

# INVESTIGATIVE AUDIT REPORT

CRAB ORCHARD UTILITY DISTRICT

JANUARY 1, 2000, THROUGH MARCH 31, 2003



STATE OF TENNESSEE  
COMPTROLLER OF THE TREASURY  
Department of Audit  
Division of Municipal Audit



STATE OF TENNESSEE

John G. Morgan  
Comptroller

C O M P T R O L L E R O F T H E T R E A S U R Y

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-0260

PHONE (615) 741-2501

February 3, 2005

Members of the Board of Commissioners  
Crab Orchard Utility District  
2089 East First Street  
Crossville, TN 38555

Gentlemen:

Presented herewith is the report on our investigative audit of selected records of the Crab Orchard Utility District. This examination focused on the period January 1, 2000, through March 31, 2003. Our investigation focused on disbursements and payroll. However, when the examination warranted, this scope was expanded. Our investigative audit was conducted in conjunction with the Tennessee Bureau of Investigation.

Section 9-2-102, *Tennessee Code Annotated*, requires that the Comptroller of the Treasury prescribe a uniform system of bookkeeping designating the character of books, reports, receipts and records, and the method of keeping same, in all state, county and municipal offices, including utility districts, which handle public funds. This code section also requires that all officials adopt and use the prescribed system. The Comptroller has prescribed a minimum system of recordkeeping for utility districts, which is detailed in the *Uniform Accounting Manual for Tennessee Utility Districts*. The purpose of our examination was to determine the extent of the entity's compliance with certain laws and regulations, including those in the above-mentioned manual.

The investigative audit revealed numerous legal issues set forth in this report which were referred to the local district attorney general for his consideration. On November 9, 2004, the former general manager, Mrs. Jewel Harris, was indicted by the Cumberland County Grand Jury on one count of Conspiracy to Commit Theft over \$10,000, one count of Conspiracy to Commit Theft over \$60,000, one count of Theft over \$60,000, one count of Forgery over \$60,000, two counts of Money Laundering, and one count of Official Misconduct. The former assistant general manager, Ms. Tonya Harris, was indicted on one count of Conspiracy to Commit Theft over \$60,000, one count of Theft over \$60,000, one count of Forgery over \$60,000, two counts of Money Laundering, and one count of Official Misconduct. On January 11, 2005, the former chairman of the board of commissioners, Mr.

Members of the Board of Commissioners  
Crab Orchard Utility District  
February 3, 2005

James Kemmer was indicted by the Cumberland County Grand Jury on one count of Conspiracy to Commit Theft over \$60,000, one count of Theft over \$60,000, one count of Forgery over \$60,000, and one count of Official Misconduct.

The findings and recommendations in this report also relate to those conditions that we believe warrant your attention. Many of these findings address internal control weaknesses that allowed the misappropriations and other irregularities noted in Legal Issues 1 through 9 to occur and not be detected timely. All responses to each of the findings and recommendations are included in the report.

Copies of this report are being forwarded to Governor Phil Bredesen, the State Attorney General, the District Attorney General, certain state legislators, and various other interested parties. A copy is available for public inspection in our office.

Very truly yours,

John G. Morgan  
Comptroller of the Treasury



**STATE OF TENNESSEE  
COMPTROLLER OF THE TREASURY  
DEPARTMENT OF AUDIT  
DIVISION OF MUNICIPAL AUDIT**

**John G. Morgan**  
Comptroller of the Treasury

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**Dennis F. Dycus, CPA, CFE, Director**  
Division of Municipal Audit

February 3, 2005

Mr. John G. Morgan  
Comptroller of the Treasury  
State Capitol  
Nashville, TN 37243-0260

Dear Mr. Morgan:

As part of our on-going process of examining the records of utility districts, we have completed our investigative audit of selected records of the Crab Orchard Utility District. This examination focused on disbursements and payroll for the period January 1, 2000, through March 31, 2003. However, when the examination warranted, this scope was expanded. Our investigative audit was conducted in conjunction with the Tennessee Bureau of Investigation.

Section 9-2-102, *Tennessee Code Annotated*, requires that the Comptroller of the Treasury prescribe a uniform system of bookkeeping designating the character of books, reports, receipts and records, and the method of keeping same, in all state, county and municipal offices, including utility districts, which handle public funds. This code section also requires that all officials adopt and use the prescribed system. The Comptroller has prescribed a minimum system of recordkeeping for utility districts, which is detailed in the *Uniform Accounting Manual for Tennessee Utility Districts*. The purpose of our examination was to determine the extent of the entity's compliance with certain laws and regulations, including those in the above-mentioned manual.

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Mr. John G. Morgan  
Comptroller of the Treasury  
February 3, 2005

Official Misconduct. On January 11, 2005, the former chairman of the board of commissioners, Mr. James Kemmer, was indicted by the Cumberland County Grand Jury on one count of Conspiracy to Commit Theft over \$60,000, one count of Theft over \$60,000, one count of Forgery over \$60,000, and one count of Official Misconduct.

Our examination also resulted in findings and recommendations related to the following:

1. Board minutes apparently altered or falsified and not properly maintained
2. Former chairman signed numerous blank checks and some checks signed by unauthorized signatories
3. Lack of policies resulted in apparently excessive and possibly inappropriate district expenditures
4. Inadequate supporting documentation for disbursements
5. Failure to properly bid applicable purchases
6. No documentation that good and services were received as ordered
7. Fringe benefits not included in compensation
8. Former district commissioners received excess compensation
9. Water line extension policy not always followed and several water line projects not approved
10. Contractor not licensed as required by state law

In addition to our findings and recommendations, we are also providing management's response. If after your review, you have any questions, I will be happy to supply any additional information which you may request.

Sincerely,

Dennis F. Dycus, CPA, CFE, Director  
Division of Municipal Audit

**INVESTIGATIVE AUDIT OF SELECTED RECORDS OF THE  
CRAB ORCHARD UTILITY DISTRICT  
FOR THE PERIOD JANUARY 1, 2000, THROUGH MARCH 31, 2003**

Per documentation in board meeting minutes, Mrs. Jewell Harris was hired as the general manager of Crab Orchard Utility District in January 1986. She resigned from this position effective February 11, 2003. Prior to being hired as general manager, Mrs. Harris served as President of the Board of Commissioners for the utility district for approximately five years. District board meeting minutes also indicated that Mrs. Harris' daughter, Ms. Tonya Harris, employed by the district since 1984, was promoted to assistant manager in March 2000. Documentation provided by district officials indicated that on April 11, 2003, Ms. Tonya Harris was discharged by the district due to reorganization. The commissioners of Crab Orchard Utility District during most of the scope of our investigative audit were Mr. James (Jimmy) Kemmer, Mr. Wendell Oakes, and Mr. James (Jim) Brown. The county mayor named the current board members on February 6, 2003. At our request, the current board members responded to the findings and recommendations.

**LEGAL ISSUES**

1. **ISSUE:** Former general manager apparently requested and received cash back from fraudulent utility district checks totaling over \$53,000 that she authorized and paid to a local contractor

The former general manager, Mrs. Jewell Harris, apparently conspired and participated in a plan with a local contractor to receive cash from the contractor in return for payments the contractor received from Crab Orchard Utility District for work he did not perform. From July 11, 2000, through February 3, 2003, the district paid \$122,965.89 to Braddock Construction and/or Lowell Braddock, with \$108,188.81 paid in the year 2001 alone. The contractor, Mr. Lowell Braddock, told investigators that he did not perform any work for Crab Orchard Utility District for checks he received totaling \$53,048.12 (denoted by \*\* beside check amount shown below). Mr. Braddock stated that at the request of Mrs. Harris, he submitted false invoices for specified amounts, and in turn received utility district checks. Mr. Braddock stated that all of the related checks were given to him by Mrs. Harris and that she told him to bring cash back to her. Mr. Braddock stated that he cashed most of the checks at the bank and gave the proceeds of these checks to Mrs. Harris. Mr. Braddock stated that he deposited two of the checks into his bank account and gave cash in the same amount to Mrs. Harris.

<b>Purported Project</b>	<b>Check No.</b>	<b>Check Date</b>	<b>Check made out to</b>	<b>Check Amount</b>	<b>How Transacted</b>
Prep work for Hyder Ridge tank	1477	07/11/00	Lowell Braddock	\$ 5,120.08**	Cashed
Otter Creek - repair road	1014	02/01/01	Braddock Const.	9,990.00	Deposited in Union Planters
Otter Creek - repair road	1015	02/09/01	Braddock Const.	9,964.02	Deposited in Union Planters
Otter Creek - repair road	1016	02/12/01	Braddock Const. Co.	7,869.00	Deposited in Union Planters
Clean-up work for Hyder Ridge tank	2087	03/28/01	Lowell Braddock	9,859.75	Deposited in Union Planters
Repairing road to dam	2274	05/23/01	Lowell Braddock	9,876.04**	Cashed
Construct road to well site	2322	06/12/01	Lowell Braddock	3,340.00	Deposited in Union Planters
Option to drill	2329	06/15/01	Lowell Braddock	5,000.00**	Cashed
Option to drill #2	2330	06/19/01	Lowell J. Braddock	5,000.00**	Cashed
Work on property beside UD office	2420	07/17/01	Lowell Braddock	5,200.00	Deposited in Union Planters
Septic tank at Davenport rental house	2421	07/17/01	Lowell Braddock Const. Co.	5,000.00**	Deposited in Union Planters
Kindred Road water line	2448	08/01/01	Lowell Braddock	9,310.00**	Cashed
Kindred Road water line	2446	08/03/01	Lowell Braddock	9,760.00	Deposited in Union Planters
Kindred Road water line	2447	08/03/01	Lowell Braddock	2,120.00	Deposited in Union Planters
Install fire hydrant at elementary school	2449	08/08/01	Lowell Braddock Const. Co.	6,000.00	Deposited in Union Planters
Hwy 70E TDOT water line relocation	2691	11/13/01	Lowell Braddock	4,085.00**	Cashed
Hwy 70E TDOT water line relocation	2693	11/13/01	Lowell Braddock	5,815.00	Deposited in Union Planters
Tornado clean-up	3713	02/03/03	Braddock Const. Co.	<u>9,657.00**</u>	Deposited in Union Planters
<b>Total</b>				<u><u>\$122,965.89</u></u>	

\*\* Contractor stated that he gave cash equal to the amount of the checks to the former general manager, Mrs. Jewell Harris.

### **Additional information related to transactions with this local contractor**

As noted above, check number 2421, dated July 17, 2001, for \$5,000, was issued to Lowell Braddock Const. Co. The original check amount appeared to have been \$2,300, but the amount had been altered. The apparently false invoice supporting this payment indicated the contractor installed a septic tank at a rental house owned by the district. District employees who worked regularly at the rental site stated that they never observed a septic tank being installed or noticed that the ground had been disturbed. In addition, state officials verified that a septic permit, as required by state law, was not obtained for a septic tank installation at this site in 2001. When confronted, both the former general manager, Mrs. Harris, and the contractor, Mr. Braddock, admitted that a septic tank was not installed at the rental house. *(We noted that a permit was issued in July 2001 for the installation of a septic tank at the new home of assistant general manager, Ms. Tonya Harris. A former employee of Braddock Construction confirmed that he installed a septic system at this new residence while working for Braddock Construction.)*

Additionally, as shown, the district issued check number 3713, dated February 3, 2003, for \$9,657, to Braddock Construction Company. The original check amount appeared to have been \$479.80, but the amount had been altered. The apparently false invoice supporting the payment indicated the contractor performed storm damage clean-up around two storage tanks and around the dam at the treatment plant. However, district employees stated that they performed this work, not the contractor. In addition, even though the December 10, 2002, board meeting minutes referred to contacting Mr. Braddock about tornado clean-up work, none of the former commissioners could recall any such discussion or related work for the district by Braddock Construction. The former chairman of the board, Mr. Jimmy Kemmer, also stated that he thought district employees did the storm clean-up work. These board meeting minutes were apparently altered or falsified by, or at the direction of, Mrs. Harris to falsely indicate that the board authorized the manager to contact Mr. Braddock about this work. (Refer to Issue 8 related to falsifying/altering board meeting minutes.)

2. **ISSUE: Former general manager paid apparent false invoices submitted by a local contractor in amounts significantly greater than the value of the work performed**

The former general manager, Mrs. Jewell Harris apparently conspired and participated in a plan to pay a local contractor amounts significantly greater than the value of the work performed by the contractor. As shown in the table in Issue 1, in February 2001, Mrs. Harris authorized and issued three utility district checks totaling \$27,823.02 to Braddock Construction. These checks were for payment of three invoices dated over a 12-day period purportedly for repair work on the road leading to the Otter Creek Dam. Mr. Braddock told investigators that he performed this work, billed the district, and retained all of the proceeds from these three checks. Mrs. Harris told auditors that these payments were for work actually performed by Mr. Braddock.

District employees stated that they were not aware of any major work by Mr. Braddock on the road leading to the dam. In addition, the owner of the property on which the road is located stated that this work consisted of approximately one-half day of grading and gravelling, and that Braddock Construction did not remove debris from the roadway, repair erosion, or perform other work as noted on the invoices. Therefore, it appears that Mrs. Harris and Mr. Braddock conspired to misappropriate utility district money by paying Mr. Braddock significantly more than the value of the work performed.

Auditors questioned other district checks authorized and paid by Mrs. Harris to Mr. Braddock of which Mr. Braddock apparently retained all of the proceeds. However, due to the apparent conspiracy between Mrs. Harris and Mr. Braddock as noted in this Issue and Issue 1, the pervasive practice of falsifying/altering minutes noted in Issue 8, the lack of documentation noted in Finding 4, and the apparent lack of oversight by district officials, we were unable to determine if other district checks authorized and paid by the former general manager, Mrs. Jewell Harris, to Mr. Braddock were fraudulent.

3. **ISSUE:            Apparent illegal and unauthorized bonuses**

As listed below, in January 2003, the Crab Orchard Utility District paid at least \$285,646.35 in apparently illegal and unauthorized “bonuses” to the former general manager, Mrs. Jewell Harris; the former assistant general manager, Ms. Tonya Harris; the son-in-law of the chairman of the board; and other select employees. The related checks were signed by Mrs. Harris and the former chairman of the utility board, Mr. Jimmy Kemmer. Mr. Kemmer admitted to investigators that, contrary to statements in official, signed, board meeting minutes, these purported “bonuses” had never been discussed or voted on in a board meeting. Mr. Kemmer further admitted that Mrs. Harris requested these “bonuses” after receiving information that the county mayor had the authority to appoint the utility district’s board members. Mr. Kemmer stated that he and Mrs. Harris discussed various amounts, but that he signed the checks before the payees and amounts had been entered.

At least two of the employees who received these “bonuses” stated that they were instructed by management to cash the checks rather than deposit them into their bank accounts. Furthermore, although board meeting minutes indicated the “bonuses” were approved in an August 13, 2002, board meeting, one of the named recipients was not even employed by the district at that time. The minutes for the August 13, 2002, board meeting were apparently altered or falsified by, or at the direction of, Mrs. Harris to falsely indicate that the board approved in an official board meeting these large bonuses paid to Mrs. Harris and a select few employees of the district. (Refer to Issue 8 related to falsifying/altering board meeting minutes.)

<b>Bonus Payments</b>			
<b>Date</b>	<b>Payee</b>	<b>Check Amount</b>	<b>Gross Amount</b>
January 30, 2003	Jewell Harris	\$ 50,001.88	\$ 69,110.00
January 30, 2003	Tonya Harris	36,665.97	50,678.65
January 30, 2003	Bill Aytes	36,665.97	50,678.65
January 30, 2003	Mary Ann Freitag	36,665.97	50,678.65
January 30, 2003	Chris Wilson	36,665.97	50,678.65
January 30, 2003	Carolyn Whittenburg	<u>10,000.00</u>	<u>13,821.75</u>
	<b>Totals</b>	<u>\$206,665.76</u>	<u>\$285,646.35</u>

*It should be noted that Mrs. Harris had already received a bonus check dated January 3, 2003, in the amount of \$43,200 (gross amount \$59,700). Former commissioner Mr. Jim Brown stated that he thought he spoke with former commissioner Mr. Wendell Oakes about a bonus to be given to the former general manager in recognition of her 25 years of service. Both Mr. Kemmer and Mr. Oakes stated that Mrs. Harris solicited their approval individually outside of board meetings. However, all former commissioners admitted that this bonus was not voted on in the August 13, 2002, board meeting as documented in the minutes.*

4. **ISSUE: Other apparently unauthorized payroll checks**

The former general manager, Mrs. Jewell Harris, paid herself at least two payroll payments (gross amounts totaling \$29,566.25) for which we were unable to locate any documented authorization or purpose. In addition, Mrs. Jewell Harris and her daughter, the former assistant general manager, Ms. Tonya Harris, were paid for six weeks of unused personal leave in December 2001 and December 2002. However, the district's leave policy provided for employees to receive only one day per month and both Mrs. Jewell Harris and Ms. Tonya Harris had already received payment for unused accumulated personal leave in January 2001. Because as noted in Issue 8, numerous board meeting minutes had apparently been altered or falsified, we were unable to determine if all pay raises, sales of vacation/personal leave, and "bonuses" in addition to amounts noted in Issue 3, paid to employees were properly discussed and approved by the board of commissioners in an official board meeting.

On June 12, 2001, a payroll check for \$20,288.63 was issued to Mrs. Jewell Harris. The gross amount of this payroll check was \$24,978.85. Neither the check nor the check stub noted the purpose of the payment. In addition, board meeting minutes did not address this payment. Mrs. Harris could not explain the June 12, 2001, payment to her.

On June 20, 2001, a payroll check for \$3,998.49 was issued to Mrs. Jewell Harris. The gross amount of this payroll check was for \$4,587.40. Neither the check nor the check stub noted the purpose of the payment. In addition, the board meeting minutes did not address this payment. District employees were allowed to sell their vacation pay; however, another check issued later to Mrs. Harris appeared to be for this purpose.

The district's leave policy stated that employees earned one sick day per month. The policy did not distinguish between salaried and hourly employees. Ms. Tonya Harris verified that this was the amount both she and Mrs. Jewell Harris were eligible to receive. However, Mrs. Jewell Harris claimed that salaried employees (Mrs. Jewell Harris and Ms. Tonya Harris) earned six weeks of personal leave a year in addition to three weeks of vacation leave. Both Mrs. Jewell Harris and Ms. Tonya Harris stated that leave records were not maintained for salaried employees. Assuming Mrs. Jewell Harris and Ms. Tonya Harris did not take any sick leave during the investigative audit period, our audit revealed that Mrs. Jewell Harris apparently overpaid herself for unused personal leave by at least \$6,923.04 and \$6,922.76 in 2001 and 2002, respectively. Ms. Tonya Harris was apparently overpaid for unused personal leave by at least \$4,968 in 2001 and 2002. As noted, the apparent overpayments were calculated assuming no sick leave was taken. However, Mrs. Harris admitted to auditors that she spent several days in the hospital during 2002 due to food poisoning.

Several select employees were paid large salaries and/or bonuses. In June 2001, Mrs. Harris received a 43 percent increase in salary from \$33.76 to \$48.08 per hour. At the same time, Mrs. Harris's daughter, the former assistant manager, Ms. Tonya Harris, received an 86 percent increase from \$18.64 to \$34.50 per hour, and the son-in-law of the chairman of the board of commissioners received a 78 percent increase. Other employees received increases ranging from 5 percent to 65 percent of their salary. In October 2002, Ms. Tonya Harris received an additional 12 percent increase from \$34.50 to \$38.47, for which no authority could be located. Although minutes indicated that some pay increases were discussed, voted on, and approved at an official board meeting, numerous board meeting minutes had apparently been altered or falsified as set forth in Issue 8. Furthermore, former commissioners were apparently unaware of the total salary and/or bonuses the district was paying to individual employees.

Following are charts itemizing the salaries along with bonuses and other pay for selected employees for the calendar years 2000, 2001, 2002, and the first part of 2003. For scheduling purposes, the unauthorized payment of \$24,978.85 to Mrs. Harris was included as a bonus and the unauthorized payment of \$4,587.40 was included as sale of unused vacation leave.

<b>Former General Manager, Mrs. Jewell Harris</b>					
<b>Calendar Year</b>	<b>Base Pay</b>	<b>Vacation/ Personal Pay</b>	<b>Bonus</b>	<b>Overtime/ Other Pay</b>	<b>Total</b>
<b>FYE 2000</b>	\$ 70,207.50	\$ 2,700.30	\$ 26,300.25	\$1,300.00	\$100,508.05
<b>FYE 2001</b>	86,821.72	28,072.94	84,836.87	0.00	\$199,731.53
<b>FYE 2002</b>	100,000.16	15,385.36	13,100.02	0.00	\$128,485.54
<b>FYE 2003 (Jan. thru Feb. 11)</b>	<u>14,423.16</u>	<u>0.00</u>	<u>128,810.00*</u>	<u>0.00</u>	<u>\$143,233.16</u>
<b>Totals</b>	<u>\$271,452.54</u>	<u>\$46,158.60</u>	<u>\$253,047.14</u>	<u>\$1,300.00</u>	<u>\$571,958.28</u>

\*consists of two bonuses both paid in January 2003

<b>Former Assistant General Manager, Ms. Tonya Harris (daughter of Jewell Harris)</b>					
<b>Calendar Year</b>	<b>Base Pay</b>	<b>Vacation/ Personal Pay</b>	<b>Bonus</b>	<b>Overtime/ Other Pay</b>	<b>Total</b>
<b>FYE 2000</b>	\$ 34,286.61	\$ 0.00	\$ 7,553.88	\$650.00	\$ 42,490.49
<b>FYE 2001</b>	51,435.19	13,352.40	28,324.00	0.00	\$ 93,111.59
<b>FYE 2002</b>	73,503.06	8,280.00	9,428.80	0.00	\$ 91,211.86
<b>FYE 2003 (Jan. thru March)</b>	<u>19,999.98</u>	<u>0.00</u>	<u>50,678.65*</u>	<u>0.00</u>	<u>\$ 70,678.63</u>
<b>Totals</b>	<u>\$179,224.84</u>	<u>\$21,632.40</u>	<u>\$95,985.33</u>	<u>\$650.00</u>	<u>\$297,492.57</u>

\*consists of a bonus paid in January 2003

<b>Maintenance Supervisor, Bill Aytes (son-in-law of board chairman)</b>					
<b>Calendar Year</b>	<b>Base Pay</b>	<b>Vacation/ Personal Pay</b>	<b>Bonus</b>	<b>Overtime/ Other Pay</b>	<b>Total</b>
<b>FYE 2000</b>	\$ 35,110.40	\$ 0.00	\$ 2,606.63	\$2,101.56	\$ 39,818.59
<b>FYE 2001</b>	50,329.60	2,640.00	9,972.00	2,516.07	\$ 65,457.67
<b>FYE 2002</b>	62,400.00	2,160.00	6,240.00	2,427.87	\$ 73,227.87
<b>FYE 2003 (Jan. thru March)</b>	<u>15,600.00</u>	<u>0.00</u>	<u>50,678.65*</u>	<u>270.00</u>	<u>\$ 66,548.65</u>
<b>Totals</b>	<u>\$163,440.00</u>	<u>\$4,800.00</u>	<u>\$69,497.28</u>	<u>\$7,315.50</u>	<u>\$245,052.78</u>

\*consists of a bonus paid in January 2003

<b>Clerk, Mary Ann Freitag (Also Former Billing &amp; Collections Supervisor)</b>					
<b>Calendar Year</b>	<b>Base Pay</b>	<b>Vacation/ Personal Pay</b>	<b>Bonus</b>	<b>Overtime/ Other Pay</b>	<b>Total</b>
<b>FYE 2000</b>	\$ 29,764.80	\$ 0.00	\$ 5,658.99	\$ 0.00	\$ 35,423.79
<b>FYE 2001</b>	34,045.20	3,245.76	17,800.00	0.00	\$ 55,090.96
<b>FYE 2002</b>	38,320.00	2,400.00	5,167.20	40.50	\$ 45,927.70
<b>FYE 2003 (Jan. thru March)</b>	<u>10,400.00</u>	<u>0.00</u>	<u>50,678.65*</u>	<u>120.00</u>	<u>\$ 61,198.65</u>
<b>Totals</b>	<u>\$112,530.00</u>	<u>\$5,645.76</u>	<u>\$79,304.84</u>	<u>\$160.50</u>	<u>\$197,641.10</u>

\*consists of a bonus paid in January 2003

<b>Former Administrative Assistant, Chris Wilson</b>					
<b>Calendar Year</b>	<b>Base Pay</b>	<b>Vacation/ Personal Pay</b>	<b>Bonus</b>	<b>Overtime/ Other Pay</b>	<b>Total</b>
<b>FYE 2000 (Dec. only)</b>	\$ 788.00	\$ 0.00	\$ 0.00	\$ 38.38	\$ 826.38
<b>FYE 2001</b>	21,485.00	1,440.00	699.20	1,356.21	\$ 24,980.41
<b>FYE 2002</b>	31,640.00	1,880.00	1,548.00	495.00	\$ 35,563.00
<b>FYE 2003 (Jan thru March)</b>	<u>8,320.00</u>	<u>1,280.00</u>	<u>50,678.65*</u>	<u>264.00</u>	<u>\$ 60,542.65</u>
<b>Totals</b>	<u>\$62,233.00</u>	<u>\$4,600.00</u>	<u>\$52,925.85</u>	<u>\$2,153.59</u>	<u>\$121,912.44</u>
*consists of a bonus paid in January 2003					

5. **ISSUE:** **Former general manager and former assistant general manager deprived the utility district of over \$10,000 in an apparently fraudulent transaction related to a utility district vehicle**

The former general manager, Mrs. Jewell Harris, and her daughter, Ms. Tonya Harris, the former assistant general manager, apparently conspired and participated in a plan that deprived the utility district of over \$10,000 of the estimated value of a 1994 Jeep Grand Cherokee Limited 4x4 which was acquired by Ms. Tonya Harris.

Inconsistent statements related to the 1994 Jeep were noted in several sets of minutes purportedly relating to the November 9, 1999, and March 14, 2000, board meetings. (Refer to Exhibit 1 for applicable excerpts from these minutes.) As noted, two sets of these minutes referred to problems with the transmission and motor. According to the former board chairman, Mr. Jimmy Kemmer, when requesting that a new vehicle be purchased to replace the 1994 Jeep, Mrs. Jewell Harris stated that the jeep was in bad shape. However, the district's maintenance supervisor, Mr. Bill Aytes, told investigators that he did most of the work on district vehicles and that he could not find anything wrong with the jeep. Mr. Aytes stated that the 1994 Jeep looked good and was in good mechanical condition at the time it was traded.

Per documentation, on March 20, 2000, Mrs. Jewell Harris traded in the 1994 Jeep on the purchase of a 2000 Jeep Grand Cherokee. The district received a trade-in allowance of \$534.94 on the 1994 Jeep. (The March 2000 N.A.D.A. Used Car Buying Guide showed that the expected trade-in value of this vehicle would be \$11,900, the loan value would be \$10,725, and the retail value would be \$14,300.) According to paperwork obtained from the dealership, the 1994 Jeep was sold the same day to another individual for \$2,000. However, this individual admitted to investigators that she was not at the dealership at the time the transaction occurred and did not sign her name on the paperwork provided to us by the dealership. This individual also stated that she never took possession of the 1994 Jeep. According to the individual, she had been friends with Ms. Tonya Harris for 20 years and she agreed to register the 1994 Jeep in her name at Ms. Tonya Harris's request. A representative from the automobile dealership which handled the transaction stated that

Mrs. Jewell Harris prearranged the transaction. However, in an interview with auditors on September 25, 2003, Mrs. Harris denied knowledge that her daughter had acquired the 1994 Jeep.

According to title registration documentation, the 1994 Jeep was titled in the name of Tonya Pugh (Harris) on May 24, 2000. The documentation also indicated that Ms. Tonya Harris sold the 1994 Jeep on September 17, 2001, to another employee of the district. This employee stated that he paid \$6,000 for the 1994 Jeep which was in good condition, and that Mrs. Jewell Harris was present when he purchased the 1994 Jeep from Ms. Tonya Harris.

The former general manager, Mrs. Jewell Harris, apparently misrepresented the condition and value of the 1994 Jeep in order that her daughter, Ms. Tonya Harris, could obtain a personal benefit. In addition, both Mrs. Jewell Harris and Ms. Tonya Harris apparently attempted to conceal the true nature of the transaction. As a result, as noted above it appears that the Crab Orchard Utility District was deprived of over \$10,000 related to the estimated value of the Jeep.

6. **ISSUE: Former general manager deprived the utility district of approximately \$10,000 in an apparently fraudulent transaction related to a utility district backhoe**

The former general manager, Mrs. Jewell Harris, perpetrated an apparently fraudulent scheme that deprived the utility district of approximately \$10,000 of the estimated value of a five-year-old utility district backhoe which was acquired by the general manager's husband.

On November 13, 1996, the district traded in a 1991 580 Case backhoe for \$5,000 on the purchase of a new backhoe. According to the November 5, 1996, minutes, the 1991 backhoe had mechanical problems. A statement, located in the district's vehicle files, signed by the district's maintenance supervisor, Mr. Bill Aytes, noted the backhoe had metal in the filter, noise in the rear end, and was not dependable for work. Mr. Aytes told investigators that he had written the statement at the request of Mrs. Jewell Harris and that Mrs. Harris told him to write it that way so they could get a new backhoe. Mr. Aytes admitted that at the time the backhoe was traded, except for the emergency brake, the backhoe was in good working order. Mr. Aytes did state he had noticed a few shavings in the filter, but admitted this did not disturb him because he had seen shavings in new equipment.

A representative of the equipment dealership that handled the transaction estimated the fair market value of the 1991 backhoe (without the purported problems in the rear end) to be \$15,000 at the time of the trade-in. Documentation obtained from the dealership indicated that the backhoe was sold to an individual named Mike Jones of Dayton, Tennessee for cash of \$5,000 plus tax. In a meeting with auditors, Mrs. Harris stated that Mike Jones was her son-in-law and that he had purchased the backhoe from the

equipment dealership after it had been rebuilt. According to Mrs. Harris, her son-in-law was unable to make payments and she and her husband had taken over the payments for him. However, the dealer representative stated that the used backhoe was taken directly from the utility district to a farm on Chestnut Hill Road. (The location and description of the farm matches the description of the residence of Mrs. Jewell Harris.) Also, the dealer representative stated that he believed the individual with whom he arranged the transaction was Mrs. Harris's husband. In addition, the former chairman of the utility board, Mr. Jimmy Kemmer, stated that Mr. Harris had talked to him about buying the district backhoe.

It appears that the former general manager, Mrs. Jewell Harris, intentionally misrepresented the condition and value of the backhoe for her personal benefit and that she attempted to conceal the true nature of the transaction. As a result of this transaction, it appears that the district was deprived of approximately \$10,000 of the estimated value of the backhoe.

7. **ISSUE: Former general manager requested employees to cash district checks and remit cash to her**

District employees stated that in at least two instances (as listed below), the former general manager, Mrs. Jewell Harris, instructed them to cash utility district checks issued to them and remit the cash to her. According to these employees, Mrs. Harris told them that she needed the cash to pay her husband for work he performed for the district. In a meeting with auditors, Mrs. Harris denied that her husband received any payments from the utility district, in any form (cash, check, or other), since 1994 when it was addressed in the previous Comptroller audit.

In the previous Comptroller's report issued November 1, 1994, a finding was addressed concerning the district issuing checks to Mrs. Jewell Harris's husband for work he had done for the district which constituted an indirect conflict of interest.

Check No.	Date	Payee	Amount
2272	5-29-01	Bill Aytes	\$ 800.00
2323*	6-14-01	Bill Aytes	\$1,200.00
2328	6-14-01	Charles Whittenburg	\$ 800.00

*\*Mr. Aytes stated that he could not remember accepting or cashing this check, although he agreed that the endorsement appeared to be his. He stated that he did not do any work for the district to earn this money. We included the check on the list because it is dated the same day as the check to Mr. Charles Whittenburg, and was apparently given for work not done by Mr. Aytes.*

8. **ISSUE: Board minutes altered or falsified to conceal illegal and/or unauthorized transactions**

Our investigation revealed that the former general manager, Mrs. Jewell Harris, apparently altered or falsified, or directed to be altered or falsified, minutes of meetings of the board of commissioners. Some of these altered or falsified minutes concealed apparently illegal or unauthorized transactions. At least two former employees signed depositions indicating that at the direction of Mrs. Harris, they had altered board meeting minutes months after the meeting and after the original minutes were signed by the former chairman of the board, Mr. Jimmy Kemmer. One of these employees stated that the changes were related to bonuses and/or pay raises previously given to employees. As a result, the minutes could not be relied on as an accurate reflection of board actions.

For some board meetings, two different sets of signed minutes were found. Some copies of signed minutes in the possession of the district's certified public accountant (CPA) were different than signed minutes found at the district. (The CPA stated that Mrs. Harris provided his copies to him). The official minute book also contained several sets of minutes which were apparently altered or falsified. We noted that these minutes were different than other signed or unsigned copies of minutes located.

According to the signed December 11, 2001, minutes located in the minute book at the district's office, the board approved the purchase of a BrookStone Recliner Massager as a gift to Mrs. Jewell Harris. The minutes also stated that Mrs. Harris would be allowed to keep the chair at the office or at her home. On December 18, 2001, a massage chair costing \$2,995 was charged to the district's American Express card. However, the district's CPA provided us with another signed copy of the December 11, 2001, minutes that he obtained from Mrs. Harris. There is no mention of a massage chair or any other gift to be given to Mrs. Harris in these minutes. Currently, the chair is not at the district.

Also, minutes were apparently falsified to justify a payment to a local contractor for work he did not perform as noted in Issue 1. In addition, as noted in Issue 3, minutes were apparently falsified to justify the large bonuses paid in January 2003. Regarding the illegal payments set forth in Issue 3, the former chairman of the board, Mr. Jimmy Kemmer, admitted to investigators that Mrs. Harris told him that she would "fix the minutes." In addition, Mr. Kemmer stated that in January 2003, after it became known that the county mayor had the authority to appoint commissioners, Mrs. Harris brought him several sets of minutes to sign. Mr. Kemmer stated that he did not read these minutes prior to signing them.

9. **ISSUE: Other unauthorized benefits**

In addition to transactions set forth in Issues 1 through 8, our audit revealed several other instances in which the former general manager and former board commissioners and/or family members received unauthorized benefits as set forth below:

➤ **Former general manager instructed employees to perform personal work for her while employees were being paid by the district**

Several employees stated that at the instruction of the former general manager, Mrs. Jewel Harris, they did work for her personal benefit during hours for which they were being paid by the district. According to the employees, this work included moving furniture, hauling landscape rock, installing fans, mowing, mulching, etc. Former board commissioners stated that they were unaware that employees were working for Mrs. Harris' personal benefit while being paid by the district.

➤ **Unmetered yard hydrants**

District employees stated that yard hydrants were installed at the residences of Mrs. Harris, her brother, several of her other relatives (who were employees of the district at the time), former commissioners Mr. Wendell Oakes and Mr. Jimmy Kemmer, and several other select individuals. The former chairman of the board, Mr. Jimmy Kemmer, admitted that he had used the yard hydrant located on his property for personal use. Because the hydrants were not metered, the district was unable to determine the amount of unauthorized personal use of the hydrants by these individuals. According to Mrs. Harris, the yard hydrants were installed to provide outlets for obtaining water samples. However, the treatment plant operator who obtained the samples for most of the investigative audit period stated that to his knowledge only three of the hydrants were ever used to obtain water samples. In fact, the operator stated that he was unaware that some of the individuals noted above had unmetered yard hydrants.

A district employee stated that one unmetered yard hydrant was installed at the corner of the new home of Ms. Tonya Harris, built in 2001. (Ms. Tonya Harris's home was built in close proximity to the home of Mrs. Jewell Harris.) The employee stated that near the same time, another unmetered hydrant was installed between Ms. Tonya Harris's residence and Mrs. Jewell Harris's residence, although Mrs. Jewell Harris already had another unmetered yard hydrant in her yard.

➤ **Required tap fees not collected**

A district employee stated that at the request of Mr. Jimmy Kemmer, a water tap was installed at the residence of one of Mr. Kemmer's relatives. In addition, employees stated that Mrs. Harris instructed them to install a water tap for another relative of Mr. Kemmer. District personnel could not locate any documentation that the related tap fees had been paid to the district. Furthermore, documentation located at the district indicated that a new water line was installed to the residences of former commissioner Mr. Jim Brown and one of his relatives. The district was unable to locate any documentation that the relative paid the required tap fee.

District employees stated that at the instruction of Mrs. Jewell Harris, a water tap was installed about two years ago on land owned by Lowell Braddock (the contractor discussed in Issue 1). District records indicated that Mr. Braddock was not required to pay the related tap fee until November 2004, when he visited the district to request water service.

➤ **Tampering with surplus district vehicle**

District employees stated that at the instruction of Mrs. Jewell Harris, plug wires were crossed on a 1990 Chevrolet truck so that the vehicle would not work properly. The truck was sold for \$625 on January 9, 2001, to a son of former commissioner Mr. Jim Brown.

**The above matters were referred to the local district attorney general for his consideration. On November 9, 2004, the former general manager, Mrs. Jewell Harris, was indicted by the Cumberland County Grand Jury on one count of Conspiracy to Commit Theft over \$10,000, one count of Conspiracy to Commit Theft over \$60,000, one count of Theft over \$60,000, one count of Forgery over \$60,000, two counts of Money Laundering, and one count of Official Misconduct. (Mr. Lowell Braddock was named as an unindicted co-conspirator in the Count of Conspiracy to Commit Theft over \$10,000.) The former assistant general manager, Ms. Tonya Harris, was indicted on one count of Conspiracy to Commit Theft over \$60,000, one count of Theft over \$60,000, one count of Forgery over \$60,000, two counts of Money Laundering, and one count of Official Misconduct. On January 11, 2005, the former chairman of the board, Mr. Jimmy Kemmer was indicted by the Cumberland County Grand Jury on one count of Conspiracy to Commit Theft over \$60,000, one count of Theft over \$60,000, one count of Forgery over \$60,000, and one count of Official Misconduct.**

**During the installation of a water line extension on Hebbertsburg Road, three streams were crossed without an authorized Aquatic Resource Alteration Permit. Section 69-3-108, *Tennessee Code Annotated*, requires a permit to be obtained before the alteration of any waterway. This matter was investigated by the Tennessee Department of Environmental and Conservation. The district was fined \$13,500 by the Division of Water Pollution Control with the Tennessee Department of Environment and Conservation and later paid a reduced fine of \$10,000. On September 15, 2004, the former general manager, Mrs. Jewell Harris, was indicted by the Cumberland County Grand Jury on one count of Willful Failure to Comply with Tennessee Water Control Act.**

**We are continuing to follow up on other possible legal issues. Any applicable information will be remitted to the local district attorney general for his consideration.**

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## **FINDINGS AND RECOMMENDATIONS**

1. **FINDING:** Board minutes apparently altered or falsified and not properly maintained

As noted in Issue 8, board minutes were apparently altered or falsified. The former general manager, Mrs. Jewell Harris, told auditors that she was responsible for recording and maintaining the minutes. Furthermore, minutes were not bound and were found in several different places in the district's offices.

Article II, Section II, Item 3 of the by-laws of the district states, "The proceedings of all meetings of the Board shall be accurately kept by the Secretary. . . . The Minutes of all Board Meetings shall be kept in permanent volumes, well bound, and shall constitute a permanent record of the Board."

**RECOMMENDATION:**

To comply with the district's by-laws and to document that all actions of the board have been properly approved, district officials should ensure that board meeting minutes correctly reflect board discussions and actions. In addition, minutes should be kept by the secretary of the board and should be stored in permanent volumes.

**MANAGEMENT'S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. The board of commissioners updated their "Board Meeting" policy in July 2003. The minutes are now taken under the direction of the secretary, stamped as "OFFICIAL," initialed and dated by the manager and signed by the board members present at the meeting where they are approved. Minutes, with all attachments, are placed in a binder and remain in the custody of the secretary's designated person, in an office safe with limited access.

**Current General Manager:**

Response is the same as that of the board of commissioners.

2. **FINDING: Former chairman signed numerous blank checks and some checks signed by unauthorized signatories**

The former chairman of the utility board, Mr. Jimmy Kemmer, admitted that he signed numerous district checks which did not have the payee and amount completed. Mr. Kemmer stated that the former general manager, Mrs. Jewell Harris, would request him to sign blank checks as a convenience.

Also, although most district checks had two signatures, the signatures were that of the former chairman of the board, the former general manager, and/or the former assistant manager. Article IV, Section II, Item 2 of the district's by-laws states, "Checks . . . shall be signed by the Treasurer or Assistant Treasurer and countersigned by the General Manager or other Assistant appointed by the Board in the absence of the General Manager. . . ." *The Uniform Accounting Manual for Tennessee Utility Districts*, page 5-2, states:

Use prenumbered checks and a check protector to clarify the dollar amount. Before submitting the checks and supporting documentation for approval and signing, enter the check number, amount, and payment date on the invoice to cancel the invoice and avoid duplicate payment. Checks should be signed only after supporting documentation has been approved.

**RECOMMENDATION:**

To help ensure district checks are issued only for authorized purposes, district officials and personnel should sign checks only after they are completed and adequate supporting documentation has been reviewed. In addition, to comply with the district's by-laws, district checks should be signed only by those persons authorized.

**MANAGEMENT'S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. Beginning in April 2003, all checks are written by the "accounts payable" clerk, passed to the general manager, with supporting documentation. After verification, they are passed to the treasurer or in his absence, the vice president, with supporting documentation, for their review and signature. There are no checks signed by unauthorized persons or without supporting documentation.

**Current General Manager:**

Response is the same as that of the board of commissioners.

3. **FINDING: Lack of policies resulted in apparently excessive and possibly inappropriate district expenditures**

Our examination of the district’s disbursement records revealed that during the period January 1, 2000, through March 31, 2003, the district paid at least the following amounts for items and services that did not appear to be directly related to district operations :

Category	Amount
Official and employee gifts	\$11,461.56
Fish tanks, supplies, and maintenance of fish tanks	11,871.25
Employee picnics and holiday dinners including toys supposedly for children of district’s employees	8,849.20
Flowers, fruit baskets, etc., for district employees and individuals in the community, including various elected officials	4,977.93
Christmas decorations purchased from a Chattanooga business where the former general manager Mrs. Jewell Harris’s stepdaughter worked. Also includes labor to obtain and hang decorations.	2,898.08
Lavish furniture consisting of two sofas, a loveseat, and a chair with accompanying ottoman (For instance, one sofa was approximately \$2,000)	6,039.28
Boxing equipment and 20 jackets with district logo for boxing team of an employee’s nephew (Checks dated January 30, 2003, and February 6, 2003)	1,983.09
Purchase of yearbook ads at private school attended by Mrs. Jewell Harris’s grandchildren	<u>1,000.00</u>
	<u>\$49,080.39</u>

The district appeared to have no policies and procedures specifically addressing the appropriateness and cost of disbursements not directly related to district operations. Section 7-82-403, *Tennessee Code Annotated*, addresses the fact that board of commissioners should collect reasonable rates to provide for the operation and maintenance of the system.

**RECOMMENDATION:**

To help ensure that all district expenditures are for a valid district purpose and are for costs necessary to the purposes for which the district exists, district officials should consider establishing policies addressing the appropriateness of disbursements such as those listed above.

**MANAGEMENT’S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. The board of commissioners adopted an Advertising Policy in July 2003 that addresses some of this. The general manager and the board of commissioners are aware of and adhere to TCA 7-82-308 and TCA 7-82-310 as they relate to compensation and gifts. The general manager

and/or the board of commissioners approve all purchases, and are very aware of the intent of TCA 7-82-403, and their other responsibilities of public trust. The general manager will be directed to draft a "Procurement Policy" for the board's review and approval, to better direct the manager and employees in this process.

**Current General Manager:**

Response is the same as that of the board of commissioners.

4. **FINDING: Inadequate supporting documentation for disbursements**

The district's files did not include adequate supporting documentation for numerous disbursements. In many instances, the district's files contained **no** documentation or contained only summarized statements, proposals, or faxed invoices. In addition, as noted in Issues 1 and 2, several disbursements were supported by falsified invoices for work that was never done. The *Uniform Accounting Manual for Tennessee Utility Districts*, Section 5-2, states, "All disbursements must be supported by adequate documentation."

**RECOMMENDATION:**

To ensure that all disbursements are for an authorized purpose, members of the board of commissioners should direct the general manager to obtain and retain in the district's files adequate supporting documentation.

**MANAGEMENT'S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. In April 2003, the present board and general manager implemented a procedure to address this. All disbursements are now done with an "accounts payable" program with invoice numbers, etc, attached. All invoices are filed, and supporting documentation attached to check stubs. Also, a permanent record of all transactions is kept in "accounts payable" system and in the "general ledger" system.

**Current General Manager:**

Response is the same as that of the board of commissioners.

5. **FINDING:**    **Failure to properly bid applicable purchases**

For several applicable purchases, the former general manager, Mrs. Jewell Harris, apparently failed to obtain publicly advertised bids as required by Section 7-82-801, *Tennessee Code Annotated* and the *Uniform Accounting Manual for Tennessee Utility Districts*, Section 5-1. In addition, documentation in board meeting minutes and a review of invoices indicated that in at least two instances, Mrs. Harris split one job into various components apparently in an attempt to avoid the bid requirements. These two instances involved the contractor mentioned in Issues 1 and 2.

**RECOMMENDATION:**

To obtain the best price and to comply with state statutes, members of the board of commissioners should ensure that required bidding procedures are followed for all applicable purchases. Adequate documentation should be maintained to provide evidence that correct bidding procedures were followed.

**MANAGEMENT’S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. The present board of commissioners adopted TAUD’s suggested “Purchasing Policy” in July 2003. The board of commissioners and general manager diligently follow the policy.

**Current General Manager:**

Response is the same as that of the board of commissioners.

6. **FINDING:**    **No documentation that goods and services were received as ordered**

The district’s records did not contain documentation that goods and services were received as ordered. In addition, several invoices for contract work were not signed to indicate the work was approved. For some of these instances, we were unable to verify that the work was actually done and/or the value of the work paid for was provided. However, as noted in Issues 1 and 2, we did determine the district made payments to at least one contractor for work not performed.

The *Uniform Accounting Manual for Tennessee Utility Districts*, Section 7-4, describes procedures for receiving goods and services, including inspecting items ordered, noting any shortages or damages, and signing to document that goods and services were received as ordered.

**RECOMMENDATION:**

To help ensure that disbursements are made only for valid district obligations, members of the board of commissioners should direct the general manager to verify that goods and services are received as ordered. The general manager should require documentation of the verification to be on file before the related invoice is paid.

**MANAGEMENT'S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. The present general manager implemented a procedure in April 2003 where all goods and services are checked and receipts verified and signed. No invoices are paid without the general manager or the person responsible for receipt, validating the purchase and receipt.

**Current General Manager:**

Response is the same as that of the board of commissioners.

7. **FINDING: Fringe benefits not included in compensation**

The former general manager, Mrs. Jewell Harris, the former assistant manager, Ms. Tonya Harris, and other selected district employees were provided district vehicles that they also used for commuting and possibly for other personal use. In addition, various gifts purchased by the district were given to officials and employees including gift cards, expensive engraved bracelets, and a massage chair. However, the district did not add the value of the personal use of the vehicles or the value of the gifts to applicable officials' and employees' compensation as a fringe benefit as required by Internal Revenue Service Regulation § 1.61-21.

**RECOMMENDATION:**

To comply with the requirements of the Internal Revenue Service, the district should include the appropriate value of all applicable fringe benefits in each official's/employee's reported income. The Internal Revenue Service should be consulted for guidance in this matter.

**MANAGEMENT'S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. The present board of commissioners and the general manager do not give gifts or allow personal use of vehicles. However, we have recently been made aware that the manager is using a

vehicle to commute and possibly some of the employee uniforms may need to be shown as income. Management is getting direction from our accountant and auditor on this issue, and will comply with the Internal Revenue Service rule.

**Current General Manager:**

Response is the same as that of the board of commissioners.

8. **FINDING: Former district commissioners received excess compensation**

Former district commissioners were paid \$100 per board meeting as provided by state law. However, the former commissioners also received \$100 gift cards at Thanksgiving and Christmas. The value of these gift cards, which are a fringe benefit according to the Internal Revenue Service, appeared to constitute excess compensation in violation of state law. Section 7-82-308 (a)(1), *Tennessee Code Annotated*, states:

The members of the board shall serve without compensation for their services, except that by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments for not more than twelve (12) meetings of the board of commissioners in any calendar year at rates not greater than one hundred dollars (\$100) per meeting for each district having more than five hundred (500) users. . . .

**RECOMMENDATION:**

To comply with state law, members of the board of commissioners should not request or receive any payments or fringe benefits from the district in excess of allowable compensation.

**MANAGEMENT'S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. The present board and the general manager is very aware of *TCA 7-82-308* and *TCA 7-82-310*, regarding commissioner compensation and gifts or services, and comply with these documents.

**Current General Manager:**

Response is the same as that of the board of commissioners.

9. **FINDING: Water line extension policy not always followed and several water line projects not approved**

The utility district's water line extension policy required a minimum number of 15 taps per mile unless members of the board of commissioners approved the project due to extenuating circumstances. In addition, tap fees were required to be paid in advance before the project was begun. However, for at least three water line projects we reviewed, former district officials apparently violated the water line extension policy. In addition, in some instances, we were unable to determine that some applicable tap fees were collected.

Our investigative audit also revealed that for at least six water line extension projects, the former general manager, Mrs. Jewell Harris, apparently did not obtain approval from the Tennessee Department of Environment and Conservation (TDEC) as required by state law. In another instance, approval was not obtained until after the project had been started. Section 68-221-706, *Tennessee Code Annotated*, states:

The department shall exercise general supervision over the construction of public water systems throughout the state. . . . No new construction shall be done nor shall any change be made in any public water system until the plans for such new construction or change have been submitted and approved by the department.

As noted in the Legal Issues, TDEC fined the utility district \$13,500 for crossing three streams during the installation of a water line extension on Hebbertsburg Road without an authorized Aquatic Resource Alteration Permit. The district later paid a reduced fine of \$10,000. The unauthorized activity was in violation of the Tennessee Water Quality Control Act, Section 69-3-108, *Tennessee Code Annotated*.

**RECOMMENDATION:**

To comply with state law, district officials should obtain approval from the Tennessee Department of Environment and Conservation prior to construction of new water line projects. In addition, members of the board of commissioners should ensure that all water line projects conform to the district's water line extension policy.

**MANAGEMENT'S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. The present board of commissioners adopted a "Line Extension" policy in July 2003. The policy is adhered to by management. The present general manager attended a TDEC class on the permitting and soil erosion issues in June 2003. There are no line extensions started until management applies for, and receives, permits from the appropriate state agencies.

**Current General Manager:**

Response is the same as that of the board of commissioners.

10. **FINDING: Contractor not licensed as required by state law**

District officials hired an unlicensed contractor to provide labor for repairs and improvements to a rental house owned by the district. The contractor's charge for this project was nearly \$30,000. District officials failed to ensure that the contractor had a contractor's license on file with the State of Tennessee Licensing Contractors Board. Section 62-6-103, *Tennessee Code Annotated*, states, "It is unlawful for any person, firm or corporation to engage in or offer to engage in contracting in the state, unless such person, firm or corporation has been duly licensed under the provisions of this chapter, as hereinafter provided." Section 62-6-102, *Tennessee Code Annotated*, defines a contractor as one who performs any project costing \$25,000 or more.

Furthermore, district officials failed to require the contractor to adhere to bid requirements and enclose a certificate of insurance with his bid. Documentation located at the district indicated that the contractor did not obtain general liability insurance until December 5, 2002, over three weeks after the board had awarded him the contract, and after he had already received two payments from the district.

**RECOMMENDATION:**

To comply with state statutes, district officials should hire only licensed contractors to perform projects costing \$25,000 or more. In addition, if district officials require contractors to have insurance, officials should ensure that contractors are properly insured before making payments.

**MANAGEMENT'S RESPONSE:**

**Current Members of the Board of Commissioners:**

We concur with the finding that this occurred during the audited period. The present board of commissioners and the general manager use the "Purchasing Policy" in all cases where expenditures exceed \$10,000. All contractors awarded bids are required to attach proof of licenses, liability insurance, and worker's compensation insurance.

**Current General Manager:**

Response is the same as that of the board of commissioners.

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**Crab Orchard Utility District  
Excerpts from district's board meeting minutes related to 1994 Jeep**

November 9, 1999, unsigned minutes located in district's minute book:

THE 1994 JEEP USED BY MS. PUGH HAS BEEN DEPRECIATED OUT, AS PER THE DISTRICT'S CPA SCHEDULE OF 5 YEARS PER VEHICLE. THE JEEP HAS MAJOR MECHANICAL PROBLEMS (SEE ATTACHED REPORT FROM R&M). EAST TENN DODGE HAS MADE AN OFFER OF \$500.00 TRADE-IN ALLOWANCE TOWARD THE PURCHASE OF A 2000 GRAND CHEROKEE JEEP. THE 94 JEEP IS USING OIL, HAS TRANSMISSION AND MOTOR DAMAGE, AND SOME WRECKAGE DAMAGE IS APPARENT, ALTHOUGH NO RECORDS CAN BE FOUND TO INDICATE THE VEHICLE WAS WRECKED EXCEPT ONE REPAIR REPORT OF TAIL GATE AND BACK TAIL LIGHT REPAIRS.

COMMISSIONER BROWN MADE A MOTION TO ACCEPT THE TRADE-IN FROM EAST TENN DODGE, PURCHASE THE 2000 GRAND CHEROKEE AND TRANSFER THE FORD EXPLORER THE GENERAL MANAGER IS DRIVING TO MS. PUGH, AND LET THE GENERAL MANAGER DRIVE THE NEWER VEHICLE, PURCHASING THE JEEP ON AN EMERGENCY BASIS AS THE 1994 IS A LIABILITY TO DRIVE, CHAIRMAN KEMMER SECONDED THE MOTION. ALL VOTED YES. MOTION PASSED 3-0.

CHAIRMAN KEMMER DIRECTED THE GENERAL MANAGER TO TAKE AN EMPLOYEE OF THE R&M DEPT. TO ACCOMPANY HER TO THE DEALERSHIP TO DRIVE THE 1994 JEEP, AND TRADE TODAY.

November 9, 1999, signed minutes obtained from CPA:

The 1994 jeep used by the billing and collecting Supervisor has been depreciated out and needs major work if kept in service. Commissioner Oakes made a motion to advertise bids for a replacement 4-wheel drive vehicle and take bids to sale (sic) the 1994 jeep. Commissioner Brown Seconded. All voted yes. Motion passed, 3-0.

March 14, 2000, unsigned minutes located in district's minutes book:

No mention of 1994 Jeep in minutes.

March 14, 2000, signed minutes obtained from CPA:

Commissioner Oakes made a motion to transfer the Ford SUV to Mrs. Pugh and take 3 bids on the purchase of a Jeep for the General Manager, and try to get a trade in on the old Jeep. The transmission is out of the Jeep and the motor is using a lot oil, the vehicle is not dependable and a trade in will be requested. After the 3 bids are delivered, the General Manager was instructed to purchase the most responsive bid and purchase the vehicle immediately. Chairman Kemmer seconded. All voted yes, motion passed 3-0.