

Report To

The Mississippi Legislature



A Performance Audit of the Establishment of the Mississippi Department of Marine Resources

January 9, 1995

Senate Bill 3079 (1994 Session) created the new Department of Marine Resources and abolished the Bureau of Marine Resources, formerly a division of the Department of Wildlife, Fisheries, and Parks (DWFP). The legislation retained marine law enforcement with DWFP.

The two departments did not carry out the transition planning process from bureau to new department in full compliance with MISS. CODE ANN. Sections 5-11-1, et. seq. (1972). However, the Department of Marine Resources organized and obtained enough staff to accomplish the provisions of SB 3079. Because the department has been in existence for only six months, DWFP and the Department of Marine Resources have not compiled sufficient data with which to determine the impact of DWFP's implementation of the marine law enforcement function.

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.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public 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.

PEER provides a variety of services to the Legislature, 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 the 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 Performance Audit of the Establishment of the
Mississippi Department of Marine Resources**

January 9, 1995

**The PEER Committee
Mississippi Legislature**

The Mississippi Legislature

Joint Committee on Performance Evaluation and Expenditure Review

PEER Committee

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January 9, 1995

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At its meeting of January 9, 1995, the PEER Committee authorized release of the report entitled **A Performance Audit of the Establishment of the Mississippi Department of Marine Resources.**

A handwritten signature in cursive script that reads "Alyce Clarke".

Representative Alyce Clarke, Chairman

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

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A Performance Audit of the Establishment of the Mississippi Department of Marine Resources

Executive Summary

January 9, 1995

Introduction

During its 1994 Regular Session, the Legislature enacted Senate Bill 3079, which abolished the Department of Wildlife, Fisheries, and Parks' Bureau of Marine Resources. This legislation amended MISS. CODE ANN. Section 49-15-11 (1972) to vest the bureau's powers to manage, control, supervise, and direct any matters pertaining to salt-water aquatic life and marine resources under the jurisdiction of a new Mississippi Department of Marine Resources, effective July 1, 1994. One provision of the legislation specifically retained the powers, duties, employees, equipment, and resources for the marine law enforcement program in the Department of Wildlife, Fisheries, and Parks (DWFP).

The PEER Committee conducted a performance audit of the establishment of the new Mississippi Department of Marine Resources (MDMR) and its governing commission in response to legislative concerns over whether *"the new department had been established in the most efficient and effective manner."*

Implementation of Senate Bill 3079

To achieve the legislative objective for the review, the Committee specifically evaluated:

- the management actions of DWFP and MDMR personnel to separate functions formerly performed by DWFP employees;
- the MDMR staffing decisions to ensure that qualified individuals are assigned to or employed by MDMR, given the department's one-year exemption from State Personnel Board regulations; and,
- the impact of law enforcement being assigned to DWFP rather than MDMR.

Planning Process (page 8)

The former Director of the Bureau of Marine Resources, in concert with other DWFP executive staff members, did not implement the mandatory planning and reporting processes of MISS. CODE ANN. Section 5-11-3 (1972) in transferring the authority, responsibilities, and duties for marine resources from DWFP to MDMR.

MISS. CODE ANN. Sections 5-11-1 and 5-11-3 address the dissolution of a state agency/entity and the transfer of duties and property to another organization. Since Senate Bill 3079 abolished the Bureau of Marine Resources function in DWFP and replaced it with the new marine resources department, former Bureau of Marine Resources personnel should have complied with these sections by:

- developing task-based plans for the transfer which included a statement of management responsibilities;
- compiling an inventory of real or personal property through the Office of State Auditor;
- developing procedures and criteria governing the acquisition or disposition of any real or personal property under the control of, or titled to, the agency or agency facility abolished;
- devising security plans and policies, with written security procedures, governing access to any agency facility being abolished; and,
- preparing a written report to the Legislature and Governor within ninety days of the effective date of the act transferring the duties and property from one agency to another.

However, the DWFP Executive Director established and used an informal planning group to accomplish the transfer from the Bureau of Marine Resources to the new MDMR. This group discussed and made its planning decisions in individual, group, or agency staff meetings, but did not document the decisionmaking process.

The only requirement of Section 5-11-3 that was fulfilled during the transfer was the completed inventory of property, and that was accomplished primarily because of the scheduling of the State Auditor's regular inventory to coincide with the separation of the Bureau of Marine Resources from DWFP.

Thus the planning process produced a new state department which could not completely function as an effective independent state agency on its activation date of July 1, 1994. DWFP had to continue to provide technical support in the areas of data processing, financial management, and personnel management.

Staffing of the Department of Marine Resources (page 11)

The DWFP planning group properly organized and staffed MDMR with the personnel positions and skill levels in the necessary or organizational divisions to accomplish the statutory provisions of Senate Bill 3079.

Senate Bill 3079 gave the MDMR Executive Director the authority to reorganize the department internally, and in order to provide the flexibility for reorganization, Senate Bill 3079 exempted MDMR from State Personnel Board control from July 1, 1994, through June 30, 1995.

MDMR began operations on July 1, 1994, with thirty-six authorized and funded positions in three divisions under the Commission on Marine Resources, the MDMR Executive Director, and his executive support staff. As of November 1, 1994, eighteen of these positions were vacant and eighteen were filled with individuals the State Personnel Board had certified as meeting the minimum qualifications for their positions.

MDMR's operational efficiency could be hindered if authorized personnel positions remain vacant for a significant length of time. The department's voluntary compliance with the State Personnel Board's policies and procedures during

the one-year exemption should help to ensure the employment of qualified individuals.

DWFP retained the twenty-eight Bureau of Marine Resources law enforcement positions, since its Office of Law Enforcement retained the authority and responsibility for marine law enforcement.

Marine Law Enforcement (page 12)

As noted earlier in this report, MISS. CODE ANN. Section 49-15-21 (1972) specifically retained the powers, duties, employees, equipment, and resources for the marine law enforcement program in the Department of Wildlife, Fisheries, and Parks. DWFP presently has thirty sworn officers and two administrative personnel to enforce marine laws in the three Gulf Coast counties.

Although authority to enforce marine laws and regulations resides in a separate department from MDMR, the Legislature created formal communication and coordination points between DWFP, MDMR, and the Gulf Coast Research Laboratory. Theoretically, this arrangement should be able to provide the communication and coordination necessary to implement the living natural resource programs of the Gulf Coast area.

Because the department has been in existence for only six months, DWFP and MDMR could not provide sufficient data with which to determine the impact of the Department of Wildlife, Fisheries, and Parks' implementation of the marine law enforcement function. No established standards exist with which to measure the impact of DWFP's enforcement of marine resources laws and regulations. However, it is imperative that the Commission/Department of Wildlife, Fisheries, and Parks and the Commission/Department of Marine Resources work together, yet within their given areas of jurisdiction, because of their common interest in natural resource programs of the Gulf Coast area.

Recommendations (page 15)

1. In future legislation which either repeals or amends an agency's enabling legislation, the Legislature should include a provision which specifically requires agencies to comply with the transition planning and reporting processes in MISS. CODE ANN. Sections 5-11-1, -3, and -5 (1972), when applicable.

2. Beginning April 1, 1995, the Commission on Marine Resources; the Commission on Wildlife, Fisheries, and Parks; their executive directors; and the Technical Advisory Committee should hold a joint meeting at least twice a year to discuss the entities' relationships and responsibilities for marine resources program management and enforcement.
3. The MDMR Executive Director should request the State Department of Audit to conduct a complete financial audit of the abolished Bureau of Marine Resources and the newly created MDMR no later than June 30, 1995.
4. The Commission on Marine Resources and the Technical Advisory Committee should jointly establish specific roles for the committee which will make it an effective resource for achieving the necessary interagency communication and coordination.
5. By December 31, 1996, PEER could conduct a performance audit of DWFP and MDMR to assess their effectiveness and efficiency in accomplishing their statutory missions for state marine resources.

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A Performance Audit of the Establishment of the Mississippi Department of Marine Resources

Introduction

During its 1994 Regular Session, the Legislature enacted Senate Bill 3079, which abolished the Department of Wildlife, Fisheries, and Parks' Bureau of Marine Resources. This legislation amended MISS. CODE ANN. Section 49-15-11 (1972) to vest the bureau's powers to manage, control, supervise, and direct any matters pertaining to saltwater aquatic life and marine resources under the jurisdiction of a new Mississippi Department of Marine Resources, effective July 1, 1994. One provision of the legislation specifically retained the powers, duties, employees, equipment, and resources for the marine law enforcement program in the Department of Wildlife, Fisheries, and Parks (DWFP).

Authority

The PEER Committee conducted a performance audit of the establishment of the new Mississippi Department of Marine Resources (MDMR) and its governing commission in response to legislative concerns over whether "*the new department had been established in the most efficient and effective manner.*" MISS. CODE ANN. Section 5-3-57 (1972) authorizes the PEER Committee to conduct such performance audits.

Scope

To achieve the legislative objective for this performance audit, PEER evaluated:

- the management actions of DWFP and MDMR personnel to separate functions formerly performed by DWFP employees;
- the MDMR staffing decisions to ensure that qualified individuals are assigned to or employed by MDMR, given the department's one-year exemption from State Personnel Board regulations; and,
- the impact of law enforcement being assigned to DWFP rather than MDMR.

Method

During this review, PEER:

- researched the statutory and operational history of the state's program management for marine resources;
- interviewed the Chairman of the MDMR Commission; the Fifth District representative on the Commission on Wildlife, Fisheries, and Parks; personnel of DWFP, MDMR, and the Office of the State Auditor; and some concerned citizens;
- compared the DWFP transition planning process to the statutory process for transfer of duties and property between agencies (MISS. CODE ANN. Sections 5-11-1 and 5-11-3 [1972]);
- compared the authority, funding, intent, programs, personnel staffing, and personnel skill levels for MDMR to the abolished Bureau of Marine Resources.

Overview

During the 1994 session, the Legislature created the Department of Marine Resources and authorized it to manage matters pertaining to saltwater aquatic life and marine resources, effective July 1, 1994. One provision of the law specifically retained the powers and duties for marine law enforcement in the Department of Wildlife, Fisheries, and Parks (DWFP).

In implementing the provisions of Senate Bill 3079, DWFP managers did not complete all of the planning and reporting processes required by MISS. CODE ANN. Section 5-11-3 (1972) in transferring the authority, responsibilities, and duties from one agency to another. Thus the planning process produced a new state department which could not completely function as an effective independent state agency on its activation date of July 1, 1994. DWFP had to continue to provide technical support in the areas of data processing, financial management, and personnel management.

MDMR has been properly organized and staffed to implement the provisions of Senate Bill 3079 because the DWFP planning group transferred the program functions and assigned personnel positions from the abolished Bureau of Marine Resources operation to MDMR. MDMR has also voluntarily complied with State Personnel Board policies and procedures for staff selection, although it has a statutory exemption in FY 1995.

Because MDMR has been in existence for only six months, the Department of Wildlife, Fisheries, and Parks and the Department of

Marine Resources could not provide sufficient data with which to determine the impact of the Department of Wildlife, Fisheries, and Parks' implementation of the marine law enforcement function. However, it is imperative that the Commission/Department of Wildlife, Fisheries, and Parks and the Commission/Department of Marine Resources work together, yet within their given areas of jurisdiction, because of their common interest in natural resource programs of the Gulf Coast area.

Background

History of State Marine Resources Management

The Mississippi Legislature has enacted legislation governing the organizational management of the state's marine resources bordering its Gulf Coast counties of Harrison, Hancock, and Jackson for approximately 150 years. From 1856 until 1994, the state's management concept evolved from a decentralized concept utilizing the individual boards of supervisors of the Gulf Coast counties to various Gulf Coast regional commissions and councils to a centralized state department management concept. Exhibit 1, page 5, provides a historical picture of the various management organizations which the state has used to manage its marine resources.

In 1979, the state implemented a single-agency management concept for its wildlife, fisheries, and marine resources which applied to all management, operational, and enforcement functions. The consolidated State Department of Wildlife Conservation included a new Bureau of Marine Resources to oversee the state's marine resource and law enforcement programs for coastal wetlands, saltwater fisheries, and to provide technical assistance to the marine industry and coastal residents. In 1993, the DWFP Executive Director combined the law enforcement functions for wildlife, fisheries, and marine resources into the DWFP Office of Law Enforcement.

During its 1994 Regular Session, the Legislature enacted Senate Bill 3079, which abolished the Department of Wildlife, Fisheries, and Parks' Bureau of Marine Resources. This legislation amended MISS. CODE ANN. Section 49-15-11 (1972) to vest the bureau's powers to manage, control, supervise, and direct any matters pertaining to saltwater aquatic life and marine resources under the jurisdiction of a new Mississippi Department of Marine Resources, effective July 1, 1994. However, the law specifically designated that the powers, duties, employees, equipment, and resources for law enforcement be assigned to DWFP. The MDMR organizational management structure is depicted in Exhibit 2, page 6.

Reasons for Creation of the New Department

Prior to the 1994 legislative session, the DWFP Executive Director assigned the DWFP Director of Bureau of Marine Resources and the DWFP Executive Assistant/Programs Coordinator to develop a concept for creating a separate marine resources department. These individuals recommended to the DWFP Executive Director that the marine law enforcement function and resources be transferred to MDMR. However, after discussing this issue with him, they supported his decision to recommend the retention of this function and its resources in DWFP. The basis for this recommendation was:

Exhibit 1

Organizational Management History of Mississippi's Marine Resources

County Management Concept

1856-1901 the **individual boards of supervisors** for the three Gulf Coast counties

Gulf Coast Regional/County Management Concept

1902-1930 a **Board of Oyster Commissioners** and the individual boards of supervisors for the Gulf Coast counties

Gulf Coast Regional Management Concept

1930-1949 the **Seafood Commission**

State/Gulf Coast Regional Management Concept

1950-1959 the **Gulf Coast Research Laboratory** and the Seafood Commission

1960-1969 the **Mississippi Marine Conservation Commission** and the Gulf Coast Research Laboratory

1970-1978 the **Mississippi Marine Resources Council**, the Mississippi Marine Conservation Commission, and the Gulf Coast Research Laboratory

State Management Concept

1979-1988 the **State Department of Wildlife Conservation** and the Gulf Coast Research Laboratory

1989-1993 the **State Department of Wildlife, Fisheries, and Parks** and the Gulf Coast Research Laboratory

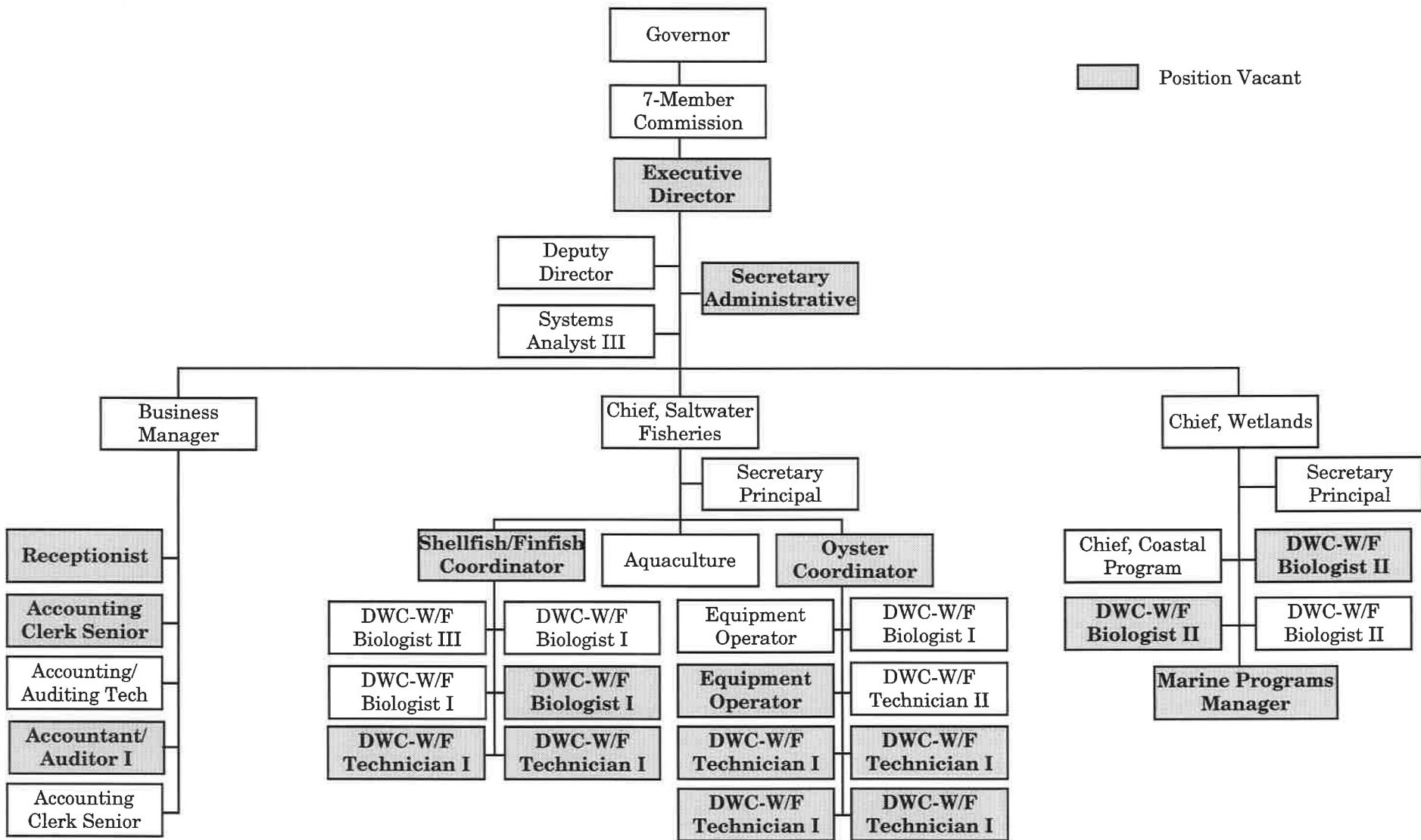
State/Gulf Coast Regional Management Concept

1994-present the **Mississippi Department of Marine Resources**, the State Department of Wildlife, Fisheries, and Parks, and the Gulf Coast Research Laboratory

NOTE: ***Bold Organizations*** are new state management organizations for marine resources.

SOURCE: *Legislative Overview: Management of Marine Resources* (Undated and Unpublished) by Mr. Bill Quisenberry, DWFP Executive Assistant/Programs Coordinator

Exhibit 2
Organizational Chart with Personnel Vacancies in the Mississippi
Department of Marine Resources (as of November 1, 1994)



SOURCE: Mississippi Department of Marine Resources.

- DWFP Bureau of Marine Resources had very little contact with the separate DWFP law enforcement bureau under the single-agency concept, and this structure did not prevent the law enforcement function from providing the necessary support of the marine resource program's regulations and laws (even ones which were difficult to enforce, such as the mullet law passed in the 1994 Extraordinary Legislative Session);
- the DWFP Executive Director wanted to test the ability of a separate DWFP law enforcement function to support both agencies; and,
- a consolidated law enforcement function was the best way to provide a professional career ladder for the wildlife and marine law enforcement officers.

After completion of this intraagency decisionmaking process, legislative staff, with DWFP's input, drafted Senate Bill 3079 in order to:

- provide better leadership in state marine resource management which would solve long-standing "internal dynamic" problems of personality conflicts, communication, cooperation, and coordination problems between the law enforcement, research, and technical staffs in the Bureau of Marine Resources;
- improve communication between state government and the marine resource industry of the Gulf Coast area of Mississippi through the governing MDMR Commission;
- resolve the disproportionate amount of commission meeting time spent on the siting of casinos to the detriment of wildlife, fisheries, and park issues; and,
- maintain one professional career ladder for marine resource and other DWFP law enforcement officers.

Implementation of Senate Bill 3079

As noted on page 1, Senate Bill 3079 transferred to MDMR the management and operations of the state's marine resource programs except the law enforcement program, which DWFP retained in its Office of Law Enforcement.

PEER reviewed the manner in which Senate Bill 3079 was implemented, focusing on management actions of DWFP and MDMR during the transition, staffing, and separation of the law enforcement function into another department.

Planning Process

The former Director of the Bureau of Marine Resources, in concert with other DWFP executive staff members, did not implement the mandatory planning and reporting processes of MISS. CODE ANN. Section 5-11-3 (1972) in transferring the authority, responsibilities, and duties for marine resources from DWFP to MDMR.

State law addresses the dissolution of a state agency/entity and the transfer of duties and property to another organization. Due to the management problems associated with the state's closure of its three charity hospitals in 1989, the Legislature passed MISS. CODE ANN. Sections 5-11-1 and 5-11-3 (1972), which defined and established state policy and procedures for abolishing an agency or transferring the authority, responsibilities, and duties, in whole or in part, from one state agency to another agency. The legislative intent was to establish mandatory planning and reporting processes to ensure an effective and efficient transfer of duties and property between the agencies. Its effective date was July 1, 1991.

Since Senate Bill 3079 abolished the Bureau of Marine Resources function in DWFP and replaced it with the new marine resources department, former Bureau of Marine Resources personnel should have complied with the provisions of MISS. CODE ANN. Section 5-11-3 (1972). It mandates that the agency receiving the authority and property must:

- develop task-based plans which include a statement of management responsibilities that clearly defines:
 - the sequential tasks for accomplishing the actions;
 - the responsible person; and,
 - time projections for task completion;

- compile a complete and correct inventory of real or personal property through the Office of State Auditor;
- write procedures and criteria governing the acquisition or disposition of any real or personal property under the control of, or titled to, the agency or agency facility abolished;
- devise security plans and policies, with written security procedures, governing access to any agency facility being abolished; and,
- prepare a written report to the Legislature and Governor within ninety days of the effective date of the act transferring the duties and property from one agency to another. This report should include copies of all required plans and procedures, plus a detailed account of the agency's actual accomplishments.

The State Department of Audit must also complete a financial audit not less than ninety days after the effective date of the act requiring the transfer of duties and property from one agency to another.

The DWFP Executive Director controlled the transition planning process, instead of the DWFP Bureau of Marine Resources Director (who would become the MDMR Interim Executive Director). MISS. CODE ANN. Section 5-11-3 (1972) requires the new agency, MDMR in this case, to accomplish the various tasks in this planning process.

The DWFP Executive Director established and used an informal planning group of the DWFP Executive Assistant/Programs Coordinator, the Bureau of Marine Resources Director, the DWFP Director of the Office of Support Services, and himself to accomplish the transfer of the authority, responsibilities, duties, and property from the Bureau of Marine Resources to the new MDMR. This group discussed and made its planning decisions in individual, group, or agency staff meetings, but did not document the decisionmaking process. The DWFP planning group did not accomplish the following statutory planning requirements:

- develop any prioritized task-based plan with a clear statement of management responsibilities that clearly defined the specific sequential tasks, the responsible individual(s), and the estimated completion date for each task;
- prepare the necessary procedures to govern the acquisition or disposition of any real or personal property under the control of, or titled to, the Bureau of Marine Resources;
- provide the required reports to the Legislature and Governor by September 1, 1994. This report was to include copies of all required plans and procedures plus a detailed account of the agency's actual accomplishments; and,

- attempt to schedule through the State Department of Audit the financial audit which the statute requires to be completed not less than ninety days after the effective date for Senate Bill 3079.

The only accomplished statutory requirement was a completed inventory of the real and personal property of Bureau of Marine Resources. The primary reason for this accomplishment was the scheduling of the State Auditor's regular inventory of DWFP real and personal property to coincide with the separation of the Bureau of Marine Resources from DWFP.

The DWFP planning process did not comply with MISS. CODE ANN. Section 5-11-3 (1972) because the department's informal planning group had no knowledge of the statutory planning policy and tasks. Since the Bureau of Marine Resources Director and the DWFP Executive Director did not know about this law, they established their process without reviewing the state planning and reporting policies. Further, the former Bureau of Marine Resources Director and DWFP Executive Director did not handle the transition planning and implementation process from the statewide perspective of an abolished state agency to a new state department. Rather, they approached it as an internal departmental matter. Finally, Senate Bill 3079 did not refer to the state planning and reporting statute, thus compounding the transition team's lack of individual knowledge.

The DWFP planning process produced a new state department which could not completely function as an effective independent state agency on its activation date of July 1, 1994. As a result, DWFP had to continue to provide technical support in the areas of data processing, financial management, and personnel management to help the MDMR staff:

- obtain the level of technical support to function independently;
- develop and obtain necessary data processing system capability;
- develop the FY 1996 budget; and
- recruit personnel for vacant positions.

Further, DWFP did not transfer \$1,093,684 of the former Bureau of Marine Resources' remaining FY 94 federal grant and tidelands funds to MDMR effective July 1, 1994. MDMR's Business Director transferred these funds on September 14, 1994, approximately 100 days after the implementation date of the new department. As a result, MDMR utilized FY 95 general operation funds to pay FY 94 expenses which normally would have been paid out of these special funds, an action which could have violated constitutional provisions against deficit spending.

Staffing of the Department of Marine Resources

The DWFP planning group properly organized and staffed MDMR with the personnel positions and skill levels in the necessary organizational divisions to accomplish the statutory provisions of Senate Bill 3079.

Senate Bill 3079 transferred management and operations of the state's marine resource programs, except law enforcement, from the former Bureau of Marine Resources within DWFP to the new MDMR. These transferred programs covered the coastal wetlands, saltwater fisheries, and technical assistance to the marine industry and coastal residents with some changes in the shellfish program. The statute gave the MDMR Executive Director:

authority to internally reorganize the Department of Marine Resources with persons meeting established qualifications for comparable positions of duty and responsibility including, but not limited to, the deputy director, division chiefs, and other personnel.

In order to provide the flexibility for reorganization, the statute also exempted MDMR from State Personnel Board control from July 1, 1994, through June 30, 1995.

MDMR began operations on July 1, 1994, with thirty-six authorized and funded positions in three divisions under the Commission on Marine Resources, the MDMR Executive Director, and his executive support staff. (See Exhibit 2, page 6.) As of November 1, 1994, the status of these positions was:

- eighteen vacant positions, five of which were newly appropriated positions (three of these vacancies have occurred due to medical retirement, internal promotion, and employee resignation actions since July 1, 1994); and
- eighteen employees the State Personnel Board had certified as meeting the minimum qualifications for their positions prior to July 1, 1994.

DWFP retained the twenty-eight Bureau of Marine Resources law enforcement positions, since its Office of Law Enforcement retained the authority and responsibility for marine law enforcement. (The minimum qualifications for each MDMR position are contained in Appendix A, page 17.)

MDMR has been properly organized and staffed to implement the provisions of Senate Bill 3079 because the DWFP planning group transferred the program functions and assigned personnel positions from the abolished Bureau of Marine Resources operation to MDMR. MDMR has also adhered to State Personnel Board policies and procedures for staff selection, although it has a statutory exemption in FY 1995. Therefore, the

department voluntarily complied with the personnel management practices which the state has deemed critical to a satisfactory personnel management system that employs qualified individuals with the appropriate skills. (MDMR has obtained a State Personnel Board "certificate of eligibles" for twelve of its eighteen vacancies and plans to obtain one for the other six vacancies. A "certificate of eligibles" is the State Personnel Board's list of the top ranked eligible persons who meet the minimum qualifications for a position, based on their job application information.)

MDMR's operational efficiency could be hindered if authorized personnel positions remain vacant for a significant length of time. For example, the Coastal Wetlands Division, which has approximately a 43% personnel vacancy rate (three of seven positions vacant), has a backlog of wetland permit applications awaiting issuance actions. Prior to the establishment of the casino industry in the state, MDMR reportedly averaged approximately one to two workdays to issue a requested permit, while now it takes approximately fifteen to twenty workdays. The timely filling of personnel positions would enable the department to perform its statutory duties in an efficient manner. MDMR's voluntary compliance with the State Personnel Board's policies and procedures during the one-year exemption should help to ensure the employment of qualified individuals for department positions.

Marine Law Enforcement

As noted earlier in this report, MISS. CODE ANN. Section 49-15-21 (1972) specifically retained the powers, duties, employees, equipment, and resources for the marine law enforcement program in the Department of Wildlife, Fisheries, and Parks (DWFP):

The enforcement officers shall diligently enforce all laws and regulations herein provided for or which may hereafter be enacted or adopted and promulgated for the protection, propagation, preservation or conservation of all saltwater aquatic life of the State of Mississippi, and they are hereby constituted peace officers of the State of Mississippi, with full police power and jurisdiction to enforce all laws of the State of Mississippi and all regulations adopted and promulgated by the commission [by statutory definition: Commission on Mississippi Marine Resources]

DWFP presently has thirty sworn officers and two administrative personnel to enforce marine laws in the three Gulf Coast counties.

Although authority to enforce marine laws and regulations resides in a separate department from MDMR, the Legislature created two formal communication and coordination points between DWFP, MDMR, and the Gulf Coast Research Laboratory. The Commission on Marine Resources has two members from each Gulf Coast county and one member who also serves on the Commission on the Wildlife, Fisheries, and Parks. The law

also established a three-member advisory committee to the Commission on Marine Resources consisting of the Executive Directors of the Department of Environmental Quality, the Gulf Coast Research Laboratory, and DWFP. (See Exhibit 3, page 14.) Theoretically, this arrangement should be able to provide the communication and coordination necessary to implement the living natural resource programs of the Gulf Coast area.

Because the department has been in existence for only six months, the Department of Wildlife, Fisheries, and Parks and the Department of Marine Resources could not provide sufficient data with which to determine the impact of the Department of Wildlife, Fisheries, and Parks' implementation of the marine law enforcement function. No established standards exist with which to measure the impact of DWFP's enforcement of marine resources laws and regulations. However, it is imperative that the Commission/Department of Wildlife, Fisheries, and Parks and the Commission/Department of Marine Resources work together, yet within their given areas of jurisdiction, in order to avoid incidents such as the one which recently took place concerning a proposed ban on gill nets (see sidebar).

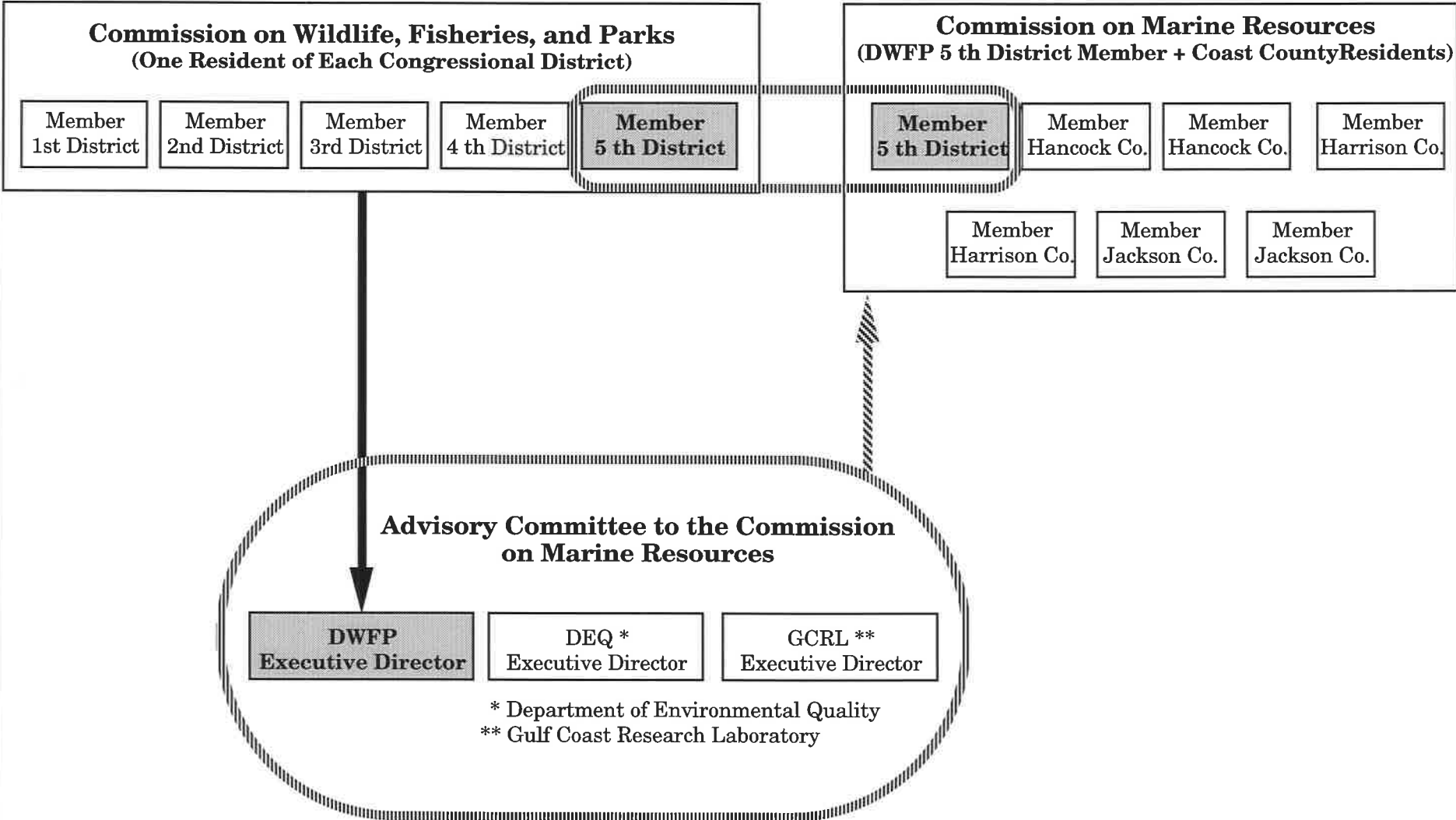
***DWFP's Recent Actions Regarding
Gill Nets***

The Department of Wildlife, Fisheries, and Parks adopted a formal position on November 30, 1994, to support any efforts the Department of Marine Resources might take to ban the use of gill nets, trammel nets, or any kind of entanglement devices within saltwater. The Department of Wildlife, Fisheries, and Parks took this action and publicized its decision through a statewide news release on December 2, 1994, without prior consultation and coordination with the Department of Marine Resources.

The Department of Marine Resources did not hold a public hearing on this matter until December 7, 1994. The Commission on Marine Resources, which has the statutory responsibility for making this decision, did not consider the matter for adoption until its regular meeting on December 19, 1994. Thus the Department of Wildlife, Fisheries, and Parks acted in a manner which could be perceived as coercive and disruptive to the Department of Marine Resources' decisionmaking process.

Exhibit 3

Statutory Communication and Coordination Points Between the Commission/Department of Wildlife, Fisheries, and Parks and the Commission/Department of Marine Resources



Recommendations

1. In future legislation which either repeals or amends an agency's enabling legislation, the Legislature should include a provision which specifically requires agencies to comply with the transition planning and reporting processes in MISS. CODE ANN. Sections 5-11-1, -3, and -5 (1972), when applicable.
2. Beginning April 1, 1995, the Commission on Marine Resources; the Commission on Wildlife, Fisheries, and Parks; their executive directors; and the Technical Advisory Committee should hold a joint meeting at least twice a year to discuss the entities' relationships and responsibilities for marine resources program management and enforcement.
3. The MDMR Executive Director should request the State Department of Audit to conduct a complete financial audit of the abolished Bureau of Marine Resources and the newly created MDMR no later than June 30, 1995.
4. The Commission on Marine Resources and the Technical Advisory Committee should jointly establish specific roles for the committee which will make it an effective resource for achieving the necessary interagency communication and coordination.
5. By December 31, 1996, PEER could conduct a performance audit of DWFP and MDMR to assess their effectiveness and efficiency in accomplishing their statutory missions for state marine resources.

Appendix

Minimum Qualifications for MDMR Positions

Position	Number	Minimum Qualifications
Accounting/Auditing Technician	1	Graduation from a standard four-year high school or equivalent (GED) and three years of experience
Accountant Auditor I	1	A Bachelor's degree from an accredited four-year college or university with a major in Accounting or Business Administration
Accounting Clerk Senior	2	Graduation from a standard four-year high school or possession of a high school equivalency certificate (GED) and two years of experience in work involving the recording, processing, or compilation of accounting, financial, or monetary data
Secretary Administrative	1	Graduation from a standard four-year high school or equivalent (GED) and six years of experience in work related to the described duties and ability to type from plain copy at the rate of 45 correct words per minute
Secretary Principal	2	Graduation from a standard four-year high school or equivalent (GED) and two years of experience in work related to duties and ability to type from plain copy at the rate of 45 correct words per minute
DWC-Wildlife/Fish Biologist II	3	A Bachelor's degree from an accredited four-year college or university in wildlife/fisheries ecology/biology or in wildlife/fisheries conservation/management and two years experience
DWC-Chief, Wetlands Division	1	Graduation from a standard four-year high school or equivalent (GED) and ten years of experience in work related to duties, two years of which must have included line of functional supervision
DWC-Marine Programs Manager	1	A Bachelor's degree from an accredited four-year college or university in a physical science and six years experience in work related to duties, two years of which must have included line or functional supervision
DWC-Chief, Coastal Program Division	1	Graduation from a standard four-year high school or equivalent (GED) and twelve years experience in work related to duties, four years of which must have included line or functional supervision
DWC-Chief, Science/Statistics Division	1	Graduation from an accredited college or university with a Bachelor's degree in an environmental science or related field and six years experience, five years of which must have included line or functional supervision
DWC-Wildlife/Fish Biologist III	1	A Bachelor's degree from an accredited four-year college or university in wildlife/fisheries ecology/biology or in wildlife/fisheries conservation/management and three years experience
DP-Systems Analyst III	1	Graduation from a standard four-year high school or equivalent (GED) and seven years of experience in a combination of programming and systems analysis work, with a course in a Programming Language and a course in Systems Analysis
DWC-Wildlife/Fish Biologist I	4	A Bachelor's degree from an accredited four-year college or university in wildlife/fisheries ecology/biology or in wildlife/fisheries conservation/management and one year experience
DWC-Chief, Saltwater Fish Division	1	A Bachelor's Degree from an accredited four-year college or university in Fisheries Biology/Ecology or in Fisheries Conservation/Management, and five years of experience in professional fisheries conservation work, three years of which must have been in administrative or supervisory capacity.

Business Manager, Large Office	1	Graduation from a standard four-year high school or the equivalent (GED), including or supplemented by courses in Accounting and/or Business Administration, and eight years of experience in work related to duties, four years of which must have been in business administration, office management, accounting, and/or budgeting, two years of which must have included line or functional supervision
DWC-Wildlife/Fish Technician I	6	Graduation from a standard four-year high school or equivalent (GED), and three years of work experience, one year of which must have been in game and fish ecology, biology, wildlife/fisheries, conservation/management or related fields.
DWC-Wildlife/Fish Technician II	1	Graduation from a standard four-year high school or equivalent (GED), and four years of-work experience, two of which must have been in game and fish ecology, biology, wildlife/fisheries conservation/management or related fields
Equipment Operator - Heavy Machine	2	Any combination of education and/or experience equivalent to fifteen years of directly related experience to duties
DWC-Wildlife/Fish Coordinator	2	A Bachelor's degree from an accredited four-year college or university in wildlife/fisheries biology/ecology, or in wildlife/fisheries conservation/management and four years of experience, two years of which must have been in and administrative or supervisory capacity
DWC-Deputy Director	1	A bachelor's degree in Business Administration, Public Administration, Wildlife/Fisheries Biology/Ecology Conservation /Management, or Marine Resource Biology or Management and six years of experience in work directly related to duties.
Receptionist	1	Any combination of education and experience equivalent to a high school diploma
Exec Director - Marine Resources	1	A minimum of twelve years special experience in an administrative capacity in an area of work related to the functional responsibility of the Department of Marine Resources. Work experience must have included supervising and coordinating a variety of functions and shall be sufficient to successfully execute the powers and duties of the Executive Director as stated in Section 4 of the Senate Bill 3079 passed by the Legislature during the 1994 Regular Session.
Grand Total	36	

Agency Responses



MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

December 28, 1994



Mr. John Turcotte
Executive Director
PEER Committee
P. O. Box 1204
Jackson, MS 39215-1204

Dear Mr. Turcotte:

I want to thank you, Mr. Kevin Humphreys and members of the PEER staff for the opportunity to review your draft report dated December 13, 1994 and titled "A Performance Audit of the Establishment of the Mississippi Department of Marine Resources".

As the current Director of MDMR, I feel the implementation of Senate Bill 3079 will occur during CY 1995 and out years. Since I have arrived in the middle of the transition period, FY 95, I have been able to make a few independent observations on the subject. I will respond to each of your reported recommendations.

1. Recommendations In future legislation which either repeals or amends an agency's enabling legislation, the Legislature should include a provision which specifically requires agencies to comply with the transition planning and reporting processes in MISS. CODE ANN. Sections 5-11-1,-3 and -5 (1972), when applicable.

Response 1 The Mississippi Code Section 5-11-3 (1972) has an excellent intent on planning and implementing transfer of duties and responsibilities. However, the foregoing code sections do not adequately address the situation confronted by the MDMR and the MDWFP. Mississippi Code Section 5-11-3 contemplates the actions of an existing "agency receiving the authority to perform the duties of the abolished agency." In the present scenario there was no existing agency available to pre-plan the receipt of the duties and property of the BMR.

2. Recommendations Beginning April 1, 1995, the Commission on Marine Resources; the Commission on Wildlife, Fisheries, and Parks; their executive directors; and the Technical Advisory Committee should hold a joint meeting at least twice a year to discuss the entities' relationships and responsibilities for marine resources program management and enforcement.

Mr. John Turcotte
PEER Committee
December 28, 1994

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Response 2 Concur with the recommendations with the intent of improving inter-department communications and coordination. Steps by the Director of MDMR will also be taken to improve coordination with the DEQ, State Economic and Community Development, and Food and Drug and the State Gaming Commission.

3. Recommendations The MDMR Executive Director should request the State Department of Audit to conduct a complete financial audit of the abolished Bureau of Marine Resources and the newly created MDMR no later than June 30, 1995.

Response 3 The audit will be requested.

4. Recommendations The Commission on Marine Resources and the Technical Advisory Committee should jointly establish specific roles for the committee which will make it an effective resource for achieving the necessary interagency communication and coordination.

Response 4 Concur.

5. Recommendations By December 31, 1996, PEER could conduct a performance audit of DWFP and MDMR to assess their effectiveness and efficiency in accomplishing their statutory missions for state marine resources.

Response 5 The date of 12/31/96 appears to be long range. I would recommend a date no later than 12/31/95.

I hope you find these comments constructive and helpful. I am looking forward to receiving your final complete report on the subject.

Sincerely,



Glade Woods
Executive Director

GW/sh

cc: Mr. Sherman Muths, Chairman
Commission MDMR



**MISSISSIPPI
DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS**

**SAM POLLES, Ph.D.
Executive Director**

December 30, 1994

Mr. Kevin Humphreys
PEER Committee
222 North President Street
Jackson, Mississippi 39215-1204

RE: Performance Audit of the Establishment of the Mississippi Department of Marine Resources

Dear Kevin:

Thank you for the opportunity to review the confidential draft of the PEER audit pertaining to the establishment of the new Department of Marine Resources.

I would like to offer clarifying comments on two areas addressed in the audit as follows:

Transfer of Funds to DMR

Pat Daughdrill, Business Manager at the former Bureau of Marine Resources, was transferred to the Jackson office at my request for approximately five weeks prior to the July 1, 1994 effective date of the reorganization. I did so in order to help effect a smooth transition of funds and financial records to the new department.

In June, I requested a specific meeting with Carolyn Briscoe, Chief Fiscal Officer for the Department of Wildlife, Fisheries and Parks, for the purpose of being assured that all federal, general and special funds were being properly accounted for and transferred to the new agency. Mrs. Briscoe advised that everything was in order and all funds and records would be processed as required.

The monies referenced in the audit were federal and special funds in account number 3466. The funds would have normally been transferred in August after the close out

Mr. Kevin Humphreys
December 30, 1994
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of FY 94 business activities. With the resignation of Carolyn Briscoe effective July 1, 1994, the new Director of Accounting was unaware of the need to transfer the funds. With approval from James Sanders at the Department of Finance and Administration, Pat Daughdrill executed transfer of funds to the new agency as verified in the PEER report.

Compiling Inventory of Real or Personal Property

The DWFP Property Division scheduled the physical audit of all inventory items to be assigned to the new department. The team consisted of one DWFP employee, one employee from DMR and a field auditor with the State Auditor's Office.

Also provided by DWFP were all computer support functions such as exception reports, equipment transfers, deletions and additions during the reconciliation period. After a final transfer listing was agreed upon, a computer file was provided the Auditor's Office. Upon signature of the final listing by the acting director of DMR, a photo copy of all records including payment vouchers and invoices were given to the DMR property officer. Five DWFP employees actively participated daily on the property break-out of the new DMR from the period July 14 1994 through October 10, 1994.

If you need additional clarification, please contact Bill Quisenberry at 364-2004.

Sincerely,



Sam Polles, Ph.D.
Executive Director

SP:bc

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