



**COMMENTS  
GREAT LAKES-MISSISSIPPI RIVER  
INTERBASIN STUDY (GLMRIS) - BRANDON ROAD FINAL INTEGRATED  
FEASIBILITY STUDY AND ENVIRONMENTAL IMPACT STATEMENT  
OHIO ATTORNEY GENERAL MIKE DEWINE  
JANUARY 7, 2018**

*Attorney General DeWine submits the following comments in response to the United States Army Corps of Engineers' (the Corps') release of the GLMRIS - Brandon Road Final Study.*

Time and time again those of us who care about the health and vitality of the Great Lakes and the tremendous economy they support have sounded the alarm on the need for fast, effective action to prevent the spread of Asian carp and other aquatic nuisance species to one of our country's most valuable natural resources. Time and time again, the U.S. Army Corps of Engineers has responded with delayed, ineffective proposals and minimal actual results toward a permanent, long-term solution. The Brandon Road Recommended Plan is yet another example of the Army Corps' failure to seize an opportunity to protect the Great Lakes from the threat of Asian carp. The Recommended Plan does not implement the most protective, expeditious, and lowest construction cost option at Brandon Road Lock and Dam -lock closure. Nor does it plan for long-term hydrologic separation of the Great Lakes and Mississippi River basins. However, if the Army Corps moves forward with the Recommended Plan, it should do so urgently, effectively, and under full federal sponsorship.

*The Recommended Plan's nearly-tripled construction cost estimate, and extended timeline for implementation illustrate that lock closure is still the best method for immediate, effective Asian carp prevention.*

As my comments on the draft tentatively selected plan highlighted, construction costs and timeline for implementation both heavily favor lock closure as the best option to stop Asian carp and other aquatic nuisance species from entering the Great Lakes. The Recommended Plan, which is projected to cost more than three times the estimate in the draft plan and to take at least seven to ten years to complete, only widens the gulf between the two options and highlights why lock closure is still by far the preferable action over the technology alternative in the Recommended Plan.

*The Army Corps must act urgently.*

If the Chief does adopt the Recommended Plan, rather than proceeding with lock closure, then the Army Corps must move forward urgently. This would be an important first step to keep Asian carp out of the Great Lakes. The Corps should finalize, fund, and advance the Recommended Plan as quickly as possible.

*The Army Corps should appropriate money in FY19 budget for the PED.*

In order to achieve the already overextended timeline in the Recommended Plan, the Army Corps must appropriate money for the Preconstruction Engineering and Design by February 2019. As of this comment's submission, that money has not yet been appropriated. Without a budget to start the necessary work, the Army Corps is hamstringing the process before it has even started. In 2012, Congress explicitly authorized the Secretary to proceed directly to PED for projects justified under the Great Lakes and Mississippi River Interbasin Study (GLMRIS), emphasizing Congress' view that fast action on aquatic nuisance species is essential. Further authorization is not required. The Army Corps must act now to fund the Preconstruction Engineering and Design, and at a rate to shorten its predicted 3.5 year timeline for development.

*The Army Corps should choose the expedited schedule.*

The Recommended Plan includes an option for incremental implementation of the selected remedy, whereas the draft plan only included an expedited schedule. There is no time to waste, and each measure should be put into place as soon as possible. Because the Recommended Plan projects that both schedules will be complete in 2027, the Army Corps should adopt the expedited schedule. Although the incremental schedule may reduce impacts to navigation, as the plan proceeds, the Army Corps' priority should continue to be preventing the spread of aquatic nuisance species. The costs of disruption to navigation pale in comparison to the cost of Asian carp establishment in the Great Lakes. Under the expedited schedule, the entire project will be completed as quickly as possible, and will result in lower overall construction costs (by more than \$50 million), rather than the incremental schedule which introduces the opportunity for even more unacceptable delay.

*The Army Corps should act effectively.*

*Mooring cells should be installed so the electric barrier is not precluded from operating continuously.*

The Army Corps should implement the Recommended Plan to maximize its potential effectiveness. Accordingly, the Recommended Plan should move forward with mooring cells. The draft plan included mooring cells to allow continuous operation of the electric barrier, even as ships wait downstream while other ships are moving through the lock. Although the project is in its early stages, and there is still a possibility the barrier cannot be operated continuously (due to safety and navigation concerns that may or may not be solvable), removing the mooring cells decreases the odds that the barrier will be able to operate continuously. The mooring cells should be left in place because, due to their importance to navigation during continuous electric barrier operation, they relate directly to the effectiveness of the Recommended Plan in stopping the transfer of Asian carp.

*The non-federal sponsor share should be minimized.*

In past Asian carp projects, Congress has appropriately allocated the full cost to the federal government, due to the pervasive nature of Asian carp and aquatic nuisance species

impacts to a vast geographic area and many, interrelated economies. This includes commercial fishing and recreational use of the Great Lakes and upper Mississippi River Basin, as well as shipping and transportation interests. As seen in the thousands of public comments on the draft plan from around the country, the stakes for controlling Asian carp are a national concern. For instance, study activities under GLMRIS (including the Brandon Road Study), have been fully federally funded. In a project with similar consequences for Great Lakes economies, Congress authorized full federal funding for the new Soo Lock.

The Recommended Plan's adjustment of ongoing operations and maintenance cost-sharing for the Recommended Plan from 100% non-federal to 20% non-federal is a step in the right direction. However, under the draft plan, the project required a 35% contribution from a non-federal sponsor. At a cost of \$275 million with ongoing operation and maintenance on top of that, the draft plan created a substantial burden for the non-federal sponsor. Now, with the \$775 million cost estimate, the burden is even more of an obstacle for the state of Illinois and other supporting states. Just as in previous projects, here, too, Congress should assign the cost of the Recommended Plan to the federal government for most, if not all, of the design and implementation. The threat of Asian carp is too great, and too widespread, for the burden to be carried by state and local governments. As an issue of national concern, the funding should appropriately come from the federal government.

*The Recommended Plan should not be the Army Corps' final action to control aquatic nuisance species.*

Although action at Brandon Road is a critical next step in the fight against Asian carp and other aquatic nuisance species, the Army Corps should not stop there. As the Recommended Plan is implemented, the Army Corps should simultaneously continue looking into two-way protections in the Chicago Area Waterways System that will protect the Great Lakes and Mississippi River basins. The engineered channel at Brandon Road would provide a prime opportunity for this study to proceed. As authorized under GLMRIS, the Corps should study aquatic nuisance species treatment lock proposals, such as the one being developed by The Nature Conservancy, and other technologies that support complete hydrologic separation of the Great Lakes and Mississippi River Basins and offer a long-term, permanent solution to the aquatic nuisance species threat.

The Army Corps should work collaboratively with the Great Lakes states as this project, and other studies, move forward. Each state has a lot to lose if Asian carp invade the Great Lakes, and each should have a seat at the table.