



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

March 18, 2025

Mr. William H. Davis, Esq.  
Attorney, Tuscumbia Water Management District  
Post Office Box 1613  
Corinth, Mississippi 38835

Re: Assessment of Benefiting Land Outside of District under Section 51-29-29

Dear Mr. Davis:

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

### **Background**

According to your request, the Tuscumbia Water Management District of Alcorn and Prentiss counties (“TWMD”) is a drainage district operating under Mississippi Code Annotated Sections 51-29-1, *et seq.* TWMD primarily consists of lands lying on or near the Tuscumbia River canal and watershed lakes. However, the TWMD commissioners believe that certain land outside of the district—specifically, Alcorn County as a whole and especially the City of Corinth—is directly benefited by TWMD improvements. Accordingly, TWMD seeks an opinion on whether a tax may be levied upon all benefiting lands within the county or if only lands lying within the existing drainage district may be assessed.

### **Questions Presented**

1. If the TWMD commissioners determine that lands should be assessed for ongoing maintenance of the Tuscumbia River canal and watershed lakes under Section 51-29-29, and if the commissioners determine that all lands within a county benefit from the drainage district’s improvements, may a tax be levied upon all lands in the county, or is such a tax limited to lands previously included in the drainage district?
2. If taxes may only be levied on lands lying within the drainage district, is Section 51-29-131 the only method by which district boundaries may be enlarged?

### Brief Response

1. Assessments are not limited to lands previously included in the drainage district. Pursuant to Section 51-29-29, “[i]f the commissioners, at any time either before or after the organization of the district, find that other land not embraced within the boundaries of the district will be benefited by the proposed improvement or improvements already made, they *shall* assess the estimated benefit to such lands.” (emphasis added).
2. Given the response to question one, this question is moot.

### Applicable Law and Discussion

You first ask if a tax may be levied upon all lands in a county if the TWMD commissioners determine that all lands within the county benefit from the drainage district’s improvements or whether such a tax is limited to lands previously included in the drainage district. Section 51-29-29 provides in part:

*If the commissioners, at any time either before or after the organization of the district, find that other land not embraced within the boundaries of the district will be benefited by the proposed improvement or improvements already made, they shall assess the estimated benefit to such lands and shall specially report to the chancery court, or chancellor in vacation, the assessments which they have made on land beyond the boundaries of the district, as already established. It shall thereupon be the duty of the clerk of the chancery court to give notice by two (2) weekly insertions in a newspaper published in the county where such lands lie describing the additional lands which have been assessed; and the owners of real property so assessed shall be allowed not less than ten (10) days after the last publication of such notice in which to file with the clerk of the chancery court their protest against being so assessed, or included within the district. The chancery court, or chancellor in vacation, shall, at its next succeeding session after the time for filing of such protest shall have expired, investigate the question whether the lands beyond the boundaries of the district so assessed by the commissioners will in fact be benefited by the making of the improvement, and from its finding in that regard, either the property owner or the commissioners of the district may, within twenty (20) days appeal to the supreme court. If the finding is in favor of the commissioners, the limits of the district shall be extended so as to embrace any lands that may be benefited by the making of the improvement.*

(emphasis added); *see also Self v. Indian Creek Drainage Dist. No. 1*, 128 So. 339, 341 (Miss. 1930) (“The statute expressly provides that, if the lands outside of the district are benefited by the improvements made, they shall be included within the district.”). It is thus the opinion of this office that assessments are not limited to lands previously included in the drainage district. Section 51-29-29 is clear that the commissioners “shall” levy assessments upon all lands outside of TWMD that the commissioners determine benefit from the district’s improvements.<sup>1</sup> Once the proper

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<sup>1</sup> Regarding the land originally assessed within TWMD, we note that pursuant to Section 51-29-33,

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notice, protest, and finding procedures set forth in Section 51-29-29 are completed, “[i]f the finding is in favor of the commissioners, the limits of the district shall be extended so as to embrace any lands that may be benefited by the making of the improvement.” Miss. Code Ann. § 51-29-29.

Given the response to your first question, your second question is moot.

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/ Maggie Kate Bobo*

Maggie Kate Bobo  
Special Assistant Attorney General

OFFICIAL OPINION

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The assessment roll so prepared and filed by the commissioners, when approved by the chancery court, or chancellor in vacation, shall stand as a final assessment of benefits and damages upon the lands of the said district and no new assessment roll shall be required unless, in the opinion of the commissioners, it becomes necessary to raise the assessment of benefits to such lands because of additional benefits to the lands other than these assessed or because it becomes absolutely necessary in order to raise funds to preserve and maintain the improvements of the district.

*See also Buchanan v. Red Banks Creek Drainage Dist.*, 39 So. 2d 321, 323-24 (Miss. 1949) (allowing additional assessment for maintenance).