

Report To

# The Mississippi Legislature



## **Review of the Pearl River Valley Water Supply District's Recent Timber Sale in Northern Rankin County and Follow-Up Review of the District's Use of Real Estate Consultants**

**December 14, 1994**

In July 1994, the district cut timber on 147 acres of land in northern Rankin County (including eighty-seven acres clearcut) which generated net revenues of \$349,639 for public recreation improvements. The district complied with state and federal laws, except for the seed tree retention law that the Forestry Commission considers outdated and does not enforce. Deficiencies in the district's timber cutting policies prevent it from fully achieving forest management objectives (e.g., wildlife enhancement and outdoor recreation) other than the generation of timber revenues. The district has not solicited sufficient public comment prior to execution of each of its clearcut projects.

With respect to consultants, the district has implemented some of PEER's 1993 report recommendations and ignored others. While the district eliminated retainers and modified its method of calculating sales commissions, it should still work to reduce its reliance on outside real estate consultants and, prior to entering into any consulting contract, should perform a needs assessment and request competitive bids.

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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.

**Review of the Pearl River Valley Water Supply District's Recent  
Timber Sale in Northern Rankin County and Follow-Up  
Review of the District's Use of Real Estate Consultants**

**December 14, 1994**

**The PEER Committee  
Mississippi Legislature**

The Mississippi Legislature

**Joint Committee on Performance Evaluation and Expenditure Review**

PEER Committee

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December 14, 1994

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Members of the Mississippi State Legislature

At its meeting of December 14, 1994, the PEER Committee authorized release of the report entitled **Review of the Pearl River Valley Water Supply District's Recent Timber Sale in Northern Rankin County and Follow-Up Review of the District's Use of Real Estate Consultants.**

\_\_\_\_\_  
Senator Travis Little, Chairman

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

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# Review of the Pearl River Valley Water Supply District's Recent Timber Sale in Northern Rankin County and Follow-Up Review of the District's Use of Real Estate Consultants

December 14, 1994

## *Executive Summary*

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### **Introduction**

This review originated from legislative concerns over the Pearl River Valley Water Supply District's harvesting of timber in an area in northern Rankin County described by opponents of the cut as a scenic hardwood forest. This timber cut was within the district's statutory authority and the district complied with most state and federal laws governing the cut. However, PEER noted deficiencies in the district's Forest Management Plan guidelines which prevent it from fully achieving objectives (e.g., wildlife enhancement and outdoor recreation) other than the generation of timber revenues.

Also, given the controversial nature of clearcuts, the district has not solicited sufficient public input prior to execution of each of its clearcut projects.

### **Review of the Northern Rankin County Timber Sale**

#### *Description of the Cut*

1994 Timber Sale Number 30 affected 147 acres of district timber development land located in northern Rankin County in an area open for regulated hunting, but only accessible to the general public by boat and wading sloughs. The sale, which generated \$351,207 in FY 1995 revenues (less costs of \$1,568) for district public recreation improvements, involved three clearcuts of twenty-nine acres each and a selective cut of sixty acres. (See Exhibit A, page viii, for a map of the cut and its location in relation to the district.)

#### *District's Justification for the Cut and Public Opposition*

The district contended that the trees in this area were mature and beginning to die, and therefore losing their economic value. The district claimed

that in addition to the immediate economic benefit of the cuts, the project would improve the forest stand in the long run by producing "more vigorous and better quality trees" and, in the short run, improve the habitat for certain species of wildlife (e.g., deer, quail, turkey, doves, rabbits) which thrive on the type of vegetation fostered by clearcutting.

Prior and subsequent to the cut, opponents described the area in question as one of the district's most impressive hardwood stands, and argued that natural succession was superior from an aesthetic standpoint to artificially imposed succession via clearcutting. Opponents' other objections included concerns that the cut might lead to erosion, sedimentation, flooding problems, and harm to wildlife that thrive in a mature forest.

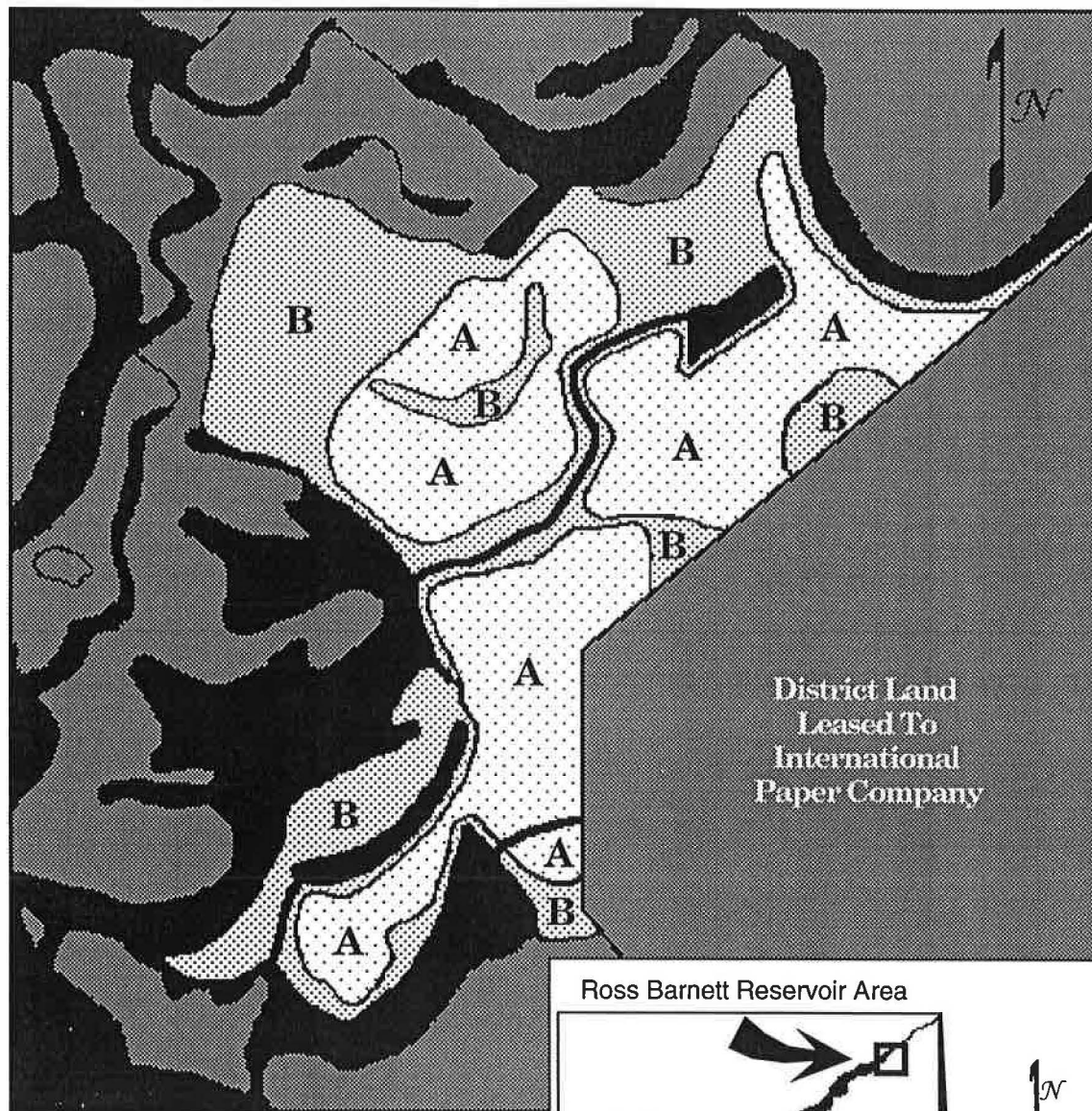
#### *The District's Decisionmaking Process*

The decision process which culminated in 1994 Timber Sale Number 30 began in 1982 with the district's decision to utilize its timber as a revenue source, marked by the district entering into a formal agreement with the Mississippi Forestry Commission for the management and marketing of district timber. Based on a survey of its timber resources, the district subsequently completed a ten-year Forest Management Plan in 1988, which included 100 acres in planned clearcuts and 18 acres in planned selective cuts in the area of 1994 Timber Sale Number 30, based on considerations of the advanced age of the stand. The district approved these cuts as part of a revised Forest Management Plan in 1991.

The district only solicited public input relative to the entire plan (not each individual planned cut), and reported receiving no negative comments. Prior to execution of the plan relative to 1994 Timber Sale Number 30, the district recruised the area (inspected and measured timber to determine whether it needed to be cut and the estimated volume to be cut) and reduced the planned clearcuts by thirteen acres and increased selective cuts by forty-two acres.



**Exhibit A**  
**1994 Timber Sale Number 30 by Type of Cut**



- A** Clear Cut
- B** Selective Cut
- Other District Land
- Back Waters of Pearl River



SOURCE: Pearl River Valley Water Supply District

## Legal Compliance

While this timber cut is within the district's statutory authority and the district complied with most state and federal laws governing the cut, the district violated an unenforced provision of the 1944 Forest Harvesting Law requiring the retention of seed trees in mixed, predominantly hardwood stands.

## Follow-Up Review of the District's Use of Real Estate Consultants

With respect to PEER's 1993 recommendations on the district's use of real estate consultants, the district has implemented some of the recommendations while ignoring others. For example, in 1993 PEER recommended that the district end reliance on consultants, with respect to the management of its leased realty, within two years. While the district has plans to become self-reliant with respect to day-to-day lease management, it still relies on consultants for technical real estate management services, such as the preparation of land development feasibility analyses.

Regarding contracting for real estate management services, the district has followed PEER's recommendation to pay consultants on the basis of actual services rendered rather than using retainer fees. The district has also followed PEER's recommendation to modify its method of calculating sales commissions, based on a more accurate valuation of the lease. However, the district does not routinely conduct needs assessments or competitively bid its contracts.

## Recommendations

1. In order to ensure that outdoor recreation interests are represented in the Pearl River Valley Water Supply District's decisionmaking process, the Legislature should consider reconstituting the district's board by replacing the five members directly appointed by the county boards of supervisors of Hinds, Madison, Rankin, Leake, and Scott counties with the following new members:
  - a homeowner and residential lessee of the district, residing in Rankin or Madison county, to be appointed by the Governor from lists of nominees submitted

by the boards of supervisors of Rankin and Madison counties;

- a representative of outdoor recreational users, appointed by the Lieutenant Governor from lists of nominees submitted by the boards of supervisors of each of the five counties noted above;
- a wildlife biologist, appointed by the Governor, which the Governor shall select from a list of three nominees submitted by the Mississippi Wildlife Federation; and,
- an employee of one of the state Institutions of Higher Learning appointed by the Board of Trustees of the Institutions of Higher Learning who has a terminal academic degree in an environmentally related science with five years of environmental research experience.

(Boards of supervisors of Hinds, Madison, Rankin, Leake, and Scott counties would still nominate the five appointees to the Pearl River Industrial Commission who serve on the board as ex officio members.)

See Appendix B, page 31, for proposed legislation concerning composition of the Pearl River Valley Water Supply District board.

2. Given the recreational and scenic value of the reservoir, the district's board should reconsider clearcutting except in emergencies, such as those warranted by a pine beetle infestation. In the interim, given the controversial nature of clearcutting, the board should adopt a policy that, ninety days prior to each planned clearcut, the district will issue a press release soliciting public input and announcing a public hearing to be held on the proposed cut.
3. The Pearl River Valley Water Supply District should ensure that it only uses timber revenue for recreational improvements, and not for any recurring district expenses, by segregating timber-related revenues and expenses into a separate fund.
4. The Pearl River Valley Water Supply District should consider incorporating principles of ecosystem management, as developed by the U.S. Forest Service, into its planning process. These principles include increased public par-

ticipation, integration of resource management, sustainability of resource uses and values, and collaboration with researchers and scientists.

These principles, developed as a means of addressing multiple and sometimes conflicting demands on natural resources, could help the district determine how and whether clearcutting fits into the overall plan for the district as determined by district managers, the public, and multidisciplinary experts.

The district should also expand its current planning efforts to include ongoing assessment of the impact of timber cutting, home building, and other reservoir activities on erosion, sedimentation, and other environmental concerns.

5. The Pearl River Valley Water Supply District and the Mississippi Forestry Commission, which drafts the district's timber cutting contracts, should consider adding references to

"best management practices" in its contracts with timber cutters in order to reinforce its specific contract provisions requiring such practices. Adding this terminology to the contracts would educate and inform timber cutters as to the importance of the practices and would relate the practices to Section 404 of the Clean Water Act which require Best Management Practices.

6. The Mississippi Forestry Commission should enforce compliance with MISS. CODE ANN. Section 49-19-61 requiring the regeneration of predominantly hardwood forest land which has been cut by leaving seed trees. If the commission believes that the law is outdated, it should propose a bill addressing the law's problems for consideration by the Legislature.
7. The district should adhere to sound contracting practices, including conducting a formal needs assessment prior to each decision to contract and using competitive bidding as the mechanism for awarding contracts.

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# **Review of the Pearl River Valley Water Supply District's Recent Timber Sale in Northern Rankin County and Follow-Up Review of the District's Use of Real Estate Consultants**

## ***Introduction***

### **Authority**

In response to a legislative request, the PEER Committee reviewed the Pearl River Valley Water Supply District's 1994 timber sale number 30, located in district compartment RXVI, north of Highway 43 in northern Rankin County, and conducted a follow-up review of PEER's 1993 analysis of the district's use of real estate consultants. The Committee conducted its review pursuant to MISS. CODE ANN. Section 5-3-57 (1972).

### **Scope and Purpose**

The review sought answers to the following questions:

- What was the nature and extent of the district's 1994 timber sale number 30, the use of the affected land, both prior and subsequent to the sale, and the purpose of the project, including a discussion of project costs and benefits?
- What process did the district use in making the decision to cut the timber?
- Did the district follow all state and federal laws and regulations during this process, including whether the project conformed to the district's statutory mission?
- Did the district implement PEER's recommendations concerning its use of real estate consultants (*A Review of Pearl River Valley Water Supply District's Use of Real Estate Consultants*, July 21, 1993)?

### **Method**

In conducting the review, PEER:

- reviewed the district's Forest Management Plan, Timber Management and Marketing Agreement, timber cutting documentation, financial audits, board minutes and other district reports and documents;
- reviewed applicable state and federal laws;

- interviewed district management and personnel, including current and former board members; and personnel of the Mississippi Forestry Commission; Mississippi Department of Wildlife, Fisheries and Parks; Mississippi Department of Environmental Quality; U. S. Soil Conservation Service; U. S. D. A. Forest Service, and U. S. Army Corps of Engineers;
- reviewed publications of the Mississippi Forestry Commission;
- researched applicable periodicals and publications, including those related to selective and clearcutting, forest and timber management, and ecosystem management; and,
- analyzed information and documents supplied by the district detailing how it has responded to specific recommendations contained in the PEER report *A Review of Pearl River Valley Water Supply District's Use of Real Estate Consultants*, issued July 21, 1993.

### **Overview**

On July 20, 1994, the Pearl River Valley Water Supply District initiated a project to cut 147 acres (eighty-seven acres clearcut and sixty acres selectively cut) of mature hardwood bottomland located north of Highway 43 in northern Rankin County. Proponents of the cut argued that taking out mature, dying timber and replacing it with more vigorous and better quality trees would improve both the economic value of the stand and the wildlife habitat for certain species. Also, the district relies on revenues from timber sales to fund public recreation projects. This sale generated \$351,207 in revenues (less costs of \$1,568) which the district used for improving recreational facilities. Opponents of the project argued that the area of the planned cut was one of the district's most beautiful natural areas, and expressed concerns over possible environmental effects of the project (e.g., erosion, sedimentation, and flooding), as well as its impact on wildlife species which thrive in a mature forest.

The decision process which culminated in 1994 Timber Sale Number 30 began in 1982 with the district's decision to utilize its timber as a revenue source, marked by the district entering into a formal timber management and marketing agreement with the Mississippi Forestry Commission. The district completed a ten-year Forest Management Plan in 1988, which included 100 acres in planned clearcuts and eighteen acres in planned selective cuts in the area of 1994 Timber Sale Number 30, based on considerations of the advanced aged of the stand. The district board approved these cuts as part of its 1991 revised Forest Management Plan. Prior to execution of the plan relative to 1994 Timber Sale Number 30, the district's forester recruised the area and reduced the planned clearcuts by thirteen acres and increased selective cuts by forty-two acres.

This timber cut is within the district's statutory authority and the district complied with most state and federal laws governing the cut, but violated an unenforced provision of the 1944 Forest Harvesting Law prohibiting clearcutting in mixed, predominantly hardwood stands. Deficiencies in the district's Forest Management Plan guidelines prevent it from fully achieving objectives (e.g., wildlife enhancement and outdoor recreation) other than the generation of timber revenues. Also, given the controversial nature of clearcuts, the district has not solicited sufficient public input prior to execution of each of its clearcut projects. By using principles of ecosystem management, the district could address the challenge of multiple and sometimes conflicting demands on natural resources.

With respect to PEER's 1993 recommendations on the district's use of real estate consultants, the district has implemented some of the recommendations while ignoring others. For example, in 1993 PEER recommended that the district end reliance on consultants, with respect to the management of its leased realty, within two years. While the district has plans to become self-reliant with respect to day-to-day lease management, it still relies on consultants for technical real estate management services, such as the preparation of land development feasibility analyses. Regarding contracting for real estate management services, the district has followed PEER's recommendation to pay consultants on the basis of actual services rendered rather than using retainer fees. The district has also followed PEER's recommendation to modify its method of calculating sales commissions, based on a more accurate valuation of the lease. However, the district does not routinely conduct needs assessments or competitively bid its contracts.

## ***Background***

### **Description of Pearl River Valley Water Supply District and its Authority**

The Legislature authorized creation of the Pearl River Valley Water Supply District during the 1958 Regular Session through Chapter 197, *Laws of 1958*. MISS. CODE ANN. Section 51-9-121 confers upon the district broad authority to conserve, preserve, control, and store the waters of the Pearl River. Significant among the district's powers are the powers to:

- control floods;
- abate pollution;
- forest and reforest;
- provide for recreational uses; and,
- provide a water supply to the surrounding area.

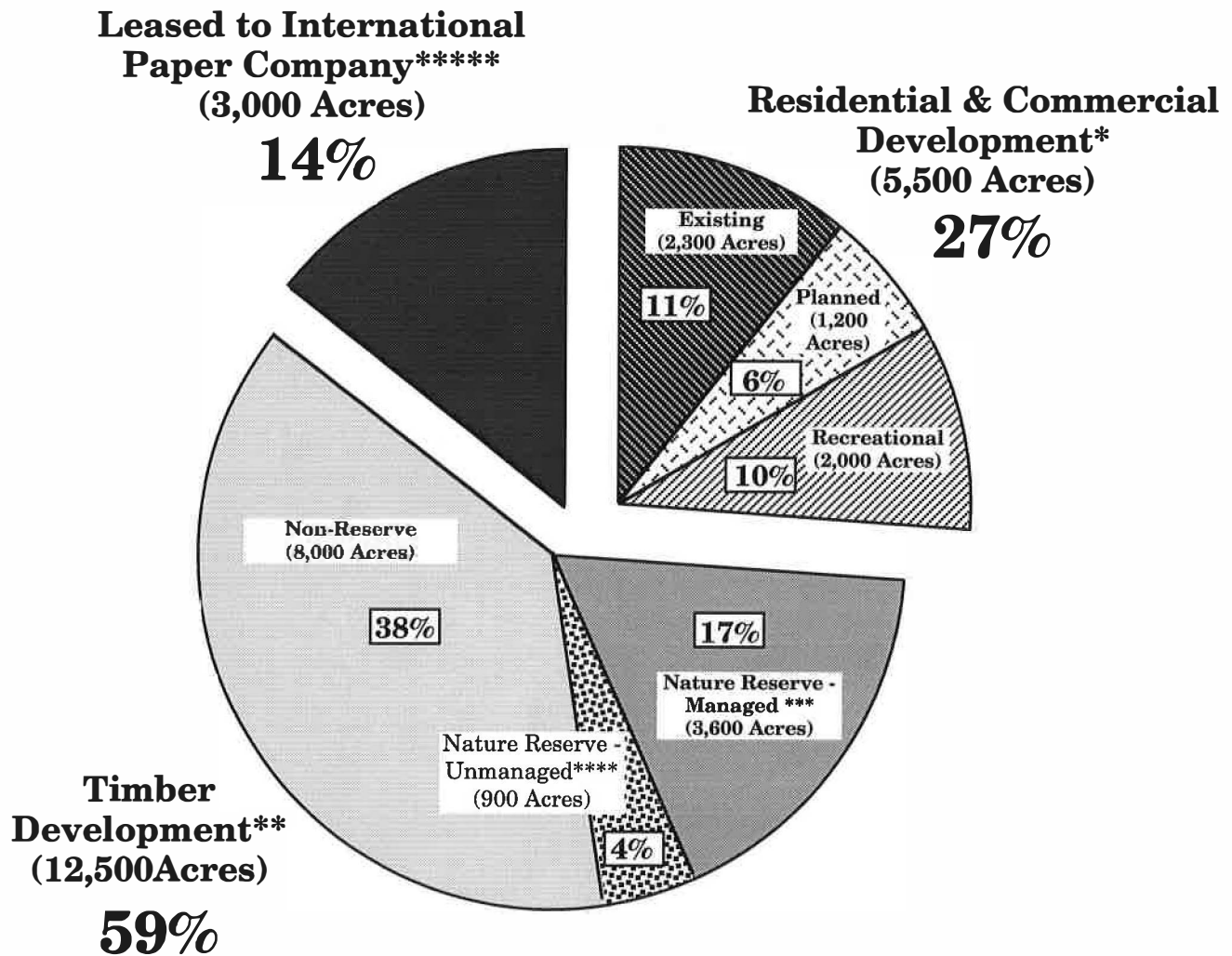
A fourteen-member board, composed of the following members, governs the district:

- five members of the Pearl River Industrial Commission appointed by the Governor (one from each county within the district--i.e., Hinds, Leake, Madison, Rankin, and Scott) from a list of nominees submitted by the board of supervisors of each county;
- five members appointed by surrounding counties' boards of supervisors (one from each county within the district); and,
- four members, one from each of the following state agencies as appointed by their governing bodies: Department of Environmental Quality; Forestry Commission; Department of Health; and Department of Wildlife, Fisheries, and Parks.

The district owns 53,000 acres--32,000 covered by water and 21,000 in land. Exhibit 1, page 5, shows a breakdown of district acreage by major use category.

**Exhibit 1**

**Breakdown of District Acreage by Major Category of Use  
(Total Acres = 21,000)**



\* Income from leased residential and commercial properties constitutes a significant portion of district revenue. The district loses timber rights and revenues with the signing of these leases.

\*\* Area covered by the district's Forest Management Plan.

\*\*\* This land area, which is generally along the upper reaches of the Ross Barnett Reservoir, involves mostly bottom land hardwood sites and includes the buffer strips along the Pearl River. Access to most of this property is poor by land, but good by water. Timber management in this area is supposed to be confined to wildlife habitat and water quality enhancement practices.

\*\*\*\* This area consists of district land which is surrounded by water at normal lake elevation. The district does not allow timber harvesting in its unmanaged nature reserve areas.

\*\*\*\*\* International Paper Company entered into this lease, which expires in 2044, prior to the district's acquisition of the land covered by the lease. Until the lease expires, International Paper Company manages all timber on this land.

SOURCE: Compiled by PEER staff.



***Pearl River Valley Water Supply District's  
1994 Timber Sale Number 30***

**Description of 1994 Timber Sale Number 30**

1994 Timber Sale Number 30 affected 147 acres of district timber development land located in northern Rankin County in an area open for regulated hunting, but only accessible to the general public by boat and wading sloughs. The sale, which generated \$351,207 in FY 1995 (less costs of \$1,568) for district public recreation improvements, involved three clearcuts of twenty-nine acres each and a selective cut of sixty acres.

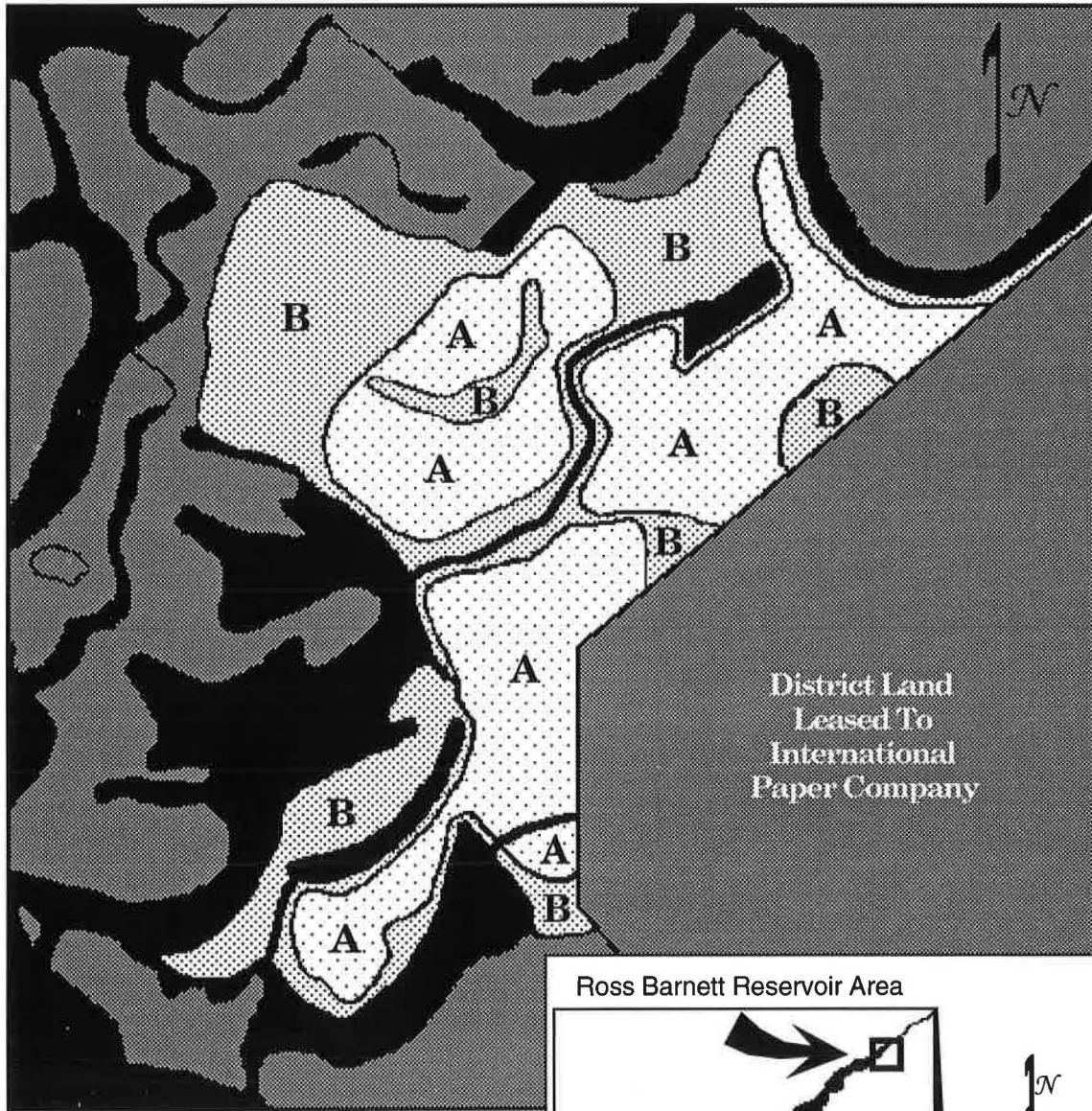
The district's justification for the cuts was that the trees in this area were mature and beginning to die, and therefore losing their economic value. The district claimed that in addition to the immediate economic benefit of the cuts, the project would improve the forest stand in the long run by producing more vigorous and better quality trees and, in the short run, improve the habitat for certain species of wildlife (e.g., deer, quail, turkey, doves, rabbits) which thrive on the type of vegetation fostered by clearcutting.





*Location and General Description of  
Timber Sale Number 30*

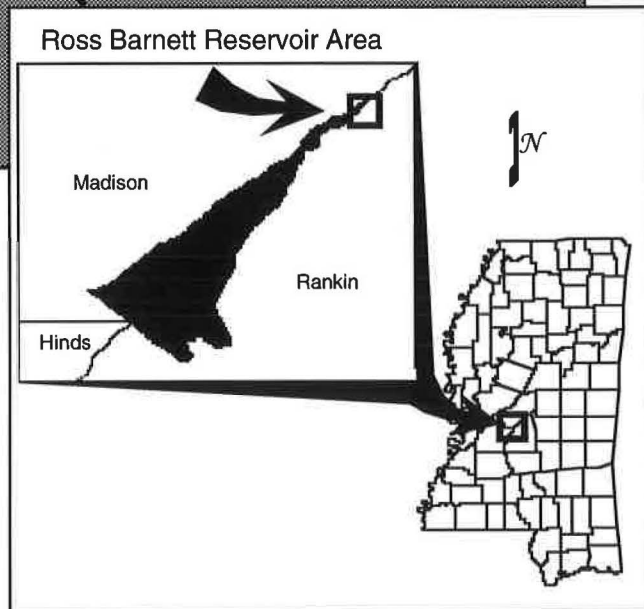
On July 20, 1994, the Pearl River Valley Water Supply District executed timber sale number 30, located in Compartment RXVI, a section of district timber development land east of the Pearl River and north of State Highway 43 in northern Rankin County. The sale involved three clearcuts (also referred to as regenerative cuts) of twenty-nine acres each and sixty acres of selective cuts, for a total of 147 acres affected by the sale. The district limits its clearcuts in hardwood stands to a maximum of thirty acres each and requires that the cuts be irregularly shaped. Exhibit 2 on page 7 details the cuts, differentiating between clearcut and selectively cut areas.

Exhibits 3 and 4 on page 8 give the estimated number of board feet of sawtimber and cords of pulpwood harvested in the clearcut and selective cut areas, by tree type (hardwood versus pine). Exhibit 5, page 9, shows the number of trees harvested in clearcut areas, by type. Ninety-one percent of the trees cut in the clearcut areas were hardwoods.

**Exhibit 2**  
**1994 Timber Sale Number 30 by Type of Cut**



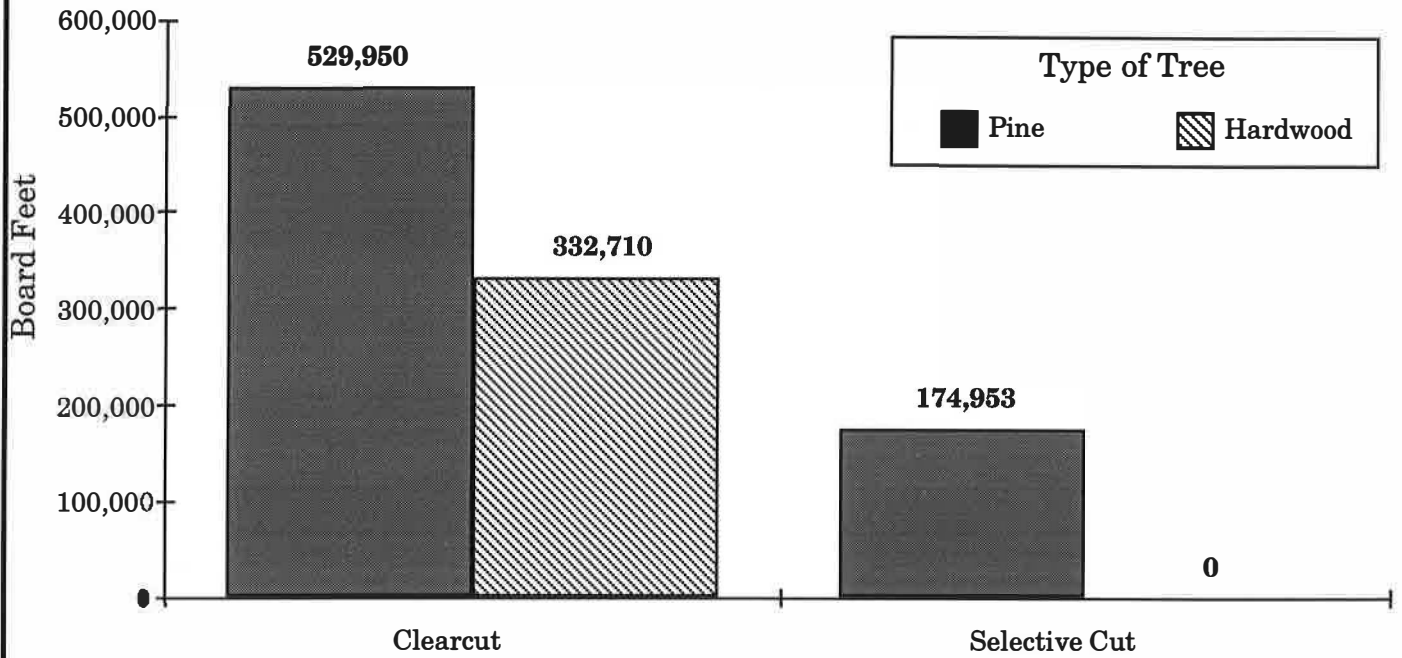
-  Clear Cut
-  Selective Cut
-  Other District Land
-  Back Waters of Pearl River



SOURCE: Pearl River Valley Water Supply District

**Exhibit 3**

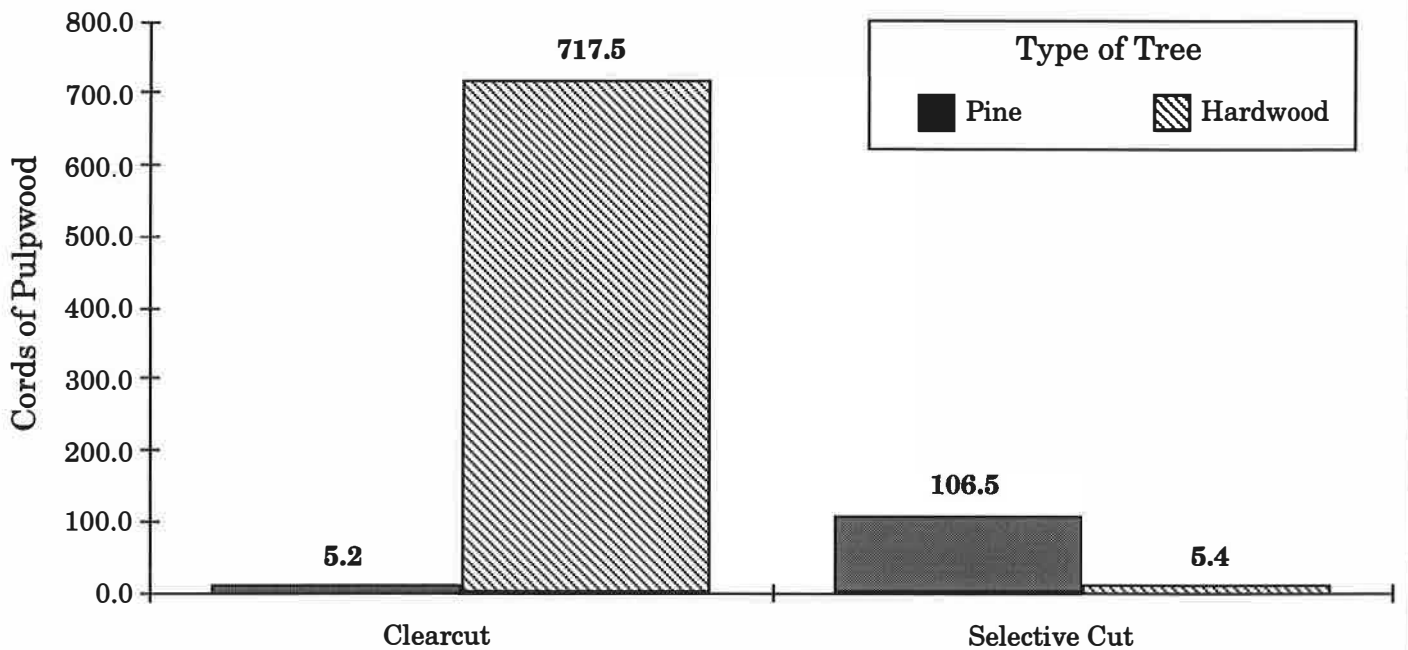
**Estimated Number of Board Feet of Sawtimber Harvested by Type**



SOURCE: Compiled by PEER staff.

**Exhibit 4**

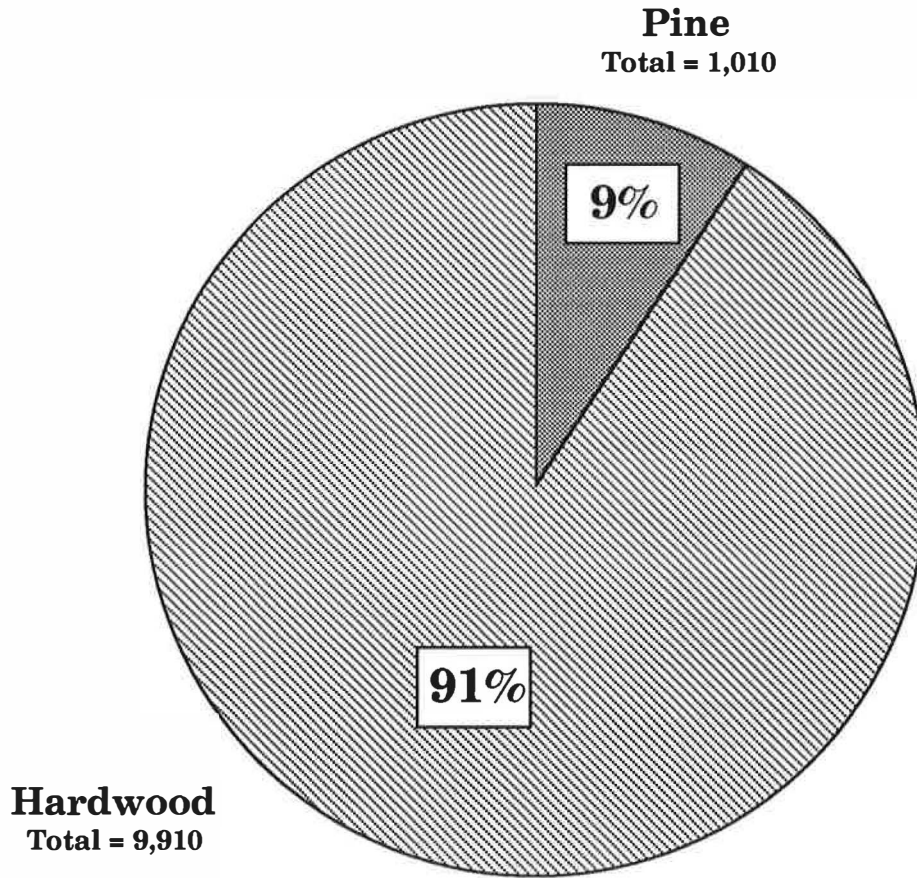
**Estimated Number of Cords of Pulpwood Harvested By Type**



SOURCE: Compiled by PEER staff.

**Exhibit 5**

**Number of Hardwood and Pine Trees Harvested  
in Clearcut Areas By Type**



SOURCE: Compiled by PEER Staff

### *Land Usage Prior and Subsequent to the Cuts*

The district had classified the land where 1994 timber sale number 30 took place as "recreational area open to the public for regulated hunting;" however, access to the cut area is poor. The general public can only reach the site by boat, traveling up the Pearl River and then through wading sloughs. Members of a private hunting club, however, have easy access to the cut area through an adjacent section of land which the club sub-leases from International Paper Company. The district did not change the land use classification after the cut-- i.e., it is still classified as recreational.

### *Purpose of the District's 1994 Timber Sale Number 30*

In a summary review memorandum, the district explained its decisions relative to timber sale number 30 as follows, by type of cut.

#### Clearcuts totaling 87 acres:

For the most part, the trees (both pines and hardwoods) are either 65 or 92 years old. There are only small pockets of younger trees and they have been suppressed to the point that neither the pines nor hardwoods will respond to release. The older trees, both pine and hardwood, growth has slowed and mortality is beginning to occur. Besides mortality, the quality of the older class of both pines and hardwoods is beginning to deteriorate by becoming hollow and epicormic (many small useless) branching.

Due to the condition of these stands, this area requires a regeneration type cut to improve it. There is no way to improve this stand by a selection cut because the trees are at an age they will not respond to thinning. From a forestry or wildlife point of view, a regeneration cut would improve this area by producing more forage, within one year, and better quality trees. Wildlife that would benefit would include deer, turkey, rabbit and various songbirds.

#### Selective cuts totaling 60 acres:

Thirty-five (35) acres of this area consist mostly of hardwood mixed with pine. It is contained mostly within buffer zones of sloughs or drainage areas. These areas will serve as filter strips for maintenance of water quality. Only mature pines representing approximately 10% of the total trees, will be cut in this area. Twenty-five (25) acres of Area B sale area consists of younger age pine. Approximately 50% of the poorest quality pines will be thinned to increase the quality and growth of this stand.

The district claimed that 1994 timber sale number 30 would provide the following benefits:

- produce income in forest stands that were losing income due to mortality and quality deterioration, which income the district could use for making improvements to public recreational facilities;

- improve wildlife habitat by increasing forage;
- improve the forest stand by producing more vigorous and better quality trees.

### Income Production

The district anticipates approximately \$300,000 per year income from timber sales. Exhibit 6, page 12, illustrates the timber revenues which the district has generated, by year, from FY 1986 through FY 1994. These annual amounts range from \$35,743 (1% of total district revenues) in FY 1986 to \$523,577 (13% of total district revenues) in FY 1993.

The 1994 timber sale number 30 generated \$351,207 for the district in FY 1995, paid by Hankins Lumber Company. District costs associated with the sale included \$25.83 in advertising costs and \$1,542 in payments to the Mississippi Forestry Commission for preparing the sale. The commission's duties included reviewing the district forester's plans for the sale, preparing the contract for the sale, mailing the copies of the sale prospectus to prospective bidders, attending the bid opening, and reviewing the district's final sale compliance inspection report.

According to its General Manager, the district uses timber revenues for making improvements to the district's public recreational facilities. The district planned to use \$225,915 of the revenues from 1994 timber sale number 30 to resurface boat ramps, parking areas, and Spillway Road. The district plans to apply the remaining \$123,724 (net of costs associated with the sale) toward a yet-to-be-determined recreational facility. The General Manager explained that the district board, which was waiting on the results of a commissioned Parks and Recreation Plan to include recommendations for recreational priorities, had not yet chosen the project to be funded, but might use the proceeds to help fund a public swimming pool.

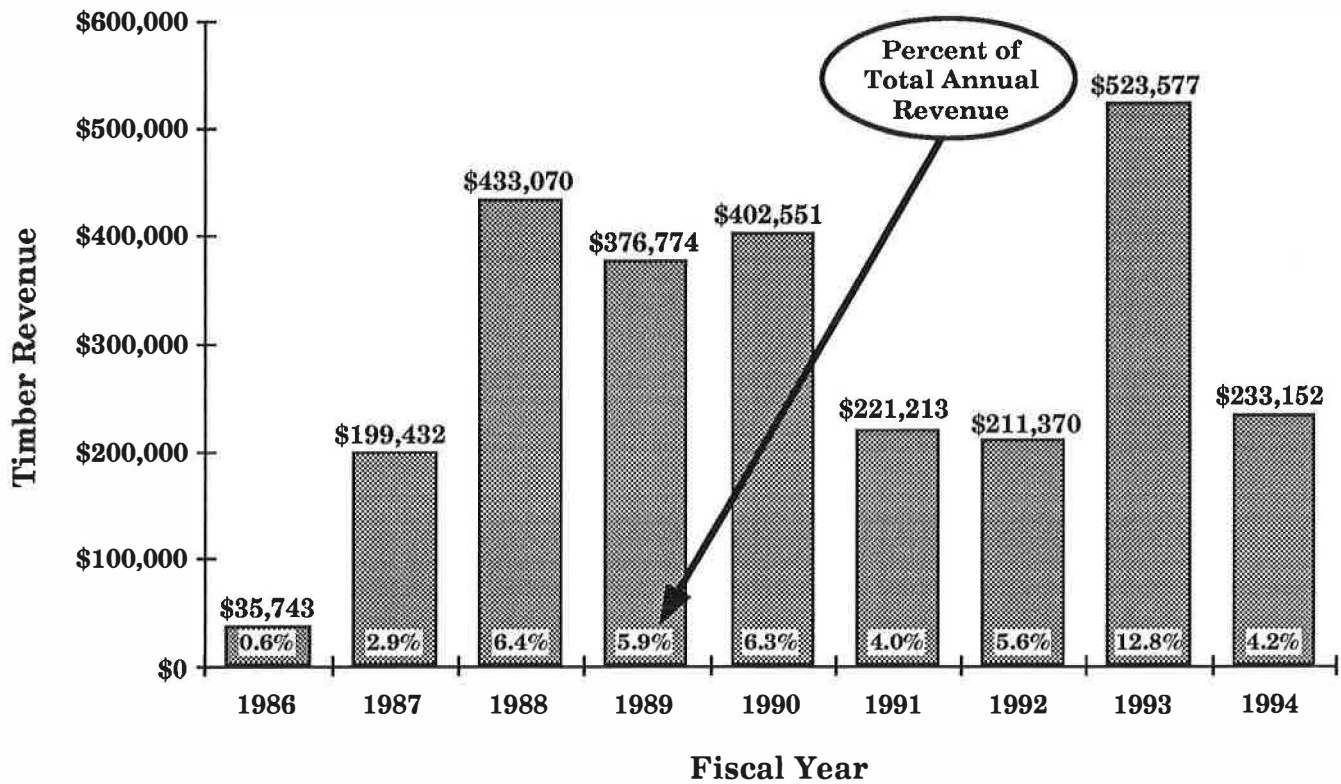
### Effects on Wildlife Habitat and the Forest Stand

The district contends that clearcutting creates a habitat favorable to deer, turkey, and rabbit populations because it promotes growth of small trees, bushes, and similar plants favored by these species. The district also maintained that the timber cut would improve the timber stand by taking out old and poorly growing trees and allowing the area to regrow naturally. According to the district's forester, allowing more sunlight onto the forest floor encourages the growth of "more vigorous and better quality trees."

While selective cutting and clearcutting are both valid forestry management practices utilized by the profession, each method has its advantages and disadvantages. Exhibit 7, page 13, lists advantages and disadvantages of clearcutting versus selective cutting. Proponents of clearcutting believe that the

Exhibit 6

Revenue from Timber Sales and Percent of Total Revenue  
(For Fiscal Years 1986 - 1994)



NOTE: This exhibit does not include the \$351,207 in timber revenues from 1994 sale number 30, because the sale occurred in FY 1995 (fiscal year ends June 30, 1995).

SOURCE: Pearl River Valley Water Supply District.

## Exhibit 7

### Advantages and Disadvantages of Clear Cutting versus Selective Cutting

#### *Advantages*

- is less expensive due to concentration of activities including harvesting (provides the opportunity to use larger, more efficient equipment), cleanup (including the lack of trees left on the site to be protected from logging damage), tree planting, and road building as well as ease of administration (including record keeping) and lower marketing costs;
- allows replacement of "low quality" stands of hardwood trees with better quality trees [i.e., trees which are of higher economical value] and trees that require direct sunlight;
- favors wildlife that forage on new growth; e.g., deer, rabbits, turkey, quail, doves;
- requires less building of roads and logging trails (primary sources of erosion) as measured by acres per unit harvested than selective cutting; and,
- on sites suitable for fast tree growth, results in no appreciable soil movement and little or no long-term environmental damage.

#### *Disadvantages*

- results in environmental hazards for streams, including sediment buildup, increased stream flow, decreased transpiration, increased chemicals in stream water, accelerated erosion and transport of matter in streams, reduced water quality, and decline of fishing;
- results in cutting of trees which cannot be sold and are therefore wasted;
- disrupts the soil cover and exposes the soil to direct rainfall, increasing the hazard of soil erosion;
- promotes inadequate regrowth of oaks on sites where all trees grow well and shade out slow-growing oaks;
- results in a long-term decline in soil and nutrients leading to an eventual decline in overall plant growth;
- results in losses to native wildlife and plant diversity and destroys habitat for wildlife which need trees to provide acorns, dens, places to hide, and tall perches such as black bear, squirrels and wood thrush; and,
- creates a devastating visual impact.

SOURCE: *Clearcutting in Upland Hardwoods: Panacea or Anathema?* by Charles E. McGee, Principal Silviculturist, USDA Forest Service, presented at the Sixth Central Hardwood Forest Conference, Knoxville, Tennessee, February 24-26, 1987.



practice is not environmentally damaging when conducted on smaller acreages and when loggers use Best Management Practices (see discussion on page 20) to control erosion.

### **Decisionmaking Process for 1994 Timber Sale Number 30**

The decision process which culminated in 1994 Timber Sale Number 30 began in 1982 with the district's decision to utilize its timber as a revenue source, marked by the district entering into a formal agreement with the Mississippi Forestry Commission for timber management and marketing. Based on a survey of its timber resources, the district subsequently completed a ten-year Forest Management Plan in 1988, which included 100 acres in planned clearcuts and 18 acres in planned selective cuts in the area of 1994 Timber Sale Number 30, based on considerations of the advanced age of the stand. The district approved these cuts as part of a revised Forest Management Plan in 1991. The district only solicited public input relative to the entire plan (not each individual planned cut), and reported receiving no negative comments. Prior to execution of the plan relative to Compartment RXVI, the district recruised (inspected and measured timber to determine whether it needed to be cut and the estimated volume to be cut) the area and made adjustments to the planned acreage, reducing the planned clearcuts by thirteen acres and increasing selective cuts by forty-two acres.

#### *History of the District's Timber Management*

##### Timber Management and Marketing Agreement

On March 19, 1982, the district entered into a Timber Management and Marketing Agreement with the Mississippi Forestry Commission, which formally vested the commission with general supervision of the district's forest land. (The commission already had the authority and responsibility to examine, protect, and manage all timbered lands belonging to the state under MISS. CODE ANN. Section 49-19-3 (6).) Under the terms of the agreement, which was revised in November 1990, the commission provides advice concerning the district's timber and managing its cutting, and supervises and/or performs the district's timber stand improvement work.

District personnel claim that prior to execution of these agreements, the district did not practice forest management (with the exception of tree planting) and did not earn income from its timber. Since execution of these agreements, the district claims to have made many improvements to its forest land, including site preparation, tree planting, prescribed burning, and boundary line maintenance. From FY 1986 through FY 1994, the district has generated approximately \$2.6 million in revenues from timber sales.

## Forest Management Plan

Subsequent to execution of the 1982 Timber Management and Marketing Agreement, the Mississippi Forestry Commission recommended that the district prepare a Forest Management Plan to determine how its timber should be grown and harvested over the long term. Subsequently, the district contracted with a Forestry Commission forester who began surveying the land and gathering data for development of a ten-year Forest Management Plan. According to the district's undated document *Forest Resource Management Program on Pearl River Valley Water Supply District Land*, the forester's cruise "indicated that much of the property had been mismanaged prior to acquisition by the District" and that the district owned a "considerable amount of overmature pine, which in some cases was dying and susceptible to insects and disease."

*Initial Plan*--Completed in 1988 but not formally approved by the district board until 1991, after revisions, the district's initial Forest Management Plan outlined steps for selling and growing timber on district lands over a ten-year period, through 1998. The primary objective of managing the district's forest lands, as stated in the 1988 Forestry Management Plan, was to "produce as much revenue as possible to retire bonds that built the Ross Barnett Reservoir and help in the overall maintenance of the reservoir." (The bonds were retired in June 1992.) The plan also noted, "An increasing demand will most likely be placed on PRVWSD forested land to provide additional funds to help the district to become self-sufficient." The plan recommended that understocked and overmature timber stands would be given priority for management.

*Revised Plan*--Prior to formal adoption of the 1988 forest management plan, the district board decided that the Department of Wildlife, Fisheries, and Parks should review it. The revised Forest Management Plan adopted in February 1991 had a broader focus intended to establish "a schedule of activities designed to improve district forest land through a comprehensive management program." Instead of focusing exclusively on revenue (timber) production, the 1991 plan expanded the district's timber management focus to include water quality protection, wildlife enhancement, and outdoor recreation. Examples of the plan's recognition of multiple district objectives included:

- setting aside of nature reserve areas (see Exhibit 1, page 5);
- coordination of timber sales with the Department of Wildlife, Fisheries and Parks on land that the district leased under a wildlife management agreement;
- preservation of endangered species;
- promotion of management practices related to water quality protection; and,

- exclusion of areas near recreational facilities from timber harvest or limitation to selective harvest.

Appendix A on page 29 contains the plan's silviculture (tree care and cultivation) guidelines. Specific guidelines related to the management of hardwood stands (therefore governing the 1994 timber sale number 30 cut) include the following:

- An even-age system will be employed in order to produce a higher percentage of quality hardwood timber. Uneven-age stands will be managed as such only until it is feasible to convert to an even-age system.
- The preferred rotation length for hardwood species under an even-age system is 60-80 years, depending upon the particular species, site quality and stand conditions.
- Regeneration of hardwood stands will be mostly by natural means. However, some areas which lack proper species for a given site may have to be regenerated artificially by planting seed.
- Regeneration cuts will be limited to 30 contiguous acres, irregularly shaped. Additional regeneration cuts will not be made on adjacent areas for at least five (5) years.

To the extent that the district uses clearcutting to achieve even-age management of hardwood stands, it is in violation of an unenforced provision of the state's 1944 Forest Harvesting Law (refer to discussion on page 19). However, the district's hardwood management guidelines calling for conversion of uneven-age stands to even-age stands reflect the Mississippi Forestry Commission's (MFC) policy as described in a memorandum issued in May 1984 to all district foresters, stating: "It is the policy of the MFC to promote the evenaged concept in hardwood management on both private and public lands."

*Soliciting Public Comment*---Following the district board's approval of the Forest Management Plan on February 8, 1991, the district advertised the plan for public comment on February 28, 1991. The public notice appearing in newspapers in four counties stated that the plan could be reviewed at offices of the district or of the Mississippi Forestry Commission and that comments should be submitted in writing by May 1, 1991. District and Forestry Commission personnel stated that they received no public comments on the plan.

*Role of the District's Forest Management Plan in  
1994 Timber Sale Number 30*

Plan's Recommendations for Compartment RXVI

The district's plans to clearcut and selectively cut timber in compartment RXVI were part of the 1988 Forest Management Plan, and were carried forward to the 1991 Plan. Specifically, the plans recommended that one hundred acres be clearcut and eighteen acres be selective cut in this area by Fiscal Year 1995.

Because of results obtained from the district forester's recruising of the tract prior to sale (a routine procedure), the district changed the number of acres to be cut. According to district documentation, the district forester first cruised the timber on compartment RXVI in June 1985. The forester recruised the timber nine years later in May 1994, estimating the final acreage to be cut as included in the request for bids.

Actual Cut vs. Plan Recommendations

In July 1994, the district arranged for eighty-seven acres to be clearcut and sixty acres to be selectively cut on compartment RXVI. In a district document describing the sale, district personnel noted, "because of anticipated concerns for this area, the regenerative (clear) cut method was specified only where clearly necessary for proper forest management."

The district actually clearcut timber from thirteen fewer acres in compartment RXVI than called for in the district's Forest Management Plan, although the district engaged in forty-two more acres of selective cutting and twenty-nine more acres of cutting than had been outlined in the plan, as shown below:

	<u>Projected in Plan</u>	<u>Actual Cut</u>	<u>Over/(Under) Plan</u>
Clearcut	100	87	(13)
<u>Selective cut</u>	<u>18</u>	<u>60</u>	<u>42</u>
Total Acreage	118	147	29

Public Input Regarding Timber Sale Number 30

The only public input solicited relative to this sale was the input which the district had solicited at the time of plan approval. The district did not have a policy of advertising individual sales conducted in accordance with the plan, such as 1994 timber sale number 30.

Nevertheless, a legislator and a representative of the Sierra Club attended the district board meeting on July 8, 1994, at which the board voted to complete sale number 30. The visitors expressed their opposition to the sale, which centered on aesthetic and environmental concerns, and recommended revising the Forest Management Plan upon which the sale was based. (Prior and subsequent to the cut, opponents described the area of the planned cut as one of the district's most impressive hardwood stands, and argued that natural succession was superior from an aesthetic standpoint to artificially imposed succession via clearcutting. Opponents' other objections included concerns that the cut might lead to erosion, sedimentation, flooding problems, and harm to wildlife that thrive in a mature forest.) Despite objections, the district's board

voted to cut and sell the timber because it was included in and met the guidelines of the district's Forest Management Plan.

### Deficiencies in the District's Forest Management Plan

Although the district's 1991 Forest Management Plan contained multiple objectives, the board has not thoroughly developed the multiple-use concept in its plan guidelines. For instance, the district's Forest Management Plan does not outline how the district will:

- coordinate timber development with the development of outdoor recreation;
- coordinate timber sales with the Department of Wildlife, Fisheries and Parks in the wildlife management area--e.g., whether coordination consists of notification or attempts at consensus. The relationship between the Department of Wildlife, Fisheries and Parks Statewide Waterfowl Coordinator and the district's forester is strained because the former believes that the latter makes timber cutting decisions in the wildlife management area detrimental to waterfowl (e.g., excessive cutting of mature hardwoods);
- attain the objective of "wildlife habitat enhancement," such as determining the species of wildlife which the district will promote or coordinating with Department of Wildlife, Fisheries and Parks to ensure "wildlife habitat enhancement;"
- monitor erosion and sedimentation to determine that the implementation of "Best Management Practices" has been successful.

Also, the plan does not address how or whether the district will obtain public input in managing district lands.

Focusing specifically on the topic of monitoring the effects of district tree cutting on erosion and sedimentation, the district's General Manager told PEER that district staff monitors erosion by general observation and in response to complaints. While the district contracted for a sedimentation survey in 1988 which showed that "little or no sedimentation" (which results from erosion) had occurred in the main body of the reservoir, no additional sedimentation surveys have been conducted since 1988.

### **District Compliance with State and Federal Laws and Regulations Governing 1994 Timber Sale Number 30**

While timber cutting is within the district's statutory authority and the district complied with most state and federal laws governing the cut, the district

violated an unenforced provision of the 1944 Forest Harvesting Law prohibiting clearcutting in mixed, predominantly hardwood stands.

## *State Laws*

### District Enabling Statutes

The language in the district's enabling legislation is sufficiently broad to allow timber development, including timber cutting, on district lands. Subsection (q) of MISS. CODE ANN. Section 51-9-121 empowers the district to "do any other acts or things necessary or convenient to the exercising of the powers, rights, privileges, or functions conferred upon it by this article or any other law." In addition to this broad language, there are a few specific references to forests and timber in the district's enabling legislation. Section 51-9-103 describes timber development and development of state forests as examples of the beneficial uses of state waters in general, and specifically of the waters of the Pearl River. Section 51-9-121 (d) states that the district has powers to forest and reforest, which implies that the district can replant an area with forest trees. The broad language combined with the specific reference to timber development imply that the district has the authority to manage its forest lands actively, including development of the forests for purposes of generating timber revenues, provided the activity does not interfere with other legislatively mandated district objectives such as the development of recreational opportunities and the prevention of soil erosion and water pollution.

### Forest Harvesting Law of 1944

Section 49-19-61 of the Forest Harvesting Law requires that where timber is to be harvested on forest lands containing a mixed stand where hardwoods predominate, at least four pine seed trees of ten inches or more in diameter of the commercial species being harvested be left on each acre of land along with at least two hardwood seed trees of ten inches or more in diameter of the commercial species being harvested. This section, in effect, prohibits clearcutting on mixed, predominantly hardwood, forest land. However, the district's Forest Management Plan allows "irregularly shaped clearcuts of up to 30 contiguous acres in hardwood areas." This provision of the plan is not in compliance with state law. The district followed its Forest Management Plan in dividing 1994 timber sale #30 into three separate clearcuts of twenty-nine acres each. Because the area where the district clearcut in 1994 timber sale number 30 was a mixture of pines and hardwoods, with 91% of the trees being hardwood (see Exhibit 5, page 9), the district violated the law on each of the eighty-seven acres which it clearcut (i.e., leaving no trees standing).

Although Section 49-19-71 charges the Forestry Commission with enforcement of the Forest Harvesting Law, including Section 49-19-61, the commission by its own acknowledgement does not enforce this section because it says that leaving seed trees for purposes of reforestation is "an outdated forest

management practice.” Nevertheless, the commission’s duty is to enforce the provision until the Legislature chooses to change the law.

### *State and Federal Water Pollution Statutes*

As long as the district follows Best Management Practices in its timber cuts, it complies with state and federal laws governing water pollution from timber cutting. Section 49-17-29 makes it unlawful for any person to cause pollution of any waters of the state or to place wastes in a location likely to cause water pollution. Timber cutting involves the potential for violating this section as well as the potential for violating the federal Clean Water Act. To protect the nation’s navigable waters from pollution from timber cutting, the *Code of Federal Regulations* [33 CFR, Section 323.4 (a)(6)], states that anyone constructing forest roads for forest products harvesting must follow Best Management Practices, which are measures developed by federal and state forestry agencies to prevent or reduce the amount of pollution generated by timber cutting to a level compatible with the water quality goals set by the U. S. Environmental Protection Agency and the state Department of Environmental Quality. The Environmental Protection Agency and the State Department of Environmental Quality approved the Mississippi Forestry Commission’s “Silvicultural Best Management Practices” in 1989 and the district approved adherence to these practices as a part of its 1991 Forest Management Plan.

The contract of sale between Hankins Lumber Company and the district included wording similar to that contained in the state’s “Silvicultural Best Management Practices” publication. Specifically, the contract required the harvester to adhere to Best Management Practices for cutting and dragging timber to loading areas and for constructing access roads and log loading areas. The district’s forester stated that he held a conference with the contractor prior to the cut to explain the preferred practices and that he surveyed the compartment after the cut to ensure that the contractor had followed Best Management Practices. The district’s forester also stated that he will monitor the area periodically to determine if signs of erosion appear, in order to take preventive steps.

According to officials with the U. S. Army Corps of Engineers, the U. S. Soil Conservation Service and the state Departmental of Environmental Quality, no other federal environmental laws govern the cutting of timber by the district.

### *District Regulations*

PEER determined that the district followed the procedures for sale outlined in its Forest Management Plan in executing 1994 timber sale number 30. Such procedures included obtaining approval of the district board and the State Forester for the sale. The district also followed Timber Management and Marketing Agreement language which required that a notice of the sale be published for two consecutive weeks.

The Mississippi Forestry Commission technically violated the provision of the Timber Management and Marketing Agreement requiring the commission to supervise the check of the timber harvesters' compliance with the terms of the timber sale contract. After, the district forester performed the check, the commission's district Public Land Forester reviewed the district forester's paperwork on October 24, 1994. To comply fully with the agreement, the Forestry Commission should have sent its own personnel to conduct a post-cut inspection. Commission staff told PEER that, given the work demands already placed on commission foresters, they had allowed the district's forester (who had previously worked for the commission performing such inspections) to conduct the check.

The check conducted by the district's forester revealed that the contractor had damaged some of the timber that was designated in the contract agreement to be left standing on Compartment RXVI. As a result, the district's forester planned to charge Hankins Lumber Company approximately \$996 for the damaged trees in the selectively cut area.



## ***Pearl River Valley Water Supply District's Response to PEER's 1993 Recommendations***

The Pearl River Valley Water Supply District has implemented some of PEER's 1993 recommendations and ignored others. For example, PEER recommended that the district become self-reliant with respect to the management of its leased realty within two years. While the district has plans to become self-reliant with respect to day-to-day lease management, it still relies on consultants for technical real estate management services, such as the preparation of land development feasibility analyses.

With respect to contracting for real estate management services, the district has followed PEER's recommendation to pay consultants on the basis of actual services rendered rather than using retainer fees, as was the district's former practice. The district has also followed PEER's recommendation to modify its method of calculating sales commissions, based on a more accurate valuation of the lease. However, the district does not routinely perform needs assessments or competitively bid its contracts.

### **Summary of PEER's 1993 Recommendations**

On July 21, 1993, PEER issued a report entitled *A Review of the Pearl River Valley Water Supply District's Use of Real Estate Consultants*, which concluded that the district had paid excessive fees to and become overly dependent on consultants for the management of its residential and commercial leased realty. This section of PEER's review examines the district's response to PEER's 1993 report recommendations for the district to:

- become self-reliant within two years by computerizing its leased district realty records and by hiring sufficient staff to manage its leased realty in-house; and,
- until the district becomes self-reliant, utilize sound contracting practices such as conducting a needs assessment prior to making the decision to contract, clearly defining contractual obligations, using competitive bidding, and reasonably compensating real estate consultants based on actual services rendered and real estate agents based on accurate lease valuations.

### **Self-Reliance in Management of the District's Leased Realty**

#### ***Establishing Computerized Leased District Realty Records***

The district is reviewing a proposal for a new Geographic Information System to replace the current computerized leased property management system,

which was in place during PEER's 1993 review. The proposed system would combine an extensive computer data base with a high-quality computerized mapping system capable of providing detailed information on individual parcels-- e.g., zoning status, protective covenants, and location of utilities. The district's General Manager told PEER that if the district adopts the proposed system, his staff will operate it in-house, with system support from the vendor. The system would take three years to implement fully.

*Providing Full-Time Staff to Manage the District's  
Leased Real Property*

The district claims that it plans to reduce its dependency on contractors for lease management through the proposed computer system, by augmenting and realigning existing staff responsibilities, and by hiring a new clerk in FY 1996. However, the district continues to contract for real estate management services.

For example, the district's FY 1995 contract with Eastover Realty Corporation requires the corporation to:

- obtain and develop new information on all district properties available for lease or development and supervise the establishment and maintenance of the lease files;
- assist the district's board in developing policies and procedures for pricing, advertising, and leasing property; and,
- prepare feasibility analyses of district land development.

These are all real estate management activities which the district could hire staff to perform in-house.

The advantage to having permanent employees is that a full-time employee would be available to work additional time and perform additional services for the district at the same compensation provided to a part-time consultant. For instance, the district's contract with Eastover Realty Corporation allows the district to pay up to \$55,000 during FY 1995 for real estate management consulting services. Based on hourly Eastover Realty Corporation contract rates of \$50 to \$90, the district will have the use of the consultants for a minimum of 611 hours during the year (\$55,000/\$90 per hour) to a maximum of 1,100 hours (\$55,000/\$50 per hour). Instead of contracting for the services of part-time consultants, the district could have hired a full-time employee experienced in real estate to perform the same services at a salary of \$44,000 plus fringe benefits of approximately \$11,000.

## **Utilization of Sound Contracting Practices**

Despite PEER's 1993 report criticizing the district for failure to adhere to sound contracting practices, the district continues to avoid a formal competitive bidding process in awarding its contracts, as evidenced by the following examples:

- The district retained Eastover Realty Corporation as its sales, marketing, and real estate planning agent without documenting the need for a consultant to provide such services or taking competitive bids in awarding the renewal contract. The district decided to renew Eastover Realty Corporation's FY 1994 "interim contract" (which the district *had* competitively bid) for FY 1995 at a maximum contract value of \$130,000, which was double the \$72,000 value of the previous fiscal year. The district's General Manager told PEER that the district never considered a competitive bidding process for its FY 1995 real estate consultant contract because the board wanted to give Eastover Realty Corporation the opportunity to implement its recommendations for optimum use of the district's real estate properties.
- The district does not plan to competitively bid its computer system upgrade, claiming that there is only one company in the area capable of producing a computer system that can meet all of the district's needs.

## **Real Estate Consultant Compensation**

### *Elimination of Retainer Fees*

The district now pays its real estate consultants on the basis of actual services rendered, as recommended by PEER, rather than paying such consultants retainer fees, as had been the district's former practice. Specifically, the district's current marketing, sales, and consulting contract with Eastover Realty Corporation requires the corporation to bill the district monthly for actual services rendered, based on itemized statements. The contract limits Eastover Realty Corporation's total for hourly consultant fees to \$55,000 and for sales commissions to \$75,000. The contract prohibits Eastover Realty Corporation from submitting hourly consulting bills to the district for the marketing of specific properties, allowing only commissions for marketing services (as well as reimbursement for promotional campaigns, printing, advertising, mileage and other costs associated with marketing property). Furthermore, under the terms of the contract, Eastover Realty Corporation cannot submit bills for consultant services greater than \$2,000 per month without the General Manager's approval. The district's General Manager told PEER that no monthly consulting bill submitted so far had exceeded the \$2,000 limit.

### *Calculating Real Estate Consultants' Commissions*

In 1993 PEER recommended that the district revise its method of calculating real estate commissions on its lease sales. An examination of the district's files, conducted during the fieldwork for the 1993 review, revealed that the district based its commissions on an arbitrary estimate of the lease payments to be received over the term of the lease, which tended to inflate the total commissions paid. The district should have used the net present value of the actual lease payments as the basis for calculating commissions. The district's FY 1995 contract with Eastover Realty Corporation follows PEER's recommendation by requiring that lease-sale commissions be based on the present value of the annual rentals for the full term of the lease and the initial lump sum payment received by the district.

## *Recommendations*

1. In order to ensure that outdoor recreation interests are represented in the Pearl River Valley Water Supply District's decisionmaking process, the Legislature should consider reconstituting the district's board by replacing the five members directly appointed by the county boards of supervisors of Hinds, Madison, Rankin, Leake, and Scott counties with the following new members:
  - a homeowner and residential lessee of the district, residing in Rankin or Madison county, to be appointed by the Governor from lists of nominees submitted by the boards of supervisors of Rankin and Madison counties;
  - a representative of outdoor recreational users, appointed by the Lieutenant Governor from lists of nominees submitted by the boards of supervisors of each of the five counties noted above;
  - a wildlife biologist, appointed by the Governor, which the Governor shall select from a list of three nominees submitted by the Mississippi Wildlife Federation; and,
  - an employee of one of the state Institutions of Higher Learning appointed by the Board of Trustees of the Institutions of Higher Learning who has a terminal academic degree in an environmentally related science with five years of environmental research experience.

(Boards of supervisors of Hinds, Madison, Rankin, Leake, and Scott counties would still nominate the five appointees to the Pearl River Industrial Commission who serve on the board as ex officio members.)

See Appendix B, page 31, for proposed legislation concerning composition of the Pearl River Valley Water Supply District Board.

2. Given the recreational and scenic value of the reservoir, the board should reconsider clearcutting except in emergencies, such as those warranted by a pine beetle infestation. In the interim, given the controversial nature of clearcutting, the Pearl River Valley Water Supply District Board should adopt a policy that, ninety days prior to each planned clearcut, the district will issue a press release soliciting public input and announcing a public hearing to be held on the proposed cut.
3. The Pearl River Valley Water Supply District should ensure that it only uses timber revenue for recreational improvements, and not for any recurring district expenses, by segregating timber-related revenues and expenses into a separate fund.

4. The Pearl River Valley Water Supply District should consider incorporating principles of ecosystem management, as developed by the U.S. Forest Service, into its planning process. These principles include increased public participation, integration of resource management, sustainability of resource uses and values, and collaboration with researchers and scientists.

These principles, developed as a means of addressing multiple and sometimes conflicting demands on natural resources, could help the district determine how and whether clearcutting fits into the overall plan for the district as determined by district managers, the public, and multidisciplinary experts.

The district should also expand its current planning efforts to include ongoing assessment of the impact of timber cutting, home building, and other reservoir activities on erosion, sedimentation, and other environmental concerns.

5. The Pearl River Valley Water Supply District and the Mississippi Forestry Commission, which drafts the district's timber cutting contracts, should consider adding references to "Best Management Practices" in its contracts with timber cutters in order to reinforce its specific contract provisions requiring such practices. Adding this terminology to the contracts would educate and inform timber cutters as to the importance of the practices and would relate the practices to Section 404 of the Clean Water Act which require Best Management Practices.
6. The Mississippi Forestry Commission should enforce compliance with MISS. CODE ANN. Section 49-19-61 requiring the regeneration of predominantly hardwood forest land which has been cut by leaving seed trees. If the commission believes that the law is outdated, it should propose a bill addressing the law's problems for consideration by the Legislature.
7. The district should adhere to sound contracting practices, including conducting a formal needs assessment prior to each decision to contract and using competitive bidding as the mechanism for awarding contracts.

## Appendix A

### *Silviculture Guidelines from Pearl River Valley Water Supply District's Forest Management Plan*

**SILVICULTURE:** To accomplish the goals and objectives of multiple use as previously set forth, the following silviculture guidelines are established.

#### A. General:

1. Soil type and topography are the main determinants of species growth and development. Priority will be given to the development of mixed pine/hardwood stands and pure hardwood stands where soil type and topography dictate.
2. Compartments that are presently understocked and/or contain primarily overmature timber will be given priority in regeneration cutting.
3. Regeneration cuts, when made, will be conducted in a manner to create a diversity of age classes. Such cuts will also be irregular in shape. These factors will favor wildlife habitat enhancement and will be more aesthetically acceptable to the public. Also, for aesthetic purposes, suitable buffer strips will be established along public road rights-of-way.
4. For wildlife purposes, some mast and den trees will be maintained on clearcut areas in both pine and hardwood management areas (*NOTE: Pine trees are considered mast producing trees in hardwood management areas.*)
5. In keeping with the multiple use concept, areas near existing or proposed recreational facilities, such as campgrounds and picnic area for example, will be excluded from timber harvest or limited to well-supervised selective harvest.
6. Mississippi's Best Management Practices program (BMP) will be implemented in all timber management activities. Buffer strips at least 150 feet in width will be observed along the Pearl River. Along other waterways buffer strip widths will be observed according to the BMP Handbook criteria.
7. Endangered species. In the event that endangered or threatened species of plant or animal life are discovered on District forest lands, the areas of land or water involved will be set aside from normal forest management activities. The management of such areas will be designed to perpetuate the species.

The ringed sawback turtle (*Graptemys Oculifers*) is known to occur on District property generally between Ratliff Ferry and Low Head Dam on the Pearl River. A sanctuary for this species has been provided along the Pearl River in the affected area by the governing board of the District.

8. District property north of MS Hwy. 43 and west of Pearl River as far north as Ratliff Ferry is under a Wildlife Management agreement with the MS. Dept. of Wildlife, Fisheries and Parks. This agreement provides among other things that the district reserves the right to manage timber thereon. However, timber sales in this area will be coordinated with the Dept. of Wildlife, Fisheries and Parks.



**Appendix B**

**Proposed Legislation to Modify the Membership of the  
Pearl River Valley Water Supply District's Board**

Mississippi Legislature

Regular Session, 1995

BY:

BILL

AN ACT TO AMEND SECTION 51-9-107, MISSISSIPPI CODE OF 1972, TO MODIFY THE MEMBERSHIP OF THE PEARL RIVER VALLEY WATER SUPPLY DISTRICT BY PROVIDING FOR CERTAIN APPOINTMENTS BY THE GOVERNOR, THE LIEUTENANT GOVERNOR, AND THE BOARD OF TRUSTEES, INSTITUTIONS OF HIGHER LEARNING, AND BY DELETING APPOINTMENTS MADE BY THE BOARDS OF SUPERVISORS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

Section 1. Section 51-9-107, Mississippi Code of 1972, is amended as follows:

All powers of the district shall be exercised by a board of directors, to be composed of the following:

- (a) Each member of the Pearl River Industrial Commission whose county becomes a part of the Pearl River Valley Water Supply District shall be a member of the board of directors of the Pearl River Valley Water Supply District. Such directors shall serve on this board during their term of office on the Pearl River Industrial Commission.
- (b) The Mississippi Commission on Natural Resources, the Mississippi Commission on Wildlife Conservation, forestry commission and the state board of health of the state of Mississippi shall each appoint one (1) director from that department to serve on the board of directors of the Pearl River Valley Water Supply District to serve at the pleasure of the respective board appointing him.

(c) In addition to the directors provided for in paragraphs (a) and (b) above, the following shall be directors of the Pearl River Valley Water Supply District:

(i) One homeowner and residential lessee of the district residing in Rankin or Madison county to be appointed by the Governor. The Governor shall make his appointment from a list consisting of two (2) nominees made by the Rankin county board of supervisors, and two (2) nominees made by the Madison county board of supervisors.

(ii) One outdoor recreational user to be appointed by the Lieutenant Governor. The Lieutenant Governor shall make his appointment from a list of ten (10) nominees submitted to him by the county board of supervisors of the counties which became a part of the district. Each county board of supervisors shall nominate two (2) persons.

(iii) A Wildlife Biologist appointed by the Governor. The Governor shall select such Wildlife Biologist from a list of three (3) nominees submitted by the Mississippi Wildlife Federation.

(iv) One employee of one of the Institutions of Higher Learning, to be appointed by the Board of Trustees of the Institutions of Higher Learning. This appointee shall have a terminal academic degree in an environmentally related science with five (5) years of research experience.

All appointees provided for in this paragraph shall have terms of four (4) years commencing on July 1 and ending on June 30 four years thereafter. All appointments provided for in this paragraph, and in paragraph (b), shall be subject to the advice and consent of the Senate.

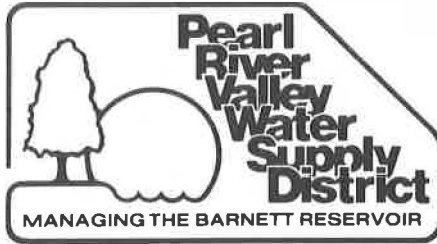
(d) Each director shall take and subscribe to the oath of office required by section 268 of the constitution of the state of Mississippi before a chancery clerk, that he will faithfully discharge the duties of the office, which oath shall be filed with the said clerk and by him preserved.

~~FL~~Each director shall receive per diem compensation in the amount as provided in section 25-3-69 for attending each meeting of the board and for each day spent in attending to the necessary business of the district and shall be reimbursed for actual expenses thus incurred upon express authorization of the board, including travel expenses, as provided in section 25-3-41.

(f) The board of directors shall annually elect from its number a president and a vice president of the district, and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the district and the presiding officer of the board, and shall have the same right to vote as any other director. The vice president shall perform all duties and exercise all powers conferred by this article upon the president when the president is absent or fails or declines to act, except the president's right to vote. The board shall also appoint a secretary and a treasurer who may or may not be members of the board, and it may combine those offices. The treasurer shall give bond in the sum of not less than fifty thousand dollars (\$50,000.00) as set by the board of directors and each director shall give bond in the sum of not less than ten thousand dollars (\$10,000.00), and the premiums on said bonds shall be an expense of the district. The condition of each such bond shall be that the treasurer or director will faithfully perform all duties of office and account for all money which shall come into his custody as treasurer or director of the district.

Section 2. This act shall take effect and be in force from and after July 1, 1996.

**Agency Response**



AN AGENCY OF THE STATE OF MISSISSIPPI  
P. O. Box 12750 Jackson, Mississippi 39236  
Phone: 856-6574 Fax: 856-6639  
354-3448

Kenneth C. Griffin, General Manager

March 14, 1995



Mr. James A. Barber, Chief Analyst  
Joint Legislative Committee on Performance  
Evaluation and Expenditure Review  
P.O. 1204  
Jackson, MS 39215-1204

Dear Mr. Barber:

Subject: Review of Recent Timber Sale in Rankin County and Follow-Up  
Review of Use of Real Estate Consultants

We appreciate your review of our actions and your recommendations regarding this timber sale and our response to your previous recommendations on use of a real estate consultant.

We have implemented each of your 1993 recommendations, regarding use of real estate consultants, except your recommendation to add staff to carry out real estate activities. The District Board gave this careful consideration before determining that it was more effective to use outside real estate professionals for marketing, sales, and related real estate activities on an as needed basis. We believe this is in keeping with the Legislature's directive not to increase staff and the Governor's recommendation to use private contractors where appropriate.

The Board conducted an extensive advertisement and interview process before deciding on Eastover Realty Corp. Before proceeding we explained to the State Personnel Board's Executive Director your recommendation regarding hiring additional staff to handle these activities and our rationale for using a real estate consultant on an as needed basis. He concurred with our rationale, as did the full State Personnel Board. After receiving this written approval, the District signed a contract with Eastover Realty Corp. for FY 1995.

Regarding the 1994 timber sale, you mention that we have not complied with section 49-19-61. Section 49-19-57 states that the "operator may submit to the enforcing agency an applicable plan of management which will assure continued productivity of the area to be harvested, in lieu of the above provisions." The District (operator) submitted its 1991 Forest Resources Management Plan to the Mississippi Forestry Commission (MFC) (enforcing agency) which accepted the plan in writing. We believe that we are in compliance with the law and that the MFC is enforcing its provisions upon the District.

The District commits to give careful consideration to modifying future timber harvest plans to specify that additional seed and den

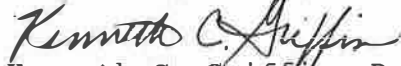
trees be left unharvested. The District will continue its practice of noticing and holding a public meeting of its Forestry Committee and its full Board prior to advertising any timber sale for bid. The District will also continue to require specific Best Management Practices (BMPs) in each timber harvest contract. Since these are specific to the particular harvest and site, they are included in the contract that the successful bidder signs to provide better environmental protection than a reference to a generic list of BMPs.

The constitution of the Board of Directors is a policy question for the Legislature. The following facts are relevant:

- Regarding leaseholder representation, section 51-9-1, Mississippi Code of 1972 already requires that one of the Board Members from Rankin County be a resident and a District leaseholder.
- Regarding public recreation representation, the District Board's legislation requires that the Mississippi Department of Wildlife, Fisheries, and Parks have a representative on the Board. The Department's current representative is the Director of the Bureau of Parks and Recreation.
- Regarding environmental representation, the District legislation presently requires that the Mississippi Department of Environmental Quality (DEQ) have a representative on the Board. DEQ's current representative is the Director of the Office of Land and Water Resources.
- Regarding forestry representation, the District legislation presently requires that the Mississippi Forestry Commission (MFC) have a representative on the Board. MFC's current representative is the State Forester.
- Regarding water quality and public supply representation, the District legislation presently requires that the Mississippi Department of Health (DOH) has a representative on the Board.

Thank you for your review and the exit meeting of March 7, 1995. We always appreciate constructive suggestions how we can better serve the citizens of Mississippi and we always give careful consideration to your recommendations.

Very truly yours,



Kenneth C. Griffin, P.E.  
General Manager

cc: District Board Members

## **PEER's Response to District's Response**

In its July 21, 1993, report entitled **A Review of the Pearl River Valley Water Supply District's Use of Real Estate Consultants**, the PEER Committee recommended that the district request additional staffing to manage and maintain the district's leased real property. In response to the Committee's 1995 follow-up report, PRVWSD's executive director explained that the district did not implement the Committee's recommendation because the district's board considers it to be more effective to use outside real estate professionals for marketing, sales, and related real estate activities on an as-needed basis. The director also noted that the board's decision not to request additional staffing is "in keeping with. . . the Governor's recommendation to use private contractors where appropriate."

Implementation of the Committee's recommendation relative to additional staffing could result in a savings to the district. As PEER noted in its 1993 report, the district's decrease in dependence on real estate contractors and elimination of related contractual services expenditures would allow the expenditure of those funds on employees' salaries and fringe benefits. The annual compensation of such employees should cost less than the district's \$163,999 average annual expenditure for consultants for FY 1985 through FY 1992.

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## PEER Staff

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### Director

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### Administrative Division

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Counsel and Controller

Ann Hutcherson  
Deborah McMinn  
Mary McNeill

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Kevin Humphreys  
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Clarence Jones  
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Joyce McCants  
David Pray  
Katherine Stark  
Pam Sutton  
Linda Triplett  
Larry Whiting

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