

- **Board of Directors**
Communications and Legislation Committee

May 8, 2007 Board Meeting

8-9

Subject

Express support, if amended, for AB 1683 (Wolk, D-Davis) – Quagga and Zebra Mussels

Description

The discovery of quagga mussels in the Colorado River has invigorated efforts to control this invasive species. Assembly Bill 1683 (**Attachment 1**), sponsored by the Department of Fish and Game, makes it illegal to possess or import quagga or zebra mussels in the state or to place them in any water within the state. The bill also provides the authority to the director of the Department of Fish and Game to inspect and impound boats, trailers, and other vehicles that may carry these mussels and close or quarantine any waters or facilities where they are found.

The quagga and zebra mussels are native to eastern Europe and were first introduced into the Great Lakes in North America through ballast water from transoceanic ships. They are believed to have moved to the Colorado River through transport on boats or trailers that are moved from one water body to another. The mussels cause major economic problems by clogging water and power systems, and ecological problems by out-competing native species for food sources.

With the discovery of the quagga mussel in the Colorado River, additional efforts are required to protect other water bodies in California from infestation. One concern is the transfer of recreational boats from the river to other lakes and rivers around the state. Metropolitan adopted a quagga mussel control program in February after finding the quagga mussels in Whitsett Intake Pumping Plant and Gene Wash Reservoir in January. Metropolitan's program includes looking into the feasibility of placing boat cleaning facilities at Diamond Valley Lake and Lake Skinner. In addition, Metropolitan is urging the Department of Water Resources to step up inspections at other lakes and reservoirs in the State Water Project system.

Assembly Bill 1683 would assist in protecting against spread of both mussels by authorizing the Department of Fish and Game to inspect, clean, or impound any boat or trailer that may be contaminated. However, the bill as currently drafted can be interpreted to authorize Fish and Game to close water supply facilities where these mussels are found or may be present. The intent should be to allow Fish and Game to close facilities, such as reservoirs, to boating so that any mussels would not be transported from them. But the language is sufficiently vague that it may be read to allow Fish and Game to close down pumping facilities that deliver water from water bodies where the mussels may be found. This interpretation would allow the Department to shut down Metropolitan's Whitsett Intake Pumping Plant on the Colorado River.

The bill may be readily amended to clarify that the closure authority vested in the Department is limited to closing water bodies to boating or other entry, and does not include authority to cease operations of water supply facilities. With this amendment, Metropolitan staff recommends support for this bill.

Policy

Quagga Mussel Control Program, M.I. 46991, February 13, 2007.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1 and Option #2:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

Option #3:

None required

Board Options

Option #1

Adopt the CEQA determination and authorize the General Manager to express Metropolitan’s support for AB 1683 if it is amended as described in this letter.

Fiscal Impact: No direct financial cost to Metropolitan, but the prevention of the spread of both mussels could save increased operating costs that would be incurred to control these species if they spread to other Colorado River or State Water Project facilities.

Business Analysis: This option will support expanded authority by the California Department of Fish and Game to prevent the spread of these mussels and will assist Metropolitan’s own efforts to protect its reservoirs from further infestation.

Option #2

Adopt the CEQA determination and oppose AB 1683 as drafted.

Fiscal Impact: The potential for a legislative interpretation that authorizes the Department of Fish and Game to shut down Metropolitan operations could have a significant financial impact.

Business Analysis: The cost of controlling the existing infestation of quagga mussels would be outweighed by the costs incurred if the Department of Fish and Game were to shut down operations of a Metropolitan facility due to the potential presence of the mussel.

Option #3

Take no action.

Staff Recommendation

Option #1


Linda Waade
Deputy General Manager, External Affairs

4/30/2007
Date


Jeffrey Knightlinger
General Manager

5/1/2007
Date

Attachment 1 – Assembly Bill 1683

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1683

Introduced by Assembly Member Wolk

February 23, 2007

~~An act to amend Section 103 of the Fish and Game Code, relating to the Fish and Game Commission.~~ *An act to amend Section 103 of, to amend the heading of Chapter 3.5 (commencing with Section 2300) of Division 3 of, and to add Section 2301 to, the Fish and Game Code, relating to fish and game.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1683, as amended, Wolk. ~~Fish and Game Commission.~~ *Fish and game.*

~~Existing~~

(1) ~~Existing~~ law provides for the compensation of members of the Fish and Game Commission, including their actual and necessary expenses. Existing law requires the commission, on or before July 1, 2000, to submit certain recommendations to the Legislature relating to the commission.

This bill would delete that obsolete recommendation requirement.

(2) ~~Existing~~ law generally prohibits the sale, possession, importation, transportation, transfer, live release, or giving away without consideration, of the salt water algae of the *Caulerpa* species, and subjects any person who violates that prohibition to a civil penalty of not less \$500 and not more than \$10,000 for each violation.

This bill, except as otherwise authorized by the Department of Fish and Game, would prohibit a person from possessing, importing, shipping, or transporting in the state, or from placing, planting, or

causing to be placed or planted in any water within the state, dreissenid mussels. The bill would authorize the Director of Fish and Game or his or her designee to conduct inspections of conveyances, including vehicles, boats and other watercraft, and trailers, that may carry or contain adult or larval dreissenid mussels; order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department; impound or quarantine conveyances for a period of time necessary to ensure that the dreissenid mussels can no longer live on or in the conveyance; and conduct inspections of facilities that use or discharge water that may contain dreissenid mussels and, if detected, order the closure or quarantine of, or otherwise restrict access to, specified facilities. The director could authorize other state agencies to exercise this authority upon a prescribed written determination by the director. A person who violates these provisions would be subject to a penalty, in an amount not to exceed \$1,000, that is imposed administratively by the department. The department would be authorized to adopt regulations to carry out these provisions. Because, under existing law, a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Mussels of the genus *Dreissena* (dreissenid mussels) are
- 4 harmful, highly invasive species, and not native to California.
- 5 (b) Dreissenid mussels, which include both zebra and quagga
- 6 mussels, were first discovered in the United States in the Great
- 7 Lakes in or around 1988. This infestation has caused billions of
- 8 dollars in costs to public agencies and private industry. Dreissenid

1 *mussels have been detected in Lake Mead on the Arizona-Nevada*
2 *border and in Lake Havasu in California.*

3 *(c) Dreissenid mussels can readily move from place to place as*
4 *free-swimming larvae and adults, and reproduce rapidly and in*
5 *large numbers. Dreissenid mussels can severely hinder the delivery*
6 *of water due to the mussels' capacity to clog or foul pipes, pumps,*
7 *and other water intake structures, water delivery systems, power*
8 *plant intakes, cooling systems, and fish screens. Dreissenid mussels*
9 *damage the hulls, propellers, and motors of boats and other*
10 *watercraft.*

11 *(d) Dreissenid mussels alter the natural food web of aquatic*
12 *ecosystems. By filtering planktonic algae and other nutrients that*
13 *are the primary base of the food chain from the water, dreissenid*
14 *mussels can cause the decline or extirpation of native species, and*
15 *otherwise disrupt the ecological balance of infested water bodies.*

16 *(e) Dreissenid mussels' sharp-edged shells along swimming*
17 *beaches can be a hazard to unprotected feet.*

18 *(f) In order to protect and preserve the health and safety of the*
19 *people of the State of California, its economy, and its fish and*
20 *wildlife resources, it is the intent of the Legislature to establish*
21 *an effective program to prevent additional dreissenid mussels from*
22 *entering the state, to prevent dreissenid mussels from being*
23 *introduced into any water in California where they currently do*
24 *not exist, and to detect and destroy mussels anywhere in the state.*
25 *For this purpose, there has been developed a Quagga Mussel*
26 *Incident Strategic Plan.*

27 **SECTION 1.**

28 *SEC. 2.* Section 103 of the Fish and Game Code is amended
29 to read:

30 103. (a) Each of the commissioners shall receive one hundred
31 dollars (\$100) for each day of actual service performed in carrying
32 out his or her official duties pursuant to law, but the amount of
33 this compensation shall not exceed for any one commissioner the
34 sum of five hundred dollars (\$500) for any one calendar month.
35 In addition to this compensation, the commissioners shall receive
36 their actual and necessary expenses incurred in the performance
37 of their duties.

38 (b) The compensation and expenses provided in this section
39 shall be paid out of the Fish and Game Preservation Fund.

1 SEC. 3. *The heading of Chapter 3.5 (commencing with Section*
2 *2300) of Division 3 of the Fish and Game Code is amended to*
3 *read:*

4
5 CHAPTER 3.5. ~~CAULERPA ALGAE~~ AQUATIC INVASIVE SPECIES
6

7 SEC. 4. *Section 2301 is added to the Fish and Game Code, to*
8 *read:*

9 2301. (a) (1) *Except as authorized by the department, a person*
10 *shall not possess, import, ship, or transport in the state, or place,*
11 *plant, or cause to be placed or planted in any water within the*
12 *state, dreissenid mussels.*

13 (2) *The director or his or her designee may do all of the*
14 *following:*

15 (A) *Conduct inspections of conveyances, which include vehicles,*
16 *boats and other watercraft, and trailers, that may carry or contain*
17 *adult or larval dreissenid mussels.*

18 (B) *Order that areas in a conveyance that contain water be*
19 *drained, dried, or decontaminated pursuant to procedures*
20 *approved by the department.*

21 (C) *Impound or quarantine conveyances in locations designated*
22 *by the department for a period of time necessary to ensure that*
23 *dreissenid mussels can no longer live on or in the conveyance.*

24 (D) (i) *Conduct inspections of facilities that use or discharge*
25 *water that may contain dreissenid mussels. If dreissenid mussels*
26 *are detected, the director or his or her designee may order the*
27 *closure or quarantine of, or otherwise restrict access to, waters,*
28 *marinas, boat launch facilities, or other areas or facilities in the*
29 *state where dreissenid mussels are found or may be present.*

30 (ii) *For the purpose of implementing clause (i), the director or*
31 *his or her designee shall order the closure or quarantine of, or*
32 *restrict access to, these waters, areas, or facilities in a manner*
33 *and duration necessary to detect and prevent the spread of*
34 *dreissenid mussels within the state.*

35 (b) (1) *Upon a determination by the director that it would*
36 *further the purposes of this section, other state agencies, including,*
37 *but not limited to, the Department of Parks and Recreation, the*
38 *Department of Water Resources, the Department of Food and*
39 *Agriculture, and the State Lands Commission, may exercise the*
40 *authority granted to the department in subdivision (a).*

1 (2) A determination made pursuant to paragraph (1) shall be
2 in writing and shall remain in effect until withdrawn, in writing,
3 by the director.

4 (c) (1) Except as provided in paragraph (2), Division 13
5 (commencing with Section 21000) of the Public Resources Code
6 does not apply to the implementation of this section.

7 (2) An action undertaken pursuant to subparagraph (B) of
8 paragraph (2) of subdivision (a) involving the use of chemicals
9 other than salt or hot water to decontaminate a conveyance or a
10 facility is subject to Division 13 (commencing with Section 21000)
11 of the Public Resources Code.

12 (d) (1) In addition to any other penalty provided by law, any
13 person who violates this section, or any order or regulation
14 adopted pursuant to this section, is subject to a penalty, in an
15 amount not to exceed one thousand dollars (\$1,000), that is
16 imposed administratively by the department.

17 (2) A penalty shall not be imposed pursuant to paragraph (1)
18 unless the department has adopted regulations specifying the
19 amount of the penalty and the procedure for imposing and
20 appealing the penalty.

21 (e) The department may adopt regulations to carry out this
22 section.

23 SEC. 5. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.