

New York State Department of Environmental Conservation

Division of Water

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Alexander B. Grannis
Commissioner

July 22, 2010

Ms. Vanessa T. Vu, Director
EPA Science Advisory Board
Ecological Processes and Effects Committee

Dear Ms. Vu:

The New York State Department of Environmental Conservation appreciated the opportunity to provide brief comments to the Scientific Advisory Board as the panel initiates a review of the availability and efficacy of ballast water treatment technology for the EPA's Office of Water and the United States Coast Guard. As noted in the background information provided to the panel, vessel ballast water discharges are a major source of nonindigenous species introductions to marine, estuarine, and freshwater ecosystems of the United States. Invasive species are a form of biological pollution which degrade State water quality and negatively impact natural resources. To date, over 180 non-native species have become established in the Great Lakes, with additional species being established in the Hudson River. The zebra mussel (*Dreissena polymorpha*) alone has an estimated economic impact of approximately \$1 billion annually in damage and control costs.

The recent regulatory activity at the national level, notably by the US Environmental Protection Agency and US Coast Guard, pertaining to ballast water management are encouraging, yet the most progressive ballast water management programs to date have been developed at the state level. For example, the development of the draft report by California State Lands Commission staff "2010 Assessment of the Efficacy, Availability, and Environmental Impacts of Ballast Water Treatment Systems for Use in California Water" is an admirable attempt to describe the current status and technical capabilities of ballast water treatment technology. The white paper "Availability and Efficacy of Ballast Water Treatment Technology: Background and Issues Paper", along with an accompanying CD of additional references, certainly gathers a significant number of relevant documents for easy access. We note that the California State Lands Commission effort, referenced previously, had at its disposal significantly more test data pertaining to ballast water treatment systems. Therefore, we would strongly recommend, that effort be made to gather additional land based and shipboard test data from treatment developers and testing facilities as the panel reviews relevant material and expert testimony in its quest to provide advice to EPA on the four general categories outlines in the July 1, 2010 Memorandum. The need for additional data is especially important since the IMO standard is based on the risk of organism introduction and establishment in marine waters. This standard is unlikely to be as protective in freshwaters and estuarine areas such as the Great Lakes and Chesapeake Bay.

Land-based and shipboard verification are important components of an effective national ballast water management program, but the underlying goal of environmental protection cannot be

delayed indefinitely as verification test procedures are being developed and finalized. Numerous environmental initiatives including the federal Clean Water Act have employed the use of best available technology to meet aggressive standards, thereby promoting the continual development of enhanced technical and analytical capabilities as detection measurements evolved. We suggest that a similar approach is appropriate for regulating ballast water discharges.

While not directly pertinent to the panel's charge, we would like to stress the importance of establishing strong, environmentally protective national standards for ballast water discharge, which effectively drive technology development to the benefit of national water quality and the natural and human resources that are dependent upon such. Bipartisan national support, by both industry and the environmental community, for an aggressive discharge standard was demonstrated by the passage of draft legislation by the House of Representatives in 2008 which called for a standard of 100 x IMO and by the USCG proposed rulemaking which includes a Phase 2 standard of 1000 x IMO, similar to standards established by both California and New York.

In closing, we are confident that after this esteemed panel reviews the data accumulated by treatment developers and testing facilities, you will agree that existing information supports the statement that current ballast water treatment technology is capable of significantly exceeding the IMO D2 ballast water discharge standard. The panel's final advice and recommendations are likely of interest not only to the EPA Office of Water as it revises the Vessel General Permit, but also to the USCG as it finalizes a national discharge standard, as well as individual States such as California, Wisconsin and New York and the public at large. Therefore, we encourage the SAB panel to be aggressive in its gathering of resources and diligent in its review of such, thereby promoting the development of the most effective national environmental policies possible.

Sincerely,

Koon S. Tang, P.E.
Acting Director
Bureau of Water Permits