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

**2009-10**

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**Assembly**

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**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)



# Lake Carriers' Association

*The Greatest Ships on the Great Lakes*

**JAMES H. I. WEAKLEY, PRESIDENT**

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September 2, 2009

**Hand Delivered at Public Hearing**

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

Dear Chairman Black:

**2009 Assembly Bill 360**

Today, Wisconsin ranks among the largest maritime States on the Great Lakes. Home to major shipyards, the largest coal dock on the Lakes, many other terminal operations, ports, and shippers, the State relies heavily on maritime transportation, the most cost-effective and environmentally friendly mode of transportation.

Lake Carriers' Association opposes Assembly Bill 360, which, simply put, would put an end to maritime commerce in Wisconsin. AB 360 would impose ballast water treatment requirements which are impossible to meet and imposing those requirements on American ships that never leave the Great Lakes – so-called “lakers” – would do nothing to stop the introduction of non-indigenous species and little, if anything, to stop their spread. In addition, AB 360 would unnecessarily deprive DNR of its discretion to recognize differences in types of vessels and would create a regulatory program which is inconsistent with developing national programs. Finally, AB 360 would impose a new economic burden on the American Great Lakes shipping industry at a time of deep economic recession, a burden that would result in the loss of jobs both on ships and in the shoreside industries that they serve. In short, AB 360 threatens the continued viability of the laker fleet and the loss of that fleet would have significant, adverse environmental and societal consequences. Each of these topics is addressed in more detail below. We begin, however, with an overview of Lake Carriers' Association.

**Overview of Lake Carriers' Association.**

Lake Carriers' Association (“LCA”) represents 18 American companies that operate 65 U.S.-Flag vessels on the Great Lakes. These vessels carry the raw materials that drive the U.S. economy: iron ore for steel production, coal for power generation, limestone and cement for construction, grain for domestic millers, .... In 2008, our members carried 101 million tons of cargo on the Great Lakes. A significant portion of that total – nearly 26 million tons – originated in the Wisconsin port of Superior. Our members delivered more than 700,000 tons of coal to Green Bay.

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***The Association Representing Operators of U.S.-Flag Vessels on the Great Lakes***

AMERICAN STEAMSHIP COMPANY • ANDRIE, INC. • ARMSTRONG STEAMSHIP COMPANY • BELL STEAMSHIP COMPANY  
CENTRAL MARINE LOGISTICS, INC. • GRAND RIVER NAVIGATION COMPANY, INC. • GREAT LAKES FLEET/KEY LAKES, INC.  
INLAND LAKES MANAGEMENT, INC. • THE INTERLAKE STEAMSHIP COMPANY • KK INTEGRATED LOGISTICS • LAKES SHIPPING COMPANY  
LAKE MICHIGAN CARFERRY SERVICE • PERE MARQUETTE SHIPPING • PORT CITY MARINE SERVICES • PORT CITY STEAMSHIP SERVICES  
SOO MARINE SUPPLY, INC. • UPPER LAKES TOWING COMPANY, INC. • VANENKEVORT TUG & BARGE INC.

Great Lakes freighters (lakers) also delivered 1.5 million tons of cement to Milwaukee, Green Bay, and Manitowoc, and the road salt they delivered to Milwaukee and other ports then served municipalities throughout the State.

Additionally, our members spent approximately \$30 million at shipyards in Sturgeon Bay and Superior, WI in 2008.

Lake Carriers' Association members sustain hundreds of thousands of shoreside and vessel jobs. Over 44,000 jobs are directly related to marine transportation. Another 54,000 jobs in the mining industry, and 138,000 jobs in the steel industry are dependent on Great Lakes Marine Transportation. When ice cover closes the Lakes to commercial navigation, our members send many of their vessels to the shipyards in Sturgeon Bay and Superior and spend tens of millions of dollars on maintenance and modernization. In fact, one of our members, The Interlake Steamship Company, recently announced it would completely modernize a long-idled vessel at Bay Shipbuilding Company, a project that will cost more than \$20 million and keep shipyard workers busy for more than a year. Unfortunately, the sudden downturn in steel production has forced that project to be put on hold, but a revived economy should breathe new life into the repowering/conversion effort. Let us hope so, for as I write this, more than 400 workers at Bay Shipbuilding have received lay-off notices. That's in addition to those currently furloughed by the company.

Beyond providing jobs, it is our movement of iron ore, construction stone, coal, cement, road salt and other important commodities that keep Wisconsin and the entire North American manufacturing base competitive with global markets. U.S.-Flag Great Lakes vessels are part of a \$100 billion value chain that connects coal mined in Montana, to generate electricity, with iron ore mined in Minnesota and limestone quarried in Michigan with the metallurgical coal from West Virginia to produce steel that can be put in Caterpillar and John Deere tractors for use here and exported throughout the world. A U.S. Army Corps of Engineers report recently calculated that the Great Lakes Navigation System saves American consumers approximately \$3.6 billion a year in reduced transportation costs compared to the next least-costly mode of transportation.

### **The Ballast Water Treatment Requirements of AB 360 Would Be Impossible to Meet.**

As a starting point, there are no ballast water treatment systems which have been demonstrated to be effective for lakers. Therefore, there are no demonstrated means for lakers to comply with the treatment requirements of AB 360, certainly within the seven month deadline which would be imposed under the bill.

It is true that some ballast water treatment systems may soon complete the IMO (International Maritime Organization) approval process for shipboard installation. We believe one system in the world may soon become "commercially available." However, those systems that are being developed are tailored to very different operational requirements. Some of them depend on the use of seawater for chemical reactions or as catalysts as part of the treatment process. Besides the obvious fact that our vessels operate in fresh water, they carry tremendous amounts of ballast water, as much as 15 million gallons in as many as 20 separate ballast tanks per vessel. Their port stays are short, 10 hours or less. Therefore, some vessels have as many as 18 ballast pumps and flow rates as high as 80,000 gallons a minute. Currently, there are no treatment systems being designed for freshwater only usage. There are none, of which we are aware of, even designed for salt water that could handle our flow rates.

Furthermore, the ballast treatment systems being developed for saltwater vessels, which are commonly known as "salties," are designed for vessels that differ in many ways from lakers. Take for example the ocean-going vessels trading to the Lakes. They are limited in size to a length of 740 feet and a beam (width) of 78 feet. Compare that to our maximum size of 1,013.5 feet by 105 feet. This size differential accounts for the great disparity in the amount of ballast onboard. Although most declare "no ballast on board" when they enter the system, a salty might have 3 million gallons of ballast. That's one-fifth the amount on a 1,000-footer. And salties can be in port for days, so their flow rate of 6,000 gallons a minute can be accurately described as leisurely compared to ours.

Some of the largest ocean-going vessels have significant amounts of ballast onboard, but their voyages from say Middle East oil fields to the United States can take weeks. They have ample time to treat or flush their ballast tanks. For our members, 3 days is a long voyage. Some vessels in the short-haul trades are in port twice a day.

Another reason that it is impractical for lakers to treat ballast water is that physical conditions inherent in a laker vessel may not allow for the installation of a treatment system. The engine rooms and machinery spaces on existing vessels are very cramped. It would be extremely difficult, in most instances impossible, to find room for ballast water treatment systems, especially on the older vessels in the fleet. There's also the issue of having to install or upgrade power generators to run this new equipment. Our current power systems may not have the ability to deliver the necessary current.

Even if treatment systems were available, the cost of treatment would be excessive. Thirteen lakers owned by LCA members are of the 1,000-foot class of vessels. Six of them contain nine ballast tanks on each side of the vessel, for a total of eighteen tanks. Each of these tanks has a separate ballast pump and, therefore, would require eighteen separate ballast water treatment systems. The number of pumps on the other seven vessels in this class varies from four to 20. It has been estimated that the cost of treatment systems would be in the range of \$500,000 to \$1 million per ballast water tank (system). That means the cost of the treatment system alone could be as high as \$20 million for a laker vessel. This also assumes that the retrofit can be done without adverse impact to the lakers stability, safety, and draft (depth).

In addition to the cost of the treatment systems, the expense of dry-docking would cost the owner between \$500,000 and \$1 million per laker. In addition to the cost of the work, each day a laker is out of service costs its owner between \$60,000 and \$80,000 in lost revenue. Assuming the job took 30 days, it would cost each vessel \$2.4 million in lost revenue, plus \$1 million in dry-docking fees and between \$2 and \$20 million for the treatment systems.

In summary, for **each vessel** retrofitted, it could cost between **\$5.4 and \$23.4 million**. The investment would not increase efficiency, profits, revenues, or the life of the vessel. Nor would it reduce operating costs or result in a significant environmental benefit. We cannot imagine finding a bank to finance such an investment. These vessels would simply be regulated out of business.

In light of the above, it would be impossible for the lakers to comply with the treatment requirements of AB 360, and certainly not within the seven month deadline in the bill.

**Requiring Lakers to Treat Would Do Nothing to Stop the Introduction of Invasive Species and Little to Stop Their Spread.**

Lakers do not introduce non-indigenous species to Wisconsin's Lake Superior and Lake Michigan waters. That much is not in dispute. U.S.-Flag lakers never leave the Enclosed Aquatic Ecosystem. All but a few vessels confine their operations to Lakes Superior, Michigan, Huron, and Erie. As such, requiring lakers to treat ballast water would have no impact on the introduction of non-indigenous species.

By way of background, the Great Lakes Basin Aquatic Nuisance Data Base, maintained by NOAA, tracks the non-native species in the region. It includes both beneficial (rainbow trout, brown trout, Coho salmon, Chinook salmon, common carp, white perch...) and "invasive" (harmful – zebra mussel, quagga mussel, round goby...). There are numerous vectors of introduction of the 185 listed. Please note that none have been added or detected since 2006 (the Bloody Red Shrimp or Hemimysis). It is also worth noting that due to the large geographic distribution once discovered, it is believed that Hemimysis was introduced before 2004 and perhaps as early as 2002 (according to Canada Science Advisory Secretariat Research document 2007/nnn). Looking at the period from 1840 to 1958 (before the Seaway opened the Great Lakes to ocean-going vessels), only 20 of the 99 or 20 percent of the ANS were attributed to shipping. However, if you look at only the period from 1960 to 2006, 52 out of 83 or 63 percent have been attributed to shipping. The entire list, from 1840 to 2006, shows 73 of them or 40 percent attributed to shipping. Once they are in the Great Lakes, invasive species are here to stay and spread by multiple vectors. NOAA Sea Grant counts 12 different vectors into Lake Superior and more into the lower Lakes. Treating ballast water from ocean-going vessels provides the best opportunity to stop the introduction and spread on invasive species in the Great Lakes.

However, imposing treatment requirements on lakers would do little to stop the "spread" of non-indigenous species after they are introduced. There are other vectors for introduction and spread of exotics, such as cultivation, stocked fish, diseases and parasites with fish, canals and diversions, aquarium releases, live bait releases, anglers, railroads and highways, packaging hitchhikers.... In the Canadian Hemimysis study previously mentioned, the probability of a recreational boat moving an invasive species from the Great Lakes to an inland lake was calculated at nine potential introductions per year. Ironically, in August of 2009 Hemimysis was found in Oneida Lake, New York (near Syracuse). Certainly that risk would be higher for a recreational boat movement within a Great Lake or between two Great Lakes.

Another example is the spread of quagga mussels. Although anecdotal in nature, media outlets have reported that quagga mussels are present in Lake Mead in Nevada. It cannot seriously be argued that vessel ballast water is responsible for the presence of the mussels in Lake Mead. The truth is that even if lakers were required to treat ballast water, the "spread" of non-indigenous species would not be halted.

It is important to note in this context that lakers have implemented Best Management Practices ("BMPs") to reduce the potential impact of their ballast water discharges. In 1993, LCA published a BMP specifically written to prevent the spread of the Eurasian Ruffe from the port of Superior, Wisconsin. At the time it was hailed by the U.S. Fish and Wildlife Service as "the cutting edge of technology."

Most importantly, the plan worked. Even though Duluth/Superior typically handles more than 1,000 vessel calls a year, the ruffe today can be found in only one lower Lake location. Our Best Management Practices (which meet the requirements of U.S. Coast Guard Regulation 33 CFR 151.2035 (a) and IMO Regulation A.868 (20) and have been in effect since September 27, 2004) comply with the U.S. EPA's VGP and are as follows:

The Master, owner(s), operator, or person in charge of this vessel must:

- (1) Avoid the discharge or uptake of ballast water in areas within or that may directly affect marine sanctuaries, marine preserves, or marine parks.
- (2) Minimize or avoid uptake of ballast water in the following areas and situations:
  - (i) Areas known to have infestations of populations of harmful organisms and pathogens (e.g., toxic algal blooms) when identified by regulatory agencies;
  - (ii) areas near sewage outfalls; and
  - (iii) areas near dredging operations.
- (3) Clean the ballast tanks regularly to remove sediments. Shoreside disposal of sediments removed will be in accordance with Local, State, and Federal regulations. When in dry-dock, the removal of any sediment from the vessel will be coordinated with the appropriate shipyard manager and disposed of in accordance with Local, State, and Federal regulations.
- (4) Discharge only the minimal amount of ballast water essential for vessel operations while in the waters of the United States.
- (5) Rinse anchors and anchor chains during retrieval to return organisms and sediments to their place of origin.
- (6) Remove fouling organisms from hull or sea chests when in dry-dock, if needed, and dispose of any removed substances in accordance with Local, State, and Federal regulations.
- (7) The Master, owner(s), operator, or person in charge and crew of this vessel must be familiar with Lake Carriers' Association's Ballast Water Management Plan© and strategy. A copy of Lake Carriers' Association Ballast Water Management Plan© is readily available onboard the vessel.
- (8) This vessel and crew will cooperate, as mutually agreed upon, to scientific research into sampling and analysis programs for ballast water, if they will not interfere with normal and safe vessel operations.
- (9) This vessel complies with the following U.S. Coast Guard regulations: (i) 33 CFR 151.2041(a)(3), which requires all vessels equipped with ballast tanks bound for ports in the United States to file a Ballast Water Reporting Form to the National Ballast Information Clearinghouse; (ii) 33 CFR 151.2045(a)(9), which requires the Master, owner(s), operator, or person in charge of this vessel to retain a signed copy of the above reported information onboard the vessel for two years.

- (10) This vessel's owner(s) or operator will assist in developing plans, such as Lake Carriers' Association's Voluntary Ballast Management Plan for the Control of Ruffe in Lake Superior Ports© and Lake Carriers' Association's Voluntary Ballast Management Plan for the Control of Ruffe in Alpena, Michigan©, should the U.S. Fish & Wildlife Service or an equivalent Canadian authority determine a nuisance species has established niche communities in a specific port, providing that these plans result in substantial prevention of the spread of the species or harmful organisms via ballast water.

The draconian requirements of AB 360 would add little, if any, benefit to the control of invasive species beyond that already being achieved by the efforts of our members.

As an additional comment in this regard, we oppose the provisions in AB 360 which would deprive DNR of its authority to distinguish between types and classes of vessels. For the reasons noted above, DNR should have the authority to recognize that salties, as compared to lakers, pose very different risks in connection with invasive species and its nonsensical to deprive DNR of the authority to recognize those differences.

#### **AB 360 Is Inconsistent with Developing National Programs.**

Stakeholders from the shipping and environmental communities have long advocated for a Federal solution to the problem of invasive species introduced in the ballast tanks of ocean-going vessels. Lake Carriers' Association also co-chaired the first-ever U.S. ballast water treatment demonstration project with the Northeast-Midwest Institute from 1996 to 1998. The project spent more than \$3 million researching treatment methods and laid the foundation for the Great Ships Initiative, located in Superior, Wisconsin, and the world's only freshwater research and testing facility. In 1993, Lake Carriers' Association wrote its first Best Management Practices ("BMPs") to reduce the risk of spreading the ruffe from Lake Superior ports. In 2007, we wrote our first in a series of BMPs to deal with the VHS fish virus. The Association and its members remain engaged with the Great Lakes Aquatic Nuisance Panel and provided a ship and expertise for research conducted by the Department of Interior (both NPS and USGS). We are currently working with the International Joint Commission on a Great Lakes AIS rapid response workshop for Federal and State agencies. We have always done whatever we could and encouraged others to do the same to reduce the risk of spread and stop the introduction of invasive species in the Great Lakes.

Establishment of a ballast water treatment standard unique to Wisconsin is an unsuitable regulatory strategy. The Clean Water Act ("CWA") was designed to delegate regulatory authority to the states to deal with fixed point source discharges. Establishing individual State standards is an unsuitable regulatory structure to use to regulate ballast water and other operational discharges from mobile vessels engaged in interstate and international commerce. Even the CWA recognizes it is not feasible to allow multiple States to regulate the same discharge. Just as the CWA today allows only one State to regulate a point source discharge, even though that discharge affects multiple States, so too must there be a single set of Federal regulations for vessels that may visit many States. The EPA addressed vessel discharges via its VGP and the U.S. Coast Guard has recently proposed a Federal ballast water standard. AB 360 is unnecessary in light of recent Federal action. Furthermore, the standards and timeframe proposed cannot be complied with and force a vessel operator to leave Wisconsin and its citizens without the economic benefits we provide.

The maritime industry cannot operate with different States setting different standards for discharges or for treatment technologies on ships that move from State to State. Great Lakes vessels that load cargo in Superior also load in Michigan, Ohio..., even Canada. Vessels engaged in international commerce call on ports in many states, and they may have their itineraries changed on a regular basis.

We urge the Wisconsin Legislature to defer to the Federal Government on the issue of establishing national ballast water treatment technology standards and not establish ballast water treatment technology standards and timing independent of a Federal solution. Only the EPA and the U.S. Coast Guard can ensure that there is a consistent national technology standard, a predictable regulatory environment, and effective action on this issue.

**AB 360 Threatens the Viability of the Laker Fleet and Loss of that Fleet Would Have Significant Adverse Environmental and Societal Consequences.**

As discussed, the requirement that U.S.-Flag lakers treat ballast water discharges to a yet undetermined standard, which would be published within four months of passage, and installed within seven months of passage is simply impossible. The requirement effectively bars all vessels with ballast tanks from Wisconsin's ports, shipyards, and waters. Furthermore, and as also discussed above, AB 360 may well put lakers out of business. Loss of the laker fleet would have significant adverse environmental and societal consequences.

A U.S. Army Corps of Engineers report released this February calculated that the Great Lakes Navigation System saves American consumers approximately \$3.6 billion a year in reduced transportation costs compared to the next least-costly mode of transportation. The study went on to note that it does so while consuming significantly less fuel, producing fewer pollutants, and releasing less greenhouse gasses. The study noted that a laker can carry one ton of cargo 607 miles on a single gallon of fuel in comparison to 59 miles for a truck and 202 miles for a train. Lakers produce 70% fewer emissions than trains and 90% fewer emissions than trucks while moving that ton of cargo.

Great Lakes Commission ("GLC") has studied the consequences of a modal shift from Great Lakes vessels to the land-based modes. They are all negative. Consider these facts:

1. As noted, Superior is the largest coal-shipping port on the Great Lakes. The GLC study found that for vessels to move 7,500,000 tons of clean-burning low sulfur coal from Superior to St. Clair, Michigan (site of a Detroit-Edison power plant) requires 6,922,773 gallons of fuel. Put that coal in trains and fuel consumption skyrockets to 18,535,714 gallons. While the potential for vessels causing injury to people is statistically minute, the GLC projects this modal shift would result in 2.1 train accidents and 1.4 train/car incidents.
2. The study also analyzed the movement of salt from Goderich, Ontario to Milwaukee. The trade annually totals 597,000 tons. According to a 2007 U.S. Census estimate, Milwaukee's population totals 602,191, so the trade equals one ton per each person living in the city. Ships use 200,000 gallons of fuel. Trains would burn 1.5 million gallons. Trucks would guzzle 2.7 million gallons. Again, accidents involving ships are statistically insignificant (0.003 injuries), but GLC estimates there would be 2.7 train accidents, 3.2 highway-rail incidents, and 27.4 truck accidents.



The implications of these modal shifts are wide ranging. The increased rail traffic would have trains rumbling across Wisconsin day and night. Your citizens would lose hundreds of thousands of hours sitting at rail crossings (with their engines idling and their employers shorthanded). All that truck traffic would reduce your roads and highways to rubble. And since no ships could deliver aggregate to rebuild your roads, more trucks would have to be employed to repair the damage they'd caused. We wonder if Wisconsin DOT is aware of the implications of a modal shift. The State would have to up WDOT's budget by astronomical sums. Where will the tax dollars come from?

In summation, the adverse environmental and societal consequences associated with the loss of the laker fleet would far outweigh any minimal environmental benefit which may result from requiring lakers to treat their ballast water. Can the Great Lakes Region afford an additional \$3.6 billion in transportation costs and is the Great Lakes Ecosystem at greater risk from the additional pollutants and greenhouse gasses?

### SUMMARY

Vessels transit many State waters in the course of a voyage and to comply with differing regulations will be an operational nightmare, if not impossible. The only effective solution is one that is implemented on a consistent national basis. Effective Federal legislation was passed by the House of Representatives in 2008, but a companion bill in the Senate was blocked because some environmentalists insist on using the Clean Water Act. Even the U.S. EPA agrees the Clean Water Act is ill-suited to mobile sources such as vessels. Lake Carriers' Association fought hard to pass both the House and Senate Bills.

The House bill exempted "existing vessels" that stay exclusively on the Great Lakes ("clearly defined area" in the Senate proposed bill – which defined the Great Lakes and Hawaiian Islands as two clearly defined areas) because they do not introduce exotics. The distinction between introduction and spread of invasives (the same distinction made between salties and Lakers) was clearly made and embraced by the Great Lakes Regional Collaboration ("GLRC"). For more than a year, 1,500 people representing all stakeholders in the basin (all levels of government, environmental groups, first nations, and industry representatives) studied this and other issues. The goal was to agree on a single plan for the Great Lakes. The invasive species committee was co-chaired by the U.S. Fish and Wildlife Service, Great Lakes Fishery Commission, and Michigan Department of Environmental Quality's Office of the Great Lakes. GLRC concluded the most appropriate response to the threat of invasive species was to require ballast water treatment systems aboard ocean-going vessels and to require BMPs for lakers. AB 360 ignores the recommendation of the GLRC and those 1,500 stakeholders' collective opinion.

Lakers must be exempt from AB 360's requirement to install ballast water treatment systems. Our members' vessels do not represent a vector for introduction, and no system to effectively treat the volumes and flow rate of ballast even exists today. Many of the systems designed for treatment depend on saltwater as part of the treatment process.

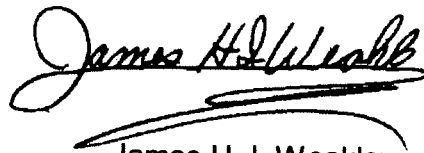
As proposed, AB 360 will bring an end to U.S.-Flag Great Lakes shipping through Wisconsin's Great Lakes ports and bring economic ruin on the State. We view the proposed law as a public taking of billions of dollars of privately-invested capital. Our members cannot afford to replace

ships, about \$3 billion in privately-invested money, or spend millions on a 30-year-old ship when such an investment does not contribute to the economic viability of the asset or the company.

As I write this, our members are laying up vessels and laying off more people. By requiring ocean-going vessels and lakers to treat at the same standard and at the same time, Wisconsin points a gun at American jobs while having little or no impact on the foreign-owned, foreign-operated, and foreign-crewed ships plying our waters. It is the equivalent of closing the barn door and then shooting all of the horses left inside.

Ocean-going vessels are going to meet the IMO standard in order to continue to operate worldwide, but they cannot do it in seven months. They have the luxury of using their significant profits to replace ships and upgrade equipment on a predictable basis. U.S.-Flag lakers do not enjoy this luxury. Will Wisconsin end our trade and send our ships to scrap? Will the increased cost of transporting bulk cargo via rail put at risk our manufacturing, power, and construction industries? How will your cities be able to afford road salt with the increased transportation costs? We urge you to exempt lakers' ballast from the requirement to install ballast water treatment systems required by AB 360. It is time to stop asking what you can do to industry and start understanding what industry can do to solve the problem. AB 360 is not the answer; it is the death knell for Wisconsin's ports. The Great Lakes Regional Collaboration should guide you to the same conclusion.

Sincerely,



James H. I. Weakley  
President

JHIW:lca

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cc: Members - LCA Board of Directors  
Members - LCA Fleet Engineers Committee  
Members - LCA Navigation Committee  
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Steve Fisher - American Great Lakes Ports Association  
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## Grand River Navigation Company, Inc.

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September 2, 2009

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

### Remarks to the Committee on Natural Resources, Wisconsin Assembly regarding Assembly Bill 360

Dear Chairman Black:

I am Mark Rohn, President of Grand River Navigation Company, headquartered in Avon Lake, Ohio, just 20 miles west of Cleveland. I appreciate the opportunity to provide some brief remarks on behalf of my company and the Great Lakes shipping industry.

Grand River Navigation operates a total of five (5) self-unloading river class vessels throughout the Great Lakes, and together with our sister Canadian company represent and operate a total of thirteen (13) vessels in the domestic trades of the Great Lakes.

The majority of our vessels are considered river class size vessels has positioned us to build our business on a niche market, which means having the ability to move dry bulk materials in and out of smaller ports restricted primarily to smaller size ships. Our combined fleet carries approximately eighteen (18) million tons of bulk cargo throughout the Great Lakes ecosystem annually.

Our ships typically carry aggregates for the construction industry, coal for the power plants, iron ore for the steel mills, sand primarily for the refractory businesses, and salt primarily for the roads. In fact, as I speak, we have one of our vessels in transit to Milwaukee with another cargo of salt that is needed to maintain safe passage on the Wisconsin roadways in the difficult winter months. As an example of an adverse impact that passage of Assembly Bill 360 would have on the local municipalities, our inability to move salt into Milwaukee would result in a considerably higher cost should it have to be brought in by truck and rail exclusively. My understanding is that should delivery by vessel cease and the local municipalities were forced to rely solely on land based transportation, their costs will increase 300% to 400%.

Grand River Navigation has several key customers, including in the state of Wisconsin, that continue to rely on our ability to deliver bulk materials to their respective facilities both safely and efficiently. Grand River Navigation also prides itself on its focus to operate in an environmentally friendly manner at all times.

For example relative to ballast water exchange, the issue we are addressing here today, we fully comply with the present Best Management's Practices as developed by the Lake Carriers Association of which we are an active and proud member. Additionally, we continue to adhere to the strict guidelines governing other environmental concerns, including cargo residue, emissions, and overboard discharges.

Obviously, our ability to transit in and out of Wisconsin ports and generate jobs and revenues for many is dependent upon the outcome of the proposed regulations being addressed here today. For example, we deliver cargo to several Wisconsin based companies and industries that produce a revenue base in excess of \$2.7 million dollars. Just last year, we spent just over \$4.6 million dollars with Wisconsin vendors and suppliers to our fleet. Further, although a relatively small carrier in the industry, we spent approximately \$3.9 million at Bay Shipbuilding Company in Sturgeon Bay from the period beginning December 2007 through January 2009. Additionally, we anticipate spending in the range of \$1.1 to 2.8 million this upcoming winter in way of drydocking and miscellaneous repairs dependent on the ability and efficiency to winter our vessel(s) in Sturgeon Bay.

The critical issue facing our Company and also our fellow lake shippers is that should the Assembly Bill 360 as it is proposed today pass, it would bring an end to Wisconsin's ability to receive waterborne transportation and maritime influence. Additionally, it would severely impact and jeopardize our ability to continue to operate our vessels, provide the efficient service many of our customers have come to expect, and adversely impact many jobs, including not only our crewmembers, but those working at the shoreside facilities in the state of Wisconsin as well.

I would like to emphasize that our vessel trade patterns do not result in us bringing non-indigenous species into the Great Lakes as our operations remain within the lakes. Our vessels have never introduced non-indigenous species to the Great Lakes, nor would it be possible to introduce a non-indigenous specie due to the limitation on the trading patterns imposed on our vessels due to their construction as lakers (limited to operations 66 degrees west within the aquatic ecosystem of the Great Lakes). The Great Lakes shipping industry has been proactive in adopting "Best Management Practices" to mitigate the spread of aquatic non-indigenous species introduced by ocean-going vessels. Also, it is important to understand that these species will continue to move throughout the lakes on their own with or without us.

From a customer and cost standpoint, providing the lowest possible freight rates to our many customers served is critical to their ability to operate their businesses. Operating margins are very tight for both our fleet, especially given the fact that we operate smaller vessels and are many times limited in carrying capacity given draft or water level restrictions, and the end users. As such, neither we nor our customers can afford to absorb the significant cost that would result from a requirement to install ballast water treatment systems on all of our vessels at a cost estimated in the range of \$1 million per vessel. As we operate older vessels, one of which just celebrated its 80<sup>th</sup> year of service, having been built back in 1929, we need to reinvest on an annual basis in structural and machinery areas in order to insure their viability for years ahead. The present freight rates will not support new construction to replace these assets.

Technology to treat ballast water at the very high rates of intake and discharge utilized in our trades does not presently exist at the present time, and would provide little to no environmental benefit due to our vessels being physically incapable of the introduction of new species based on their trade patterns. Retrofits of existing vessels utilizing technology presently available would be impractical due to the physical space consideration, operating characteristics, and economic impact.

While imposing requirements that would essentially cripple a domestic industry that is not responsible for the problem, the state would not gain any environmental benefit and could potentially negatively effect the environment through a large modal shift to rail and truck, producing greater air emissions.

We acknowledge that the introduction of non-indigenous species into the Great Lakes is a very serious environmental and economic issue for which action is long overdue. The issue is that our domestic industry which has not been responsible for the problem should not be caught up in this legislation which instead should be targeted at the source and originator of the problem, which is ocean-going vessels.

Again, please understand that waterborne transportation is presently the most efficient mode of transporting millions of tons of raw materials in and throughout the Great Lakes, and most importantly the most environmentally friendly. Assembly Bill 360 in its present form is a catch all legislation which will do irreparable harm to the domestic shipping industry on the Great Lakes, the competitiveness of industries which rely on waterborne transportation, and the environment through a modal shift. Should this AB 360 pass, and we be forced spend capital to install ballast treatment systems, this would put the lake vessels at a competitive disadvantage with the railroads and trucks, and very likely end our ability to continue to operate and provide service to our many Great Lakes customers.

In conclusion, given the reasons stated here today, I sincerely urge you to not pass the AB 360 in its' present format, and exempt the lake vessels from having to meet the requirements.

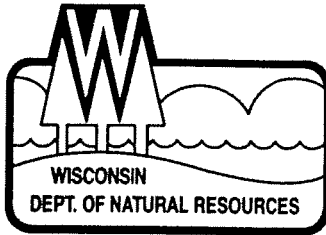
On behalf of Grand River Navigation Company, thank you for the opportunity to state our concerns.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mark J. Rohn', with a long horizontal flourish extending to the right.

Mark J. Rohn  
President





**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

Jim Doyle, Governor  
Matthew J. Frank, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

**Testimony of Todd Ambs  
Water Division Administrator  
Wisconsin Department of Natural Resources  
Before the Assembly Natural Resources Committee  
Regarding AB 360  
September 2, 2009**

Thank you for the opportunity to testify on behalf of the Department of Natural Resources on Assembly Bill 360 relating to discharges of ballast water and related substances into the waters of the state.

We strongly support the need to control all ballast water discharges to the Great Lakes now. Aquatic habitat and species managed by the State of Wisconsin in the Great Lakes are continually threatened and impacted by invasive species and non-native diseases transported by ships' ballast water. It is widely known that all waters of the Great Lakes watershed are threatened by rapid dispersal of non-natives through ballast water transfers. These invasive species take a steep toll on our Great Lakes, inland waterways and \$13 billion dollar tourism industry.

More than 180 nonnative fish, plants, insects and organisms have entered the Great Lakes since the early 1800s, disrupting the food chain, fouling beaches, clogging infrastructure and costing citizens, industry and businesses more than \$200 million a year. Research has shown the primary way aquatic invasive species enter the Great Lakes is when ocean-going vessels discharge the ballast water they've carried on the ship to provide balance. Governor Doyle has been a leader in fighting aquatic invasive species in Wisconsin and under his administration funding has increased to help stop their spread on inland waters.

Everyday there is the potential for new introductions of aquatic invasive species (AIS), or the spread from one Great Lake port to another. Once the invasive establishes itself, the state and federal governments must address this problem and try to contain them. In the last 10 years, over three billion dollars have been spent in the Great Lakes to mitigate the damage by one invasive species, the zebra mussel. The burden of treating ballast water prior to discharge does not compare to the billions of dollars that are spent by taxpayers to control invasives that have been brought to these waters by ballast waters.

Because of this, we strongly support the need to regulate all commercial vessels that discharge ballast waters into waters of the state and are very interested in working with the legislature to advance solutions to this serious problem.

Our preference has always been for international standards to address this worldwide problem, and failing that, a strong national standard must be adopted. Since this has yet to happen, we cannot afford to wait any longer for more research to take place. New species like viral hemorrhagic septicemia (VHS) are appearing, Quagga Mussels are making the impacts of Zebra Mussels seem tame and we must react quickly to try to stop the spread of these aquatic menaces.

I especially want to applaud Representative Molepske, the author of AB 360, for his tireless work over many years to seek a legislative solution to this problem. AB 360 continues his diligent efforts over the last several sessions and we again want to thank him for his leadership.



We do have some specific suggestions for how to improve AB 360 that we have shared with Representative Molepske. We look forward to working with him more in the coming weeks.

Today though, I would like to take a few minutes to update the Committee regarding our work to develop a State of Wisconsin ballast water discharge general permit and to briefly discuss the just proposed federal regulations that were released by the Coast Guard last Friday.

On February 20 of this year our agency released a draft ballast water state general permit for public comment. In short, the permit proposed several actions:

The state permit is designed to help protect our waterways from aquatic invasive species while maintaining a robust shipping industry in Wisconsin. However, our agency in general, Secretary Frank in particular, and indeed Governor Doyle have all repeatedly stressed the we continue to see strong national action as the best solution to address this problem.

The permit would be valid for five years. Ocean-going ships would have to meet strict standards for the number of living organisms allowed in the ballast water they discharge in Wisconsin ports. The draft permit proposed that:

- Beginning in 2012, assuming commercially viable technology is available, existing ocean-going ships would have to meet a standard for living organisms in the ballast water they discharge that is 100 times more protective than the standard proposed by the International Maritime Organization (IMO). New York State uses the same standard.
- Beginning in 2013, assuming commercially viable technology is available, new ocean-going ships would be required to meet a standard that is 1,000 times more protective than the proposed international standards, and the same as California's.
- Commercial vessels that move only among Great Lakes ports, known as "lakers," would not have to meet a ballast discharge standard in this general permit, which would be effective through 2014. However, they would be required to immediately take steps to prevent spreading aquatic invasive species around the Great Lakes. These steps, or best management practices, are required upon coverage of the permit. A sediment management plan shall be maintained and conform to the U.S. Coast Guard standards.

A treatment standard for lakers may be included in the next general permit that DNR would issue. In the meantime, Wisconsin will be working with Minnesota to evaluate the various treatment systems available to commercial shippers.

We are also pleased to report that since the draft permit was issued we received approval from the Legislature and the Governor in the recently passed Biennial Budget bill to charge fees for these permits and to use those new resources to hire three new staff to administer the program in Wisconsin.

When we went out to public hearing, we heard a number of concerns about the draft permit. In general the regulated industry was concerned about the time frame for requiring the technology to be installed on existing vessels and the process by which we would determine if the technology exists to achieve the desired treatment level prior to the beginning of a shipping season.

We have heard those concerns clearly and will be addressing them in our final permit, which we plan to have completed early this fall. But we remain convinced that the so-called IMO standard is simply not protective enough to achieve the needed safeguards against this significant potential vector for additional aquatic invasive species.

That is why we were so encouraged to hear about the Coast Guard rule that was proposed last week. The U.S. Coast Guard proposed rule USCG-2001-10486 was published in the federal register on Friday August 28, 2009. This rule proposes Phase I discharge standards for ballast water to meet IMO standards for all vessels (not just ocean going vessels) by January 1, 2014, with ballast tanks between 1,500 and 5,000 cubic meters by January 1, 2016, for vessels with ballast tanks less than 1,500 or greater than 5,000 cubic meters.

The Phase II standard will require 1000 times the IMO standard for new vessels on January 1, 2016, and for all existing vessels when first dry docked after January 1, 2016. The Coast Guard will review treatment technology and decide whether it can be practically implemented by early 2013. They propose to continue to review the technology every 3 years to determine if a more restrictive standard could be achieved. The regulations clearly state a goal of elimination of aquatic invasive species (AIS) from discharges from ballast water into the waters of the U.S.

It was also encouraging to hear that the Coast Guard is also interested in looking at the Great Lakes as a more sensitive ecosystem and may want to justify more stringent standards or compliance dates. They specifically requested comments on whether vessels should be required to discharge into an on-shore treatment prior to entering the Great Lakes.

While this proposed Coast Guard regulation is a significant step forward, there will be a long delay before it is final. As a result, we remain committed to our position that continued discharges of AIS from ballast waters are unacceptable. The Department intends to issue a state general permit now with strong performance standards that support the national efforts put forth in this Coast Guard rule, to help prevent any backsliding of recommended discharge standards.

Thank you for providing the opportunity for the Department to comment on AB 360 and on the general issue of ballast water as a vector for aquatic invasive species into the most significant fresh water resource on the planet – our Great Lakes. We look forward to working with the Legislature to advance the best possible regulatory actions to protect the waters of the state.





## John Muir Chapter

Sierra Club - John Muir Chapter  
222 South Hamilton Street, Suite 1, Madison, Wisconsin 53703-3201  
Telephone: (608) 256-0565 Fax: (608) 256-4562  
shahla.werner@sierraclub.org <http://wisconsin.sierraclub.org>

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### **Support AB 360, Ballast Water Bill to Prevent Aquatic Invasives**

Before the Assembly Natural Resources Committee

September 2, 2009, 10:00 a.m., 412 E

Jim Connors, Volunteer Lobbyist, Sierra Club- John Muir Chapter

Thank you for holding a public hearing on this important bill, and for accepting our comments on this key conservation issue. Sierra Club- John Muir Chapter's members strongly support AB 360, a bill which would require all vessels that take on ballast from outside of Wisconsin waters to obtain a permit from the DNR. This permit will require treatment of water and sediments to kill aquatic invasive species prior to discharging ballast water into Wisconsin waters.

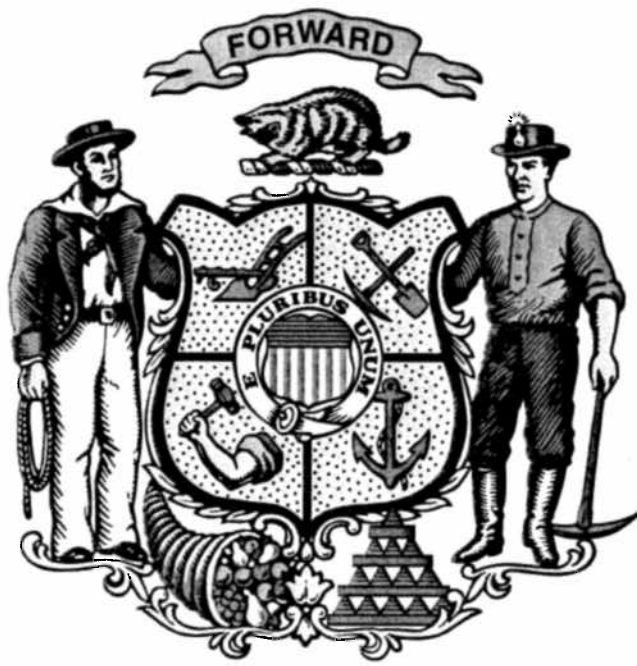
It is apparent that the federal legislation to regulate ballast water is unlikely to move this year. AB 360 will allow the DNR to prevent the introduction of new invasive species in the interim. An ounce of prevention is worth a pound of cure in the case of invasive species, which are much more expensive to control - if control is even possible- once they are established in a water body.

Approximately 170 introduced invasive species are established in the Great Lakes, including the zebra mussel, quagga mussel, alewife, round goby, white perch, rusty crayfish, and spiny water flea. These harmful, aquatic invasive species have the power to devastate ecosystems by disrupting food webs, degrading habitat, and competing with native species.

An editorial from Monday's *New York Times* called invasive species the lakes "biggest and most complex enemy." They went on to describe how the invasion of the quagga mussel has led to the complete collapse of recreational fishing in Lake Huron, and warned that Lake Michigan could be next. They used this example to emphasize how important it is to stem the tide of invasive introductions- and recommended "sterilizing the ballast of overseas freighters or, possibly, closing the lakes to foreign shipping" to stop polluting ships from degrading the Great Lakes.

Industries spend \$2 million annually to clean colonies of zebra mussels off their water intake pipes. Controlling invasive species costs the Great Lakes region an estimated \$5 billion annually, and the existence of these species is putting our \$4.5 billion per year sport fisheries at risk. The Sierra Club – John Muir Chapter is disappointed that some development-oriented groups have chosen to oppose this critical bill. Given these staggering economic impacts, it is plain to see that passing AB 360 is sensible policy that is vitally needed both to protect our fragile aquatic habitats and to protect our economy.

Thank you for considering this important legislation. We urge you to pass AB 360 this year.





WISCONSIN STATE REPRESENTATIVE  
**Louis J. Molepske, Jr.**  
71ST ASSEMBLY DISTRICT

**Testimony for the Assembly Natural Resources Committee**  
**Assembly Bill 360**  
**Ballast water regulation**  
**9/2/09**

Fifty years ago last June, the St. Lawrence Seaway opened with much fanfare and President Dwight Eisenhower and Queen Elizabeth II sailing down the St. Lambert lock to Montreal in celebration. The Seaway opened the Great Lakes to the rest of the world and has allowed states such as Wisconsin to easily ship our grain overseas. Yet, opening the once-isolated freshwater lakes to the world has brought more than dollars. Harmful invasive species of plants and animals hitched a ride on the ocean-going vessels sailing to the Great Lakes and found a new home in our waters when the ballast water was dumped and cargo was loaded.

Ballast water is the number one source of harmful aquatic invasive species in the United States and Wisconsin. Zebra mussels, quagga mussels, and spiny water fleas are just a few of the harmful invasive species that have hitched a ride to Wisconsin in the ballast tanks of commercial ships. Aquatic invasive species inflict significant economic and ecological impacts on the state of Wisconsin, causing economic and cultural losses for industries, communities, and ecosystems.

The damage caused by aquatic invasive species is extensive. The ecological damage caused to Wisconsin lakes and waterways has made many of these places unattractive to residents and tourists. By dumping untreated ballast water in Wisconsin waters, the shipping industry is forcing our citizens, waterways, and industries to bear the cost of its business.

The price we pay for invasive species is steep: Researchers estimate the economic losses due to aquatic invasive species in the Great Lakes basin to be approximately \$5.7 billion a year. Most of this impact falls on the commercial and sport fishing industries, with estimated losses of \$4.5 billion. In Wisconsin, some industries affected negatively by invasive species include tourism, sport and commercial fishing, and raw water users (power companies and utilities).

In 2001, Wisconsin Electric Power Company reported that they were spending \$1.2 million per year in the control of zebra mussels on their Lake Michigan power plants. These animals congregate on and clog intake and distribution pipes. These expenses are passed on to Wisconsin consumers in the form of higher water and electric bills.

In Wisconsin, most of our industries are already required to have a permit to discharge waste water. Many well-known companies, such as Kohler, Kimberly Clark, Procter and Gamble, and even the Wisconsin Department of Natural Resources itself must obtain permits to discharge waste water into state waterways. Why should the shipping industry be different?

As you may have heard, the Coast Guard has recently proposed a new rule for ballast water discharged in US waters. However, many environmental groups are concerned that the Coast Guard's proposed rules will not be implemented quickly enough to be as effective as state standards. In this case, there is still a need for a strict, state-level program to ensure that invasive species stop reaching Wisconsin's waters.

Fortunately, the DNR has recognized the importance of preventing the introduction of aquatic invasive species, and is currently developing a permit system to regulate ballast water in Wisconsin. However, the DNR's permit program is not mandated by statute. AB 360 is necessary to ensure the permanence of this program. I have met with officials from the DNR and am working with them to amend the language of AB 360 in order to strengthen their permit program.

Prevention is critical to controlling the impacts of invasive species, and AB 360 is a vital step in protecting our state waterways from the threat of future aquatic invasive species.

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## 1. Background

- a. Aquatic invasive species inflict significant economic and ecological impacts on the state of Wisconsin, causing economic and cultural losses for industries, communities, and ecosystems. "Invasive species" means a species whose introduction to an area does or is likely to cause economic or environmental harm or harm to human health.
- b. Over 160 aquatic invasive species have been introduced to the Great Lakes since the 1800's, most of them by transportation in ships' ballast water. Ballast water represents a significant vector for the movement of aquatic invasive species around the Great Lakes Basin.
- c. Once present in Wisconsin waters, invasive species move through smaller rivers and streams and infect waterways all over the state.
- d. Economic losses due to aquatic invasive species in the Great Lakes basin are estimated at \$5.7 billion a year. Most of this impact falls on the commercial and sport fishing industries, with estimated losses of \$4.5 billion.

## 2. Current Law

- a. The transportation and release of ballast water is currently unregulated in the state of Wisconsin. There are currently no state statutes that require ballast water to be treated or managed for aquatic invasive species.
- b. Federal regulation is minimal; the EPA's recent Vessel General Permit (VGP) program (2008) does not address biological standards relevant to aquatic invasive species. This lax federal oversight is why the DNR has proposed a ballast water permit program.

- c. The Wisconsin Department of Natural Resources has proposed rules that would create a ballast water permit program. This program would prohibit the release of untreated ballast water in Wisconsin waterways. Any ballast water released must be treated to remove or kill invasive species.
- d. The DNR's proposed rules are not bound by state statute or by any deadline for implementation. AB 360 would create a statute that mandates a ballast water program as well as create deadlines for implementation.

3. AB 360

- a. Creates a state statute mandating the creating of a ballast water permit program
- b. Requires the Department of Natural Resources to create and manage a permit program for any vessel that takes on ballast water outside the waters of the state.
- c. Prohibits the discharge of untreated ballast water, sediment, or water other than ballast water that has been in a ballast tank into waters of the state.
- d. Requires vessels to have a completed application permit on file. These permits will be valid for no more than five years.





Tuesday, September 1, 2009

Nation & World | Health | Money & Business | Education | Opinion | Science | Photo | Video | Rankings |

## Invasion of the Zebra Mussels

### How political gridlock is helping a pesky mollusk gum up the Great Lakes

By Bret Schulte

Posted 2/25/07

The increasingly clean water of the Great Lakes would appear to signal a healthy ecosystem. In Lake Erie, water clarity now goes as deep as 30 feet. But under that crystal surface lurks a dark reality: The sparkling water is the result of an explosion of zebra mussels, a Russian mollusk that sucks up nutrients with ruthless efficiency. The result is chaos for the fishing industry and other wildlife, as well as growing maintenance problems for boats and port facilities. One key link in the food chain—the tiny crustacean diporeia—has plummeted 99 percent in some lake areas since the mussels began taking hold in the late 1980s. "Diporeia are being starved," says Jennifer Nalbone of the environmental group Great Lakes United, "because the zebra mussel is consuming their food."



**DAMAGE.** Dead fish lie along the shore of Lake Michigan.

ANDY KLEVORN-LUDINGTON  
DAILY NEWS/AP

From 1993 to 2003, rapidly multiplying zebra mussels caused \$3 billion in damage to the Great Lakes region, crippling the fishing industry while rapidly colonizing everything from turtles to boats. One Michigan town lost water for three days after a mussel colony clogged its water-intake pipe. The mussels are one of about 180 foreign species of all kinds that have invaded the Great Lakes, largely by hitching a ride on overseas shipping vessels. And many have spread through streams and lakes to affect other states. Locals say cries for federal help have yielded little in return. As a result, a patchwork quilt of tough state laws is emerging, frustrating the shipping industry and prompting Washington to take another shot at enacting blanket federal rules.

**Ballast.** At the heart of the battle is the shipping industry. When cargo vessels are light, they take on water for stabilization. Called ballast water, it's

often teeming with stowaways in the form of small organisms, eggs, and plant matter. When the water is released, so are they. The amount of ballast water may vary with the cargo; even laden ships still carry some water swishing in their tanks. The problem hit the Great Lakes with the 1959 opening of the St. Lawrence Seaway, which cleared a path for large cargo ships from the Atlantic. Congress attempted to stem the problem in 1990 with the Nonindigenous Aquatic Nuisance Prevention and Control Act, which forced ships to exchange ballast water hundreds of miles from shore before entering the Great Lakes. Though the law has been expanded to all U.S. waters, critics like Phyllis Windle of the Union of Concerned Scientists say that "it's increasingly behind the times." New technology such as ultraviolet light or deoxygenation can kill many organisms but is still not widely used. And while the law allows ships designated as "No Ballast on Board" to dock freely, these ships still carry low levels of water from which organisms seep out.

Many states have had enough. California, Oregon, and Washington have passed strict regulations for ballast water. But the toughest of all is Michigan, which as of January requires oceangoing vessels at its ports to obtain a permit by proving to officials they will not discharge contaminated water. Wisconsin, which has spent over \$5 million in the past four years fighting invasive species, may follow the lead. Wisconsin state Rep. Louis Molepske, who recently introduced legislation, says, "We will not sit back while our waters are destroyed."

The state rules have dismayed the shipping industry, which argues that the array of permits and regulations is costly and time consuming. The shipping industry took another blow in 2005, when a federal judge ruled that ballast water is a pollutant and must be regulated by the EPA under the Clean Water Act. The EPA is appealing, arguing the act is more appropriate for stationary pollution sources. Congress is looking at a permanent fix after several attempts in recent years were stalled by competing bills or key committee chairmen seeking to use the legislation as a trading chip for their own priorities.

In coming weeks, Michigan Sen. Carl Levin will introduce a bill with tough new standards on ballast discharge that he hopes will encourage vessels to install technology that kills a large percentage of biomatter. But even Levin's office worries about the proposal's fate. Because the legislation wouldn't supersede state laws, the shipping industry is likely to fight. That could mean more gridlock. "The integrity of the Great Lakes," laments Nalbone, "is being erased by our inability to act." The last best hope may be to find some

integrity in Washington.

This story appears in the March 5, 2007 print edition of U.S. News & World Report.

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# Wisconsin Wildlife Federation

Sept 2nd  
2009

## Testimony in Support of Assembly Bill 360 Regulating the Discharge of Ballast Water and Invasive Species into Wisconsin Waters

Chair Black, Members of the Assembly Natural Resources Committee. On behalf of the Wisconsin Wildlife Federation, thank you for the opportunity to testify here today on a truly critical bill for the future of the Great Lakes and Wisconsin's 15,000 inland lakes and 10s of thousands of miles of streams. The Wisconsin Wildlife Federation is comprised of over 160 hunting, fishing, trapping and forestry-related organizations in the state including the Wisconsin Federation of Great Lakes Sports Fishing Clubs and seven local Great Lakes fishing clubs from Kenosha in the south to Marinette in the north.

We strongly support this bill and applaud Rep. Molepske for his important and persistent efforts to tackle this most serious of problems affecting the fishery in our lakes and streams. It is way past time to take action on this issue.

The Federation and the groups we represent working with scores of other environmental and conservation groups have worked hard to pass federal and state legislation to effectively deal with the invasive species problems caused by the discharge of ballast water from international ships into the Great Lakes. It has been a decades long series of delays on the federal level and when federal actions are proposed or taken, they are too weak or scheduled for some future decade.

On a state agency level, things are not progressing fast either. DNR delayed taking action for years because they said they were waiting for the federal government to take action. Finally through the efforts of the Wisconsin Wildlife Federation, eleven state and local fishing and environmental groups filed a petition with the Natural Resources Board in December 2007 asking them to direct the DNR staff to exercise their existing statutory authority and issue a WPDES permit regulating the discharge of ballast water from international ships into the Great Lakes. In February 2008, the DNR acknowledged that they had the authority to regulate ballast water discharges. In March 2009 they held a public hearing on a proposed permit. It is now September and no decision has been made to issue the permit. This is an incredible delay for an agency who is routinely seeing its Great lakes sports fishery being seriously and adversely affected by invasive species reaching our waters from the ballast water from international ships. This is an agency that has had to issue repeated emergency rules regulating sports angler to stop the spread of invasive species brought into our waters by these international ships and still there is no "emergency" regulation of the cause of the problem, the discharge of ballast water. Please keep in mind that this is a fishery that we the sports anglers totally pay for.

Sportsmen and women throughout the state cannot believe that thirty-seven years after the passage of the national and state Clean Water Acts, international ships are allowed to

discharge their ballast water into the Great Lakes without any permit or effective treatment. The results of these unregulated discharges are the presence of zebra mussels, quagga mussels, Eurasian Ruffe, round goby, white perch, spiny water flea, phragmites, possibly VHS and over 170 other invasive species that have devastated the Great Lakes ecosystem and its recreationally and economically important sports fishery. We all have seen the results, the collapse of the salmon fishery in Lake Huron, the expenditure of over \$1.5 billion in the last 20 years to deal with the clogging of water and discharge pipes, the loss of 93% of the forage base for Lake Michigan's fishery and the severe fouling of our beaches just to name a few.

These invasive species just don't stay in the Great Lakes, they infest our inland lakes and are transmitted throughout the country. Wisconsin sportsmen and women contribute over \$80 million through licenses, stamps and excise taxes to the state's Fish and Wildlife Account that is used to enhance and protect our fish and wildlife resources and their habitat. These hunters, anglers and trappers see that same habitat devastated by the irresponsible actions of international ships discharging their ballast water into our waters. I spend virtually all of my time talking and listening to the sportsmen and women in this state and when it comes to the discharge of ballast water from international ships, they say that: "We are fed up with it and it has to stop now."

**When will the shipping industry clean up its ballast water discharges? When will the state and federal government act to protect our natural resources Hopefully it will be before the \$ 7 billion a year Great Lakes fishery is totally collapsed. Every other industry or municipality in this state must treat their waste and protect the water quality of the state. Why should the international shipping industry be free from comparable regulation?**

Chair Black and members of the Committee, please take swift action on this legislation to cause effective measures to be taken in the immediate future to prevent further serious degradation of Wisconsin's fisheries and waters.

Thank you for the opportunity to testify here today.

Submitted by:

George Meyer  
Executive Director  
Wisconsin Wildlife Federation

September 2, 2009





WISCONSIN'S BUSINESS VOICE SINCE 1911

**TO:** Assembly Committee on Natural Resources  
**FROM:** Scott Manley, Environmental Policy Director  
**DATE:** September 2, 2009  
**RE:** Assembly Bill 360 - Ballast Water Discharge Permits

---

Wisconsin Manufacturers & Commerce (WMC) is opposed to Assembly Bill 360, which would require commercial shipping vessels operating on the Great Lakes to obtain a ballast discharge permit from the Department of Natural Resources (DNR). While we believe this is well-intentioned legislation, we ask you to oppose it because it will place Wisconsin at a serious competitive disadvantage relative to other Great Lakes states.

WMC is the state's largest business trade association, with nearly 4,000 members in the manufacturing, service, health care, retail, energy, banking, insurance and other service sectors of our economy. WMC is dedicated to making Wisconsin the most competitive state in the nation to do business, and toward that goal, we support consistent, cost-effective and market-driven regulatory approaches that recognize a balance between environmental protection and the competitiveness of Wisconsin's jobs and economy.

### **The Importance of Manufacturing & Great Lakes Shipping to our Economy**

Before addressing specific concerns with respect to Assembly Bill 360, it is necessary to place into context the importance of manufacturing jobs to Wisconsin's overall economy. There are nearly 500,000 employees in Wisconsin's manufacturing sector, and more than 10,000 manufacturing businesses statewide. These jobs, which include both union and non-union workers, pay among the highest wages in our workforce, with salaries averaging almost \$46,000 per year - 25 percent higher than the state average.

Manufacturing accounts for more than \$47 billion in economic output each year -- nearly one-fourth of all goods and services in our state. In 2008 alone, Wisconsin businesses exported roughly \$19 billion in manufactured goods to other countries. Hundreds of thousands of Wisconsin families depend either directly or indirectly on a healthy manufacturing sector for their livelihood. As such, it is critically important that we maintain the vitality and competitiveness of manufacturing in Wisconsin.

An important factor for many Wisconsin businesses is the ability to utilize Great Lakes shipping as a means to receive raw materials, and participate in the international marketplace. Wisconsin's commercial shipping ports play a very important role in this regard. Each year, Wisconsin ports handle about 44 million tons of cargo, with an estimated value of \$7 billion. To put that into perspective, a typical container ship carrying 25,000 tons of cargo would require about 870 semi-trailer trucks to move the same amount of goods. Waterway shipping is also very fuel efficient. A cargo ship can move one ton of cargo more than 500 miles per gallon of



fuel. Great Lakes shipping continues to be a cost-effective and efficient means to transport goods and keep our economy afloat.

### **The Importance of a Level Economic Playing Field**

Given our unprecedented economic downturn, it would be particularly untimely to enact excessive regulations that jeopardize the ability of manufacturers to rely upon affordable Great Lakes shipping. Manufacturers are simply not in a position to absorb additional regulatory or transportation costs, given that economic challenges have already resulted in the loss of more than 130,000 Wisconsin manufacturing jobs since the year 2000.

There are many factors contributing to this trend, including national and international market forces beyond our state's control. However, there are many factors that influence our manufacturing competitiveness that Wisconsin *can* control, including our regulatory climate. Therefore, it is critically important that Wisconsin avoid adopting measures that make it more difficult and more expensive to attract and retain high-paying manufacturing jobs.

WMC believes the ballast water discharge regulations proposed in Assembly Bill 360 will create an unlevel playing field among Great Lakes States, and specifically, place Wisconsin businesses at a severe and expensive competitive disadvantage. At the same time, stringent "Wisconsin only" ballast water regulations will add substantial additional cost to Wisconsin manufacturers' participation in the international marketplace at a time when they can least afford it.

### **Assembly Bill 360 Takes the Wrong Approach**

WMC recognizes that aquatic invasive species are a serious environmental issue deserving of regulatory scrutiny. The authors of the bill are to be commended for their well-intended effort to address this important issue. However, the interconnected nature of the Great Lakes, combined with the fact that eight U.S. states and two Canadian provinces are located along the shipping channel, dictates that one state alone cannot solve this problem. For this reason, a uniform federal regulation, or a consistent policy among the individual Great Lakes states, is needed to ensure that environmental protection and economic competitiveness goals are met.

Rather than pursuing a uniform standard consistent with what other Great Lakes states have adopted, Assembly Bill 360 proposes a "Wisconsin only" standard that is very stringent, if not technically infeasible to meet. Unlike other states who have adopted internationally recognized ballast discharge standards, the bill would apply to both oceangoing and freshwater commercial ships.

The unintended consequence of this approach is the creation of a strong incentive for oceangoing vessels to avoid Wisconsin ports.

As you may know, the DNR is already drafting a general permit to regulate ballast discharges from oceangoing commercial vessels. As part of the public comment process associated with that draft permit, WMC has advocated for enactment of ballast standards consistent with those of the International Maritime Organization (IMO). Other Great Lakes states have adopted the IMO standards, including Minnesota, Illinois, Indiana, Ohio and Pennsylvania. We are very concerned that enactment of "Wisconsin-only" standards, which place our regulations at odds with neighboring states, will result in the diversion of commercial shipping away from

Wisconsin ports. This concern is magnified with respect to Wisconsin's busiest port located in Superior, which shares a harbor with Duluth, Minnesota.

Jim Sharrow, who serves as facilities manager for the Duluth Seaway Port Authority, referred to the Wisconsin-only approach to ballast water regulation as a "risky position" in a March 16, 2009 story appearing in the *Capitol Times*:

"I'd describe what Wisconsin is doing as pushing on a rope. It's not going to work. Unless all the states band together and pass the same standards, *Wisconsin runs a high risk of turning business away from their state entirely*. That's the risky position that Wisconsin has decided to take." (emphasis added)

Mr. Sharrow's comments, which were specific to the DNR's proposed ballast discharge permit, underscore the competitive nature of Great Lakes shipping ports, and the great economic risk associated with adopting regulations that give ports in other states a competitive advantage over our own.

Now more than ever, we cannot afford to hamstring our economic recovery by enacting expensive and untenable regulations, however well-intended they may be. Rather, Wisconsin should align our ballast regulations with those of the majority of our neighbors, and codify the internationally-recognized IMO standards for ballast discharges.

Thank you for your thoughtful consideration of our position on Assembly Bill 360. Please feel free to contact me if you have any questions, or if I can provide you with additional information, at (608) 258-3400 or smanley@wmc.org.



SEP 11 2009

September 9, 2009

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

**Re: 2009 Assembly Bill 360**

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Dear Mr. Black,

The Shipping Federation of Canada (the Federation) regrets that it was unable to send a representative to the September 2<sup>nd</sup> hearing on Assembly Bill 360 of the Committee on Natural Resources. Nevertheless, we greatly appreciate the opportunity to submit our comments in writing, as this legislation is of significant importance to our members, many of whom either transit from overseas to the Great Lakes through the Seaway, or have U.S. based operations.

We agree with the views of the Wisconsin legislature, the Wisconsin Department of Natural Resources and the general population on the need to eliminate the risk of introducing and propagating aquatic nuisance species. The international shipping industry has participated in many of the mitigation efforts that have been developed over the past twenty years, both from a regulatory and a technology development perspective. It is worth noting that the International Maritime Organization (IMO) has already done a significant amount of work on a global level by adopting (in 2004) the *International Convention for the Control and Management of Ships' Ballast Water and Sediments*, and developing a series of guidelines to implement the Convention in a uniform manner. The Convention requires new ships to be equipped with on-board ballast water treatment technologies as of 2012, with a gradual phase-in until 2016.

While progress in approving ballast water treatment systems has been slow, we are pleased to report that following the most recent session of the Marine Environment Protection Committee (MEPC) this past July, the total number of treatment systems that have received Type Approval now stands at six. In view of the foregoing, we would suggest that section 283.34(3) of the permit conditions (which allow the department to approve technologies in addition to the four mentioned in the bill) be amended to remove any references to specific technologies. Given that the number of IMO Type Approved technologies is still limited, the inclusion of conditions that identify specific treatment systems will only reduce the options that are available to the shipowner even further.

In addition, we recommend that the bill include explicit recognition of ballast water exchange as an effective interim solution to the aquatic nuisance species issue. Several studies, including those published by NOAA and the National Research Council of the National Academies, have confirmed that the practice of exchanging ballast water at sea is currently the optimal means of mitigating the risk of introductions. Given that this practice is also mandated by Canadian and U.S. legislation, its inclusion in the bill would go a long way towards harmonizing the requirements that are currently in effect in the Great Lakes. The need for such harmonization is clearly illustrated in the attached map, which shows the regulatory fragmentation that currently exists in the Great Lakes due to the adoption of standards and timelines that differ from those established by the IMO. In view of its global nature, the international shipping industry would be far better served by uniform and consistent rules than by the regulatory patchwork that is currently in place.

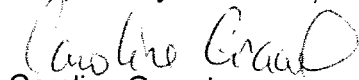
The adoption of the current international performance standard, or of a federal standard at the very least, would serve as an incentive to the development of ballast water treatment systems and technology. In terms of a federal standard, we believe that the performance standard that was recently published by the U.S. Coast Guard (the federal agency responsible for regulating ballast water management and discharges) offers a way forward by providing a standard that would apply in all States.

Finally, it is our view that the addition of yet another permit program to those that have already been developed in the States of Michigan and Minnesota will increase the administrative burden imposed on our member companies and their crews. While this is not desirable, we are pleased that discussions between industry representatives and officials from the Department of Natural Resources (held on June 29<sup>th</sup>) resulted in a commitment from both groups to seek solutions that respond to the needs and concerns of all parties. We believe that the proposal that was subsequently submitted to the Department by Fednav represents a viable basis for future discussions on the specifics of the permit.

Before closing, we take this opportunity to highlight our commitment to collaborating with the Wisconsin legislature, the Wisconsin Department of Natural Resources and the Committee on Natural Resources to find solutions to the AIS issue, while underlining the need to ensure that the actions of individual states do not unduly complicate operations for oceangoing vessels calling Wisconsin ports.

We thank you for the opportunity to provide our views on this proposed Bill, and we would be pleased to provide any additional clarification or information you may require.

Respectfully Submitted,



Caroline Gravel  
Director, Environmental Affairs

*The Shipping Federation of Canada (The Federation), incorporated by an Act of Parliament in 1903, acts as the pre-eminent voice of shipowners, operators and agents involved in Canada's world trade. Its overall objective is to work towards a safe, competitive and environmentally sustainable marine transportation system. As an industry leader on marine environmental issues, the Federation serves as a frontline information resource on environmental regulations, policies and practices applicable to ships trading in Canadian waters; promotes the importance of international conventions and standards as the optimal means of responding to environmental challenges; and provides operational know-how and expertise in the development of best practices and management systems.*

*The Federation's membership consists of the Canadian companies that own, operate or act as agents for 95 percent of ocean vessels trading to and from ports in Atlantic Canada, Newfoundland & Labrador, the St. Lawrence River and the Great Lakes – vessels which are responsible for transporting virtually all of the trade moving between eastern Canada and ports overseas. The Federation's members also represent virtually all the international cruise vessels calling at eastern Canadian ports.*

## Summary of Key Elements of Great Lakes State Ballast Water Treatment Permit Requirements & U.S. Clean Water Act Sec. 401 Certification Conditions




State	Regulatory Vehicle	Existing Oceaongoing	New Oceaongoing	Existing Lakers	New Lakers	Comments
Illinois	401 Certification	IMO by Jan. 2016	IMO for ships launched after Jan. 2012	IMO by Jan. 2016	IMO for ships launched after Jan. 2012	
Indiana	401 Certification	IMO by Jan. 2016	IMO for ships launched after Jan. 2012	---	---	
Michigan	State permit 401 Certification	Discharge prohibited unless approved treatment to prevent AIS in place	Discharge prohibited unless approved treatment in place	---	---	Rights reserved to modify 401 Cert. if it is determined that ballast treatment on lakers is necessary, available and cost effective
Minnesota	State Permit 401 Certification	IMO by Jan. 2016	IMO for ships launched after Jan. 2012	IMO by Jan. 2016	IMO for ships launched after Jan. 2012	MPCA approval of treatment technology
Ohio	401 Certification	IMO by Jan. 2016	IMO for ships launched after Jan. 2012	---	IMO for ships launched after Jan. 2016	
Pennsylvania	401 Certification	IMO by Jan. 2016	Various standards more stringent than IMO for ships launched after Jan. 2012	IMO by Jan. 2016	Various standards more stringent than IMO for ships launched after Jan. 2012	Can request to extend compliance date if can justify
New York	401 Certification	100x IMO by Jan. 2012	1000x IMO for ships launched after Jan. 2013	100x IMO by Jan. 2012	1000x for ships launched after Jan. 2013	Can request to extend compliance date if can justify
Wisconsin	Draft State Permit No finding on 401 Certification	100x IMO by Jan. 2012; if no technology then IMO applies	1000x IMO for ships launched after Jan. 2013, if no technology, then IMO applies	BMPs and sediment management plan may have discharge standard in future	BMPs and sediment management plan	Hearing held March 23 – evaluating comments submitted on General Permit which state plans to issue with revisions




**States' proposed or existing ballast water treatment standards for vessels using the Great Lakes and the region's ports\***

**Existing oceangoing vessels**

**Existing "lakers" (non-oceangoing vessels)**



-  Comply with proposed International Maritime Organization (IMO) standard by 2016
-  Comply with standard 100 times more stringent than IMO standard by 2012 (if not technically feasible, Wisconsin then uses IMO standard)
-  Michigan does not use IMO standard; treatment requirements are based on 2005 legislation and permit program already in place

-  Comply with proposed IMO standard by 2016
-  Comply with standard 100 times more stringent than IMO standard by 2012
-  No standard (Wisconsin requires management plan of lakers)

\* In many cases, earlier and/or more-stringent requirements apply to new oceangoing vessels or lakers that launch after 2012 or 2016. States' permit programs and treatment standards have been initiated in different ways, including legislation, state agency-initiated permit programs and "401 certification" (as part of the U.S. Clean Water Act, states have the authority to protect their waters beyond minimum federal standards).

Sources: Great Lakes Commission, Great Lakes United and CSG Midwest research

**Ballast Water Treatment Requirements Based on the International Convention for the Control and Management of Ships' Ballast Water and Sediments (International Maritime Organization (IMO))**

<b>Parameter: Living Organisms</b>	<b>Limit</b>
Organisms greater to or equal to 50 micrometers in minimum dimension	Less than 10 viable organisms per cubic meter
Organisms less than 50 micrometers in minimum dimension and greater than or equal to 10 micrometers in minimum dimension	Less than 10 viable organisms per milliliter
<b>Parameter: Concentrations of Indicator Microbe</b>	
Toxicogenic <i>Vibrio cholerae</i> (O1 and O139)	Less than 1 colony forming unit (cfu) per 100 milliliters or less than 1 cfu per 1 gram (wet weight) zooplankton samples
<i>Escherichia coli</i>	Less than 250 cfu per 100 milliliters
Intestinal Enterococci	Less than 100 cfu per 100 milliliters





Date?



clean wisconsin

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Website: [www.cleanwisconsin.org](http://www.cleanwisconsin.org)

*(Formerly Wisconsin's Environmental Decade)*

Clean Wisconsin appreciates the opportunity to offer testimony about AB 360. Clean Wisconsin protects Wisconsin's clean water and air and advocates for clean energy by being an effective voice in the state legislature and by holding elected officials and polluters accountable. Our mission is to protect the special places that make Wisconsin such a wonderful place to live, work and play.

Aquatic invasive species introduced via ballast water pose an enormous economic and ecologic threat to Wisconsin. Invasive species have the ability to change aquatic systems and the plants and animals that live in them, and we are seeing an upheaval in Lake Michigan's food chain caused by invasive zebra and quagga mussels. The costs to control invasive species are extremely high. Individual lake organizations spend tens of thousands of dollars per year to simply manage (not eradicate) invasive plant populations. Water utilities, power plants, and industries spend hundreds of millions of dollars per year combating the zebra mussels that threaten to clog their water intakes. The Great Lakes support a \$4 billion fishing industry that is also threatened by current and future invasives.

Our federal government has been slow to respond. Last week, the Coast Guard offered up standards for ballast water that would initially use those set by the International Maritime Organization (IMO) and eventually – after too many years – ratchet the standard up to meet California and New York's standard. The regulations would apply in phases so that feasibility studies can take place to make sure ships can meet the tougher requirements. This is too little, too late.

Meanwhile, the US Senate continues to fail to approve a national ballast standard. Last year's House bill was brought to a crashing halt by California Sen. Barbara Boxer (D) who feared that it could pre-empt states' rights. While a national standard will most likely do little to affect California (a state that has set a strong and high bar to fight invasive species) it leaves our eight state region floundering in the fight to save our nation's largest source of surface fresh water.

Furthermore, our state has been sluggish as well. While the DNR has been working on a ballast permit, we have not seen recent action and don't know if this will be completed in the near future. Until then, who knows how many dangerous species could be introduced.

Our state must be a leader in the battle to stop invasive species, and Clean Wisconsin supports AB 360, which will set a timeline for the DNR to establish a permitting process for ballast water. We fully support AB 360, and encourage this committee to move this legislation forward.