

**CALENDAR ITEM  
C60**

A	Statewide	12/17/14 W9777.234, W9777.290 W9777.295, C2013-13 C. Brown, N. Dobroski
S	Statewide	L. Kovary, D. Brown

**CONSIDER APPROVAL OF THE BUDGET, AS SUBMITTED BY THE SUCCESSFUL  
BIDDER, THE GLOSTEN ASSOCIATES, FOR A STUDY TO EXAMINE THE  
FEASIBILITY OF SHORE-BASED RECEPTION AND TREATMENT FACILITIES FOR  
THE MANAGEMENT OF DISCHARGED BALLAST WATER IN CALIFORNIA**

**PARTY:**

California State Lands Commission

**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,” by which nonindigenous species 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 in order 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 world on a daily basis. Once established, these NIS can cause significant environmental, economic, and human health impacts. One estimate suggests that invasive species are responsible for \$120 billion in losses and damages annually in the United States (Pimental et al. 2005).

In recognition of the threat from nonindigenous species introductions to California waters, the Marine Invasive Species Act mandated that the California State Lands Commission (Commission) recommend to the Legislature performance standards for the discharge of ballast water (Pub. 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 into regulation. This was completed in 2007. The performance standards are to be phased-in between 2016 and 2018 based on each vessel’s ballast water capacity and year of construction.

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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 ballast water reception facilities in California.

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 port or place, or containing only a coarse level of analysis. Therefore, additional research is necessary to ascertain the potential for shore-based ballast water treatment to meet the needs of vessels required to meet the California performance standards.

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.”

In accordance with the mandate in the Marine Invasive Species Act, Commission staff determined that the current information gap regarding shore-based ballast water treatment in California must be addressed. At its meeting on June 21, 2013, the Commission approved funding of up to \$500,000 for a study to investigate the feasibility of shore-based ballast water treatment and reception facilities for the management of discharged ballast water in California. The study is being managed by the Delta Stewardship Council (DSC). The DSC, as project manager, is tasked with: releasing the Request for Proposals (RFP), selecting the successful candidate (with input from a stakeholder advisory group), and reviewing drafts of the study before finalizing the report.

**PROPOSED ACTIVITY:**

At the June 21, 2013 Commission meeting, staff was directed to “report to the Commission for budget approval prior to award of contract to a contractor by the Delta Stewardship Council and transfer of funds by the Commission.” Pursuant to this direction, staff now seeks the Commission's approval of the budget and authorization to transfer funds.

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On May 29, 2014, the DSC issued the RFP for the shore-based feasibility study with responses and sealed cost proposals due July 7, 2014. Interviews and evaluations of potential consulting firms by the DSC and an evaluation panel were completed on July 25, 2014. Evaluations were based on prescribed criteria of proposed methodology in conduct of the study as well as the experience of proposed individuals staffing the study and the experience of the firm. On July 28, 2014, the DSC opened the sealed cost proposals. Commission staff was notified of the contractor selected by DSC and proposed budget on August 5, 2014. A budget of \$430,786.00 was submitted by The Glosten Associates and approved by DSC staff. A protest against the contract award was filed on August 18, 2014. The protest was subsequently denied by both the Department of General Services and the DSC because the protesting party lacked standing.

As provided in the interagency agreement with DSC, Commission approval of the selected consulting firm budget is necessary for the contract with the consultant to be approved and executed and for the study to proceed. Staff recommends that the Commission approve the budget and authorize the release of funds to enable DSC to complete the contracting process with the selected contractor.

This study is another critical step in the process to implement the California ballast water discharge standards and move the State expeditiously towards the elimination of the discharge of NIS into California waters.

**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. 11/12)

**OTHER PERTINENT INFORMATION:**

The staff recommends that the Commission find that the subject authorization to approve a budget for 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:**

It is recommended that the Commission:

1. Find that the subject authorization to approve a budget for a feasibility study is not subject to the requirements of CEQA pursuant to California Code of Regulations,

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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. Approve the budget of the successful contractor, The Glosten Associates, and authorize the Executive Officer or her designee to release \$430,786.00 to the Delta Stewardship Council in accordance with Agreement # C2013-13 for the feasibility study to examine the use of shore-based ballast water reception and treatment facilities in California.