



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

January 30, 2025

Stephanie Morris-Harris, Esq.  
Attorney, Bolivar County  
P.O. Box 698  
Cleveland, Mississippi 38732

Re: Donations to Private Water Association

Dear Ms. Morris-Harris:

The Office of the Attorney General has received your request for an official opinion.

### **Questions Presented**

Does Bolivar County (“County”) have the authority to provide in-kind services, such as the use of county equipment, labor, and materials to a private water association to assist with certain drainage issues and repairs?

### **Brief Response**

Generally, counties are prohibited from using public funds, equipment, and supplies for private purposes, which would include providing in-kind services to a private water association. However, counties are allowed to “provide labor, materials, and supplies to clean or clear drainage ditches, creeks or channels or conduits, both natural and man-made and to prevent erosion of such ditches, creeks or channels” in accordance with Mississippi Code Annotated Section 19-5-92.1. Whether this exception applies to your situation is a determination for the County to make and should be spread upon the minutes of the board of supervisors.

### **Applicable Law and Discussion**

The county home rule statute, Section 19-3-40, gives the board of supervisors “the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi.” The home rule statute further provides that “[t]his section shall not authorize the board of supervisors of a county to. . . use any public funds, equipment, supplies or materials for any private purpose.” *Id.* at (3). This office has previously opined that a county had “no authority

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to use county-owned equipment and materials to place gravel on a private drive leading to a local, private water association tank.” MS AG Op., *Chamberlin* at \*1 (Jan. 10, 2003); *see also* MS AG Op., *Dulaney* at \*1 (Mar. 15, 2007) (opining that Section 19-3-40 prohibits a public utility from connecting its water lines to a privately owned utility company’s water lines for the benefit of the private company without adequate consideration).

Section 19-5-92.1, however, provides one exception allowing a county to provide labor, materials, and supplies for work to a private entity. This section grants a county the discretion to “provid[e] labor, materials, and supplies to clean or clear drainage ditches, creeks or channels or conduits, both natural and man-made and to prevent erosion of such ditches, creeks or channels” on private property if the board determines “that such work and/or expenses are necessary in order to promote the public health, safety and welfare of the citizens of the county.” *Id.* Whether this exception applies in your situation is a determination to be made by the County and is outside the scope of this opinion. Absent an applicable statutory exception, the County is prohibited from providing in-kind services to a private water association.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard

Special Assistant Attorney General

OFFICIAL OPINION