

**Natural Resources Defense Council • Great Lakes United • Prairie Rivers Network •
National Wildlife Federation • Alliance for the Great Lakes • Izaak Walton League of
America • Sierra Club • Trout Unlimited**

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VIA ELECTRONIC AND FIRST-CLASS MAIL

Susanne Davis
U.S. Army Corps of Engineers
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Chicago, IL 60606
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**Re: Comments on Draft Environmental Assessment on Dispersal Barrier
Efficacy Study: INTERIM 1**

Dear Ms. Davis,

Please accept these comments submitted on behalf of the Natural Resources Defense Council, Great Lakes United, Prairie Rivers Network, National Wildlife Federation, Alliance for the Great Lakes, Izaak Walton League of America, Sierra Club, and Trout Unlimited, as well as our hundreds of thousands of members across the Great Lakes region and nationwide, regarding the U.S. Army Corps of Engineers, Chicago District's ("Army Corps") draft Environmental Assessment, "Dispersal Barrier Efficacy Study: INTERIM 1" (the "Draft EA"), which it prepared pursuant to the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4332(2)(C).

Asian carp – both the encroaching silver and bighead carp, as well as the grass and black – are an urgent threat to the Great Lakes ecosystem. Asian carp are voracious eaters and rapid breeders with a well-documented ability to out-compete native fish species and take over ecosystems. They can grow up to 100 pounds and can eat 40% of their body weight in plankton daily, directly attacking the bottom of the food chain in an ecosystem. If Asian carp are allowed to establish themselves in the Great Lakes, it could have a devastating effect on Great Lakes fisheries and irrevocably change the ecosystem. Silver carp also present a threat to recreation and tourism on the Great Lakes because of their tendency to leap from the water when startled by passing boats, putting at risk the health and safety of boaters.

The undersigned groups commend the Army Corps for recognizing the urgency of the threat posed by the rapid advance of Asian carp toward Lake Michigan. *See* Draft EA at 7 ("The prevention of inter-basin transfer of bighead and silver carp from the Illinois River to Lake Michigan is paramount in avoiding ecologic and economic disaster."). This is particularly true in light of recently discovered DNA evidence indicating that Asian carp have not only reached the electric fish dispersal barrier, but have passed it and are present in Chicago waterways with a clear path into Lake Michigan. As the Army Corps itself recognizes in the draft EA, a "failure of the barriers to prevent the spread of the Asian carps to the Great Lakes could be catastrophic to the ecosystem and the planktonic-fisheries interactions." *Id.* at 11.

In the Draft EA, the Army Corps proposes to construct a series of semi-permanent concrete barriers and chain-link fencing between the Des Plaines River (where the presence of Asian carp was detected in September) and the Chicago Sanitary and Ship Canal (“CSSC”), to prevent flooding in the Des Plaines River from allowing Asian carp to bypass the dispersal barrier to the north. Although we support the Army Corps’ taking this step, we are concerned that it does not also directly address the most urgent aspect of the problem: the fact that Asian carp DNA have already been detected in Chicago waterways north of the barriers. More action is needed, and more quickly, if we are to ensure that the catastrophe we all agree is possible – but not yet inevitable – is averted. We urge the Army Corps to close the navigational locks leading from the Chicago waterways to Lake Michigan on a temporary basis, and also to establish physical barriers at other possible entry points into Lake Michigan, as a precautionary measure until further steps can be taken to address the threat of carp north of the dispersal barrier.

We also have concerns regarding the efficacy of the Army Corps’ plan to use chain link fencing as a primary means of preventing Asian carp from entering the CSSC from flooding of the Des Plaines River. As the Army Corps itself notes, chain link fencing “is not a tried and true method for excluding fish, but *theoretically* it can stop dispersal of Asian carps *as long as the structural integrity of the fence is maintained.*” *Id.* at 35. The Army Corps acknowledges, however that chain link fencing would not prevent Asian carp eggs and larvae from passing through it during flood events. *Id.* at 41. In addition, “[c]ontinual maintenance would need to be performed to remove clogs and to ensure that if fence cutting occurs, it is quickly mended” – and [i]nallation time is long and lead time will be necessary.” *Id.* at 36.

We appreciate the Army Corps’ concern over the potential harm that flooding impacts caused by construction of an impermeable barrier could have on endangered species and/or their critical habitat. At the same time, the Draft EA does not include sufficient information for us to evaluate the severity of these concerns. Specifically, what degree or duration of flooding would be necessary to have adverse effects on endangered species and/or their critical habitat?

The Army Corps fails to present any scientific evidence to support its claim that “[e]ven if eggs and larvae were present in the Des Plaines River, which is highly unlikely, they would be swept downstream to below barrier reaches within hours since they have no swimming capacity.” *Id.* at 41. We urge the Army Corps to determine with a high degree of confidence that this plan will effectively prevent dispersal barrier bypass before committing to a lengthy, multi-million dollar construction project that will require continual maintenance once it is completed.

We urge the Army Corps to take a closer look at whether an impermeable barrier, or a “hybrid” barrier with a solid base to minimize the potential for scour, vandalism, burrowing and leakage, could be constructed that would not cause adverse effects to endangered species. In the hybrid case a permeable upper layer would come into play only when floodwaters rose high enough to affect endangered species.

Finally, it is our understanding from recent communications with the Army Corps that the Army Corps intends to initiate a full Environmental Impact Statement (“EIS”) process in the next few months in connection with the congressionally ordered “feasibility study of the range of options

and technologies available to prevent the spread of aquatic nuisance species between the Great Lakes and the Mississippi River Basins,” Pub. L. No. 110-114, 121 Stat. 1121 (2007). We commend the Army Corps for recognizing that the feasibility study and associated programmatic planning efforts constitute a “major Federal action[] significantly affecting the quality of the human environment,” 42 U.S.C. § 4332(2)(C), for which a full NEPA process is required. *See, e.g., Blue Mtns. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9th Cir. 2002) (federal agency required to prepare EIS whenever “substantial questions are raised” as to “whether a project may have a significant effect on the environment”).

It is important that the Army Corps initiate a comprehensive EIS process as soon as possible that is aimed at soliciting public comment on permanent, long-term solutions to the Asian carp threat. The purpose of NEPA is to ensure that federal agencies engage in informed, transparent, and comprehensive review of the environmental consequences and requirements associated with their decisions *before* making them, not after, and further to ensure that robust public participation in agency decision making is guaranteed. Among other things, NEPA requires agencies to “study, develop and describe appropriate alternatives” to their chosen course of action, 42 U.S.C. § 4332(E), and to solicit public comment on what the appropriate range of alternatives should be. An open and transparent decision making process that meaningfully engages the public is critical to ensuring that all appropriate options are considered and finding the one that best protects the health, environment, and economy of the Great Lakes Basin.

We believe that the only real solution to this threat is permanent separation of the Mississippi River from the Great Lakes to re-establish natural barriers between the two ecosystems. Moreover, our concerns stem beyond the current threat, as until the Chicago canal systems is hydrologically disconnected from the Great Lakes, it will continue to serve as a conduit for all kinds of invasive species that will have harmful effects on the ecology and economy in both regions.

Thank you for the opportunity to comment.

Sincerely,

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