

Court sets Aug 23 (today) for arguments on Asian Carp Case

Sets aside August 30-31 for testimony in matter

A hearing is scheduled today in a multistate lawsuit that demands tougher federal and municipal action to prevent Asian carp from overrunning the Great Lakes and decimating their fishing industry.

Wisconsin Attorney General J.B. Van Hollen announced that the States of MI, WI, MN, OH and PA filed their brief and supporting papers with the United States District Court, in response to briefs filed by defendants U.S. Army Corps of Engineers and the Metropolitan Water Reclamation District of Greater Chicago.

The suit filed in U.S. District Court in northern Illinois accuses the U.S. Army Corps of Engineers and the Metropolitan Water Reclamation District of Greater Chicago of creating a public nuisance by operating locks, gates and other infrastructure through which the carp could enter the lakes. The federal district court in Chicago hearing the federal lawsuit scheduled the first hearing for next Monday, August 23

The court also reserved August 30 and 31 for hearing testimony in the matter.

The States are asking the court to immediately order defendants to implement best available methods to block the passage and to capture or kill bighead and silver carp in the Chicago waterway, including installing block nets, gates and screens, and other interim physical barriers to fish passage between the waterway and Lake Michigan, and temporarily closing and ceasing operation of the locks at the O'Brien Lock and Dam and the Chicago River Controlling Works except as needed to protect public health and safety.

“We are asking the court to order both immediate preventive and long-term solutions. In the short term, we want certain locks closed, effective barriers created to prevent continued fish migration, and Asian carp killed that have already passed the Barrier System,” said Van Hollen. “Long-term, we think the best solution is the one nature once provided: the physical separation of the Great Lakes basin and the Mississippi river systems.”

In their submissions, the defendants argued the threat of Asian carp entering the Great Lakes is neither imminent or irreparable, that the court should favor operation of the locks as usual over implementing measures that might interfere with river commerce, and that the nuisance case itself should be dismissed because it presents a political question not suited for the courts and the action is displaced by federal laws related to the problem, such as one setting up an electric barrier demonstration project.

"We look forward to our chance to be heard in court next Monday," Van Hollen said.

The States' brief responds to all defendants' arguments opposing the preliminary injunction. That brief, and accompanying papers can be viewed at:

<http://www.doj.state.wi.us/news/files/83-1PsReplyPrelimInjSupport.pdf>

<http://www.doj.state.wi.us/news/files/83-2ExhA.pdf>

<http://www.doj.state.wi.us/news/files/83-3ExhB.pdf>

<http://www.doj.state.wi.us/news/files/83-4ExhC.pdf>

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