

**CALENDAR ITEM  
93**

A	Statewide	06/21/13 W9777.234 W9777.290 W9777.295 C2013-13
S	Statewide	N. Dobroski D. Brown

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER TO ENTER INTO  
AGREEMENT TO SUPPORT THE DEVELOPMENT OF A FEASIBILITY STUDY TO  
EXAMINE THE USE OF SHORE-BASED RECEPTION AND TREATMENT  
FACILITIES FOR THE MANAGEMENT OF DISCHARGED BALLAST WATER IN  
CALIFORNIA**

**PARTY:**

California State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, CA 95825

**BACKGROUND:**

In coastal and estuarine environments, the ballast water of commercial ships has long been recognized as one of the most important mechanisms, or “vectors,” through which nonindigenous species (NIS) are moved to new locations throughout the world. Ballast water is used as a balancing and weight distribution tool necessary for the navigation, stability, and propulsion of large seagoing ships. Vessels may take on, discharge, or redistribute ballast water during cargo loading and unloading, as they encounter rough seas, or as they transit through shallow waterways. Typically, a vessel takes on ballast water after cargo is unloaded in one port to compensate for the weight imbalance, and will later discharge that ballast water when cargo is loaded in another port. This transfer of ballast water from “source” to “destination” ports results in the movement of thousands of species throughout the globe on a daily basis. Once established, these NIS can cause significant environmental, economic, and human health impacts. A recent estimate suggests that invasive species are responsible for \$120 billion in losses and damages annually in the United States (Pimental et al. 2005).

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In recognition of the threat from species introductions to California's waters, the Marine Invasive Species Act mandated the California State Lands Commission (Commission) to recommend to the Legislature performance standards for the discharge of ballast water (Public Resources Code § 71204.9). In 2006, the Legislature passed the Coastal Ecosystems Protection Act (Chapter 292, Statutes of 2006), directing the Commission to adopt the recommended performance standards and implementation schedule in regulation, which was completed in 2007. The performance standards are to be implemented on a graduated time schedule between 2010 and 2016 based on a vessel's ballast water capacity and year of construction.

Per Public Resources Code section 71204.3, vessels may comply with the performance standards through retention of all ballast water on board the vessel, the use of alternative, environmentally sound methods of ballast water management (e.g., shipboard ballast water treatment systems), or discharge of ballast water to a reception facility approved by the Commission. Despite the fact that the discharge of ballast water to shore-based reception facilities is an authorized method for vessels to comply with California's performance standards, there are currently no operational ballast water reception facilities in California.

While previous research on the feasibility of shore-based ballast water treatment has found encouraging potential for such facilities, unfortunately, these studies have been limited in scope, generally focusing on only one particular port or place or containing only a coarse level of analysis. Therefore, additional research is necessary to focus in detail on the potential for shore-based ballast water treatment to meet the needs of vessels operating in California that will be required to meet California's performance standards for the discharge of ballast water.

Per Public Resources Code section 71213, the Commission is mandated to:

*“ . . . identify and conduct any other research determined necessary to carry out the requirements of this division. The research may relate to the transport and release of nonindigenous species by vessels, the methods of sampling and monitoring of the nonindigenous species transported or released by vessels, the rate or risk of release or establishment of nonindigenous species in the waters of the state and resulting impacts, and the means by which to reduce or eliminate a release or establishment . . . ”*

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In order to meet the mandate in the Marine Invasive Species Act, Commission staff has determined that the current information gap regarding shore-based ballast water treatment in California must be addressed.

### **PROPOSED ACTIVITY:**

Commission staff proposes to fund a study to investigate the feasibility of shore-based ballast water treatment and reception facilities for the management of discharged ballast water in California. Given the scope of the issue and the importance of the findings to the regulated community and concerned stakeholders, it has been recommended that the study be managed by an independent, third party. Therefore, Commission staff has reviewed and consulted with multiple research organizations and Joint Powers Authorities to select the most qualified project manager.

The project manager will be responsible for requesting proposals for consultant services to conduct the feasibility study of the potential use of shore-based ballast water reception and treatment facilities in California to meet California's performance standards for the discharge of ballast water. The study will culminate in the production of a report detailing the potential of this technology to meet the needs of regulated community to comply with California's interim performance standards for the discharge of ballast water. The project manager will be required to hold scoping meetings with interested stakeholders (e.g., industry representatives, environmental groups, etc.) to review the scope of work and drafts of the report.

Commission staff recommends the Delta Stewardship Council as the project manager based upon experience, the proposal for management of the project, and cost. Staff proposes to fund the Delta Stewardship Council and the successful sub-contract bidder by providing \$500,000 for the feasibility study, utilizing funds from the Marine Invasive Species Control Fund that are budgeted for conducting necessary research. Staff proposes that the Commission grant authority for the Executive Officer to enter into an interagency agreement with the Delta Stewardship Council, as project manager, to issue the Request For Proposals (RFP), select the successful candidate (in conjunction with a stakeholder advisory group), and review drafts of the study. The agreement will specify that the Commission will be provided with all data and a copy of the final study. The development of this study is critical for the implementation of California's performance standards for the discharge of ballast water, and in order for the Commission to continue to move the state expeditiously towards the elimination of the discharge of NIS into California waters.

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**STATUTORY AND OTHER REGULATIONS:**

- A. Public Resources Code section 6106 (Delegation to execute written instruments)
- B. Coastal Ecosystems Protection Act of 2006, Chapter 292, Statutes of 2006
- C. Marine Invasive Species Act of 2003, Chapter 491, Statutes of 2003
- D. State Administrative Manual Section 1200
- E. State Contracting Manual (rev. 10/05)

**OTHER PERTINENT INFORMATION:**

The staff recommends that the Commission find that the subject authorization to award and execute a contract for the development of a feasibility study does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

**RECOMMENDED ACTION:**

1. Find that the subject authorization to award and execute a contract for the development of a feasibility study is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.
2. Authorize the Executive Officer or her designee to award and execute an agreement with the Delta Stewardship Council in accordance with state policies and procedures to support the development of a feasibility study to examine the use of shore-based ballast water reception and treatment facilities in California.
3. Authorize and direct the Executive Officer or her designee to take whatever action is necessary and appropriate to implement the provisions of the agreement with the Delta Stewardship Council.