

Conservation

By Tom Marks

I have been talking about Asian carp and all the issues surrounding keeping them out of the Great Lakes. I have been very pessimistic about the future but maybe there is light at the end of the tunnel. Sometimes big gifts come in small packages. I got one of those on the last day in 2009, mine came in the form of a phone call from Peter Washburn, Assistant to New York State Attorney General, Andrew Cuomo. The Michigan State Attorney General is suing Illinois to sever the century old connection between the Great Lakes and the Mississippi watershed. Michigan filed the lawsuit with the nation's highest court against Illinois, the U.S. Army Corps of Engineers and the Metropolitan Water Reclamation District of Greater Chicago. They operate canals and other waterways that open into Lake Michigan. I had made a call a few weeks ago to Katherine Kennedy, Special Deputy Attorney General for Environmental Protection, asking that New York State join in the lawsuit brought against Illinois by the state of Michigan. At the time of my call Deputy Attorney General Kennedy said that she would investigate if New York had any legal grounds to join the suit. She also explained that her office was watching closely what was happening in Chicago relative to the Asian Carp. I was happy our Attorney General's office was paying attention to this issue. When I got the call on December 31, 2009 I was elated. I said "On behalf of Great Lakes sports fishermen, I applaud Attorney General Andrew Cuomo for taking this important step to help protect the Great Lakes. This legal action is the frontline in the battle to stop Asian carp from invading the Great Lakes, and we're so pleased that Attorney General Cuomo is using his legal fire power to help solve this problem."

This is big for Michigan to get the support of New York in its suit. Ohio, Minnesota and Wisconsin have also joined in this powerful collaboration. I have written to all the states that have "shores" or tributaries to the Mississippi and Missouri Rivers asking that they also join the legal action. If it is possible to get these states in support we just may win this battle to protect the Great Lakes from the invasive Asian Carp.

The Chicago Sanitary and Ship Canal which breached the natural separation of the Great Lakes from the Mississippi basin that Chicago dug is obsolete. Keeping it open (the connection with the Mississippi basin and the Great Lakes) is an environmental disaster in the making. Invasive species from either watershed can and do contaminate the other causing all sorts of ecological damage that cost taxpayers and businesses billions of dollars every year. Currently the Asian Carp, which has infested the Mississippi, Missouri and Illinois Rivers, is threatening the Great Lakes the potential damage to the ecosystem could jeopardize the \$7 billion fishery.

I know states in the Mississippi basin are already suffering the consequences of the Asian carp invasion and there is little we can do to expel this invader. That is the great danger from invasive species once established they are almost impossible to control. However there are other invaders in the Great Lakes, which could infest the Mississippi River. The connection between the two watersheds is a swinging door and allows invasive species to travel in either direction. The Great Lakes are infected with harmful fish pathogens, which could have devastating consequences if they were to infect fish in Mississippi River. Viral Hemorrhagic Septicemia (VHS) just one example is a deadly

transmissible fish pathogen that is a reportable disease to the World Organization of Animal Health. It has spread through the Great Lakes and could easily be spread to the Mississippi or Missouri Rivers by fish, contaminated fishing gear, boats, plant material floating in the water etc. This disease could devastate the fishery. An electric barrier will not keep harmful pathogens or drifting invasive plants or plankton from becoming established in the Mississippi basin. The only protection watersheds have outside the Great Lakes basin is to close the canal and restore the natural separation between the Great Lakes and the Mississippi Basin.

The lawsuit by Michigan opens other important issues regarding the canal, water diversion out of the Great Lakes. This is not the first time in the canal's history that Great Lakes States have sued Illinois. Michigan is seeking to reopen a case dating back to 1900, when Missouri filed suit against Chicago over its re-engineering of the river. After that issue was resolved, several Great Lakes states - including Michigan - renewed the suit with a new complaint: Chicago's diversion of water away from the basin was harming the lakes by lowering water levels. The high court has ruled on the matter numerous times, setting ceilings on the amount of Lake Michigan water Chicago could divert. The present limit is 2.1 billion gallons per day. To get a sense of the diversion during the day the flow rate over the Niagara Falls is 100,000 gal./second, 90% of which flows over the Horseshoe Falls. If you wanted to see 2.1 billion gallons of water you would have to watch the American falls for over 2.4 days to equal one day coming out of a sewage treatment plant in Chicago, that is a lot of water diversion.

In order to win the lawsuit Michigan will have to prove irreparable harm to the ecosystem if the Asian carp were to become established. Noah Hall, an assistant professor at Wayne State University's law school said, "The carp invasion is a good textbook example of irreparable harm." If the Great Lake States can prove that water diversion is causing harm to the ecosystem that will also weigh heavily in our favor.

The fight to protect the Great Lakes is not over and probably will never end, I just hope we are about to win a major battle.