UPPER SAN PEDRO WATER DISTRICT ORGANIZING BOARD
August 3, 2009

Draft Organizational Plan and Financial Plan

VI. Organization Plan

A. Introduction

Prior to the election for the formation of the Upper San Pedro Water District, the Organizing Board is required to provide to the public a detailed plan of operation for the District. Much of the organization of the District is described by the authorizing statutes. This chapter explains the statutory requirements and proposes staffing and other details necessary to create a functioning organization. (See Appendix D for the Arizona Revised Statutes that describes the Proposed District.)

B. The District As A Municipal Corporation

The authorizing statute describes the District as a public improvement district and a municipal corporation. The general governance for a public improvement district is described in A.R.S. Title 48. The specific powers and duties for the District are found in Chapter 37 of that Title. As a municipal corporation, the District can engage in any business or enterprise which may be engaged in by a person, firm, or corporation by virtue of a franchise from said municipal corporation. The District is not required to pay taxes on its property or activities. Decisions of the board of directors are subject to judicial review.

C. Permanent Board

1. Compensation

Board members are not eligible to receive compensation except for reimbursement of actual and necessary expenses while engaged in official business under order of the Board.

2. First Terms – Rotation - Officers

The permanent Board of Directors has seven members elected at large from within the District boundaries. Board members serve for four years. The first Board members are required to divide themselves into two nearly equal classes. One class serves for two years and the second class serves for four years. The Organizing Board recommends that the classes be split into a class of three and a class of four. At each general election after the first two years, directors for the expired terms are elected. Board members may be reelected and there are no term limits. The first election may be held by either a special election or at the general election.

The Board must elect a Chairperson, Vice-Chairperson and a Secretary-Treasurer.

3. Board Meeting Schedule

The statute requires the Board to convene a meeting of all board members at least once every calendar quarter. Additional meetings may be called by the chairman or the majority of the Board. Meetings must be noticed to the Board members at least three days prior to the meeting.

The location and time of the meeting place are to be determined by the Permanent Board. The meetings could be held at the offices of the District, or at locations throughout the District as determined by the Permanent Board.

4. Executive Committee

The Chairman, Vice-Chairman and Secretary-Treasurer may meet as an executive committee for the purpose of organizing agenda items, taking actions authorized by the majority of the Board, and directing the Executive Director of the District.

D. Staff Support

The Permanent Board will need the services of an executive director to manage the affairs of the District and implement the decisions of the Directors. The District director will need an administrative person to support the Board activities and meetings and to perform normal office duties. An engineering or technical support person may also be needed to oversee activities related to specific projects and programs undertaken by the Board.

Examples of such projects will include:

1) Enhanced water conservation programs for public facilities, schools and industries that include expansion of Water Wise and audits for large users, advice on new and emerging technologies,
2) Development of Preferred Water Conservation Practices for the District,
3) Development of enhanced urban runoff collection and recharge facilities,
4) Development of expanded effluent recharge facilities,
5) Development of water supply wells for the protection of the San Pedro River,
6) Programs for the study and implementation of long-term augmentation projects.

Technical and administrative support will be needed to prepare the annual report for the District. The report must include several items.

1) The amount and source of water used by the District for recharge, augmentation or other projects implemented by the District,
2) A description of all projects completed or underway during the year,
3) A description of all permits applied for or granted during the year,
4) A description of all programs or studies underway,
5) A description of the District's finances, and
6) A status report on the progress made towards achieving the goal and measurable objectives.

Contracted legal assistance will be needed to review legal agreements, research laws and rules that apply to the District, defend lawsuits, prepare bonding documents or take other actions as necessary.

Accounting services will also be necessary to prepare payroll, including remittance of payroll taxes. The District must adopt an annual budget and an annual statement of financial condition. The District is required to use a Certified Public Accountant to prepare the annual audit of its finances.

In addition to the annual budgeting and accounting, the Auditor General of the State of Arizona is required to audit the finances and performance of the District within six months after the end of the fifth fiscal year of operation. Legal and accounting consultation may be needed to respond to the Auditor General's findings.

E. Advisory Committee

A formal advisory committee should be formed to provide information and other support to the Permanent Board. District bylaws should define the role, responsibilities and membership of the committee. An advisory committee should have the responsibility for reviewing projects and policies, providing feedback to the Board and suggesting projects. The advisory committee could assist with locating and obtaining funds for projects. Membership on the advisory committee could include the Garrison Commander of Fort Huachuca or the Commander's representative; Mayors of Sierra Vista, Bisbee, Huachuca City and Tombstone or their representatives; one Supervisor from the County or the Board of Supervisors' representative; representatives from the United States Bureau of Land Management, USGS, BOR, United States Fish and Wildlife, and NRCS; the Director of the Arizona Department of Water Resources; a representative from the Natural Resources Conservation District (NRCD); persons of the public representing land owners and non-governmental organizations. Inclusion on the advisory committee would require Board approval. Meetings would be scheduled at the discretion of the Chairperson or a majority of the Board.

F. Projects

Many water management projects will be necessary to meet the statutory goal that is required by Arizona Revised Statute § 45-6403 for the Proposed District. Several projects to conserve and recharge water should be financed and commenced as soon as feasible. Any project must have adequate oversight and management if it is to succeed. Some projects will require cooperation and agreements with water providers, other governmental agencies or private entities. For example, many of the conservation activities will require coordination and agreements with federal, state, and local governments, private water companies, developers and others to implement. Implementation of conservation assistance programs for schools, parks, golf courses and other industries will require willing cooperators. Other projects that involve the construction of recharge facilities or new wells and water distribution systems will require significant financing and the development of a supportive public. To be successful, the district needs to actively implement an intergovernmental and public outreach function.

The District should take a leadership role in coordinating with the federal, state, local and private entities as well as take independent actions to implement projects that will continue reducing the overdraft of groundwater. In the first ten years the District will focus its initial efforts on the implementation of the following four priority projects:

Vegetation Management

The District will identify available funding sources as well as pursue additional funds to provide voluntary cost share assistance to reduce invasive mesquite to conserve groundwater, consistent with standard practices, for the purpose of maintaining baseflow conditions that sustain the River. The District will utilize the information generated by the USGS that identifies the most effective areas for reducing invasive mesquite and then work with the landowners to provide voluntary cost share assistance.

Enhanced Stormwater Recharge

Working with the USGS and Reclamation the District will identify locations for the construction of detention basins to enhance recharge of stormwater to assist in meeting the goal of the District. The District will pursue funding to construct detention basins, dry wells, injection wells, induced recharge galleries or other projects to enhance stormwater recharge at identified locations. The District will also provide funding assistance to cities, towns, counties, Resource Conservation and Development Areas (RC&D), NRCD and private individuals to construct and maintain detention basins.

Rainwater Harvesting

The District will provide funding incentives to local cities, towns and individuals for the implementation of rainwater harvesting systems that reduce the use of groundwater for the irrigation of plants. The District will coordinate with and provide funding support to the University of Arizona Cooperative Extension Service, RC&D, NRCD and others to promote the use rainwater harvesting practices.

Conservation

The District will provide conservation incentives to projects and programs that are consistent with the goal of the District. The District will coordinate with and provide funding support to the University of Arizona Cooperative Extension Service, RC&D, NRCD and others to promote conservation education and awareness. The District will develop a preferred list of conservation practices, in consultation with the counties, cities, towns, water companies and others, for all new domestic, commercial and industrial developments. The preferred list of practices will be recommended to the county, ADWR, cities, towns, and private water companies for adoption and implementation.

VII. Financial Plan

The financial plan for the District consists of an estimate of personnel costs and related expenses, a description of the types of projects and a description of revenue sources needed to operate the District and its projects. Estimating costs is relatively straight forward, but estimating revenue for the district is problematic. In particular, funds will be needed for the start-up of the District and several subsequent years of operation. Any projects that the District proposes will require funding grants and loans from revenue sources that have yet to be determined.

A. Estimated Costs

Estimated Office Costs

Based on the needs outlined in the Organizational Plan, the following table is an estimate of costs for several line items including personnel, employee related expenses, operating and travel expenses, facility expenses, and outside professional services. (See Appendix E for the detailed estimate.)

UPPER SAN PEDRO WATER DISTRICT PROPOSED BUDGET EXPENSES NON PROJECT COSTS		
EXPENSE CATEGORY	DESCRIPTION	ANNUAL AMOUNT
1. Personal Services	Manager, Technician, Administrative Assistant	$240,000
2. Employee Benefits (32%)	Social Security, Retirement, Health Insurance, etc.	$ 76,000
3. Operating and Travel	Office supplies, Auto lease, Etc.	$ 20,000
4. Facility Expenses	Office Space	$ 33,000
5. Outside Professional Services	Legal, Accounting and Engineering Assistance	$ 31,000
6. TOTAL		$400,000

Estimated Project Costs

The Organizing Board recommends that Conservation, Recharge, Reuse and Augmentation projects be initiated if funds are available.

UPPER SAN PEDRO WATER DISTRICT PRELIMINARY LIST OF PROJECTS		
PROJECT	DESCRIPTION	EXPENSE
Vegetation Management	Upland mesquite and brush removal @ $150 to $200 per acre. Two sections /year	$200,000 to $250,000 per year for a period of 3 years or more years.
Enhanced Stormwater Recharge (Urban Runoff Collection)	Fund the installation of several stormwater recharge facilities to collect water from streets, parking lots, and other urbaniized areas to enhance yield to aquifer.	$250,000 per year
Rainwater Harvesting	Fund retrofit and new construction for commercial and residential rainwater harvesting. Estimated 70 to 100 homes per year. Estimated savings vary.	$250,000 per year
Conservation	Research latest conservation technology in use. Consult with municipalities and water companies regarding appropriate standards for new construction. Advise Cochise County, cities and ADWR regarding the preferred conservation technology, including enhanced stormwater recharge and rainwater harvesting, for new construction that is consistent with the goal.	$50,000 for consultant and report.

B. Estimated Revenue Sources (Description)

The District has several revenue sources authorized by law. The sources include:

- A transaction privilege tax or sales tax.
- The sale of water or water rights that are owned by the district.
- User fees for services provided by the district and that are agreed to by those users.
- Revenue bonds sold by and debt repaid to the district.
- The receipt of gifts, grants and donations received from any public or private source.

In addition to these revenue sources, $250,000 was appropriated by the Legislature to provide technical support to the Organizing Board. It is anticipated that most if not all of the initial funding will be utilized to complete the public outreach process to finalize the comprehensive water resource plan. As a result, the revenue for the district will be limited in the first few years of operation until a permanent, dependable income can be established.

1. Transaction Privilege Tax

The statute allows the District Board to request voter approval to levy a transaction privilege tax on the business of operating a municipal water delivery system at a rate of not more than fifty cents per thousand gallons of water delivered to customers in the district. If approved by the registered voters within the proposed district boundaries, the tax could generate up to $1.6 million per year if the maximum levy of fifty cents per one-thousand gallons is charged.

2. Sale of Water or Water Rights

The District cannot retail water, but may develop and operate a water system that provides water at wholesale to a municipality, private water company or an industry that is not otherwise served by municipal water provider. Revenues from the wholesale of water for these purposes may be used by the District. An example of a project could include: the District drills and operates wells away from the San Pedro River as a method of delaying potential groundwater overdraft impacts on the River. The water withdrawn from the wells would be sold to water providers in exchange for the reduction or elimination of withdrawals near the River.

3. User Fees

The District can charge fees for services that the District provides. An example of a fee could include a water augmentation fee. Such a fee might be charged to new groundwater users for the purposes of developing long-term water supplies to offset the overdraft of groundwater supplies caused by the new uses. It might be possible to create fees for the operation of water conservation, recharge and watershed projects listed above in cooperation with willing participants or partners. Examples of water enhancement programs funded by fees should be researched for

application to the Proposed District. One example is a fee-based program in Charlotte, North Carolina where fees are used to fund stormwater recharge.

4. Revenue Bonds

The legislation governing the District authorizes the Board to issue and sell negotiable revenue bonds for any lawful purpose of the district. The bonds may be secured by revenues received pursuant to the transaction tax, water sales or users fees. The bonds may bear rates of interest that may vary from time to time but shall not exceed twelve per cent per year. The Board has considerable latitude to set the terms and price of the bonds. The board is also authorized to purchase credit or other financial investments and spend the bond proceeds to aid such purchase. The board is authorized, in its discretion, to employ such consultants, experts or agents and to spend bond proceeds or contract revenues to pay any and all fees and expenses of bond issuance and administration.

Before the Board can issue bonds it must have a constant revenue stream. In the early years of the District, until it has been authorized to collect the transaction tax or has created an annual revenue stream from the sale of water, the District will not be able to purchase bonds.

5. Receipt Of Gifts, Grants And Donations Received From Any Public Or Private Source

Several sources of contributions may be solicited from federal, state and local governments. These contributions would be short-term and probably specific to projects and programs that benefit the contributing governmental agency. Most, if not all, contributions will require matching contributions.

a. Federal Contributions

Federal agencies may provide several sources of contributions. Currently, Congress has funded the continuation and completion of studies, projects, programs by the Bureau of Land Management, Agricultural Research Services, U.S. Geological Survey, Department of Defense and the Bureau of Reclamation that benefit the San Pedro Riparian National Conservation Area and the San Pedro River. They also fund the USGS to draft the annual 321 report to Congress on the status of the Upper San Pedro Partnership's efforts. Representative Giffords has also been successful in obtaining funding to support the federal involvement with the Upper San Pedro Partnership.

Potential federal contributions could be from the following sources:

<u>U.S. Department of Interior (DOI)</u>

Interior is not generally in a position to provide direct funding to the District. However, Interior agencies such as the U.S. Bureau of Reclamation can receive congressional funds to assist the District in the study, construction and implementation of land management, conservation, reuse and augmentation projects. There are small sources of grant funding opportunities within Reclamation that the District could also potentially acquire, but these funds are generally for specific purposes only. Two of the purposes for which grant funding is occasionally available are conservation and emergency drought measures.

In addition to Reclamation, the Bureau of Land Management, which has responsibility for overseeing the management of the SPRNCA, could receive additional appropriations to fund vegetation management within the SPRNCA

HR 146, the Omnibus Public Lands Management Act of 2009 granted authority to Reclamation to conduct a feasibility study of water augmentation alternatives identified in its Water Supply Appraisal Study that was recently completed. (See Appendix F.) Representative Giffords and Senator Kyl are now seeking a federal appropriation to complete the feasibility study. The outcome of this study will greatly benefit the Proposed District in determining the feasibility of several large recharge and augmentation projects. As of July 2009, a $600,000 appropriation was approved by the U.S. Congress for the study. HR 146 requires that any federal expenditure be limited to 45% of the total cost of the feasibility study. Therefore, local and state contributions of 55% will be needed to complete the study. As of the date of this report, the appropriations bill had not yet passed the U.S. Senate.

As a general rule, any project built by Reclamation will require the beneficiaries of the project to reimburse the federal government. Usually, any project benefits for federal purposes, including Indian Tribes or other federal lands such as SPRNCA or DOD facilities, are not reimbursable by local or state governments. If a project is built by Reclamation, more than likely, the Proposed District would be the entity responsible for payments for the non-federal portion of any project. Creation of the Proposed District may help facilitate long-term federal investment in water projects for the area.

Congress

An appropriation to the District for specific activities that could benefit the SPRNCA might be secured by the District. The Organizing Board of the proposed District has sought assistance from Representative Giffords in securing an appropriation from Congress that would greatly assist the efforts of the permanent District, especially in the early years of its formation. This funding source would be contingent upon the District being permanently formed. The amount of funding requested is $500,000.

Department of Defense (DOD)

The District can potentially seek funding assistance from DOD, especially for putting lands into Conservation Easements or outright purchases. DOD's "Army Compatibility Use Buffer Program" (ACUB) is a source of funding that can be utilized to protect lands that are essential to the mission of the Fort. ACUB funds may not, however, be used for the purchase or construction of infrastructure. The current ACUB area encompasses approximately 925 square miles outside of the fenced boundary of the Fort. ACUB does require a matching source of funding. One source of matching funds is the State's Military Installation Fund (MIF). Another source of funding has been funds from NGOs such as The Nature Conservancy.

ACUB is currently funded at $3 million for three years. There are three criteria for prioritizing projects and one of the three is Water. Within the District the DOD has prioritized 4 areas for use of the ACUB monies. The two highest priority areas encompass the SPRNCA and the Babocomari River. There is an effort currently underway to expand the current ACUB area to be the same as the recently defined Military Electronic Range. This would expand the current ACUB boundaries to encompass the entire District area and more.

The DOD also has the Military Construction Appropriation (MCA) fund that can be used to fund the construction of projects on the Fort. MCA funds are used for infrastructure projects over $750,000 at DOD installations in accordance with DOD's Future Years Defense Plan (FYDP). The various installations develop and prioritize potential MCA projects consistent with the FYDP. These projects then compete at the services level (Army, Navy, etc), then at the DOD level. The DOD prioritized list then gets submitted to Congress for line-by-line approval up to a certain funding level. A Congress-person may also get a project added to the list outside the DOD prioritization process. Such is the case with the Huachuca City force main project, which was a Congressional addition by former Congressman Kolbe.

The Huachuca City force main effluent transfer project is an example of an MCA funded project by the DOD. The result of this project was the ability to transfer Huachuca City's effluent to the Fort to be treated and then recharged into the aquifer utilizing the Fort's treatment and recharge facilities.

The US Army Corps of Engineers (USACE) has money through their Civil Works program. These funds do have a matching component that is typically at the 50% matching level. Projects funded by this progam must fall within the mission of the USACE.

b. State Contributions (WIFA Water Development Funds, Appropriations, Local Governments)

Water Infrastructure Financing Authority (WIFA)

WIFA is an independent agency of the state of Arizona and is authorized to finance the construction, rehabilitation and/or improvement of drinking water, wastewater, wastewater reclamation, and other water quality facilities/projects. Generally, WIFA offers borrowers below market interest on loans for one hundred percent of eligible project costs.

As a "bond bank," WIFA is able to issue water quality bonds on behalf of communities for basic water infrastructure. Through active portfolio and financial management, WIFA provides significant savings due to lower interest rates and shared/reduced closing costs. WIFA is able to lower a borrower's interest costs to between 70 and one hundred percent of WIFA's tax-exempt cost of borrowing.

WIFA's principal tools for providing low interest financial assistance include the Clean Water Revolving Fund for publicly held wastewater treatment projects and the Drinking Water Revolving Fund for both publicly and privately held drinking water systems. Both funds are capitalized by contributions from the state and the U.S. Congress.

In June 2007, HB 2692 established the Water Supply Development Revolving Fund to be administered by WIFA. The purpose of the Water Supply Development Fund is to provide financial assistance to construct long-term water supply projects and to obtain additional water supplies. The fund is to be capitalized by appropriations from the state. No appropriations have been made to the fund as of July 2009. In the future, low interest loans and grants may be available from the fund.

WIFA also manages a Technical Assistance (TA) program. The TA program offers pre-design and design grants to all eligible wastewater and drinking water systems. Both pre-design and design loans are available. The purpose of the TA program is to enhance project readiness to proceed with a WIFA project construction loan.

Arizona Department of Environmental Quality Water Quality Improvement Grant (WQIG) Program

The WQIG Program allocates money from the United States Environmental Protection Agency (EPA) to interested parties for implementation of nonpoint source management and watershed protection. The distribution of grant funds from EPA is provided pursuant to Section 319(h) of the Clean Water Act and administered by the ADEQ Water Quality Division. ADEQ uses these federal funds to implement on-the-ground water quality improvement projects to control nonpoint source pollution. The District can potentially take advantage of this program for projects that include the use of detention structures to enhance stormwater runoff. There is a 25% matching component that can either be actual dollars or in-kind services. The size of grants offered through this program range from tens of thousands to several hundred

thousand dollars. Applications for these grants are generally due in February of each year and must be submitted to ADEQ.

Rural Watershed Initiative

The Arizona Department of Water Resources has annually received an appropriation of about $1.2 million from the legislature to fund studies, projects and programs in rural Arizona. Projects funded in the past have been comprehensive groundwater studies, groundwater model development, water demand studies, and water supply appraisal studies. Depending on the availability of funds, the District could potentially take advantage of this source of funding to assist in the funding of studies, projects and programs. The continued funding by the State legislature in 2009 and 2010 seems unlikely given the State's budgetary situation. Continued funding of this program, however, could provide a potential source of money to assist future studies, projects and programs for the District. Legislative appropriations to the Rural Water Initiative could also serve as a source of matching dollars to other funding programs that require a match.

c. Local Governmental Contributions

Cochise County

Cochise County government has long supported initiatives in support of preservation of the San Pedro River and in support of the missions of Fort Huachuca. The taxpayers of Cochise County financially support the operation of the Upper San Pedro Partnership, the University of Arizona Cooperative Extension's Water Wise Program, and scientific gage monitoring efforts of the U.S. Geological Survey. The county offers conservation rebate programs within the Sierra Vista Subwatershed. The County has sponsored recharge studies in cooperation with other USPP members to maximize aquifer recharge when siting storm water detention structures. Cochise County also operates a separate Natural Resource Policy Office within the Board of Supervisors Office, with more than 50% its effort devoted to water issues within the area covered by the Upper San Pedro Water District. Cochise County anticipates some contribution to an eventual local match of federal funds should recent legislation regarding a feasibility study of augmentation efforts by Reclamation actually receive an appropriation from Congress. The county currently provides meeting facilities and acts as fiscal agent for the Organizing Board. Cochise County would likely join in a comprehensive reassessment and appropriate allocation of both tasks and funding associated with local water management should voters approve creation of an Upper San Pedro Water District.

City of Sierra Vista

As described in the Comprehensive Water Management Plan, the City of Sierra Vista has supported and implemented water management programs within the

Proposed District. The City also supports actions necessary to assist Fort Huachuca in meeting its obligations under the Biological Opinion issued by the U.S. Fish and Wildlife Service. To assist the Fort, the City is committed to preserving the SPRNCA. If the Proposed District is approved by the voters, it will continue to provide the support and assistance to help assure the success of the District in meeting the goals. Specific funding requests can only be considered by the City Council after detailed information on the proposed projects, budgets, benefits and funding partners has been developed. Sierra Vista will continue to cooperate fully with all organizations that share the goals of the Proposed District regarding the regional water challenge.

City efforts to date have led to the creation of the Water Wise conservation program which now extends countywide including Fort Huachuca; the establishment of the Upper San Pedro Partnership; an extensive array of code changes including the first ordinances in the sub-basin requiring low water use plumbing fixtures; a citywide stormwater system to control storm flows and recharge stormwater in detention basins; the construction of the Environmental Operations Park to recharge the city's wastewater; the sub-basin's only annual baseline pumping report, now in its tenth year; the first rebate programs in the sub-basin for toilet replacements, high efficiency washers/dryers, and conversion of evaporative coolers to air conditioning; and an extensive public outreach program the capstone of which is the city's water website at SierraVistaWater.com. The payoffs from these and numerous associated initiatives have been a 23% reduction in the citywide GPCD (180 to 138) since the year 2000 despite a 22% population increase during that timeframe; an annual conservation credit that exceeds 1200 acre-feet; the recharge or more water annually than Fort Huachuca uses in a year; the recharge of almost 13,000 acre-feet water since the city's facility began operation in 2002; and the reduction in total annual groundwater pumping citywide to significantly less than 2000 levels.

City of Bisbee

The City of Bisbee is has also expressed support for the overall goal of the Proposed District. The City does not deliver water to its residents. Water service is provided by the Arizona Water Company. Even so, the City has demonstrated a commitment to effectively reuse the treated effluent from the City's wastewater treatment plant to minimize the increased use of groundwater. Funding contributions from the City may be a possibility given the overall support for the goals of the District. Specific support for the projects and programs of the Proposed District would be subject to City Council approval