

**CALIFORNIA STATE  
LANDS COMMISSION**

GAVIN NEWSOM, *Lieutenant Governor*  
JOHN CHIANG, *Controller*  
ANA J. MATOSANTOS, *Director of Finance*



**EXECUTIVE OFFICE**  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

**CURTIS L. FOSSUM, Executive Officer**  
(916) 574-1800 Fax (916) 574-1810  
California Relay Service TDD Phone 1-800-735-2929  
Voice Phone 1-800-735-2922

November 2, 2011

The Honorable Nancy Pelosi  
United States House of Representatives  
235 CHOB  
Washington, DC 20515-0508

Dear Representative Pelosi:

The staff of the California State Lands Commission (Commission) is writing to express our concern with bill H.R. 2840, the Commercial Vessel Discharges Reform Act of 2011. We have recently learned that this bill may be considered as an amendment to the U.S. Coast Guard Reauthorization bill. Staff has strong concerns that provisions of the H.R. 2840 would cripple California's ongoing efforts to prevent the release of nonindigenous species to state waters, and urge that members consider these concerns before addressing this bill.

In addition to the ecological and human health impacts that nonindigenous species have had, they can also represent a significant and ongoing economic burden once established in a new region. For example, the European zebra mussel attaches to hard surfaces so thickly in the Great Lakes and Lake Mead (AZ), that they clog municipal water systems and electric generating plants, costing over a billion dollars a year to control. In 2008, the mussel arrived in California. Should it spread to areas such as Lake Tahoe or the California Aqueduct, the resultant economic impact could be significant. Between 2000 and 2006, over \$7 million was spent to eradicate the Mediterranean green seaweed from two small embayments in southern California. At the end of 2010, over \$12 million had been spent in San Francisco Bay to control the Atlantic cordgrass. If left uncontrolled, the buildup of cordgrass can have a substantial impact on shoreline land values.

Since 1999, when California passed the Ballast Water for Control of Nonindigenous Species Act (Chapter 849, Statutes of 1999; Public Resources Code §§ 71200, et seq.), it has been and remains a national and world leader in the development of effective science-based management strategies for preventing species introductions through vessel vectors. The Commission's Marine Invasive Species Program (MISP) pursues aggressive strategies to limit the introduction and spread of nonindigenous species (NIS) via vessels, including establishing strict performance standards for the discharge of ballast water in 2007.

The Commission's staff works cooperatively with the U.S. Environmental Protection Agency (EPA), the United States Coast Guard (USCG), and other states in order to advance a strong, enforceable, funded, national effort that pushes technology development and the science of invasive species management forward, while ensuring that the state's existing, world-leading program be allowed to continue. Additionally, Commission staff has long worked closely with scientific, government, nonprofit and shipping industry representatives through technical advisory groups during the development of its requirements. This is to ensure a well-rounded, diverse array of perspectives are taken into account during the evolution of initiatives to prevent species introductions to the state.

We appreciate the House's attention to the challenge of NIS introductions in U.S. waters as a result of vessel discharges, but as drafted, H.R. 2840 will set a federal ballast water discharge standard that does not provide a significant improvement over existing management strategies and would eliminate the ability of states to regulate vessel discharges in their own waters.

Staff specifically object to the provisions in the bill that:

- Would set the International Maritime Organization (IMO) ballast discharge standard as the U.S. federal standard

*There is clear scientific evidence that the IMO ballast water discharge standard is not a significant improvement over ballast water exchange (the current management practice). Studies have shown that some vessels could meet the IMO standards by simply conducting ballast water exchange, and some could meet it without conducting exchange at all. Therefore, adoption of the IMO standard does little to advance the protection of U.S. waters from NIS introductions.*

- Preempts states from adopting ballast water discharge standards, including standards that are more stringent than those established in H.R. 2840

A central tenant of the Clean Water Act is that States have the ability to set water quality standards above and beyond those set by the Federal government in order to ensure proper environmental protection of state waters. H.R. 2840, as currently drafted, removes ballast water discharges from Clean Water Act jurisdiction and will cripple state efforts to prevent species introductions from vessel discharges. San Francisco Bay is the most highly invaded estuary in North America, and perhaps the world, and invasive species cost the state

The Honorable Nancy Pelosi  
November 2, 2011  
Page 3

*millions of dollars each year to control. In addition, recent research shows that California serves as a first entry point "hotspot" of invasion on the west coast, and NIS subsequently spread north to Oregon up to Alaska. Thus, California must retain the ability to implement stringent, protective ballast water discharge standards in order to protect its own waters as well as the waters of the rest of the western North America.*



- Preempts states from adopting any standards or management practices related to any discharge incidental to the normal operation of commercial vessels

*H.R. 2840 not only preempts states from developing ballast water discharge standards, but also preempts states' ability to address any of the 26 discharges included in the Vessel General Permit. The California State Lands Commission is a world leader in the development of strategies to combat species introductions due to vessel biofouling (i.e. the attachment or association of organisms to the underwater surfaces of vessels). There are currently no federal programs in place to manage this important vector of species introductions. Should H.R. 2840 pass as currently drafted, California would be hobbled in its efforts to prevent biofouling introductions within its waters.*

Due to the aforementioned Commission staff concerns, please oppose the legislation in its present form. Thank you for consideration of these comments. If you have any questions, please do not hesitate to contact me at (916) 574-1800.

Sincerely,

CURTIS L. FOSSUM  
Executive Officer

cc: Honorable Gavin Newsom, Lt. Governor, Chair, CSLC  
Honorable John Chiang, State Controller; Commissioner, CSLC  
Ana Matosantos, Director of Finance, Commissioner, CSLC