

**Alliance for the Great Lakes \* Biodiversity Project \* Eastern Surfing Association \*  
Environmental Advocates of New York \* Great Lakes United \* Illinois Council of Trout  
Unlimited \* Michigan Environmental Council \* Minnesota Conservation Federation \*  
National Wildlife Federation \* Ohio Environmental Council \* Public Interest Research  
Group \* Save the River \* Tip of the Mitt Watershed Council**

July 18, 2005

The Honorable Carl Levin  
Room SR-269  
Russell Senate Office Building  
Washington, D.C. 20510-2202

The Honorable Wayne Gilchrest  
2245 Rayburn House Office Building  
Washington, D.C. 20515

Re: National Aquatic Invasive Species Act of 2005

Dear Senator Levin and Representative Gilchrest:

The undersigned Great Lakes organizations are writing to support the approach taken within the National Aquatic Invasive Species Act of 2005 (S. 770, H.R. 1591, H.R. 1592) and express concern with the Ballast Water Management Act of 2005 (S. 363).

We applaud your ongoing commitment to finding a comprehensive federal solution to the problem of invasive species in the Great Lakes and nationwide. While state and regional actions against invasive species vectors are critical to establishing a fully protective framework, we believe a coordinated, comprehensive, and national approach is the preferred long-term means of stopping new invasive species from penetrating U.S. borders. We have also attached recommendations from the Great Lakes Regional Collaboration process to strengthen several aspects of these important bills.

We believe the statutory approach outlined in NAISA is preferable to that of other bills, such as the Ballast Water Management Act of 2005 (S. 363), that would create a ballast water management program similar to the recommendations of the International Maritime Organization's recent convention on ballast water management. We are particularly concerned that a bill with the provisions of S. 363 would:

- Delay regulation of most ships responsible for invasions in the Great Lakes until 2014 or 2016, with a potential 3 year delay until 2019;
- Codify standards that may not be environmentally protective of the Great Lakes and not allow review of these standards until 2012;
- Allow NOBOB ships to continue polluting the Great Lakes under existing rules;
- Preempt the ability of states to regulate discharges that damage their public trust resources; and
- Preempt the Clean Water Act.

We find it counterproductive to expend time and energy on a bill that not only fails to address all the vectors of invasion facing the Great Lakes ecosystem, but fails to follow the model of a well-researched, collaborative bill such as S. 770. A national approach to aquatic invasive species management will ensure that we stop all potential invasive species in their tracks prior to entering the United States, and will reduce the pressure on Great Lakes states and regional bodies to perform expensive and often inadequate damage control after an invasion has already begun.

Thank you for your efforts to craft legislation that recognizes the scale of this national problem yet is flexible enough to respond to the needs of unique ecosystems such as the Great Lakes. The Great Lakes Regional Collaboration Action Plan for invasive species is available at [www.aisstrategyteam.org](http://www.aisstrategyteam.org). If you have any further questions or comments, please do not hesitate to contact Joel Brammeier at (312) 939-0838 x4 or [jbrammeier@greatlakes.org](mailto:jbrammeier@greatlakes.org).

Sincerely,

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Alliance for the Great Lakes

Jennifer Nalbone  
Habitat and Biodiversity Coordinator  
Great Lakes United

James Clift  
Policy Director  
Michigan Environmental Council

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David Higby  
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Environmental Advocates of New York

Edward L. Michael  
Chair  
Illinois Council of Trout Unlimited

Stephanie Weiss  
Executive Director  
Save the River

cc: The Honorable Susan M. Collins  
The Honorable Vernon J. Ehlers  
Great Lakes Senators

## **Recommendations Regarding Invasive Species & Ballast Water Great Lakes Regional Collaboration – July 2005 Draft**

The Great Lakes Regional Collaboration process, created by executive order and spearheaded by the U.S. Environmental Protection Agency, has given rise to a unified voice from within a broad community of citizens, agency staff, elected officials, and private businesses: our Great Lakes are irreplaceable, beyond value, and yet remain vulnerable to outside threats. This message was clearly articulated by the team working to prioritize critically needed protections against invasive species in the Great Lakes, and we are pleased that the Regional Collaboration has also recommended the passage of NAISA. We urge you to review and include their strong recommendations in NAISA or any future versions of comprehensive aquatic invasive species legislation. We also recommend including the following components in the federal bills to strengthen protection for the Great Lakes.

### Ballast Water Standards

Ballast water standards for all oceangoing ships, both currently in service and newly constructed, must be established immediately. We support immediate definition of environmentally protective standards for ballast water with complete implementation via administrative rule by a set date, the implementation of effective shipboard treatments and management measures that are scientifically proven to fully protect Great Lakes waters from ballast-mediated invasions, and the application of all possible measures in the interim to both advance technology development and provide improvements in protecting the Great Lakes from ballast-mediated invasions.

Specifically, we reiterate the recommendations emerging from the Regional Collaboration and call for the immediate application of best performing ship-board ballast water treatment and hull management methods for ocean-going vessels. For example, the Regional Collaboration recommends the flushing of residuals in ballast tanks for all ships classified as “No Ballast on Board” to reduce the risk of species transfer. Approval for initial applications of treatment technologies and other management practices should serve as a regulatory floor and be approved for a set period; standards for these practices should become more stringent as treatment performance and understanding of invasion pathways improves.

A lack of technology-forcing standards is a significant impediment to developing badly needed ballast water treatment technologies. To that end, we recommend that legislation set a final goal of prohibiting the discharge of new aquatic invasive species from all ships into the Great Lakes after 2011. Ships must be directed to comply not only with installation of approved technology, but with achievement of such a biologically protective standard by this deadline. As ballast water exchange is not demonstrated to achieve zero risk of new introductions, it follows that no ship should be allowed to fulfill standards using ballast water exchange after 2011. If shipboard treatments are shown to be inadequate, we reiterate the recommendation of the Regional Collaboration to implement effective alternatives by 2011. Alternatives may include shore-based treatment facilities and/or transshipment of ocean cargo, and should be designed to prevent untreated ballast water from ocean-going ships from being discharged into the Great Lakes. Aggressive deadlines and action on this front in

the Great Lakes will benefit the nation by accelerating the development of a variety of methods for protecting waters from ballast water discharges.

### Compliance

Legislation must direct the U.S. Coast Guard to perform monitoring and enforcement activities to ensure compliance, and we ask that USCG be given the explicit statutory authority and responsibility to board ships and enforce discharge standards as described by NAISA and subsequent regulations. Likewise, industries must be held responsible for prevention of aquatic invasive species introductions via ballast water tank transfer. The nature of new ballast water standards and management programs demands that clear enforcement and accountability measures are provided for in NAISA, and we further recommend that all stakeholders be given legal standing to pursue enforcement of ballast water discharge standards.

### Invasions via Canals

Legislation should direct relevant agencies, including the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency-Great Lakes National Program Office, to prioritize long-term permanent hydrologic separation of the Mississippi River and Great Lakes watersheds. This should include funding for a study to clarify the feasibility and cost-effectiveness of engineering and transportation options for separating the two basins. Additionally, legislation should provide full funding for the complete construction, operation, improvement, and maintenance of two permanent underwater barriers in the Chicago Sanitary and Ship Canal (commonly known as Barrier I and Barrier II), as well as funding to immediately eliminate remaining non-navigable connections between the Chicago Sanitary and Ship Canal, the Des Plaines River, and the Illinois and Michigan Canal.

### Research Needs

While research focused on on-board ballast water treatment technologies is essential, Congress should prioritize study of other options for stopping the flow of invasive species into the Great Lakes by 2011. Onshore treatment of ballast water should be considered for ships prior to entering the Great Lakes. Additionally, Congress must examine the feasibility of alternative transportation options for foreign cargos entering the United States via the St. Lawrence. A transfer facility that allowed ocean-going ships to discharge their cargo to lake carriers or rail transit prior to entry into Lake Ontario would eliminate much of the threat of invasive species entering via ballast water and whole ship transfer, and may also ameliorate homeland security concerns.