

**Joint Legislative Committee on Performance
Evaluation and Expenditure Review (PEER)**

Report to
the Mississippi Legislature



A Review of the Mississippi Gulf Coast Regional Infrastructure Program

The Mississippi Gulf Coast Regional Infrastructure Program began from a commission initiated by the Governor after the devastation of Hurricane Katrina in 2005. The commission recommended creation of a regional utility authority to manage water, wastewater, and storm water across the coastal counties. Since 2006, the U. S. Department of Housing and Urban Development (HUD) has approved \$655.7 million in Community Development Block Grant funds for the program. In response to the commission's recommendation, the Legislature passed the Gulf Coast Region Utility Act to promote consolidation of utility systems and increase efficiency in services, mitigate against future storms, and improve the natural environment. However, the act created separate utility authorities in each of the coastal counties, which has not promoted consolidation of utility systems across county lines.

According to estimated project completion dates, fifty of the program's projects will have been completed by December 31, 2011, and the remaining seventeen projects will be completed in 2012 or 2013. Four of the county utility authorities are expecting to complete projects within planned budgets, while one utility authority is projecting a deficit. As of June 30, 2011, the five county utility authorities had spent approximately \$454.7 million on water and wastewater projects in the Gulf Coast region.

The program has provided more consolidated and storm-prepared utility systems, although their impact is limited due to the lack of physical interconnection of systems countywide. Also, because infrastructure is being built to accommodate significant future growth that might not materialize in certain areas, the infrastructure in those areas would be underutilized, resulting in increased per-customer cost for infrastructure maintenance during the period in which population projections are not met.

Several factors have affected the program's impact, some of which have been beyond the control of the Department of Environmental Quality and the utility authorities. These factors include the change from a regional concept to a county concept for utility infrastructure, increased emphasis on building utility infrastructure for economic development, legal constraints on the consolidation of utilities, HUD's requirements for use of funds for low/moderate income populations, and costs of consolidation.

November 15, 2011

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 joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven 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 and three at-large members appointed from each house. 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 four Representatives and four Senators voting in the affirmative.

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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.

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On November 15, 2011, the PEER Committee authorized release of the report entitled **A Review of the Mississippi Gulf Coast Regional Infrastructure Program.**

A handwritten signature in cursive script that reads "Harvey Moss".

Representative Harvey Moss, Chair

This report does not recommend increased funding or additional staff.

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A Review of the Mississippi Gulf Coast Regional Infrastructure Program

Executive Summary

Introduction

In the 2006 Regular Session, subsequent to Hurricane Katrina, the Legislature passed the Gulf Coast Region Utility Act, which authorized creation of individual county utility authorities to manage water, wastewater, and storm water in the Gulf Coast counties. Governor Barbour designated \$655.7 million of the Community Development Block Grant (CDBG) funds that Mississippi received after Hurricane Katrina for water, wastewater, and storm water infrastructure improvements through the Mississippi Gulf Coast Regional Infrastructure Program. The county utility authorities have undertaken sixty-seven projects to expend the program's CDBG funds for improvement of water and wastewater infrastructures.

PEER received complaints regarding some of these utility authorities, alleging possible wasteful spending, lack of transparency in making project/spending decisions, and conflicts of interest. Rather than limiting this review to determining whether these complaints were valid or to reviewing specific expenditures, the PEER Committee chose to evaluate whether Mississippi maximized the opportunities presented by the Mississippi Gulf Coast Regional Infrastructure Program.

This report addresses the following questions:

- What is the Mississippi Gulf Coast Regional Infrastructure Program and how did it begin?
- What is the status of the program's projects?
- What has been the program's impact on the Gulf Coast and what factors have affected its impact?
- What are the lessons learned?
- What complaints have arisen from the program and are the complaints valid?

Conclusions

What is the Mississippi Gulf Coast Regional Infrastructure Program and how did it begin?

The Mississippi Gulf Coast Regional Infrastructure Program began from a commission initiated by the Governor that recommended the creation of a regional utility authority to manage water, wastewater, and storm water across the six coastal counties. Since 2006, the U. S. Department of Housing and Urban Development has approved \$655.7 million in Community Development Block Grant funds for the Regional Infrastructure Program. In response to the commission's recommendation, the Legislature passed the Gulf Coast Region Utility Act to promote consolidation of utility systems and thereby increase efficiency in services, mitigate against future storms, and improve the natural environment. However, the act created separate utility authorities in each of the coastal counties, which has not promoted consolidation of utility systems across county lines.

(See pages 3 through 10 of the report for additional discussion.)

What is the status of the program's projects?

According to estimated project completion dates, fifty of the program's projects will have been completed by December 31, 2011, and seventeen will be completed in 2012 or 2013. Four of the county utility authorities are expecting to complete projects within planned budgets, while one utility authority is projecting a deficit. As of June 30, 2011, the five county utility authorities had spent a total of approximately \$454.7 million on water and wastewater projects in the Gulf Coast region. Estimates of low future utilization for some projects suggest that maintenance costs might be spread over a smaller customer base than anticipated, resulting in increased per-customer costs.

(See pages 11 through 16 of the report for additional discussion.)

The report's Appendix B, pages 50 through 62, lists the program's projects by county and by project number, along with the project budget amounts and estimated completion dates.

What has been the program's impact on the Gulf Coast and what factors have affected its impact?

The Regional Infrastructure Program has impacted the Gulf Coast by providing more consolidated and storm-prepared utility systems, although the impact is limited due to the lack of physical interconnection of systems countywide. Also, because the infrastructure is being built to accommodate significant future growth that might not materialize in certain areas, the infrastructure in those areas would be underutilized, resulting in increased per-customer cost for infrastructure maintenance during the period in which population projections are not met.

Several factors have affected the program's impact, some of which have been beyond the control of the Mississippi Department of Environmental Quality and the utility authorities. These are:

- the change from a regional concept to a county concept for utility infrastructure;
- increased emphasis on building utility infrastructure for economic development;
- legal constraints on the consolidation of utilities;
- requirements of the U. S. Department of Housing and Urban Development for use of funds for low/moderate income populations; and,
- the costs of consolidation.

(See pages 17 through 33 of the report for additional discussion.)

What are the lessons learned from implementation of the program?

The Regional Infrastructure Program provided lessons that will benefit the state in the future should a similar situation occur. Lessons learned include:

- provide funds for complementary utility infrastructure;
- utility providers should consider the benefits of entering agreements with county utility authorities;
- reduce or eliminate use of term bidding (i. e., bidding projects based on engineers' conceptual designs) for this type of effort; and,
- assist in identifying start-up funding for newly created entities.

(See pages 34 through 38 of the report for additional discussion.)

What complaints have arisen from the program and are the complaints valid?

PEER determined that two complaints against the Hancock County Utility Authority, one alleging wasteful spending and another alleging a violation of the Open Meetings Act, were valid. Conversely, two complaints against the Stone County Utility Authority, one alleging lack of transparency and another alleging conflict of interest, were not valid.

(See pages 39 through 47 of the report for additional discussion.)

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A Review of the Mississippi Gulf Coast Regional Infrastructure Program

Introduction

Authority

The PEER Committee reviewed the Mississippi Gulf Coast Regional Infrastructure Program. PEER conducted the review pursuant to the authority granted by MISS. CODE ANN. Section 5-3-51 et seq. (1972).

Problem Statement

In the 2006 Regular Session, subsequent to Hurricane Katrina, the Legislature passed the Gulf Coast Region Utility Act, which authorized creation of individual county utility authorities to manage water, wastewater, and storm water in the Gulf Coast counties. Governor Barbour designated \$655.7 million of the Community Development Block Grant (CDBG) funds that Mississippi received after Hurricane Katrina for water, wastewater, and storm water infrastructure improvements through the Mississippi Gulf Coast Regional Infrastructure Program. The county utility authorities have undertaken sixty-seven projects to expend the program's CDBG funds for improvement of water and wastewater infrastructures.

PEER received complaints regarding some of these utility authorities, alleging possible wasteful spending, lack of transparency in making project/spending decisions, and conflicts of interest. Rather than limiting this review to determining whether these complaints were valid or to reviewing specific expenditures, the PEER Committee chose to evaluate whether Mississippi maximized the opportunities presented by the Mississippi Gulf Coast Regional Infrastructure Program.

Scope and Purpose

This report addresses the following questions:

- What is the Mississippi Gulf Coast Regional Infrastructure Program and how did it begin?
- What is the status of the program's projects?
- What has been the program's impact on the Gulf Coast and what factors have affected its impact?
- What are the lessons learned?
- What complaints have arisen from the program and are the complaints valid?

Method

In conducting this review, PEER:

- reviewed *After Katrina: Building Back Better Than Ever*, a report to Governor Haley Barbour from the Governor's Commission on Recovery, Rebuilding, and Renewal;
- reviewed the *Mississippi Gulf Region Water and Wastewater Plan (MGRWWP)*;
- reviewed applicable state laws;
- reviewed the Mississippi Development Authority's action plans and amendments for the Mississippi Gulf Coast Water and Wastewater Regional Infrastructure Program;
- reviewed maps provided by county utility authority engineers and the Mississippi Engineering Group;
- reviewed financial and administrative records of the county utility authorities; and,
- interviewed staff of the Mississippi Department of Environmental Quality, the Mississippi Engineering Group, and the county utility authorities.

What is the Mississippi Gulf Coast Regional Infrastructure Program and how did it begin?

The Mississippi Gulf Coast Regional Infrastructure Program began from a commission initiated by the Governor that recommended the creation of a regional utility authority to manage water, wastewater, and storm water across the six coastal counties. Since 2006, the U. S. Department of Housing and Urban Development has approved \$655.7 million in Community Development Block Grant funds for the Regional Infrastructure Program. In response to the commission's recommendation, the Legislature passed the Gulf Coast Region Utility Act to promote consolidation of utility systems and thereby increase efficiency in services, mitigate against future storms, and improve the natural environment. However, the act created separate utility authorities in each of the coastal counties, which has not promoted consolidation of utility systems across county lines.

Recommendation of the Governor's Commission on Recovery, Rebuilding, and Renewal

The Governor's Commission on Recovery, Rebuilding, and Renewal recommended a regional utility authority to manage water, wastewater, and storm water utilities across the six southern counties.

Following the devastation of Hurricane Katrina in 2005, Governor Barbour created a commission to study and offer recommendations for the Mississippi Gulf Coast's recovery. The commission's mandate was to explore options and recommend approaches to rebuild the Gulf Coast and to make it "better than ever." On December 31, 2005, the Governor's Commission on Recovery, Rebuilding, and Renewal released a report entitled *After Katrina: Building Back Better Than Ever*, which included recommendations specific to infrastructure.

The report noted that at that time, multiple water and wastewater entities operated separately across the coastal region:

- fourteen municipal water and sewer systems (i. e., entities authorized to provide water and wastewater services inside corporate limits and up to one mile from corporate limits);
- eight separate water districts (i. e., entities established by the boards of supervisors in the counties to provide services);
- nineteen water associations (i. e., nonprofit entities that provide services); and,
- over thirty private water companies (i. e., for-profit entities that provide services).

According to the report, after such a storm, smaller communities and their utility providers may be unable to recover quickly because they lack the resources, while larger communities that have significant damages might also have the same problem. Further, the report noted that smaller utility systems might be poorly maintained and might not be adequate to meet the needs of the service area. The report also noted that the need to develop a multi-county, comprehensive plan for water, sewer, and solid waste facilities was one of the recurring issues to emerge in discussions regarding public services on the Gulf Coast after Hurricane Katrina. Thus one of the commission's recommendations was to create an entity to manage sewer, water, storm water, and other utility services across the six Gulf Coast counties (i. e., Hancock, Harrison, Jackson, Pearl River, Stone, and George).

The commission's vision was for the creation of a regional utility authority without regard to governmental boundaries. The report stressed that water and sewer are amenable to a regional structure and that there would be an opportunity for communities in the Gulf Coast region to work together in the planning and management of water, wastewater, and storm water utilities. This type of regional structure would provide an opportunity to share the cost of building, operating, and managing facilities, rather than each entity bearing the responsibility alone.

Funding for the Mississippi Gulf Coast Regional Infrastructure Program

Based on the Mississippi Development Authority's action plan describing the intended use of funds for the Mississippi Gulf Coast Regional Infrastructure Program, the U. S. Department of Housing and Urban Development approved \$655.7 million in Community Development Block Grant funds for the program.

In accordance with the FY 2006 Department of Defense Appropriations Act and the 2006 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, Congress appropriated approximately \$5.5 billion to Mississippi through the U. S. Department of Housing and Urban Development (HUD) for disaster relief, recovery, and restoration. The funds were to be distributed through Community Development Block Grant (CDBG) funds overseen by the Mississippi Development Authority (MDA), the state's designated agency responsible for administering CDBG funds. The Governor directed that a portion of the funds be used for water, wastewater, and storm water infrastructure improvements through the Mississippi Gulf Coast Regional Infrastructure Program.

MDA's Deliverables for the Program

MDA stated to HUD that the Regional Infrastructure Program would provide water and wastewater infrastructure to meet current and future population demands and would move toward a regional infrastructure system to promote efficiency.

Before the state could expend any CDBG funds for the program, HUD had to approve MDA's action plan for the intended use of the funds. MDA's original action plan for the program stated the following deliverables:

- to provide infrastructure for the local areas that are reacting to demands placed on existing infrastructure caused by population shifts that have occurred as a result of Katrina and to accommodate future growth (whether driven by population shifts or economic development); and,
- to move toward and implement a regional infrastructure system--a necessity to promote maximum utilization of resources and efficiency of services.

Breakdown of Funding

Since August 2006, HUD has approved CDBG grant funding of \$655.7 million for the Regional Infrastructure Program.

Exhibit 1, page 6, shows that based on MDA's action plan, HUD approved an initial grant of \$33.075 million on August 31, 2006, to provide for emergency grants¹ and the development of a master plan (i. e., the MGRWWP) to determine the infrastructure needs in the six counties. In June 2007, HUD approved an additional \$553 million for projects recommended in the MGRWWP and for administrative and contractual services to implement the projects. Also, HUD designated \$55 million for grants to benefit areas where at least 51% of the residents have low or moderate incomes.² In July 2008, HUD approved a grant of \$25 million funded by the Hancock County Long Term Recovery Action Plan to provide additional funding for projects in Hancock County. This money was re-allocated from other programs to support the recovery

¹ The master plan for the Mississippi Gulf Coast Regional Infrastructure Program was expected to take several months to complete. In the meantime, MDA felt it was necessary to address instances of critical need created by Hurricane Katrina. Therefore, MDA and MDEQ administered an emergency fund of \$25 million for grants for selected projects in the six counties. MDEQ was responsible for determining eligible projects and recommending those projects to MDA for funding. (See Appendix F, page 68, for criteria for emergency projects.)

²Having *low to moderate income* is defined as earning 80% or less of the area's median family income as determined by HUD. HUD uses data from the U. S. Census Bureau's American Community Survey to calculate the low/moderate income limits. As an example, in the Gulfport-Biloxi area in FY 2007 when the grant applications were developed, the income limit for a four-person household was \$48,550.

and restoration of Hancock County, as the damage in Hancock County was more significant than the other affected counties. In November 2010, MDA deobligated \$10 million from the infrastructure program and re-allocated the money to other programs. Also, in 2011 MDA deobligated an additional \$360,000.

Exhibit 1: CDBG Funding for the Mississippi Gulf Coast Regional Infrastructure Program

Amount of CDBG Funds	Purpose of Funds	HUD Approval Date
\$33.075 million	Emergency grants and development of MGRWWP	August 2006
553 million	MGRWWP projects and administration	June 2007
55 million	Projects to benefit low/moderate income households	June 2007
25 million	Additional funding for projects in Hancock County	July 2008
\$666.075 million	Subtotal	
(10 million)	De-obligated	
(360,000)	De-obligated	
\$655.7 million	Total CDBG Grant Funding	

SOURCE: Mississippi Development Authority and grant agreements.

Criteria for Use of the Funds

The U. S. Department of Housing and Urban Development required Mississippi to use the CDBG funds for projects resulting from Hurricane Katrina that supported disaster relief, long-term recovery, and restoration of infrastructure. However, the state could not use these funds for activities reimbursable by the Federal Emergency Management Agency or the U. S. Army Corps of Engineers.

HUD's two primary criteria for determining whether a project was eligible for CDBG funds included whether the project was a direct or indirect result of Hurricane Katrina and whether the project supported disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricane Katrina.

A total of \$5.058 billion was allocated to Mississippi under P.L. 109-148 and \$423 million was allocated to Mississippi under P.L. 109-234 (for a total of approximately \$5.5

billion in funding to Mississippi through HUD). Of the \$5.5 billion in total HUD funding, \$655.7 million has been allocated to the Regional Infrastructure Program since August 2006. As provided for in Public Law 109-234, the funds were not to be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the U. S. Army Corps of Engineers. According to MDEQ, FEMA funds were used to restore damaged infrastructure to pre-Katrina conditions. Therefore, CDBG funds allocated to the infrastructure program could not be used for these purposes.

Creation of the Gulf Coast Region Utility Act and Development of the Mississippi Gulf Region Water and Wastewater Plan

The Legislature passed the Gulf Coast Region Utility Act to promote consolidation of utility systems and thereby increase efficiency in services, mitigate against future storms, and improve the natural environment. However, the act created separate utility authorities in each of the coastal counties, which does not promote consolidation of utility systems across county lines. The utility authorities are responsible for implementing projects identified in the Mississippi Gulf Region Water and Wastewater Plan, which identifies infrastructure projects intended to support long-term growth and recovery in the coastal counties.

To use the CDBG funds for the Mississippi Gulf Coast Regional Infrastructure Program, the state needed:

- entities to manage and administer the program's construction projects; and,
- a plan for what types of projects to build and where to build them.

The following section discusses the creation of the Gulf Coast Region Utility Act (which established county utility authorities and authorized them to manage and administer the program's projects) and development of a master plan (i. e., the Mississippi Gulf Region Water and Wastewater Plan).

Creation of the Gulf Coast Region Utility Act

The Gulf Coast Region Utility Act, passed in April 2006 during the Regular Session of the Legislature, created six county utility authorities and gave each the legal authority to oversee water and wastewater services in its respective county.

During the 2006 Regular Session, the Legislature passed Senate Bill 2943, the Gulf Coast Region Utility Act (now MISS. CODE ANN. Section 49-17-701 et seq. [1972]), to create six county utility authorities to oversee water, wastewater, and storm water services on the Gulf Coast,

including construction of the Mississippi Gulf Coast Regional Infrastructure Program projects.

The legislative findings set out in Senate Bill 2943 echoed the vision of the Governor's Commission on Recovery, Rebuilding, and Renewal by stating the need for consolidation of water, wastewater, and storm water services:

In the spirit of the report of the Governor's Commission on Recovery, Rebuilding and Renewal, the Legislature finds that there is a need for consolidation of water, wastewater and storm water services in order to reduce costs, promote resilience in the event of a disaster, improve the quality of the natural environment, and improve the planning and delivery of quality water, wastewater and storm water services within the areas of the Counties of George, Hancock, Harrison, Jackson, Pearl River and Stone. It is further declared that there is the need for the planning, acquisition, construction, maintenance, operation and coordination of water, wastewater and storm water services in order to ensure protection of the waters of the state and to ensure the delivery of water, wastewater and storm water services to citizens of the Gulf Coast region.

As introduced, Senate Bill 2943 authorized the Gulf Coast Region Utility Board and tasked that entity with the development, construction, and operation of water and wastewater services for George, Hancock, Harrison, Jackson, Pearl River, and Stone counties. The Gulf Coast Region Utility Board was to be the lone utility authority for these services within the jurisdiction of these six counties and was to coordinate with existing organizations that had previously performed these services.

As envisioned by the Governor's commission, the Gulf Coast Region Utility Act would allow consolidation of utility systems on the Gulf Coast to promote efficiency in services, mitigate against future storms, and improve the natural environment. However, the final version of the act created separate utility authorities in each of the coastal counties, which has not promoted consolidation of utility systems across county lines.

Prior to final passage, the Legislature changed to a locally responsive approach and the final version of the bill empowered six county utility authorities³ to manage water

³ The counties addressed in the Gulf Coast Region Utility Act were George, Hancock, Harrison, Jackson, Pearl River, and Stone. Under provisions of MISS. CODE ANN. Section 49-17-715 (1) (1972), George County chose to dissolve its county utility authority and did so on December 4, 2006.

and wastewater services in their respective counties, each with its own board of directors. (See Appendix A, page 49, for composition of the boards of directors of the Gulf Coast county utility authorities.) The act also authorized the Gulf Coast Region Utility Board to provide recommendations and support to the individual county authorities.

These individual county authorities have the power to regulate the design, construction, operation, and maintenance of water and wastewater infrastructure. Further, these authorities may enter into contracts with other water and wastewater providers, set rates for services provided by the authority, and borrow money for the provision of water and wastewater services. Thus the creation of these county utility authorities has, in effect, negated the original vision of regional utility consolidation in the coastal area. (See page 28 for additional discussion.)

Development of the Mississippi Gulf Region Water and Wastewater Plan

The Mississippi Gulf Region Water and Wastewater Plan (MGRWWP) was prepared under the authority of a contract between MDEQ and the Mississippi Engineering Group, Inc. The MGRWWP's goal was to identify infrastructure projects that would support long-term growth and recovery in the coastal counties. The county utility authorities were to be responsible for implementing projects identified in the MGRWWP.

Also during April 2006, the Mississippi Department of Environmental Quality (MDEQ) contracted with the Mississippi Engineering Group (i. e., a group of private consulting firms) to develop a master plan for what types of projects to build for the Mississippi Gulf Coast Regional Infrastructure Program and where to build them. In August of that year, HUD approved initial funding of \$6.5 million for development of a master plan (i. e., the Mississippi Gulf Region Water and Wastewater Plan) and for emergency projects.

The goal of the MGRWWP was to identify infrastructure for long-term growth and recovery in the six Gulf Region counties of Hancock, Harrison, George, Jackson, Pearl River, and Stone. The MGRWWP identified the most critical needs in the region and prioritized the needs for allocation of funding. The process for creating the MGRWWP included stakeholder involvement and the overall focus of the plan was on the region as a whole, with particular emphasis on developing an “infrastructure backbone” at the regional level rather than rehabilitating the many local systems. As stated on page 6 (“Criteria for the Use of the Funds”), the funds were not to be used for projects that were eligible for FEMA or Corps of Engineers funds, including rehabilitation of local systems. The components of the plan included an inventory of pre-Katrina

conditions, projections for short- and long-term population shifts, identification of infrastructure improvements, and an implementation plan to prioritize funding allocation.

The MGRWWP offered recommendations for twenty-seven water projects and thirty-three wastewater projects totaling \$582,135,000 in the five counties. The plan included a conceptual opinion of implementation cost for each project. The plan also included a contingency of \$24 million and \$24 million for program administration. The total program cost in the MGRWWP was estimated to be \$630,135,000. According to MDA, shortly after the development of the MGRWWP, MDA increased the budget by \$10,940,000 (\$4,440,000 for the Mississippi Digital Earth Model and \$6,500,000 for development of the MGRWWP) for a total program budget of \$666.075 million.

Seven of the sixty projects recommended in the MGRWWP were divided into two separate projects. Therefore, although there were a total of sixty projects recommended in the MGRWWP for all five counties, the five county utility authorities are actually responsible for implementing a total of sixty-seven projects (thirty water projects and thirty-seven wastewater projects). Exhibit 2, page 12, shows the number of projects by county. See Appendix B, page 50, for a complete list of projects and Appendix C, page 63, for a chronology of events related to the Mississippi Gulf Coast Regional Infrastructure Program.

What is the status of the program's projects?

According to estimated project completion dates, fifty of the program's projects will have been completed by December 31, 2011, and seventeen will be completed in 2012 or 2013. Four of the county utility authorities are expecting to complete projects within planned budgets, while one utility authority is projecting a deficit. As of June 30, 2011, the five county utility authorities had spent a total of approximately \$454.7 million on water and wastewater projects in the Gulf Coast region. Estimates of low future utilization for some projects suggest that maintenance costs might be spread over a smaller customer base than anticipated, resulting in increased per-customer costs.

This chapter includes a discussion of the status of the Mississippi Gulf Coast Regional Infrastructure Program's projects, including:

- construction and completion of projects;
- project budgets;
- project expenditures as of June 30, 2011; and,
- estimated usage of the projects' facilities.

Construction and Completion of Projects

According to estimated project completion dates, fifty of the program's projects will be complete by December 31, 2011, and seventeen projects should be completed in 2012 or 2013.

Exhibit 2, page 12, shows the number of projects, by county, estimated to be completed by December 31, 2011, and the number estimated to be completed in 2012 or 2013.

HUD has no expiration date for use of the CDBG funds for this program and there is no penalty for not having the projects completed by a certain date. However, in an effort to expedite recovery on the Gulf Coast, MDEQ urged county utility authorities to complete their projects as soon as possible after the MGRWWP was completed. Also, according to the Coast Grants Chief at the Mississippi Department of Environmental Quality, costs typically rise the longer a project takes to complete and thus it is important that the projects be completed in a timely manner.

Because of the number of projects in Hancock County that involved connecting customers (i. e., the water distribution and wastewater collection systems), the Hancock County Utility Authority has had to complete more than 2,000 easements and land acquisitions. Thus, many projects in Hancock County have taken longer than planned. In Harrison County, projects have resulted in between thirty

and forty eminent domain cases that must be resolved in court before finishing construction. Therefore, some completion dates for Harrison County projects are dependent on settling these cases. (See page 13 for a discussion of how these situations have affected the county utility authorities' project budgets.)

Exhibit 2: Status of Mississippi Gulf Coast Regional Infrastructure Program Projects, by County, as of July 31, 2011

County Utility Authority	Total Number of Water Projects in the Program	Number of Water Projects Estimated to be Completed by December 31, 2011	Number of Water Projects Estimated to be Completed in 2012 or 2013	Total Number of Wastewater Projects in the Program	Number of Wastewater Projects Estimated to be Completed by December 31, 2011	Number of Wastewater Projects Estimated to be Completed in 2012 or 2013
Hancock	8	5	3	5	3	2
Harrison	9	5	4	16	8	8
Jackson	9	9	0	12	12	0
Pearl River	3	3	0	2	2	0
Stone	1	1	0	2	2	0

SOURCE: MGRWWP Project Completion Status Update Report by MDEQ.

Project Budgets

The Hancock, Jackson, Pearl River, and Stone county utility authorities are expected to complete their projects within their budgets. The Harrison County Utility Authority estimates that its projects will exceed its budget by approximately \$1 million. The budget deficit could be even greater, depending on projects' final completion dates.

Exhibit 3, page 13, shows the planned total project budgets for each county utility authority, as well as anticipated deficits as of August 2011.

Exhibit 3: Status of Mississippi Gulf Coast Regional Infrastructure Program Project Budgets, by County, as of August 2011

County	Planned Budget	Anticipated Deficit
Hancock	\$140.8 million	None
Harrison	234.1 million	\$926,867
Jackson	119.0 million	None
Pearl River	56.2 million	None
Stone	37.4 million	None

SOURCE: Mississippi Department of Environmental Quality.

The Hancock County Utility Authority anticipates having a deficit of approximately \$2.7 million; however, according to MDEQ, contingency funds provided by MDEQ, as well as transfer of funds between projects, will result in no deficit.

The Harrison County Utility Authority expects a deficit of approximately \$926,867. The utility authority attributes the deficit to engineering and materials testing costs that have escalated due to prolonged construction times. According to the Harrison County Utility Authority's Executive Director, most of the prolonged construction times were caused by the lengthy process of obtaining property easements. The utility authority is still attempting to acquire some additional easements, which could increase the deficit. MDEQ states that contingency funds will cover the deficit.

Expenditures as of June 30, 2011

As of June 30, 2011, the five county utility authorities had spent a total of \$454.7 million in CDBG funds on water and wastewater projects in the Gulf Coast region.

Exhibit 4, page 14, presents a breakdown of the program's project expenditures by county.

Exhibit 4: Budgets and Expenditures for Mississippi Gulf Coast Regional Infrastructure Program Projects, by County, as of June 30, 2011

County	Budget Amount	Expenditures as of June 30, 2011
Hancock	\$140.8 million	\$ 98.6 million
Harrison	234.1 million	167.4 million
Jackson	119.0 million	108.3 million
Pearl River	56.2 million	51.4 million
Stone	37.4 million	29 million
TOTAL	\$587.5 million	\$454.7 million

SOURCE: Mississippi Department of Environmental Quality.

Utilization of the Projects' Facilities

Although usage estimates for newly constructed water and wastewater facilities built through the program vary by county (ranging from <1% to 70% of capacity for water facilities and <1% to 70% of capacity for wastewater facilities), some, particularly in Harrison County, will have a relatively low utilization rate after projects are complete.

To determine to what extent the facilities will be used once completed, PEER requested estimates of usage versus capacity for each project that included a water or wastewater facility. Exhibits 5 and 6, pages 15 and 16, provide estimates of future usage for each newly constructed water tank/well and wastewater treatment facility by county.

Exhibit 5: Mississippi Gulf Coast Regional Infrastructure Program Projects, Usage Estimates for New Water Tanks/Wells After Completion, by County, as of July 31, 2011

County Utility Authority	Location of Water Project	Year of Water Project Completion (Actual or Estimated)	Usage Estimate for Water Project After Completion
Hancock	Eastern Hancock County	2012	33%-50%
	Kiln	2011	20%-22%
	Pearlington	2012	29%
Harrison	North Harrison County	2011	<1%
	Western Harrison County	2013	31%
	North Gulfport/Lyman	2012	30%
	Eastern Harrison County	2011	29%
Jackson	Western Jackson County	2011	60%-70%
	Eastern Jackson County	2011	50%-60%
Pearl River	Poplarville	2011	61%
	Picayune	2011	35%
	Hillsdale	2011	5%
Stone	Southern Stone County	2011	57%

SOURCE: County utility authorities.

In developing the MGRWWP, MDEQ and MSEG planned for a large capacity for the projects selected. However, without a customer base to support the capacity, some projects have low utilization estimates for the future, particularly in Harrison County. (See page 25 for additional discussion of capacity.) In addition to the issue of large capacity, some utility authorities have not secured additional grant funds to reach more customers. For these reasons, maintenance costs will likely be spread over a smaller customer base than anticipated, resulting in increased per-customer costs. (See page 27 for additional discussion.)

In order to help ensure customers for the systems, MDEQ required some service agreements to be in place between

utility authorities and various entities (e. g., current service providers, developers) to provide water or wastewater services in areas surrounding the new facilities. MDEQ required these agreements to be in place before distributing money to the utility authorities to begin construction.

Low utilization for some projects suggests that funds could have been used for other purposes. For example, funds could have been used to provide connections to customers, which would increase the customer base and potentially lower per-customer costs.

Exhibit 6: Mississippi Gulf Coast Regional Infrastructure Program Projects, Usage Estimates for New Wastewater Treatment Facilities After Completion, by County, as of July 31, 2011

County Utility Authority	Location of Wastewater Project	Year of Wastewater Project Completion (Actual or Estimated)	Usage Estimate for Wastewater Project After Completion
Hancock	Kiln	2012	27%
	Pearlington	2012	25%
Harrison	Saucier	2011	0-6%
	East Central Harrison County	2011	<1%
	DeLisle/Long Beach	2013	12%-15%
	South Woolmarket	2012	4%-11%
	D'Iberville	2012	87%
Jackson	West Jackson County	2011	57%
	North Jackson Decentralized	2011	37%
Pearl River	Poplarville	2011	32%
	Picayune	2011	63%-70%
Stone	Wiggins	2011	48%
	Southern Stone County	2011	13%

SOURCE: County utility authorities.

What has been the program's impact on the Gulf Coast and what factors have affected its impact?

The Regional Infrastructure Program has impacted the Gulf Coast by providing more consolidated and storm-prepared utility systems, although the impact is limited due to the lack of physical interconnection of systems countywide. Also, because the infrastructure is being built to accommodate significant future growth that might not materialize in certain areas, the infrastructure in those areas would be underutilized, resulting in increased per-customer cost for infrastructure maintenance during the period in which population projections are not met. Several factors have affected the program's impact on the Gulf Coast, some of which have been beyond MDEQ's and the utility authorities' control.

This chapter includes a discussion of the impact of the Mississippi Gulf Coast Regional Infrastructure Program in terms of:

- consolidation;
- storm-preparedness; and,
- project facilities' capacity versus usage.

Additionally, this chapter includes a discussion of the factors that have affected the impact of the program:

- the change from a regional concept to a county concept;
- increased emphasis on economic development;
- legal constraints on the consolidation of utilities;
- requirements of the U. S. Department of Housing and Urban Development regarding use of CDBG funds for low/moderate income populations; and,
- cost of consolidation.

Impact of the Program

The Regional Infrastructure Program achieved more consolidated and storm-prepared utility systems, although full, countywide consolidation of systems (i. e., physical interconnection of systems across the entire county) was not achieved. Thus, there are still risks of damage to infrastructure in the storm surge zone, which could result in a lack of water and wastewater services to some residents and businesses on the Gulf Coast. Further, because the infrastructure is being built to accommodate significant future growth that might not materialize in certain areas, the infrastructure in those areas would be underutilized, resulting in increased per-customer cost for infrastructure maintenance during the period in which population projections are not met.

Extent of Consolidation of Utility Systems

The Mississippi Gulf Region Water and Wastewater Plan provided for some consolidation of water and wastewater services to promote resilience in the event of a disaster, improve public health and the quality of the environment, and improve the delivery of services. However, partially due to the cost of consolidating systems and the limited ability of utility authorities to provide services in certain areas, full consolidation of services on a countywide basis for the five participating counties was not achieved. Thus, the utility systems within each county do not serve the entire county and are not fully interconnected throughout the entire county.

As noted on page 9, the Mississippi Department of Environmental Quality and the Mississippi Engineering Group worked together to create the Mississippi Gulf Region Water and Wastewater Plan, which identified specific water, wastewater, and storm water projects to be funded. The utility authorities were responsible for overseeing the water and wastewater services in their respective counties.

Backbone Infrastructure

The program's projects provide a backbone for many existing water systems and act as backup systems to provide water in the event of future storms (i. e., provide redundancy and resiliency). Also, some consolidation of wastewater treatment has resulted from the program's projects. As a result, over two thousand onsite systems and dozens of lagoons will have been taken offline, which improves public health and the natural environment.

According to the Mississippi Gulf Region Water and Wastewater Plan, the plan promotes a regional approach by allowing for sharing and consolidation of utilities. The regional approach includes an infrastructure backbone

that, according to the plan, supports housing construction in existing and newly developing areas of growth and promotes both immediate and long-term economic development.

The projects identified in the MGRWWP are located on major transportation corridors to provide for a backbone that is interconnected or has the potential to be interconnected to local water systems in order to receive services. Because the plan aimed to create more regionalized systems, many existing water systems are able to connect to the backbone to receive wholesale water services as well as to receive water in case the existing water system is damaged in the event of another storm.

The program's projects also provide a backbone through which local systems can send wastewater for treatment, thereby lowering the number of wastewater discharge locations. As a result, the infrastructure allows for improvements to the natural environment and improved public health by taking septic tanks and lagoons offline and by removing people from contaminated wells.

The extent to which each county's utility systems are consolidated varies by county. In all five counties, the utility authorities have agreements to provide water and sewer services to major municipalities. Some utility authorities have agreements to provide services to rural water associations, private companies, utility service districts, or smaller communities that previously had no centralized services available. One utility authority has acquired two of its cities' wastewater collection systems and treatment facilities. Appendix D, page 64, provides a summary of each utility authority's consolidation efforts.

No Full Consolidation of Water and Wastewater Systems

Many pre-existing water systems have not been interconnected to the new ones and most of the new wastewater treatment facilities serve areas that previously were using individual onsite systems. The lack of full consolidation is primarily due to the high cost of interconnecting systems.

Despite the consolidation efforts mentioned in the previous section, there are limits to the positive impact of those efforts because full consolidation of systems countywide was not achieved. Such consolidation would require physical interconnection of all water systems in the county and physical interconnection of all wastewater systems in the county to allow for complete redundancy (i.e., when one system fails, another system can provide services to the area). While the Regional Infrastructure Program provides interconnection of several pre-existing water systems to new systems outside of the storm surge zone, many systems still are not interconnected to the new ones.

Also, full interconnection of wastewater treatment facilities was not achieved. Most of the new wastewater treatment facilities serve areas that previously had no centralized services available and were therefore using individual onsite systems, which tend to be detrimental to public health and the natural environment.

The lack of full consolidation is primarily due to the high cost of interconnecting systems. Also, some entities that have access to the new, regional systems have chosen not to connect and are not required to connect. (See discussion on pages 30 through 32.)

Potential for Further Consolidation

County utility authorities have the potential to further consolidate water and wastewater systems in the future through agreements with utility providers or private developers.

In the future, more utilities have the potential to join in with the county utility authorities to provide services to customers, particularly entities with systems that are reaching capacity or entities that are struggling financially. (See additional discussion on page 35.) In many instances in which agreements have been made between the utility authority and another entity, the entity viewed the infrastructure as an efficient way to meet an existing need. In such an arrangement, there are no capital costs because infrastructure was built with grant funds; therefore, utility providers might see a financial benefit in entering into an agreement with the utility authority. Also, private developers could sign agreements with the utility authorities to provide services to new developments in areas near the new facilities.

In addition to financial benefit, the county utility authorities have other benefits to offer any entity that enters into an agreement. These include providing system redundancy so that when one system is unable to provide services, another system is able to provide those services and potentially improve economic development planning by providing a “one-stop shop” for water and wastewater needs. Also, see Appendix E, page 67, for benefits of consolidation according to a report of the Department of Agricultural Economics, Mississippi State University Extension Service.

Storm-Preparedness of Utility Infrastructure

The program’s projects, some of which include infrastructure within the storm surge zone, include mitigation measures to increase the systems’ storm-preparedness. In many instances, if a water system is damaged, the new infrastructure can provide clean water to that system and its customers. However, because all water and wastewater systems are not interconnected to the new infrastructure outside the surge zone, there

are still risks of storm damage to infrastructure on the Gulf Coast, potentially resulting in residents without access to potable water or wastewater services.

Planning for Future Disasters

An essential part of the planning for the new water and wastewater systems was to build storm-ready infrastructure.

Remembering the devastation caused by Hurricane Camille on the Gulf Coast in 1969, the Governor's Commission conveyed in its report after Hurricane Katrina that "the money we were reluctant to invest in storm-worthy infrastructure [after Hurricane Camille] and storm-ready procedures we will pay many times over in restoration costs. The rules we put off enacting and enforcing would have kept many out of harm's way and would have made buildings more resilient to high winds and high water."

Damages to Water and Wastewater Facilities Caused by Hurricane Katrina

The storm surge from Hurricane Katrina caused damages to water and wastewater facilities primarily along the coastline and in low-lying areas north of the coastline.

The MGRWWP notes that while the region endured winds exceeding 100 miles per hour and heavy rainfall during Hurricane Katrina, the storm surge is what caused the majority of damage, resulting from flooding of over twenty feet along the coast.

The MGRWWP details damages caused to water and wastewater facilities by Hurricane Katrina. Water supply infrastructure along the coastline and in low-lying areas north was impacted primarily as a result of the storm surge. Damages to wastewater facilities included flooding of buildings and electrical and instrumentation equipment, as well as wind damage to roofing, structural components, and security fencing. Underground wastewater pipes were also damaged by uprooted trees.

The storm surge caused the most damage south of Interstate 10, where several wastewater treatment plants exist. For example, the Escatawpa wastewater facility received a four-foot storm surge, most of the electrical equipment was damaged, and most of the process equipment was damaged or destroyed. Residents and businesses affected by these damaged plants had minimal or no wastewater services.

In terms of water systems in the region, damages occurred mostly along the coastline and in low-lying areas north of the coastline. Residents and businesses affected had little to no water pressure and a decrease in the quantity of water available for consumption.

Infrastructure Within the Surge Zone

While most of the program's funds are being used to build water and wastewater infrastructure outside the storm surge zone, some funds are being used to build a wastewater plant, wastewater pump stations, and water supply and storage facilities within the storm surge zone. However, HUD requires all new above-ground utility infrastructure to have certain mitigation measures to ensure storm-readiness.

While most of the program's funding is being used for projects out of harm's way, several projects include above-ground infrastructure in areas susceptible to future storm damage. The following are types of above-ground structures built in the surge zone and therefore the most at risk for future damage:

- wastewater treatment facility in Pearlinton and wastewater pump stations;
- water supply wells and elevated water storage tanks; and,
- water and wastewater pipelines.

Water and wastewater pipelines are located within the surge zone but are considered low risk because the pipes are buried underground. Water storage tanks are also considered low risk due to their size and the materials used to build them.

MDEQ states that because some facilities were built in cities to support existing infrastructure, there was no feasible alternative to locating this infrastructure within the surge zone.

Wastewater Treatment Facility in Pearlinton and Wastewater Pump Stations

Under Public Law 109-234, Congress appropriated \$55 million of the program's CDBG funds to Mississippi specifically to be used in areas that meet the national objective of serving low/moderate income households. In order to meet this requirement, program funds are being used to build a new wastewater treatment plant in Pearlinton, which is located in the storm surge zone and is therefore most at risk for future storm damage. The budget for this plant is \$6.5 million and was used to benefit 580 current homeowners as well as any future development.

The program's funds are also being used to build forty-eight pump stations used for pumping wastewater from one location to another, typically pumping wastewater to higher elevations to reach a treatment plant. Because there are low-lying areas being served by projects, these

pump stations are critical in getting the wastewater to the treatment plants. Thus, the decision to place a pump station in a storm-susceptible area may have been unavoidable in many cases.

Water Supply Wells and Elevated Water Storage Tanks

The program's funds are being used to build thirty-one water wells and thirty-two water tanks. Some of these are being built specifically to supplement existing city infrastructure in preparation for future growth. Consequently, some of this infrastructure is in the storm surge zone and is therefore at risk for future storm damage. Elevated water storage tanks have a low risk of damage, while wells are at a higher risk, as they could be flooded during a storm.

Water and Wastewater Pipelines

The program's funds are being used to build 338 miles of water main and 291 miles of sewer main. Because these pipelines are buried in the ground, they are not overly susceptible to storm damage. They can, however, suffer damage due to uprooted trees.

Many of the projects in the surge zone were added as *municipal infill* areas (i. e., projects in coastal cities) to the MGRWWP in response to public input. Municipal infill areas included the coastal cities in Hancock, Harrison, and Jackson counties. The MGRWWP explains that coastal cities suffered damage to localized infrastructure and while FEMA is restoring the infrastructure to pre-Katrina conditions, many of these areas are projected to redevelop according to different characteristics and densities than before. For example, condos were expected to replace single-family residences; therefore, more water capacity and wastewater flow capacity would be needed. Also, there are areas with inadequate water and sewer infrastructure, which limits the potential for building. Most of the program's projects included underground infrastructure (e. g., water and sewer transmission mains). The MGRWWP allocated \$55 million toward projects within municipal infill areas.

Mitigation Measures for Above-Ground Infrastructure

The MGRWWP required that all new above-ground infrastructure, whether in the surge zone or not, include specific mitigation measures for future storm damage.

The water and wastewater systems in the MGRWWP were designed to encourage future inland development out of harm's way. The Mississippi Engineering Group noted in the plan that all new above-ground infrastructure, whether

in the surge zone or not, was required to have the following mitigation measures:

- All above-ground structures must be elevated above the current flood zone level to decrease the likelihood of future flooding.
- All electrical controls must be elevated above the current flood zone level to increase the likelihood of continued function after future flooding.
- All infrastructure that requires electrical power is required to have a generator so that service can continue despite any future loss of electrical service. As a result, new infrastructure has sufficient electrical power in emergencies to continue full operation of the facilities.

According to MSEG, there was no choice but to locate some infrastructure within certain areas at risk of future storm damage. Further, as noted on page 5, the program had to comply with a federal guideline to meet the needs of areas with low- to moderate-income households. Thus, in complying with federal guidelines, when feasible the plan provided \$55 million for some of the infrastructure needs of low- to moderate-income households, irrespective of storm damage risk.

Some Systems Built Prior to Hurricane Katrina Remain at Risk

In many instances, if a water system is damaged, the new infrastructure can provide clean water to that system and its customers. However, because funding did not allow for complete interconnection or relocation of all facilities within the surge zone, there are existing systems that remain in harm's way. Therefore, there are still risks of storm damage resulting in residents without access to water or wastewater services.

After Hurricane Katrina, thousands of people did not have access to potable water or functioning sewer systems. According to the Mississippi Department of Environmental Quality, a key component of the MGRWWP was to provide for interconnection of systems to allow for redundancy and resilience after another disaster. In many cases, systems within the surge zone are connected to systems farther north; therefore, if a future storm damages one system, the connected system further north will provide clean drinking water to the damaged system.

As provided for in Public Law 109-234, the program's CDBG funds could not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency (FEMA) or the U. S. Army Corps of Engineers. FEMA funds were used to repair facilities that were damaged during Hurricane Katrina. Since being repaired, the pre-existing facilities are still operational and being used on the Gulf Coast. Because

these facilities fall within the storm surge zone, they are at risk for future storm damage. Rather than close these facilities and build new ones in areas less susceptible to damage from future storms, CDBG funds are being used, in many cases, to connect vulnerable systems to other systems out of harm's way.

Ideally, water and sewer utility systems would be interconnected across the entire county so that if one system was damaged by a storm, then another system could provide services. However, as noted previously, the cost associated with such interconnection is significant. For example, engineers in Pearl River County estimate that to connect the wastewater treatment plant in Poplarville to the wastewater treatment plant in Picayune, costs would be approximately \$30 million. These costs would include twenty-six miles of force main pipeline, environmental assessments, right-of-way acquisitions, air release valves, large pumping stations and intricate valve configurations at each end. The amount of funding allocated to the program was not sufficient to provide for complete interconnection of all systems within each county.

Because all systems are not outside the storm surge zone or interconnected with systems outside the storm surge zone, there are still areas that are vulnerable to future damage, resulting in residents potentially without access to water or wastewater services. PEER notes that, due to the factors explained on pages 30 through 33, the intent of the MGRWWP was not to interconnect fully or relocate all facilities in the storm surge zone.

Utility Infrastructure for Population Shifts and Future Population Growth

Based on 2010 census data and future usage estimates, population projections in the MGRWWP have not materialized in certain areas. The capacity built for CDBG projects may or may not be used in the long term (by 2025), depending on the extent of future development and the authorities' success in acquiring new customers. In the short term, utility authorities will have to allocate operations and maintenance costs to an existing customer base that is significantly smaller than the projected population and therefore most likely will result in increased per-customer costs for infrastructure maintenance during the period in which population projections are not met. If the systems' capacities are not used in the long term (by 2025), the state will have not achieved optimum use of the CDBG funds.

Planning for Population Shifts

A primary goal of the Mississippi Gulf Coast Regional Infrastructure Program was to accommodate population shifts as a result of Hurricane Katrina and to accommodate future growth.

After the devastation caused by Hurricane Katrina, local leaders anticipated that many citizens would relocate to areas within the coastal area not prone to flooding and other storm-related damage. Many of those areas did not have adequate water and wastewater infrastructure. Accordingly, MDA's action plan approved by HUD for initial funding states that a key deliverable of the program is to "provide infrastructure to satisfy demands placed on existing infrastructure by population shifts and to accommodate future growth (whether caused by population shifts or economic development)."

The MGRWWP projected that each of the six coastal counties would exceed their pre-Katrina population by 2010 and that the coastal region will experience a 68 percent growth in population as of 2025. Thus, infrastructure was designed to provide the capacity needed to support this future growth.

As part of the planning process to determine where to locate the infrastructure and at what capacity to build the infrastructure, the Mississippi Engineering Group sub-contracted to Angelou Economics the responsibility of determining projected demographic changes in the six coastal counties that would have an effect on future infrastructure demands. The MGRWWP details projected population growth in 2010, 2015, 2020, and 2025 for each of the six coastal counties. Population estimates include transient population (e. g., temporary residents living in condos, visitors staying in hotel rooms).

Exhibit 7, below, shows the MGRWWP's projected high growth rates across the Gulf Coast region.

Exhibit 7: Mississippi Gulf Region Water and Wastewater Plan Growth Rate Predictions through 2025

County	2005 Census Data	Gulf Region Water and Wastewater Plan Estimate of Population Increases (permanent plus transient)			
		2010	2015	2020	2025
Hancock	46,002	+14%	+29%	+43%	+51%
Harrison	189,444	+34%	+51%	+64%	+76%
Jackson	134,950	+10%	+24%	+36%	+43%
Pearl River	51,809	+31%	+48%	+61%	+77%
Stone	14,359	+35%	+61%	+86%	+104%

SOURCE: U.S. Census and Mississippi Gulf Region Water and Wastewater Plan.

Growth Has Not Materialized as Expected

Many of the CDBG projects include infrastructure capacity built for significant growth, which has not materialized as expected and might not materialize in future years.

The long-term development projections for the Gulf Coast region included significant recovery and acceleration of population through 2025. These estimates were used to project water demand and wastewater flow through 2025. Further evaluation included comparing projected demand to the capacity of existing infrastructure in each county. Thus, the CDBG projects selected reflect infrastructure capacities needed to accommodate significant future growth.

However, the population projections of the Mississippi Gulf Region Water and Wastewater Plan have not materialized in certain areas as expected, presumably due in part to factors such as the economic downturn and increased costs of insurance for homes and businesses. Exhibit 8, below, shows the 2010 census data compared to the MGRWWP estimates. The Mississippi Gulf Region Water and Wastewater Plan estimates included transient residents, which are not accounted for in the census data. Therefore, a limitation in the analysis is that if the number of transient residents in a county seems high, this would negatively affect the comparison between the census data and the Mississippi Gulf Region Water and Wastewater Plan estimates.

Exhibit 8: Comparison of 2010 Census Data and 2010 Mississippi Gulf Region Water and Wastewater Plan (MGRWWP) Population Estimates

County	2010 Census Data	2010 MGRWWP Estimates	% Difference
Hancock	43,929	52,610	20%
Harrison	187,105	254,206	36%
Jackson	139,668	148,963	7%
Pearl River	55,834	67,624	21%
Stone	17,786	19,418	9%

SOURCE: U.S. Census and Mississippi Gulf Region Water and Wastewater Plan.

Costs Allocated to Customer Bases that are Smaller Than Were Projected

Utility authorities will have to allocate operations and maintenance costs to their existing customer bases, which are significantly smaller than the projected population and therefore will most likely result in increased costs. If capacities are not used in the long term (by 2025), the state will have not achieved optimum use of the Mississippi Gulf Coast Regional Infrastructure

Program funds because the funds could have been used for other purposes.

Because the systems were built with grant funds, the only costs associated with the new systems are operations and maintenance costs; therefore, if the systems are not used to their capacity in the near future, the utility authority has higher operations and maintenance costs. Fortunately, operations and maintenance costs are minimal compared to the costs of building new facilities. While the utility authorities hope that future development fills the built capacity, it is unknown as to whether this future growth will occur. If the systems' capacities are not used in the long term (by 2025), then the state will not have achieved optimum use of the CDBG funds. These funds could have been used in other efforts, perhaps to provide infrastructure in more areas. Also, future estimates of utilization for some projects are low (see page 14), which suggests once more that funds could have been used for other purposes (e. g., providing connections to customers).

Potential for Reaching More Customers

Utility authorities have the potential to reach more customers in the future, either by providing wholesale services to existing entities or by providing retail services to new customers.

In the future, there is potential for more customers to benefit from the utility authority's infrastructure. However, this will depend on the utility authorities' ability to attract existing providers (e. g., municipalities) for wholesale services and new customers (i. e., developers) for retail services. The utility authorities' ability to help provide complementary infrastructure to reach these customers is also critical.

Factors that Have Affected the Program's Impact

Several factors, some of which are not controlled by MDEQ or the utility authorities, have affected the Regional Infrastructure Program's impact on regionalization, storm-preparedness, and the project facilities' usage estimates.

Change from a Regional Concept to a County Concept

Although the Legislature passed the Gulf Coast Utility Act to promote regionalization of utilities, the creation of separate county utility authorities does not promote regionalization across counties.

As discussed on page 8, the Legislature passed the Gulf Coast Region Utility Act to promote consolidation (i. e., regionalization) of utility systems and thereby increase efficiency in services, mitigation against future storms,

and improvements to the natural environment. However, the act created separate utility authorities in each of the coastal counties. This change from a regional concept to a county concept does not promote consolidation of utility systems across county lines.

Increased Emphasis on Building for Economic Development

In the rationale for selecting certain projects for funding in the MGRWWP, economic development played a more prominent role than previously had been acknowledged in the goals of the Gulf Coast Region Utility Act. As a result, the state's ability to achieve the original goals of the act in their truest form (i. e., consolidation of systems to promote efficiency, mitigation against future storms, and improvements to the natural environment) was diminished.

The MGRWWP provides a narrative for each project as to what the benefits of the projects are and the rationale for selecting the project for funding. Upon reviewing the MGRWWP, PEER found projects in which economic development was the primary purpose of the project.

Examples of economic development as the driving force behind the decision to fund the project are the Gulfport Veterans Administration area and the Biloxi Broadwater in Harrison County. The MGRWWP states that these areas are expected to experience high-density development as recovery efforts continue. The plan proposed four projects that included water and wastewater infrastructure improvements and new construction totaling an estimated \$10 million.

One reason that economic development projects were introduced into the MGRWWP is due to stakeholder input after a draft plan of the MGRWWP was released in November 2006. The draft included strictly regional projects (i. e., benefiting multiple communities) that were located above Interstate 10, out of harm's way. According to MDEQ, residents in the coastal communities were displeased with the draft plan because there was no funding for their communities. Based on their input, MDEQ and MSEG added municipal infill projects to the draft plan.

Municipal infill projects, added to the draft version of the MGRWWP after stakeholder input, benefit coastal cities by providing infrastructure for additional economic development opportunities.

According to the MGRWWP, municipal infill projects were added to the draft plan for the following reasons:

- These areas are projected to redevelop according to different characteristics and densities than before (e.g., condos replacing single-family residences); therefore,

the capacity of infrastructure might not be able to accommodate this type of dense development.

- There are areas that have inadequate infrastructure and have not fulfilled their potential for build-out. Infrastructure in these areas would allow for additional housing and economic growth.

As a result, the state's ability to achieve the original goals of the Gulf Coast Region Utility Act in their truest form (i.e., consolidation of systems to promote efficiency, mitigation against future storms, and improvements to the natural environment) was diminished. For example, municipal infill projects in coastal communities provided infrastructure for economic development, despite being within the storm surge zone and therefore most at risk for future storm damage.

While certainly a future benefit of the water and wastewater infrastructure program, economic development should have been considered a by-product of projects rather than the driving force for projects. The driving force for projects was clearly defined in the Gulf Coast Region Utility Act as consolidation, mitigation, and environmental benefit.

Legal Constraints on the Consolidation of Utilities

Previously existing utility providers have rights and duties imposed by law that diminish the potential for consolidation of utility systems.

In addition to the fact that the Legislature chose to create individual county utility authorities through the Gulf Coast Region Utility Act, duties and rights imposed by state law on previously existing utility providers (see page 3 for the number and types of previously existing providers) affect the potential for implementing a regional system for disposal of waste and storm water and delivery of water to residents of the coastal counties. These utility providers, both public and private, have the following rights and/or duties that protect their continued existence and would be sufficient to trigger legal and equitable remedies to protect them from efforts of a larger, regional utility to compete with them.

- *Rural water associations*--Also known as rural waterworks or rural water companies, these entities are not-for-profit, non-share corporations organized under state law. Rural water associations are subject to the oversight of the Public Service Commission for certification of service areas. The property rights these corporations acquire in their service areas are valuable and are subject to the protection of courts. Consequently, an effort by a governmental entity to compete or otherwise take business from an association is actionable (see *Bear Creek Water*

Association v. Town of Madison, 416 So. 2d 399 [Miss, 1982]; *City of Jackson v. Creston Hills Inc*, 172 So. 2d 215 [Miss, 1965]). In these cases, the Mississippi Supreme Court upheld either partial condemnation awards or damage awards against governmental entities for injury to a water association. Rights in a certificate are also sufficient to support a suit for injunctive relief against a competitor (see *City of Hernando v. North Mississippi Utility Company*, 3 So. 3d 775 [Miss App, 2008]).

- *Private water or wastewater systems*--Some private systems operate on a for-profit basis. As in the case of non-for-profit water associations, these firms acquire a valuable right in their service area. This right can be protected by the courts of the state against encroachments by other entities, whether public or private.
- *Municipalities*--State law vests municipalities with a broad range of powers and responsibilities. One duty is to provide residents with water. This is mandatory. (See *Brown v. City of Meridian*, 59 So. 795 [Miss, 1912]; see also *Attorney General's Opinion to Smith*, October 23, 2009.) Consequently, a municipality could argue that under law, it cannot be compelled to utilize the services of a regional provider, if it believed that to do so would result in its violating a legal duty to serve its residents.
- *Water and utility districts*--MISS. CODE ANN. Section 19-5-151 et seq. (1972) empowers utility districts to operate in areas of a county that are not within a municipality. These districts may provide water, sewer, garbage, or fire protection to their residents and are public corporations in perpetuity, with the powers necessary to provide the services described in CODE Sections 19-5-151 through 19-5-207.

The Attorney General has opined that the intent of these sections is to create a duty conferred upon these districts to provide utilities to the residents within the districts. A district may cede its responsibility to another entity to provide services but unless such cession is made, the district has the sole authority to provide service in its area. (See *Attorney General's Opinion to Smith* citing several other opinions on point, May 26, 2005.)

Consequently, these utility providers could continue to provide services to residents of their service area regardless of the existence of a regional utility provider. Encroachments by a regional authority could be successfully thwarted by the use of legal or equitable remedies. A regional utility provider might only be able to serve an area already served if it chose to provide services to the existing service provider or if the existing service

provider voluntarily ceded its service responsibilities by agreement.

HUD Requirements for Use of Funds for Low/Moderate Income Populations

Federal requirements for funding projects to benefit low/moderate income households placed constraints on the original goals of the Gulf Coast Region Utility Act.

As noted previously, under Public Law 109-234, Congress appropriated \$55 million in funding to Mississippi specifically to be used in areas that meet the national objective of serving low/moderate income households.

While a worthy objective, the requirement to use the funds in selected areas, when resources are limited, placed constraints on the original goals of the Gulf Coast Region Utility Act. MDEQ and MSEG were faced with decisions to place infrastructure in areas where the original, primary goals were ultimately sacrificed to accommodate these federal requirements. (See additional discussion on page 40.)

Cost of Consolidation

Utility authorities are limited in their efforts to provide services countywide because the cost to interconnect utility systems throughout the county is substantial.

In addition to the lack of interest of some utility companies contracting with the utility authorities to provide services, the cost to interconnect utility systems must be considered.

Ideally, water and sewer utility systems would be interconnected across the entire county to provide complete redundancy and resiliency (i. e., if one system is inoperable, then another system could provide services in that area). However, the cost associated with such interconnection is substantial. For example, engineers in Pearl River County estimate that to connect the wastewater treatment plant in Poplarville to the wastewater treatment plant in Picayune, the approximate cost would be \$30 million. These costs would include twenty-six miles of force main pipeline, environmental assessments, right-of-way acquisitions, air release valves, large pumping stations and intricate valve configurations at each end. Pearl River County engineers contend that it would be impractical to interconnect the Poplarville and Picayune wastewater treatment plants because the plants would need enough built capacity to handle all of the waste from both locations.

While some consolidation was achieved by physically interconnecting newly constructed water systems to pre-existing systems, the cost to consolidate all newly constructed water and wastewater systems by physically interconnecting them would be an additional cost not covered in the plan.

What are the lessons learned from implementation of the program?

The Regional Infrastructure Program provided lessons that will benefit the state in the future should a similar situation occur. Lessons learned include:

- provide funds for complementary utility infrastructure;
- utility providers should consider the benefits of entering agreements with county utility authorities;
- reduce or eliminate use of term bidding (i. e., bidding projects based on engineers' conceptual designs) for this type of effort; and,
- assist in identifying start-up funding for newly created entities.

Provide Funds for Complementary Infrastructure

Ideally, both sufficient capacity and complementary infrastructure would be built to ensure that the systems would be optimally used in the future. Because the number of customers is determined in large part on the amount of complementary infrastructure built, providing more funding for complementary infrastructure would have ensured more customers when the projects go online.

The Mississippi Engineering Group indicated that stakeholders requested the relocation of many wastewater treatment facilities; however, as noted previously, the cost associated with this relocation would be significant. The cost to interconnect systems, whether water or wastewater, would also be significant. Therefore, the opportunity to develop interconnected systems that are also storm-ready simply was not available due to funding limitations.

Because funding was not available at that level, the interconnectedness of the systems is limited and any water or wastewater system located within the storm surge zone is at risk of future storm damage. If the system is not connected to another system farther north, the system will not be able to provide potable water or wastewater services to its customers.

The capacity of the program's water and wastewater regional infrastructure was based on an optimistic prediction of population growth through 2025. The rationale was that the county utility authorities or other entities (e. g., developers) would be responsible for providing the complementary infrastructure to connect to the regional system. A critical aspect of the regional infrastructure, then, was to provide capacity for large population growth. (See related discussion on page 26.)

It is unknown whether the large-capacity infrastructure built will be used in the future. However, because the capacities were built to accommodate a population growth that is not on track to materialize, one could assume that more of the funding could have been better spent providing complementary infrastructure. Complementary infrastructure provides customers to the utility authority, which helps to ensure financial viability.

Instead of relying on the utility authorities to obtain funds to provide the complementary infrastructure (to connect customers), MDEQ could have designated more funding to these efforts. One utility authority suggested that allotting thirty percent of its funds to complementary infrastructure would have been beneficial.

Utility Providers Should Consider the Benefits of Agreements with County Utility Authorities

Municipalities and independent service providers have the opportunity to benefit from the program by voluntarily entering into an agreement with a county utility authority.

Utility providers may propose to potential customers of the system the benefits of entering into an agreement with a county utility authority that runs a regional system. The benefits include reduced capital cost, assistance in economic development by serving as a one-stop shop for water and wastewater needs, and providing system redundancy so that when one system loses service after a storm, another system can provide potable water to the system and its customers. Redundancy is particularly important for communities in the storm surge zone. Also, in terms of wastewater, consolidating wastewater discharges to fewer locations allows for better wastewater treatment and a more positive overall impact on public health and the natural environment.

Appendix E, page 67, lists eight benefits of consolidating water systems as reported by the Department of Agricultural Economics, Mississippi State University Extension Service.

Utility systems placed under receivership may have their management transferred to the utility authority.

According to the Mississippi Gulf Region Water and Wastewater Plan, there is a need to decrease the number of poorly maintained and managed systems in the six coastal counties.

As provided for in MISS. CODE ANN. Section 77-3-22 (1972), the management of privately owned water or

wastewater systems may be transferred to other systems through receivership. When the system is unable or unwilling to serve its customers adequately or is grossly inefficient, irresponsible, or unresponsive to the needs of its customers, the commission has the authority to petition the chancery court for an order to place the system under the control of a receiver. The court, with recommendation by the Public Service Commission, appoints a receiver that is responsible for operating the system in the best interest of the customers and is compensated from the assets of the system. Control remains with the receiver until the court determines that it is in the best interest of the customers that the water or wastewater system be returned to the owner. If the court determines that the system should not be returned, the receiver has the authority to proceed to liquidate the assets of the system.

County utility authorities have opportunities to obtain funds to build complementary infrastructure and therefore increase the number of customers, but some authorities may need assistance in applying for funds. Increasing consolidation of systems could also increase the authorities' abilities to obtain funding.

According to the Mississippi Department of Environmental Quality, there are at least six ways to acquire funds to build complementary systems, including Coastal Impact Assistance Program (CIAP) funds for wastewater. CIAP was established by Section 384 of the Energy Policy Act of 2005 (Public Law 109-58) and authorizes funds to be distributed to oil- and gas-producing states for the conservation, protection, and preservation of coastal areas, including wetlands. Utility authorities have been able to use CIAP funds to provide complementary wastewater infrastructure.

Jackson County has been proactive in securing an additional \$48 million in grant and loan funds from many sources, including the U. S. Department of Agriculture, the U. S. Army Corps of Engineers, the State Revolving Fund, and private developers. Because the Executive Director had prior experience in obtaining these funds, he has been able to secure the funds more easily before construction of CDBG projects is complete. Other utility authorities that lack the staff needed to complete loan or grant applications (which can take years from initial application to receipt of funds) are at a disadvantage.

Although it would be beneficial for the Mississippi Department of Environmental Quality (MDEQ) to provide assistance to county utility authorities' staffs in obtaining loan and grant funds to use in building complementary infrastructure, according to MDEQ, the use of CDBG funds (including those for MDEQ staffing) is limited to implementation of CDBG programs. Therefore, MDEQ

might want to explore ways that it could provide assistance to utility authorities in securing additional funds that would not conflict with HUD regulations.

As noted in Appendix E, page 67, two of the benefits of consolidated systems are:

- Systems will have greater access to capital, making it easier to borrow funds to make the necessary improvements, including those required to comply with regulations. With a smaller number of water systems, funding agencies such as United States Department of Agriculture Rural Development will be able to fund a greater percentage of systems.
- A larger customer base would be created, leading to greater access to grant and public funding.

Therefore, the more utility authorities are able to consolidate systems, the greater their chances might be of obtaining funds, whether by borrowing funds or through grants.

Reduce or Eliminate Use of Bidding Based on Conceptual Engineering Plans

When time is not the most critical element, using a traditional bidding method, rather than bidding on conceptual engineering plans, would allow better planning and fewer change orders because of increased precision regarding the estimated amount of time and funds necessary to complete projects.

MDEQ required the county utility authorities to accept bids from contractors based on the engineers' conceptual plans, which are incomplete (i. e., also known as "term bidding"). The idea was that as plans were finalized, the county utility authorities would submit change orders and contingency funds would be used to cover the changes in contract amounts.

Utility authorities had to submit numerous change orders for approval to MDEQ because of changes from conceptual to final engineering plans. While the benefit of term bidding was to start construction earlier (even before all property was acquired), there were potential negative effects of using this method. For example, because contractors had to make assumptions regarding the finished product and amount of time and funding it would take to complete the project, some projects had to be scaled back after final engineering designs because the funding available would not cover the costs of the complete design.

In a traditional bidding method for construction, engineers complete designs before contractors bid on the work necessary to complete the design. Detailed and accurate engineering plans allow thorough and accurate bidding

with fewer change orders during construction. Change orders authorize a change in the construction work and contract time and/or amount and can be costly.

Staff at one county utility authority stated to PEER that if more time had been available, better planning in the conceptual engineering phase might have resulted in a better overall plan for the infrastructure. The original conceptual plan might have been able to reduce the scope of the property acquisition while still preserving the critical water and sewer infrastructure.

PEER notes that, in times of crisis when time is the most critical element, term bidding may provide the benefit of beginning construction earlier because property acquisition, which takes time to complete, is not required to be complete before being bid on by contractors.

Assist in Identifying Start-Up Funding for Newly Created Entities

In the future, after a disaster such as Hurricane Katrina, the state should include planning for financial assistance (i. e., start-up funding) for newly formed entities (such as county utility authorities) as part of addressing the state's needs for recovery. This could include exploration of and recommendations for available funding sources.

Neither the Pearl River nor Stone county utility authorities had pre-existing entities to consolidate with and assume the responsibilities of the utility authorities. Therefore, these counties had to create completely new entities to act as the utility authorities.

Given that members of county utility authorities' boards are appointed volunteers who were made responsible for managing millions of dollars' worth of new infrastructure, it would be impractical to expect the board members to provide all of the oversight needed for the projects. The Pearl River County Utility Authority noted that duties involving regulatory powers were often transferred to engineers and legal counsel.

Both boards hired grant administrators; however, with the amount of paperwork and communications required, start-up funding for executive directors and administrative staff would have been helpful. These staff resources would have also been beneficial to each county utility authority in forming long-term business plans and communicating with their boards. The Pearl River County Utility Authority was able to hire an Executive Director in 2010. As of August 2011, Stone County had not hired an Executive Director.

According to MDEQ, HUD regulations did not allow the use of CDBG funds to help pay for start-up for new entities for county utility authorities. Therefore, in the event of similar disasters in the future, state leaders would need to explore and recommend other sources of start-up funding.

What complaints have arisen from the program and are the complaints valid?

PEER determined that two complaints against the Hancock County Utility Authority, one alleging wasteful spending and another alleging a violation of the Open Meetings Act, were valid. Conversely, two complaints against the Stone County Utility Authority, one alleging lack of transparency and another alleging conflict of interest, were not valid.

As noted on page 1, when conducting this review, PEER addressed specific citizen complaints regarding administration of the program's funds. Complaints filed with the PEER Committee alleged the following:

- The Hancock County Utility Authority is installing water and wastewater pipelines on property in Pearlinton that is near no other homes, impacts no waterways, and is in the U. S. Army Corps of Engineers buy-out zone.⁴
- The Hancock County Utility Authority is in violation of the Open Meetings Act in its use of telephone polls of board members. The public is prohibited from hearing and participating in deliberations conducted in telephone meetings. Further, the minutes contain no mention of how individual board members vote in the polls, who conducted the polling, and on what dates the polling was conducted.
- There is a lack of transparency in how the \$38 million in program funds has been expended in Stone County.
- Actions by the Stone County Utility Authority board were taken only to benefit relatives of the authority and thereby violate applicable conflict of interest laws.

This chapter contains PEER's conclusions regarding the validity of each of these complaints.

⁴ In 2010, the U. S. Army Corps of Engineers recommended a federal government buy-out of approximately 2,000 properties on the Mississippi Gulf Coast. These properties are at low elevations and therefore at a high risk for flooding.

Complaint: Alleged Wasteful Spending of Funds by Hancock County Utility

Authority

In response to federal requirements that \$55 million of the program's funding be used to benefit low- and moderate-income residents, the Hancock County Utility Authority built facilities to provide centralized water and wastewater services to residents of Pearlinton. While this project satisfied the federal requirements and has environmental benefits, cost-efficiency was compromised because these funds might have been better utilized in other areas benefiting a greater number of residents and less at risk of flooding.

The complainant alleged that the Hancock County Utility Authority is installing water and wastewater pipelines on property in Pearlinton that is near no other homes, impacts no waterways, and is in the U. S. Army Corps of Engineers buy-out zone.

Installation of Pipelines to Benefit Pearlinton Residents

As required by the MGRWWP, the Hancock County Utility Authority is using approximately \$36 million of its program funds to install pipelines to serve all households in Pearlinton, including areas with few homes and areas located in the U. S. Army Corps of Engineers buy-out zone.

As noted on page 22, under Public Law 109-234, Congress appropriated \$55 million of the program's CDBG funds to Mississippi specifically to be used in areas that meet the national objective of serving low/moderate income households. The Hancock County Utility Authority is spending approximately \$36 million of this amount in Pearlinton for a new wastewater treatment facility, wastewater collection system, water supply system, and water distribution system. These facilities benefit 580 households; therefore, the per-household amount to be spent in Pearlinton is approximately \$62,000 per household.

The utility authority is extending pipelines to serve every household in Pearlinton, as provided for in the MGRWWP. Further, the Pearlinton Water and Sewer District passed ordinances in August 2009 that state the following:

- When public water shall become available to any habitable property in the district, the property owner shall be required to connect to said public water system within sixty days and the private source shall be disconnected. Water shall be deemed to be available as long as the distribution lines abut the property line of the owner of the property.

- When public sewer shall become available to any habitable property in the district desiring or requiring sewer, the property shall be required to be connected to said public sewer system within sixty days and private source shall be disconnected. Sewer shall be deemed to be available as long as the sewer collection lines abut the property line of the owner of the property.

PEER reviewed maps from the utility authority engineers to determine that some pipelines are extended to areas with few homes and some of these properties are within the proposed buy-out zone of the Mississippi Coastal Improvements Program.

Areas in Pearlington at High Risk For Flooding

Through the Mississippi Coastal Improvements Program, the U. S. Army Corps of Engineers had recommended government buy-outs of parcels in the Pearlington area that are within the FEMA 100-year floodplain and are therefore at high risk for flooding.

As part of the Mississippi Coastal Improvements Program, the U. S. Army Corps of Engineers recommended the acquisition of approximately 2,000 parcels from willing sellers within the 100-year floodplain (i. e., the buy-out zone). The Corps of Engineers submitted the recommendations to Congress in January 2010 but it has taken no action to date. The Corps of Engineers has not identified specific areas with the exception of the FEMA 100-year floodplain. This floodplain covers some areas within Pearlington that are considered high risk for flooding because of their low elevations.

Since the Corps of Engineers has not received authorization or funding to conduct further work to identify other areas, the corps is simply maintaining a preliminary list of individuals who have contacted them and indicated they would be willing to sell. Owners of approximately sixty parcels in the Pearlington area have indicated willingness to sell their properties. Of these, thirty are currently occupied and thirty are vacant, as homes might have been destroyed during Hurricane Katrina but not rebuilt.

Cost-Inefficiency of Projects in Pearlington

PEER believes that the need for centralized water and wastewater services could have been met in a different way, perhaps by providing services to the majority of residents located in a smaller geographic area. This would have provided for funds to be used in areas benefiting a greater number of residents and areas less at risk of flooding.

The Pearlington Water and Sewer District had plans prior to Hurricane Katrina to build water and wastewater

infrastructure in the area. The land had already been acquired to build the wastewater treatment facility. Pearlinton clearly had a pre-existing need for water and wastewater infrastructure because there were no centralized services available. Further, many homes were discharging sewage directly into the streams and bayous in the area. Also, most of the homeowners obtained their water from shallow wells contaminated by Hurricane Katrina.

However, because Pearlinton is on the Gulf Coast and areas within Pearlinton are in the buy-out zone and therefore more at risk of flooding, PEER contends that the need could have been met in a different way. At minimum, the pipelines could have been installed in areas of Pearlinton outside of the buy-out zone and where the majority of residents are located. This strategy would be beneficial in terms of mitigation, would have saved money spent on extending lines to various areas within Pearlinton, and would have saved money spent on paying homeowners in Pearlinton for easements to connect to the systems.

PEER recognizes the environmental benefits of eliminating potentially polluted private water wells and onsite wastewater systems offline in the Pearlinton area. However, by doing so, cost-efficiency was compromised. The needs of the majority of residents might have been met at a lower cost (i. e., providing services to the majority of residents). Additional funding might have been better used in areas benefiting more residents and in areas less at risk of flooding. This type of due diligence in selecting projects is crucial when the need exceeds the resources, as in the case of the infrastructure program.

Complaint: Alleged Violation of Open Meetings Act by Hancock County Utility

Authority

The Hancock County Utility Authority has violated the Open Meetings Act by conducting telephone polls without meeting the requirements of the act for telephone meetings.

The complainant alleged that Hancock County Utility Authority has violated the Open Meetings Act in its use of telephone polls of board members and that the public is prohibited from hearing and participating in deliberations conducted in telephone meetings. Further, the minutes contain no mention of how individual board members voted in the polls, who conducted the polling, and on what dates the polling was conducted.

Statutory Requirements Regarding Telephone Meetings of the Board

MISS. CODE ANN. Section 25-41-5 (1972) states that the Hancock County Utility Authority must meet certain requirements when conducting telephone meetings.

MISS. CODE ANN. Section 25-41-5 (1972) states that public bodies may hold meetings via telephone as long as certain conditions of the law are met. These include:

- a quorum of the public body may be at different locations for the meeting through teleconference, so long as a location for public participation is made available, with five days' notice of the location of the public deliberation meeting area; and,
- the minutes of the meeting must be kept in an audio format for three years.

The law provides contingencies for emergency situations. MISS. CODE ANN. Section 25-41-5 (1972) states that a public body may meet by teleconference or video means as often as needed if an emergency exists and the public body is unable to meet in regular session. Five-day notice is not required for teleconference or video meetings to address an emergency.

MISS. CODE ANN. Section 25-41-5 (5) (1972) states that public bodies conducting emergency meetings through teleconference or video means shall comply with the provisions of subsection (4) of this section requiring minutes, recordation, and preservation of the audio or audiovisual recording of the meeting. Also, the nature of the emergency must be stated in the minutes.

How the Board Violated the Open Meetings Act

The board of the Hancock County Utility Authority violated the Open Meetings Act by failing to include in the minutes a record of individual votes taken by telephone poll, make an audio recording of the meeting, or indicate in the minutes the need for an emergency meeting in which to conduct a telephone poll.

PEER reviewed minutes of the Hancock County Utility Authority's board meetings and found five instances in which the utility authority had ratified at meetings the results of previous telephone polls:

- March 9, 2010-concerning a private entity joining the Hancock County Utility Authority;
- April 13, 2010-concerning the reinstating of a previously deleted "test well" bid item for the McLaurin Street well, on the recommendation of the MSEG consultant, at the bid price of \$35,000;

- July 13, 2010-concerning the combination of the Katrina loans and Pool loan;
- July 13, 2010-concerning approval to advertise for requests for proposals for the CIAP funds to connect customers to sewer collection system in the Kiln area; and,
- October 12, 2010-concerning surplus funds to be used on the W8 and S7 projects. The W8 project was to extend the distribution systems and the S7 was for putting fencing around a lagoon.

The board's attorney stated that in extreme emergency situations the authority has utilized poll votes to ensure that action is completed that is reasonable and necessary. Further, the attorney notes that a poll vote is not an official action of the authority. As such, any action discussed in a poll vote is ultimately discussed in detail in an open meeting and only officially voted upon and approved in an open meeting.

While the results of the polls were ratified during the monthly meetings, the Executive Director polled board members on the telephone prior to the meeting without providing the public an opportunity to participate and without meeting the provisions of emergency telephone meetings detailed in the Open Meetings Act. Specifically, the board did not include in the minutes a record by name of any vote taken by telephone poll, make an audio recording of the meeting, or indicate in the minutes the need for an emergency meeting.

Complaint: Alleged Lack of Transparency by Stone County Utility Authority

PEER found no evidence that the Stone County Utility Authority violated applicable state or federal laws, rules, or regulations regarding transparency of a public body or local governmental unit that utilizes CDBG funds.

PEER received an anonymous complaint alleging that a large percentage of Stone County citizens were disappointed in the lack of transparency in relation to how the approximately \$38 million of CDBG funds allocated to the Stone County Utility Authority was utilized.

MISS. CODE ANN. Section 25-41-5 (1972) states "all official meetings of any public body, unless otherwise provided in this chapter or in the Constitutions of the United States of America or the State of Mississippi, are declared to be public meetings and shall be open to the public at all times unless declared an executive session."

MISS. CODE ANN. Section 25-41-15 (1972) states the Mississippi Ethics Commission shall have the authority to enforce the provisions of this chapter upon a complaint

filed by any person. The commission then gives the public body an opportunity to respond to the complaint and then either dismisses the complaint or proceeds with a proper hearing to address the matter. After the commission has issued an order, any party may petition the chancery court of the county in which the public body is located to enforce or appeal any order of the Ethics Commission issued pursuant to this statute.

The Ethics Commission informed PEER that no complaint had been filed against the Stone County Utility Authority related to the Open Meetings Law and PEER found no petition filed with the Stone County Chancery Court.

The Stone County Utility Authority conducted a public hearing on January 17, 2008. PEER reviewed documentation showing that the authority advertised in the *Times of Stone County and South Mississippi* news publication on January 10, 2008, that it would be holding a public hearing to discuss application for \$38.6 million of CDBG Disaster Recovery funds for (1) construction of a Southern Stone County Regional Water Supply System; (2) construction of a South Stone County Wastewater and Treatment Facility; and (3) construction of a Wiggins Regional Wastewater and Treatment Facility and Transmission System, each as described in the MGRWWP. The board had copies of minutes of the public hearing and showed that citizen input was obtained.

Also, PEER reviewed a brochure developed by the Stone County Utility Authority that includes a description of projects, their costs, their locations, how county residents would benefit from the projects, and how residents could provide input. The brochure was distributed as an insert in the local newspaper during the late summer of 2011.

Regarding the Stone County Utility Authority's compliance with federal requirements for transparency related to CDBG funds, 24 CFR Section 570.486 requires that citizens have reasonable, timely access and notice of meetings and generally have an opportunity to participate in a local government's process for making decisions on the use of such funds. Based on the analysis set out above, PEER concludes that the Stone County Utility Authority provided citizens with both notice and an opportunity to provide input on the potential uses of the CDBG funds made available to the district.

Complaint: Alleged Conflict of Interest by Stone County Utility Authority

PEER found no evidence that the Stone County Utility Authority violated state or federal conflict of interest laws, rules, or regulations applicable to a public body or local governmental unit that utilizes CDBG funds.

PEER received an anonymous complaint alleging that actions taken by the Stone County Utility Authority board were done only to benefit relatives of the board's officials and thereby violated applicable conflict of interest laws. The implication was that the President of the Stone County Utility Authority's Board of Directors and the authority's grant administrator are related and guided the authority's actions to benefit members of their family.

MISS. CODE ANN. Section 25-4-105 (1972) states that no public servant shall use his or her official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated. By relative, the statute specifies the public servant's spouse, child, parent, sibling, or spouse of a child, parent, or sibling.

PEER interviewed the President of the Stone County Utility Authority and the authority's grant administrator and the two stated that they are not related to each other. Upon seeing a list of properties under consideration for acquisition on which to locate water and sewer infrastructure as identified by Neel-Schaffer Engineering, the grant administrator advised MDEQ and the Stone County Utility Authority board of her family relationships with three of the property owners on the list. She informed both entities that she had no financial or ownership interest in any of the properties and no business or financial relationships with them. The Stone County Utility Authority's Board Attorney handled all communications and negotiations relative to property acquisition with those three property owners.

Concerning Stone County Utility Authority's compliance with federal regulations on conflict of interest related to use of CDBG funds, 24 CFR Section 85.36 prohibits a subgrantee (i. e., district) employee from benefiting from any contract utilizing CDBG funds. These regulations also prohibit contracts being granted to employees of an officer's immediate family or business partners of other firms that employ or are about to employ the officer or employee. PEER found no instances of such activities occurring involving the contracts of the Stone County Utility Authority.

These regulations also require that subgrantees must have a written code addressing employee conduct in the awarding of contracts. While the Stone County Utility Authority provided PEER with no copies of a “code” for employees setting out duties and responsibilities relative to contracting, in view of the fact that the state of Mississippi has a conflict of interest statute broad enough to reach the conduct of these utility districts, it would appear that this requirement has been satisfied.

Appendix A: Composition of the Boards of Directors of the Gulf Coast County Utility Authorities, by County

County Utility Authority Name	Composition of Board
Hancock County Utility Authority	<ul style="list-style-type: none"> • Mayor of Bay St. Louis or designee • Mayor of Waveland or designee • President of the Hancock County Board of Supervisors or designee • Chairman of Diamondhead Water and Sewer District • Chairman of Kiln Fire and Water District • Chairman of Hancock County Water and Sewer District • Chairman of Pearlinton Water and Sewer District
Harrison County Utility Authority	<ul style="list-style-type: none"> • Mayor of Biloxi • Mayor of Gulfport • Mayor of D'Iberville • Mayor of Long Beach • Mayor of Pass Christian • Two directors appointed by the Harrison County Board of Supervisors from the unincorporated area of the county
Jackson County Utility Authority	<ul style="list-style-type: none"> • A director appointed by the City of Gautier • A director appointed by the City of Ocean Springs • A director appointed by the City of Pascagoula • A director appointed by the City of Moss Point • Three directors appointed by the Jackson County Board of Supervisors from the unincorporated area of the county
Pearl River County Utility Authority	<ul style="list-style-type: none"> • Four directors appointed by the Pearl River County Board of Supervisors • Two directors appointed by the Board of Aldermen of the City of Picayune • One director appointed by the Board of Aldermen of the City of Poplarville
Stone County Utility Authority	<ul style="list-style-type: none"> • Three directors appointed by the Board of Supervisors of Stone County • Two directors appointed by the Board of Alderman of the City of Wiggins

SOURCE: The Gulf Coast Region Utility Act (MISS. CODE ANN. Section 49-17-701 et seq. [1972]) and county utility authority interviews.

Appendix B: Mississippi Gulf Coast Regional Infrastructure Program, Project Information by County and by Project Number

Project Information by County

Hancock County				
Project Number	Grant Recipient	Project	Budget	Estimated Completion Date
S03	Hancock County Utility Authority	Pearlington/Port Bienville Regional WWTF	\$6,453,045	5/1/11
S04	Hancock County Utility Authority	Pearlington Wastewater Collection System	\$16,533,463	11/10/12
S05	Hancock County Utility Authority	Northern Regional Wastewater Facility (Kiln Plant)	\$29,674,823	11/15/11
S06	Hancock County Utility Authority	Kiln Collection System	\$21,162,799	12/15/12
S07	Hancock County Utility Authority	Bay St. Louis - Cedar Pt. area Interceptors	\$3,626,346	7/30/11
W03	Hancock County Utility Authority	Pearlington-Port Bienville Regional Water Supply System (W3_W4 combined)	\$4,277,635	06/01/10
W04	Hancock County Utility Authority	Pearlington Water Distribution System (W3_W4 combined)	\$8,883,573	11/15/12
W05	Hancock County Utility Authority	Kiln Regional Water Supply System	\$3,206,031	12/31/10
W05E	Hancock County Utility Authority	Kiln Regional Water Supply	\$6,383,584	08/15/11
W06	Hancock County Utility Authority	Kiln Water Distribution System	\$5,397,595	08/30/11
W07	Hancock County Utility Authority	Bay St. Louis - Waveland Water Supply	\$22,714,955	12/30/12
W08	Hancock County Utility Authority	Hancock County Water and Sewer District Water Distribution System	\$8,249,691	06/30/12
W09	Hancock County Utility Authority	Waveland, US 90 Water System Upgrade	\$4,254,343	11/30/10
Total Hancock County			\$140,817,883	

Harrison County				
Project Number	Grant Recipient	Project	Budget	Estimated Completion Date
S10	Harrison County Utility Authority	Saucier and East Central Harrison County Pump Stations and Transmission System	\$4,534,466	8/31/11
S10E	Harrison County Utility Authority	Saucier WWTF and Riverbend/Robinwood Forest Transmission System	\$9,775,801	2/15/11
S11	Harrison County Utility Authority	East Central Harrison County WWTF	\$17,944,286	6/30/11
S12	Harrison County Utility Authority	DeLisle, Long Beach WWTF and Interceptors	\$23,027,403	6/1/13
S12c	Harrison County Utility Authority	Delisle Collection System Completion	\$1,307,342	10/4/10
S13	Harrison County Utility Authority	Pass Christian Wastewater Systems Improvements	\$1,996,050	8/31/12
S14	Harrison County Utility Authority	Northwest Gulfport Regional Interceptor	\$2,874,974	10/1/12
S15	Harrison County Utility Authority	West Gulfport Regional Interceptor	\$3,583,866	3/4/12
S16	Harrison County Utility Authority	Long Beach Water/Wastewater System Improvements	\$3,890,482	5/29/10
S17	Harrison County Utility Authority	Gulfport VA Area WW System Upgrade	\$2,936,500	10/1/11
S18	Harrison County Utility Authority	South Gulfport Regional Interceptors	\$8,986,728	10/1/12
S19	Harrison County Utility Authority	South Woolmarket WWTF and Interceptors	\$27,992,325	10/29/12
S19E	Harrison County Utility Authority	South Woolmarket Interim Pump Station and Force Main	\$4,167,981	11/15/11
S20	Harrison County Utility Authority	D'Iberville WWTF and Transmission System	\$24,287,695	2/21/12
S21	Harrison County Utility Authority	Biloxi Broadwater Water and Wastewater System Improvements	\$3,146,084	5/1/12
S22	Harrison County Utility Authority	D'Iberville Waterfront Wastewater System Improvements	\$4,680,543	5/25/10
W11	Harrison County Utility Authority	North-Central Harrison County Water Supply	\$9,975,102	11/01/11
W12	Harrison County Utility Authority	Pass Christian Water Systems Improvements	\$3,076,231	01/28/12
W13	Harrison County Utility Authority	Western Harrison County Regional Water Supply	\$20,026,883	03/22/13
W14	Harrison County Utility Authority	Long Beach Water/Wastewater System Improvements	\$2,177,618	08/19/11
W15	Harrison County Utility Authority	North Gulfport/Lyman Regional Water Supply	\$14,987,133	08/28/12
W16	Harrison County Utility Authority	Gulfport VA Area Water System Upgrade	\$3,069,485	07/30/11
W17	Harrison County Utility Authority	South Gulfport Regional Water Supply	\$1,388,155	05/03/10

W18	Harrison County Utility Authority	Eastern Harrison County Regional Water Supply	\$29,784,213	12/15/11
W19	Harrison County Utility Authority	Biloxi Broadwater Water and Wastewater System Improvements	\$4,522,950	5/1/12
Total Harrison County			\$234,140,296	

Jackson County				
Project Number	Grant Recipient	Project	Budget	Estimated Completion Date
S23	Jackson County Utility Authority	West Jackson Regional Wastewater Treatment Facility (WWTF) and Transmission Mains	\$34,377,090	9/30/11
S25	Jackson County Utility Authority	Gulf Park/Ocean Beach area Interceptors	\$7,364,350	7/30/10
S26	Jackson County Utility Authority	North Jackson County Decentralized Wastewater Treatment Facilities	\$9,301,411	12/30/09
S26E	Jackson County Utility Authority	North Jackson County Decentralized Wastewater Treatment Facility	\$5,240,469	8/15/11
S29	Jackson County Utility Authority	Escatawpa Regional WWTF Improvements	\$4,022,425	10/31/11
W20	Jackson County Utility Authority	Western Jackson County Regional Water Supply	\$22,700,478	08/15/11
W23	Jackson County Utility Authority	East Jackson Co. Regional Water System	\$13,906,898	08/15/11
S27	City of Gautier	Gautier WW Interceptor Upgrade	\$2,339,523	10/1/10
S28	City of Gautier	Gautier Regional WWTF Improvements	\$2,509,584	5/31/10
W22	City of Gautier	Gautier Water Transmission Upgrade	\$658,183	04/06/10
W24A	City of Moss Point	Moss Point Water Transmission	\$3,053,747	08/03/10
W24	City of Moss Point	Moss Point-Three Rivers Regional Water Treatment System	\$3,897,823	08/03/10
S24	City of Ocean Springs	Ocean Springs Wastewater Transmission Improvements	\$2,457,401	7/30/10
W21	City of Ocean Springs	Ocean Springs Water Transmission Improvements	\$1,230,801	05/13/10
S30	City of Pascagoula	Pascagoula-River Park Wastewater Transmission Improvements (W25_S30)	\$713,670	11/21/10
S31	City of Pascagoula	Pascagoula - Shortcut Road Transmission System Improvements	\$982,047	10/13/10
S32	City of Pascagoula	Pascagoula-Chiplew Wastewater Transmission Improvements (W26_S32)	\$1,993,679	9/30/11
S33	City of Pascagoula	Beach Boulevard Wastewater Transmission Improvements (W27_S33)	\$493,766	9/15/10
W25	City of Pascagoula	Pascagoula-River Park Water and Wastewater Transmission Improvements (W25_S30)	\$427,000	07/13/10
W26	City of Pascagoula	Pascagoula-Chiplew Water and Wastewater Transmission Improvements (W26_S32)	\$1,095,472	09/30/11

W27	City of Pascagoula	Beach Boulevard Water and Wastewater Transmission Improvements (W27_S33)	\$249,255	09/15/10
Total Jackson County			\$119,015,072	

Pearl River County				
Project Number	Grant Recipient	Project	Budget	Estimated Completion Date
S01	Pearl River County Utility Authority	Poplarville Regional WWTF and Transmission System	\$16,047,576	12/1/11
S02	Pearl River County Utility Authority	Picayune Regional WWTF and Transmission System	\$21,153,144	12/1/11
W01	Pearl River County Utility Authority	Poplarville Area Water System Improvements	\$8,369,626	12/1/11
W01E	Pearl River County Utility Authority	Poplarville Regional Water Supply System	\$2,384,142	07/20/09
W02	Pearl River County Utility Authority	Picayune Regional Water Supply System	\$8,258,737	11/15/11
Total Pearl River County			\$56,213,225	

Stone County				
Project Number	Grant Recipient	Project	Budget	Estimated Completion Date
S08	Stone County Utility Authority	Wiggins Regional Wastewater Treatment Facility (WWTF) and Transmission System	\$11,813,552	11/8/11
S09	Stone County Utility Authority	South Stone County WWTF and Interceptors	\$16,413,772	10/22/11
W10	Stone County Utility Authority	Southern Stone Co. Regional Water System	\$9,209,839	08/13/10
Total Stone County			\$37,437,163	

Recap of Totals by County	
Hancock County	\$140,817,883
Harrison County	\$234,140,296
Jackson County	\$119,015,072
Pearl River County	\$56,213,225
Stone County	\$37,437,163
TOTAL	\$587,623,639

Note: WWTF = Wastewater Treatment Facility

SOURCE: Mississippi Department of Environmental Quality Project Status Report

Project Information by Project Type and Number

Wastewater Projects				
Project Number	Grant Recipient	Project	Total Budget	Estimated Completion Date
S01	Pearl River County Utility Authority	Poplarville Regional WWTF and Transmission System	\$16,047,576	12/1/11
S02	Pearl River County Utility Authority	Picayune Regional WWTF and Transmission System	\$21,153,144	12/1/11
S03	Hancock County Utility Authority	Pearlington/Port Bienville Regional WWTF	\$6,453,045	5/1/11
S04	Hancock County Utility Authority	Pearlington Wastewater Collection System	\$16,533,463	11/10/12
S05	Hancock County Utility Authority	Northern Regional Wastewater Facility (Kiln Plant)	\$29,674,823	11/15/11
S06	Hancock County Utility Authority	Kiln Collection System	\$21,162,799	12/15/12
S07	Hancock County Utility Authority	Bay St. Louis - Cedar Pt. area Interceptors	\$3,626,346	7/30/11
S08	Stone County Utility Authority	Wiggins Regional Wastewater Treatment Facility (WWTF) and Transmission System	\$11,813,552	11/8/11
S09	Stone County Utility Authority	South Stone County WWTF and Interceptors	\$16,413,772	10/22/11
S10	Harrison County Utility Authority	Saucier and East Central Harrison County Pump Stations and Transmission System	\$4,534,466	8/31/11
S10E	Harrison County Utility Authority	Saucier WWTF and Riverbend/Robinwood Forest Transmission System	\$9,775,801	2/15/11
S11	Harrison County Utility Authority	East Central Harrison County WWTF	\$17,944,286	6/30/11
S12	Harrison County Utility Authority	DeLisle, Long Beach WWTF and Interceptors	\$23,027,403	6/1/13
S12c	Harrison County Utility Authority	Delisle Collection System Completion	\$1,307,342	10/4/10
S13	Harrison County Utility Authority	Pass Christian Wastewater Systems Improvements	\$1,996,050	8/31/12
S14	Harrison County Utility Authority	Northwest Gulfport Regional Interceptor	\$2,874,974	10/1/12
S15	Harrison County Utility Authority	West Gulfport Regional Interceptor	\$3,583,866	3/4/12
S16	Harrison County Utility Authority	Long Beach Water/Wastewater System Improvements	\$3,890,482	5/29/10
S17	Harrison County Utility Authority	Gulfport VA area WW System Upgrade	\$2,936,500	10/1/11
S18	Harrison County Utility Authority	South Gulfport Regional Interceptors	\$8,986,728	10/1/12
S19	Harrison County Utility Authority	South Woolmarket WWTF and Interceptors	\$27,992,325	10/29/12
S19E	Harrison County Utility Authority	South Woolmarket Interim Pump Station and Force Main	\$4,167,981	11/15/11

S20	Harrison County Utility Authority	D'Iberville WWTF and Transmission System	\$24,287,695	2/21/12
S21	Harrison County Utility Authority	Biloxi Broadwater Water and Wastewater System Improvements	\$3,146,084	5/1/12
S22	Harrison County Utility Authority	D'Iberville Waterfront Wastewater System Improvements	\$4,680,543	5/25/10
S23	Jackson County Utility Authority	West Jackson Regional Wastewater Treatment Facility (WWTF) and Transmission Mains	\$34,377,090	9/30/11
S24	City of Ocean Springs	Ocean Springs Wastewater Transmission Improvements	\$2,457,401	7/30/10
S25	Jackson County Utility Authority	Gulf Park/Ocean Beach area Interceptors	\$7,364,350	12/30/09
S26	Jackson County Utility Authority	North Jackson County Decentralized Wastewater Treatment Facilities	\$9,301,411	8/15/11
S26E	Jackson County Utility Authority	North Jackson County Decentralized Wastewater Treatment Facility	\$5,240,469	10/31/11
S27	City of Gautier	Gautier WW Interceptor Upgrade	\$2,339,523	10/1/10
S28	City of Gautier	Gautier Regional WWTF Improvements	\$2,509,584	5/31/10
S29	Jackson County Utility Authority	Escatawpa Regional WWTF Improvements	\$4,022,425	5/31/10
S30	City of Pascagoula	Pascagoula-River Park Wastewater Transmission Improvements (W25_S30)	\$713,670	11/21/10
S31	City of Pascagoula	Pascagoula - Shortcut Road Transmission System Improvements	\$982,047	10/13/10
S32	City of Pascagoula	Pascagoula-Chiplew Wastewater Transmission Improvements (W26_S32)	\$1,993,679	9/30/11
S33	City of Pascagoula	Beach Boulevard Wastewater Transmission Improvements (W27_S33)	\$493,766	9/15/10
Total Wastewater Projects			\$359,806,461	

Water Projects				
Project Number	Grant Recipient	Project	Total Budget	Estimated Completion Date
W01	Pearl River County Utility Authority	Poplarville Area Water System Improvements	\$8,369,626	12/1/11
W01E	Pearl River County Utility Authority	Poplarville Regional Water Supply System	\$2,384,142	07/20/09
W02	Pearl River County Utility Authority	Picayune Regional Water Supply System	\$8,258,737	11/15/11
W03	Hancock County Utility Authority	Pearlington-Port Bienville Regional Water Supply System (W3_W4 combined)	\$4,277,635	06/01/10
W04	Hancock County Utility Authority	Pearlington Water Distribution System (W3_W4 combined)	\$8,883,573	11/15/12
W05	Hancock County Utility Authority	Kiln Regional Water Supply System	\$3,206,031	12/31/10
W05E	Hancock County Utility Authority	Kiln Regional Water Supply	\$6,383,584	08/15/11
W06	Hancock County Utility Authority	Kiln Water Distribution System	\$5,397,595	08/30/11
W07	Hancock County Utility Authority	Bay St. Louis - Waveland Water Supply	\$22,714,955	12/30/12
W08	Hancock County Utility Authority	HCW&SD Water Distribution System	\$8,249,691	06/30/12
W09	Hancock County Utility Authority	Waveland, US 90 Water System Upgrade	\$4,254,343	11/30/10
W10	Stone County Utility Authority	Southern Stone Co. Regional Water System	\$9,209,839	08/13/10
W11	Harrison County Utility Authority	North-Central Harrison Co. Water Supply	\$9,975,102	11/01/11
W12	Harrison County Utility Authority	Pass Christian Water Systems Improvements	\$3,076,231	01/28/12
W13	Harrison County Utility Authority	Western Harrison County Regional Water Supply	\$20,026,883	03/22/13
W14	Harrison County Utility Authority	Long Beach Water/Wastewater System Improvements	\$2,177,618	08/19/11
W15	Harrison County Utility Authority	North Gulfport/Lyman Regional Water Supply	\$14,987,133	08/28/12
W16	Harrison County Utility Authority	Gulfport VA area Water System Upgrade	\$3,069,485	07/30/11
W17	Harrison County Utility Authority	South Gulfport Regional Water Supply	\$1,388,155	05/03/10
W18	Harrison County Utility Authority	Eastern Harrison County Regional Water Supply	\$29,784,213	12/15/11
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W21	City of Ocean Springs	Ocean Springs Water Transmission Improvements	\$1,230,801	05/13/10

W22	City of Gautier	Gautier Water Transmission Upgrade	\$658,183	04/06/10
W23	Jackson County Utility Authority	East Jackson Co. Regional Water System	\$13,906,898	08/15/11
W24	City of Moss Point	Moss Point-Three Rivers Regional Water Treatment System	\$3,897,823	08/03/10
W24A	City of Moss Point	Moss Point Water Transmission	\$3,053,747	08/03/10
W25	City of Pascagoula	Pascagoula-River Park Water and Wastewater Transmission Improvements (W25_S30)	\$427,000	07/13/10
W26	City of Pascagoula	Pascagoula-Chipley Water and Wastewater Transmission Improvements (W26_S32)	\$1,095,472	09/30/11
W27	City of Pascagoula	Beach Boulevard Water and Wastewater Transmission Improvements (W27_S33)	\$249,255	09/15/10
Total Water Projects			\$227,817,178	

Recap of Totals by Project Type	
Total Wastewater Projects	\$359,806,461
Total Water Projects	\$227,817,178
Total All Projects	\$587,623,639

Note: WWTF = Wastewater Treatment Facility

SOURCE: Mississippi Department of Environmental Quality Project Status Report

Appendix C: Chronology of Events Related to the Mississippi Gulf Coast Regional Infrastructure Program

- *August 2005*--Hurricane Katrina caused devastation on the Mississippi Gulf Coast.
- *December 2005*--The Governor's Commission on Recovery, Rebuilding, and Renewal released a report recommending a six-county regional utility authority to manage water, wastewater, and storm water services in the coastal counties of George, Hancock, Harrison, Jackson, Pearl River, and Stone.
- *Beginning in early 2006*--Mississippi received \$5.5 billion in Community Development Block Grant (CDBG) funding through the U. S. Department of Housing and Urban Development (HUD) for disaster relief, recovery, and restoration of infrastructure. The Governor directed that a portion of the funds be used for water, wastewater and storm water infrastructure.
- *April 2006*--The Mississippi Legislature passed the Gulf Coast Region Utility Act, which created county regional utility authorities to manage water, wastewater, and storm water utilities in the coastal counties.
- *April 2006*--The Mississippi Department of Environmental Quality (MDEQ) signed a contract with the Mississippi Engineering Group (MSEG) to develop the Mississippi Gulf Region Water and Wastewater Plan (MGRWWP).
- *August 2006*--HUD approved initial grant funding for the development of the MGRWWP and emergency projects.
- *January 2007*--MSEG completed the MGRWWP.
- *June 2007*--HUD approved additional funding for projects specified in the MGRWWP.
- *Beginning in late 2007*--MDEQ signed grant agreements with the county utility authorities in five counties and municipalities in Jackson County to administer CDBG funds for infrastructure projects specified in the MGRWWP.

SOURCE: PEER analysis of the report *After Katrina: Building Back Better Than Ever*; Mississippi Development Authority Action Plans; the Gulf Coast Region Utility Act (MISS. CODE ANN. Section 49-17-701 et seq. [1972]); the Mississippi Gulf Region Water and Wastewater Plan; and grant agreements between MDEQ and county utility authorities.

Appendix D: Evidence of Consolidation of Utility Systems

The following information relates how each county's CDBG projects have resulted in more consolidated systems by providing a backbone for existing water systems and providing for consolidation of wastewater treatment.

Hancock

- CDBG projects allow the Hancock County Utility Authority to connect to and provide water to the Kiln Utility and Fire District water systems, as well as those areas south of I-10, including Bay St. Louis, Waveland, and areas served by the Hancock County Water and Sewer District.
- The Hancock County Utility Authority provided funding to the Pearlinton Water and Sewer District to purchase the Total Environmental Solutions, Inc. (TESI) franchise certificate for the Pearlinton area.
- The Hancock County Utility Authority's two new wastewater treatment facilities provide wastewater services to Pearlinton and Kiln residents, which previously had no centralized sewer service.
- Approximately 1,547 septic tanks will be directly eliminated (962 in Kiln and 585 in Pearlinton).

Harrison

- CDBG projects allow the Harrison County Utility Authority to connect to and provide wholesale water to the cities of Pass Christian, Long Beach, Gulfport, Biloxi, and D'Iberville, as well as the north central part of the county.
- One of the Harrison County Utility Authority's new wastewater treatment plants is connected to a pre-existing treatment plant in D'Iberville, which was completely submerged during Hurricane Katrina.
- The Harrison County Utility Authority's new wastewater treatment facilities have the capability to serve multiple communities that had no centralized sewer service (e. g., Saucier).

Jackson

- CDBG projects allow the Jackson County Utility Authority to connect to and provide wholesale water to the City of Ocean Springs and the West Jackson County Utility District.
- According to the utility authority, the Jackson County School District has agreed to consolidate its water system infrastructure with the Jackson County Utility Authority and to connect to the utility authority's wastewater system, which will eliminate the district's four lagoons. The utility authority anticipates consolidation as of summer 2012.
- The Jackson County Utility Authority will provide wholesale water supply to three private entities.
- The Jackson County Utility Authority's new wastewater treatment facilities serve multiple areas in West Jackson County that had no centralized sewer service, including Vancleave, Latimer, and Big Hill Acres.
- According to the utility authority, potentially thousands of onsite wastewater systems will be eliminated after complementary infrastructure is built.

Pearl River

- CDBG projects allow Pearl River County Utility Authority to connect to and provide wholesale water to the cities of Picayune and Poplarville, as well as the North Lumberton Water Association. The city of Poplarville had been under a moratorium from the State Health Department and were not allowed to issue additional building permits due to insufficient water capacity.
- The Pearl River County Utility Authority took over the Dixie Utilities water and sewer service area, which had been placed in receivership following Hurricane Katrina and was being managed by the City of Picayune.
- The cities of Picayune and Poplarville transferred their existing sewer collection systems and treatment plants to the Pearl River County Utility Authority.
- One of the Pearl River County Utility Authority's new wastewater treatment facilities will serve an area called Hide-A-Way Lake, which previously had no centralized sewer service and therefore used individual onsite treatment systems. This effort will eliminate 817 onsite treatment systems with fifty on a waiting list.

Stone

- CDBG projects allow the Stone County Utility Authority to connect to and provide wholesale water to Sunflower Rural Water Association and the Carnes Rural Water Association (locally known as the Big Level water system).
- The Stone County Utility Authority will also provide water to two industrial areas, along with water supply for fire protection in these industrial areas as well as other rural areas, which was not available beforehand.
- New wastewater treatment facilities consolidate wastewater treatment within Wiggins, and also in the southern part of the county (including the Perkinston and McHenry areas) that had no previous centralized wastewater system.
- The two new wastewater facilities will receive wastewater from several entities, including the City of Wiggins and the Mississippi Gulf Coast Community College, which will result in the closure of six lagoons that discharge into fresh water streams.

SOURCE: County utility authority interviews and supporting documentation.

Appendix E: Benefits of Consolidation of Utility Systems

The following are potential benefits from consolidation of utility systems cited by the Mississippi State University Extension Service:

- *Increase economies of scale.* Fixed capital, operation, and maintenance costs will be spread over a larger population base, lowering the per-customer costs that can potentially lower water rates.
- Systems will have *greater access to capital*, making it easier to borrow funds to make the necessary improvements, including those required to comply with mandated regulations. With fewer water systems, funding agencies such as United States Department of Agriculture Rural Development will be able to fund a greater percentage of systems.
- *A larger customer base* will be created, leading to greater access to grant and public funding.
- *Duplicated services can be eliminated* to save money and may lead to greater efficiency of personnel, equipment, operation and maintenance, billing, and management.
- Consumers may have a *more reliable water source*. Systems that may only have one water source will have access to an additional source in the case of emergencies. This is also an important factor in growth areas. By consolidating, systems may be able to add customers and growing subdivisions to the system.
- Systems will have access to *more skilled employees*, which increases the level of expertise.
- State regulators will have *fewer systems to regulate*, meaning that they can spend their time assisting a greater percentage of systems.
- Consolidation can provide a *low cost means for complying with regulations*.

SOURCE: Department of Agricultural Economics, Mississippi State University Extension Service; report titled *Consolidation Issues: Pros, Cons, Options and Perceptions*, 2005.

Appendix F: Criteria for Emergency Projects

The MGRWWP was expected to take several months to complete. In the meantime, MDA felt it was necessary to address instances of critical need created by Hurricane Katrina. Therefore, an emergency fund of \$25 million was administered by MDA and MDEQ for the six counties. MDEQ was responsible for determining eligible projects and recommending those projects to MDA for funding. The criteria for determining awards under the emergency fund included:

- the project is not eligible for Federal Emergency Management Agency (FEMA) funding; and,
- the project was necessitated by a direct or indirect result of conditions caused by Hurricane Katrina; and,
- construction of the project cannot reasonably be delayed until the Master Plan is completed; and,
- the project is necessary to prevent or reduce the threat of loss of life; or,
- the project is necessary to correct an imminent public health threat; or,
- the project is necessary to correct damage to the environment that has resulted in public contact with or consumption of polluted or contaminated drinking or surface waters.

SOURCE: Mississippi Department of Environmental Quality and the Mississippi Gulf Region Water and Wastewater Plan.



STATE OF MISSISSIPPI
HALEY BARBOUR
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TRUDY D. FISHER, EXECUTIVE DIRECTOR



November 1, 2011

Mr. Max Arinder
PEER
P.O. Box 1204
Jackson, Mississippi 39215

Re: A Review of the Mississippi Gulf Coast Regional Infrastructure Program

Dear Mr. Arinder:

Please accept this as the Mississippi Department of Environmental Quality's (MDEQ's) formal response to PEER's "Review of the Mississippi Gulf Coast Regional Infrastructure Program" (Review). We appreciate the chance to provide our comments to the Review and request that you include our formal response when you publish the Review.

The Review stated that the Hancock County Utility Authority (HANCUA) anticipates having a deficit of approximately \$2.7 million but that contingency funds provided by MDEQ, as well as a fund transfer between projects, will result in no deficit. MDEQ would like to clarify that HANCUA did project a \$2.7 million deficit at one time but the deficit was due to HANCUA's inclusion of its desired project expansions to the originally bid projects. The projects as designed would not have resulted in a deficit.

The Review also notes that population projections made in the Gulf Region Water and Wastewater Plan (GRWWP) have not materialized in certain areas. The Review acknowledged that factors such as the economic downturn and increased insurance costs for homes and businesses could have contributed to the slower growth in these areas. However, while the Review states that growth in these areas "might not materialize in future years," the opposite of that statement could be equally true. In other words, population growth may still occur albeit longer than originally projected in the GRWWP. The Review concluded that "[i]f the systems' capacities are not used in the long term (by 2025), then the state will not have achieved optimum use of the CDBG funds." However, serving growth, albeit less than that initially projected, fulfills the intent of the CDBG funds. The infrastructure installed in these slower growth areas will be an integral part in accommodating the future potable water and wastewater treatment needs of those areas. Overall, of the 67 water and wastewater infrastructure projects identified in the GRWWP, only a very small number will initially be underutilized. MDEQ considers this a success.

The Review states that economic development played a more prominent role than anticipated in the Gulf Coast Region Utility Act (Act). Specifically, the Review notes that the intent of the Act was to consolidate systems to promote efficiency, mitigate against future storms, and to improve the natural environment and that by considering economic development the intent of the Act was diminished. However, the same section of the Act cited in the Review begins “[i]n the spirit of the report of the Governors’ Commission on Recovery, Rebuilding and Renewal” Economic development was one of the stated goals of the Governors’ Commission’s report. The Executive Summary to the GRWWP recognized that the contemplated infrastructure improvements were intended to support existing and future growth and to promote economic development. Thus, the infrastructure program met the stated objectives of the Act.

Finally, the Review notes that MDEQ could have designated more funding to complimentary infrastructure. From the beginning, MDEQ sought input from coastal stakeholders, including the county utility authorities, when it was developing the GRWWP. Based on stakeholder input, MDEQ determined that providing funding for “backbone” infrastructure would be the best use of the federal funds because stakeholders considered funding for complimentary infrastructure to be lower priority. By using the federal funding to install as many “backbone” projects over a larger geographical area as possible, more people and businesses will ultimately be served by the federally funded projects once they are able to connect to such infrastructure. New residential and commercial developments typically include installation of complimentary water and wastewater infrastructure. By having centralized “backbone” water and wastewater infrastructure in place to which those complimentary systems may connect, the Act’s stated goal of consolidated and efficient systems will be met.

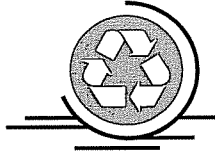
Thank you very much for the opportunity to provide comments.

Sincerely,



Ray Eaton, Jr.

MDEQ Coast Grants Branch



HANCOCK COUNTY UTILITY AUTHORITY

401 Gulfside Street • P.O. Box 110 • Waveland, MS 39576
Telephone 228-467-3702 • Fax 228-467-6206 • E-mail: hcua@bellsouth.net



November 4, 2011

Jennifer Sebren
PEER Evaluator
P. O. Box 1204
Jackson, MS 39215-1204

RE: Responses from HANCUA on PEER Evaluation

Dear Ms. Sebren,

This letter is in reference to the PEER Evaluation that was recently completed and submitted to the Hancock County Utility Authority. Please see the responses that are attached. If there are any further comments or questions, please do not hesitate to contact me.

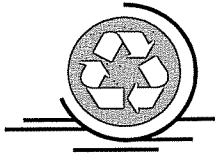
We, at the HANCUA, appreciate your committee and its role in conducting your investigation, and as the Executive Director of the HANCUA, I will ensure that all rules and regulations to complete this program will be followed.

Sincerely,

A handwritten signature in cursive script that reads "David C. Pitalo".

David C. Pitalo
Executive Director

Attachments



HANCOCK COUNTY UTILITY AUTHORITY

401 Gulfside Street • P.O. Box 110 • Waveland, MS 39576
Telephone 228-467-3702 • Fax 228-467-6206 • E-mail: hcua@bellsouth.net

November 4, 2011

Hancock County Utility Authority – PEER Review Response

The complaint is “Alleged wasteful spending of funds by Hancock County Utility Authority”, and is related to the installation of a water supply and distribution system and a wastewater collection and treatment system in the Pearlinton Community of Hancock County. The PEER draft report concludes that there may have been an alternate plan, such as servicing the majority of homes that are in closer proximity and omitting the homes that are further away from the community core. The PEER draft report feels this approach would have allowed for a portion of the funds spent in Pearlinton “to be used in areas benefiting a greater number of residents and areas less at risk to flooding”. While we agree that this statement is technically correct, we feel some background information will show how mitigating circumstances relative to this assertion flaws the conclusion.

First, the water supply system and the wastewater treatment system would not see a reduction in the service area if the population was reduced by 10-30%. The water supply facilities (250,000 gallon elevated water storage tank and 1,000 gallon per minute well) are designed to provide adequate pressure and volume for fighting fires and would not be reduced in size. Wastewater treatment plants (WWTP) are typically designed for some growth capacity. The Western Regional Wastewater Treatment Plant has a capacity of 200,000 gallons per day which is considered a low volume in terms of typical wastewater treatment plants. WWTP are typically designed to serve the projected population for at least 25 years which includes a growth factor of at least 1.25-1.33 times the current population. Therefore, even if the more sparsely populated portion of the Pearlinton Community was not initially served, the water supply and wastewater treatment plant and pump station would have not been reduced in cost. The reduction would have been the individual water and sewer services connecting these outlying customers.

Second, and probably much more important than the first item, there are very important environmental reasons for connecting all residents and businesses to the sewer system. Pearlinton is relatively low in elevation and this low lying area drains into the Pearl River and its tributaries, both natural and excavated. Because of the proximity to the river, the low elevation, the soil geology, and the annual rainfall that exceeds 60 inches, the ground water depth is very shallow. This shallow ground water means the percolation of the drain fields from existing septic tanks does not function very well, resulting in contaminated water overflowing into ditches and tributaries and ultimately into the Pearl River. This creates environmental and unsafe conditions for the residents and ecological system in Pearlinton. This is the reason that all septic tanks in the Pearlinton Community should and are being decommissioned and the wastewater will be transported and treated at the new wastewater treatment facility.

Also regarding the public health perspective, we believe that the new municipal water well, drawing from an aquifer almost 2,000 feet deep, is far superior to the individual water wells that have been installed and used by the homeowners. Many of these shallow wells are susceptible to health risk from contamination every time that the area is inundated by hurricane or tropical storm flood waters.

In summary, we feel that from an environmental and public health and safety view point, all residences, businesses, and institutions in Pearlinton should be connected to the water and sewer systems as long as people are allowed to live in this community.

BUTLER | SNOW

November 4, 2011

Hancock County Utility Authority
Attn: Mr. David Pitalo

RE: PEER Review Committee/Hancock County Utility Authority

Dear David:

As requested, I have reviewed the assertions made in the PEER Review Committee report pertaining to the Hancock County Utility Authority. The specific assertion contained in the report for which I have been requested to investigate and respond is as follows:

The Hancock County Utility Authority is in violation of the open meetings act in its use of telephone polls of board members. The public is prohibited from the hearing and participating in deliberations conducted in telephone meetings. Further, the minutes contain no mention of how individual board members vote in the polls, who conducted the polling, and on what bases the polling was conducted.

After review and investigation of this assertion, it is my understanding that the Hancock County Utility Authority did not conduct telephone meetings in an attempt to prohibit the public from participating in the deliberation of issues nor to circumvent the open meetings law of the State of Mississippi. Rather, the director of the Authority did conduct telephone polls of board members on certain issues, but only in an attempt to seek guidance on those issues arising between regularly scheduled public meetings. As you know, the State of Mississippi imposed stringent time restrictions upon the Hancock County Utility Authority in order to insure that the projects at issue were completed in a timely manner. The poll votes referred to were taken in an attempt to gain guidance on issues in order to prevent projects from being delayed. No official action was ever taken by telephone polls and all items that may have been discussed were only officially acted upon in a public meeting after an opportunity for public input, comment and participation was made available. The only official action taken on issues that may have been discussed in telephone conversations was done in open meetings.

Any time that there was such a telephone poll conducted by the administrator, the issue was always placed upon the agenda at the next available public meeting in order to discuss the same publicly and to then take official action on the issue. The official board minutes always reflected that such a telephone poll was held and record of that telephone poll was spread upon the minutes at the next available meeting.

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BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC

Mr. David Pitalo
November 4, 2011
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If you have any questions regarding my review of this issue or this response please do not hesitate to call.

Sincerely,

BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC



Ronald J. Artigues, Jr.
RJA/kh

Harrison County Utility Authority

A. J. Holloway, Mayor, City of Biloxi
Russell Quave, Mayor, City of D'Iberville
George Schloegel, Mayor, City of Gulfport

Board of Directors

Executive Director
Kamran Pahlavan, P.E.

Billy Skellie, Jr., Mayor, City of Long Beach
Chipper McDermott, Mayor, City of Pass Christian
Kim B. Savant, Supervisor, Harrison County
Marlin Ladner, Supervisor, Harrison County

November 4, 2011



Dr. Max Arinder
Joint Committee on Performance Evaluation and Expenditure Review
P. O. Box 1204
Jackson, MS 39215-1204

Dear Mr. Arinder:

The Harrison County Utility Authority has reviewed the report submitted by PEER of the Mississippi Gulf Coast Regional Infrastructure Program. We are in agreement with the report. We appreciate the professionalism of Ms. Jennifer Sebren and Mr. David Pray during this review.

Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kamran Pahlavan', written over a horizontal line.

Kamran Pahlavan, P.E.
Executive Director

KP/mat
cc: HCUA Board of Directors



November 7, 2011

Dr. Max Arinder
Joint Committee on Performance Evaluation and Expenditure Review
P.O. Box 1204
Jackson, MS 39215-1204

Dear Mr. Arinder:

The Pearl River County Utility Authority has reviewed the report submitted by PEER concerning the evaluation of the Mississippi Gulf Coast Regional Infrastructure Program. We have no objections to the report. We appreciate the professionalism and fairness of your team during this process.

Please call if I can be of further assistance.

Kindest regards,

Cliff Diamond
Executive Director

CC: Mr. Steve Lawler
Mr. Jeff Hollimon



STONE COUNTY UTILITY AUTHORITY

P. O. Box 1331 • Wiggins, MS 39577

November 2, 2011

Max K. Arinder, Ph.D
Executive Director
Mississippi Legislative PEER Committee
P. O. Box 1204
Jackson, MS 39215-1204

Re.: Stone County Utility Authority

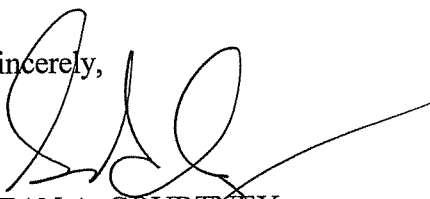
Dear Dr. Arinder:

On behalf of the Stone County Utility Authority, I have reviewed the revisions made to *A Review of the Mississippi Gulf Coast Regional Infrastructure Program* and would report that the Stone County Utility Authority is pleased to read that your Committee has found no wrong-doing in its attempt to serve the people of Stone County as it relates to the administration of clean drinking water, wastewater and storm water.

The Board further thanks you for your determination and for your efforts as they relate to this endeavor.

If the Stone County Utility Authority can be of any other use to the Mississippi Legislative PEER Committee or any other statewide representative or agency, please do not hesitate to contact me.

Sincerely,



SEAN A. COURTNEY
Board Attorney

SAC:rmr



PEER Committee Staff

Max Arinder, Executive Director
James Barber, Deputy Director
Ted Booth, General Counsel

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