
March 28, 2018

Honorable John Barrasso
Chairman
Committee on Environment and Public Works
U.S. Senate
410 Dirksen Senate Office Building
Washington, D.C. 20510

Honorable Thomas Carper
Ranking Member
Committee on Environment and Public Works
U.S. Senate
456 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper:

As the Senate Committee on Environment and Public Works considers reauthorization of the Water Resources Development Act (WRDA), Western Governors urge you to provide federal agencies with the authorities necessary to effectively combat aquatic invasive species in the West, including invasive mussels.

Every year, invasive quagga and zebra mussels cost millions of dollars in lost economic activity and cause significant environmental damage to waterbodies in the West. It is of paramount importance to prevent the spread of these species into uninfested waterways, particularly the Columbia River basin – the last major uninfested water system in the continental U.S.

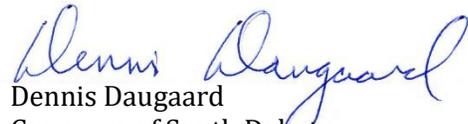
The primary means by which these aquatic mussels spread is by traveling on the hulls and in the ballast tanks of boats leaving infested waterbodies. The application of effective inspection and decontamination practices as watercraft leave infested waters is the first line of defense against their proliferation.

Federal agencies have jurisdiction over several major infested waterbodies in the West, including Lake Mead, Lake Powell and Lake Havasu. The boat inspection and decontamination policies of the agencies managing infested waterbodies – the Bureau of Land Management (BLM), the Bureau of Reclamation (BOR), and the National Park Service (NPS) – are key to regional efforts to contain these species. These agencies operate several voluntary inspection and decontamination programs at these infested waterbodies, mostly at the request of, and in collaboration with, states. These programs, however, are hampered by a lack of clear statutory authority for federal agencies to conduct mandatory inspection and decontamination of all high-risk vessels (long-term slipped and moored watercraft). An opinion from the DOI Solicitor's Office describing these agencies' current authorities is included as an attachment to this letter.

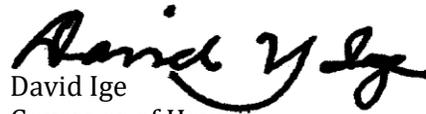
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Senator Michael Bennet recently highlighted these issues in a letter to the Committee dated February 26, 2018. In the letter, Senator Bennet requests that, as the Committee begins work on WRDA reauthorization, it considers "authorizing the BOR, NPS, and USFS to participate and cooperate with aquatic nuisance species prevention efforts, so that we keep our nation's headwaters free of invasive mussels that can harm our infrastructure, environment, and economy." Western Governors appreciate Senator Bennet's attention to this important issue, and we encourage you to include these recommendations in the next version of WRDA.

Sincerely,



Dennis Daugaard
Governor of South Dakota
Chair, WGA



David Ige
Governor of Hawaii
Vice Chair, WGA

Attachment



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

February 15, 2018

To: whom it may concern

From: Office of the Solicitor, Department of the Interior

Subject: National Park Service Authority to Regulate Aquatic Invasive Species

The National Park Service (NPS) administers NPS system units under the NPS Organic Act, 54 U.S.C. §100101 *et seq.*, which directs the NPS to “conserve the scenery, natural and historic objects, and wild life in the System units” and to “leave them unimpaired for the enjoyment of future generations.” NPS also has authority to regulate boating and other activities on or relating to water located within system units. 54 U.S.C. §100751(b). These statutes give the NPS broad authority to take actions to prevent aquatic invasive species from *entering* NPS waters such as requiring inspection and decontamination of boats entering NPS units.

NPS also has authority to cooperate with state law enforcement agencies to enforce state invasive species control laws within park units, which potentially could apply to the movement of invasive species out of the park unit. 54 U.S.C. §102701(b)(2). State laws generally apply on NPS-administered lands unless a park unit is under exclusive federal jurisdiction, or where state law interferes with federal functions or conflicts with federal law; neither of these is the case here. Cooperation with state law enforcement agents may be accomplished through a Memorandum of Understanding between state agencies and NPS units, under which 1) NPS invites state agents to enforce state law within park units, and/or 2) a state government deputizes NPS officials to enforce state law.

For example, Lake Mead, Glen Canyon, and Curecanti National Recreation Areas each currently have agreements with state agencies to assist in the enforcement of state invasive species control laws. These parks work closely with states to provide inspection and decontamination sites upon both entry and exit, as well as to provide visitor education. The specifics of inspection and decontamination enforcement depend, among other things, on whether the state prefers to focus on enforcement or voluntary inspection and education initiatives. For instance, Lake Mead works with and provides some funding for the Nevada Department of Wildlife to offer free, voluntary inspection and decontamination to visitors entering and exiting park waters at key access points. Glen Canyon has an agreement with the State of Utah under which state agents are invited onto park units to make inspections and operate NPS-owned decontamination sites for vehicles exiting park waters, and NPS officials educate visitors about the requirements of state law and

direct boaters to inspection and decontamination sites. In those less common instances where parks have exclusive federal jurisdiction, and so state law does not apply, parks may nonetheless inform boaters leaving the park that state law prohibits transportation of aquatic invasive species within the state. Finally, NPS has authority under applicable concessions statutes to require marinas operating under NPS concession contracts and other businesses operating within park units to provide decontamination services in order to comply with state invasive species control laws.

However, NPS has more limited authority under federal law to regulate activity for the sole purpose of protecting resources outside of park units, even if the activity occurs within NPS units. Several federal authorities, including the National Invasive Species Act (16 U.S.C. §4701 *et seq.*), the Clean Boating Act of 2008 (P.L. 110-288), and Executive Order 13751, Safeguarding the Nation from the Impacts of Invasive Species (December 5, 2016), provide federal agencies with some authority to regulate certain invasive species in specified geographic locations, but they do not provide clear authority to regulate activities that could cause the spread of invasive species as they leave a National Park unit.

For more information, contact: Hilary Smith, Senior Advisor for Invasive Species, Department of the Interior, hilary_smith@ios.doi.gov, 202-208-4103