



## Arkansas Waterways Commission Legislative Summary

**Arkansas Waterways Commission**  
101 E. Capitol, Ste. 370  
Little Rock, Arkansas 72201  
(501) 682-1173  
[www.waterways.arkansas.gov](http://www.waterways.arkansas.gov)

## **AGENCY OVERVIEW**

**The Arkansas Waterways Commission is the sole state agency responsible for developing, promoting and protecting waterborne transportation in Arkansas.**

**The Commission also promotes economic development for ports on the five commercially navigable rivers of the state: The Arkansas, Mississippi, Ouachita, Red, and White Rivers.**

### **Mission**

The mission of the Commission is to develop, promote, and protect the commercially navigable waterways of Arkansas for waterborne transportation and economic development to benefit the people of Arkansas.

### **Authorizing legislation**

The Arkansas Waterways Commission was established by Act 242 of 1967, and its powers and duties were amended by Act 414 of 1973.

### **Funding**

The Commission is funded by General Revenues. Through its Contribution line item, the Arkansas Waterways Commission supports the efforts of the Mississippi Valley Flood Control Association, the Red River Valley Association, the Ouachita River Valley Association and the White River Valley Association.

### **Commissioners**

The Commission is comprised of seven commissioners appointed by the Governor to staggered, seven-year terms. There are five commissioners representing each of the navigable rivers in Arkansas and two at-large commissioners.

<b><i>Commissioner</i></b>		<b><i>Representing</i></b>	<b><i>Term Expires</i></b>
Harvey Joe Sanner	Des Arc	At large	2013
Judge Michael Loftin	El Dorado	Ouachita River	2013
Jim Frazier*	Helena	Mississippi River	2014
William Varner	Fulton	Red River	2015
Travis Justice	Little Rock	At large	2016
Gay Lacy	Newport	White River	2017
Paul Latture	Little Rock	Arkansas River	2018

\* Chairman

### **Responsibilities and Duties**

The Arkansas Waterways Commission was established by Act 242 of 1967, and its powers and duties were amended by Act 414 of 1973. The Arkansas Waterways Commission's powers, duties and functions assigned by law are as follows:

1. Study and coordinate efforts designed to promote the development of the navigable stream areas in this State for water transportation purposes;
2. Encourage and coordinate the development of river port and harbor facilities;
3. To recommend to the proper officials recreational restrictions in critical commercial navigation areas in order to promote public safety and expedite water transportation.

4. Intercede on behalf of and to represent the State of Arkansas in matters pertaining to the application of fees, tolls or user charges levied or contemplated to be levied against the water transportation industry engaged in either intrastate or interstate water commerce.
5. Receive and use any federal, state or private funds, donations and grants made available for the development, use and expansion of river transportation resources of this State, provided that nothing herein shall be deemed to deny or prohibit any city, county, port authority or other governmental or private agency or authority from accepting such donations and grants they are now authorized by law to receive.
6. Cooperate with and furnish assurances to the United States Government and any agencies thereof, for improvement of the waterways of this State for the purpose of commercial navigation and other project purposes, and to contract with the Secretary of the Army and the Chief of Engineers to provide the necessary lands, easements, and rights-of-way in connection therewith; to share if necessary in the costs of the projects in the event the Chief of Engineers determines that it is necessary under applicable federal laws and policy; and to otherwise furnish local cooperation requirements of the Acts authorizing projects.
7. Have and exercise the power and authority to acquire such real and personal property, in the name of the State of Arkansas, by gift, grant, purchase, negotiation or by condemnation, as the Commission deems necessary or desirable to carry out its functions and responsibilities under this Act.
8. Require all State agencies, boards or commissions, when such agencies, boards and commissions are planning industrial, residential or recreational zonings, operational regulations or improvements involving channel alignments, bank stabilization, bank and adjacent land uses, which would directly or indirectly affect commercial navigation on any of the State's inland waterways, to coordinate such planning with the Commission.
9. Require all State agencies, boards and commissions having the power to give assurances over water resource projects to coordinate such activities with the Arkansas Waterways Commission prior to giving such assurances if such assurances are given in regard to projects and programs that are on the navigable waterways of the State or may affect these waterways.
10. Authorizes the assignment, transfer, lease, conveyance, grant or donation of any or all of its property to the United States of America or to any agency or department thereof, for use of the United States in connection with the purposes of this Act.
11. Represent this State in the promotion of the development of commercial water transportation in this State and to cooperate with other states, other agencies of this State or agencies of the United States Government, in any manner whatsoever, in an effort to develop the commercial use of the waterways in this State. The Commission is hereby empowered to study all executive orders and legislation, state and federal, which may affect the commercial development of interstate or intrastate water transportation and to make recommendations concerning any such executive orders or legislation.

### **Federal Agencies that work with the Arkansas Waterways Commission**

United States Army Corps of Engineers - has responsibility for planning, improving and maintaining the inland river system to provide for flood control, navigation and recreation. It operates most locks and dams on the inland waterways system. It also administers the "Section 10" and "Section 404" federal permit programs.

United States Coast Guard - is responsible for the establishment of navigation regulations and the operation and maintenance of physical aids to navigation. Other responsibilities include search and rescue, and enforcement of the Federal Water Pollution Control Act. It administers a

program for recreational boating safety which includes the establishment and enforcement of minimal safety and signal equipment standards, and inspection of certain classes of commercial vessels. The Coast Guard also administers the laws pertinent to the construction, operation and maintenance of bridges over navigable waterways.

United States Department of Transportation Maritime Administration (MARAD) - is charged with the responsibility within the government to promote a merchant marine services sufficient to carry the nation's domestic waterborne commerce. MARAD administers a number of programs for the industry and undertakes research to support the industry.

Other Agencies - These include the Environmental Protection Agency, which is involved in pollution control and noise control; the Department of Labor, which is the administrator of the occupational Health and Safety Act; and the United States Fish and Wildlife Service, which administers various laws regarding the protection of fish and wildlife resources.

## Five Navigable Rivers Update – September 12, 2012

Here is a short overview of the conditions of each of Arkansas' five navigable rivers.

### ARKANSAS RIVER

#### McClellan-Kerr Arkansas River Navigation System (MKARNS) Overview

The MKARNS is a reliable, year-round waterway into the Southwest, four hundred and forty-five miles long with 18 locks and dams. The MKARNS' series of navigation pools, connected by locks, enables vessels to overcome a 420-foot difference in elevation from the Mississippi River to the head of navigation at Catoosa, Oklahoma.

Many think that the MKARNS is synonymous with the Arkansas River, but this is not the case. The downstream portion of the Arkansas River is the *major* component of the 445-mile-long system, but, in all, there are *four distinct segments* of the waterway:

**WHITE RIVER ENTRANCE CHANNEL.** The McClellan-Kerr begins in Arkansas at mile 599 on the Mississippi River, about half way between New Orleans and St. Louis, using the first ten miles of the White River as its entrance channel.

**ARKANSAS POST CANAL.** The next nine miles of the waterway are totally manmade. The canal is a navigation canal connecting the White River with the Arkansas River.

**ARKANSAS RIVER.** For the next 377 miles, through Arkansas and into Oklahoma, the McClellan-Kerr and the Arkansas River are one and the same.

**VERDIGRIS RIVER.** In Oklahoma the waterway leaves the Arkansas River once again, at Muskogee, and follows the Verdigris River north for the last 50 miles to the head of navigation at Tulsa's Port of Catoosa, 445 miles from the Mississippi River.



Montgomery Point Lock and Dam

## **12-foot channel**

This project is already designed and authorized, but not appropriated. The estimated total cost of the project is \$177 million. Funding would be appropriated to the U.S. Army Corps of Engineers as Construction. This project is classified as a “New Start” and, currently, Congress will not fund projects designated “New Start.”

The Oklahoma portion of the project is estimated at \$74 million and the Arkansas portion of the project is estimated at \$103 million.

Breakdown of the costs in Arkansas for the 12-foot channel project:

- \$26m dredging and blasting
- \$10m disposal area purchase real estate
- \$4m environmental mitigation
- \$63 dikes, revetments and training structures

Note that the cost share is 50/50 with Inland Waterways Trust Fund (IWTF), which is currently out of funding.

The current cost of \$3 million per year to dredge a 9-foot channel on the MKARNS; dredging a 12-foot channel would increase the cost to \$4 million. This project must be done according to the Environmental Impact Study (EIS) for this project. The EIS work is split evenly between AR and OK. After procurement and contracting, the estimated time to completion is 4.5 years.

## **Three Rivers Study – Arkansas/White River Cutoff**

The White River is attempting to cut across to join the lower Arkansas River. If this were to happen, navigation on the MKARNS would stop. Currently, the Little Rock District of the U.S. Army Corps of Engineers (USACE), invests \$4-5 million every 10 years to build and repair a series of temporary structures, called “Melinda structures,” designed to prevent the White River from reaching the lower Arkansas River.

The Three Rivers Study would provide a solution to this issue and protect the navigation in Arkansas. The estimated cost of this study is \$3 million; to start the study would cost \$100,000. Funds for this study would be appropriate as General Investigation.

## **Operations & Maintenance**

Currently, the USACE has a backlog of maintenance on the MKARNS. The Tulsa and Little Rock Districts estimate \$78 million to address the top 15 items, \$38 million of which is deemed “Critical.” Critical Maintenance is defined as maintenance that, if not conducted, will cause failure in 5 years or less.

A failure anywhere along the system would halt traffic on the entire system. An unreliable waterways system negatively impacts the economic development of ports and terminals along the MKARNS, resulting in adverse economic development for the state.

In the past, funding for the above three projects came through three appropriation classifications and did not compete against each other. The current funding environment in Washington, D.C., does not allow Congressional “earmarks” and causes the above three projects to compete with each other for funding. We must, therefore, prioritize the projects based on greatest need.

## MISSISSIPPI RIVER

After record high levels and volume on this river in 2011, we are looking at record low levels in 2012. There have been port closures all along the Mississippi; at the time of this report, only three of the six ports in Arkansas are open: Osceola, Yellow Bend, and West Memphis. These three ports are “light loading” due to the low water levels on the Mississippi. This means barges cannot be loaded at full capacity, resulting in higher transportation and storage costs for suppliers to get commodities to market.

In August 2012, the Arkansas Waterways Commission worked with our Congressional delegation to have the Yellow Bend Port dredged instead of being bypassed for another port. Due to this action, Yellow Bend is still moving commodities at this time, instead of being closed. We appreciate the help of our Senators and Congressmen in making this possible.

Through supplemental funding, the Corps was able to dredge in 2012, and did a commendable job working with the U.S. Coast Guard to keep a channel open in the Mississippi River. Looking forward, the 2013 Corps of Engineers budget contains no money for dredging the Mississippi. We are seriously concerned about this fiscal constraint.



West Memphis

## **OUACHITA RIVER - Ouachita/Black Navigation System**

The Ouachita/Black Navigation System faces challenges from recent changes to lock operations. The Ouachita River has two locks that operate in Arkansas: Felsenthal, near Crossett, and H.K. Thatcher, near El Dorado.

Lock operating hours are set according to the “Levels of Service” as defined in the Inland Marine Transportation System (IMTS) guidelines; the IMTS guidelines are based on the amount of commercial traffic that passes through the locks. Felsenthal and Thatcher’s commercial usage is much lower than the locks in Louisiana; 80% of traffic is recreational.

Industries such as Tetra Technologies and Cross Oil of Smackover depend on the Ouachita/Black Navigation System. For example, Tetra Technologies recently made an investment of over \$700,000 at the Port of Crossett. Cross Oil recently completed a pipeline to its Smackover facility and will use the navigation system now only in case of pipeline failure.

Cross Oil’s decision to move to using a pipeline, rather than navigation, resulted in the Vicksburg District dredging the river only as far as Crossett in 2012.

We anticipate that the Vicksburg District will further reduce lock operation hours for Felsenthal and Thatcher to weekend and holidays only. This further reduction will jeopardize Tetra Technologies’ investment and the opportunity for economic development along the Ouachita in Crossett, El Dorado, and Camden.

## **J. BENNETT JOHNSON WATERWAY (RED RIVER)**

Currently, the Red River is navigable to Shreveport, Louisiana. A USACE study has been done to allow navigation into Arkansas to Index Bridge (between Texarkana and Ashdown, Arkansas). There are also variations calling for navigation to Garland City and Fulton, Arkansas. Each study has a determining cost/benefit ratio; unfortunately, the ratio does not meet the minimum requirement set by USACE.

Groups such as the Texarkana Chamber of Commerce and the Arkansas Red River Commission continue to work to establish a cost/benefit ratio that falls in the acceptable range. Most recently, individuals from economic development groups in Dallas, Texas and the Red River Valley Association in Shreveport are discussing the possibility of extending the Red River to Denison, Texas, to serve as a river port for Dallas-Fort Worth area.

## **WHITE RIVER**

Due to high water and other natural events, the White River has not been dredged, which has resulted in no navigation on this river in the past two years. Recently environmental groups have resisted attempts to improve this river for navigation purposes. The Memphis District USACE is conducting a White River Navigation Study; the estimated cost to complete this study is \$5 million.

Funding to complete this study is in question due to a proposed change in USACE policy. The policy is called “3-3-3” and refers to the following: the Corps of Engineers shall take no more than three years, spend no more than \$3 million, and keep all three districts involved in the process (District – Division – Headquarters). Any additional funding over the \$3 million would need to come from local sponsors.