

Michigan Sues to Spark Action to Block Asian Carp

By: Dave Scriven-Young, Attorney at Peckar & Abramson, P.C.

(Originally Published on the Illinois Environmental Law Blog at:

<http://illinoisenvironmentallaw.blogspot.com/2009/12/michigan-sues-to-spark-action-to-block.html>)

On December 21, 2009, the State of Michigan filed a **petition** and **motion for a preliminary injunction** asking the U.S. Supreme Court to order the State of Illinois, the Metropolitan Water Reclamation District of Greater Chicago, and the U.S. Army Corps of Engineers "to immediately take all available measures within their respective control, consistent with the protection of public health and safety, to prevent the migration of bighead and silver carp into Lake Michigan, including, but not necessarily limited to, the following:

(a) Closing and ceasing operation of the locks at the O'Brien Lock and Dam and the Chicago Controlling Works.

(b) Operating the sluice gates at the O'Brien Lock and Dam, the Chicago Controlling Works, and the Wilmette Pumping Station in a manner that will not allow fish to pass those structures into Lake Michigan. This should include maintaining the waterways at the lowest level possible that is still consistent with protecting against serious threats to public health and safety, and limits opening the gates except as required to prevent significant flooding that threatens public health or safety.

(c) Installing interim Barriers or structures as needed in the Grand and Little Calumet Rivers to prevent the migration of bighead and silver carp into Lake Michigan.

(d) Installing interim Barriers or structures between the Des Plaines River and the Chicago Sanitary and Ship Canal to prevent bighead and silver carp from entering the Canal from the Des Plaines River during a flood event.

(e) Operating the existing Electrical Dispersal Barrier System at full

operating power and expediting completion of the proposed Barrier IIB.

(f) Comprehensively monitoring the Chicago Sanitary and Ship Canal and all connected waterways for the presence and location of bighead and silver carp using the best available methods and techniques.

(g) Eradicating any bighead or silver carp discovered in these waters."

Responding to critics who have said that these proposed steps would harm the shipping industry, Michigan says that "no doubt [there would] be economic injury, but the damage will be finite, and will be miniscule in comparison to the economic harm caused should the carp enter the Great Lakes."

Stay tuned to the Illinois Environmental Law Blog for more news and developments.