

## Report To

## The Mississippi Legislature

A REVIEW OF SELECTED AREAS OF OPERATION  
OF THE GAUTIER UTILITY DISTRICT

December 14, 1988

PEER reviewed selected areas of operation of the Gautier Utility District, a water, sewer, and fire protection district in Jackson County, Mississippi. The district issued bonds to finance construction and acquisition of facilities within the scope of its authority, although the final cost of the project was more than originally estimated. The district violated state laws relative to purchasing, open meetings, and conflict of interest. The district failed to collect all possible revenues and could face a cash flow problem in the future.

The PEER Committee

## **PEER: THE MISSISSIPPI LEGISLATURE'S OVERSIGHT AGENCY**

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

An extension of the Mississippi Legislature's constitutional prerogative to conduct examinations and investigations, PEER is authorized by law to review any entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

As an integral part of the Legislature, PEER provides a variety of services, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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December 14, 1988

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At its meeting of December 14, 1988, the PEER Committee authorized release of its report entitled A Review of Selected Areas of Operation of the Gautier Utility District.

  
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Senator Cecil Mills, Chairman

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# A REVIEW OF SELECTED AREAS OF OPERATION OF THE GAUTIER UTILITY DISTRICT

## EXECUTIVE SUMMARY

### ***Background***

On July 3, 1973, the Jackson County Board of Supervisors adopted a resolution creating the Gautier Utility District (GUD) as a combined water and sewer utility and fire protection district pursuant to Chapter 831, Local and Private Laws of Mississippi, Regular Session, 1966. Since this time GUD has completed comprehensive system planning, obtained financing for its infrastructure, and completed construction of said infrastructure.

### ***Analysis of Issuance of Bonds***

Gautier Utility District financed design, acquisition, and construction of its system with grants from the federal Environmental Protection Agency (EPA), loans (secured by bond issues) obtained through the federal Farmers Home Administration (FHA), and a loan from the Department of Natural Resources Bureau of Pollution Control. PEER analysis of newspaper articles concerning the creation and operation of GUD shows that district users are concerned that—(1) they had too little input into the financing of the district; (2) the district's debt obligations are excessive; (3) the district's rates are too high in comparison to rates formerly charged by privately owned water systems; and (4) too few users are paying for the costs of the system.

***The Mississippi Supreme Court ruled in 1985 that GUD had afforded district residents an opportunity to comment on plans to construct and finance the water and sewage system with loans secured by bonds.***

The Clean Water Act of 1973 Pub. L. No. 92-500 required entities such as Gautier Utility District to compile a "201 Facilities Plan" in order to receive grants from the EPA for sewage control. GUD's 1981 201 Facilities Plan described the type of system the district planned to develop, detailed costs of acquiring and constructing the system, and identified sources of financing the system. After the district completed its 1981 201 Facilities Plan, it conducted a public hearing to make the public aware of its intention. According to minutes of the public hearing, eleven individuals attended and only one person made any objection to the

plan. (This individual questioned the validity of the district's zoning map and expressed concern regarding possible future levies of ad valorem taxes.)

Before the district could validate the bonds which were to be used to secure the loans, residents of the district filed a lawsuit on May 27, 1983, objecting to the district's creation and plans of financing the utility system. On October 4, 1983, a final judgment in the case was entered in the Jackson County Chancery Court which validated the district's bond process and dismissed the complaint of the objectors. The objectors at this point perfected an appeal to the Mississippi State Supreme Court. On February 27, 1985, the state Supreme Court affirmed the lower court's decision in the case of B. L. White et al v. Gautier Utility District of Jackson County, Mississippi, et al 465 So.2d 1003 (Miss. 1985). The court ruled that GUD had acted within the scope of its power in designing and developing plans to finance its utility system.

***GUD's portion of the costs to acquire and construct the utility system exceeded original estimates by \$5,707,233.***

The district's 1981 201 Facilities Plan estimated the system's total capital requirements at \$24,766,000, with \$11,616,000 provided by EPA grants (seventy-five percent of funds needed for the sewer portion of the system as allowed by PL 92-500) and \$13,150,000 provided by the district through loans from FHA. In 1983, the district updated its plan and determined that GUD's share of the total costs would be \$13,310,000. The district planned to finance these costs through two loans from FHA, one for \$7,800,000 and the other for \$5,510,000.

Once the lawsuit against the district had been settled (see the previous finding), GUD began borrowing its share of the system's costs. Based on the total funds obtained by the district for acquisition and construction costs, PEER determined that the district borrowed \$5,707,233 more than the estimate contained in GUD's 1983 updated 201 Facilities Plan (\$19,017,233 minus \$13,310,000). According to GUD personnel and staff of Barth & Associates, the district's consulting engineers, GUD's portion of the system costs exceeded original estimates by \$5,707,233 for three primary reasons: (1) increased acquisition costs of

privately owned utility systems; (2) system costs exceeding original estimates; and (3) the district's choice to acquire additional facilities.

***FHA letters of condition for obtaining bond financing contain utility rates to be charged by Gautier Utility District.***

While planning this review, PEER staff reviewed newspaper articles relative to the creation and operation of the Gautier Utility District. One common theme among these articles was the belief of GUD users that the district's rates are excessive. Based on the amount of debt the district had to incur to acquire and construct its comprehensive system, the GUD Board of Commissioners had no choice other than to charge rates which were higher than district users were accustomed to paying. Each time the district applied for a loan from the Farmers Home Administration, the GUD Board of Commissioners had to agree to certain conditions. One of the conditions was that the board would charge the rates computed by FHA to ensure adequate funds to operate the district and repay outstanding loans. Therefore, higher rates became inevitable as long as the district relied on borrowed funds to finance its goals of a comprehensive system.

***GUD has fewer customers than required by FHA to generate enough revenue to operate and repay its debts.***

As stated above, FHA required GUD to agree to certain loan conditions; one condition to receiving financing was the determination that the district should serve 5,308 users in order to be financially stable. As of September 1988, the district mails 3,753 bills to users. (Some of these bills are to multi-unit locations where one bill from GUD covers many or all units in the complex, park, or mall.) PEER determined that the 3,753 bills represent approximately 4,700 users according to FHA standards. GUD staff members reported to PEER that they anticipate an additional 500 users will be connected to the system in coming months. These additions would give the district a total of 5,200 users—108 users short of the number projected by FHA.

***Recommendation***

As demonstrated by the findings in this section, Gautier Utility District users may have the perception that the district was improperly and excessively financed. User perception that the board made an

incorrect and/or improper decision appears to be based on inadequate information. Therefore, beginning with calendar year 1988, the district should publish an annual report providing a description of the district's operations and the district's financial condition. In particular, any factors which affect the district's user rates should be fully explained and disclosed. The Board of Commissioners should release its annual report at a public news conference. In addition, the board should publish its annual financial statements in local newspapers.

***Compliance with Applicable State Laws***

The local and private legislation which allowed the creation of the Gautier Utility District characterizes the district's board as a governing authority. As a result of this characterization, various state laws including public purchasing, conflict of interest, and open meetings laws apply to the district.

***GUD has failed to comply with CODE Section 31-7-13, which requires two written competitive bids for purchases between \$500 and \$2500.***

MISS. CODE ANN. Section 31-7-1 et seq. (1972) establishes public purchasing practices for state agencies and governing authorities. In particular, Section 31-7-13 establishes bid requirements and exceptions. PEER reviewed GUD's FY 1987 and FY 1988 purchasing records to determine the district's compliance with these purchasing laws. This review showed that the district has not complied with the requirement to obtain two written competitive quotations for purchases between \$500 and \$2,500. In an effort to verify the district's noncompliance with this requirement, PEER reviewed eight randomly selected purchase transactions completed by the district during FY 1988. None of the purchasing records for these transactions contained the required written quotes.

Due to the limited scope of this review, PEER did not perform a complete investigative audit to determine the number and dollar amount of purchases made by the district in violation of state purchasing laws.

***GUD violated MISS. CODE ANN. Section 25-4-105 by purchasing office supplies from a supply company owned by a member of the GUD Board of Commissioners.***

According to GUD purchasing records for the period October 7, 1987, through August 25, 1988, GUD made

purchases totaling \$6,845.96 from Gautier Office Supply, an office supply company owned by a member of the GUD Board of Commissioners. Privilege tax records on file at the Gautier City Hall show that Jim Baker was owner of Gautier Office Supply during the period reviewed by PEER. Mr. Baker served as a member of the GUD Board of Commissioners from June 3, 1987, through June 1988. During his tenure on the board, Mr. Baker served as its chairman from August 1987 through June 1988. One of his responsibilities as chairman was to sign checks on behalf of the district, some of which were made payable to his supply company. By making purchases from a business owned by a board member, the district violated the state's conflict of interest laws, particularly MISS. CODE ANN. Section 25-4-105 (1972).

***GUD has not entered on its minutes "the times and places and the procedures by which all of its meetings are to be held" as required by state law.***

MISS. CODE ANN. Section 25-41-1 et seq. (1972) prescribes procedures for the conduct of public meetings. In an attempt to verify the district's compliance with these provisions, PEER reviewed the district's board minutes for calendar year 1979 through September 1988. Based on this review, PEER concludes that the district has not formally adopted an open meetings policy as required by state law. However, the district has informally adhered to the intent of state law by establishing a regular meeting date and time. Based on information provided by GUD staff, PEER determined that, in addition to its regular meetings, the GUD Board of Commissioners conducts special meetings to discuss various aspects of the district operations. The board has not established procedures by which these meetings are to be held. According to the GUD office manager, the Board of Commissioners conducted twelve special meetings since July 1988.

The board's lack of a written open meetings policy which complies with state law gives the perception to its users that the board conducts "secret" meetings and circumvents public input and scrutiny of district operations.

### ***Recommendations***

1. The GUD Board of Commissioners should ensure that the district fully complies with all state purchasing laws and regulations.
2. The Attorney General's Office should review the district's noncompliance with state purchasing laws.

3. The GUD Board of Commissioners should immediately discontinue making purchases from the Gautier Office Supply and any other vendors which may represent a conflict of interest situation for the district.
4. The Executive Director of the PEER Committee should refer the case of the district purchasing from a company owned by a board member to the Mississippi Ethics Commission for review.
5. The GUD Board of Commissioners should adopt and document in its official minutes an open meetings policy which complies with state law.

### ***Analysis of Selected Areas of Operation***

***GUD's billing procedures are not in compliance with loan conditions established by the Farmers Home Administration or the district's rate ordinance.***

As previously stated, GUD has received five loans totaling \$18,015,000 from the federal Farmers Home Administration. During the processing cycle for each loan, FHA provided GUD with a letter which established certain conditions the district had to agree to prior to receiving each loan. Two of the five FHA letters received by GUD required the district to "keep in effect a rate schedule that will generate sufficient revenue to operate and maintain the system, retire debts on schedule, meet reserve requirements, and cover other expenses."

***Failure to Bill a Commercial Rate*** - PEER determined that GUD does not bill any users at the commercial rate; instead commercial users are billed at the residential rate. GUD staff reported to PEER that the board has not developed any criteria for classifying a user as commercial (i.e., type of business, meter size). Therefore, district staff cannot determine how many commercial users exist in the district. PEER concludes that the district deprives itself of \$14,423 annually by failing to bill commercial users at a commercial rate.

***Failure to Bill Trailer Parks Properly*** - PEER determined that the district's practices for billing trailer parks is not consistent with the letters of condition written by the Farmers Home Administration. The FHA letters state that the district should bill owners of trailer parks based on the number of units in the parks. The district's current rate ordinance states that GUD will bill owners based on the number of occupied units in a park or facility. PEER concludes that the district deprives itself of approximately \$17,033 annually by failing to bill trailer parks according to the FHA's method.



*Failure to Charge Fire Protection Fee Properly* - In addition to water and sewer charges, GUD also charges its users a monthly fee of \$2.10 for fire protection coverage. The district's most recent rate ordinance states that each user, including each unit in trailer parks, mobile homes and multiple housing facilities, shall pay the monthly fire protection fee. PEER determined that the district does not assess the monthly fire protection fee to each apartment and trailer park unit on the system. Currently, GUD collects the fire protection fee only for occupied apartment and trailer park units. As a result, the district deprives itself of \$736 per year by failing to comply with its own rate ordinance.

***GUD has been lax in enforcing its delinquency policy, resulting in over \$41,000 in uncollected bills as of September 23, 1988.***

The district's "Application for Water and/or Sewer Services" states that the GUD may discontinue services to users who fail to pay their bill within fifteen days of the due date. As of September 23, 1988, GUD had 513 delinquent accounts (fourteen percent of all user accounts) representing \$41,109 in unpaid bills.

***The Gautier Utility District faces a potential cash flow problem.***

In accordance with Farmers Home Administration loan conditions, the district's financial records are audited annually. The district's audited financial statements are in accordance with generally accepted auditing standards on an accrual basis. PEER reviewed the district's FY 1987 financial statements and determined that GUD ended the fiscal year with a retained earnings deficit of \$514,410. The statements show that the district has accumulated a retained earnings deficit of \$741,119 since the beginning of the district. The district's continuing debt obligations and level of system users indicate that the district may have financial difficulties in the future without corrective action being taken by the Board of Commissioners.

***The district's day-to-day management responsibilities are decentralized.***

The GUD Board of Commissioners has three staff members of equal authority who report directly to the board—the office manager, the fire department chief, and the maintenance/operation supervisor. All of these positions have day-to-day financial management and operational responsibilities. In interviews with PEER, GUD staff stated that individual board

members also become involved in the district's day-to-day activities.

### ***Recommendations***

1. The GUD Board of Commissioners should establish criteria for classifying commercial users and begin assessing the correct rate to such users.
2. GUD should adhere to Farmers Home Administration's method of billing trailer park units. The district also should bill apartment complexes in the same way FHA requires trailer parks to be billed.
3. The Board of Commissioners should ensure that the district complies with its own rate ordinance and bill fire protection charges to all units of trailer parks and apartment complexes.
4. The Board of Commissioners should ensure that the district completely and consistently adheres to its policies regarding users who are delinquent in paying amounts owed to the district. In addition, individual board members should refrain from intervening in selected cases of users who are delinquent.
5. In order to accurately assess its financial position, the district should project its revenues and expenditures for future years on both a cash and accrual basis. These projections should be compared to actual performance on a routine basis so that any necessary corrective action can be developed and implemented.
6. The district's Board of Commissioners should consider the following steps to ensure a positive cash flow for the district in future years.
  - a. Increase its user base while holding steady or reducing operating costs.
  - b. Increase its user revenue (customer base) at a rate faster than increases in operating costs.
  - c. Enact taxes or assessments as authorized in HB1293.
  - d. Increase user utility rates.
7. The Board of Commissioners should function as a policy-making board and delegate administrative/operational responsibilities of the district to a general manager or a single commissioner.

**For More Information or Clarification, Contact:**

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A REVIEW OF SELECTED AREAS OF OPERATION OF THE  
GAUTIER UTILITY DISTRICT

INTRODUCTION

Authority

At its meeting on August 11, 1988, the PEER Committee authorized a review of selected areas of operation of the Gautier Utility District (GUD) in Jackson County, Mississippi, in response to a legislative request. The committee acted in accordance with MISS. CODE ANN. Section 5-3-57 (1972).

Scope

This report has three primary objectives: (1) to analyze GUD's issuance of bonds; (2) to determine GUD's compliance with applicable state laws, particularly those relating to purchasing and open meetings; and, (3) to assess selected areas of GUD's financial management procedures.

Methodology

In conducting this review, PEER performed the following tasks:

1. Reviewed the legal status of the utility district;
2. Reviewed audited financial statements of the utility district for fiscal years 1984 through 1988;
3. Interviewed the Chairman of the Gautier Utility District Board of Commissioners and board staff;
4. Interviewed staff of Barth & Associates, GUD's consulting engineer;
5. Interviewed staff of the Department of Natural Resources Bureau of Pollution Control;
6. Interviewed staff of the Mississippi office of the federal Farmers Home Administration;
7. Reviewed and analyzed GUD financial and operational records and documents, including the district's 201 Facilities Plans; and,
8. Reviewed newspaper articles relative to the district.

Background of the District

On July 3, 1973, the Jackson County Board of Supervisors adopted a resolution creating the Gautier Utility District (GUD) as a combined water and sewer utility and fire protection district pursuant to Chapter 831, Local and Private Laws of Mississippi, Regular Session, 1966. Since this

time GUD has completed comprehensive system planning, obtained financing for its infrastructure, and completed construction of said infrastructure. Exhibit 2, page 3, presents the background relative to the creation of the district.

Administration of the District

Prior to July 1, 1988, a three-member Board of Commissioners appointed by the Jackson County Board of Supervisors governed the utility district. During the 1987 session, the Legislature passed House Bill 1376, local and private legislation which created a five-member Board of Commissioners to be elected directly by the citizenry. Current members of the district's board of commissioners are listed in Exhibit 1 below. The board has a support staff of fourteen employees. Refer to Exhibit 3, page 4, for an illustration of the district's organizational structure. Sewer and water operations are administered from a central facility, while fire protection services are provided by three fire stations located throughout GUD's service area. Exhibit 4, page 5, presents the district's FY 1989 operating budget.

EXHIBIT 1

GAUTIER UTILITY DISTRICT BOARD OF COMMISSIONERS  
AS OF NOVEMBER 1, 1988

<u>Name</u>	<u>Occupation</u>
Lucien Beausoleil, Chairman	Engineer-Ingalls Shipyard
Kenneth Peden	Semi-retired/Antique business
Don Hansford	Chevron Refinery Employee
George Blazick	Engineer-Ingalls Shipyard
Sam Well	Engineer-Dept. of Navy

SOURCE: GUD office manager.

## EXHIBIT 2

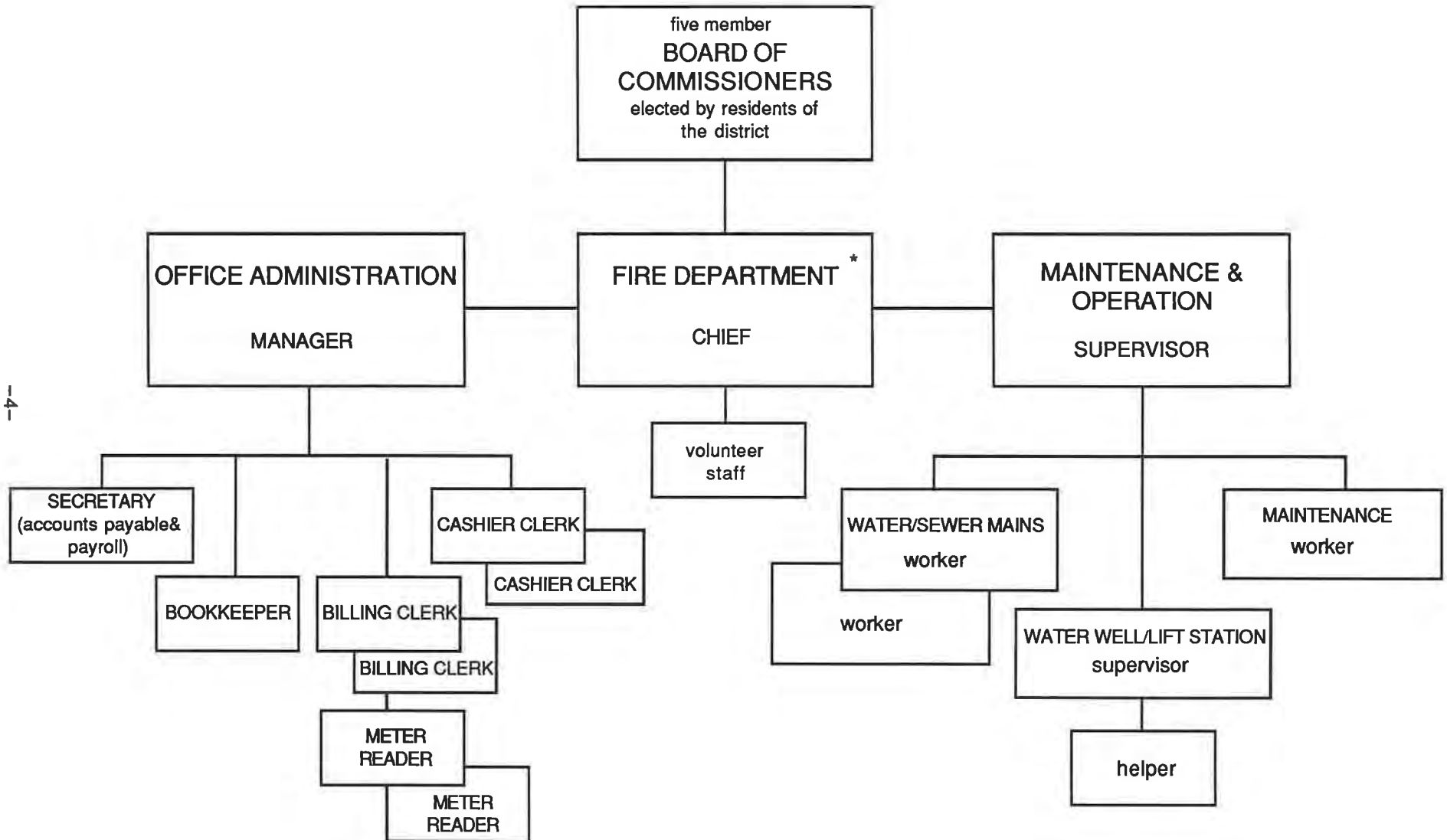
### CHRONOLOGY OF THE GAUTIER UTILITY DISTRICT

- 1966—Mississippi Legislature passes Senate Bill No. 2251 setting forth a scheme for the incorporation of water, sewer, gas, utility and fire protection districts in Jackson County, Mississippi.
- 1972—Congress passes PL 92-500—"Clean Water Act" (refer to Appendix).
- 1973—Jackson County Board of Supervisors creates the Gautier Utility District as a combined water and sewer utility and fire protection district within Jackson County, and appoints three commissioners to organize the district.
- 1974-77—GUD develops its "201 Facilities Plan" in response to PL 92-500. The plan proposes that GUD develop a comprehensive sewer and water district. The plan also details cost projections and proposes financing the system by means of Environmental Protection Agency (EPA) grants and Farmers Home Administration (FHA) loans.
- 1981—GUD holds the final public hearing on its "201 Facilities Plan." No valid objections are raised; therefore, the Jackson County Board of Supervisors and the GUD Board of Commissioners passed resolutions to adopt and implement the plan.
- 1982—GUD requests initial bond of \$7,800,000 for construction and acquisition of water and sewer system.
- 1983—Objectors file suit in chancery court to deny issuance of a bond by the district. Court upholds the bond validation and objectors perfect an appeal to the Mississippi Supreme Court.
- 1985—Supreme Court renders a decision affirming the bond validation.
- GUD requests other initial bond of \$5,250,000 for construction and acquisition of water and sewer system.
- 1986—GUD requests additional bond of \$2,350,000 to finance the accelerated cost of obtaining private utilities via eminent domain in county court of Jackson County.
- GUD receives \$1,002,233 interest-free loan from the Department of Natural Resources Bureau of Pollution Control to assist in financing utility system costs.
- Construction of the GUD system begins. GUD Board of Commissioners passes a resolution adopting the water and sewer rates recommended by the FHA in its letters of condition.
- 1987—GUD requests additional bonds of \$1,950,000 and \$665,000 to finance the acquisition of additional private utilities, construction of additional water and sewer facilities, and construction of three fire stations and purchase of fire trucks.
- 1988—Construction of GUD water and sewer system is completed.
- GUD elects new commissioners pursuant to HB 1376.

EXHIBIT 3

# GAUTIER UTILITY DISTRICT ORGANIZATION CHART

(as of November 29, 1988)



\* Subject to change because of discussions between GUD and the City of Gautier to share fire protection responsibilities

SOURCE: Compiled by PEER staff based on data obtained from GUD staff

EXHIBIT 4

GAUTIER UTILITY DISTRICT BUDGET  
(OCTOBER 1, 1988 THROUGH SEPTEMBER 30, 1989)

REVENUES:

Taxes: 8 mill	\$ 280,000
Operating Revenue:	
Metered sales	1,222,480
Fire protection charge *	114,088
Service connection charges	18,000
Sewer charges	1,234,480
Other income	2,000
	<u>2,591,048</u>
Non-operating Revenue:	
Interest	45,000
Rents	1,800
Sales of property	10,000
	<u>56,800</u>
Other Revenue:	
Sewer Inspection fees	2,000
	<u>\$2,929,848</u>
	=====

EXPENSES:

Utility Administration:	
Personal services	\$ 165,915
Supplies	3,550
Contractual	70,620
Capital	4,305
Debt transfer	1,239,482
Transfer	295,800
	<u>1,779,672</u>
Utility Field Services:	
Personal services	155,740
Supplies	69,740
Contractual	559,762
Capital	293,079
	<u>1,078,321</u>
Fire Department*:	
Personal services	5,315
Supplies	22,700
Contractual	41,340
Capital	2,500
	<u>71,855</u>
	<u>\$2,929,848</u>
	=====

SOURCE: Compiled by PEER staff based on GUD's 1988-89 adopted budget.

\* These amounts are subject to change because of discussions between GUD and the City of Gautier to share fire protection responsibilities.

## ANALYSIS OF ISSUANCE OF BONDS

Gautier Utility District financed design, acquisition, and construction of its system with grants from the federal Environmental Protection Agency (EPA), loans (secured by bond issues) obtained through the federal Farmers Home Administration (FHA), and a loan from the Department of Natural Resources Bureau of Pollution Control. PEER analysis of newspaper articles concerning the creation and operation of GUD show that district users are concerned that--(1) they had too little input into the financing of the district; (2) the district's debt obligations are excessive; (3) the district's rates are too high in comparison to rates formerly charged by privately owned water systems; and (4) too few users are paying for the costs of the system.

The Mississippi Supreme Court ruled in 1985 that GUD had afforded district residents an opportunity to comment on plans to construct and finance the water and sewage system with loans secured by bonds.

As explained in the Appendix, page 21, Clean Water Act of 1973 Pub. L. No. 92-500 required entities such as Gautier Utility District to compile a "201 Facilities Plan" in order to receive grants from the EPA for sewage control. GUD's 1981 201 Facilities Plan described the type of system the district planned to develop, detailed costs of acquiring and constructing the system, and identified sources of financing the system. After the district completed its 1981 201 Facilities Plan, it conducted a public hearing to make the public aware of its intention. The district published notification of the public hearing three times in June and July 1981 in the Mississippi Press Register. The district held the hearing on July 20, 1981, at the Jackson County campus of Gulf Coast Junior College. According to minutes of the public hearing, eleven individuals attended and only one person made any objection to the plan. (This individual questioned the validity of the district's zoning map and expressed concern regarding possible future levies of ad valorem taxes.) The minutes reflect that the district did not receive any written statements from interested citizens prior to or at the public hearing. In 1983, the district updated its Plan and determined that GUD's share of the total costs of the system would be provided through two loans (secured by bonds) from the Farmers Home Administration.

Before the district could validate the bonds which were to be used to secure the loans, residents of the district filed a lawsuit on May 27, 1983, objecting to the district's creation and plans of financing the utility system. On October 4, 1983, a final judgment in the case was entered in the Jackson County Chancery Court which validated the district's bond process and dismissed the complaint of the objectors. The objectors at this point perfected an appeal to the Mississippi State Supreme Court. On February 27, 1985, the state Supreme Court affirmed the lower court's decision in the case of B. L. White et al v. Gautier Utility District of Jackson County, Mississippi, et al 465 So.2d 1003 (Miss. 1985). The court ruled that GUD had acted within the scope of its power in designing and developing plans to finance its utility system. The court also made the following comments with regard to due process privileges of citizens.



*. . .the decision to undertake substantial public improvements and to finance same via a bond issue are matters generally legislative. Our law secures to individuals no access to a judicial forum to thwart such actions except when they contravene the authority of the legislative body, and, accordingly, nothing in the due process guarantee of our constitution affords any citizen the right to reasonable advance notice and the opportunity to be heard before such legislative actions may be taken.*

*The citizen has a due process right to challenge the accuracy and proportionality of the assessment and taxation of his property. He has a similar right of access to a judicial forum to present with respect to the bond issue any objection based on principle as distinguished from policy, and there to raise the question of whether the political subdivision has exceeded the substantive limitations upon its legislative power. So long as the citizen has been afforded these rights, the district may proceed with such projects as are consistent with the governing board's perception of the public need and finance such projects in any manner allowed by law.*

GUD's portion of the costs to acquire and construct the utility system exceeded original estimates by \$5,707,233.

GUD's portion of the system costs exceeded original estimates by \$5,707,233 for three primary reasons: (1) increased acquisition costs of privately owned water systems; (2) system costs exceeding original estimates; and (3) the district's choice to acquire and construct additional facilities.

The district's 1981 201 Facilities Plan estimated the system's total capital requirements at \$24,766,000, with \$11,616,000 provided by EPA grants (seventy-five percent of funds needed for the sewer portion of the system as allowed by PL 92-500) and \$13,150,000 provided by the district through loans from FHA. In 1983, the district updated its plan and determined that GUD's share of the total costs would be \$13,310,000. The district planned to finance these costs through two loans from FHA, one for \$7,800,000 and the other for \$5,510,000.

Once the lawsuit against the district had been settled (see the previous finding), GUD began borrowing its share of the system's costs. Exhibit 5, page 8, is a schedule of all bonds and loans obtained by the district to acquire and construct the utility system.

Based on the total funds obtained by the district for acquisition and construction costs, PEER determined that the district borrowed \$5,707,233 more than the estimate contained in GUD's 1983 updated 201 Facilities Plan (\$19,017,233 minus \$13,310,000). According to GUD personnel and staff of

EXHIBIT 5

GAUTIER UTILITY DISTRICT BONDS AND LOANS OBTAINED TO  
FINANCE THE DISTRICT'S PORTION OF THE SYSTEM'S COST

<u>Bond Issue</u>	<u>Date Made</u>	<u>Term</u>	<u>Interest Rate</u>	<u>Monthly Installments</u>	<u>Purpose</u>
\$ 7,800,000	08/28/85	35 yrs	8.625%	\$ 59,976	Original estimate to acquire private water and sewer systems and construct sewer interceptors, water supply, and water distribution systems
1,002,233*	1986	10 yrs	0.000%	4,176	To help finance original cost estimate overruns
5,250,000	12/18/86	35 yrs	6.875%	33,854	Original estimate to construct sewer interceptors, sewage collection facilities, water storage, and water distribution system improvements
2,350,000	06/26/87	35 yrs	6.500%	14,550	To provide additional funds for acquisition of private utilities via eminent domain court
665,000	09/10/87	20 yrs	6.500%	5,030	To construct three fire stations and to purchase two fire trucks (i.e., cost estimate overrun)
1,950,000	09/18/87	35 yrs	6.500%	12,074	To construct sewage collection and water distribution facilities (i.e., cost estimate overrun) and to acquire additional private utilities
<u>\$19,017,233</u>				<u>\$129,660</u>	

\* This represents an interest-free loan GUD received from the Department of Natural Resources Bureau of Pollution Control. PL 92-500 allowed states to assist local entities with their portion of costs through grants or loans.

SOURCE: Compiled by PEER staff based on GUD audit reports and consulting engineer's reports.

Barth & Associates, the district's consulting engineers, the district borrowed more money than originally estimated for the following reasons:

1. Increased acquisition costs of privately owned utility systems--During the period that the Jackson County Chancery Court lawsuit (B. L. White et al v. Gautier Utility District et al) was on appeal to the Mississippi Supreme Court, an investor, Glenn Kelly Johnson, began acquiring privately owned water systems which GUD needed to eventually acquire to have a comprehensive water and sewerage system. When the Supreme Court rendered its decision and GUD had funds to begin acquiring privately owned systems, the new owner of the system offered to sell the systems at a price higher than the initial appraised value, as determined by GUD's consulting engineer. Negotiations for the purchase of these systems were handled and settled in eminent domain court. The final selling price of the systems was higher than the consulting engineers' original cost estimate for acquiring the systems. Therefore, the district had to borrow additional funds to acquire the systems.
2. Construction Costs Exceeded Original Estimates--According to the district's consulting engineers, costs for constructing the system exceeded the original estimates contained in the 1981 and 1983 201 Facilities Plan. Delay in beginning construction, because of the objection to the bond validation, was a contributing factor to cost estimate overruns.
3. Acquisition of Additional Facilities--The district chose to acquire additional privately owned water and sewer systems (i.e., the Singing River Mall system). According to the engineers, costs of this additional system were not included in the original cost estimates; therefore, the district had to borrow additional funds for its system. The board based its decision to obtain financing for additional facilities on the consulting engineer's conclusion that the district was financially capable of bearing additional debt under its present rate structure.

FHA letters of condition for obtaining bond financing contain utility rates to be charged by Gautier Utility District.

While planning this review, PEER staff reviewed newspaper articles relative to the creation and operation of the Gautier Utility District. One common theme among these articles was the belief of GUD users that the district's rates are excessive. In interviews with PEER, GUD staff stated most monthly water/sewer bills in the district average between \$40 and \$80. Many GUD users were accustomed to bills ranging between \$10 and \$20 under previous water systems. These individual systems utilized various methods to calculate a user's bill. When GUD began consolidating the systems and started charging for water and sewer services based on consumption, users became concerned and felt the rates were excessive.

Based on the amount of debt the district had to incur to acquire and construct its comprehensive system, the GUD Board of Commissioners had no choice other than to charge rates which were higher than district users were accustomed to paying. Each time the district applied for a loan from

the Farmers Home Administration, the GUD Board of Commissioners had to agree to certain conditions. One of the conditions was that the board would charge the rates computed by FHA to ensure adequate funds to operate the district and repay outstanding loans. Therefore, higher rates became inevitable as long as the district relied on borrowed funds to finance its goals of a comprehensive system.

GUD has fewer customers than required by FHA to generate enough revenue to operate and repay its debts.

As stated above, FHA required GUD to agree to certain loan conditions; one condition to receiving financing was the determination that the district should serve 5,308 users in order to be financially stable. According to the representative in its Gulfport office, the FHA based this user requirement on the district's 201 Facilities Plan projections. The FHA also used this user requirement to determine rates sufficient to cover the district's operating and debt expenses. According to the consulting engineer, user figures contained in the district's 201 plan were obtained by making physical counts of homes, apartments, trailers, and businesses in the district and then by making projections based on county population growth figures.

As of September 1988, the district mails 3,753 bills to users. (Some of these bills are to multi-unit locations where one bill from GUD covers many or all units in the complex, park, or mall.) PEER determined that the 3,753 bills represent approximately 4,700 users according to FHA standards. GUD staff members reported to PEER that they anticipate an additional 500 users will be connected to the system in coming months. These additions would give the district a total of 5,200 users--108 users short of the number projected by FHA.

As the Gautier area grows, GUD anticipates connecting other customers to its system. (Pursuant to a 1986 Resolution by the Jackson County Board of Supervisors, all new construction within the district is required to be connected to the GUD system. The resolution also prohibits the construction of private potable water wells and septic tanks.) These additions should allow the district to exceed the 5,308 required users projected by the FHA. GUD staff members also anticipate that the location of the Navy's new home port in the Jackson County area will increase the number of users on the system.

#### Recommendation

As demonstrated by the findings in this section, Gautier Utility District users may have the perception that the district was improperly and excessively financed. User perception that the board made an incorrect and/or improper decision appears to be based on inadequate information. Therefore, beginning with calendar year 1988, the district should publish an annual report providing a description of the district's operations and the district's financial condition. In particular, any factors which affect the district's user rates should be fully explained and disclosed. The Board of Commissioners should release its annual report at a public news conference. In addition, the board should publish its annual financial statements in local newspapers.

## COMPLIANCE WITH APPLICABLE STATE LAWS

The local and private legislation which allowed the creation of the Gautier Utility District characterizes the district's board as a governing authority. As a result of this characterization, various state laws including public purchasing, conflict of interest, and open meetings laws apply to the district.

### Purchasing Laws

GUD has failed to comply with CODE Section 31-7-13, which requires two written competitive bids for purchases between \$500 and \$2500.

MISS. CODE ANN. Section 31-7-1 et seq. (1972) establishes public purchasing practices for state agencies and governing authorities. In particular, Section 31-7-13 establishes bid requirements and exceptions. PEER reviewed GUD's FY 1987 and FY 1988 purchasing records to determine the district's compliance with these purchasing laws. This review showed that the district has not complied with the following portion of Section 31-7-13.

*(b) Purchases which do not involve an expenditure of more than Two Thousand Five Hundred Dollars (\$2500.00) may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor.*

NOTE: Section 31-7-13 allows purchases for less than \$500 to be made without advertising or competitive bids.

GUD employees stated that they were not aware of state law requiring two written competitive quotations for purchases between \$500 and \$2,500. In an effort to verify the district's noncompliance with these requirements, PEER reviewed eight randomly selected purchase transactions completed by the district during FY 1988. (See Exhibit 6, page 12, for a listing of these transactions.) None of the purchasing records for these transactions contained the required written quotes. The district's maintenance engineer told PEER that he occasionally attempted to obtain telephone quotes from various vendors prior to making a purchase. However, PEER could not locate any documentation for these occasional attempts.

Due to the limited scope of this review, PEER did not perform a complete investigative audit to determine the number and dollar amount of purchases made by the district in violation of state purchasing laws.

EXHIBIT 6

EXAMPLES OF GUD PURCHASES IN NONCOMPLIANCE WITH SECTION 31-7-13

<u>Date</u>	<u>Vendor</u>	<u>Amount of Purchase</u>
07/16/87	Davis Water & Waste Industries	\$1,532.25
04/11/88	Forestry Supplies, Inc.	700.00
04/20/88	Amfac Pipe & Supply	529.35
05/16/88	Water Products	1,648.51
05/27/88	Forestry Supplies, Inc.	1,006.45
08/09/88	Water Products	1,364.73
08/09/88	Water Products	1,037.96
08/25/88	Water Products	1,518.59

NOTE: All of these purchases violated Section 31-7-13 because GUD did not have documentation to prove that district staff had obtained two competitive quotes.

SOURCE: GUD files.

Conflict of Interest Laws

GUD violated MISS. CODE ANN. Section 25-4-105 by purchasing office supplies from a supply company owned by a member of the GUD Board of Commissioners.

According to GUD purchasing records, for the period October 7, 1987, through August 25, 1988, GUD made purchases totaling \$6,845.96 from Gautler Office Supply, an office supply company owned by a member of the GUD Board of Commissioners. Privilege tax records on file at the Gautler City Hall show that Jim Baker was owner of Gautler Office Supply during the period reviewed by PEER. Mr. Baker served as a member of the GUD Board of Commissioners from June 3, 1987, through June 1988. During his tenure on the board, Mr. Baker served as its chairman from August 1987 through June 1988. One of his responsibilities as chairman was to sign checks on behalf of the district, some of which were made payable to his supply company.

By making purchases from a business owned by a board member, the district violated MISS. CODE ANN. Section 25-4-105 (1972), which states:

*(2) No public servant shall:*

*(a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member. . . .*

- (4) *Be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.*

#### Open Meetings Laws

GUD has not entered on its minutes "the times and places and the procedures by which all of its meetings are to be held" as required by state law.

MISS. CODE ANN. Section 25-41-1 et seq. (1972) prescribes procedures for the conduct of public meetings. In particular, Sections 25-41-5 and 25-41-13, respectively, require the following.

*All official meetings of any public body, unless otherwise provided in this chapter or in the Constitutions of the United States of America or the State of Mississippi, are declared to be public meetings and shall be open to the public at all times unless declared an executive session as provided in section 25-41-7.*

. . . . .

*Any public body, other than a legislative committee, which does not have statutory provisions prescribing the times and places and the procedures by which its meetings are to be held shall, at its first regular or special meeting after the effective date of this chapter spread upon its minutes the times and places and the procedures by which all of its meetings are to be held.*

In an attempt to verify the district's compliance with these provisions, PEER reviewed the district's board minutes for calendar year 1979 through September 1988. Based on this review, PEER concludes that the district has not formally adopted an open meetings policy as required by state law. However, the district has informally adhered to the intent of state law by establishing a regular meeting date and time. (The district's citizen-elected board has conducted five regular meetings since June 1988.) PEER determined that notices of the board's regular meetings are published in the calendar of events section of three Gulf Coast newspapers, The Gautier Independent, The Sun Herald, and The Mississippi Press Register.

Based on information provided by GUD staff, PEER determined that, in addition to its regular meetings, the GUD Board of Commissioners conducts special meetings to discuss various aspects of the district operations. The board has not established procedures by which these meetings are to be

held. According to the GUD office manager, the Board of Commissioners has conducted twelve special meetings since July 1988.

The board's lack of a written open meetings policy which complies with state law gives the perception to its users that the board conducts "secret" meetings and circumvents public input and scrutiny of district operations.

#### Recommendations

1. The GUD Board of Commissioners should ensure that the district fully complies with all state purchasing laws and regulations. The board should request the Governor's Office of General Services Bureau of Purchasing to provide technical assistance to ensure that district staff are properly trained in the area of public purchasing.
2. The Attorney General's Office should review the district's noncompliance with state purchasing laws.
3. The GUD Board of Commissioners should immediately discontinue making purchases from Gautier Office Supply and any other vendors which may represent a conflict of interest situation for the district.
4. The Executive Director of the PEER Committee should refer the case of the district purchasing from a company owned by a board member to the Mississippi Ethics Commission for review.
5. The GUD Board of Commissioners should adopt and document in its official minutes an open meetings policy which complies with state law. Notification of all meetings, regular and special, should be published in area newspapers.



## ANALYSIS OF SELECTED AREAS OF OPERATION

GUD's billing procedures are not in compliance with loan conditions established by the Farmers Home Administration or the district's rate ordinance.

As previously stated, GUD has received five loans totaling \$18,015,000 from the federal Farmers Home Administration. During the processing cycle for each loan, FHA provided GUD with a letter which established certain conditions the district had to agree to prior to receiving each loan. Two of the five FHA letters received by GUD contained the following statement relative to water, sewage, and fire protection rates.

*It is your responsibility to keep in effect a rate schedule that will generate sufficient revenue to operate and maintain the system, retire debts on schedule, meet reserve requirements, and cover other expenses.*

With the exception of the letter relative to the \$665,000 loan to construct fire stations, each letter written by FHA detailed the rates the district should charge for water and sewage services. PEER determined that the district does not comply with the rates stipulated by FHA and approved by the Board of Commissioners.

### Failure to Bill a Commercial Rate

GUD's most recent rate ordinance (dated November 16, 1987) contains established billing rates for residential, commercial, and trailer parks/mobile homes/multiple housing facilities. PEER determined that GUD does not bill any users at the commercial rate; instead, commercial users are billed at the residential rate. GUD staff reported to PEER that the board has not developed criteria for classifying a user as commercial (i.e., type of business, meter size). Therefore, district staff cannot determine how many commercial users exist in the district.

PEER concludes that the district deprives itself of potential revenue by failing to bill commercial users at a commercial rate. According to projections made by the FHA during its consideration of GUD loan requests, the district should have approximately 119 commercial users. If each of these users consumes at least 10,000 gallons of water per month at the commercial rate given in the district's rate ordinance, the district deprives itself of \$14,423 per year by failing to charge a commercial rate.

### Failure to Bill Trailer Parks Properly

GUD's rate ordinance also contains established billing rates for trailer parks/mobile homes/multiple housing facilities. PEER determined that the district's practices for billing trailer parks is not consistent with the letters of condition written by the Farmers Home Administration. The FHA letters state that the district should bill owners of trailer parks based on the number of units in the parks. The district's current rate

ordinance states that GUD will bill owners based on the number of occupied units in a park or facility.

PEER concludes that the district deprives itself of potential revenue by failing to bill trailer parks according to the FHA's method. According to GUD staff, the district currently has 323 trailer units connected to its system. If the district billed each of these units according to FHA's method, the annual revenues from trailer units (assuming an average consumption of 6,000 gallons) would amount to \$143,412. Based on GUD's current method of billing trailer units, the district would receive approximately \$126,379.20. Therefore, the district deprives itself of \$17,032.80 per year by failing to adhere to FHA's method for billing trailer units.

#### Failure to Charge Fire Protection Fee Properly

In addition to water and sewer charges, GUD also charges its users a monthly fee of \$2.10 for fire protection coverage. The fire protection fee was addressed in the FHA's letter of condition when GUD applied for a \$665,000 loan to construct fire stations for the district. The district's most recent rate ordinance states that each user, including each unit in trailer parks, mobile homes and multiple housing facilities, shall pay the monthly fire protection fee.

PEER determined that the district does not assess the monthly fire protection fee to each apartment and trailer park unit on the system. Currently, GUD collects the fire protection fee only for occupied apartment and trailer park units. According to district records, as of October 1, 1988, GUD had an average of twelve apartment units and seventeen trailer units which were unoccupied on a monthly basis and not charged the monthly fee. As a result, the district reduces its revenues by \$736 per year by failing to comply with its own rate ordinance.

GUD has been lax in enforcing its delinquency policy, resulting in over \$41,000 in uncollected bills as of September 23, 1988.

The district's "Application for Water and/or Sewer Services" states the following with regard to timely payment of charges owed to the district.

*In the event applicant fails or refuses to pay the monthly water and/or sewer bill, as provided, within 15 days after the same becomes due, the company may at its election terminate this contract and applicant shall have no further right to use said water and/or sewer service.*

As of September 23, 1988, GUD had 513 delinquent accounts (fourteen percent of all user accounts), representing \$41,109 in unpaid bills. Exhibit 7, page 17, provides details of the delinquent accounts.

EXHIBIT 7

GUD DELINQUENT ACCOUNTS AS OF SEPTEMBER 23, 1988

	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>	<u>120+ days</u>
Number of Accounts	238	109	66	100
\$ Uncollected	\$17,171	\$4,652	\$2,472	\$16,814

SOURCE: PEER analysis of GUD records.

In interviews with PEER, GUD staff stated that the district did not terminate service to delinquent users in April through September of 1988 because of the district's conversion to a new computer billing system. GUD staff also reported that during August 1988 the district placed written reminders on the doors of users with "high" bills reminding them to pay. The district reportedly repeated this process in September 1988 with emphasis placed on users who were two or more months delinquent. In October 1988, the new computer system became functional and the district began terminating service to delinquent users who had not made arrangements to pay.

In addition to failing to comply with its written delinquency policy, the district showed leniency in demanding payment from some delinquent users when GUD board members and other government officials intervened on their behalf.

The Gautler Utility District faces a potential cash flow problem.

In accordance with Farmers Home Administration loan conditions, the district's financial records are audited annually. The district's audited financial statements are in accordance with generally accepted auditing standards on an accrual basis. PEER reviewed the district's FY 1987 financial statements and determined that GUD ended the fiscal year with a retained earnings deficit of \$514,410. The statements show that the district has accumulated a retained earnings deficit of \$741,119 since the beginning of the district. GUD's adopted 1988-89 budget shows revenues of \$2,929,848 balancing with expenditures.

As with any ongoing concern, it is important that GUD have enough cash to pay its monthly bills (i.e., operating costs and debt obligations). The district's consulting engineer firm, in a preliminary feasibility study, reported that the district should have enough cash to meet its monthly obligations and maintain a surplus at least through 1992. This cash flow analysis was based on projections of future users and estimated operating costs. PEER analysis of the district's financial statements shows that the projections appear to be overly optimistic. The district's continuing debt obligations and level of system users show that the district may have financial difficulties in the future without corrective action by the Board of Commissioners.

The district's day-to-day management responsibilities are decentralized.

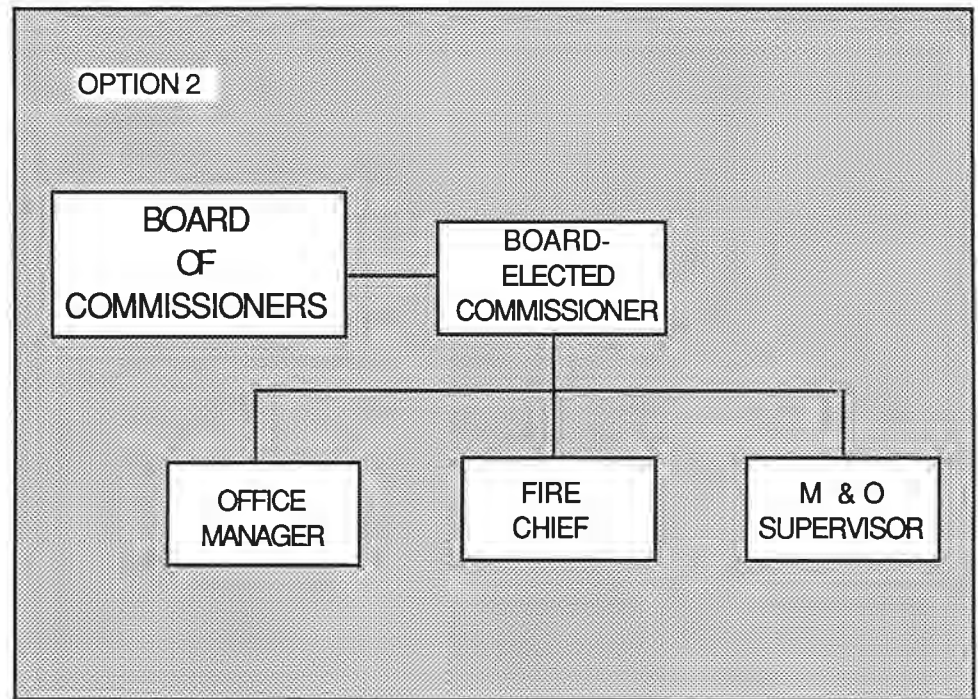
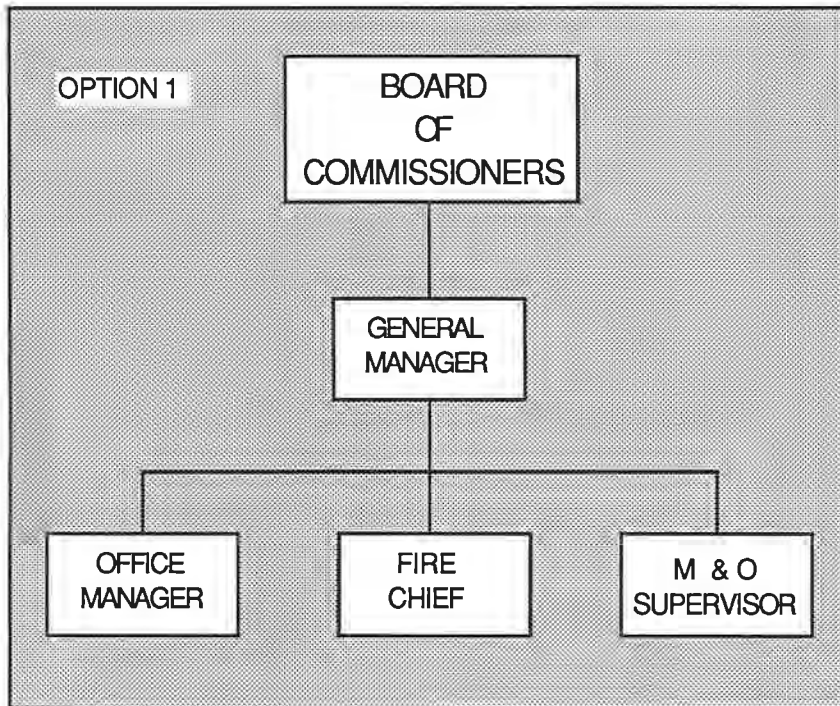
As illustrated in Exhibit 3, page 4, the GUD Board of Commissioners has three staff members of equal authority who report directly to the board--the office manager, the fire department chief, and the maintenance/operation supervisor. All of these positions have day-to-day financial management and operational responsibilities. In interviews with PEER, GUD staff stated that individual board members also become involved in the district's day-to-day activities; this is possible because the district does not have a staff executive director to coordinate operations.

#### Recommendations

1. The GUD Board of Commissioners should establish criteria for classifying commercial users and begin assessing the correct rate to such users.
2. GUD should adhere to Farmers Home Administration's method of billing trailer park units. The district also should bill apartment complexes in the same way FHA requires trailer parks to be billed.
3. The Board of Commissioners should ensure that the district complies with its own rate ordinance and bill fire protection charges to all units of trailer parks and apartment complexes.
4. The Board of Commissioners should ensure that the district completely and consistently adheres to its policies regarding users who are delinquent in paying amounts owed to the district. In addition, individual board members should refrain from intervening in selected cases of users with delinquent accounts.
5. In order to accurately assess its financial position, the district should project its revenues and expenditures for future years on both a cash and accrual basis. These projections should be compared to actual performance on a routine basis so that any necessary corrective action can be developed and implemented.
6. The district's Board of Commissioners should consider the following steps to ensure a positive cash flow for the district in the future.
  - a. Increase its user base while holding steady or reducing operating costs.
  - b. Increase its user revenue (customer base) at a rate faster than increases in operating costs.
  - c. Enact taxes or assessments as authorized in HB 1293.
  - d. Increase user utility rates.
7. The Board of Commissioners should function as a policymaking board and delegate administrative/operational responsibilities of the district to a general manager or a single commissioner. Exhibit 8, page 19, illustrates two options the board could exercise to comply with this recommendation.

EXHIBIT 8

GUD ORGANIZATIONAL OPTIONS



## APPENDIX

### CLEAN WATER ACT (PUBLIC LAW 92-500)

Public Law 92-500 was enacted by the U. S. Congress on October 18, 1972. This law stipulated that certain procedures be undertaken to eliminate stream pollution and specified certain dates for accomplishing the following results:

- (a) *Prior to July 1, 1977, all municipal sewage treatment discharges will have secondary treatment.*
- (b) *Interim goal of water quality to protect fish and wildlife and provide for recreation in and around waterways by 1983.*
- (c) *Elimination of pollutant discharges to waters (zero pollution) by 1985.*

Responsibility for implementing the provisions of PL 92-500 on a national level was placed with the Environmental Protection Agency (EPA). The EPA established guidelines for conducting various phases of the act and delegated certain responsibilities to states. The Mississippi Air & Water Pollution Control Commission (MA&WPCC) was the Mississippi state agency originally charged with the conduct of the overall pollution program for Mississippi. MA&WPCC eventually became the Bureau of Pollution Control, which is the current state agency charged with the conduct of the overall pollution program for Mississippi.

The initial phase for accomplishing the desired results of PL 92-500 involved a comprehensive study of a specific planning area in order to prepare a plan which met the pollution limitations. This study, a 201 Facilities Plan, outlined procedures which were economically feasible and at the same time acceptable regarding environmental constraints. The basic areas covered in the preparation of the 201 Facilities Plan were outlined by the EPA and consisted generally of examination of existing conditions, environmental inventory of the planning area, determination of sources of pollution, investigation of infiltration and inflow in existing sewer systems, forecasting of future waste loads based on projected population, examination of alternative methods of transporting and treating forecasted flows, and the selection of a plan which would best accomplish all goals. Public participation was provided throughout the planning process.

The act made provision for federal grants to be made to any state, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works providing the grant applicant satisfactorily demonstrated that "alternative waste management techniques had been studied and evaluated and the works proposed for grant assistance provided for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this title." The federal grants are for seventy-five percent of the cost of the waste treatment (sewage) facilities. The recipient was responsible for providing proof that it could provide the additional funding required to complete the project.

AGENCY RESPONSE  
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December 12, 1988

**FEDERAL EXPRESS**

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PEER Committee  
P. O. Box 1204  
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Central High Legislative  
Services Building  
Jackson, MS 39215-1204

RE: Gautier Utility District  
Our File No: 88-14,783

Dear Sir:

On behalf of the present Board of Commissioners of the Gautier Utility District, we wish to make the following responses to the Executive Summary of your review of the operation of the Gautier Utility District.

On the subject of the Analysis of Issuance of Bonds, a majority of the present Board of Commissioners was not in office when the costs of the system were incurred and the financing arranged. However, the Board would note that part of the reason for costs exceeding original estimates was due to the high verdicts set by the juries in the various eminent domain proceedings to acquire some of the utility systems. The Board would agree, and intends to implement, the release of annual reports and annual financial statements as suggested.

On the subject of Compliance with Applicable State Laws, the Board has been advised by its manager that it was normal procedure to get competitive bids orally, rather than in writing as required by law, on purchases from \$500.00 to \$2,500.00. The Board has corrected this problem by requiring that such purchases should be made in the future by not only following the spirit of the law, but by following the letter of the law.



Director  
December 12, 1988  
Page 2

The Board has also directed that no further purchases shall be made from the supply company owned by a former member of the Board, regardless of whether those prices may be lower.

This Board has always held its meetings in public and in an open manner and has encouraged public participation. However, in order to fully comply with the law, enclosed is a copy of the Resolution recently passed by the Board regarding "open meetings".

On the subject of Analysis of Selected Areas of Operation, the Board, prior to the PEER Committee inquiry, had already begun a study for the criteria for classification of commercial users.

The Board previously decided that in order to be fair and equitable trailer park owners and apartment owners should be billed on the basis of the number of units actually occupied, rather than the total number of units without regard to occupancy. The Farmers Home Administration has not objected to this approach.

The Board agrees and will correct any failure to bill the fire protection fee to each apartment unit whether occupied or not. (The fire protection fee will be deleted to City of Gautier residents if the Interlocal Agreement allowing the city to operate the fire department is approved.)

The failure to fully enforce the delinquency problem can be attributed to the fact that the district recently went to a new computer system, and there was some question as to the accuracy of the accounts for a period of time. This situation is now being rapidly corrected and the delinquency policy will be strictly enforced.

The Board is studying the financial future of the district. This Board will make every effort to keep from increasing utility rates to the consumers. This Board will continue to study alternatives that will increase revenue, while attempting to be cost efficient.

In an effort to keep costs down and still provide good service, this Board has probably taken too much of a "hands on" approach, which has resulted in the Commissioners spending many hours each week dealing with consumer complaints, etc. This




Director  
December 12, 1988  
Page 3

Board recognizes that in the future the Board will have to function primarily as a policy making board with the delegation of administrative/operational responsibilities.

The Board of Commissioners expresses its appreciation to the PEER Committee and its staff for conducting this inquiry. The Board believes that your report and suggestions will be helpful and of great benefit to the Commissioners as they go about their task of serving the citizens of Gautier.

If we can provide any additional information, please let us know.

Very truly yours,



James W. Backstrom  
Attorney, Board of Commissioners  
Gautier Utility District

JWB/jlw

Enclosure

cc: Gautier Utility District

RESOLUTION CLARIFYING, CONFIRMING AND SETTING  
THE TIMES, PLACES AND PROCEDURES BY WHICH  
MEETINGS OF THE BOARD OF COMMISSIONERS ARE HELD

WHEREAS, this Board of Commissioners believes strongly in the philosophy that public business should be performed in an open and public manner; that citizens should be advised of and aware of the performance of public officials and the deliberations and decisions that are made by public officials; and that the letter and spirit of the "open meetings law" of the State of Mississippi should be followed; and

WHEREAS, this Board of Commissioners since its organization has conducted its business in public and in an open manner; and

WHEREAS, in keeping with this philosophy and belief, this Board has determined that it is necessary to clarify, define and set forth the times, places and procedures by which the meetings of this Board are to be held.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Gautier Utility District of Jackson County, Mississippi, as follows:

1. That the regular monthly meeting of the Board of Commissioners of the Gautier Utility District shall continue to be held on the second Monday of each month at 6:00 o'clock p.m. at the Central Fire Station in the City of Gautier, Mississippi.

2. That prior to said regular meeting, an agenda shall be prepared and furnished to the local newspapers, the Sun Herald,

the Gautier Independent, and the Mississippi Press, in a sufficient amount of time prior to the meeting so that the agenda, as well as the time and place of the meeting, may be published.

3. That the agenda shall also be posted in a public place in the office of the Gautier Utility District for view by the public prior to the meeting.

4. That the Board shall, if possible, announce the time and place of any recessed meeting at the conclusion of the meeting in question and shall spread on its minutes the time and place of the recessed meeting, if possible, and, otherwise, a meeting may be recessed to another meeting subject to call by the Chairman of this Board.

5. That on all recessed meetings, whether stated in the minutes and announced as to time and place, or upon call of the Chairman, the Chairman, or his designated representative, shall advise a representative of all of the local newspapers mentioned above by telephone or letter as to the time and place of any recessed meeting of the Board of Commissioners, such notification to be provided a sufficient time prior to the meeting to allow appropriate publication of such information, recognizing that there may be some instances where the recessed meeting is necessary and may be held even though there is not sufficient time for publication as herein contemplated, but notification

shall still be made to the representative of the local newspapers so that they will have the opportunity to attend and report the meeting.

6. That at the beginning of the recessed meeting so held, the Chairman, or his designated representative, shall announce and have recorded in the minutes the particulars as to the notification that was provided as hereinabove set forth. That notice of the recessed meeting shall be posted in a public place in the office of the Gautier Utility District prior to the meeting.

7. That the minutes of the Gautier Utility District shall always be open to the public for inspection during regular business hours at the district office located at 6316 Martin Bluff Road, Gautier, Mississippi, and the staff at the district office are hereby directed to furnish the time and place of any such meeting to any person who so inquires during regular business hours.

On Motion of Commissioner BLAZICK, seconded by Commissioner WEIL, the foregoing Resolution was read and put to a vote which was as follows:

Commissioner Hansford voted absent

Commissioner Peden voted absent

Commissioner Beausoleil voted yes

Commissioner Weil voted yes.

Commissioner Blazick voted yes.

C E R T I F I C A T E

I, GEORGE BLAZICK, the duly elected, qualified and acting member and Secretary/Treasurer of the Gautier Utility District of Jackson County, Mississippi, do hereby certify that the above and foregoing Resolution Clarifying, Confirming and Setting the Times, Places and Procedures by Which Meetings of the Board of Commissioners are Held is a true and correct copy of said instrument as it appears in the minutes of the said Gautier Utility District dated the 5<sup>th</sup> day of DECEMBER, 1988, which minutes of said Gautier Utility District are now in my possession.

WITNESS MY SIGNATURE AND SEAL on this the 5<sup>th</sup> day of DECEMBER, 1988.

George N Blazick Jr.  
GEORGE BLAZICK  
Secretary/Treasurer

Whereupon, the Chairman declared the motion carried by a majority vote of the Commissioners present and the Resolution adopted by the Board of Commissioners of the Gautier Utility District of Jackson County, Mississippi, on this 5<sup>th</sup> day of DECEMBER, 1988.