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Details:

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**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Natural Resources
(AC-NR)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (Sept/2010)



The
Development Association INC.
Serving Superior & Douglas County, Wisconsin

1401 Tower Ave., Suite 302, Superior, WI 54880 • (715) 392-4749 • fax: (715) 392-6131 • www.developmentassociation.com

September 1, 2009

Representative Spencer Black, Chair
Committee on Natural Resources
Wisconsin Assembly
Room 210 N. State Capitol
P.O. Box 8952
Madison, WI 53708

RE: Assembly Bill 360

Dear Chairman Black:

I am the Executive Director of the Development Association. The Development Association is the lead economic development organization for Superior and Douglas County, Wisconsin. In addition to representing the City of Superior and Douglas County, the Development Association represents over 150 business members, many of whom are directly or indirectly involved with the maritime industry.

I am writing to express my organization's opposition to AB 360. AB 360 is bad legislation, which is bad for the maritime industry, bad for Wisconsin port communities and bad for Wisconsin industries and jobs. Simply put, if AB 360 is signed into law, Wisconsin's Great Lakes maritime commerce will cease to exist 7 months after AB 360's effective date. This will result in the loss of business for Wisconsin industries, the loss of jobs for Wisconsin workers and the loss of tax revenue for the state and local communities.

Superior's maritime industry provides over 2,000 direct and indirect, well-paying jobs to members of the community and creates an economic impact of over \$200 million per year. Superior's waterfront businesses provide over \$3 million in property tax (or equivalent) payments and approximately \$1.2 million in occupational tax payments. So naturally we are very concerned when well-intentioned efforts to protect the natural resource that makes this possible could impose a very negative economic impact on our community. We believe a significant cost will be levied on Superior without any offsetting environmental benefit if AB 360, as proposed, becomes law.

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AB 360 requires that vessels that ply Wisconsin waters obtain a permit to discharge ballast water within 7 months of the effective date of AB360. In order to obtain a permit, the vessels must have on board one of a handful of prescribed technologies. This requirement is unachievable given the nature of the shipping industry, United States Coast Guard Regulations and dry-dock scheduling.

Vessels by their nature are mobile. Vessel owners, with direction from the shippers that hire them, can decide which ports to utilize and which to avoid. If AB 360 becomes law, vessels will be forced to avoid Wisconsin ports due to the fact that they will not be able to comply with the law's conditions. These vessels will stop calling on ports like Superior and simply go to other non-Wisconsin ports like Duluth Minnesota – a community with whom Superior shares a common harbor. The Lake Carriers Association, FedNav, CanforNav and PolSteam have provided testimony on this point.

The social and economic impact on Superior will be significant once these vessels cease calling on our port. Superior's stevedores (Ceres), grain elevators (CHS, Gaviolon and General Mills), and taconite facility (BNSF) will lose business to their non-Wisconsin competitors. Midwest Energy Resources Corporation, the largest coal handling facility on the Great Lakes, Graymont, LaFarge, the Hallett Dock Company and Fraser Shipyards will simply cease operations in Superior. This loss of business will result in the loss of over 1000 jobs for longshoremen, grain millers, management personnel, Wisconsin grain inspectors, railroad workers, truck drivers and workers in allied industries.

Business and job loss will cause a loss of tax revenue for the City of Superior, Douglas County and the State of Wisconsin. State income tax collections and occupational tax receipts will decline. Revenue from grain inspection fees charged by the Wisconsin Department of Agriculture, Trade and Consumer Protection and paid by Superior's grain elevators will vanish. Property tax payments and payments in lieu of taxes will decrease resulting in higher tax bills for the remaining tax payers - individuals and businesses alike.

AB 360 will impose these costs on businesses, employees and taxpayers with absolutely no environmental benefit gained. Vessels will continue to visit the Great Lakes and discharge ballast water into bodies of water we share with other states. They will visit non-Wisconsin ports and comply with reasonable permits, with attainable standards and timelines. More cargo will be shipped by train and truck taxing an already overburdened rail and highway system resulting in higher environmental and financial costs for Wisconsin residents; with the residents of Superior and Douglas County bearing an unproportional amount of these costs.

Although we oppose AB 360, we are in support of a reasonable, achievable and effective vessel permitting for ballast water discharges- permitting that does not put Wisconsin ports, industries and workers at a competitive disadvantage. Last March, we participated in the public comment process of the proposed Wisconsin DNR WPDES General Permit for Vessels; we anxiously await DNR's issuance of final permit language.

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We have also advocated for federal ballast water regulations that would cover all ports (both tidal and Great Lakes) in all states. We are pleased to see that the United States Coast Guard (USCG) has finally published a proposed, comprehensive ballast water regulatory program. We feel it is imperative that any state permitting process work in close concert with the process the USCG is undertaking. Unfortunately, AB 360 does not.

By implementing a permit that is at odds with the USCG and a majority of Great Lakes states, Wisconsin will be creating a confusing environment within the Great Lakes for international shippers and vessel operators. Vessels that would normally visit Wisconsin ports will simply move to ports in other states where ballast water regulations are deemed more reasonable. Much economic damage will result for Wisconsin with little if any environmental benefit. As stated previously, AB 360, given its unattainable timeline, will cause shipping to cease 7 months after the law's effective date.

The Development Association recognizes that aquatic invasive species continue to pose a difficult challenge to those of us who live within the Great Lakes region. We believe that a solution can be crafted that addresses the issue of aquatic invasive species without imposing unbearable costs on Wisconsin communities, industries and workers. We believe the national regulation proposed by the USCG is a major step in the right direction. .

Aquatic invasive species are a serious issue. However, it is unproductive for Wisconsin to impose a permitting process that is: inconsistent with the USCG and a majority of other Great Lakes states; will put Wisconsin ports at a competitive disadvantage in attracting international and domestic trade; and will cause economic harm to working men and women in Wisconsin. During a time of national recession the last thing Wisconsin should do is pass legislation that will result in the loss of jobs and tax revenue.

Thank you for your consideration.

Sincerely,

Andrew Lisak
Executive Director






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www.cooperativenetwork.coop

To: Members, Assembly Committee on Natural Resources
From: John Manske,  Director of Government Relations
Date: September 1, 2009
Re: Opposition to Assembly Bill 360

Cooperative Network is the trade association for all types of cooperatives in Wisconsin and Minnesota. Among its members are the regional farm supply cooperatives CHS Inc., Land O'Lakes, and Growmark Inc., as well as 50 local Wisconsin farm supply cooperatives. This memo reflects the opposition of Cooperative Network and our farm supply cooperatives to Assembly Bill 360.

Assembly Bill 360's impact on maritime freight traffic using Wisconsin Great Lakes ports will be chilling. AB 360 requires that vessels that take on ballast water outside the waters of Wisconsin obtain a permit to discharge ballast water within seven months of the bill's effective date. The requirements to obtain a permit as prescribed in AB 360 demand technologies that are unachievable and unaffordable anytime in the foreseeable future. The result would be devastating to Wisconsin freight traffic on the Great Lakes and will surely cease activity through Wisconsin ports such as that in Superior. The local and Wisconsin economy will experience further hits that they can hardly afford to bear.

Our observations are based upon our member CHS Inc.'s predictions of AB 360's impact on its Superior terminal. This is the largest U.S. export grain facility, based on storage capacity. CHS Inc. predicts that "requiring vessel owners to treat or filter ballast water when there is no technology currently available to meet this requirement will result in their refusal to call on a Wisconsin port." The impact of the closing of the CHS Inc. Superior terminal would be substantial. The average annual dollars excluding payroll over the years 2006-2008 contributed to the local Superior economy by CHS Inc. that relates to salties is over \$1 million. The average payroll that is at risk could amount to \$850,000. The State of Wisconsin would lose revenue for inspecting and weighing the salties and for inspecting and weighing the grain unloaded from rail into the ships. Other government revenue such as real estate taxes paid on the facility would also diminish or disappear.

When Cooperative Network wrote the WDNR on March 30, 2009 to comment on its proposed draft WPDES General Permit pertaining to ballast water discharges, we noted that the proposal "is unreasonably stringent and requires treatment beyond those required by neighboring states and the federal government." We do believe that an achievable and effective vessel permitting process for ballast water discharges that does not put Wisconsin industries, workers and ports at a competitive disadvantage is the preferred alternative to either the WDNR draft General Permit or that required by AB 360. The United States Coast Guard has just published a proposed, comprehensive, 180-page ballast water regulatory program that merits thorough review and comment from all interested parties. For Wisconsin to adopt an industry-crippling requirement such as that proposed in AB 360 would be a tragic mistake with widespread consequences.

Thank you for your consideration of these comments opposing AB 360.

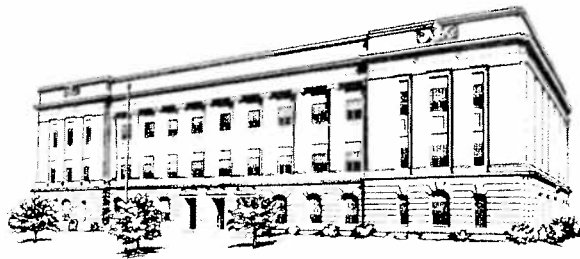




DOUGLAS COUNTY

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OFFICE OF THE COUNTY BOARD



DOUGLAS FINN, Chairman
(715) 395-1493
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DATE: September 1, 2009
TO: Committee on Natural Resources
FROM: Douglas G. Finn, Douglas County Board Chair

As Chair of the Douglas County Board, I am opposed to Assembly Bill 360.

I believe that this bill is unnecessary and untimely. Recently the United States Coast Guard published a proposed, comprehensive ballast water regulatory program. Also the DNR is presently formulating rules on ballast water. This is not the time to pass a bill when other agencies are getting close to adopting rules that will be more uniform and accepted by both environmental organizations and Wisconsin ports.

If Assembly Bill 360 goes into effect it will have a high negative impact on jobs, commerce and tax revenue in Superior and the entire State of Wisconsin.

It seems to me we need to adopt laws and rules that are consistent on the Great Lakes and that protect both the environment and the economy of all communities.





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September 1, 2009 -- 09:01

Representative Spencer Black, Chair
Committee on Natural Resources
WISCONSIN STATE ASSEMBLY
Room 210 North State Capitol
P. O. Box 8952
Madison, WI 53708
U. S. A.

Dear Mr. Chairman:

RE: 2009 ASSEMBLY BILL 360 (BILL 360)

We appreciate this opportunity to comment on Bill 360 (Ballast Water Bill).

The Fednav Limited Group of Companies (Fednav) owns and operates the largest number of oceangoing vessels in the Seaway/Great Lakes System and has done so virtually uninterrupted since the St. Lawrence Seaway opened in 1959. It has, for the past nine years, participated at the state, provincial, federal, and international levels in all ballast water initiatives, legislative or otherwise, of concern to the Great Lakes. From the outset of its involvement, it has held firm to the view that the regulation of ballast water in oceangoing vessels trading in the Great Lakes, indeed anywhere in North America, is a matter most appropriate for regulation by international convention and, in particular, the *International Convention for the Control and Management of Ships' Ballast Water and Sediments* adopted on February 13, 2004 (Convention), or by federal regulation, and is simply not a matter that lends itself to being addressed effectively and consistently at state or provincial levels.

That said, we recognise, and have considerable sympathy for, the frustration that exists at the state level at what is perceived to be inaction on the part of the federal government in failing to address, as expeditiously as hoped, the BW/AIS issue. Encouraging signs are finally coming from Washington, including the Environmental Protection Agency's Vessel General Permit; the regulation adopted by the Saint Lawrence Seaway Development Corporation, an agency of the U.S. Department of Transportation, in March, 2008, requiring that all ballast water tanks in all oceangoing vessels entering the Seaway at Montreal, be they in ballast or NOBOB (no ballast on board), be verified by federal officials to ensure a salinity level of at least 30 ppt before being permitted to enter the Lakes; and the issue by the United States Coast Guard of a Notice of Rulemaking, setting forth proposed ballast water treatment standards that are stringent but consistent. The tardiness on the part of the U. S. federal government has, unfortunately, resulted in an inconsistent ballast water regulatory regime in the

Great Lakes and, in particular, encouraged the current prohibitive regulations in the states of Michigan and New York.

From our reading of Bill 360, it appeared at first glance that the sponsors of this legislation had, to some extent, adopted the reasoning behind Michigan's *Act No. 33, Public Acts of 2005*, which empowered Michigan's Department of Environmental Quality (MDEQ) to require that oceangoing vessels seeking to conduct port operations in Michigan that involve the discharge of ballast water be equipped with one of four MDEQ-approved ballast water treatment systems.

Michigan's legislation and the consequential directive by the MDEQ has resulted in not a single MDEQ ballast water discharge permit issuing in Michigan since the regulation came into effect on January 1, 2007, simply because a MDEQ discharge permit would require that the vessel be equipped with one of the four MDEQ-approved ballast water treatment systems and no oceangoing vessel trading in the Great Lakes is so equipped. To the best of our knowledge, the only vessel that trades regularly in the Great Lakes that may possibly qualify under the MDEQ regulation is Fednav's vessel, the *M. V. Federal Welland*, in which is installed the first two components of the OceanSaver Ballast Water Treatment System. The OceanSaver system is one of a very limited number of treatment systems that have received Type Approval under the International Maritime Organization's (IMO) stringent requirements for the testing, certification, and approval of systems that treat ballast water to standards prescribed by the Convention.

That said, Bill 360 does appear to be somewhat more flexible than Michigan's regulation in that it identifies, in addition to the four named treatment techniques, a fifth; namely, "another technique approved by the department." This flexibility no doubt is attributable to the fact that unlike Michigan, where oceangoing vessels rarely, if ever, have discharged ballast, Wisconsin ports, as those in Minnesota and Ohio, where oceangoing shipping is recognized as an important element of those states' economies, are loading ports for American exports and thus likely recipients of ballast water. Michigan, on the other hand, historically a recipient of steel imports from oceangoing vessels and, therefore, a source of ballast water intake, found it politically expedient to adopt a law that has had little, if any, impact on oceangoing shipping and done nothing to address the AIS/BW problem. Ironically, now that Michigan-based companies are interested in exporting certain commodities, the MDEQ may be finding it opportune to modify its regulations for a specific purpose and limited time to stimulate its export industries.

Representative Spencer Black, Chair
Committee on Natural Resources
WISCONSIN STATE ASSEMBLY
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Fednav, in testimony before the Wisconsin Department of Natural Resources public hearing in Milwaukee on March 23, 2009, and subsequent follow up discussions with DNR officials, commenting on the initial draft ballast water permit, invited the DNR to consider two concepts: firstly, to empanel an advisory committee of experts from the shipping industry, classification societies, environmentalists, and other concerned stakeholders to report to the DNR on how reasonable and practical it is for treatment techniques meeting standards more stringent than IMO standards to be required for oceangoing vessels seeking to discharge ballast in Wisconsin waters in the time frame initially contemplated by the draft permit; and secondly, to recognize, during the interim period, the merits of deep sea ballast exchange and the salt water flushing of ballast water tanks as being the best available technology to treat ballast water. If Wisconsin accepts our recommendations, it would, in our respectful opinion, implement a regulatory regime consistent with the majority of Great Lakes states and, in particular, with the state of Minnesota with which it shares the same waters in the port of Duluth/Superior, the Great Lakes' major export port, and allow for an objective and informed examination of effective and authoritatively approved treatment technologies, their commercial availability, and the timing for their installation on vessels trading regularly in the Great Lakes.

We hope that our reading of Bill 360 is correct and that it indeed encompasses a DNR permit process approving the current acceptability of deep sea ballast exchange and salt water flushing, along with a compliance schedule to install IMO or USCG approved and commercially available on board treatment systems endorsed by the Wisconsin DNR in a time frame consistent with the recommendations of the advisory committee referred to above.

We would invite you to kindly circulate this submission among the members of your Committee.

All of which is respectfully submitted,

FEDNAV LIMITED



Marc Gagnon
Director, Government Affairs and Regulatory Compliance



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September 1, 2009

Representative Spencer Black, Chair
Committee on Natural Resources
Wisconsin Assembly
Room 210 N. State Capitol
P.O. Box 8952
Madison, WI 53708

Re: **Assembly Bill 360**

Dear Chairman Black:

Polska Zegluga Morska¹ ("POLSTEAM") appreciates the opportunity to provide this comment letter through its counsel Carter Ledyard & Milburn LLP on Wisconsin's Assembly Bill 360. POLSTEAM is one of the four major ocean-going shipping companies that transits through the Saint Lawrence Seaway into the Great Lakes, calling at ports located in Wisconsin as well as other Great Lakes states.

POLSTEAM believes that one federal permit that covers discharges of ballast water should be required of foreign-flagged vessels that call at multiple ports in the United States. That one federal permit should define the performance standards for ballast water discharges that will be required of all ballast water treatment systems to be installed on such vessels. Prior to any shipping company investing funds to order ballast water treatment technology, the technology must first be approved by both the International Maritime Organization ("IMO") and the U.S. Coast Guard. We understand the frustration that Wisconsin and many other states have with regard to the failure of the United States to have developed a federal performance standard for ballast water discharges. However, POLSTEAM notes that the U. S. Coast Guard has finally published a proposed, comprehensive ballast water regulatory program and thus there is no longer a need for Wisconsin to move forward with a separate ballast water permit program as it is expected that the U.S. Environmental Protection Agency ("EPA") will incorporate the Coast Guard standards into the Vessel General Permit once the Coast Guard standards are finally adopted.

Notwithstanding the above, POLSTEAM appreciates the efforts of the Department of Natural Resources ("DNR") in providing a public comment period, holding a public hearing, and reaching out to the various stakeholders as it considered the development of a state ballast water general permit. We now hope that with the federal government moving forward on ballast water standards, the Assembly and DNR no longer see the need to finalize a general permit. However, if a separate Wisconsin program must move forward, this Assembly Bill 360 must provide DNR flexibility to determine what is best available technology and the appropriate compliance schedule for installation of such technology, just as DNR has when issuing discharge permits to other sources in the state under the existing statute. In particular, based

¹ Also known as the Polish Steamship Company, as translated.

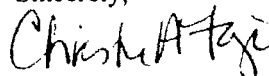
on public comments on DNR's draft general permit, the final general permit should provide: (1) salt water flushing/exchange of ballast tanks by oceangoing vessels is "another technique approved by the department" pursuant to § 283.34(3) that meets Best Available Technology ("BAT") in the near term; (2) an advisory group of experts should be formed to determine if ballast water treatment systems are commercially available that would meet IMO Convention standards or enhanced IMO standards and also work in fresh water (as reviewed by the Great Ships Initiative located in Wisconsin); and (3) a compliance schedule with a date for vessels to install treatment systems that meet the recommended standard (i.e., considering a vessel's dry docking schedule, 2014 might be the recommended date).

However, if the intent of Assembly Bill 360 is to actually require a Michigan-type treatment system be installed on oceangoing vessels within seven months, then POLSTEAM opposes the Bill. POLSTEAM is not aware of any ship that has installed a Michigan-type system because ships call at Michigan ports fully loaded with cargo and thus do not discharge ballast water in Michigan waters. Ships however do call at Wisconsin ports to load grain and other exports, and thus ships do discharge ballast water in Wisconsin. If the Assembly intends vessels to install Michigan-type treatment systems, ships will not be able to call at Wisconsin ports, causing significant economic harm and environmental harm to Wisconsin (i.e., ships emit far less air pollutants and greenhouse gases to transit a ton of cargo as compared to trucks or rail). POLSTEAM also notes that New York's 100 times IMO Convention standard included in a Section 401 Water Quality Certification attached to EPA's Vessel General Permit is not feasible because no government body is certifying treatment systems that can meet any standards other than IMO Convention standards. The New York program is the subject of an ongoing litigation.

In sum, the most economic and environmentally protective solution to the aquatic invasive species issue is through the adoption of a federal performance standard for ballast water discharges that is recognized by both EPA and the Coast Guard. If Wisconsin must move forward with a general permit, the solution should be the approach defined in the attached letter that reflects a meeting between DNR staff and the shipping interests. If legislation is necessary to provide DNR with adequate authority to regulate ballast water discharges, then AB 360 must be clear that, as applied to oceangoing vessels, DNR has discretion to define techniques that are now available (i.e., salt water flushing), to seek the expertise of an advisory group to determine the appropriate discharge standard for ballast water treatment systems, and to include a compliance schedule for the actual installation of treatment systems per the recommendations of the advisory groups the commercial availability of treatment systems, and a vessel's dry docking schedule.

Thank you for your consideration.

Sincerely,



Christine A. Fazio

CAF:ch

cc: Jan Rutkiewicz
Krzysztof Muszynski
Piotr Cichocki
M. Tkaczuk
Donald Kennedy





INTERLAKE STEAMSHIP

On the Great Lakes since 1913

Thomas M. Wynne
General Counsel

September 1, 2009

Representative Spencer Black, Chair
Committee on Natural Resources
Wisconsin Assembly
Room 210 N. State Capitol
P.O. Box 8952
Madison, WI 53708

**COMMENTS BY THE INTERLAKE STEAMSHIP COMPANY
REGARDING ASSEMBLY BILL 360 CONCERNING
BALLAST WATER DISCHARGES FROM LAKERS**


Dear Chairman Black:

The Interlake Steamship Company, headquartered in Cleveland, Ohio, operates a fleet of nine self-unloading bulk carriers on the Great Lakes. Interlake, a family owned business, is one of the largest U.S. Flag fleets operating on the Great Lakes, and carries approximately 20 million tons of bulk cargo throughout the Great Lakes annually. Those cargoes include iron ore, low-sulfur coal, grain and limestone. Among Interlake's customers are approximately twelve Wisconsin companies.

Interlake is a member of the Lake Carriers' Association and fully endorses LCA's submission on the referenced subject. We would, however, like to add a few comments specific to our Company and its future economic well-being. AB 360 should not be passed. If passed in its current format, AB 360 would essentially bring Wisconsin's maritime commerce to a halt, which would in turn jeopardize our ability to continue to operate our ships, service our customers and provide family-sustaining jobs for our employees.

AB 360, as proposed, requires that vessels that ply Wisconsin waters obtain a permit to discharge ballast water within seven (7) months of the legislation's effective date. In order to obtain the permit, a vessel must have on board select technologies to treat ballast water that are unavailable and cost prohibitive.

ISO Certified

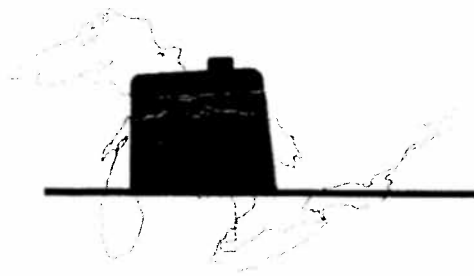


We urge you to not pass AB 360 in its current format, and to instead consider exempting ships like ours that operate exclusively within the Enclosed Aquatic Ecosystem of the Great Lakes ("Lakers") from the ballast water legislation. The distinction between Lakers and ships that enter the Great Lakes from the oceans ("Salties") is well justified. Not only do Lakers' trade patterns make it impossible to introduce non-indigenous species into the Great Lakes, but installing ballast water treatment systems on Lakers would be cost prohibitive even if they were available. Many of our ships are significantly larger than the Salties. As self-unloaders, Lakers were designed and built to quickly discharge their cargoes at speeds measured in thousands of tons per hour. Discharging cargo at that high rate of speed requires large ballast systems that are very different from those routinely found on Salties. Our largest ships (of which we own three and manage a fourth) have up to 18 separate ballast discharge systems on board, each of which would require a separate ballast water treatment system under the proposed legislation. The cost of these ballast treatment systems, if they were available, is estimated to be as much as \$1 million per system. Therefore, Interlake would be facing an expenditure of approximately \$18 million for each of the four 1,000-foot ships that it operates if we were required to treat ballast.

Additionally, Lakers typically last decades longer than Salties because they operate in fresh water as opposed to the corrosive salt water in which Salties spend practically all of their economic life. Consequently, it is not uncommon for a Laker to be more than fifty years old, still operating and making a contribution to the company, its customers and employees, and the economy. Freight rates on the Great Lakes are low as ships do not have to be replaced as often, and new ships are rarely built. These low freight rates do not support massive capital expenditures, such as those that would be necessary should Lakers be required to treat their ballast water, nor could those costs be unilaterally passed on to our customers.

Increasing freight rates significantly is not an option, as it would make waterborne carriage uncompetitive with others modes of transportation. Transportation of bulk commodities here in the Great Lakes basin is an extremely competitive business. Haulage or freight contracts can be lost to shipping and railroad competitors for just pennies a ton. The capital expenditures needed to install ballast treatment systems would have to be reflected in our freight rates. That would put Lakers at a competitive disadvantage to railroads. Clearly, that is an unpleasant prospect and could quite possibly be the demise of the fleet. The demise of lakes shipping would have a catastrophic affect on utilities and manufacturing, their customers, the State of Wisconsin, and the environment.

The Great Lakes are located in the core of North America's industrial and manufacturing heartland. That is no coincidence. These industries developed in this region in large part because of the availability of efficient, reliable, low cost waterborne transportation. According

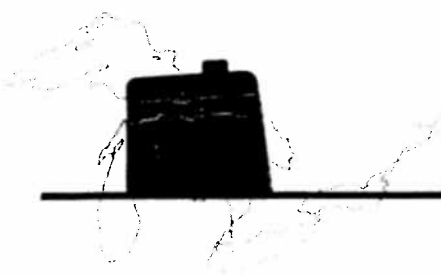


to a recent paper published by the U.S. Army Corps of Engineers¹, more than 80% of the iron ore used in U.S. steel manufacturing is shipped on the Great Lakes. Low sulfur coal from Montana and Wyoming is moved through the Great Lakes to power generating stations in many metropolitan areas. Lakers also carry limestone and cement used in the construction of roads, homes and commercial buildings and as flux in the steel making process. According to the U.S. Army Corps of Engineers, the next least costly mode of transportation would cost these industries an additional \$3.6 billion per year. Not only would the termination of lakes shipping cause the cost of steel, power generation and building materials to significantly increase, but it would make U.S. manufacturers even less competitive than they already are in global markets. That is certainly not a good situation in the current economic climate and cannot be permitted to materialize.

The direct impact that the termination of lakes shipping would have on the State of Wisconsin would also be significant and crippling to the state's economy. Wisconsin is home to the two largest shipyards on the Great Lakes – Bay Shipbuilding in Sturgeon Bay and Fraser Shipyards in Superior. Many Great Lakes shipping companies utilize the services of both of those yards, and other marine related Wisconsin vendors, on a regular basis. Annually, Interlake alone does business with fifty to seventy-five Wisconsin based companies, and since 2000 has spent a combined total of nearly \$148 million with those companies. In 2008 alone, Interlake spent just over \$30 million with Wisconsin based companies. Many Wisconsin residents make a living as seafarers. In any given year, Interlake employs 25 to 35 sailors that call Wisconsin home, and those workers earn combined gross wages totaling \$2.0 – \$2.5 million annually. Recently, Interlake decided to invest more than \$50 million in a long-idled vessel, and work commenced last year at a Wisconsin shipyard. The project involved a new power plant and conversion to self-unloading technology. Unfortunately, the near collapse of the steel market has forced Interlake to put this project on hold, but we have every hope that a revived economy will bring this project, and its positive impact on Wisconsin's economy, back to life. The negative economic impact on the State of Wisconsin caused by the demise of lakes shipping would certainly be multiples of the dollars spent by Interlake in Wisconsin, given that most if not all of the fleets that operate Lakers conduct significant business similar to Interlake's in Wisconsin.

Perhaps even more significant, however, is the impact that the demise of lakes shipping would have on the environment. While the intent of AB 360 is to improve the environment, the actual impact of the legislation on the environment would be the exact opposite. Moving bulk commodities by ship is the most fuel efficient and lowest carbon producing method of transporting them. According to the U.S. Army Corps of Engineers, it would take seven trains with one hundred cars and two to three massive locomotives for each train to move the

¹ US Army Corps of Engineers, *Great Lakes Navigation System: Economic Strength to the Nation*, January 2009.



equivalent tonnage of what one 1,000' Laker with two diesel engines can move in one trip. Moving the same tonnage by truck across city streets, county roads and highways would require approximately 3,000 diesel powered trucks. That same study reports that a Laker can move one ton of cargo 607 miles on one gallon of fuel, as compared to a train that can only move that ton 202 miles and a truck that can only move that ton 59 miles on the same gallon of fuel. The U.S. Army Corps of Engineers study also provides that Lakers produce 70% less carbon dioxide per ton of cargo than trains produce, and 90% less than trucks produce. If the cargoes carried by Lakers were shifted into trains, those trains would burn approximately 14 million more gallons of fuel. If it were shifted into trucks (which would not even be practical due to the tremendous number of trucks required and the congestion and road damage that they would cause), those trucks would burn approximately 85 million more gallons of fuel, and would cause tens of thousands more truck tires to fill landfills.

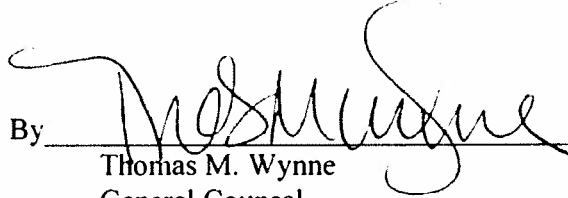
For the foregoing reasons, we urge you not to pass AB 360 in its current form. Our ships have never introduced a non-indigenous species to the Lakes. Interlake Steamship, like the other Laker operators, have voluntarily adopted best management practices to lessen the potential for ballast water to spread ANS introduced by ocean-going ships. At a minimum, Lakers should be exempt from the requirements. The legislation should focus on ocean-going ships entering the Great Lakes from foreign waters. We can't turn back the clock, but we can stop future introductions if we target the real problem.

Thank you for this opportunity to comment.

Very truly yours,

THE INTERLAKE STEAMSHIP COMPANY

By



Thomas M. Wynne
General Counsel





September 1, 2009

Representative Spencer Black, Chair
Committee on Natural Resources
Wisconsin Assembly
Room 210 N. State Capitol
P.O. Box 8952
Madison, WI 53708

RE: Assembly Bill 360

Dear Chairman Black:

My name is Patrick J. O'Hern, Vice President of Bay Shipbuilding Company. Along with approximately 750 employees, we provide shipbuilding and ship repair services from our Sturgeon Bay shipyard. Please accept this letter as our firm opposition to AB 360. This will shut down Great Lakes Shipping and in turn, the activities of our business.

I am writing to express our opposition to AB 360. AB 360 is bad legislation, which is bad for the maritime industry, bad for Wisconsin port communities and bad for Wisconsin industries and jobs. Simply put, if AB 360 is signed into law, Wisconsin's Great Lakes maritime commerce will cease to exist 7 months after AB 360's effective date. This will result in the loss of business for Wisconsin industries, the loss of jobs for Wisconsin workers and the loss of tax revenue for the state and local communities.

AB 360 requires that vessels that ply Wisconsin waters obtain a permit to discharge ballast water within 7 month of the effective date of AB360. In order to obtain a permit, the vessels must have on board one of a handful of prescribed technologies. This requirement is unachievable given the nature of the shipping industry, United States Coast Guard Regulations and dry-dock scheduling.

Although we oppose AB 360, we are in support of a reasonable, achievable and effective vessel permitting for ballast water discharges- permitting that does not put Wisconsin ports, industries and workers at a competitive disadvantage. Last March, we participated in the public comment process of the proposed Wisconsin DNR WPDES General Permit for Vessels; we anxiously await DNR's issuance of final permit language.

BAY SHIPBUILDING CO.
Fincantieri Marine Group LLC
605 North Third Avenue P.O. Box 830 - Sturgeon Bay, WI 54235-0830
ph. 920-743-5524 - fax 920-743-2371
www.fincantierimarinegroup.com

a FINCANTIERI company



September 1, 2009
Page 2

We have also advocated for federal ballast water regulations that would cover all ports (both tidal and Great Lakes) in all states. We are pleased to see that the United States Coast Guard has finally published a proposed, comprehensive ballast water regulatory program. We feel it is imperative that any state permitting process work in close concert with the process the USCG is undertaking. Unfortunately, AB 360 does not.

By implementing a permit that is at odds with the USCG and a majority of Great Lakes states, Wisconsin will be creating a confusing environment within the Great Lakes for international shippers and vessel operators. Vessels that would normally visit Wisconsin ports will simply move to ports in other states where ballast water regulations are deemed more reasonable. Much economic damage will result for Wisconsin with little if any environmental benefit. As stated previously, AB 360, given its unattainable timeline, will cause shipping to cease 7 months after its effective date.

Aquatic invasive species are a serious issue. However, it is unproductive for Wisconsin to impose a permitting process that is: inconsistent with the USCG and a majority of other Great Lakes states; will put Wisconsin ports at a competitive disadvantage in attracting international trade; and will cause economic harm to working men and women in Wisconsin. During a time of national recession the last thing Wisconsin should do is pass legislation that will result in the loss of jobs and tax revenue.

Please consider the above comments carefully. AB 360 is more harmful to our maritime economy than it is helpful to our (my) aquatic environment.

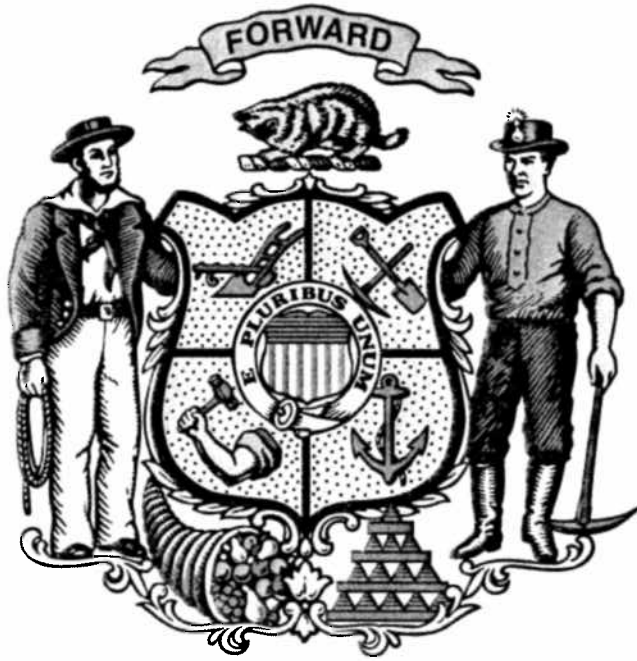
Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patrick J. O'Hern".

Patrick J. O'Hern
Vice President & General Manager

c: G. Bies - 1st Assembly District



WISCONSIN COMMERCIAL PORTS ASSOCIATION

1316 North 14th Street, Superior, WI 54880

Phone: (715) 395-7335 Fax: (715) 395-7247

September 1, 2009

Jason Serck
President
Port of Superior

Representative Spencer Black, Chair
Committee on Natural Resources
Wisconsin Assembly
Room 210 N. State Capitol
P.O. Box 8952
Madison, WI 53708

Dean Haen
Past President
Port of Green Bay

Larry Kirch
Vice President
Port of LaCrosse

Michael Huck
Secretary/Treasurer
Port of Manitowoc

RE: Assembly Bill 360

Port of Ashland

Dear Chairman Black:

Port of
Marinette/Menominee

Port of Milwaukee

The Wisconsin Commercial Ports Association (WCPA) is a trade association representing 14 commercial ports, their terminal operators and associated marine transportation businesses located along Lake Superior, Lake Michigan and the Mississippi River. Annually these ports transport over 44 million metric tons of cargo valued at over \$7 billion, support over 11,300 jobs and generate more than \$1.3 billion in economic output and \$377 million in personal income.

Port of Port Washington

Port of Prairie Du Chien

Port of Sheboygan

Port of Sturgeon Bay

Port of Washburn

Port of Washington
Island

Wisconsin ports are a critical link in our state's transportation system and serve as multi-modal distribution centers linking waterborne vessels to an extensive network of highways and railroads. Waterborne transportation provides Wisconsin manufacturers a cost-effective way to receive raw materials from suppliers and to ship high valued finished goods to customers. The commodities moved by water are essential to our economy and are used by our state's power plants, paper mills, manufacturers, farmers, government and by individual consumers. From an environmental perspective, shipping generates the least amount of emissions pollution, consumes the least amount of fuel per ton mile, causes the least number of industry-related accidents and is responsible for less urban congestion, noise or social disruption. During a time of rising truck and rail rates and a shortage of rail cars, waterborne transportation keeps Wisconsin's economy competitive and moving forward.

I am writing to express my WCPA's opposition to AB 360. AB 360 is bad legislation, which is bad for the maritime industry, bad for Wisconsin port communities and bad for Wisconsin industries and jobs. Simply put, if AB 360 is signed into law, Wisconsin's Great Lakes maritime commerce will cease to exist 7 months after AB 360's effective date. This will result in the loss of business for Wisconsin industries, the loss of jobs for Wisconsin workers and the loss of tax revenue for the state and local communities.

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Thank you for your consideration.

Sincerely,

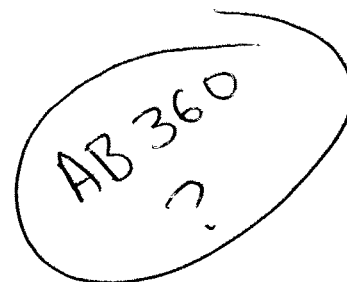
A handwritten signature in black ink that reads "Jason Serck". The signature is stylized and includes a long horizontal line extending to the right.

Jason Serck, AICP
President



Maycroft, John

From: Rep.Black
Sent: Tuesday, September 01, 2009 2:29 PM
To: Maycroft, John
Subject: FW: ballast discharge legislation



AB 360
?

From: Sandy Meekma [mailto:sandy.meekma@yahoo.com]
Sent: Monday, August 31, 2009 5:02 PM
To: Rep.Black
Subject: ballast discharge legislation

This is only more "feel good" legislation. The DNR gives permits to United Waste to dump its pollution on our lands in Dodge and Columbia Counties. They have dumped in our Fox Lake watershed with the permits given to them by our DNR. The DNR is no watchdog for our environment. The ballast discharge should be illegal altogether.





P.O. box 700168
Oostburg, WI 53070
info@w-glc.org

Sept. 1, 2009

Assembly Natural Resources Committee
Rep. Spencer Black, Committee Chair

Re: AB360

Sir:

The Wisconsin Great Lakes Coalition is a group of shoreline property owners and taxpayers on the Wisconsin side of Lake Michigan, including Green Bay. There are about 30,000 of us. The organization's mission is to keep our members advised about issues affecting their properties and to advocate for those we think are beneficial not just to the lakes but to our properties as well. AB360 is a major concern of ours. For too long invasive aquatic species have been able to enter the Great Lakes without any serious effort being made by our federal government to do anything about it. Therefore we heartily support Wisconsin's take-charge attitude in dealing with this issue and with the control measures specified in this bill. We urge the state legislature to pass it ASAP.

One concern – enforcement. We understand the difficulties that will arise between states having different bills. Nevertheless, we feel that strict enforcement is necessary by all the eight Great Lakes states and the provinces of Ontario and Quebec. We suggest that this issue be an agenda item at the next meeting of the Council of Great Lakes Governors so that a co-ordinated approach to the problem can be developed. We also suggest that the state legislature do whatever it can to get our Washington delegation to join the effort and pass a federal bill.

Thank you very much for the opportunity to share our views with you.

Jim Te Selle
President
Wisconsin Great Lakes Coalition
P.O. box 700168
Oostburg, WI 53070-0168





41 Dock Street
P.O. Box 518
Superior, WI 54880

715-392-4734
751-394-6926 Fax
chsinc.com

**CHS comment on proposed 2009 Assembly Bill 360, submitted September 2, 2009
by CHS Inc. St. Paul, Minn.**

CHS is a diversified energy, grains and foods company that serves individual consumers and businesses around the world. We're a Fortune 200 company and organized as a cooperative – the largest cooperative of any kind in the United States. That means we are owned by farmers, ranchers and local agricultural co-ops; our board of directors are all active farmers. In total, the CHS membership covers some 300,000 U.S. farmers and ranchers. We also have non-voting members who hold preferred stock – listed on NASDAQ -- in CHS. Our listing is CHSCP.

As a diversified business, CHS supplies energy, crop nutrients, grain, livestock feed, food and food ingredients, along with related business services including insurance, financing, commodity brokerage and risk management programs. We are North America's third largest grain exporter, moving more than one billion bushels of grain every year to some 60 foreign countries. Outside the U.S., we maintain grain offices in Brazil, Shanghai, Hong Kong, Geneva and Kiev.

CHS has an extensive domestic transportation network to carry grain from the farm to our export facilities in the Pacific Northwest, Gulf of Mexico and the Great Lakes.

Specifically, we operate terminals in Superior, Wisc., and Myrtle Grove, La., and through joint ventures, we have three export terminals on the West Coast in Washington and Oregon.

My comments will be specific to the CHS Superior, Wisc. facility, where we have 15,000,000 bushels of storage; making it the largest U.S. export grain facility, based on storage capacity.

At Superior, we unload grain trucks and railcars, and load grain out in railcars and ocean-going vessels. We handle spring wheat from western Minnesota and the eastern half of North Dakota and durum wheat from North Dakota. Other commodities handled here include canola, flax, barley, feed peas, soybeans and corn.

Most of the grain handled in Superior ships to Europe and North Africa. CHS Superior loads out approximately 50 percent of the grain that leaves the Duluth/Superior harbor (by vessel) during an average shipping season.

CHS Inc. has 50 employees at its Superior facility; including 42 Wisconsin residents and eight Minnesota residents. Total CHS Superior payroll for each of the past three calendar years;

| | |
|----------------|-----------------------|
| 2006 | \$2,131,646.00 |
| 2007 | \$2,413,650.00 |
| 2008 | \$1,965,633.00 |
| Average | \$2,170,309.00 |

CHS Superior loaded the following vessels during each of the last three shipping seasons;

| Year | Total No. of vessels | Salties | Lakers |
|----------------|----------------------|-----------|-----------|
| 2006 | 69 | 60 | 9 |
| 2007 | 82 | 59 | 23 |
| 2008 | 36 | 22 | 14 |
| Average | 62 | 47 | 15 |

Volume in Bushels of grain loaded for the last three shipping seasons;

| Year | Total bushels shipped on vessels | Bushels shipped on salties | Bushels shipped on lakers |
|----------------|----------------------------------|----------------------------|---------------------------|
| 2006 | 40,949,619 | 35,061,130 | 5,888,489 |
| 2007 | 54,812,406 | 35,549,639 | 19,262,767 |
| 2008 | 22,329,951 | 11,975,760 | 10,354,191 |
| AVERAGE | 39,363,992 | 27,528,843 | 11,835,149 |

CHS Superior paid the following stevedore charges on salties during the last three shipping seasons;

| Year | Dollars |
|----------------|------------------|
| 2006 | \$535,000 |
| 2007 | \$602,000 |
| 2008 | \$238,000 |
| Average | \$458,333 |

CHS Superior paid the State of Wisconsin the following for inspecting and weighing of salties during the last three shipping seasons;

| Year | Dollars |
|----------------|------------------|
| 2006 | \$342,000 |
| 2007 | \$389,000 |
| 2008 | \$175,000 |
| Average | \$302,000 |

CHS Superior paid the State of Wisconsin the following for inspecting and weighing of grain unloaded (per railcar) that was loaded on salties during the last three shipping seasons;

| Year | bushels | number of Railcars at 3700 bu/car | \$ per railcar (2008 charges) | payment to State of Wisconsin weighing and inspection |
|----------------|-------------------|-----------------------------------|-------------------------------|---|
| 2006 | 35,061,130 | 9,475 | \$37.65 | \$356,733 |
| 2007 | 35,549,839 | 9,608 | \$37.65 | \$361,741 |
| 2008 | 11,975,760 | 3,236 | \$37.65 | \$121,835 |
| Average | 27,528,843 | 7,440 | \$37.65 | \$280,116 |

Dockage Revenue on salties paid by boat owners to CHS Inc for the past three years;

| | |
|----------------|------------------|
| 2006 | \$748,847 |
| 2007 | \$785,663 |
| 2008 | \$313,823 |
| Average | \$616,111 |

Real Estate Taxes paid for the last three calendar years;

| | |
|------|-----------|
| 2006 | \$195,445 |
| 2007 | \$196,706 |
| 2008 | \$196,677 |

In summary, the average annual dollars excluding payroll (based on the last three shipping seasons) contributed to the local Superior economy by CHS Inc. that is directly related to salties is \$1,040,448. The average payroll is more difficult to assess but it could be as much as 30% to 40% or approximately \$850,000.

Foreign grain buyers have many sourcing options. They can buy from any exporting country that can provide grain meeting their specifications, or they can purchase from different outlets in a specific country. That is why it is most important for export grain sellers and the ports where grain is loaded to be cost-competitive.

2009 Assembly Bill 360 will make it impossible for vessels to call on CHS Superior's facility to be loaded with grain. Requiring vessel owners to treat or filter ballast water when there is no technology currently available to meet this requirement will result in their refusal to call on a Wisconsin port.

Shipping this export volume by rail to a port other than Superior isn't an option, because Superior is a significant distance from other exporting facilities and has no local production to handle.

**While CHS supports vessels having a permit to discharge ballast water 2009
Assembly Bill 360 is not the avenue to pursue as it will stop vessels calling on
Wisconsin ports, if CHS loses all salty business; it would lose \$616,111 in dockage
revenue, The State of Wisconsin grain inspection department would lose \$582,116,
stevedore companies would lose \$458,333. Payroll is estimated to fall by \$850,000,
or the facility will be forced to close.**





TO: Chairman Spencer Black and Committee on Natural Resources Members
FROM: Rick Yabroff, Director of Safety and Environmental, Gavilon Grain, LLC
RE: Opposition to 2009 Assembly Bill 360 – Gavilon Grain, LLC
DATE: September 2, 2009

On behalf of Gavilon Grain, LLC (“Gavilon”), I am providing written comments on Assembly Bill 360 (“AB 360” or the “Bill”). Gavilon is one of the largest grain distributors in the United States and has several grain elevators in Wisconsin. We own and operate a large grain export facility in Conners Point, Wisconsin, at the Port of Superior, which exports approximately \$100 million of grain each year. The grain is produced throughout the upper Midwest, including Wisconsin. The facility employs 22 people and has an annual payroll of approximately \$1 million in Wisconsin.

Gavilon opposes AB 360 for several reasons. The Bill is duplicative of existing statutes and unnecessary in light of current and ongoing work by both the federal government and the Wisconsin Department of Natural Resources (“WDNR”) to regulate ballast water discharges. The issue should be addressed in a comprehensive manner and not a piecemeal approach. The Bill would have an unnecessarily harsh negative impact on Wisconsin businesses and communities and the valuable local shipping industry. The Legislature should not act in a manner that is out of step with ongoing work on this issue at both the state agency and federal levels.

I. Assembly Bill 360 is unnecessary, duplicative, and a waste of taxpayer resources.

As currently drafted, AB 360 would require WDNR to promulgate rules that include:

- fees for permits for ballast water discharges;
- circumstances under which a vessel must apply for a permit to take on and discharge ballast water;
- any ballast water management requirements necessary to ensure aquatic invasive species (“AIS”) do not enter the waters of the state; and
- any other provisions necessary for the administration of the section.

While the provisions listed above are not unreasonable requirements for WDNR to achieve, Wis. Stat. § 283.35(1m), enacted in the recent 2009 budget, already achieves the majority of the requirements in AB 360. Specifically, Wis. Stat. § 283.35(1m):

- provides temporary fees for application and issuance of general permits for ballast water discharges and requires WDNR to promulgate permanent fees in 2013 that more accurately reflect the cost of administering the permit program;
- authorizes WDNR to issue a general permit for ballast water discharges from vessels;
- allows general permits to contain effluent limitations¹; and
- limits coverage under ballast water general permits to 5 years.

A review of what AB 360 proposes to require and what Wis. Stat. § 283.35(1m) already requires begs the question: what is the purpose of AB 360? The answer is unclear and, in fact, enactment of AB 360 would only create confusion within Wis. Stat. ch. 283 and increase regulatory uncertainty in an already uncertain environment.

As noted above, proposed AB 360 includes the creation of Wis. Stat. § 283.34, which, on its face would appear surplus and redundant to the existing requirements of Wis. Stat. § 283.35. If not redundant to § 283.35,

¹ Effluent limitations, by definition, would establish ballast water management requirements that WDNR determines are necessary to ensure that AIS do not negatively impact water quality.

proposed § 283.34 would then appear to require WDNR to promulgate rules for issuance of individual ballast water discharge permits for all vessels in Wisconsin waters of the Great Lakes.

Thousands of shipping vessels travel through Wisconsin waterways. If the Legislature does intend to require vessels to obtain individual ballast water discharge permits, state law requires that each individual permit issuance be subject to a 30-day public comment period and a public hearing, if requested. See Wis. Stat. §§ 283.39, 283.49. If AB 360 were enacted, WDNR would be required to find the time, resources and staff to draft thousands of individual permits, schedule thousands of public hearings, and issue each of those permits individually. Existing state budget constraints make the proposed AB 360 incredibly burdensome to the taxpayers, WDNR and, most importantly, to the shipping industry, which would come to a grinding halt as each vessel waited in vain for WDNR to draft and issue individual permits for ballast water discharges.

As you know, WDNR has already published for public comment a draft general permit for ballast water discharges and is working with stakeholders to develop a discharge permit that will provide ballast water discharge standards for vessels in the Great Lakes. Any additional legislative work on AB 360 would be at the sacrifice of additional taxpayer dollars and would provide no additional benefit to Wisconsin's water quality.

II. WDNR has specific expertise in natural resource management, including protection of Wisconsin's water quality; the Legislature should not hinder WDNR's ability to utilize that expertise.

WDNR, under the supervision of the Natural Resources Board, is the administrative agency tasked with implementing, via the rulemaking process, the laws of the state and the federal government that protect and enhance natural resources. As such, WDNR is presumed to have certain expertise in issues related to Wisconsin's natural resources. Courts have generally recognized such technical expertise and routinely provide substantial deference to agency evaluations, determinations and interpretations when based on that expertise. As drafted, AB 360 effectively removes WDNR's ability to utilize its expertise in promulgating regulations for ballast water discharges, and its ability to provide flexibility where case-by-case regulatory determinations may be appropriate.

Specifically, AB 360 would statutorily require WDNR to include specific treatment technology requirements in ballast water discharge permits. Imposing such a requirement on WDNR will serve no purpose other than to unnecessarily constrain WDNR in its attempt to develop ballast water standards that will be effective with both existing and developing technology. No other section of ch. 283 requires specific discharge or treatment standards that WDNR must incorporate into regulations or discharge permits. For example, a number of sections require "best conventional pollutant control technology"; others require "best practicable technology currently available" or "best available technology economically achievable." See, e.g., §§ 283.13, 283.19, 283.21. Nothing in ch. 283 presumes that the Legislature understands what those technologies should be, because they are constantly evolving and becoming more effective and efficient over time. Including specific technology requirements as proposed in AB 360 will stifle the implementation of innovative technologies and hinder WDNR's ability to properly manage ballast water discharges, because implementation of new technology would become dependent on making predicate changes to state law.

Relatedly, many other sections of ch. 283 allow WDNR to exempt certain types of discharges or point sources from certain effluent limitation or permitting requirements. See §§ 283.11, 283.31, 283.61, 283.62. These provisions allow WDNR the opportunity to make a case-by-case determination as to when imposing certain restrictions will be either too burdensome or will provide no material environmental benefit. Even the proposed federal rules for ballast water discharge standards provide exemptions from ballast discharge standards for certain types of vessels. See 74 Fed. Reg. 44635. AB 360 provides no flexibility for WDNR to make exemptions or permit waivers for certain types of vessels, regardless of the practicability or reasonableness of the effluent limitation/technology requirement.

A better approach, as recommended Senator Jauch's March 30, 2009 letter to WDNR Secretary Matt Frank, would be to allow WDNR to continue working with stakeholders and other Great Lakes states to develop a workable solution that is consistent with existing and proposed federal regulations and existing regional permitting programs. Such a solution could include a tiered timetable for implementing treatment technology, and could include the development of an advisory board, made up of regulators as well as environmental and industrial stakeholders, which would evaluate and report on developing treatment technologies and provide oversight on the value and practicability of implementing such technologies. This approach would allow WDNR more flexibility in regulating ballast water discharges and also allow necessary stakeholders, such as the shipping industry, to be involved in the

discussion. Many of these concepts are also included in the recently published proposed federal rules for ballast water discharge standards. See 74 Fed. Reg. 44632.

III. Statutorily imposing technical requirements that are more stringent than neighboring Great Lakes states will provide no net environmental benefit.

AB 360 proposes to require WDNR to promulgate rules for ballast water discharges that are more stringent than federal standards and most neighboring Great Lakes states; however, promulgating and enforcing discharge standards more stringent than neighboring Great Lakes states will not result in any increase in environmental protection. The fact is, only 25% of all salt water ballast discharges into the Great Lakes occur in Wisconsin ports; close to 50% occur in Minnesota ports. See Predicting Future Introductions of Nonindigenous Species to the Great Lakes, National Center for Environmental Assessment, Office of Research and Development, U.S. Environmental Protection Agency, Appendix E.

Wisconsin ports do not currently serve enough of the international shipping industry to effectively curb the spread of AIS or encourage the development of treatment technologies via Wisconsin-specific rules. The international shipping companies that do port in Wisconsin will be able to look no further than one mile down the seaway to ports in Minnesota for less stringent ballast water treatment and discharge standards. The reality is that most oceangoing vessels will do just that. The close proximity of Minnesota and Wisconsin ports means that oceangoing vessel discharges into Minnesota waters will have the same environmental impact as if they were discharging directly into Wisconsin waters. As such, more stringent Wisconsin-specific ballast water discharge rules will do nothing more than drive oceangoing vessels to port in Minnesota, providing no net environmental benefit and negatively impacting the Wisconsin economy in the process – all at a time when Wisconsin needs to enhance job creation and not adopt policies that doom jobs.

Rather than adopt AB 360, the Legislature would better serve Wisconsin citizens by requiring WDNR to work collaboratively with other Great Lakes states and Canadian provincial authorities in the adoption and development of uniform ballast water treatment and discharge standards and technologies.

IV. The Legislature should have no part in purposefully and effectively creating a competitive disadvantage for Wisconsin's shipping industry.

The potential local economic detriment of implementing standards more stringent than neighboring states far exceeds the above-referenced (essentially non-existent) environmental "benefits." Canada and the Great Lakes states (except Michigan²) – including Minnesota, Illinois, Indiana, Ohio and Pennsylvania – have all adopted International Maritime Organization ("IMO") standards for ballast water treatment and discharge standards. Contrary to the approach taken regionally by all other shipping-competitive states, AB 360 would require WDNR to adopt more stringent standards, regardless of the agency's own assessment of what technology is available, economically practicable, and effective for protecting water quality.

As noted above, international shipping companies will have a simple solution to avoid more stringent regulations at Wisconsin ports: Minnesota ports. We understand that many international shippers are already choosing to port in Minnesota instead of Wisconsin because a more stringent general permit for ballast water discharge has been issued for public comment. Gavilon has several competitor grain export terminals which are located on the Port of Duluth and if shippers are forced to incur additional costs to ship Gavilon's grain from our Connors Point facility on the Port of Superior, they will pass those costs on to Gavilon in the form of higher shipping rates. The typical profit margins for grain exports are too low to accept those higher shipping rates and Gavilon would be forced to reconsider the economic viability of our facility in Connors Point, Wisconsin. The regulatory uncertainty created by

² Michigan is the only Great Lakes state with more stringent ballast water management requirements. However, Michigan's requirements are not relevant to this discussion because oceangoing vessels never discharge ballast water in Michigan; they take on water. Thus Michigan's "no discharge" standard is meaningless because no oceangoing vessel would ever need to discharge ballast water while in Michigan. When WDNR published its draft general permit for ballast water discharges, it acknowledged as much in its Environmental Assessment and also noted, "Because no vessels in Michigan waters have needed to discharge ballast, none of the vessels have installed or used any of the acceptable treatment methods. The practicality of these treatment methods remains untested." EA at p. 8.

a patchwork of ballast water discharge standards, with a spotlight on Wisconsin's more stringent standards, will translate into a significant local economic depression and the loss of thousands of jobs across the state.

As discussed in the 2008 Summary of Great Lakes Seaway Ballast Water Management report, the Great Lakes Seaway Ballast Water Working Group believes individual state involvement in ballast water management would create further impediments to the shipping trade and make the shipping industry and associated economic stimulus even less viable in the future. See 2008 Summary of Great Lakes Seaway Ballast Water Management report at p. 10. In fact, the National Academy of Sciences noted that "uncertainty about future ballast water management regulations for the Great Lakes may well be hindering investment in the transportation system." National Academy of Sciences Report in Brief at p. 4, available at http://dels.nas.edu/dels/rpt_briefs/St_Lawrence_Seaway_Final.pdf.

With Wisconsin's (and the nation's) current economic crisis, where Wisconsin's jobless rate is reaching upwards of 9%, this is the wrong time for one of Wisconsin's most valuable and far-reaching industries to be subject to an insurmountable competitive disadvantage. Over 2,000 jobs in the Superior area alone are dependent on port activities, including: stevedores, longshoremen, vessel agents, grain inspectors, grain millers, tug boat operators, marine suppliers, railroad workers, truck drivers, lock operators, freight forwarders, ship chandlers and shipyard workers, terminal operators, Coast Guard personnel and port officials. In all, over 400,000 jobs depend on Great Lakes trade. See <http://www.greatlakes-seaway.com/en/seaway/vital/index.html>.

Impacts to the shipping industry under AB 360 will not only affect the ports but will affect any Wisconsin business that imports raw materials or components, or exports products through the ports. Because international shippers will port in Minnesota, numerous Wisconsin industries will also be required to import and export via Minnesota ports. This will increase transaction costs for Wisconsin businesses and decrease income to state coffers and citizens employed by the Wisconsin shipping industry.

V. Requiring WDNR to impose such specific and strict ballast water treatment technology could be subject to challenge based on unconstitutional restraint of interstate commerce.

A uniform ballast water treatment standard for all Great Lakes ports would not only be ideal, but the imposition of more stringent Wisconsin standards may be a violation of the Dormant Commerce Clause of the U.S. Constitution.

Article 1, Section 8 of the U.S. Constitution provides that "the Congress shall have Power ... [t]o regulate Commerce ... among the several States." U.S. Const. art. I, § 8, cl. 3. This Clause is designed to prevent states, or their political subdivisions, from erecting trade barriers and unjustifiably discriminating against or burdening the flow of interstate commerce. *Oregon Waste Sys., Inc. v. Department of Env'tl. Quality*, 511 U.S. 93, 98 (1994) (noting the view of the Framers "that in order to succeed, the new Union would have to avoid the tendencies toward economic Balkanization that had plagued relations among the Colonies and later among the States under the Articles of Confederation."); *C&A Carbone, Inc. v. Town of Clarkstown*, 511 U.S. 383, 391 (1994) ("Our prior cases teach that a State (or one of its political subdivisions) may not avoid the strictures of the Commerce Clause by curtailing the movement of articles of commerce through subdivisions of the State, rather than through the State itself."). The United States Supreme Court has long interpreted this Clause "not only as an authorization for congressional action, but also, even in the absence of a conflicting federal statute, as a restriction on permissible state regulation." *Hughes v. Oklahoma*, 441 U.S. 322, 326 (1979).

Even in the absence of federal regulation, state legislation requiring more stringent technology requirements for ballast water discharges imposes an undue burden on interstate commerce with specious benefits.

For the foregoing reasons, we oppose AB 360. Wisconsin would be better served by allowing WDNR to work with stakeholder groups such as the shipping industry and technical consultants to understand the availability and effectiveness of evolving treatment technologies. Gavilon is generally supportive of Senator Jauch's approach on this issue, including the coordination and involvement of necessary stakeholders and the recommendations included in his March 30, 2009 letter to WDNR Secretary Matt Frank.





EXECUTIVE SUMMARY OF COMMENTS
SUBMITTED BY GAVILON GRAIN, LLC
SEPTEMBER 2, 2009

Gavilon opposes AB 360 for several reasons. The Bill is duplicative of existing statutes and unnecessary in light of current and ongoing work by both the federal government and the Wisconsin Department of Natural Resources ("WDNR") to regulate ballast water discharges. The issue should be addressed in a comprehensive manner and not a piecemeal approach. The Bill would have an unnecessarily harsh negative impact on Wisconsin businesses and communities and the valuable local shipping industry. The Legislature should not act in a manner that is out of step with ongoing work on this issue at both the state agency and federal levels. The following comments are discussed in detail in the attached memorandum:

- Wis. Stat. § 283.35(1m) already allows WDNR to issue ballast water discharge permits, set effluent limits for those permits and develop a permit fee for the program. Given what AB 360 proposes to require and what Wis. Stat. § 283.35(1m) already requires, the purpose of AB 360 is unclear, and enactment would only create confusion within Wis. Stat. ch. 283 and increase regulatory uncertainty in an already uncertain environment.
- AB 360 effectively removes WDNR's ability to utilize its expertise in promulgating regulations for ballast water discharges, and its ability to provide flexibility where case-by-case regulatory determinations may be appropriate. A better approach would be to allow WDNR to continue working with industry and environmental stakeholders and other Great Lakes states to develop a workable solution that is consistent with existing and proposed federal regulations and existing regional permitting programs.
- AB 360 requires WDNR to promulgate rules for ballast water discharges that are more stringent than federal standards and most neighboring Great Lakes states. This requirement would have a negative economic impact on Wisconsin since, in reality, most oceangoing vessels will simply port one mile down the seaway in Minnesota and discharge their ballast water there. Over 2,000 jobs in the Superior area alone are dependent on port activities and with the current economic crisis, where Wisconsin's jobless rate is reaching upwards of 9%, this is the wrong time for one of Wisconsin's most valuable and far-reaching industries to be subject to an insurmountable competitive disadvantage.
- A uniform ballast water treatment standard for all Great Lakes ports would not only be ideal, but the imposition of more stringent Wisconsin standards may be a violation of the Dormant Commerce Clause of the U.S. Constitution. Even in the absence of federal regulation, state legislation requiring more stringent technology requirements for ballast water discharges imposes undue burden on interstate commerce with specious benefits.

For the foregoing reasons, Gavilon opposes AB 360. Wisconsin would be better served by allowing WDNR to work with stakeholder groups such as the shipping industry and technical consultants to understand the availability and effectiveness of evolving treatment technologies.

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TO: Chairman Spencer Black and Committee on Natural Resources Members
FROM: Rick Yabroff, Director of Safety and Environmental, Gavilon Grain, LLC
RE: Opposition to 2009 Assembly Bill 360 – Gavilon Grain, LLC
DATE: September 2, 2009

On behalf of Gavilon Grain, LLC (“Gavilon”), I am providing written comments on Assembly Bill 360 (“AB 360” or the “Bill”). Gavilon is one of the largest grain distributors in the United States and has several grain elevators in Wisconsin. We own and operate a large grain export facility in Conners Point, Wisconsin, at the Port of Superior, which exports approximately \$100 million of grain each year. The grain is produced throughout the upper Midwest, including Wisconsin. The facility employs 22 people and has an annual payroll of approximately \$1 million in Wisconsin.

Gavilon opposes AB 360 for several reasons. The Bill is duplicative of existing statutes and unnecessary in light of current and ongoing work by both the federal government and the Wisconsin Department of Natural Resources (“WDNR”) to regulate ballast water discharges. The issue should be addressed in a comprehensive manner and not a piecemeal approach. The Bill would have an unnecessarily harsh negative impact on Wisconsin businesses and communities and the valuable local shipping industry. The Legislature should not act in a manner that is out of step with ongoing work on this issue at both the state agency and federal levels.

I. Assembly Bill 360 is unnecessary, duplicative, and a waste of taxpayer resources.

As currently drafted, AB 360 would require WDNR to promulgate rules that include:

- fees for permits for ballast water discharges;
- circumstances under which a vessel must apply for a permit to take on and discharge ballast water;
- any ballast water management requirements necessary to ensure aquatic invasive species (“AIS”) do not enter the waters of the state; and
- any other provisions necessary for the administration of the section.

While the provisions listed above are not unreasonable requirements for WDNR to achieve, Wis. Stat. § 283.35(1m), enacted in the recent 2009 budget, already achieves the majority of the requirements in AB 360. Specifically, Wis. Stat. § 283.35(1m):

- provides temporary fees for application and issuance of general permits for ballast water discharges and requires WDNR to promulgate permanent fees in 2013 that more accurately reflect the cost of administering the permit program;
- authorizes WDNR to issue a general permit for ballast water discharges from vessels;
- allows general permits to contain effluent limitations¹; and
- limits coverage under ballast water general permits to 5 years.

A review of what AB 360 proposes to require and what Wis. Stat. § 283.35(1m) already requires begs the question: what is the purpose of AB 360? The answer is unclear and, in fact, enactment of AB 360 would only create confusion within Wis. Stat. ch. 283 and increase regulatory uncertainty in an already uncertain environment.

As noted above, proposed AB 360 includes the creation of Wis. Stat. § 283.34, which, on its face would appear surplus and redundant to the existing requirements of Wis. Stat. § 283.35. If not redundant to § 283.35,

¹ Effluent limitations, by definition, would establish ballast water management requirements that WDNR determines are necessary to ensure that AIS do not negatively impact water quality.

proposed § 283.34 would then appear to require WDNR to promulgate rules for issuance of individual ballast water discharge permits for all vessels in Wisconsin waters of the Great Lakes.

Thousands of shipping vessels travel through Wisconsin waterways. If the Legislature does intend to require vessels to obtain individual ballast water discharge permits, state law requires that each individual permit issuance be subject to a 30-day public comment period and a public hearing, if requested. See Wis. Stat. §§ 283.39, 283.49. If AB 360 were enacted, WDNR would be required to find the time, resources and staff to draft thousands of individual permits, schedule thousands of public hearings, and issue each of those permits individually. Existing state budget constraints make the proposed AB 360 incredibly burdensome to the taxpayers, WDNR and, most importantly, to the shipping industry, which would come to a grinding halt as each vessel waited in vain for WDNR to draft and issue individual permits for ballast water discharges.

As you know, WDNR has already published for public comment a draft general permit for ballast water discharges and is working with stakeholders to develop a discharge permit that will provide ballast water discharge standards for vessels in the Great Lakes. Any additional legislative work on AB 360 would be at the sacrifice of additional taxpayer dollars and would provide no additional benefit to Wisconsin's water quality.

II. WDNR has specific expertise in natural resource management, including protection of Wisconsin's water quality; the Legislature should not hinder WDNR's ability to utilize that expertise.

WDNR, under the supervision of the Natural Resources Board, is the administrative agency tasked with implementing, via the rulemaking process, the laws of the state and the federal government that protect and enhance natural resources. As such, WDNR is presumed to have certain expertise in issues related to Wisconsin's natural resources. Courts have generally recognized such technical expertise and routinely provide substantial deference to agency evaluations, determinations and interpretations when based on that expertise. As drafted, AB 360 effectively removes WDNR's ability to utilize its expertise in promulgating regulations for ballast water discharges, and its ability to provide flexibility where case-by-case regulatory determinations may be appropriate.

Specifically, AB 360 would statutorily require WDNR to include specific treatment technology requirements in ballast water discharge permits. Imposing such a requirement on WDNR will serve no purpose other than to unnecessarily constrain WDNR in its attempt to develop ballast water standards that will be effective with both existing and developing technology. No other section of ch. 283 requires specific discharge or treatment standards that WDNR must incorporate into regulations or discharge permits. For example, a number of sections require "best conventional pollutant control technology"; others require "best practicable technology currently available" or "best available technology economically achievable." See, e.g., §§ 283.13, 283.19, 283.21. Nothing in ch. 283 presumes that the Legislature understands what those technologies should be, because they are constantly evolving and becoming more effective and efficient over time. Including specific technology requirements as proposed in AB 360 will stifle the implementation of innovative technologies and hinder WDNR's ability to properly manage ballast water discharges, because implementation of new technology would become dependent on making predicate changes to state law.

Relatedly, many other sections of ch. 283 allow WDNR to exempt certain types of discharges or point sources from certain effluent limitation or permitting requirements. See §§ 283.11, 283.31, 283.61, 283.62. These provisions allow WDNR the opportunity to make a case-by-case determination as to when imposing certain restrictions will be either too burdensome or will provide no material environmental benefit. Even the proposed federal rules for ballast water discharge standards provide exemptions from ballast discharge standards for certain types of vessels. See 74 Fed. Reg. 44635. AB 360 provides no flexibility for WDNR to make exemptions or permit waivers for certain types of vessels, regardless of the practicability or reasonableness of the effluent limitation/technology requirement.

A better approach, as recommended Senator Jauch's March 30, 2009 letter to WDNR Secretary Matt Frank, would be to allow WDNR to continue working with stakeholders and other Great Lakes states to develop a workable solution that is consistent with existing and proposed federal regulations and existing regional permitting programs. Such a solution could include a tiered timetable for implementing treatment technology, and could include the development of an advisory board, made up of regulators as well as environmental and industrial stakeholders, which would evaluate and report on developing treatment technologies and provide oversight on the value and practicability of implementing such technologies. This approach would allow WDNR more flexibility in regulating ballast water discharges and also allow necessary stakeholders, such as the shipping industry, to be involved in the

discussion. Many of these concepts are also included in the recently published proposed federal rules for ballast water discharge standards. See 74 Fed. Reg. 44632.

III. Statutorily imposing technical requirements that are more stringent than neighboring Great Lakes states will provide no net environmental benefit.

AB 360 proposes to require WDNR to promulgate rules for ballast water discharges that are more stringent than federal standards and most neighboring Great Lakes states; however, promulgating and enforcing discharge standards more stringent than neighboring Great Lakes states will not result in any increase in environmental protection. The fact is, only 25% of all salt water ballast discharges into the Great Lakes occur in Wisconsin ports; close to 50% occur in Minnesota ports. See Predicting Future Introductions of Nonindigenous Species to the Great Lakes, National Center for Environmental Assessment, Office of Research and Development, U.S. Environmental Protection Agency, Appendix E.

Wisconsin ports do not currently serve enough of the international shipping industry to effectively curb the spread of AIS or encourage the development of treatment technologies via Wisconsin-specific rules. The international shipping companies that do port in Wisconsin will be able to look no further than one mile down the seaway to ports in Minnesota for less stringent ballast water treatment and discharge standards. The reality is that most oceangoing vessels will do just that. The close proximity of Minnesota and Wisconsin ports means that oceangoing vessel discharges into Minnesota waters will have the same environmental impact as if they were discharging directly into Wisconsin waters. As such, more stringent Wisconsin-specific ballast water discharge rules will do nothing more than drive oceangoing vessels to port in Minnesota, providing no net environmental benefit and negatively impacting the Wisconsin economy in the process – all at a time when Wisconsin needs to enhance job creation and not adopt policies that doom jobs.

Rather than adopt AB 360, the Legislature would better serve Wisconsin citizens by requiring WDNR to work collaboratively with other Great Lakes states and Canadian provincial authorities in the adoption and development of uniform ballast water treatment and discharge standards and technologies.

IV. The Legislature should have no part in purposefully and effectively creating a competitive disadvantage for Wisconsin's shipping industry.

The potential local economic detriment of implementing standards more stringent than neighboring states far exceeds the above-referenced (essentially non-existent) environmental "benefits." Canada and the Great Lakes states (except Michigan²) – including Minnesota, Illinois, Indiana, Ohio and Pennsylvania – have all adopted International Maritime Organization ("IMO") standards for ballast water treatment and discharge standards. Contrary to the approach taken regionally by all other shipping-competitive states, AB 360 would require WDNR to adopt more stringent standards, regardless of the agency's own assessment of what technology is available, economically practicable, and effective for protecting water quality.

As noted above, international shipping companies will have a simple solution to avoid more stringent regulations at Wisconsin ports: Minnesota ports. We understand that many international shippers are already choosing to port in Minnesota instead of Wisconsin because a more stringent general permit for ballast water discharge has been issued for public comment. Gaviion has several competitor grain export terminals which are located on the Port of Duluth and if shippers are forced to incur additional costs to ship Gaviion's grain from our Connors Point facility on the Port of Superior, they will pass those costs on to Gaviion in the form of higher shipping rates. The typical profit margins for grain exports are too low to accept those higher shipping rates and Gaviion would be forced to reconsider the economic viability of our facility in Connors Point, Wisconsin. The regulatory uncertainty created by

² Michigan is the only Great Lakes state with more stringent ballast water management requirements. However, Michigan's requirements are not relevant to this discussion because oceangoing vessels never discharge ballast water in Michigan; they take on water. Thus Michigan's "no discharge" standard is meaningless because no oceangoing vessel would ever need to discharge ballast water while in Michigan. When WDNR published its draft general permit for ballast water discharges, it acknowledged as much in its Environmental Assessment and also noted, "Because no vessels in Michigan waters have needed to discharge ballast, none of the vessels have installed or used any of the acceptable treatment methods. The practicality of these treatment methods remains untested." EA at p. 8.

a patchwork of ballast water discharge standards, with a spotlight on Wisconsin's more stringent standards, will translate into a significant local economic depression and the loss of thousands of jobs across the state.

As discussed in the 2008 Summary of Great Lakes Seaway Ballast Water Management report, the Great Lakes Seaway Ballast Water Working Group believes individual state involvement in ballast water management would create further impediments to the shipping trade and make the shipping industry and associated economic stimulus even less viable in the future. See 2008 Summary of Great Lakes Seaway Ballast Water Management report at p. 10. In fact, the National Academy of Sciences noted that "uncertainty about future ballast water management regulations for the Great Lakes may well be hindering investment in the transportation system." National Academy of Sciences Report in Brief at p. 4, available at http://dels.nas.edu/dels/rpt_briefs/St_Lawrence_Seaway_Final.pdf.

With Wisconsin's (and the nation's) current economic crisis, where Wisconsin's jobless rate is reaching upwards of 9%, this is the wrong time for one of Wisconsin's most valuable and far-reaching industries to be subject to an insurmountable competitive disadvantage. Over 2,000 jobs in the Superior area alone are dependent on port activities, including: stevedores, longshoremen, vessel agents, grain inspectors, grain millers, tug boat operators, marine suppliers, railroad workers, truck drivers, lock operators, freight forwarders, ship chandlers and shipyard workers, terminal operators, Coast Guard personnel and port officials. In all, over 400,000 jobs depend on Great Lakes trade. See <http://www.greatlakes-seaway.com/en/seaway/vital/index.html>.

Impacts to the shipping industry under AB 360 will not only affect the ports but will affect any Wisconsin business that imports raw materials or components, or exports products through the ports. Because international shippers will port in Minnesota, numerous Wisconsin industries will also be required to import and export via Minnesota ports. This will increase transaction costs for Wisconsin businesses and decrease income to state coffers and citizens employed by the Wisconsin shipping industry.

V. Requiring WDNR to impose such specific and strict ballast water treatment technology could be subject to challenge based on unconstitutional restraint of interstate commerce.

A uniform ballast water treatment standard for all Great Lakes ports would not only be ideal, but the imposition of more stringent Wisconsin standards may be a violation of the Dormant Commerce Clause of the U.S. Constitution.

Article 1, Section 8 of the U.S. Constitution provides that "the Congress shall have Power ... [t]o regulate Commerce ... among the several States." U.S. Const. art. I, § 8, cl. 3. This Clause is designed to prevent states, or their political subdivisions, from erecting trade barriers and unjustifiably discriminating against or burdening the flow of interstate commerce. *Oregon Waste Sys., Inc. v. Department of Env'tl. Quality*, 511 U.S. 93, 98 (1994) (noting the view of the Framers "that in order to succeed, the new Union would have to avoid the tendencies toward economic Balkanization that had plagued relations among the Colonies and later among the States under the Articles of Confederation."); *C&A Carbone, Inc. v. Town of Clarkstown*, 511 U.S. 383, 391 (1994) ("Our prior cases teach that a State (or one of its political subdivisions) may not avoid the strictures of the Commerce Clause by curtailing the movement of articles of commerce through subdivisions of the State, rather than through the State itself."). The United States Supreme Court has long interpreted this Clause "not only as an authorization for congressional action, but also, even in the absence of a conflicting federal statute, as a restriction on permissible state regulation." *Hughes v. Oklahoma*, 441 U.S. 322, 326 (1979).

Even in the absence of federal regulation, state legislation requiring more stringent technology requirements for ballast water discharges imposes an undue burden on interstate commerce with specious benefits.

For the foregoing reasons, we oppose AB 360. Wisconsin would be better served by allowing WDNR to work with stakeholder groups such as the shipping industry and technical consultants to understand the availability and effectiveness of evolving treatment technologies. Gavilon is generally supportive of Senator Jauch's approach on this issue, including the coordination and involvement of necessary stakeholders and the recommendations included in his March 30, 2009 letter to WDNR Secretary Matt Frank.