



The American Waterways Operators

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Lynn M. Muench

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January 23, 2015

Mr. Elliott Stefanik
Regional Planning and Environment Division North
U.S. Army Corps of Engineers
180 Fifth Street East
Suite 700
St. Paul, MN 55101-1678

Re: Closing Upper St. Anthony
Falls Lock to Navigation,
Located in Minneapolis, MN

Dear Mr. Stefanik:

On behalf of the American Waterways Operators, Aggregate Industries, National Waterways Conference, Passenger Vessel Association, Upper Mississippi Waterway Association, and Waterways Council, Inc., thank you for the opportunity to submit comments on the closing of the Upper St. Anthony Falls Lock.

The signatories of this letter represent the various industries that will be adversely impacted by the closure of the Upper St. Anthony Falls Lock. For a complete list of the signers as well as a brief summary of their organization, please reference Appendix A.

Improper Utilization of Asian Carp in Environmental Assessment

The closure of the Upper St. Anthony's Falls Lock (USAF) was authorized in Section 2010 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014). Congress did not name the Asian carp as the catalyst for this closure, nor were Asian carp identified in the WRRDA 2014 conference report, where the conditions at USAF Lock were identified as "unique, not representative of other projects on the inland navigation system, and should not be used as precedent for agency determination or other projects." The Corps acknowledged this fact in the EA, but also mentioned that the National Park Service (NPS), the Minnesota Department of Natural Resources (MDNR) and other nongovernmental organizations have sought to close the lock as a measure to stop aquatic invasive species. Federal agencies' views do not equal or supersede Congressional intent. This EA does not reflect the intent of Congress.

With these facts in mind, we must ask that the Corps remove any mention of Asian carp from this environmental assessment and align this report with the directives that were listed in WRRDA 2014 and its accompanying Conference Report. We would also remind the Corps that WRRDA 2014 clearly states that the closure of USAF is not precedent-setting and cannot be utilized as justification for closing other locks. Many businesses have built their facilities based on Congressionally-authorized infrastructure. The arbitrary closure of locks eliminates future economic growth and destroys both the businesses and the jobs that they provide.

Additionally, the assessments of state and federal agencies may not reflect the scientific realities of Asian carp. In a December 3, 2012 Memorandum Opinion and Order for *State of Michigan et al v. U.S. Army Corps of Engineers et al*, the court cited the Corp's own June 2010 study – *Interim III: Modified Structures and Operation, Illinois and Chicago Area Waterways Risk Reduction Study and Integrated Environmental Assessment*, which found “no evidence that there is an imminent threat that a sustainable population of Asian carp may establish itself if the locks are not closed.” Furthermore, the report also states that, “there is no individual or combination of lock operation scenarios [sic] will lower risk of Asian carp establishing self-sustaining populations in Lake Michigan to an acceptable level.”¹ Since the Corps has previously stated to the court that lock closure is not an effective way to curtail carp movement, then it stands to reason that, lacking new evidence, the same conclusion must be reached for the USAF Lock.

The evidence presented in the EA indicates that the carp have not made significant upstream advances, which indicates that there is little need for precipitous action. The Corps noted that the reproduction of carp “has been relatively slow over the past 20 years” and the northernmost point where carp reproduction has been documented is 400 river miles downstream of USAF Lock. Does this indicate a natural geographic limit for carp movement? In the case of the Chicago Area Waterways System (CAWS), the carp have not migrated north of their present location in eight years. Are the upstream conditions uninhabitable for the carp? Prior studies on the CAWS indicate that the carp require specific aquatic conditions in order to thrive. This provides a possible explanation for the two-decade long halt in their northern advancement on the Upper Mississippi River. The Corps further stated that even if the carp manage to bypass USAF, the limit of their movement would be Coon Rapids Dam. If the extent of carp progress is 12 miles north of USAF Lock, then lock closure will create extensive economic harm for little or no environmental benefit.

WRRDA 2014 also provides for the emergency opening of the USAF Lock in the event of flooding or high waters. However, insufficient studies have been conducted to understand the conditions in which the carp can swim through the lock. If the carp are able to bypass the lock during high flows, it would negate the justification for the closure of this lock.

If carp are found north of USAF Lock, it is likely the result of human intervention, ranging from a thoughtless bait bucket drop all the way to acts of bioterrorism. In Chicago, Asian carp were found in 15 of the 17 area lagoons despite the fact that none of the lagoons were in any way connected to the Illinois and Mississippi rivers. The Illinois Department of Natural Resources

¹ <http://www.watershedcouncil.org/learn/aquatic%20invasive%20species/asian-carp/court-cases-and-legal-action/files/12-3-12-order.pdf>

(DNR) accidentally introduced the carp into the lagoons as they were stocking them with “catfish.” If a responsible and knowledgeable agency like the IL DNR can make such a mistake, then it stands to reason that ordinary citizens might make similar errors. **For this reason, we have been strong advocates of education on proper identification, handling and disposal of aquatic invasive species, and we hope that the Corps, and other federal agencies, under Congressional direction, joins us in promoting this effective measure to prevent the spread of Asian carp.**

Impacts of Lock Closure

While the Corps has given a great deal of consideration to the movement of the carp, its examination of the impacts of lock closure has not been equally thorough. The EA does not explore future potential growth on the Upper Mississippi River. The Corps relied on lockage data from 2010 – 2014 and has drawn a conclusion without exploring causality. The economic downturn in 2008, which impacted all domestic industries, was never considered. Lockage numbers from 2004 – 2009 would better reflect the state of commercial navigation under normalized economic circumstances. The data presented also fails to accurately and adequately address the impacts of relegating cargo transportation to land-based modes.

The domestic freight system is an interdependent multimodal network. A change of capacity in one mode impacts other modes, and not always positively. At a minimum, the Corps should have studied the increased cost to shippers when water-compelled rates are eliminated from an area. The Corps has repeatedly stated that waterways navigation is the most efficient, safest and environmentally-friendly means to transport cargo, yet this environmental assessment significantly understates the benefits of waterways transportation, such as stating that a fully-loaded barge carries the equivalent of 60 truckloads. According to the Texas Transportation Institute (TTI), one fully-loaded barge of dry cargo carries the equivalent of **70** trucks. The ratio of CO₂ produced per million ton-miles by a towboat with a 15 barge tow versus CO₂ produced by the equivalent number of trucks needed to move an identical amount of cargo is 16.41 to 171.83. Increasing the use of trucks for cargo transportation when there is a clear way to move cargo with minimal impact to air quality is a step in the wrong direction. TTI also finds that for every one fatality in commercial navigation there are 155 highway fatalities caused by trucks.² Should freight movement in the upper Midwest region become entirely dependent on trucks, the data presented indicates that air quality, congestion, and safety will have significant and negative impacts to the region.

Currently, there are two companies above the USAF Lock that rely on barge transportation to move their products. Northern Metals Recycling utilizes an average of two barges a day to transport their products to their St. Paul facility. In the EA, the Corps noted that metal commodities have experienced a growth in traffic during the past few years. Aggregate Industries, a construction materials company, uses four barges a day to distribute their products into Minneapolis. Without the use of the Mississippi River, these two companies will be forced to resort to land-based transportation. Combined, these companies will require 420 trucks per day to move their product, a substantial increase in the number of trucks on local roads. If either

² <http://www.nationalwaterwaysfoundation.org/study/public%20study.pdf>

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company lacks the capacity to transport their products to consumers, the likely result will be a loss of family-wage jobs.

The Corps included an Environmental Assessment Matrix in the EA that lists the impacts of the USAF closure to 33 parameters, including effects to social, economic, natural resources, and cultural resources. By the Corp's own analysis, the costs of closing the USAF Lock outweigh the benefits. The Corps identified commercial navigation as a parameter that would experience substantial adverse impacts. How did the Corps assess and define impacts to these parameters? Why would commercial navigation only experience "substantial" adverse impacts, rather than "significant" adverse impacts, when the lock closure effectively eliminates navigation through that area and its connectivity to the rest of the nation through USAF Lock? **We ask that the Corps further explain its conclusions.**

Conclusion

The impacts to the Minneapolis-St. Paul region will be largely negative when the lock closes. The EA estimates that approximately 72 jobs will be lost when the lock closes. Air pollution, road congestion, and traffic accidents will rise due to the increase of trucks on the area's roads and highways. The state will need to invest more tax dollars into road maintenance. The increased cost of transporting goods will be passed on to consumers. The closure will impact tourists who come to the area to enjoy fishing, boating, canoeing, birdwatching, bicycling, and hiking. Transitioning through the lock will be eliminated as an experience and those who come to the Upper Mississippi River to view the towboats and barges will be disappointed to find that they vanished from the river completely. Since 2005, over 34,000 people have taken Corps-led tours of the lock and countless more have visited the lock on their own, demonstrating that the USAF Lock is a major highlight of the region. The tourists who plan trips to the USAF Visitors' Center to watch towboats and barges lock through will find that the Corps has closed its doors. Clearly, the closure of the USAF Lock will be a significant loss to the community. **We strongly recommend that the Corps keep the lock open as long as possible for the continued benefit of the region and the entire nation. Given the current law, we recommend June 9, 2015.**

Finally, we note that the underlying system for commercial navigation will remain intact even when the lock ceases to operate. **We ask the Corps to include information in this EA that provides for the option of a temporary closure along with procedures to reopen the lock if Congress recognizes that the benefits of keeping the lock open far outweigh the benefits of a closed lock.**

Thank you again for the opportunity to comment on the closing of the Upper St. Anthony Falls Lock. If you have any further questions on this matter, please do not hesitate to contact us.

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Sincerely,

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Appendix A

American Waterways Operators

The American Waterways Operators is the national advocate for the U.S. tugboat, towboat and barge industry, which serves the nation as the safest, most environmentally friendly, and most economical mode of freight transportation.

Aggregate Industries

Aggregate Industries is an environmentally responsible producer of high quality, aggregate-based construction materials in the U.S. and U.K.

National Waterways Conference

The National Waterways Conference, established in 1960, is the leading national organization to advocate for funding and common sense policies and laws that recognize the widespread public benefits of our nation's water resources infrastructure.

Passenger Vessel Association

The Passenger Vessel Association is the national trade association representing owners and operators of U.S.-flagged passenger vessels of all types.

Upper Mississippi Waterway Association

The Upper Mississippi Waterway Association (UMWA) is an association of waterway operators, shippers, and other waterway interests working together to promote the economic and environmental benefits of water transportation in the upper Midwest.

Waterways Council, Inc.

Waterways Council, Inc. is the national public policy organization that advocates for a properly funded and well-maintained system of inland waterways and ports.