



- Board of Directors  
*Communications Legislation Committee*

5/8/2012 Board Meeting

8-9

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## Subject

Express support for AB 2443 (Williams, D–Santa Barbara) – Vessels: Registration Fee: Quagga and Zebra Mussels

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## Description

Quagga mussels are native to Eastern Europe's Black Sea. In the mid-1980s, these mussels were transported to the Great Lakes area of North America, apparently in the fresh-water ballast of transoceanic ships. Despite efforts to control their spread, quagga mussels were discovered by the 100<sup>th</sup> Meridian Initiative volunteer monitoring program in Lake Mead on January 6, 2007 at the Las Vegas Boat Harbor. Since their discovery, quagga mussels have spread throughout the lower Colorado River and into Metropolitan's Colorado River water delivery system. The most likely method by which the mussels were spread from the Great Lakes region to Lake Mead was by recreational boats transported from an infested water body.

In immediate response to the infestation of Lake Mead, the California Legislature enacted Fish and Game Code section 2301 prohibiting the placement or transport of the mussels into any waters within the state and requiring that water supply system operators develop and implement mussel control plans. The statute also authorized the Department of Fish and Game (DFG) to conduct an inspection program of boats and water bodies to help prevent the spread of the mussels on watercraft being moved between lakes and rivers within California. Since the spread of mussels cannot be prevented within interconnected waterways, Metropolitan worked with DFG to develop a plan for managing the mussels within its water delivery system, particularly taking steps to ensure that releases from raw water pipelines during maintenance operations do not allow the spread of mussels into local uninfested water bodies.

In 2008, the Legislature adopted Fish and Game Code section 2302 that expanded the requirement for implementing a mussel control plan to all entities that own and operate reservoirs open to the public for boating. Metropolitan adopted guidelines for inspecting and cleaning watercraft and related equipment at Diamond Valley Lake and Lake Skinner; these guidelines were approved by DFG in June 2008.

Metropolitan supported the quagga mussel legislation. Metropolitan's costs for dealing with the mussels is in excess of \$5 million annually for additional maintenance and water treatment. It is important to Metropolitan that other water agencies in California take steps to protect against the spread of the mussels. If they spread to State Water Project facilities there would be additional costs imposed on Metropolitan. However, some local agencies have not aggressively implemented boat inspection programs due to funding constraints. Similarly, DFG has limited funding available for its inspection program.

AB 2443 ([Attachment 1](#)) would create a fund for the DFG and local agency mussel inspection programs. The fund would be created by imposing a fee on boats, collected through the vehicle registration process. The amount of the fee would be established by the Department of Boating and Waterways, not to exceed \$10, following consultation with an advisory group of recreational boaters and reservoir operators.

Unclean or inappropriately cleaned recreational boats transported to Lake Mead are the most likely source of the quagga mussel infestation in the Lower Colorado River. Recreational boats pose the greatest risk of mussel

transport from the Colorado River and already infested lakes in the state to other water bodies in California. It is vital that boat inspection programs be put in place and properly enforced to keep the mussels out of other reservoirs in the state, especially reservoirs connected to the State Water Project. It has been Metropolitan's experience that recreational boating on its reservoirs does not generate revenue sufficient to cover all the costs of providing this public amenity. The added cost of boat inspections must be adequately funded to ensure protection against the spread of the quagga mussels. AB 2443 provides a secure funding source that would be available to DFG and local agencies to implement boating inspection and other mussel prevention measures. The fees are also imposed on the most likely source of infestation—boats that are moved around water bodies in the state. For these reasons, staff recommends that Metropolitan support AB 2443.

Senator Noreen Evans has also introduced legislation to coordinate efforts to prevent or control invasive aquatic species. SB 1251 would create a working group selected by the Secretary of the Natural Resources Agency. This working group would be tasked with reviewing and making recommendations on invasive aquatic species control programs, with a focus on identifying and eliminating duplication of efforts among state agencies. Invasive aquatic species are increasingly an issue that affects Metropolitan's water supplies, from quagga mussels in the Colorado River to Asian clams in the Bay-Delta. Staff will support this legislation pursuant to the board-adopted policy on source water protection.

## Policy

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Policy Principle on Source Water Quality Protection, M.I. 42820, February 10, 1998

Policy Principle on Watershed Management, M.I. 43964, April 11, 2000

## California Environmental Quality Act (CEQA)

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CEQA determination for Option #1:

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.

CEQA determination for Option #2:

None required

## Board Options

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### Option #1

Adopt the CEQA determination and express support for AB 2443.

**Fiscal Impact:** Metropolitan is unlikely to receive any direct financial benefit from the boat fees collected to fund quagga mussel inspection programs, but the prevention of infestation of State Water Project facilities would indirectly benefit Metropolitan through avoided costs.

**Business Analysis:** Collection of fees on boats, which pose the greatest risk of spreading the mussels to new water bodies, provides a fair means of funding the inspection programs.

### Option #2

Do not support AB 2443.

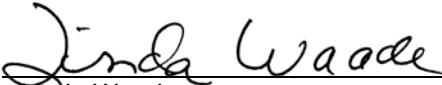
**Fiscal Impact:** No direct fiscal impact. In the event that boating inspections fail to prevent the spread of the mussels to the State Water Project facilities, Metropolitan will suffer increased costs.

**Business Analysis:** The California Department of Fish and Game and local agencies that operate water bodies will have to finance mussel inspection programs through other means, or fail to implement those programs.


**Staff Recommendation**

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Option #1

  
Linda Waade  
Deputy General Manager, External Affairs

5/2/2012  
Date

  
Jeffrey Kightlinger  
General Manager

5/2/2012  
Date

**Attachment 1 – Assembly Bill 2443 (as amended April 16, 2012)**

Ref# ea12618222

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 2443**

**Introduced by Assembly Member Williams**

February 24, 2012

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An act to add Article 1.3 (commencing with Section 675) to Chapter 5 of Division 3 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 2443, as amended, Williams. Vessels: registration fee: Quagga and Zebra Mussel Infestation Prevention Program.

Existing law establishes various programs administered by, among other agencies, the Department of Fish and Game and the State Lands Commission, to prevent aquatic invasive species introduction and manage the spread and impacts of aquatic invasive species in state waters. Existing law prohibits, except as authorized by the Department of Fish and Game, 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, which are regulated by the department as an invasive species.

Existing law requires the owner of a vessel, as described, to register the vessel with the Department of Boating and Waterways (*department*), in accordance with prescribed requirements. Existing law establishes a registration fee for vessels and applies certain fee increases to that registration fee.

This bill would impose an additional fee in an ~~unspecified~~ amount *not to exceed \$10, as determined by the department*, on a vessel required

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to pay that registration fee. *The bill would require the department, in determining the fee, to consult with a technical advisory group, which would be established by the department.* The bill would require funds from the fee to be used to implement and administer a dreissenid mussel monitoring, inspection, and eradication program, as prescribed. The bill would require the department to adopt an emergency regulation to prescribe procedures for the collection and use of the fee.

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

*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) Quagga and zebra mussels, nonnative dreissenid mussels
- 4 introduced in the United States from Europe in 1988, pose an
- 5 immediate and significant threat to California's water supply, flood
- 6 control, power generation, and aquatic recreation infrastructure.
- 7 Once established in a body of freshwater, quagga and zebra mussels
- 8 latch onto pipes, valves, screens, irrigation canals, and gates, often
- 9 in quantities that severely impede the movement of water and the
- 10 necessary operation of other critical water management
- 11 infrastructure.
- 12 (b) Quagga and zebra mussel infestation poses tremendous
- 13 financial burdens on local governments and local economies.
- 14 Between 2000 and 2010, widespread zebra mussel infestation of
- 15 the Great Lakes region resulted in over \$5 billion in economic
- 16 impacts. Were it to become infested, California's Lake Tahoe alone
- 17 would likely incur economic impacts of over \$20 million annually.
- 18 (c) Quagga and zebra mussel infestations have been identified
- 19 in 25 bodies of freshwater in California, most within the southern
- 20 California region. These infestations threaten additional water
- 21 management and recreational facilities throughout southern
- 22 California as well as facilities across the state. Facilities threatened
- 23 with infestation include, but are not limited to, agricultural water
- 24 management infrastructure in the central valley, drinking water
- 25 facilities in the central coast and north coast regions, power
- 26 generation infrastructure in the Sierra Nevada, and flood control
- 27 facilities throughout California's watersheds.

1 (d) Existing law prohibits the possession, importation, shipment,  
2 transportation, planting, or placement of quagga and zebra mussels  
3 in any water within the state.

4 (e) An urgency exists due to the tremendous water management  
5 impacts and state and local government costs associated with  
6 quagga and zebra mussel infestation.

7 (f) The fees required by Article 1.3 (commencing with Section  
8 675) of Chapter 5 of Division 3 of the Harbors and Navigation  
9 Code as determined by the Department of Boating and Waterways  
10 are solely for the reasonable regulatory costs incident to performing  
11 investigations and inspections necessary to prevent and control  
12 the infestation of California waters by quagga and zebra mussels.

13 (g) It is therefore the intent of the Legislature that fees required  
14 by Article 1.3 (commencing with Section 675) of Chapter 5 of  
15 Division 3 of the Harbors and Navigation Code, as determined by  
16 the Department of Boating and Waterways shall not exceed the  
17 cumulative reasonable regulatory costs incident to performing  
18 investigations and inspections necessary to prevent quagga and  
19 zebra mussel infestation.

20 SEC. 2. Article 1.3 (commencing with Section 675) is added  
21 to Chapter 5 of Division 3 of the Harbors and Navigation Code,  
22 to read:

23

24 Article 1.3. Quagga and Zebra Mussel Infestation Prevention  
25 Fee  
26

27 675. (a) In addition to the fees imposed pursuant to paragraphs  
28 (1) and (2) of subdivision (b) of Section 9853 of the Vehicle Code,  
29 there shall also be imposed an additional quagga and zebra mussel  
30 infestation prevention fee in an amount of ~~\_\_\_\_\_ dollars (\$\_\_\_\_\_)~~  
31 *not more than ten dollars (\$10), as determined by the department,*  
32 which shall be imposed annually on every vessel subject to the  
33 fees imposed by Section 9853.

34 *(1) In determining the amount of the fee imposed pursuant to*  
35 *this subdivision, the department shall establish, and consult with,*  
36 *a technical advisory group consisting of interested persons,*  
37 *including, but not limited to, recreation boating and reservoir*  
38 *operation representatives. The members of the advisory group*  
39 *shall be appointed by the director.*

40 (†)

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1 (2) The department shall adopt an emergency regulation to  
2 prescribe procedures for the collection and use of the quagga and  
3 zebra mussel infestation prevention fee for the purposes of this  
4 article. ~~The Legislature finds and declares that a fee of not more~~  
5 ~~than \_\_\_\_\_ dollars (\$\_\_\_\_\_) is a reasonable amount for the necessary~~  
6 ~~quagga and zebra mussel infestation prevention activities of state~~  
7 ~~and local public entities.~~

8 ~~(2) In determining the amount of the fee imposed pursuant to~~  
9 ~~subdivision (a), the department shall establish a technical advisory~~  
10 ~~group, comprised of interested persons, including, but not limited~~  
11 ~~to, recreational boating and reservoir operation representatives.~~  
12 ~~The members of the technical advisory committee shall be~~  
13 ~~appointed by the director.~~

14 (b) All revenues collected from the fee shall be deposited into  
15 the Quagga and Zebra Mussel Infestation Prevention Account  
16 established pursuant to Section 676, and shall be expended solely  
17 for the purposes set forth in that section.

18 (c) The fee established by this section shall not apply to vessels  
19 that are used exclusively in marine waters.

20 676. (a) The Quagga and Zebra Mussel Infestation Prevention  
21 Account is hereby established in the General Fund. All moneys  
22 deposited in the account shall be used solely for the purposes of  
23 this section. Funds from the account shall be available, upon  
24 appropriation by the Legislature, to the department for grants  
25 according to the following schedule:

26 (1) An amount of \_\_\_\_\_ percent of the total revenues deposited  
27 into the account established pursuant to this subdivision shall be  
28 made available for grants to special districts, cities, counties, and  
29 city and county governments, and joint powers authorities for the  
30 reasonable regulatory costs incident to the implementation of an  
31 adopted dreissenid mussel infestation prevention plan that is  
32 consistent with the requirements of Section 2302 of the Fish and  
33 Game Code.

34 (2) An amount of \_\_\_\_\_ percent of the total revenues established  
35 pursuant to this subdivision deposited into the account shall be  
36 made available to the Department of Fish and Game for reasonable  
37 regulatory costs incident to the implementation of subdivision (a)  
38 of Section 2301 of the Fish and Game Code in those areas of the  
39 state where a dreissenid mussel infestation prevention plan has not  
40 been adopted.

1 (b) For the purposes of awarding grants pursuant to paragraph  
2 (1) of subdivision (a), the department shall give priority to adopted  
3 dreissenid mussel infestation prevention plans that are consistent  
4 with Section 2302 of the Fish and Game Code and that also include  
5 visual and manual inspection standards and other infestation  
6 prevention procedures consistent with either the Department of  
7 Fish and Game's Invasive Mussel Guidebook for Recreational  
8 Water Managers and Users, dated September 2010, or the Natural  
9 Resource Agency's Aquatic Invasive Species Management Plan,  
10 dated January 2008, or subsequently adopted guidebooks and  
11 management plans.

12 (c) For purposes of this article, reasonable regulatory costs  
13 include costs associated with the investigation and inspection of  
14 a conveyance for the presence of dreissenid mussels prior to contact  
15 with a reservoir, as defined in Section 6004.5 of the Water Code.  
16 None of the revenues deposited in the account established by  
17 subdivision (a) shall be used for any purpose other than those  
18 explicitly authorized by this section.

19 (d) For the purposes of this section, conveyances include boats  
20 and other watercraft, and associated vehicles, containers, and  
21 trailers that may carry or contain adult or larval dreissenid mussels.