

Attachment 2

OBJECTIONS OF PRESCOTT AREA MUNICIPALITIES AND COUNTERPOINTS

Since its inception the Partnership tried repeatedly and unsuccessfully (1) to encourage Yavapai County and the Prescott-area municipalities to join the Partnership and (2) to encourage the members of Arizona's federal delegation to obtain funding for the Partnership's work under Title II. A recurring response to the request for funding has been that our federal representatives are unable to seek funding in the face of resistance among some elected officials of Yavapai County and a majority of those representing the Prescott-area municipalities.

The Partnership believes that many of the Prescott area concerns are based on perceptions and not fact. Some of the major issues are:

Issue#1: The misperception that the Partnership has the intention to stop the Big Chino pipeline and to seek legislation to become a water management authority.

The Partnership fully understands that the Prescott Active Management Area (AMA) and all other communities served by the Verde River Basin are concerned with future adequate water supplies, reaching safe yield, and future growth. The Partnership, through the hydrology science plan (attachment 4) developed in cooperation with the United States Geological Survey, is committed to optimizing the information and tools that water managers need for their decisions affecting long-term sustainability of the Verde River Basin's water resources. The Partnership has always recognized that importation of groundwater from the Big Chino Valley to the Prescott Active Management Area is not its purview. However, provision of the scientific basis that is essential for water managers to evaluate the best management strategies and their potential consequences, is the Partnership's goal.

Not only does the Partnership not want to manage water resources in the Verde River Basin, but it has taken steps to alleviate this perception in the Prescott area communities. The Partnership, in developing its charter, makes no mention of developing into a water-management authority. In regard to water-management options as part of Title II, the Charter mission statement (<http://verderiverbasinpartnership.org>) states: *"These water management options may be used by state and local jurisdictions in their water management plans."* Still keeping in mind Prescott area concerns when the Partnership created its bylaws, it went even further. The bylaws (attachment 5) state in Article 9 that: *"upon completion of Title II deliverables the partnership will dissolve."* The Partnership has published a list of Verde River Basin Partnership deliverables. Nothing indicates a desire to become a water management authority. Additionally, Title II section 207 is clear when it states: *"Nothing in this title diminishes or expands State or local jurisdiction responsibilities, or rights with respect to water resource management control."*

Issue#2: Citizen Involvement

Some Prescott area leaders have indicated that membership of and voting by citizen “special interest groups” is inappropriate. Title II Section 201, authorizes *“assistance for a collaborative and science-based water resource planning and management partnership for the Verde River Basin in the State of Arizona, consisting of members that represent (1) Federal, State, and local agencies; and (2) economic, environmental, and community water interests in the Verde River Basin.”*

The Partnership believes in a collaborative effort that involves inclusion of those entities identified in Title II. We feel that collaborative problem solving is the best vehicle for all parties to understand the complex and often conflicting needs of stakeholders affected by the water resources of the Verde River Basin. We do not see broad inclusion as a power and control process. We further believe all parties to this collaborative process can agree on the need for and the type of scientific studies to fulfill Title II requirements and to assist authorized water resource providers and the citizens they serve. As clarified in our response to the management objection (see below), we have not and we will not seek authority to manage water resources.

The Partnership is not the final authority on approved studies. Members and non-members are not prevented from appealing to the Arizona Department of Water Resources, the United States Geological Survey and the Arizona Congressional Delegation, etc.

Early in development of the Partnership, it was envisioned that all members would have a vote. However, Prescott area leaders expressed concern that citizen “special interest groups” would have undue influence within the Partnership. The Partnership listened to their concerns and the final structure, with acceptance by environmental and community groups, allowed for 36 potential votes with elected officials to have 17 total votes. In as much as Federal and State Agencies generally will not vote on policy issues, there are 25 likely voters. Therefore, the Counties, Municipalities and Tribes represent 2/3 of potential votes.

Community and environmental groups agreed to reduce their potential voting impact of 16 votes by joining in 3 caucuses, each represented by one vote. Any new memberships in these two areas will not result in additional voting power. The other two caucuses are for Agricultural and Economic Development groups, and there have been no objections to inclusion of these groups.

The Partnership structure and voting rights, approved in a meeting on October 12, 2006 (see attachment 5: Verde River Basin Partnership bylaws) and amended recently to include the Fort McDowell Yavapai Nation is as follows:

Counties- 4
Municipalities- 10
Tribes- 3
State Agencies- 5
Federal Agencies- 6
Water Providers- 3
Agricultural Caucus- 1
Economic Development Caucus-1
Grassroots Environmental Groups Caucus- 1
National Environmental Groups Caucus- 1
Unincorporated/Community Water Interests
Caucus-1
Total potential votes- 36
Total current votes- 23

Issue#3: Partnership expenditure of funds and elected officials' involvement

The Partnership was formed through the cooperation of stakeholders that include citizen groups, local governments, state and federal agencies, and Native American tribes in the Verde River Basin. Unfortunately, during the Partnership's formation a number of local jurisdictions chose not to join, apparently from false perceptions of the organizational structure and mission of the Partnership.

Included among these perceptions is that non-elected members of the public instead of elected officials would be responsible for expenditure of appropriated funds. This perception is illustrated in a January 9, 2007, letter to Senator John McCain from then City of Prescott Mayor Rowle Simmons and Town of Prescott Valley Mayor Harvey C. Skoog wherein they state: *"the way the partnership seems to be developing, a group of individuals, not elected and accountable by voters, could determine how to spend public funds."* The letter further states, *"This is not satisfactory as we believe only those who are accountable to the public should be allowed to determine the expenditure of federal, state and local funds."*

A review of Title II Section 203 (b) makes it clear that the Secretaries of Agriculture and Interior are the responsible entities for the expenditure of funds. This section states, *"On establishment of the Partnership, there are authorized to be appropriated to the Secretary (of Agriculture) and the Secretary of Interior such sums as are necessary to carry out the activities of the Partnership for each of fiscal years 2006- 2010."* This makes it clear that appropriated funds are authorized only for expenditures within the congressionally approved scope of work.

Furthermore, it is anticipated that the majority of the scientific studies will be conducted by these agencies. This clearly means that the Partnership will not have fiduciary control of funds allocated to fulfill the purposes of the Partnership.

The elected members of Congress were clear that funding was to be provided for the Partnership scientific studies. Additionally, Congress indicated the areas in which these studies should be focused. Congress requires the Partnership to produce preliminary and final reports to the Secretary of Agriculture and Governor of Arizona. Title II Section 204 indicates the information and analysis required in the reports. We believe that this is just one of the many ways to hold the Partnership responsible for performance and the deliverables.

Additionally, we feel any review of the process that the Partnership has to follow for appropriation of funds reveals a very high level of elected official participation and federal, state and local agency review.

The following is the process that has been and will be followed:

The Partnership, consisting of locally elected officials, federal and state agencies, water-management stakeholders, Native American tribes in the Verde River Basin, and citizen groups, holds public meetings to assist in the identification of issues and development of scope of work that will achieve the congressionally mandated Title II goals and objectives.

(Note: Goals and objectives have been authorized by Congress.)

The United States Geological Survey (USGS) and the Partnership's Technical Advisory Group have jointly developed the Partnership's scope of work and fiscal budget. The initial scope of work (Hydrology Science Plan) was approved by the Partnership's members in 2007 and has recently been updated. The updated plan (attachment 4) has been reviewed by the Arizona Department of Water Resources and others (attachment 3). It has been sent to the Yavapai Water Advisory Committee and the governmental jurisdictions in Yavapai County.

The Partnership requests the Arizona Congressional Delegation to seek appropriation of required funding either through legislation or inclusion in the Executive Budget request.

(Note: Another review by elected officials and their staffs)

As part of the funding request, the scope of work will again be reviewed by responsible federal agencies, congressional committee staff and elected members of Congress. Assigned Congressional Committees will vote on the appropriation request. After committee approval, the appropriations request will be sent to the entire House and Senate.

(Note: Multiple Agency and Congressional Staff reviews with committee votes by elected officials.)

Members of the House and Senate vote to appropriate funding of studies.
(Note: Another vote by elected officials)

Final approval by President of the United States.

Funding per Title II Section 203 (b) appropriated funding is assigned to either the Secretary of Agriculture or Secretary of the Interior. These funds will be distributed directly by federal agencies responsible for scientific studies within the rules and regulations of the Departments.

As required by Title II Sections 204 and 205 the Partnership will provide a preliminary and final report fulfilling Congressional goals and objectives.

The Partnership believes that the level of elected official involvement is in keeping with the need to be accountable to all involved, especially the citizens of Arizona and American taxpayers. We believe this answers the misperception of Prescott-area leaders concerning elected officials' involvement in the process and appropriate fiduciary oversight. Furthermore, the Prescott-area jurisdictions and Yavapai County have been invited to become members of the Partnership. That invitation remains open and their participation would add to the number of elected officials involved.

The process described above for allocation and expenditure of funds for the purposes of Title II provides for a much greater oversight and review than that which occurs in the funding of community groups by many local jurisdictions who have taken exception to the Partnership's fiduciary responsibilities. An example of how local governments approve community group funding using taxpayer dollars is:

Community group such as Chamber of Commerce, Boys and Girls Club, etc. requests funding from city.

City staff reviews request and sends to city council for review and funding vote.

Council appropriates funding.

Community group spends funding.

We would further point out, that the Arizona Ground Water Code establishes a Groundwater User's Advisory Council (GUAC) within the Prescott Active Management Area (AMA). This Council is made up of citizen members appointed by the Governor of Arizona. Their role is to represent the groundwater users and advise the Director of the Arizona Department of Water Resources and the AMA Director on matters relating to water management within the AMA. Another example of the citizen's ability to have meaningful input to water management decisions.

GUAC Members also have input into scientific studies and monitoring programs within the Active Management Area. Another example of non-elected officials determining the expenditure of state and federal funds is the Governor-appointed citizen board of the Arizona Department of Transportation. These non-elected citizens, on a yearly basis, determine the expenditure of hundreds of millions of federal and state tax dollars. Although membership is confirmed by the AZ State Senate, there is minimal ability of the legislature to impact board decisions.

In light of how cities, counties and the state of Arizona appropriate moneys to community groups and various boards, we find the perceived concern expressed by the Prescott area leaders to be misplaced. We want to reaffirm the fact that Title II Section 203 (b) identifies the Secretaries of Agriculture and Interior as the responsible fiduciary parties.

The process the Partnership will use is similar to that of the San Pedro Partnership. They have received millions of dollars in funding for scientific research. These funds were under the continuous oversight of federal and state agencies as the Partnership (VRBP) funds will be.

There are elected representatives in the Partnership who vote on the requests for funds. Various federal and state agencies are also voting members and have input into the scope of work and appropriate funding levels. Title II, section 201 identifies that the membership should consist of members that represent “*Federal, State and local agencies: and economic, environmental and community water interests in the Verde River Basin.*”

We believe that this level of oversight and elected official involvement is in keeping with the need to be accountable to all involved especially the citizens of Arizona and American taxpayers. We would like to have other local governments join so there are an even greater number of elected officials involved.

Issue#4: Prescott area officials have expressed a concern about who does the scientific studies for the Partnership.

In our view, the United States Geological Survey (USGS) represents the gold standard for production of objective, unbiased science. The USGS uses an extensive peer review process to ensure no bias is included in final reports. This is reflected in the Geological Survey’s description of its role: “*The USGS serves the Nation by providing reliable scientific information to describe and understand the Earth: minimize loss of life and property from natural disasters: manage water, biological, energy, and mineral resources: and enhance and protect our quality of life.*” USGS reports are quoted in most scientific investigations concerning water resources studies in Arizona and are noted throughout studies that have been paid for by Prescott Area communities.

During formation of the Partnership the mayors of the four Prescott Area communities sent a letter to the Yavapai County Water Advisory Committee (WAC) directing them not to work with the Partnership in development of scientific studies. Additionally, inclusion of the Prescott Area communities into the Partnership would allow them to have direct input into development of the scope of work. **We have even proposed that the Partnership's Technical Advisory Group and the Yavapai County Water Advisory Committee's Technical Committee be authorized to meet to identify common scientific goals. This proposal did not pass due to the WAC requirement of unanimity for passage. Yavapai County Supervisor Carol Springer and Prescott Valley Councilman Michael Flannery voted "no" to the proposal.**

The scope of work is available via the Partnership website to all citizens, organizations, agencies, and jurisdictions for information and comment; anyone may express their concerns directly to the Partnership, the USGS, or the Arizona Department of Water Resources. ADWR has reviewed the scope of work and would also be able to comment on who is best qualified to conduct scientific studies.

Issue#5: Prescott leaders have expressed a desire for proportional representation based on population.

It seems apparent that this demand for proportional representation, based on population, is an attempt to assure that the Prescott area has a controlling vote in the Partnership.

The Partnership believes that it is in no one's best interest, and not the intent of Title II, to empower the Prescott Area, above all other interests, with the right to trump the interests of all other cities, towns, unincorporated communities, water providers, senior water rights holders and all other stakeholders within the Verde River Basin.

In response to Prescott Area voting concerns, the Partnership invited the Town of Dewey-Humboldt to become a member. This was done even though its population resides completely outside the Verde River Basin although almost the entire town is within the Prescott Active Management Area. The Town of Prescott Valley's vast majority of population also lives outside the Verde River Basin although they are within the Prescott Active Management Area.

Using proportional representation does not take into account the superior surface water rights within the Verde Valley. It also does not take into account the overwhelming population center for senior surface water rights in the Phoenix area where the Verde River Basin supplies a significant amount of water to 2.7 million people. This potential "eight-hundred pound gorilla" has not voiced a demand for proportional representation as have the Prescott area leaders. Title II does not give any mention to voting based on population.

Two other strawman methods for proportional representation could be: proportional representation by groundwater basin, reflecting the amount of groundwater contributed to the surface waters of the Verde River Basin; or proportional representation based on land ownership.

Method 1: According to recent USGS reports, the Little Chino Sub-basin, which contains the City of Prescott, the Town of Chino Valley, and a small part of the Town of Prescott Valley contributes about 2,400 acre-feet per year to base flow in the Verde River—or about 14 percent of the base flow in the uppermost Verde River as measured at the Paulden stream gage, about 4 percent of the base flow at the Clarkdale stream gage, where the river enters the Verde Valley, and less than 2 percent of the base flow where the Verde River exits the Verde Valley near Camp Verde. The towns of Prescott Valley and Dewey- Humboldt lie mostly within the Aqua Fria watershed. Thus, no recharge to the Verde River Basin originates in the area of Dewey-Humboldt, and recharge to the Little Chino Sub-basin from the area of the Town of Prescott Valley is insubstantial. In addition, recharge of Prescott Valley’s treated wastewater is solely to the Aqua Fria Basin. Clearly, voting representation in the Partnership based on contribution of groundwater basins to the base flow to the Verde River would weigh heavily against the Prescott-area jurisdictions.

Method 2: Land ownership as the basis for proportional representation in Partnership voting would reflect the fact that 71% of all lands within the Verde River Basin are under federal government control. Although under the control of various federal agencies, the federal lands are the property of the citizens of the United States. We know of no one involved in the Partnership that feels that the federal government should have superior voting rights to local citizens.

The concept of the Partnership is one of inclusion and cooperation based on collaborative problem solving. We believe that water resource management is a critical issue facing the citizens of the Verde River Basin and that a cooperative spirit is required so our citizens can know the extent and the sustainability of the region’s water resources. Except for the demand of the Prescott area officials, the Partnership has had no other demands for proportional representation. Proportional representation is a mechanism for assuring power and control and has no place in a collaborative effort.

With respect to voting balance in the Verde River Basin Partnership, Senator McCain noted in his February 6, 2007 letter to then Prescott Mayor Rowle Simmons and Prescott Valley Mayor Harvey Skoog: *“I understand that the Verde Partnership formally approved its membership...after hearing from numerous stakeholders, including elected officials who offered useful suggestions for improving proportional representation between local-elected officials and economic development, agriculture, and environmental interests...I believe the Partnership’s structure is reasonably balanced.”*

Finally, the fundamental role of the Partnership, as expressed in the authorizing legislation and embodied in the Partnership's Hydrology Science Plan (scope of work, attachment 4), is not policy but science-based analysis. Senator McCain addressed the Partnership's role in the same February 6, 2007, letter to then Prescott Mayor Rowle Simmons and Prescott Valley Mayor Harvey Skoog: *"The primary task of the Verde Partnership is to plan and complete various water resource studies which will aid in the future planning and conservation management of water supplies in the Verde River Basin. The law is clear that it does nothing to diminish or expand State or local jurisdiction, responsibilities, or rights with respect to water resource management or control."* Water-management policy is appropriately determined by voting of elected officials; science-based analysis is never determined by voting.

Issue#6: The Verde River Basin Partnership is not modeled after Upper San Pedro Partnership

Senator McCain has indicated a desire for the Verde River Basin Partnership, to the extent possible, to be modeled after the successful Upper San Pedro Partnership. In his February 6, 2007, letter to then Prescott Mayor Rowle Simmons and Prescott Valley Mayor Harvey Skoog, Senator McCain stated: *"Since first proposing the creation of a Partnership in northern Arizona, I have continually referred to the success of the Upper San Pedro Partnership and urged its use as a model for establishing the Verde Partnership. The San Pedro Partnership is a collaboration of local governments, public agencies, and economic and environmental organizations that have the authority to study and address water issues in the Sierra Vista Sub-watershed. The elected officials, appointed members, and community leaders who represent a range of land and water interests on the Partnership regularly decide by consensus matters such as policy direction and financial management. While it is impossible to replicate the San Pedro's structure in every aspect, I believe it has been an excellent guide to date."*

Comparing the two Partnerships (below) as far as elected-official voting power, it is clear the Verde River Basin Partnership has allowed for a far greater ratio of elected officials over environmental/ community/non-governmental groups". As you can see, the two Partnerships are similar in their membership profile. As expressed earlier, if all invited municipalities, counties, tribes were to join; the Partnership would have an additional 9 votes within the elected-official category. We believe the Prescott area concern is not justified.

We have included a membership comparison between the Verde River Basin Partnership and the Upper San Pedro Partnership:

MEMBERSHIP/VOTING COMPARISON

VERDE RIVER BASIN PARTNERSHIP

UPPER SAN PEDRO PARTNERSHIP

CITY/ COUNTY/ TRIBAL

Camp Verde
Clarkdale
Cottonwood
Jerome
Sedona
Gila County
Yavapai-Prescott Tribe
Fort McDowell Yavapai Nation
Total votes 8

Bisbee
Sierra Vista (3)
Tombstone
Huachuca City
Cochise County(3)

Total votes 9

POTENTIAL ADDITIONAL CITIES, COUNTIES AND TRIBES

Prescott (invited)
Prescott Valley (invited)
Chino Valley (invited)
Dewey-Humboldt (invited)
Payson (invited)
Yavapai County (invited)
Coconino County (invited)
Maricopa County (invited)
Yavapai Apache (invited)
Total invited voting members 9
Total potential elected voters 17

Total potential elected voters 9

FEDERAL AGENCIES

Bureau of Reclamation
U.S. Fish and Wildlife Service
National Park Service
U.S. Forest Service
USDA Agricultural Research Service

Bureau of Reclamation
U.S. Fish and Wildlife Service
National Park Service
U.S. Forest Service
USDA Natural Resources
Conservation Service
United States Geological Survey
Department of Defense
(Fort Huachuca)
Bureau of Land Management
Total federal votes 8

Total federal votes 5

[Comment: The USGS is not a member of the Verde River Basin Partnership. Although an important player, it explicitly declined to be a member because it is prohibited from being part of an organization that advocates federal funding for the USGS]

STATE AGENCIES

Arizona Dept. Game and Fish
Arizona State Parks

Total votes 2

Arizona State Land Department
Arizona Dept. Water Resources
Arizona State Land Dept.

Total votes 3

WATER PROVIDERS

Salt River Project
Water Companies
Ditch Companies

Total votes 3

Bella Vista Water Co.& Ranches

Total votes 1

ENVIRONMENTAL/CONSERVATION GROUPS

*Grassroots Environmental Groups Caucus
*National Environmental Groups Caucus
*Unincorporated/Community Water Interests
Caucus

Total votes 3

Audubon Arizona
The Nature Conservancy
Natural Resource Conservation
District
Arizona Association of
Conservation Districts

Total votes 4

BUSINESS GROUPS

*Economic Development Caucus
*Agricultural Caucus

Total votes 2

Total Current Partnership votes 23

Total Partnership votes 25

*Each caucus contains a number of groups (Bylaws, attachment 5) and the combined groups within each caucus have one vote per caucus. A group can be a member of only one caucus. An example is the Unincorporated/Community Water Interests Caucus which currently has 9 charter members but only one vote.

ISSUE#7: Prescott Perspective that Partnership Activity should not include the Big Chino Sub-Basin

The Partnership is guided by Title II, section 204, which indicates that water resource studies are to be inclusive of the entire Verde River Basin. Section 204 (D) further indicates that a study priority is the “*compilation of a water budget analysis for the Verde*”

Valley.” In sections 204 (B) and 205 (3) of Title II, there is continuing reference to long-term water management as part of the scope of work.

Prescott area elected officials are familiar with the Prescott Active Management Area’s Third Management Plan. This plan identifies in section 1.5.1 the guiding principles for plan development. On page 1-9 it is stated “*Effective and efficient water management must take a long-term perspective and be regional in scope.*” This principal is in agreement with the long term management requirement and regional perspective of Title II. The guiding principles further state: “*All water sources need to be included in any long-term comprehensive water management strategy.*” Obviously, to exclude the Big Chino sub-basin water resources from scientific studies and long-term management processes should not be under consideration.

The elected officials and water resource managers of the Prescott area are also well aware that a water budget requires a significant amount of information that changes over time due to a number of factors such as regulations, water demand and climate conditions etc. Among water budget requirements are items such as:

- Natural system recharge
- Natural system discharges
- Renewable supplies (including surface water)
- Precipitation

It must be understood that the communities within the Prescott Active Management Area, property owners in the Big Chino sub-basin, senior surface water rights holders in the Verde Valley and elsewhere in conjunction with various federal agencies and the State Land Department, all have significant concerns about future water resource impacts in the Big Chino sub-basin. There is no group that has exclusive rights to the water resources within the sub-basin or no one group can predetermine long-term management philosophy to be used. Hence, **the Partnership strongly believes in a collaborative and inclusive process. An example of Big Chino sub-basin impacts to regional planning is that the USGS has identified that 80 to 86 percent of Verde River base-flow in the upper part of the Verde River is derived from the Big Chino sub-basin and approximately 14 percent from the Little Chino sub-basin.**

Compiling a meaningful and dynamic water budget analysis for the Verde Valley cannot be accomplished without including the surface waters derived from the Big Chino sub-basin and other sources that lie outside the Middle Verde sub-basin. Long-term management requires that we recognize that this is a dynamic process based on changing natural conditions and decisions made by government. Under the Partnership’s scope of work (Hydrologic Science Plan, attachment 4) is the development of a hydrologic model to be used as a predictive management tool. The need for this is highlighted in the Prescott AMA’s Third Management Plan guiding-principles; “*Water management programs should be based on the premise that future issues are unlikely to be the same as those we have encountered in the past, and that the pace of change is likely to increase. In order to provide maximum flexibility for the*

future, data bases must be enhanced and tools developed to understand current hydrologic conditions, to identify trends early, and to test scenarios that vary from current conditions.”

All have recognized that the hydrology and geology of the Verde River Basin is complex. Additionally the political, water resource, and environmental issues are convoluted. The citizens and taxpayers who depend on the Verde River Basin for their water resources deserve a science-based management process that includes all the obtained information formulated into predictive models. We should always remember that even if sustainability is reached the ongoing challenge to maintain it will be met only with vigilance to assess human and naturally occurring impacts that affect our water resources.