



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JOHN D. CHERRY, JR.
LT. GOVERNOR

July 20, 2005

The Honorable Ted Stevens, Chairman
U.S. Senate Committee on Commerce, Science and Transportation
508 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Daniel K. Inouye, Ranking Member
U.S. Senate Committee on Commerce, Science and Transportation
702 Hart Senate Office Building
Washington, DC 20510

Dear Senators Stevens and Inouye:

Earlier this month a wide range of stakeholders joined federal, state and municipal officials in issuing a comprehensive draft action plan to restore the Great Lakes. One vital part of the Great Lakes Regional Collaboration's consensus-driven plan would help achieve a goal set two years ago by all Great Lakes Governors: to stop the introduction and spread of non-native aquatic invasive species.

I am deeply concerned that without significant improvements, S. 363, the Ballast Water Management Act of 2005, could significantly retard regional progress within the Great Lakes basin to provide meaningful aquatic invasive species protection. There are three main reasons for my concern.

First, S. 363 establishes a weak, incomplete program to prevent the introduction of aquatic invasive species in the Great Lakes and elsewhere. Under S. 363, all ships' ballast water discharges do not have to meet a standard until 2016 - more than ten years from now. Moreover, if no treatment technologies are available by that date, implementation could be delayed even longer, up to 2019. The Great Lakes simply cannot afford to wait that long for ballast measures to be implemented.

Specifically, S. 363 would allow many ships that carry invasive species to be exempted from having to exchange ballast water. The U.S. Coast Guard has recently agreed to examine tighter regulation of the 90 percent of ships entering the Great Lakes that are currently exempted from having to exchange ballast water prior to entering the Great Lakes. Instead, S. 363 would lock in the existing regulatory exemption for these ships that declare no ballast on board, and require the Great Lakes to wait until S. 363 standards are implemented in a decade or more.

Second, S. 363 exempts the discharge of pollutants in ballast water from regulation under the Clean Water Act. Any exemption from the Clean Water Act is a dangerous precedent. Michigan has joined with other Great Lakes states in the lawsuit directed at ending U.S. Environmental Protection Agency's (EPA) exemption by rule of ballast water from the Clean Water Act. The current exemption by rule must not become law through enactment of S. 363.

Finally, S. 363 contains a state pre-emption clause that, contrary to the history and intent of the Clean Water Act that allows states the flexibility to enact regulations that are more protective than federal law, precludes the possibility of states taking action to protect their waters from aquatic invasive species in ballast water. Since 2001, Michigan has taken a leadership role in enacting state legislation for prevention of aquatic invasive species discharge from ballast water. Last month, I signed into law legislation that establishes a state permit program for ballast water discharge regulation in Michigan's waters. The bills passed in our legislature by a combined vote of 179-1, a clear bi-partisan indication of the critical importance of the issue to Michigan. It would be a dangerous precedent to preclude such proactive state efforts through passage of S. 363.

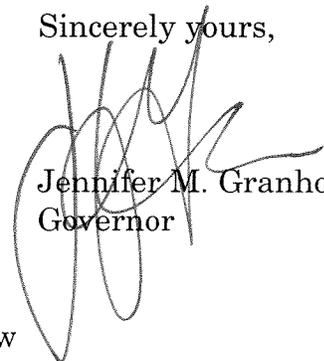
I believe the best vehicle for addressing the aquatic invasive species problem is S. 770, the National Aquatic Invasive Species Act (NAISA). The NAISA would provide a comprehensive EPA-Coast Guard partnership on ballast water management that protects EPA's Clean Water Act authority, as well as provide much needed tools to other agencies and the states such as rapid response, monitoring, screening and research provisions. These tools would enhance efforts to prevent, detect and respond to all aquatic invasive species, not just those transported by ballast water. An important provision of NAISA is enhanced support for implementation of state management plans for aquatic invasive species. State actions are a key component of the state/federal partnerships needed for prevention and control of invasive species.

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The portion of the draft action plan prepared by the 200 plus member Aquatic Invasive Species Strategy Team of the Great Lakes Regional Collaboration supported S. 770 after extensive review of ballast water regulator options. This Strategy Team reported that, "At least 162 non-native, aquatic species are established in the Great Lakes, and an average of one new species is discovered every eight months." Moreover, the team shared a recent finding that aquatic invasive species may cause more than \$5 billion in damage in the Great Lakes region this year alone.

Preventing the introduction of aquatic invasive species is a regional economic and environmental imperative, and bold comprehensive action from Congress is overdue. I urge you to support S. 770 and oppose S. 363 in the on-going fight to protect our nation's water from aquatic invasive species.

Sincerely yours,



Jennifer M. Granholm
Governor

cc: United States Senator Carl Levin
United States Senator Debbie Stabenow