

113TH CONGRESS  
1ST SESSION

# H. R. 709

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

FEBRUARY 14, 2013

Mr. ELLISON (for himself, Mr. PAULSEN, Mr. WALZ, and Mr. NOLAN) 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 2013” 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 1.—The term “Lock and  
17 Dam 1” means the lock and dam located on Mis-  
18 sissippi River mile 847.8 in Minneapolis, Minnesota.

19 (4) LOCK AND DAM 2.—The term “Lock and  
20 Dam 2” means the lock and dam located on Mis-  
21 sissippi River mile 815.2 upstream of Hastings,  
22 Minnesota.

23 (5) LOCK AND DAM 4.—The term “Lock and  
24 Dam 4” means the lock and dam located on Mis-  
25 sissippi River mile 752.8 in Alma, Wisconsin.

1           (6) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Army, acting through the Chief  
3           of Engineers.

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

8   **SEC. 3. FEASIBILITY STUDY ON TEMPORARY CLOSURE OF**  
9                                   **UPPER ST. ANTHONY FALLS LOCK.**

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

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

18                  (1) temporary closure of the lock; and

19                  (2) continuing to operate the lock.

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

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

1 (e) REPORT.—Not later than 6 months 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. 4. FEASIBILITY STUDY ON USE OF OTHER ASIAN CARP**  
5 **CONTROL MEASURES.**

6 (a) STUDY.—The Secretary shall conduct a study on  
7 the feasibility of implementing control measures at the  
8 Upper St. Anthony Falls Lock and Dam and at Lock and  
9 Dam 1 to manage the threat of Asian carp traveling up  
10 the Mississippi River in the State of Minnesota.

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

13 (1) Permanent closure of the lock.

14 (2) Modified lock operations.

15 (3) Use of an alternative technology barrier.

16 (4) Such other control measures as the Sec-  
17 retary determines appropriate.

18 (c) POTENTIAL IMPACTS.—In conducting the study,  
19 the Secretary shall assess the potential impacts, including  
20 environmental and economic impacts of—

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

23 (2) not implementing any control measures.

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

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

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

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

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

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

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

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

1 (c) DETERMINATIONS BY SECRETARY OF THE INTE-  
2 RIOR.—

3 (1) PETITIONS.—If the Secretary of the Inte-  
4 rior determines that an Asian carp has been cap-  
5 tured that meets the criteria described in subsection  
6 (b)(1) or (b)(2), the Secretary of the Interior may  
7 transmit to the Secretary a petition for closure of  
8 the lock at the Upper St. Anthony Falls Lock and  
9 Dam.

10 (2) CONSIDERATION.—After receiving a petition  
11 under paragraph (1), the Secretary shall—

12 (A) consider the recommendation con-  
13 tained in the petition and prepare a written re-  
14 sponse to the recommendation; and

15 (B) transmit the petition and written re-  
16 sponse to the Committee on Transportation and  
17 Infrastructure of the House of Representatives  
18 and the Committee on Environment and Public  
19 Works of the Senate and make the petition and  
20 written response available to the public by elec-  
21 tronic means, including the Internet.

22 (d) PERIOD OF CLOSURE.—If the Secretary closes  
23 the lock under this section, the Secretary may reopen the  
24 lock after the Secretary determines in writing that ade-  
25 quate measures are in place to manage the threat of Asian

1 carp moving upstream of the Upper St. Anthony Falls  
2 Lock and Dam.

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

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

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

11 **SEC. 7. SENSE OF CONGRESS.**

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

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