

EXHIBIT D.2

Arkansas Waterways Commission – Powers 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. 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; and
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.