



January 23, 2015

VIA ELECTRONIC MAIL

Colonel Dan Koprowski
District Commander
U.S. Army Corps of Engineers
St. Paul District
180 Fifth Street East, Suite 700
St. Paul, Minnesota 55101-1678

Re: Comments on DRAFT Environmental Assessment – Closure of Upper St. Anthony Falls Lock to Commercial and Recreational Navigation Traffic

Dear Col. Koprowski:

On behalf of the undersigned organizations and our hundreds of thousands of members and supporters in Minnesota and nationwide, we thank you for the opportunity to provide comments on the DRAFT Environmental Assessment – Closure of Upper St. Anthony Falls Lock to Commercial and Recreational Navigation Traffic (hereinafter “EA”).

Our coalition includes organizations representing conservation, environmental, sportsmen and women, marinas, businesses and private property owners, all of whom are concerned about the threat Invasive Asian carp (Invasive carp) pose to our water natural resources and way of life in Minnesota. Utilizing the existing infrastructure of the Mississippi locks is one of the best tools we have right now to address this threat.

Members of our Coalition advocated for closure of the Upper St. Anthony Falls Lock (USAF) in order to form an effective barrier to Invasive carp passage, thereby helping protect thousands of miles of rivers and streams and thousands of lakes upstream. For these reasons and those stated more fully below, **we strongly encourage the Corps to not reopen the USAF Lock and instead adopt Alternative 5.3, Closure of the Lock at the end of the 2014 Navigation Season.**

Background - Invasive Carp in the Upper Mississippi River Basin

Minnesota is facing one of the greatest invasive species threats to our natural resources and quality of life in decades – Invasive Asian carp. These fish are voracious filter feeders that can grow to more than four feet long, weigh up to 100 pounds and quickly dominate a body of water by consuming the same food that sustains native fish populations. One species is even known to injure boaters by leaping up to ten feet out of the water.

We must respond to this threat immediately in order to protect our proud outdoor recreation traditions, native fish populations, and national parks, all of which support our multi-billion dollar tourism industry and thousands of jobs and businesses, according to the Outdoor Industry Association. Fishing alone supports 43,000 Minnesota jobs, generates \$2.8 billion in direct annual expenditures, and contributes more than \$640 million a year in tax revenues to the state and federal government, according to the MN DNR.

Per the draft Minnesota Invasive Carp Action Plan (hereinafter “Action Plan”) Appendix D, there have been a total of 51 grass, 15 bighead and 10 silver carp caught in the Mississippi River in Minnesota since January 1991 (attached hereto as Exhibit A). This may not seem like high numbers, but it means we know they are here, and given that these species are difficult to catch, there are undoubtedly many more threatening our waters right now.

For the past several years, the catches have been on the rise, from a high of 34 catches in 2009, to, most recently, seven catches in 2014, three of which were in Pool 2, one the furthest north to date (near Cottage Grove). The previous year, ten species of Invasive carp were caught and the year before nine. It should be noted that the MN DNR has hired commercial fisherman for this purpose pursuant to the Action Plan.¹ While there may not be a reproducing population in Minnesota as yet, that alone provides good reason to establish closure now and stop this march upstream.

Due to this imminent threat, our Coalition worked with members of the Minnesota congressional delegation to advance federal legislation that mandates the closure of the Upper St. Anthony Falls Lock as one measure to help address this threat. Had the threat of Invasive carp migration north of Upper St. Anthony Falls not been real, lock closure would likely never had been considered by the Minnesota congressional delegation and certainly would not have received the widespread local, state, federal and stakeholder support that it did.

In June 2014, Congress passed and President Obama signed into law the 2014 Water Resources and Development Act, Section 2010 of which mandates closure of the Upper St. Anthony Falls lock.

¹ Minnesota Invasive Carp Action Plan at Section 1.4 (original plan dated 11/2/2011; update in progress at time of writing).

Factors in Support of Alternative 5.3, Closure at the End of 2014

Given the imminent threat of Invasive carp to the Mississippi River and other waters in the state, the Corps should not reopen the lock in 2015 and instead proceed under Alternative 5.3. We know the lock closure mandate was passed due to the threat of Invasive carp, and we know that there have been many catches in the Mississippi River since 1991. In 2014, an Invasive carp was caught at the furthest upstream point on record in Pool 2. Invasive carp are in the Mississippi River and making their way upstream, so we must take any and all actions possible to prevent their further upstream movement. Lock closure is the best solution we have to address this threat, and we should use all means available to ensure the closure happens as soon as possible, thus Alternative 5.3 is the best option.

Additionally, the Corps' own policies support Alternative 5.3 as it is a preventative action in the face of an invasive species threat. The Corps' Invasive Species Management Plan² (Management Plan) builds upon the Corps' Environmental Operating Principles³ and was intended to be applied to invasive species issues in the execution of all Civil Works programs and projects. One of the goals of the Management Plan is the prevention of the introduction and establishment of invasive species to reduce their impact on the environment, economy, and health of the United States. The Management Plan recommends that the Corps "take steps to intercept pathways that are recognized as significant sources for the unintentional introduction of invasive species."⁴ Additionally, the Corps' Great Lakes and Mississippi River Inter-basin Study states that "the best defense against aquatic nuisance species is prevention, stemming the tide of new introductions."⁵ The decision on whether to reopen the lock this spring should heavily weigh the threat of Invasive carp migration to the Upper Mississippi River basin given the goals of the Corps' Management Plan and Environmental Operating Principles.

The EA acknowledges this invasive species threat but concludes that there is a "relatively low risk of passing any substantial numbers of Asian carp between now and the mandated lock closure in June 2015."⁶ However, it is not clear upon what information the Corps is basing this conclusion as the EA fails to cite scientific data or other supporting documentation about how many Invasive carp are in the waters in or around the USAF lock. The fact is we do not know and therefore cannot conclude there is a "low risk." However, what we do know is they are in the Mississippi River, and there are increasing numbers of Invasive carp caught as far north as Pool 2, which indicates that Invasive carp are moving upstream and able to navigate through the lock system. Given the Corps' policies support prevention, Alternative 5.3 should be adopted.

² <http://www.nae.usace.army.mil/Portals/74/docs/regulatory/InvasiveSpecies/policy.pdf>, Finalized in March 2009 in response to the National Invasive Species Management Plan and Executive Order 13112

³ <http://www.usace.army.mil/Missions/Environmental/EnvironmentalOperatingPrinciples.aspx>

⁴ Management Plan, p 3.

⁵ http://glmr.is.anl.gov/documents/docs/glmrisreport/GLMRIS_Report.pdf

⁶ Draft EA at 18.

We also know that during times of high water, Invasive carp are more likely to travel upstream to spawn, and they may be able to bypass some of the locks all together in their upstream migration. A 2008 study noted that: “Movement rates (km/week) of both [Bighead and Silver carp] species were positively correlated with flow . . . Thus, movement prevention efforts (e.g., dispersal barriers) will require particular vigilance during late-winter or spring flooding.”⁷ When the likelihood of flooding in April and May is taken into account, the risk of Invasive carp getting into the Upper Pool is much greater and therefore the USAF lock should remain closed.

Additionally, the EA fails to acknowledge the unique status of this portion of the Mississippi River, and if taken into consideration, weighs heavily in favor of not reopening the lock this spring. The USAF lock is located within the boundary of the Mississippi National River and Recreation Area (MNRRA), a unit of our National Park System. Congress established MNRRA to protect, preserve, and enhance the nationally significant historic, cultural, natural, scenic, recreational, scientific, and economic resources of a 72-mile reach of the Mississippi River.⁸ The national significance of this stretch of the Mississippi River must be recognized and taken into account when making any determination regarding operation of the lock given the threat Invasive carp pose both to the natural and recreational values of this river. This unique status should weigh heavily in favor of Alternative 5.3.

Finally, when Congress passed the mandate to close the Upper St. Anthony Falls lock, the intent was to protect upstream waters from the threat of Invasive carp. While the language of the act provides that it be closed “*not later than 1 year after the date of enactment*” (Emphasis added), it provides clear direction to close the lock and does not foreclose closing the lock sooner than one year. Given the legislation’s intent to protect waters from Invasive carp and the clear direction to close the lock, Alternative 5.3 should be adopted as it fulfills the congressional mandate.

We have the opportunity right now to protect the river’s ecosystem and this unique asset to the region. For the reasons stated above, the Corps should not reopen the lock this spring and instead adopt Alternative 5.3.

EA Provides Insufficient Rationale for the Preferred Alternative

The EA fails to provide sufficient rationale for the preferred alternative and fails to include information and analysis relevant to the decision.

The EA states that the preferred alternative is 5.2, Closure of the Lock in June 2015. However, it is not clear in the EA what the rationale is for selecting this as the preferred alternative. The document includes some analysis of various effects on social, economic and natural resources,

⁷ DeGrandchamp, K.L., J.E. Garvey, and R.E. Colombo. 2008. Movement and Habitat Selection by Invasive Asian Carps in a Large River. Transactions of the American Fisheries Society 137:45–56.

⁸ Public Law 100-696, Sec. 701 (b).

but there is no conclusion that explains how those effects lead to the preferred alternative. Furthermore, much of the discussion focuses on the inevitable long-term impacts of closure instead of what should be focused on, which is the short-term impacts of operation this spring versus keeping the lock closed.

In terms of the short-term impacts, a cost benefit analysis between keeping the lock closed and reopening it for a few months this spring should be completed. This will inform the ultimate decision between Alternative 5.2 and 5.3 and likely favors not reopening the lock this spring to commercial traffic given the cost savings. However, without this analysis, we are unable to comment on this aspect of the decision.

Due to the lack of rationale and information as described above, the EA is insufficient in terms of providing a basis for the Corps' decision to adopt Alternative 5.2 as the preferred alternative. However, given the clear threat of Invasive carp to the waterway, Alternative 5.3 should be adopted as it fulfills the intent of the Congressional mandate to close the lock.

EA Fails to Address Levels of Service at the Lower St. Anthony Falls Lock and Lock #1

Section 6 of the EA purports to address both the direct and indirect impacts of the proposed actions. One direct impact from lock closure will be a reduction in the levels of service at the Lower St. Anthony Falls lock (LSAF) and Lock #1. However, the EA does not address the levels of service at these lower locks and should have been included in this analysis as it is a direct impact. Furthermore, the Corps issued a final decision regarding the levels of service for these locks on January 9, 2015, during the open comment period for this EA, and provided additional information with that decision that was not made available previously. The Corps should have provided this information and included the levels of service analysis as a part of the EA.

Our coalition was disappointed last fall when the Army Corps of Engineers proposed reducing the levels of service at LSAF lock and Lock #1 from Level 2 to Level 3, with very little opportunity for meaningful public comment. The Corps Federal Register Notice 56575, dated September 22, 2014, did not provide adequate information about lockage use in 2014, did not include a public hearing to address the issue of reduced service, and allowed the community just 30 days to evaluate the information and submit comments. A request by our coalition and others to provide a 90-day extension was denied. Given the steep decline in lock usage at Upper and Lower St. Anthony Falls locks and Lock #1 during the past five years, and considering that lockage data is the criteria on which the Corps bases such decisions, our coalition believes the Corps did not do its due diligence to evaluate past lock usage or predict future lock usage.

For example, Federal Register Notice 56575 states: "With the expected closing of the Upper St. Anthony Falls lock, it is anticipated the remaining two Minneapolis locks will have less than 500 commercial lockages per year." Considering the fact that the USAF lock had less than 500 commercial lockages in 2014, and all the commercial docks will no longer be accessible by barge, it is fairly simple logic (and math) to ascertain that once the USAF lock closes, the commercial lockages will be far less than 500, and possibly less than 100. The Corps failed to

fully consider how much the usage will be reduced, and therefore failed to assign an appropriate level of service to the LSAF lock and Lock #1. Since closure of the Upper lock has a clear and direct impact on the level of service reduction at LSAF lock and Lock #1, the EA should address those impacts in both environmental and economic terms.

Given that there will be a dramatic reduction in commercial use of Lock and Dam #1, and Invasive carp pose a threat as described above, we strongly believe that the Corps should move to Level of Service 6 for Lock #1. Given that the Lower St. Anthony Falls lock will also see a dramatic reduction in commercial traffic, we believe the Corps should move to Level of Service 4 for the Lower St. Anthony Falls lock.

Since a final determination regarding the levels of service has already been made during the EA open comment period, we look forward to a much more robust and carefully considered process in 2015 to determine what levels of service should be established for the 2016 season and beyond.

In closing, we would also like to point out that the overall tenor of the EA suggests that closing the Upper St. Anthony Falls Lock will not have significant positive environmental impacts for the Mississippi River beyond the Coon Rapids Dam. This is in clear conflict with the position of the Minnesota DNR, the National Park Service and numerous other entities that are involved with addressing the risk of Invasive carp reaching the Mississippi River watershed north of the Metropolitan region.

Thank you for considering our comments on the Draft Environmental Assessment. Should you have any questions, please contact Christine Goepfert, National Parks Conservation Association, at 612-270-8564 (office) or cgoepfert@npca.org. Thank you.

Sincerely,

Stop Carp Coalition

Attachment: History of Invasive Carp Captures

Coalition Members:

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Whitney Clark, Executive Director, Friends of the Mississippi River

Barb Halbakken Fischburg, Board, Minnesota Coalition of Lake Associations (MN COLA)

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Cc:

Senator Amy Klobuchar

Senator Al Franken

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