



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

(501) 371-2007

OPINION NO. 85-192

September 25, 1985

Honorable Charlie Daniels
Commissioner of State Lands
State Capitol Bldg.
Little Rock, AR 72201

Dear Commissioner Daniels:

You have asked the opinion of this Office regarding whether the Commissioner of State Lands has the authority to determine the disposition of newly formed islands in navigable streams which are, by law, property of the State, and if not, with what agency this responsibility lies. You noted in your opinion request that Ark. Stat. Ann. §10-610 through 10-613 established a procedure whereby the Arkansas Planning Commission [and later the State Office of Planning] determined whether such islands would be appropriate for public ownership prior to the sale of the islands by the State Land Commissioner's Office. You noted that both the Arkansas Planning Commission and the Office of Planning have been abolished by a subsequent statute, found at Ark. Stat. Ann. §1203(n)(1).

The answer to your question is that the duties which had once been conferred upon the Arkansas Planning Commission and the Office of Planning with respect to islands should now be performed by your Office. Although this is not clearly expressed by acts of the Legislature, it is apparently the intent of the Legislature that these duties continue to be performed and the statutes should be read, if possible, to give effect to this intent.

This intent of the Legislature is indicated in Ark. Stat. Ann. §5-1209(a) which states:

In the event an agency shall cease to exist pursuant to this Act [§5-1201 - 5-1212], the laws governing its powers, duties, and functions are not repealed, but shall be administered by some other state agency, if so designated by the General Assembly, unless the General Assembly specifically repealed the law establishing such powers, duties, and functions.

Daniels Opinion
September 25, 1985
Page 2.

While I can find no indication from any statutes regarding the State Planning Commission or the Office of Planning that the General Assembly has designated another state agency to assume the functions of these agencies, neither can I find anything which indicates that the General Assembly has specifically repealed the laws establishing the powers, duties and functions of these abolished state agencies. Since Ark. Stat. Ann. §5-1209 clearly states that the laws governing the powers, duties and function of an abolished state agency are not repealed unless specifically repealed by the General Assembly, it was the clear intention of the General Assembly in enacting this law that said powers, duties, and functions relating to newly emerged islands, the Legislature's intent expressed in Ark. Stat. Ann. §5-1209 can best be given effect by having your office perform those powers, duties, and functions previously exercised by the abolished State Planning Commission and Office of Planning.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Tim Humphries.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Clark", written over a horizontal line.

STEVE CLARK
Attorney General

SC/TH/ljm