

Report To

The Mississippi Legislature



A Review of the Renegotiation of Rankin County School District Sixteenth Section Leases

May 26, 1992

Rankin County School District is renegotiating its sixteenth section leases in accordance with directives by the Secretary of State and as guided by the MISSISSIPPI CONSTITUTION and state statutes.

As a result of these renegotiations, the district has increased annual rental lease amounts by 1000%, from \$22,449 (before renegotiations) to \$246,990 (at March 30, 1992). Total rental values for these leases is now \$7,975,141, in comparison with \$601,834 before renegotiations. The accumulated costs (July 1, 1985, through March 30, 1992) associated with the renegotiations totals \$595,222, equivalent to approximately two and three-quarters years of additional revenues collectible under the leases.

No provisions in the law allow school districts to recover related costs from lessees. The school districts must absorb the related costs and, if litigated, rely on the court system to award these costs back to them, which cannot be guaranteed.

The Rankin County School District has forty-six active lawsuits related to these mandated renegotiations. The first suit has recently been heard; outcome of this litigation could affect future cases and related costs.

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.

**A Review of the Renegotiation of Rankin County School District
Sixteenth Section Leases**

May 26, 1992

**The PEER Committee
Mississippi Legislature**

The Mississippi Legislature
Joint Committee on Performance Evaluation and Expenditure Review
PEER Committee



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May 26, 1992

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MEMBERS OF THE MISSISSIPPI STATE LEGISLATURE

At its meeting of May 26, 1992, the PEER Committee authorized release of the report entitled **A Review of the Renegotiation of Rankin County School District Sixteenth Section Leases.**

A handwritten signature in black ink that reads "Bill Canon".

Senator Bill Canon, Chairman

**This report does not recommend increased
funding or additional staff.**

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A Review of the Renegotiation of Rankin County School District Sixteenth Section Leases

May 26, 1992

Executive Summary

Introduction

In response to legislative concerns related to costs of sixteenth section lease renegotiations and the basis for such renegotiations, the PEER Committee began this review on February 17, 1992.

Background

Sixteenth section lands are held by the State of Mississippi in trust for the benefit of the public schools. The School Board of the Rankin County School District, as are other boards of education, is responsible for managing these trust lands within its school district to include the assurance that adequate compensation is received for all uses of the lands. The Secretary of State acts as the supervising trustee and has the duty to ascertain compliance with the statutes.

Conclusions

Rankin County School District is performing renegotiations of its sixteenth section leases in ac-

cordance with directives by the Secretary of State and as guided by the MISSISSIPPI CONSTITUTION and state statutes.

As a result of these renegotiations, the district has increased annual rental lease amounts by 1000%, from \$22,449 (before renegotiations) to \$246,990 (at March 30, 1992). Total rental values for these leases is now \$7,975,141, in comparison with \$601,834 before renegotiations. The accumulated costs (July 1, 1985, through March 30, 1992) associated with the renegotiations totals \$595,222, equivalent to approximately two and three-quarters years of additional revenues collectible under the leases.

No provisions in the law allow school districts to recover related costs from lessees. School districts must absorb the related costs and, if litigated, rely on the court system to award these costs back to them, which cannot be guaranteed.

The Rankin County School District has forty-six active lawsuits related to these mandated renegotiations. The first suit has recently been heard; outcome of this litigation could affect future cases and related costs.

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A Review of the Renegotiation of Rankin County School District Sixteenth Section Leases

INTRODUCTION

Authority

At its February 17, 1992, meeting, the PEER Committee, in response to a legislative request, began a review of the renegotiation of Rankin County School District sixteenth section leases. The Committee acted in accordance with MISS. CODE ANN. Section 5-3-57 (1972).

Scope and Purpose

In response to concerns related to costs associated with sixteenth section lease renegotiations, along with the basis for the renegotiations, PEER sought to:

- verify the legal basis for sixteenth section lease renegotiations; and,
- determine the current financial effect of the renegotiations in the Rankin County School District.

Methodology

PEER performed the following procedures:

- interviewed appropriate representatives from the Office of the Secretary of State and the Rankin County School District;
- reviewed applicable state statutes and the MISSISSIPPI CONSTITUTION;
- reviewed Secretary of State policy documents and correspondence; and,
- analyzed Rankin County School District's unaudited historical and current lease data and related revenues and expenditures.

BACKGROUND

Origin and Purpose of Sixteenth Section Lands

Sixteenth section lands, as reserved through the federal Land Ordinance of 1785, provide an important source of revenue for public schools in our state. The Land Ordinance of 1785 "*reserved the lot No. 16, of every township, for the maintenance of public schools within said township. . . .*" The Northwest Ordinance of 1789 also confirmed the use of sixteenth section lands for public education. As declared by the United States Supreme Court in 1890, there is a "*binding and perpetual obligation to use the granted lands for the support of public education.*"

The State of Mississippi holds these lands in trust for the school children of our state. Sixteenth section lands produce expendable and nonexpendable revenues based on the type of leases or sale of resources. (Exhibit 1, page 3, presents a summary of authorized sources and uses of funds.) Use of these trust lands, as with other public lands in the state, must produce adequate compensation. Realization of inadequate compensation from the lands is considered improper donations and is restricted through Article 4, Section 95, of the MISSISSIPPI CONSTITUTION. This section states:

Lands belonging to, or under the control of the state, shall never be donated directly or indirectly, to private corporations or individuals, or to railroad companies. . . .

The MISSISSIPPI CONSTITUTION, through Article 8, Section 211, also sets forth specific provisions for the leasing of these sixteenth section lands in Mississippi as to be provided for by the Legislature.

MISS. CODE ANN. Section 29-3-1 et. al. (1972) enacted by the Legislature represents the laws that affect Mississippi's sixteenth section lands. In accordance with the statutes, the sixteenth section lands must be surveyed and classified into eight types. These surface classifications are:

- (1) forest land;
- (2) agricultural land;
- (3) industrial land;
- (4) commercial land;
- (5) residential land;
- (6) farm-residential land;

EXHIBIT 1

SIXTEENTH SECTION FUNDS

SIXTEENTH SECTION FUNDS	SOURCE OF FUNDS	USE OF FUNDS
PRINCIPAL FUNDS (Nonexpendable)	<ul style="list-style-type: none">•Easements and rights-of-way•Permanent damages•Sale of lieu lands•Sale of 16th section land for industrial purposes•Sale of nonrenewable resources•Sale of buildings•Sale of timber (optional)•Interest on investments and loans	<ul style="list-style-type: none">•Purchase of investments•Purchase of lieu lands for school building purposes & forest stand improvement•Transfer of expendable revenues to maintenance or building funds by board order
INTEREST FUNDS (Expendable)	<ul style="list-style-type: none">•Oil, gas, mineral leases, including any bonus of delay rental payment•Payments from agriculture, residential, commercial, industrial, or other leases•Interest on investments•Sale of timber (optional)•Transfers from other funds	<ul style="list-style-type: none">•Purchase of investments•Transfer to maintenance or building funds by board order•Pay drainage district taxes and assessments•Improvement of 16th section lands•Cost of land reclassification•Authorized attorney fees
FORESTRY ESCROW FUNDS (Expendable)	<ul style="list-style-type: none">•15% of timber and forest product sales•Interest on investments	<ul style="list-style-type: none">•Purchase of investments•Payment of itemized invoices•Loans submitted by the State Forestry Commission•Transfer any excess, as determined by the State Forestry Commission, to other funds•Transfer to maintenance or building funds by board order

SOURCE: PEER compilation of Secretary of State summary from January 1989
School Trust Land Policies and Procedures Manual.

(7) recreational land; and,

(8) other land.

Specific statutory rental guidelines and restrictions apply to each category of land. Appendix A, page 13, provides a compilation of these categories along with the statutory limits on lease terms, rental values and required periodic rent adjustments from the Secretary of State's *School Trust Land Policies and Procedures Manual*, dated January 1989.

Management of Sixteenth Section Lands

In accordance with MISS. CODE ANN. Section 29-3-1, the School Board of the Rankin County School District, as are other boards of education, is responsible for managing the sixteenth section lands within its district. This section states:

(1) Sixteenth section school lands, or lands granted in lieu thereof, constitute property held in trust for the benefit of the public schools and must be treated as such. The board of education under the general supervision of the state land commissioner, [now the Office of Secretary of State; see below] shall have control and jurisdiction of said school trust lands. . . and all funds arising therefrom as trust property. Accordingly, the board shall assure that adequate compensation is received for all uses of the trust lands, except for uses by the public schools. [Emphasis added]

The Secretary of State now acts as the supervising trustee of these sixteenth section school lands. The Secretary of State assumed this role after the 1978 passage of Senate Bill No. 2470, when the Office of the State Land Commissioner was abolished (MISS. CODE ANN. Section 7-11-4). As the trustee and in support of fundamental trust laws, the Secretary of State must perform all the necessary duties to enforce the trust and uphold the interests of the beneficiaries, the public school children. In accordance with MISS. CODE ANN. Section 29-3-9, the Secretary of State has the duty "to ascertain whether or not said statutes have been complied with."

The current statutes (MISS. CODE ANN. Section 29-3-1, et.al.) directing management of sixteenth section lands came about largely through the 1978 Sixteenth Section Reform Act, as enacted through Senate Bill 2430. As a part of this act, the boards of education took control of the management of sixteenth section land from the county boards of supervisors, who had been responsible for their management since 1880. The act also amended the law to change lease classifications and terms.

Appendix B, page 14, to this report provides a copy of Section II, "Guidelines of Management Responsibilities" from the Secretary of State's

School Trust Land Policies and Procedures Manual. The summary includes a listing of responsible positions and the duties (by statutory reference) along with a flow chart of authority.

Renegotiation of Sixteenth Section Leases

The current Secretary of State, Dick Molpus, took office in 1984, wherein he initiated a four-step program to require responsible land management from local officials. The program was designed to assure the Office of Secretary of State's satisfactory oversight (as begun with the 1978 Reform Act) and to achieve the constitutional and statutory goals of properly managing the trust lands.

Mr. Molpus's plan of action occurred in specific phases. Exhibit 2, page 6, presents the school boards' requirements for action, as set by the Secretary of State.

The school boards of education and superintendents of school districts must comply with all of the Secretary of State's directives to assure the satisfactory renegotiations of the sixteenth section leases. As presented in Exhibit 2, these requirements include the school district representative's analysis of the leases based on a complete appraisal process and the subsequent renegotiation of inadequate leases.

Renegotiation of sixteenth section leases represents a necessary part of proper trust management to ensure the current fair market rental value of the lands. Also, MISS. CODE ANN. Section 29-3-69 requires the following:

All leases, except leases of residential or farm-residential lands, made for a ground rental shall contain rent adjustment clauses or other such provisions requiring that the consideration for every lease of such lands shall be adjusted not less than once every ten (10) years from the date of the lease to reflect the current fair market rental value of the lands, exclusive of any improvements thereon.

Therefore, the costs of performing the renegotiation functions have been treated as other sixteenth section management costs. Expenditure of the funds is authorized per MISS. CODE ANN. Sections 29-3-111, 29-3-115, and 29-3-131.

Mr. Molpus's plan of action requires the school boards to renegotiate pre-1978 leases executed under the county boards of supervisors and has apparently caused a controversy over the legality and effectiveness of renegotiation of sixteenth section land leases.

EXHIBIT 2

**SECRETARY OF STATE'S PROGRAM FOR MANAGEMENT OF
SIXTEENTH SECTION LANDS**

<u>Part</u>	<u>Request Date</u>	<u>Requirement</u>
1.	JUNE 1984	School Boards of Education had to submit all documents related to post-1978 leases to include the leases, abstracts or certificates of title, and classification forms.
2.	AUGUST 1984	Appraisals on all sixteenth section land.
3.	NOVEMBER 1984	Reviews and renegotiating of all outstanding sixteenth section leases.
4.	JUNE 1985	First phase of part 4: Step 1: Review for topleases (issuance of a lease on top of a noncancelled lease); Step 2: Review leases cancelled and shortly renewed prior to July 1, 1978; Step 3: Renegotiate new leases where appropriate.
	SEPTEMBER 1985	Second phase of part 4: Step 1: List all ninety-nine year leases executed February 4, 1944, to April 10, 1946*; Step 2: List all ninety-nine year leases still in effect and for inadequate compensation; Step 3: Notify Secretary of State of plans to renegotiate or take legal action on inadequate leases.
	DECEMBER 1985	Third phase of part 4: Review of leases executed before July 1, 1978 and send periodic reports on progress.

*The MISSISSIPPI CONSTITUTION was amended effective February 4, 1944, to allow ninety-nine year leases on sixteenth section land located within municipalities; however, the Legislature did not enact legislation to allow these leases until April 10, 1946.

SOURCE: PEER analysis of Secretary of State's correspondence to School Board Presidents and Superintendents of School Districts.

CONCLUSIONS

Overall

As discussed above, the school districts are mandated by the Secretary of State to renegotiate sixteenth section leases which do not yield the fair market rental value. PEER staff found no activities that demonstrate that the Rankin County School District does not renegotiate its leases of sixteenth section land in accordance with mandated requirements as established by the MISSISSIPPI CONSTITUTION, set by the above-referenced state statutes, and as managed by the Secretary of State.

The Rankin County School District now has 296 total sixteenth section leases, as compared to 217 in 1983, before renegotiations. Total rental value (over life of the leases) is now \$7,975,141, in comparison with \$601,834 before the 1984 renegotiations began. This represents an increase in total gross revenues of \$7,373,307. If this amount is amortized over the calculated weighted average lease life of thirty-four and one-third years, approximately \$215,000 of gross rental revenues per year will be realized.

This increase in total gross revenues has currently exceeded the costs to renegotiate of \$595,222. However, as of March 30, 1992, sixty-eight sixteenth section land leases are unresolved; forty-six leases are in active litigation. Of the twenty-two remaining leases, eight are to be settled out of court; twelve represent estates or unlocated persons, and two are for bankrupted lessees. The outcome of the leases in litigation could affect both revenues and expenditures related to the leases.

Surface Rental Revenues

As a result of renegotiation efforts, the Rankin County School District's current **annual** gross surface rental lease amount has increased 1000% from \$22,449 (in 1983 before renegotiations) to \$246,990 (at March 30, 1992). Exhibit 3, page 8, summarizes lease values by section before renegotiations and at present.

Per the district's unaudited annual financial reports submitted to the Secretary of State, actual fiscal year collections of surface rentals have increased from \$16,477 in 1983 to \$221,464 in 1991. These annual collections are as follows:

1983	\$ 16,477
1984	36,264
1985	20,670
1986	53,206
1987	38,888
1988	56,092

EXHIBIT 3

**RANKIN COUNTY SIXTEENTH SECTION LANDS
RENTAL VALUES BY SECTION**

SECTION/ TOWNSHIP/ RANGE	PRE-1984 LEASES*			CURRENT LEASES**		
	NUMBER	ACRES LEASED	ANNUAL RENTALS	NUMBER	ACRES LEASED	ANNUAL RENTALS
16-3-1	2	493	\$81.00	4	635	\$2,811.25
16-3-2	6	546	\$276.00	6	332.31	\$1,938.80
16-3-3	1	280	\$280.00	3	640	\$2,109.80
16-3-4	4	638	\$47.50	5	529.36	\$1,980.00
16-3-5	13	513.84	\$24.00	23	620.97	\$11,578.90
16-4-1	1	326	\$25.00	1	326	\$653.00
16-4-2	8	557.5	\$3,366.00	6	245.21	\$5,042.00
16-4-3	4	635	\$205.00	6	512.2	\$4,218.52
16-4-4	2	640	\$1,350.00	2	597	\$1,900.00
16-4-5	6	638	\$315.00	7	578.57	\$3,628.32
16-5-3	116	516.23	\$5,952.49	162	449.6	\$150,188.85
16-5-4	2	595.8	\$276.80	4	592.82	\$5,151.00
16-5-5	20	423.75	\$2,400.90	28	467.21	\$8,059.75
16-6-2	1	515	\$0.00	2	515	\$1,666.25
16-6-3	1	443	\$886.00	1	370	\$740.00
16-6-4	1	640	\$650.00	1	640	\$1,280.00
16-6-5	14	644.9	\$269.75	16	485.89	\$5,474.25
16-7-3	1	641.75	\$1,283.50	1	640	\$7,250.00
16-7-4	1	640	\$320.00	3	640.96	\$2,621.00
16-7-5	10	643.6	\$458.00	11	637.27	\$17,337.22
16-8-4	1	626.08	\$1,252.16	1	636.88	\$7,050.00
16-8-5	2	640	\$2,730.00	3	639.6	\$4,311.03
TOTALS	217	12,237.45	\$22,449.10	296	11,731.85	\$246,989.94

*Pre-1984 leases represent rentals as of the end of 1983, before renegotiations as directed by the Secretary of State.

**Current leases include 66 leases that are dated before 1984 and have not been renegotiated because of various reasons, such as litigation and deceased (unlocated) lessees.

SOURCE: Compiled by PEER staff from Rankin County School District leases detail.

1989	140,644
1990	253,638
1991	221,464

Per conversations with Rankin County School District representatives, the decrease in collections in 1991 (from 1990) occurred as a result of some lessees' relinquishing legal claims to the leased properties through quitclaim deeds to the school district. As leased lands are quitclaimed back to the school district, surface rental revenues are lost until new leases are executed on the property. The quitclaims are due mainly to the renegotiation efforts and the decrease in revenues does not represent a permanent problem, nor is it a collection problem.

Renegotiation Costs

The accumulated costs (unaudited, 1985 through March 1992) associated with these renegotiations total \$595,222. These renegotiation costs include legal fees, appraisals, surveys, title work, court costs, and other management costs. As noted above, there are no statutory restrictions on the costs of managing sixteenth section lands, nor are there any statutory provisions that directly allow the school districts to collect these costs from the lessees. Exhibit 4, page 10, provides a detail of these renegotiation costs as provided by the Rankin County School District.

As discussed above, the school districts must bear the burden of the costs of renegotiating their sixteenth section leases. No provisions in the related statutes, MISS. CODE ANN. Section 29-3-1, et. al., allow school districts to recover related costs from lessees. In particular, when leases must be litigated because lessees will not willingly adjust the leases to the applicable market rental values, the school district must absorb the related costs such as attorneys' fees, appraisals, title work, and surveys. Therefore, the school districts must rely on the court system to award these costs back to them, which cannot be guaranteed.

Current Net Effect of Renegotiations

To demonstrate the effect of rental collections against the cost of renegotiations, Exhibit 5, page 11, compares the district's actual surface rental collections (listed above) with the actual renegotiation costs (Exhibit 4) for fiscal years 1985 (the year such costs began as directed by the Secretary of State) through 1991 (the last complete fiscal year).

Surface rental collections exceeded renegotiation costs for all but two fiscal years, 1988 and 1989. Since 1990, total surface rental income has been more than the total amount of renegotiation costs. The main reason for renegotiation costs exceeding surface rental income during 1988 and 1989 is the growth of legal costs starting in 1988. By certified letter dated April 8,

EXHIBIT 4

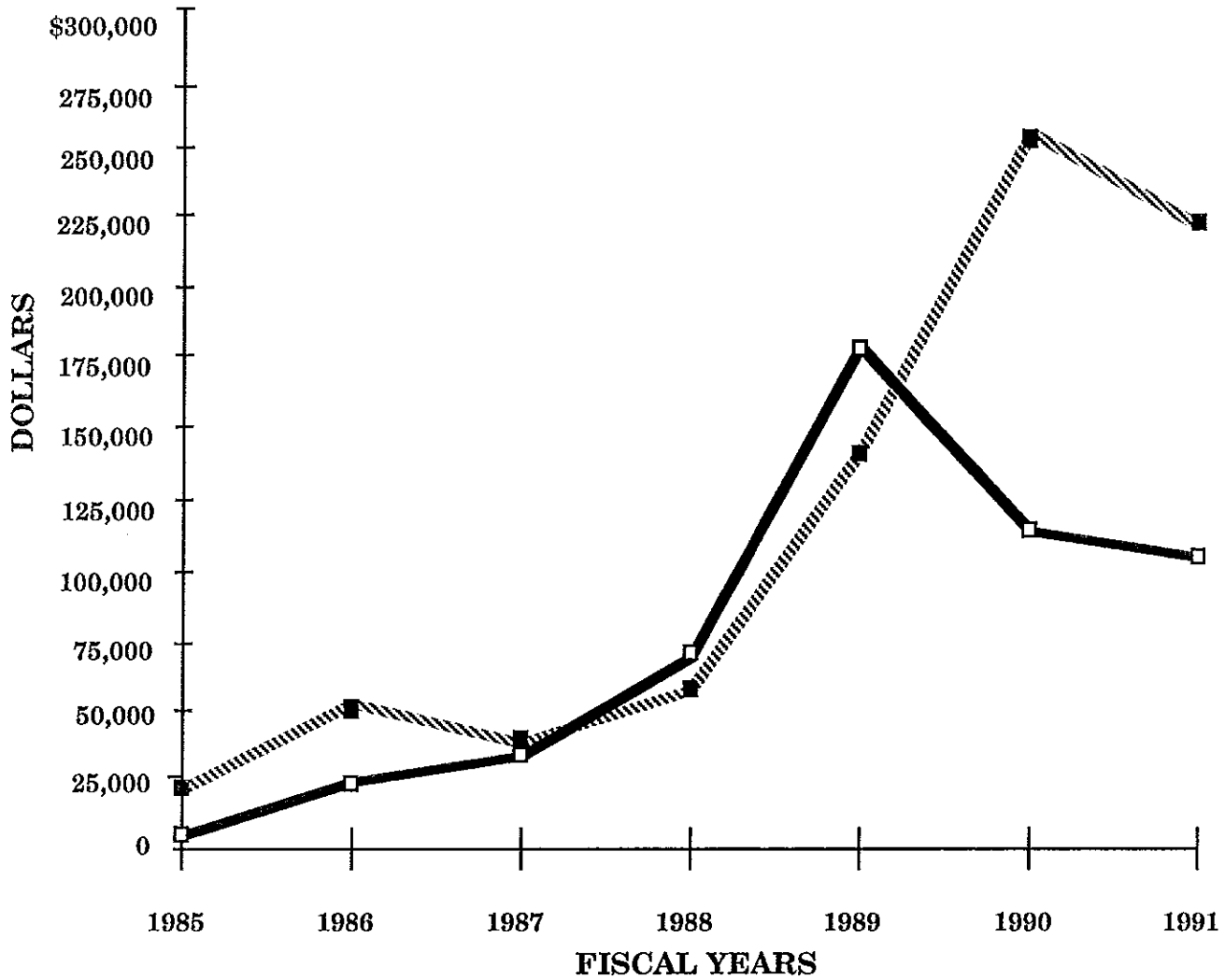
RANKIN COUNTY SIXTEENTH SECTION LANDS
RENEGOTIATION COSTS
FY1985 THROUGH MARCH 1992

	1985	1986	1987	1988	1989	1990	1991	*1992	TOTALS
LEGAL FEES									
Mack Cameron		\$1,576.25	\$1,800.00	\$11,878.75	\$37,343.75	\$32,630.00	\$31,703.75	\$18,512.35	\$135,444.85
Harrell & Rester		1,014.00	1,815.00	9,572.00	42,213.45	28,103.20	26,169.48	29,903.75	138,790.88
Richard Roberts					1,490.50	1,847.95	354.56	25.00	3,718.01
	<u>0</u>	<u>2,590.25</u>	<u>3,615.00</u>	<u>21,450.75</u>	<u>81,047.70</u>	<u>62,581.15</u>	<u>58,227.79</u>	<u>48,441.10</u>	<u>277,953.74</u>
APPRAISALS									
Jerry Mask		2,400.00	750.00	18,075.00	36,100.00	15,475.00	20,930.00	7,025.00	100,755.00
Appraisal Services			375.00						375.00
James Craig			450.00						450.00
Morrow Realty				700.00					700.00
Joel Stevenson								1,500.00	1,500.00
	<u>0</u>	<u>2,400.00</u>	<u>1,575.00</u>	<u>18,775.00</u>	<u>36,100.00</u>	<u>15,475.00</u>	<u>20,930.00</u>	<u>8,525.00</u>	<u>103,780.00</u>
MANAGEMENT									
John Toney	<u>0</u>	<u>14,088.00</u>	<u>16,552.00</u>	<u>27,695.25</u>	<u>56,579.81</u>	<u>18,620.83</u>	<u>0</u>	<u>0</u>	<u>133,535.89</u>
SURVEYS									
Engineering Associates	5,850.00								
Harry Walling				150.00	4,252.50	9,562.50	2,855.00		16,820.00
Central Miss. Engineering						5,222.50	5,845.00	2,876.37	13,943.87
Reynolds Engineering						571.25	9,450.00		10,021.25
T.E. McDonald							540.00		540.00
	<u>5,850.00</u>	<u>0</u>	<u>0</u>	<u>150.00</u>	<u>4,252.50</u>	<u>15,356.25</u>	<u>18,690.00</u>	<u>2,876.37</u>	<u>47,175.12</u>
TITLE WORK									
Ed McIntyre		3,832.50	11,178.00						15,010.50
Harrell & Rester					1,775.00				1,775.00
John Bramlett						975.00	5,007.50	900.00	6,882.50
Bert Sullivan						150.00		505.00	655.00
Miss. Valley Title							175.00	130.00	305.00
	<u>0</u>	<u>3,832.50</u>	<u>11,178.00</u>	<u>0</u>	<u>1,775.00</u>	<u>1,125.00</u>	<u>5,182.50</u>	<u>1,535.00</u>	<u>24,628.00</u>
LAND ASSESSMENT									
Ronnie Ainsworth								1,613.11	1,613.11
Ainsworth-Meaney								893.75	893.75
	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,506.86</u>	<u>2,506.86</u>
COURT COSTS									
Chancery Clerk	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>302.50</u>	<u>604.00</u>	<u>633.50</u>	<u>89.50</u>	<u>1,629.50</u>
COPY COSTS									
Chancery Clerk	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>47.75</u>	<u>39.75</u>	<u>7.50</u>	<u>95.00</u>
RECORDING FEES									
Chancery Clerk	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>689.00</u>	<u>284.50</u>	<u>376.00</u>	<u>1,349.50</u>
TRANSCRIPTS									
Sharon Allen								687.00	687.00
Sandra Bridges								1,881.50	1,881.50
	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,568.50</u>	<u>2,568.50</u>
ANNUAL TOTALS	<u>\$5,850.00</u>	<u>\$22,910.75</u>	<u>\$32,920.00</u>	<u>\$68,071.00</u>	<u>\$180,057.51</u>	<u>\$114,498.98</u>	<u>\$103,988.04</u>	<u>\$66,925.83</u>	<u>\$595,222.11</u>

*July 1991 through March 1992, only.

SOURCE: Compiled by PEER staff from Rankin County School District unaudited sixteenth section related expenditures.

**EXHIBIT 5
RANKIN COUNTY SCHOOL DISTRICT
SIXTEENTH SECTION SURFACE RENTALS
AND RENEGOTIATION COSTS
FISCAL YEARS 1985 - 1991**



Surface Rental Collections

 Renegotiation Costs

SOURCE: PEER analysis of Rankin County School District sixteenth section lease unaudited financial data.

1988, the Secretary of State required the Rankin County Board of Education to take immediate action to resolve the lack of renegotiations or take legal action.

In emphasizing the effect of renegotiations, the current pool of costs (\$595,222) is equivalent to two and three-quarters years of additional revenues from active leases. It should also be noted that these accumulated renegotiation costs are not complete and will increase as the school district is required to litigate to resolve the outstanding leases.

As discussed above, the Rankin County School District has forty-six active lawsuits related to these mandated renegotiations. The first suit involving the school district's pursuit of fair market rental on sixteenth section land within the city limits of Brandon, Mississippi, began the week of March 30, 1992, and the final hearing was held April 22, 1992. The outcome of this litigation could affect both revenues and expenditures related to the leases.

If all suits are heard, renegotiation costs could greatly increase, mainly as a result of attorneys' fees and expert witness fees. Based on the outcome of cases, surface rental revenues could greatly increase or remain stable (in most of the cases, the lessee annual rental value is \$.00). However, if the first case (now in recess) is found in favor of the Rankin County School District, many other cases may be dropped by the defendants, and the leases might be immediately adjusted to fair market rental values. Projections of rental values or associated costs have not been attempted by the school district because of the uncertainties of the outcomes involved.

Of course, as all the sixteenth section leases are renegotiated/settled, these mandated renegotiation costs for prior leases will terminate. The surface rental income will continue. However, as required by law, all leases must be renegotiated (rents adjusted to market as necessary) at least every ten years, eliminating the problem of outstanding leases below market rental values. Future periodic adjustments to market rental values will most likely be less than the currently required renegotiated increases to leases.

**APPENDIX A
STATUTORY CLASSIFICATIONS AND RESTRICTIONS
OF SIXTEENTH SECTION LANDS**

CLASSIFICATION CATEGORIES

	MAXIMUM TERM	RENTAL VALUE	RENT ADJUSTMENT
A. FOREST LAND (Hunting & Fishing Only.) (90% of total area is forest or wasteland.)	15 YEARS	ADVERTISEMENT & BID	NO
B. AGRICULTURAL LAND (Land most suitable for pasturage or cultivation.)	5 YEARS	ADVERTISEMENT & BID	NO
C. INDUSTRIAL LAND (Land most suitable for port, harbor, manufacturing or warehouse use.)	40 YEARS	MINIMUM 5% OF THE CURRENT MARKET VALUE	YES. AT LEAST ONCE EVERY 10 YEARS TO REFLECT CURRENT FAIR MARKET RENTAL.
D. COMMERCIAL LAND (Most suitable for wholesale or retail businesses, financial institutions, professional offices, clinics, service trades, privately owned public utilities & similar businesses.)	40 YEARS	MINIMUM 5% OF THE CURRENT MARKET VALUE	YES. AT LEAST ONCE EVERY 10 YEARS TO REFLECT CURRENT FAIR MARKET RENTAL.
E. RESIDENTIAL (Not to exceed 5 acres.) (Land where lessee is residing.)	40 YEARS	FAIR MARKET RENTAL DETERMINED BY APPRAISAL OR COMPARISON WITH THE PRIVATE SECTOR	OPTIONAL BUT RECOMMENDED. IF NOT USED BOARD MUST STATE REASON IN LEASE AND ON MINUTES.
F. FARM/RESIDENTIAL (Not to exceed 160 acres.) (Any tract where leaseholder resides utilized for agricultural purposes.)	40 YEARS	FAIR MARKET RENTAL DETERMINED BY APPRAISAL OR COMPARISON WITH THE PRIVATE SECTOR	OPTIONAL BUT RECOMMENDED. IF NOT USED BOARD MUST STATE REASON IN LEASE AND ON MINUTES.
G. RECREATIONAL LAND (Most suitable for activities or services of a recreational nature such as parks, campsites, lodges, etc.)	40 YEARS	FAIR MARKET RENTAL DETERMINED BY APPRAISAL OR COMPARISON WITH THE PRIVATE SECTOR	YES. AT LEAST ONCE EVERY 10 YEARS TO REFLECT CURRENT FAIR MARKET RENTAL.
H. OTHER LAND (Not suitable for any of the uses above. e.g., churches, cemeteries, sanitary landfills, etc.)	40 YEARS	FAIR MARKET RENTAL DETERMINED BY APPRAISAL OR COMPARISON WITH THE PRIVATE SECTOR	YES. AT LEAST ONCE EVERY 10 YEARS TO REFLECT CURRENT FAIR MARKET RENTAL.

SOURCE: *Secretary of State's School Trust Land Policies and Procedures Manual, dated January 1989.*

**APPENDIX B
SECRETARY OF STATE'S SUMMARY OF
RESPONSIBLE MEMBERS IN
SIXTEENTH SECTION MANAGEMENT**

GUIDELINE OF MANAGEMENT RESPONSIBILITIES

This section will identify the partners in the Sixteenth Section land management process and generally delineate their respective duties. Subsequent sections will more thoroughly detail the accomplishing of these duties. We also have attached a chart which summarizes the management process.

The members of the School Trust Lands Management Organization are:

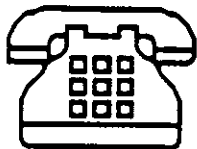
1. Secretary of State (Public Lands Division)
2. Attorney General
3. University Research Center (formerly R&D Center)
4. Forestry Commission
5. Board of Education
6. Board of Supervisors
7. Superintendent of Education
8. School Board Attorney
9. Land Manager

A brief summary of each of the members duties will follow which should serve as a guide in organizing your management program.

SIXTEENTH SECTION LAND MANAGEMENT

SECRETARY OF STATE

1. Exercises supervisory control, 29-1-3.
2. Supplies Sixteenth Section information to public entities and interested persons, 29-1-3.
3. Prepares biennial report on status of Sixteenth Section income, leases, and condition of title, 29-1-3.
4. Requests Sixteenth Section materials from elected officials, 29-1-3.
5. Institutes damage suits for waste or timber violations, 29-1-9.
6. Institutes mandamus actions against Board of Education found in noncompliance of statutes, 29-3-9, 29-1-3.
7. Approves sale of land for industrial development along with other designated entities, 29-3-27.
8. Assists Board of Education in classification process, 29-3-31, 29-3-35.
9. Reviews classification reports and may file formal objections to same, 29-3-37.
10. Institutes proceedings to reclassify land, 29-3-39.
11. Provides technical and legal assistance by phone or mail.



SOURCE: Secretary of State's *School Trust Land Policies and Procedures Manual*, dated January 1989.

ATTORNEY GENERAL

1. Represents Secretary of State in all litigation arising from classification and reclassification proceedings. 29-3-39.
2. Acts upon mandamus requests originating from the Secretary of State. 29-3-9.
3. Advises boards of education and other trust managers by issuance of formal opinions.

UNIVERSITY RESEARCH CENTER

1. Assists local school districts, upon request, in establishing and maintaining local School Trust Land Management Systems. 29-3-2.
2. Identifies and coordinates consultative services to assist local school districts. 29-3-2.

FORESTRY COMMISSION

1. Monitors and maintains lands classified as "forest" as well as all timber on lands otherwise classified. (pursuant to board agreement), 29-3-45, 29-3-49, 29-3-85.
2. Recommends regular and emergency timber sales. 29-3-45.
3. Investigates timber violations and other actions constituting waste. 29-3-85.
4. Presents itemized bills to board of education for payment of actual expenses incurred in management functions. 29-3-47.

BOARD OF EDUCATION

1. Manages Sixteenth Section lands and all funds as trust property and receives adequate compensation for all uses. 29-3-1 and 29-3-62.
2. Approves all Sixteenth Section leases. 29-3-1.
3. Advertises and leases by public contracts
 - a. Hunting and Fishing, 29-3-41.
 - b. Mineral Rights, 29-3-99.
 - c. Agricultural Lands, 29-3-81.
4. Advertises classification completion and notifies interested parties. 29-3-37.
5. Appoints competent appraiser
 - a. To advise of fair market rental amount not less than one year prior to period when land becomes available for lease. 29-3-65.
 - b. When proposed rental value has been rejected or opposed by board of supervisors. 29-3-1.
6. Considers for reclassification all lands not less than one year prior to expiration of existing lease. 29-3-39.
7. Surveys and classifies land into one of eight categories after finding of highest and best use. 29-3-31.
8. Negotiates terms of lease extension with all leaseholders having legitimate priority rights. 29-3-63.
9. Compiles classification report and files same with Secretary of State. 29-3-37.
10. Sells land for industrial development only. 29-3-27.

BOARD OF EDUCATION *(continued)*

11. Dedicates land as site for public school building or public recreational areas, 29-3-87.
12. Employs attorney, 29-3-3.
13. Institutes actions to cancel leases and to recover damages for waste, 29-3-3.
14. Monitors investment of principal fund accounts, 29-3-113.
15. Enters into agreement with State Forestry Commission for supervision and management of "forest" lands and all timber on trust lands, 29-3-45, 29-3-47, 29-3-49.
16. Creates and maintains forestry escrow fund, 29-3-47.
17. Signs off on all leases (Board President), 29-3-82.

BOARD OF SUPERVISORS

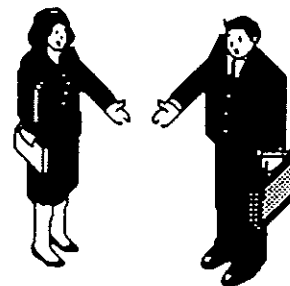
1. Reviews Sixteenth Section leases not subject to public bid and approves as to proposed rental value, 29-3-82, 29-3-1.
2. Appoints competent appraiser for determination as to fair rental value of lease in the event of rejection, 29-3-1.
3. Signs off on all leases not subject to public bid (Board President), 29-3-82 4.
4. Investigates and concurs in proposed sale of land for industrial purposes, 29-3-29.

SUPERINTENDENT OF EDUCATION

1. Supervises all trust land within jurisdiction, 29-3-57.
2. Maintains current docket of all leases, collects rentals and interest due upon trust funds, 29-3-57.
3. Provides annual accounting regarding fund collections to the state, 29-3-59.
4. Reviews applications for lease of nonagricultural land and makes recommendations to the board of education, 29-3-82.
5. Presents board-approved leases to board of supervisors for review and concurrence, 29-3-59.
6. Signs off on all leases, 29-3-82.
7. Notifies lessee of reclassification and right to object to same, 29-3-37.
8. Employs attorney to aid in collection of all delinquent sums or to prosecute in the event of default, 29-3-57.

BOARD ATTORNEY

1. Prepares abstracts of title and provides certificates verifying true condition of Sixteenth Section title, 29-3-5.
2. Institutes confirmation suits at board's request as well as conducting other relevant litigation, 29-3-3, 29-3-39, 29-3-107.
3. Advises board on lease construction, classification objections, and other legal matters.

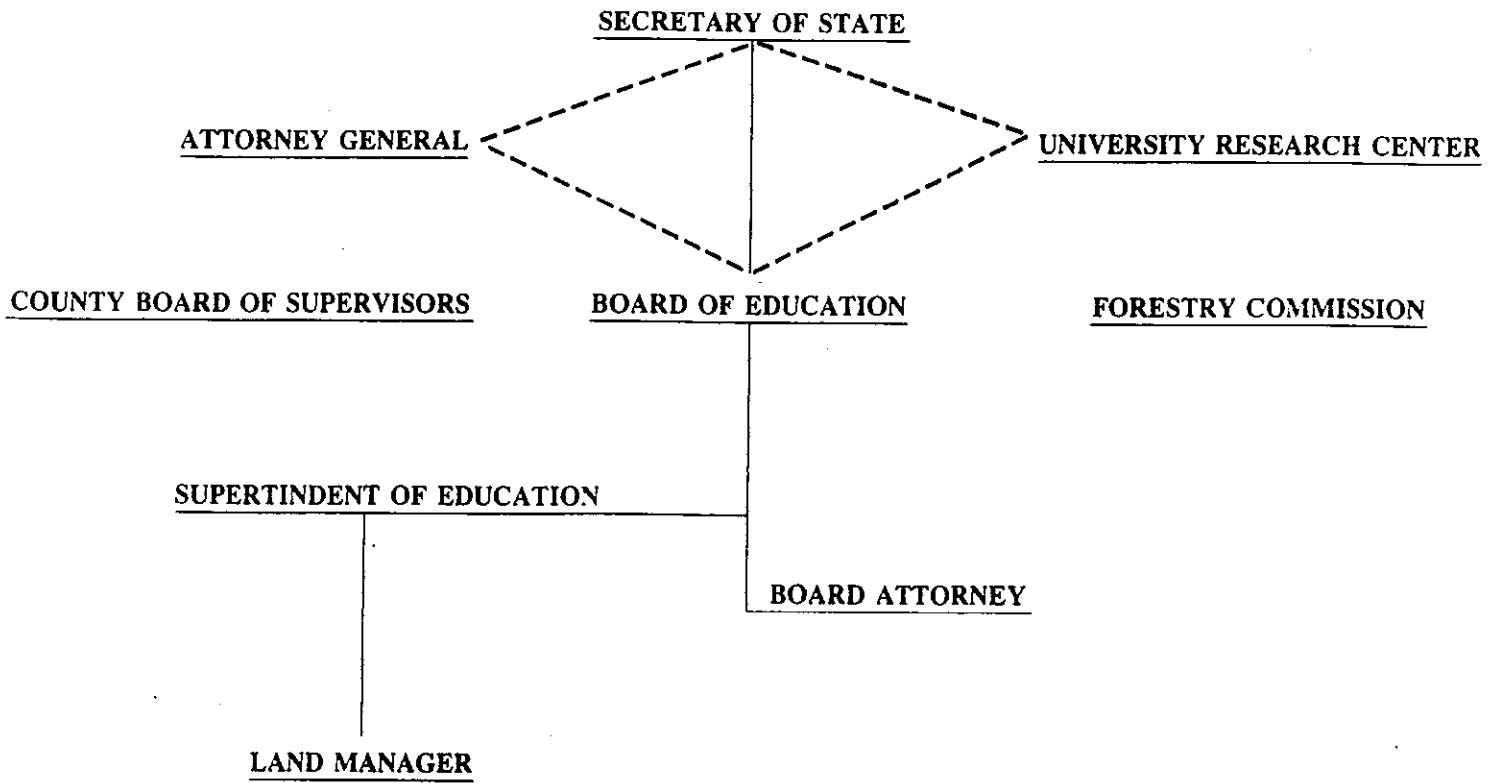


LAND MANAGERS

1. Assists superintendent and board members in managing Sixteenth Section School Trust Lands.

(All statutory references are to the Mississippi Code of 1972 as amended.)

SIXTEENTH SECTION LAND MANAGEMENT
ORGANIZATIONAL CHART



PEER Staff

Director

John W. Turcotte
Janet Moore, Administrative
Assistant

Administrative Division

Steve Miller, General Counsel
and Controller

Betty Heggy
Ann Hutcherson
Debbie Woods

Planning and Support Division

Max Arinder, Chief
Analyst

Sam Dawkins
Patty Hassinger
Larry Landrum
Kathleen Sullivan
Linda Triplett
Ava Welborn

Operations Division

James Barber, Chief
Analyst

Aurora Baugh
Ted Booth
Barbara Hamilton
Susan Harris
Kelly Lockhart
Joyce McCants
Danny Miller
Katherine Stark
Larry Whiting
