

112TH CONGRESS  
2D SESSION

# H. R. 4146

To authorize the Secretary of the Army to take actions to manage the threat of Asian carp traveling up the Mississippi River in the State of Minnesota, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2012

Mr. ELLISON (for himself, Mr. PAULSEN, and Mr. WALZ of Minnesota) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To authorize the Secretary of the Army to take actions to manage the threat of Asian carp traveling up the Mississippi River in the State of Minnesota, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Upper Mississippi Con-  
5 servation and River Protection Act of 2012” or the  
6 “Upper Mississippi CARP Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) **ALTERNATIVE TECHNOLOGY BARRIER.**—

4 The term “alternative technology barrier” includes  
5 an electric barrier, acoustic barrier, bubble barrier,  
6 and such other barriers as the Secretary determines  
7 appropriate.

8 (2) **ASIAN CARP.**—The term “Asian carp”  
9 means—

10 (A) grass carp (*Ctenopharyngodon idella*);

11 (B) silver carp (*Hypophthalmichthys*  
12 *molitrix*);

13 (C) bighead carp (*Hypophthalmichthys*  
14 *nobilis*); and

15 (D) black carp (*Mylopharyngodon piceus*).

16 (3) **LOCK AND DAM 2.**—The term “Lock and  
17 Dam 2” means the lock and dam located on Mis-  
18 sissippi River mile 815.2 upstream of Hastings,  
19 Minnesota.

20 (4) **LOCK AND DAM 4.**—The term “Lock and  
21 Dam 4” means the lock and dam located on Mis-  
22 sissippi River mile 752.8 in Alma, Wisconsin.

23 (5) **SECRETARY.**—The term “Secretary” means  
24 the Secretary of the Army, acting through the Chief  
25 of Engineers.

1           (6) UPPER ST. ANTHONY FALLS LOCK AND  
2           DAM.—The term “Upper St. Anthony Falls Lock  
3           and Dam” means the lock and dam located on Mis-  
4           sissippi River mile 853.9 in Minneapolis, Minnesota.

5 **SEC. 3. FEASIBILITY STUDY ON TEMPORARY CLOSURE OF**  
6 **UPPER ST. ANTHONY FALLS LOCK.**

7           (a) STUDY.—The Secretary shall conduct a study on  
8           the feasibility of temporary closure of the lock at the  
9           Upper St. Anthony Falls Lock and Dam to manage the  
10          threat of Asian carp traveling up the Mississippi River in  
11          the State of Minnesota.

12          (b) POTENTIAL IMPACTS.—In conducting the study,  
13          the Secretary shall assess the potential impacts, including  
14          environmental and economic impacts of—

15                (1) temporary closure of the lock; and

16                (2) continuing to operate the lock.

17          (c) CONSULTATION.—The Secretary shall carry out  
18          the study in consultation with the Secretary of the Interior  
19          and appropriate Federal, State, and local entities.

20          (d) PUBLIC COMMENT.—In conducting the study, the  
21          Secretary shall provide an opportunity for, and take into  
22          consideration, public comment.

23          (e) REPORT.—Not later than 6 months after the date  
24          of enactment of this Act, the Secretary shall submit to  
25          Congress a report on the results of the study.

1 **SEC. 4. FEASIBILITY STUDY ON USE OF OTHER ASIAN CARP**  
2 **CONTROL MEASURES.**

3 (a) STUDY.—The Secretary shall conduct a study on  
4 the feasibility of implementing control measures at the  
5 Upper St. Anthony Falls Lock and Dam to manage the  
6 threat of Asian carp traveling up the Mississippi River in  
7 the State of Minnesota.

8 (b) TYPES OF CONTROL MEASURES.—The study  
9 shall include an examination of each of the following:

10 (1) Permanent closure of the lock.

11 (2) Modified lock operations.

12 (3) Use of an alternative technology barrier.

13 (4) Such other control measures as the Sec-  
14 retary determines appropriate.

15 (c) POTENTIAL IMPACTS.—In conducting the study,  
16 the Secretary shall assess the potential impacts, including  
17 environmental and economic impacts of—

18 (1) implementing each of the control measures  
19 to be examined under subsection (b); and

20 (2) not implementing any control measures.

21 (d) CONSULTATION.—The Secretary shall carry out  
22 the study in consultation with the Secretary of the Interior  
23 and appropriate Federal, State, and local entities.

24 (e) PUBLIC COMMENT.—In conducting the study, the  
25 Secretary shall provide an opportunity for, and take into  
26 consideration, public comment.

1 (f) REPORT.—Not later than 1 year after the date  
2 of enactment of this Act, the Secretary shall submit to  
3 Congress a report on the results of the study.

4 **SEC. 5. CLOSURE OF LOCKS TO PREVENT SPREAD OF**  
5 **ASIAN CARP.**

6 (a) DISCRETIONARY CLOSURE.—The Secretary may  
7 close the lock at the Upper St. Anthony Falls Lock and  
8 Dam if the Secretary determines in writing, based on the  
9 assessment of potential impacts under section 3(b), that  
10 closure of the lock is justified as a method to manage the  
11 threat of Asian carp traveling up the Mississippi River in  
12 the State of Minnesota.

13 (b) MANDATORY CLOSURE.—The Secretary shall  
14 close the lock at the Upper St. Anthony Falls Lock and  
15 Dam if the Secretary determines that—

16 (1) one or more live adult Asian carp has been  
17 captured above Lock and Dam 2; or

18 (2) one or more juvenile Asian carp has been  
19 captured above Lock and Dam 4.

20 (c) PERIOD OF CLOSURE.—If the Secretary closes  
21 the lock under this section, the Secretary may reopen the  
22 lock after the Secretary determines in writing that ade-  
23 quate measures are in place to manage the threat of Asian  
24 carp moving upstream of the Upper St. Anthony Falls  
25 Lock and Dam.

1       (d) EMERGENCY OPERATIONS.—Nothing in this sec-  
2 tion shall prevent the Secretary from carrying out emer-  
3 gency lock operations necessary to mitigate flood damage.

4 **SEC. 6. ASIAN CARP CONTROL STRATEGY FRAMEWORK.**

5       The Council on Environmental Quality shall incor-  
6 porate the Upper Mississippi River and tributaries, the  
7 Minnesota River, and the St. Croix River into the Asian  
8 Carp Control Strategy Framework of the Council.

9 **SEC. 7. SENSE OF CONGRESS.**

10       It is the sense of Congress that, to the maximum ex-  
11 tent practicable, Federal agencies researching Asian carp  
12 control technologies should partner with State and local  
13 shareholders, giving priority to those collaborative part-  
14 nerships in which the State and local shareholders con-  
15 tribute to the cost of the research.

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