract (project #293) with promised funding of \$31,753. Execution extends from FY21 (April) to FY22.

The Commission did not make any withdrawals from the Contingency Reserve Account, which held a balance of approximately \$636,478. It was reported that ICPRB has outstanding accounts receivables from DC and DC Water (Project #350) totaling \$77,930.

- **Unit Reporting**

**Administration and IT:** [Editorial Note: Due to the transition from Acting Administrative Director Wendy Wang to Harold Hodges, our new Administrative Director, no presentation was prepared. During this period, the Administrative Unit has been focused on the onboarding of the new Administrative Director].

**Communications:** Mr. Dalpra highlighted activities of the Communications Unit during the quarter. He reported that the Potomac News Reservoir and Potomac River Watch are sent weekly to subscribers. News Reservoir is sent to nearly 1,200 subscribers and provides news about Commission activities and projects with a collection of media articles about the basin and its water quality. River Watch is a weekly public service announcement sent to about 90 media outlets and covers fishing and other recreational opportunities in the basin, as well as Commission activities and programs. River Watch runs through the summer months. Mr. Dalpra indicated that he has been using the Facebook account to help promote a new "Enjoy the Anacostia" page begun by the Anacostia Watershed COG group to increase stewardship

for this important watershed. Mr. Dalpra pointed out that recent additions to the website include a new page for the Land Prioritization Project, and a third anniversary update for the Comprehensive Plan. This summer, requests for information have included illegal dumping, stormwater erosion and pollution, zoning changes that impact water quality, river access, and help with logistics for camping trips. Mr. Dalpra indicated that some events are beginning to return from pandemic restrictions, and the Commission will exhibit at the multicultural Festival Del Rio Anacostia this fall. Finally, Mr. Dalpra reported that Staff member Renee Bourassa will be returning to the Commission on a full-time basis in July and will allow ICPRB to focus more resources on education and outreach efforts.

**CO-OP Section:** Dr. Schultz reported on CO-OP Section staff work on drought operations tools. S. Ahmed and L. Vawter continue to work on rebuilding CO-OP's data exchange website, the Data Portal, in the newer Drupal 8 content management platform. A. Seck continues to maintain CO-OP's real-time Low Flow Forecast System. C. Schultz recently implemented a new flow routing algorithm for the 1-day river flow forecasts in CO-OP's drought operations Shiny app. CO-OP is switching to using the lagk routing method for predicting river flow at Little Falls dam from flows at upstream gages. Lagk has the advantage of preserving rather than washing out the details of flow hydrographs. It is used by the MARFC for flood forecasting. We think it will be just as beneficial, or more so, for low flow forecasts, and preliminary results show it provides significant improvements. Our next step is the collection of verification data.

**Program Operations:** Dr. Moltz discussed recent ICPRB staff progress related to the Chesapeake Basin-wide Index of Biotic Integrity (Chessie BIBI). The Chessie BIBI is a multi-metric index that measures the biological quality of streams and wadeable rivers on a common scale. Noted staff activities included quality assurance (QA) of the 2012-2017 biological data submitted by monitoring organizations, generation of the Chessie BIBI scores for those data, and compilation with data from previous years. The newly combined data set, representing the years 1992-2017, has over 29,000 scored samples. This data set is expected to be used to evaluate the Chesapeake Bay Program stream health goal to improve the health and function of ten percent of stream miles above the 2008 baseline. Dr. Moltz also noted that staff are preparing a manuscript for publication to describe the process of developing the BIBI index and to describe recent updates.

- **Project Spotlight: Planning.** Dr. Moltz provided an overview of ICPRB's planning program, occurring at the national, basin, state, regional, and local levels. Examples of projects at each of these levels can be found on the [ICPRB water resources planning web page](#). Dr. Moltz then described three recent planning activities - the basin-wide Potomac Basin Comprehensive Water Resources Plan, the regional Virginia Salt Management Strategy (SaMS) Toolkit, and the local Marsh and Rock Creek Critical Area Resources Plan (CARP). Implementation of the Potomac Basin Comprehensive Water Resources Plan has been ongoing for three years, since 2018. During this time, staff have completed approximately thirty percent of the planning milestones, continued implementation of forty percent of the milestones whose implementation will be perpetually ongoing, and initiated the remaining thirty percent of the planning milestones. Highlights of the past year's activities were described and are available for reference on the [plan's web page](#). The [Virginia SaMS Toolkit](#) and an associated [public summary document](#) were released to the public in March 2021. These documents were developed by Virginia DEQ and ICPRB and are the culmination of a multi-year, stakeholder-driven process. The final products

include a wealth of information about the science, management, communication, and education around salt management. Finally, Dr. Moltz described ICPRB's recent efforts with Pennsylvania DEP and local stakeholders to revise the [draft 2012 Marsh and Rock Creek CARP](#). New additions to the plan include a climate change analysis, a risk of impervious cover analysis, and collection and analysis of recent water use data. ICPRB staff submitted revisions to Pennsylvania DEP in February and are in discussions about next steps.

## **NEW BUSINESS**

### **Fiscal Year 2021 Budget Amendment #3**

Mr. Hodges presented the budget amendment included in the meeting book, Tab 5, Attachment 1. The net change of \$18,523 reflects an increase in PA ACCD Support. A breakdown of Expenditures for FY21 (as of April 30, 2021) was included in the meeting book as Tab 5, Attachment 2. **Commissioner Kudlas made a motion to approve the Budget Amendment #3, which was seconded by Commissioner Holland. All were in favor.**

### **Fiscal Year 2022 Framework Budget**

Mr. Hodges presented the framework budget for FY2022 that is included in the meeting book, Tab 5 Attachment 3. Mr. Hodges noted that this is a "flat budget" compared with FY21. The framework budget is required by the jurisdictions for their budgeting purposes. The jurisdictional dues remained the same. **Commissioner Holland made a motion to approve the Framework Budget, which was seconded by Commissioner Kudlas. All were in favor except Alternate Commissioner Amy Guise who abstained.**

### **Resolution for Rhonda Manning**

Commissioner Kunkel presented a Resolution recognizing Rhonda Manning for her 8 years of service assisting ICPRB on behalf of the Commonwealth of Pennsylvania. The Resolution read as follows: "WHEREAS, Rhonda Manning has served as the River Basin Program Coordinator in the Compacts and Commissions Office of the Pennsylvania Department of Environmental Protection, and WHEREAS, Ms. Manning has assisted the Interstate Commission on the Potomac River Basin for the past eight years in advancing the important mission of the ICPRB, and WHEREAS, Ms. Manning retired from that position on June 4, 2021, BE IT RESOLVED, that the ICPRB extends its appreciation to Ms. Manning for her work on behalf of the Potomac River and wishes her well in her future endeavors."

**Commissioner Kunkel made a motion to approve the Resolution, which was seconded by Commissioner Willis. All were in favor.**

### **Meeting Sites FY2022**

Mr. Nardolilli indicated that given the uncertainty of COVID-19 and the question of whether Commissioners would be able to travel by the August meeting date, Staff was suggesting that the next meeting of the Commission be held at the ICPRB offices in Rockville, MD. Because the Governor's Emergency Declaration would not be in effect then, a "hybrid" model may be used. At least six Commissioners would need to be physically present representing three of the signatory bodies (VA/WV/MD/DC/PA). This would allow other Commissioners to participate virtually. Commissioner Brakel expressed his hope that the Commission would soon be able to hold its meetings "off-site."



**FOR THE GOOD OF THE ORDER AND ADJOURNMENT (\*)**

**With no further business before the Commission, Commissioner Lewis made a motion to adjourn that was seconded by Commissioner Lopez. All were in favor. Accordingly, the meeting adjourned at 12:25 p.m.**

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

**ATTACHMENT: Resolution Approved By the Commission Dated June 15, 2021**