OFFICE OF THE COUNTY COMPTROLLER
ULSTER COUNTY, NEW YORK

The Future of the Ulster County Resource Recovery Agency

Planning for Success or Failure?

Issued: February 24, 2011

2011 – 002

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The mission of the Ulster County Comptroller's Office is to serve as an independent agency of the people and to protect the public by monitoring County government and to assess and report on the degree to which its operation is economical, efficient and its financial condition sound.

TABLE OF CONTENTS **PAGE**

Introduction

Ulster County is located in the heart of the Hudson Valley region of New York State approximately 90 miles north of New York City and 50 miles south of the State Capitol, Albany.

In the mid-1980s in response to new environmental laws enacted by the NYS Legislature and regulations promulgated by the NYS Department of Environmental Conservation many Ulster County municipalities found it beyond their financial and managerial capability to continue to dispose of waste in accordance with the new requirements. As a result, the Ulster County Legislature requested that the NYS Legislature enact legislation creating a public benefit corporation for the purpose of developing, financing and implementing a comprehensive County-wide solid waste management program.

In 1986, the NYS Legislature enacted Chapter 936 of the Public Authorities Law which created the Ulster County Resource Recovery Agency, a public benefit corporation. The Agency's current organizational structure consists of a five-member board of directors, an executive director, agency counsel, and management, administrative and operation staff.

A legal Agreement between the County of Ulster and the Ulster County Resource Recovery Agency (UCRRA) was entered into in 1992 wherein the Agency furnishes to the County "the service of accepting and processing, and/or disposing of all Solid Waste and accepting, processing and marketing of Regulated Recyclable Materials within the County in consideration for the payment by the County to the Agency for such service of Net Service Fees, if and to the extent required pursuant to the terms" of the Agreement.

Purpose

In the course of our research for the August 2010 report, Net Service Fees: What are they? Why have they cost Ulster County $32 million?, we reviewed years of financial data found in the UCRRA's audited financial statements. The concerns raised by that data warranted further analysis and that is the purpose of this report: to portray the financial data over time, interpret trends and to provide the County with an analysis to guide their oversight of the UCRRA.

Background

The County entered into an agreement in January 1988 with UCRRA to develop a comprehensive solid waste management plan (the “Plan”) for the County. The County approved the Plan in December 1991, which was subsequently approved by the NYS Department of Environmental Conservation in April 1993.

The overall goal of the Solid Waste Management Plan is to provide an environmentally sound and cost effective solution to the problems associated with the collection, transportation, processing, and disposal of municipal solid wastes generated in the County. The Plan covers a 25 year planning period from 1989 – 2014. The Plan sets forth the strategic actions of the UCRRA to comply with State regulations for the management of solid waste using what is known as an Integrated Solid Waste Management (ISWM) approach. ISWM involves using different approaches for handling the entire municipal solid waste (MSW) stream within the County.

Two key components of Ulster County’s ISWM Plan relative to this analysis are (1) that the UCRRA can only issue revenue bonds (not general obligation bonds which are secured by a pledge of ad valorem taxes) to meet its capital needs and (2) flow control is necessary to generate revenues. According to the Plan revenue bonds are long-term, tax-exempt obligations that are payable from the project revenues; also referred to as project revenue bonds since the success or failure of the project directly affects the ability to repay the debt. Interest rates on revenue bonds are usually higher than the interest rate on general obligation bonds because there is more risk.

“Flow control” is the practice of assuring that all solid waste will be delivered to the ISWM system for processing. To achieve flow control Ulster County’s Plan was to rely on contracts with the towns and city within the County. Flow control assures the financial viability of waste management facilities by providing a reliable, long-term supply of waste.

On January 1, 1992, a Solid Waste Service Agreement between the County of Ulster and UCRRA became effective. The Agreement recognizes that the County-wide solid waste management strategy is to use an aggressive reduce, reuse and recycle program, landfill disposal, municipal organic solid waste composting, sewage sludge management, a household hazardous waste program, and transfer stations. The Agreement acknowledges the importance of flow control to assure that sufficient solid waste enters the system. It is through this Agreement that the County is obliged to pay to UCRRA a Net Service Fee (NSF), if and to the extent required pursuant to the terms of the agreement.

There are four amendments to the Agreement, the first of which is dated March 1, 1993. Amendment #1 states that the UCRRA has executed SWM agreements that represent 80% of the SWM stream generated in the County. The amendment expands Section 7.01 entitled *Contingency* stating the Agreement is contingent on the Agency

> obtaining valid and enforceable agreements with a sufficient number of municipalities in the County to provide the Agency with the exclusive right to dispose of the municipality's Solid Waste and Regulated Recyclable Materials for a minimum of twenty years to the extent that such agreement represent at least 66% of the total amount of Solid Waste generated with the County…

Scope and Methodology

The review of the UCRRA's financial statements spans the time frame from the UCRRA's first financial statement audits in 1993 through 2009. The data and information analyzed include: New York State law; Ulster County local laws; the Agreement between the UCRRA and the County of Ulster, and other contracts between UCRRA and a municipality. Also reviewed were: the annual financial reports of Ulster County; minutes to meetings of the UCRRA board of directors and of the legislative oversight committee; the Ulster County Solid Waste Management Plan; and relevant news reports.

All financial numbers in this report, unless otherwise stated, with the exception of the year 2010 have been taken directly from the annual audits of the UCRRA. The financial figures for the year 2010 have been provided by the UCRRA, but have not currently been audited.

In April 1999 the Ulster County Legislature received a report entitled ***Study of the Ulster County Resource Recovery Agency for County of Ulster New York.*** It was submitted to the Ulster County Legislature by Cashin/Cahilll Joint Venture, 1200 Veterans Memorial Highway, Hauppauge, NY. According to the report's introduction:

> "The County of Ulster commissioned this study to obtain analysis and recommendations on the current operations of the Ulster County Resource Recovery Agency. This requested analysis examines the full scope of Agency operations, included its assets, liabilities, organization and management, plans, projections and prospects."

We recently discovered this Cashin/Cahill study and reference it throughout our report. A full copy can be found at www.ulstercountyny.gov/comptroller.

Contractual Obligations:

In 2009, the UCRRA had a total of 37 contracts[1], 21 of which are known as Solid Waste Management (SWM) Contracts. The SWM contracts are described in Ulster County's Solid Waste Management Plan (7.2.1).

> "A county developing a solid waste facility must be assured that the solid waste within its jurisdiction will be delivered to the facility. This is referred to as solid waste stream flow control ("flow control"). The simplest method of controlling the flow of solid waste is to have the owner of a waste disposal facility contract directly with the haulers collecting the solid waste or with the municipalities within which the solid waste is generated. This method of voluntary contractual commitments has normally been quite effective to ensure a sufficient solid waste stream flow to a facility. An important issue to consider when using this method is that contracts with private haulers generally are not considered adequate controls by the financing community (bond underwriters, potential bond purchasers). Therefore, if some form of revenue bond financing is utilized, it would probably be necessary to contract with the municipalities or the County as well, to ensure that solid waste is delivered to the facility.
>
> Important provisions in such a contract might include:
>
> - Specification of the tipping fee charged delivering solid waste to the facility;
> - Escalation provisions for the tipping fee over the term of the contract;
> - Commitment by the facility owner to accept a specified amount of solid waste; and
> - Commitment to deliver a guaranteed waste quantity to the facility and to pay the specified tipping fees regardless of whether the guaranteed tonnage is actually delivered. This provision is commonly referred to as the "put-or-pay" agreement.
>
> The primary advantage of using contractual methods for "flow control" is the ability to guarantee sufficient delivery of solid waste to a waste disposal facility over a long-term period. Another advantage is that contractual methods for "flow control" can foster cooperation among the citizens of the County, the private haulers serving them, and a waste disposal facility serving both.
>
> A disadvantage of contractual methods for "flow control" is that contract negotiations can be lengthy and difficult depending upon the cooperation of the municipalities or private haulers and number of municipalities or private haulers involved in the negotiations.
>
> Should the County seek to pursue contractual methods of solid waste stream flow control, the most effective approach may be to contract directly with the municipalities rather than with the private haulers. This alternative would require each municipality to control its own solid waste stream via ordinances …in order to fulfill long-term contract commitments made with the County."

[1] List provided by the UCRRA.

The SWM contracts produce the revenue vital to the UCRRA and its ability to fulfill its purpose and achieve self sufficiency. A majority of the SWM municipal contracts began in 1993. Later contracts with solid waste haulers, known as 'put or pay' contracts (POP), ensure private haulers deliver the solid waste they collect to the Agency. Table A lists all 37 UCRRA contracts and we draw your attention to the column "Expiration Year".

Party	**Nature of Contract**	**Expiration Year**	**Exact Date**
Ulster County	Solid Waste Service	2025	12/31/2025
M&T Trust	Trust Indenture	Redemption of Bonds	N/A
Denning	Solid Waste MGT	2012	10/1/2012
Esopus	Solid Waste MGT	2012	10/1/2012
Gardiner	Solid Waste MGT	2012	10/1/2012
Hardenburgh	Solid Waste MGT	2012	10/1/2012
Hurley	Solid Waste MGT	2013	3/1/2013
Lloyd	Solid Waste MGT	Date Bonds Paid Off	N/A
Marbletown	Solid Waste MGT	2012	10/1/2012
Marlborough	Solid Waste MGT	2012	10/1/2012
New Paltz	Solid Waste MGT	Date Bonds Paid Off	N/A
Olive	Solid Waste MGT	2012	10/1/2012
Plattekill	Solid Waste MGT	2012	10/1/2012
Rochester	Solid Waste MGT	2012	10/1/2012
Rosendale	Solid Waste MGT	2012	10/1/2012
Saugerties	Solid Waste MGT	2012	10/1/2012
Shandaken	Solid Waste MGT	2012	10/1/2012
Shawangunk	Solid Waste MGT	2013	10/1/2013
Ulster	Solid Waste MGT	Date Bonds Paid Off	N/A
Wawarsing	Solid Waste MGT	2012	10/1/2012
Woodstock	Solid Waste MGT	2012	10/1/2012
Kingston (Town)	Solid Waste MGT	2012	10/1/2012
Kingston (City)	Solid Waste MGT	2013	3/1/2013
Seneca Meadows	Landfill	2014	12/31/2014
Santaro	Hauler	2012	12/31/2012
D&N	Hauler	2012	12/31/2012
Spada	Hauler	2012	12/31/2012
BFI	Landfill	None	N/A
County Waste	POPMSW	2010	12/31/2012
Evergreen	POPMSW	2010	12/31/2012
WM	POPMSW Landfill	2012	12/31/2012
Royal	Prepay MSW	2009	12/31/2009

WM	Recycling Operation	2010	12/31/2010
New Paltz	Transfer Sta K	2016	9/30/2016
Bemis	Employment	2012	12/31/2012
Wing	Employment	2010	12/31/2010
Local 445	Labor	2010	12/31/2010

Table A ****Municipalities are highlighted in yellow****

22 of the above contracts are with Ulster County municipalities and four are with waste collection firms. These contracts ensure the flow control essential to the Agency's financial viability. 15 of the SWM contracts expire in 2012; three expire in 2013 and three have an expiration date when their bonds are paid off, i.e. Lloyd, New Paltz, and the Town of Ulster (see Chart 1). The four private collection firm contracts also expire in 2012.

Chart 1

The 37 current contracts can be separated into two broad categories: revenue contracts (including the SWM contracts) and expenditure contracts (including bond notes). With the mass expiration of contracts in 2012 and 2013 (see, Table B) the only revenue contract to survive beyond 2014 is the contract with Ulster County that obliges the County to pay Net Service Fees. The remaining contracts are all expenses of the UCRRA.

Party	Nature of Contract	Expiration Year	Exact Date	Revenue or Expense
Ulster County	Solid Waste Service	2025	12/31/2025	Revenue
M&T Trust	Trust Indenture	Redemption of Bonds	N/A	Expense
Lloyd	Solid Waste MGT	Date Bonds Paid Off	N/A	Expense
New Paltz	Solid Waste MGT	Date Bonds Paid Off	N/A	Expense
Ulster	Solid Waste MGT	Date Bonds Paid Off	N/A	Expense
Seneca Meadows	Landfill	2014	12/31/2014	Expense
BFI	Landfill	None	N/A	Expense
New Paltz	Transfer Sta K	2016	9/30/2016	Expense

Table B

Revenues and Expenses

Since 1993, both revenues and expenses of the UCRRA rose steadily and for the most part consistently. However, since 2000, expenses have been rising on average at a rate of 7.7% while revenues are rising at an average rate of 4.2%. Expenses are outpacing revenues by nearly 3.5% a year.

We applied the ten-year average rate of change, respectively to 2010 revenues and expenses to project four years into the future using a power series trend line. As a result, both trend lines move closer together, in other words documenting that revenues continue to decline and expenses continue to rise with respect to one another. In Chart 2 below, the revenues and expenses of the UCRRA are graphed and trend lines illustrate that by 2014 expenses will meet or exceed income.

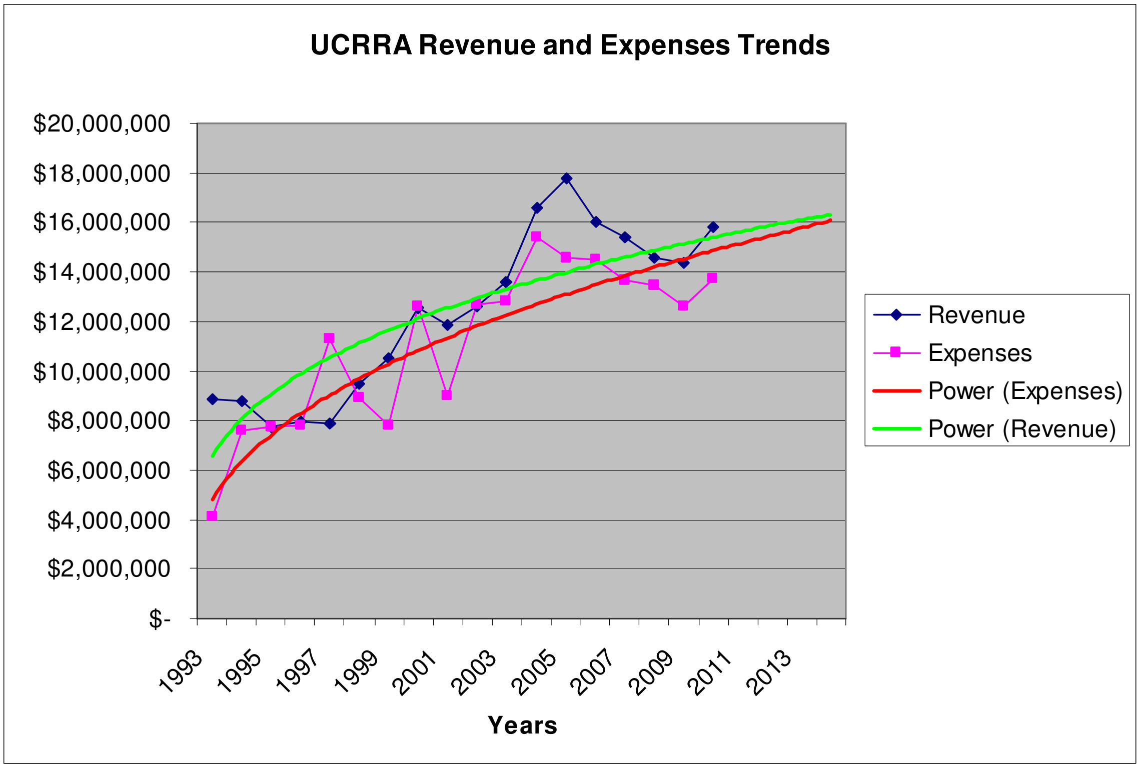

Chart 2

This calculation becomes less accurate as you project further into the future, but provides a valid projection upon which to question the financial plan for the future of the UCRRA.

Long Term Debt

The UCRRA's total long-term debt peaked in 2000 at $39,989,840 and for the first time ever, in 2010, dipped below $25 million. Interest payments on the UCRRA's debt was at its highest in 2002 at $1,630,018 and over the last nine years interest on debt has averaged $1,002,199. Since 2000, long-term debt has been on a downward trend (see, Chart 3).

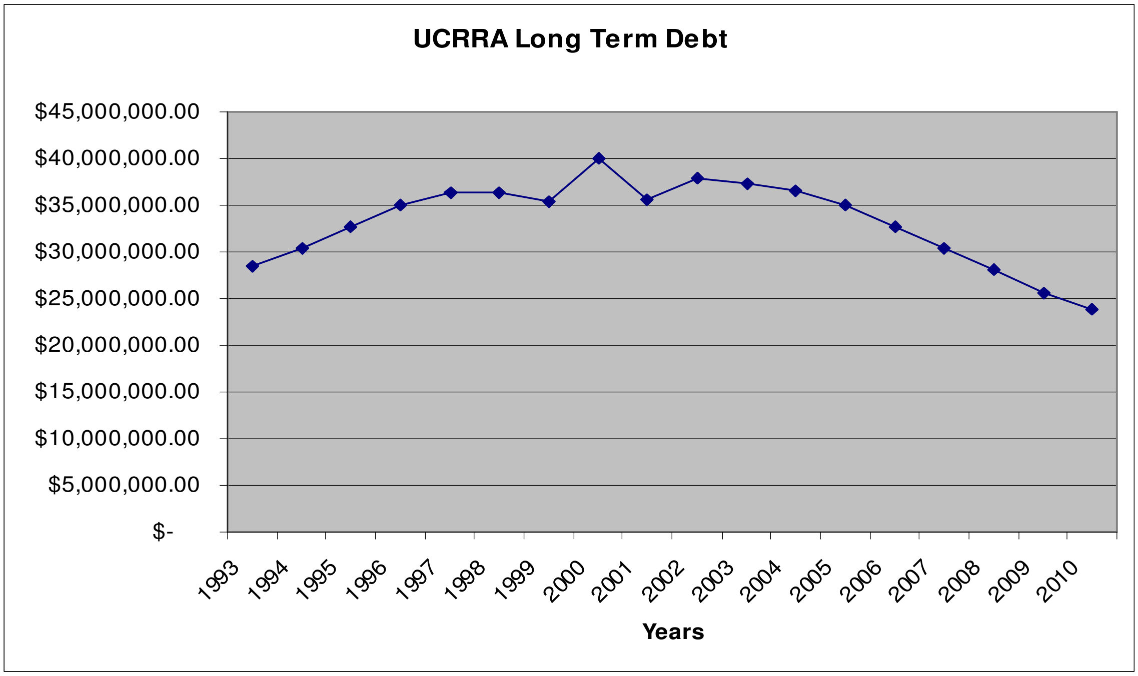

Chart 3

While declining debt is a positive trend, a closer look at the correlated reserves and capital assets raises concerns.

Since 2000, the UCRRA's debt reserves have decreased by roughly $10 million (see, Chart 4). The excess reserves accumulated from the year 2000 helped pay for part of the UCRRA's expenses.

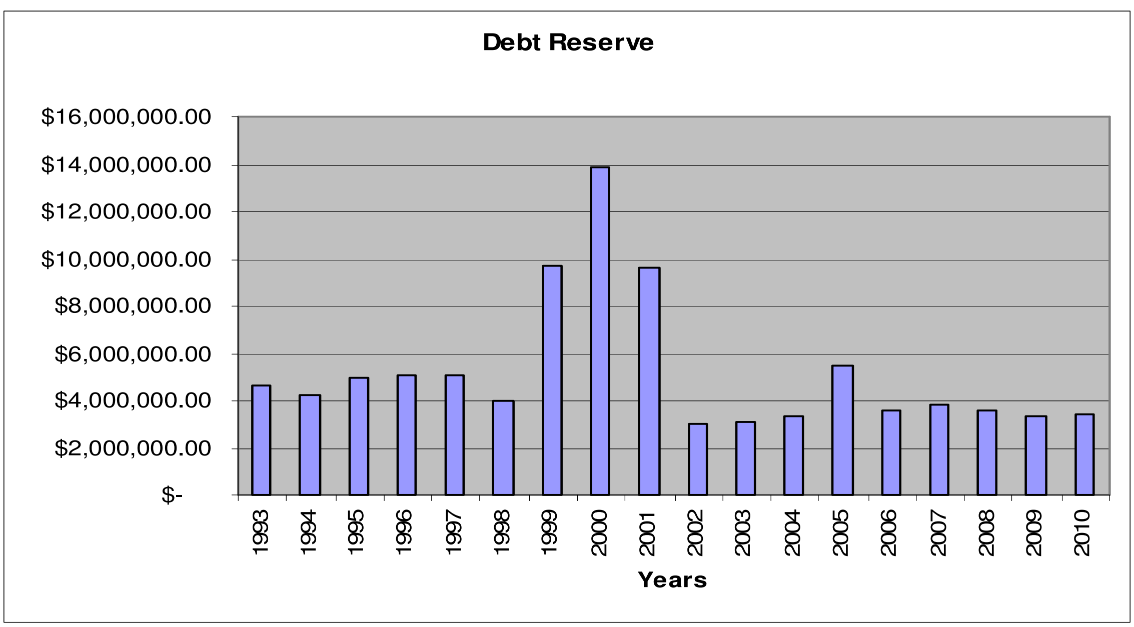

Chart 4

The debt coverage ratio or DCR is a standard tool for determining if there is sufficient cash flow above operating expenses to pay debt service. DCR is found by dividing net operating income by annual debt service payments (principal and interest). A DCR of 1:1 or 100% indicates exactly enough net operating income to meet debt service requirements exist for the current period. With a DCR less than 1:1 there is not adequate operating income to meet debt service requirements. DCRs of between 1:15 and 1:3 are commonly expected.

Year	Operating Income	Total Debt Payment	D.C.R.
2000	$2,794,021.00	$4,717,805.00	59.22%
2001	$2,818,070.00	$6,972,041.00	40.42%
2002	$1,260,814.00	$3,090,018.00	40.80%
2003	$1,587,761.00	$1,499,235.00	105.90%
2004	$2,030,599.00	$1,725,017.00	117.71%
2005	$1,840,345.00	$2,993,267.00	61.48%
2006	$2,039,357.00	$5,596,244.00	36.44%
2007	$2,385,125.00	$3,222,830.00	74.01%
2008	$1,749,766.00	$3,245,951.00	53.91%
2009	$2,308,138.00	$3,246,376.00	71.10%

Table C

Since 2004 the debt coverage ratio, as calculated using data from the financial audits, for UCRRA is well below the equilibrium mark of 1:1 or 100% (see, Table C). The 2009 DCR of 71.10% indicates that UCRRA's total operating income can only cover 71% percent of their debt payments for the year. Typically, the occasional short-fall in operating income to pay debt service would be covered by the UCRRA's debt reserve. However, as illustrated in Chart 5, debt reserves have declined along with long-term debt.

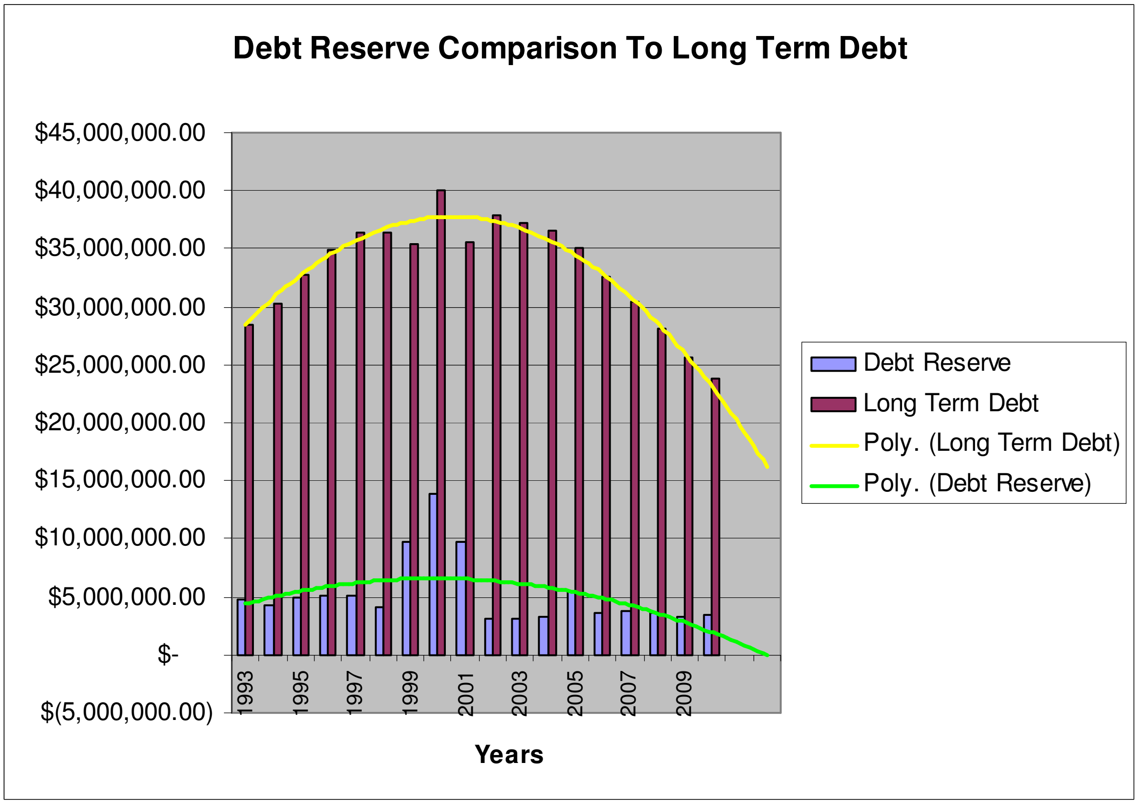

Chart 5

Projecting debt and debt reserves into 2012, it appears that the debt reserve will continue its downward trend and be close to, if not diminished, by the year 2013. Thus, other sources of revenue will have to be found in order to continue to pay off the remaining debt of the UCRRA. As noted in our first report on Net Service Fees, for the past 13 years when the UCRRA "bills" the County for the NSF it is noted that "it is the intent of the Agency to use the Net Service Fee payment to pay debt service."

The Table D below is from the UCRRA's most recent audited financial statements for 2009. Table D, labeled Maturity Dates displays the annual required payments of the UCRRA to pay off their long term debt. Long term debt is expected to remain through the year 2025, a majority of which is paid through the year 2019. The remaining principal that is yet to be paid as of 2009 is $25,653,109.00 and the interest owed related to this principal is $13,255,750.00. This leaves a total of $38,908,859.00 that the UCRRA is still required to pay.

Maturity Dates as of 12/31/2009

Years:	Principal	Interest	Total
2010	$ 2,374,364.00	$ 748,803.00	$ 3,123,167.00
2011	$ 2,175,000.00	$ 672,581.00	$ 2,847,581.00
2012	$ 2,250,000.00	$ 599,903.00	$ 2,849,903.00
2013	$ 2,320,000.00	$ 524,153.00	$ 2,844,153.00
2014	$ 2,405,000.00	$ 443,747.00	$ 2,848,747.00
2015-2019	$ 9,115,555.00	$ 1,892,303.00	$ 11,007,858.00
2020-2024	$ 3,742,008.00	$ 5,600,442.00	$ 9,342,450.00
2025-2029	$ 1,271,182.00	$ 2,773,818.00	$ 4,045,000.00
	$25,653,109.00	$ 13,255,750.00	$ 38,908,859.00

Table D

The following Table E displays the long term debt of the UCRRA, from 2000 to 2009 with respect to UCRRA's debt reserve, annual debt, and NSF Payment from the County of Ulster. During 2002-2004, the debt reserve was at a low of 8-9%. Since the year 2000, the NSF payment from the County of Ulster on average has been 89.88% of the annual debt payment of the UCRRA. This percentage peaked in the years 2003, 2004 at 185.12% and 197.85% respectively.

Year	Long Term Debt	Debt Reserve	Annual Debt	Reserve % of Debt	NSF Payment	NSF % of Annual Debt Payment
2000	$ 39,989,840.00	$13,895,484.00	$4,717,805.00	34.75%	$ 3,385,470.00	
2001	$ 35,520,990.00	$ 9,668,005.00	$6,972,041.00	27.22%	$ 3,604,171.00	51.69%
2002	$ 37,938,745.00	$ 3,039,600.00	$3,090,018.00	8.01%	$ 3,998,416.00	129.40%
2003	$ 37,288,745.00	$ 3,138,419.00	$1,499,235.00	8.42%	$ 2,775,392.00	185.12%
2004	$ 36,623,745.00	$ 3,325,680.00	$1,725,017.00	9.08%	$ 3,412,893.00	197.85%
2005	$ 30,434,551.00	$ 5,461,186.00	$2,993,267.00	17.94%	$ 2,397,819.00	80.11%
2006	$ 30,392,562.00	$ 3,630,980.00	$5,596,244.00	11.95%	$ 2,392,335.00	42.75%
2007	$ 30,392,562.00	$ 3,842,248.00	$3,222,830.00	12.64%	$ 1,887,678.00	58.57%
2008	$ 28,068,830.00	$ 3,564,823.00	$3,245,951.00	12.70%	$ 1,249,383.00	38.49%
2009	$ 25,653,109.00	$ 3,349,319.00	$3,246,376.00	13.06%	$ 1,398,254.00	43.07%

Table E

Capital Assets

Capital assets often represent the most significant investment of an agency's resources. Capital assets generally are acquired to help provide essential services and these assets need to be actively managed to ensure that the most value is received from the investment. It is that value that must be protected from loss and maximized.

According to the Agency's 2009 financial audit, capital assets such as building renovations, building additions, machinery and equipment, heavy equipment, computers, software, vehicles, trailers and furniture and fixtures with a unit cost of greater than $1,000 and a useful life of at least three years are capitalized.

Much of the proceeds from bonds were used in the early years of the Agency for feasibility and environmental studies. As a result, the UCRRA is heavily leveraged with debt as compared to its assets. The data shows that over the last 6 years capital assets have been steadily decreasing (see, Chart 6). The data in Chart 6 includes all forms of depreciation with the exception of the years prior to 2002. The financial audits of the UCRRA recorded no depreciation on capital assets in the years 2000 and 2001.

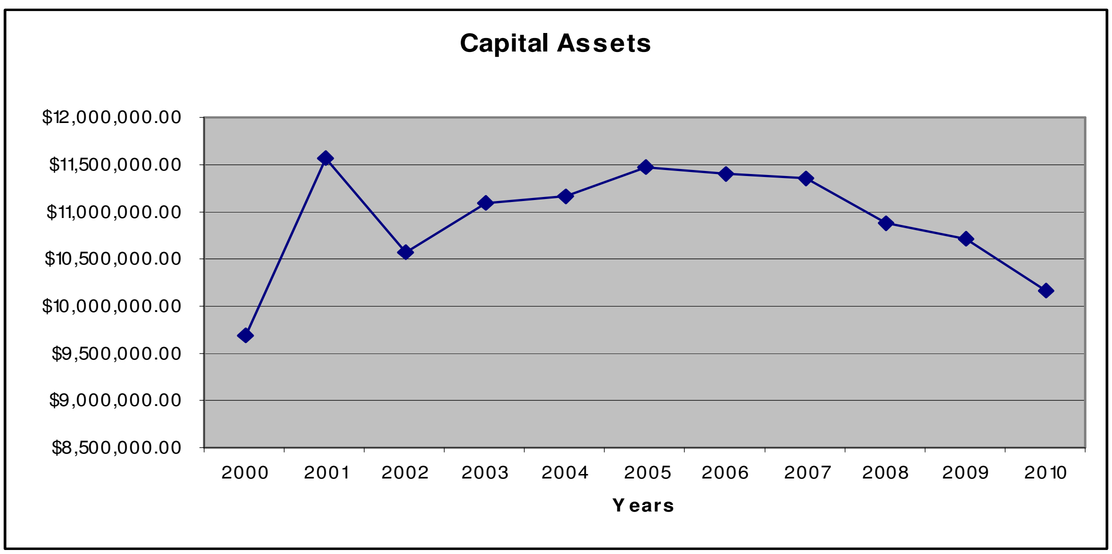

Chart 6

Plan for the Future

Our analysis of the data regarding UCRRA operations reveals declining income and increasing expenses, expiring contracts and depreciated capital assets, declining yet substantive debt and diminished debt reserves. The confluence of the indicators charted and graphed above give rise to very important questions:

What is the UCRRA's plan for future operational sustainability? If the UCRRA does not have a plan for sustainability, what is it planning for?

A review of the minutes of from the Legislature's Governmental Services, Environmental & Administrative Committee & Environmental Subcommittee and the UCRRA Board of Directors document little expectation of financial planning toward long-term operational sustainability. Regarding the Cashin/Cahill 1999 study providing analysis and recommendations, we found reference to its receipt but no discussion of its origin, contents or recommendations.

In the minutes to the Legislative committee meetings, we found references to the need for long term planning in discussions between the committee and the UCRRA concerning the budget. The minutes reflect substantive questions asked by legislators about operations and costs related to the annual budget.

The minutes to the UCRRA board meetings reflect discussion of a five-year capital plan concerning the sale or acquisition of capital assets. A capital plan prioritizes expenditures on capital asset investments.

We found documentation of discussion regarding contract negotiations only in the minutes of one UCRRA meeting, March 23, 2010, where a reference was made under "Issues for 2010" that the Teamster Labor Agreement's, contract expires at the end of the year.

While searching the records for evidence of planning for sustainability, we instead found documentation of a surprise effort in July 2005 to divest the Agency of its private garbage hauling services. Meeting minutes, interviews and subsequent news reports evidence a last-minute, unplanned action. The then president of the UCRRA board was quoted as saying:

> "I don't think it's fair that we're subsidizing it with taxpayers' money, and then we're going out and competing against private haulers…….. I wish someone would give my … company $3 million a year, I could underbid everybody as well."

There was an effort to table the motion to allow time for evaluation and the motion to table was defeated. The following resolution passed by a vote of three to two.

- **Resolution No. 1953** Re: Ending Private Garbage Service;

  This Resolution authorizes the Agency to end all Private/Commercial Packer Collection Services including, but not limited to, any school bids and that any existing contracts, service or routes be sold or terminated, any equipment, not limited to trucks, be sold and any employees, insurance, and other related expenses be eliminated.

The Cashin/Cahill study in discussing the UCRRA's collection business notes that the initiative was undertaken to combat the growing trend of private haulers to take local waste elsewhere. (p.27)

> "The collection service is self-supporting and appears to be filling a need within the County as the Agency's combined fees for service are competitive with those offered by the private sector. The scale of operation remains relatively small however, generating approximately 5% of the MSW handled by the Agency, and handling 3% of the waste generated in the County each year. Despite its small size, the Agency's collection service may be playing a positive role in waste service pricing in the County. Competition among collection and hauling firms in the County has been declining over the past two to three years…it is reasonable to assume that if the Agency were not engaged in the collection business, competition for the large firms would be lessened and their pricing for waste service could increase." (p.28)

The Cashin/Cahill study, upon comprehensive analysis of the organization and industry, recommends to the County:

> "There are alternate ways for the Agency to survive economically and reduce the expenses of the collection effort. The collection activities should be phased out **if the County adopts the alternate funding methods.**" (emphasis added) (p.24)

The 1999 Cashin/Cahill study recognizes that the UCRRA:

> "operates a comprehensive municipal waste management system which provides services and incurs costs, which none of its private sector waste competitors would provide or incur. As a public corporation, the Agency performs some functions which only government would perform…The governmental functions performed by the Agency are not easily eliminated or capable of being dispersed to other levels of government…If these functions are to stay with the Agency, and we conclude, as a practical matter, that they should, the Agency's revenue structure must be reformed…If no action is taken by the County and the Agency to reform the financial structure which bring revenue to the Agency, Net Service Fee payments by the County to subsidize Agency operations will continue indefinitely." (p.4)

As discussed earlier, the Solid Waste Management Plan or “the Plan” sets forth the strategic actions of the UCRRA to comply with State regulations for the management of solid waste for the 25 year period from 1989 – 2014. There is also an annual budget, which is a plan for authorizing annual expenditures. Neither the budget nor the Plan provides a framework for long-term financial or operational sustainability of the Agency. Whereas a multi-year financial plan would project revenues and expenditures for several years into the future and would be built on policy and economic assumptions that help assess expenditure commitments, revenue trends, financial risks and the affordability of new services and capital investments.

The only documentation we have found of long-term planning for sustainability is the Cashin/Cahill report which provided the needed data, information and context essential to planning and it makes specific recommendations for overcoming its conclusion that *the financial support structure originally envisioned for the Ulster County Resource Recovery Agency is no longer workable. The Agency’s range of responsibilities include more than a simple waste disposal function.* Yet, the official public record evidences no discussion of this study, its recommendations or how to plan for the future. Without a documented, public plan for sustainability any plan simply becomes the focus of the “leader-du-jour” subject only to the power and influence any given individual wields at any given time.

Worst Case Scenario

While reviewing the financial, contractual, and debt obligations of the UCRRA the question necessarily arises:

If the UCRRA were no longer able to support its own operations where does the responsibility for the Agency’s debt obligations lie?

First, we look to the State Legislation (Chapter 936, Laws of New York), which amended the Public Authorities Law to include Title 13-G Ulster County Resource Recovery Agency, a public benefit corporation, created on December 31, 1986, § 2050-j of the law states:

> *Neither the state, the county nor any other municipality or public corporation shall be liable on the bonds of the agency and such bonds shall not be a debt of the state, the county or any other municipality or public corporation and such bonds shall contain on the face thereof a statement to such effect.*

This protection from liability for the Agency's bond debt is restated in the 1992 Solid Waste Agreement between the County and the UCRRA, it states:

*§**2.01 -** Any Bonds issued by the agency to finance a portion of such costs of the system shall not constitute a debt of the state or the county, and neither the state nor the county shall be liable thereon, nor shall the bonds be payable out of any funds of the agency other than those pledged in accordance with a resolution authorizing the bonds.*

However, the Agreement creates an obligation on the part of the County to pay net service fees (NSF) to the Agency as long as the UCRRA is still collecting and disposing of the County's garbage. § 4.01 of the Agreement details how the NSF is calculated. The equation is

(BDS + BRF + AE) - (TF + RMR+OR) = NSF.[2]

Note also, §5.09 of the Agreement provides as follows:

> "**5.09 –** "Failure on the part of the agency in any instance or under any circumstance to observe or fully perform any obligation assumed by or imposed upon it by this agreement or law shall **<u>not make the agency liable in damages to the county or relieve the county of its obligation to make payments of net service fees</u>** hereunder or to fully perform any other obligation required of it under this agreement for so long as the agency shall be providing the solid waste disposal services contracted to be provided by the agency under this agreement." (emphasis added)

The calculation agreed to by the County for paying the UCRRA Net Service Fees includes bond debt service. So, the answer to the question "who would be responsible for the debt obligations" is "Ulster County taxpayers".

- BDS - <u>bond debt service</u>, the amount of principal and interest on bonds owed during the calculation period including and coverage requirements.
- BRF - <u>Bond Reserve Funds</u>, the amount if any required to be deposited during the calculation period in the debt service reserve fund, operating reserve funds and other reserve funds established under the trust indenture.
- AE - <u>Agency Expenses</u> (AE) the actual expenses of the agency for the calculation period.
- TF – <u>The total of the per ton fees collected by the UCRRA,</u> for processing or disposal of solid waste, and processing of regulated recyclable materials at the system.
- RMR – <u>Regulated Recyclable Materials Revenues,</u> the total amount of revenues received by the Agency during the Calculation period from the sale of regulated recyclable materials.
- OR – <u>Other Revenues,</u> the total amount of other funds available to the agency for purposes of meeting its obligations hereunder.
- NSF – <u>Net Service Fees,</u> the obligation the county is required to pay to the UCRRA for the current period.

Conclusions

- Expenses are outpacing revenues by nearly 3.5% a year. At that rate by 2014, expenses will exceed income.
- A majority of the contracts with the UCRRA will expire in the years 2012 and 2013 leaving the UCRRA, post 2014, with seven expense contracts and one revenue contract: the Ulster County agreement to pay annual Net Service Fees.
- The overall long term debt of the UCRRA has decreased. As of 2009, a total of $38,908,859.00 in debt is due through 2025.
- Capital assets have been decreasing since 2006.
- UCRRA's debt reserve has decreased by almost $10 million since 2000 and continues to trend downward.
- Debt coverage ratios for 2006 – 2009 are well below the debt coverage ratio of 1:1.
- Since 2005 Ulster County's Net Service Fee payments to the UCRRA have ranged on average between 38.5% to 80.1% of the Agency's annual debt service payments.
- In 2005, the UCRRA made a policy decision to end their private hauling service.
- It appears that, contrary to provisions of the State law creating the UCRRA, the County's agreement with the UCRRA makes it ultimately liable for the Agency's outstanding debt.
- There is no documentation of any sanctioned or official effort to undertake long-term operational and financial planning to achieve a sustainable UCRRA.
- The 1999 Cashin/Cahill study provided a comprehensive, clear evaluation of the Agency operations, including its assets, liabilities, organization and management, plans, projections and prospects. Yet, there is no official record of deliberation of study's findings or recommendations. It is quizzical.
- If the UCRRA does not plan for success, then Ulster County must plan to compensate for their failure.

It is understood that the solid waste management marketplace is dynamic. New technologies continually evolve and market prices for recyclables fluctuate. While these realities can account for financial difficulties, we submit that the realities of the industry dictate long-term strategic and financial planning, if the Agency is to be successful.

Control by the Agency of the solid waste produced within the County is fundamental to the purpose the Agency serves and to its revenue stream. The fact that there is no cohesive strategy regarding flow control is deeply troubling.

A strategic plan provides a realistic working framework upon which to achieve goals and objectives, establish performance measures and balance daily operations with long-term expectations. Using a strategic plan as a framework – a common understanding of mission and outcomes – provides flexibility to adapt to changing internal and external environments as well as provides essential performance criteria against which to measure the relative success of the Agency.

Without planning, fiscally-stressed agencies try to limp along from year to year, but the practicality of that approach, as evidenced by the financial data, is limited. Without plans that document the criteria to evaluate performance, oversight bodies such as a board of directors or legislative committee have no reliable basis for gauging progress or anticipating distress.

Recommendations

We recommend the UCRRA immediately undertake long-term strategic and financial planning for sustainability in conjunction with the required update of the Solid Waste Management Plan which expires in 2014.

We recommend the UCRRA immediately begin renegotiation of their Solid Waste Management contracts with municipalities. This is a good opportunity to involve municipal leaders in the aforementioned planning.

We recommend oversight bodies evaluate the progress of the Agency using objective criteria. Criteria may change overtime as a result of ongoing strategic planning. Attached in Appendix B is an academic exercise prepared to illustrate performance measures that might be considered. Using a rubric such as this provides context for understanding financial change within an organization as well as a basis for asking questions. Likewise, this report and our report, Net Service Fees, provide valuable historic context for tracking financial trends and comparing them to the expectations of the long term, strategic plan.

We recommend that the Ulster County Legislature and County Executive collaborate on a “fail safe” plan in the worst case scenario event that the County becomes liable for the UCRRA’s outstanding debt.

Appendix A

Chart 1

Party	Nature of Contract	Expiration Year	Exact Date
Denning	Solid Waste MGT	2012	10/1/2012
Esopus	Solid Waste MGT	2012	10/1/2012
Gardiner	Solid Waste MGT	2012	10/1/2012
Hardenburgh	Solid Waste MGT	2012	10/1/2012
Hurley	Solid Waste MGT	2013	3/1/2013
Lloyd	Solid Waste MGT	Date Bonds Paid Off	N/A
Marbletown	Solid Waste MGT	2012	10/1/2012
Marlborough	Solid Waste MGT	2012	10/1/2012
New Paltz	Solid Waste MGT	Date Bonds Paid Off	N/A
Olive	Solid Waste MGT	2012	10/1/2012
Plattekill	Solid Waste MGT	2012	10/1/2012
Rochester	Solid Waste MGT	2012	10/1/2012
Rosendale	Solid Waste MGT	2012	10/1/2012
Saugerties	Solid Waste MGT	2012	10/1/2012
Shandaken	Solid Waste MGT	2012	10/1/2012
Shawangunk	Solid Waste MGT	2013	10/1/2013
Ulster	Solid Waste MGT	Date Bonds Paid Off	N/A
Wawarsing	Solid Waste MGT	2012	10/1/2012
Woodstock	Solid Waste MGT	2012	10/1/2012
Kingston (Town)	Solid Waste MGT	2012	10/1/2012
Kingston (City)	Solid Waste MGT	2013	3/1/2013

Chart 2

Year	Expenses	Revenues
1993	$ 4,083,393.00	$ 8,861,634.00
1994	$ 7,592,935.00	$ 8,774,400.00
1995	$ 7,756,245.00	$ 7,767,404.00
1996	$ 7,799,605.00	$ 7,978,328.00
1997	$11,266,633.00	$ 7,871,917.00
1998	$ 8,937,063.00	$ 9,503,871.00
1999	$ 7,795,962.00	$10,543,462.00
2000	$12,633,238.00	$12,554,781.00
2001	$ 9,023,452.00	$11,841,522.00
2002	$12,669,559.00	$12,643,133.00
2003	$12,809,094.00	$13,611,778.00
2004	$15,410,930.00	$16,581,574.00
2005	$14,584,253.00	$17,763,646.00
2006	$14,491,754.00	$16,021,893.00
2007	$13,664,937.00	$15,406,520.00
2008	$13,446,229.00	$14,550,748.00
2009	$12,640,169.00	$14,363,165.00
2010	$13,738,712.00	$15,787,567.00

Chart 3

Year	Total Debt
1993	$ 28,500,000.00
1994	$ 30,295,000.00
1995	$ 32,777,015.00
1996	$ 34,957,584.00
1997	$ 36,336,739.00
1998	$ 36,417,616.00
1999	$ 35,315,082.00
2000	$ 39,989,840.00
2001	$ 35,520,990.00
2002	$ 37,938,745.00
2003	$ 37,288,745.00
2004	$ 36,623,745.00
2005	$ 35,052,227.00
2006	$ 32,634,551.00
2007	$ 30,392,562.00
2008	$ 28,068,830.00
2009	$ 25,653,109.00
2010	$ 23,751,410.00

Chart 4

Year	Debt Reserve
1993	$ 4,689,238.00
1994	$ 4,276,410.00
1995	$ 4,974,385.00
1996	$ 5,026,382.00
1997	$ 5,076,325.00
1998	$ 4,025,864.00
1999	$ 9,716,341.00
2000	$ 13,895,484.00
2001	$ 9,668,005.00
2002	$ 3,039,600.00
2003	$ 3,138,419.00
2004	$ 3,325,680.00
2005	$ 5,461,186.00
2006	$ 3,630,980.00
2007	$ 3,842,248.00
2008	$ 3,564,823.00
2009	$ 3,349,319.00
2010	$ 3,432,951.00

Chart 5

Year	Total Debt	Debt Repayment Reserve
1993	$ 28,500,000.00	$ 4,689,238.00
1994	$ 30,295,000.00	$ 4,276,410.00
1995	$ 32,777,015.00	$ 4,974,385.00
1996	$ 34,957,584.00	$ 5,026,382.00
1997	$ 36,336,739.00	$ 5,076,325.00
1998	$ 36,417,616.00	$ 4,025,864.00
1999	$ 35,315,082.00	$ 9,716,341.00
2000	$ 39,989,840.00	$ 13,895,484.00
2001	$ 35,520,990.00	$ 9,668,005.00
2002	$ 37,938,745.00	$ 3,039,600.00
2003	$ 37,288,745.00	$ 3,138,419.00
2004	$ 36,623,745.00	$ 3,325,680.00
2005	$ 35,052,227.00	$ 5,461,186.00
2006	$ 32,634,551.00	$ 3,630,980.00
2007	$ 30,392,562.00	$ 3,842,248.00
2008	$ 28,068,830.00	$ 3,564,823.00
2009	$ 25,653,109.00	$ 3,349,319.00
2010	$ 23,751,410.00	$ 3,432,951.00

Chart 6

Year	Capital Assets
2000	$ 9,687,728.00
2001	$11,573,637.00
2002	$10,568,304.00
2003	$11,104,515.00
2004	$11,163,413.00
2005	$11,485,078.00
2006	$11,411,491.00
2007	$11,367,542.00
2008	$10,872,823.00
2009	$10,717,531.00
2010	$10,163,301.00

APPENDIX B

SAMPLE FINANCIAL REPORT CARD

Grading Rubric for UCRRA:

	A+	A	B	C	D	F
Cash and Cash Equivelants	Above 110%	110-95%	94-75%	74-50%	49-30%	Below 30%
Fund Balance	Above 80%	80-71%	70-61%	60-51%	50-41%	Below 40%
Net Service Fees	0%	1%-5%	6%-10%	11%-15%	16%-20%	above 20%
Operating Income	Above $2,800,000	$2,800,000-$2,000,001	$2,000,000-1,500,001	$1,500,000-$500,001	$500,000-$100,000	Less than 100000
Total Capital Assets	Above 160%	160-151%	150-141%	140-131%	130-121%	Less than 120%
Debt Coverage Ratio	Above 130%	Above 115%	114-105%	104-100%	99-80%	Less than 80%

Grading Values for UCRRA:

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Cash and Cash Equivelants	$ 5,540,669.00	$ 1,705,964.00	$ 1,410,003.00	$ 1,513,506.00	$ 986,547.00	$ 1,881,449.00	$ 2,575,325.00	$ 5,735,033.00	$ 5,557,653.00	$ 4,554,209.00
Ratio to Liabilities	192.35%	46.33%	44.42%	29.57%	16.34%	26.39%	56.86%	109.84%	123.09%	92.99%
Fund Balance	$ 14,408,348.00	$ 14,695,579.00	$ 7,414,226.00	$ 6,177,614.00	$ 6,884,365.00	$ 7,971,653.00	$ 6,122,799.00	$ 5,841,230.00	$ 4,919,296.00	$ 4,852,682.00
Ratio to Gross Expenses	83.04%	91.87%	58.52%	45.90%	42.82%	48.15%	36.59%	36.52%	31.01%	38.39%
Net Service Fees	$ 3,385,470.00	$ 3,604,171.00	$ 3,998,416.00	$ 2,775,392.00	$ 3,412,893.00	$ 2,397,819.00	$ 2,392,335.00	$ 1,887,678.00	$ 1,249,383.00	$ 1,398,254.00
Ratio to Revenues	26.97%	30.44%	31.63%	20.39%	20.58%	13.50%	14.93%	12.25%	8.59%	9.73%
Operating Income	$ 2,794,021.00	$ 2,818,070.00	$ 1,260,814.00	$ 1,587,761.00	$ 2,030,599.00	$ 1,840,345.00	$ 2,039,357.00	$ 2,385,125.00	$ 1,748,766.00	$ 2,308,138.00
Total Capital Assets	$ 9,687,728.00	$ 11,573,637.00	$ 10,568,304.00	$ 11,104,515.00	$ 11,163,413.00	$ 11,485,708.00	$ 11,411,491.00	$ 11,367,542.00	$ 10,872,823.00	$ 10,717,531.00
Ratio to Operating Revenues	129.59%	102.31%	119.63%	122.58%	148.53%	154.66%	140.40%	135.53%	133.83%	134.02%
Debt Coverage Ratio	-1.66%	40.42%	51.90%	110.18%	129.31%	140.74%	44.83%	84.47%	62.03%	78.66%

Grades for UCRRA:

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Cash and Cash Equivelants	A+	D	D	F	F	F	C	A	A+	B
Fund Balance	A+	A+	C	D	D	D	F	F	F	F
Net Service Fees	F	F	F	F	F	C	C	C	B	B
Operating Income	A	A+	C	B	A	B	A	A	B	A
Total Capital Assets	D	F	F	D	B	A	C	C	C	C
Debt Coverage Ratio	F	F	F	B	A	A+	F	D	F	F

GPA:	A+ = 4.5
	A = 4
	B = 3
	C = 2
	D = 1
	F = 0

GPA:	**1.85**