

**Alaska Wilderness League \* Alliance for the Great Lakes \* American Rivers \*  
Audubon Society \* Black Warrior Riverkeeper \* Cahaba Riverkeeper \*  
Center for Biological Diversity \* Conservation Law Foundation \* Defenders of Wildlife \*  
Earthjustice \* Earth Law Center \* Endangered Species Coalition \*  
Environmental Protection Information Center \* Friends of the Earth \*  
Great Lakes Committee -- Izaak Walton League \* Gulf Restoration Network \*  
Humboldt Baykeeper \* Illinois Chapter, Sierra Club \* Izaak Walton League of America \*  
Klamath Forest Alliance \* League of Conservation Voters \* Massachusetts Baykeeper \*  
Minnesota Center for Environmental Advocacy \* Minnesota Conservation Foundation \*  
Minnesota Division -- Izaak Walton League of America \*  
Natural Resources Defense Council \* Northwest Environmental Advocates \*  
Northwest Guides and Anglers Association \* Peconic Baykeeper \* Riverkeeper, Inc. \*  
Rogue Riverkeeper \* San Francisco Baykeeper \* Save the Dunes \*  
Snake River Waterkeeper \* Southern Environmental Law Center \* Suncoast Waterkeeper  
\* Tip of the Mitt Watershed Council \* Western Nebraska Resources Council**

June 19, 2014

Dear Senator Rockefeller and Senator Thune:

On behalf of our millions of members and supporters, we are writing to express our strong opposition to the Vessel Incidental Discharge Act of 2014 (S. 2094).

Ballast water discharge from ships is widely recognized as one of the primary sources for the introduction and spread of aquatic invasive species, which cause massive harm to the nation's waters. Invasive species cost the United States billions of dollars annually in damage to public water supply, energy generation systems, and commercial and recreational fisheries. They also disrupt native ecosystems by outcompeting native species, threatening endangered species, damaging habitat, changing food webs, and altering the chemical and physical aquatic environment. For example, the zebra mussel, which was introduced to the United States through ballast water discharges, has significantly altered the Great Lakes ecosystem, contributing to the extinction of native fish, disrupting natural functions and order, upsetting habitat and food chains, and undermining natural biodiversity. After 10 years, the zebra mussel had spread into the Mississippi, Tennessee, Hudson, and Ohio River Basins and since then moved into California, Nevada, Colorado, and Arizona.

Yet, instead of taking steps to solve the severe and numerous problems presented by ballast water discharge, S. 2094 ignores that these problems even exist and takes us backward when it comes to responsible management of ballast water discharge. Perhaps most egregious, S. 2094 preempts states' rights to protect their waters from ship discharges. States have been among the leaders of efforts to control discharges of ballast water infested with invasive species to the nation's waters. Despite their essential role in addressing this national economic and environmental catastrophe, S. 2094 prohibits states from adopting or enforcing all new, and likely most existing, state laws or programs to control ship discharges.

Not only would S. 2094 prevent states from taking or continuing to take proactive measures to limit invasive species in their waters, but it would also largely prevent the federal government from doing so. S. 2094 requires existing Coast Guard standards for ballast water to remain in place for at least seven years, instead of being updated regularly to increasingly limit ballast water introductions of invasive species. The Coast Guard standards are so weak that scientific studies have demonstrated some ships can meet them with no treatment whatsoever, demonstrating an even greater need to update and revise them on a more regular timeline if we hope to prevent additional invasive species from entering the nation's waters. Further, S. 2094 imposes a number of roadblocks on the revision of new standards that could ensure the Coast Guard's current ones remain in place forever. For example, Section 5 requires that in order to use such revised standards, the Coast Guard must prove they will result in a "scientifically demonstrable and substantial reduction in the risk of introduction or establishment" of invasive species, despite the National Research Council conclusion it is impossible to meet this level of scientific certainty. Even improved standards would not necessarily protect the nation's waters because Section 6 allows ships to use existing treatment systems for an indefinite period even if the Coast Guard *does* revise the treatment standards.

S. 2094 also circumvents one of our country's most important environmental laws – the Clean Water Act (CWA) – by rendering some of its most fundamental provisions irrelevant and transferring decision-making from the Environmental Protection Agency (EPA) – an agency with water pollution expertise – to the Coast Guard, which lacks such experience and knowledge. For example, the CWA requires National Pollutant Discharge Elimination System (NPDES) discharge permits be renewed every five years when states, EPA, and the public re-evaluate treatment levels, monitoring results, and compliance, while S. 2094 excludes States and the public from participating in most regulatory decisions, leaving them instead to the Coast Guard. The CWA requires NPDES permits to meet State water quality standards, forcing the development of technology sufficient to ensure protection of public health and the environment, while S. 2094 relies on the use existing technology, perhaps forever. And the CWA allows states and EPA to issue permits, conduct inspections, obtain discharge records, and bring enforcement actions, while S. 2094 requires the Coast Guard to assume that installed systems are working and being used and requires no permits, inspections, or discharge records.

Finally, Section 7 of S. 2094 eliminates protection altogether for some key waters by exempting vessels that are operating within a "geographically limited area." Under the bill's definition, this provision could exempt ships in some or all of the Great Lakes from any ballast water treatment requirements whatsoever. Section 7 also exempts vessels that operate exclusively within one Captain of the Port (COTP) Zone, which could result in ballast water laden with invasive species to be transferred, without treatment, to pristine areas without invasive species.

As a whole, the provisions of S. 2094 perpetuate a regulatory scheme that continues to place the economic burden associated with invasive species on the nation's taxpayers rather than shifting it to the industry responsible for bringing those species to the nation's waters.

For these reasons, we strongly oppose S. 2094.

Sincerely,

David Jenkins  
Director of Government Affairs  
**Alaska Wilderness League**

Jared Teutsch, J.D.  
Water Policy Advocate  
**Alliance for the Great Lakes**

Jim Bradley  
Senior Director of Government Relations  
**American Rivers**

Brian Moore  
Legislative Director  
**Audubon Society**

Nelson Brooke  
Riverkeeper  
**Black Warrior Riverkeeper**

Myra Crawford  
Executive Director & Riverkeeper  
**Cahaba Riverkeeper**

Brett Hartl  
Endangered Species Policy Director  
**Center for Biological Diversity**

Chris Kilian  
Vice President, CLF Vermont & Director, Clean Water and Healthy Forests Program  
**Conservation Law Foundation**

Mary Beth Beetham  
Director of Legislative Affairs  
**Defenders of Wildlife**

Marty Hayden  
Vice President, Policy and Legislation  
**Earthjustice**

Linda Sheehan  
Executive Director  
**Earth Law Center**

Leda Huta  
Executive Director  
**Endangered Species Coalition**

Gary Graham Hughes  
Executive Director  
**Epic-Environmental Protection Information Center**

Marcie Kever  
Oceans & Vessels Program Director  
**Friends of the Earth**

Jill Crafton  
Chair  
**Great Lakes Committee -- Izaak Walton League**

Cynthia Sarthou  
Executive Director  
**Gulf Restoration Network**

Jennifer Kalt  
Director  
**Humboldt Baykeeper**

Cindy Skrukrud  
Clean Water Advocate  
**Illinois Chapter, Sierra Club**

Mike Leahy  
Conservation Director  
**Izaak Walton League of America**

Kimberly Baker  
Executive Director  
**Klamath Forest Alliance**

Sara Chieffo  
Legislative Director  
**League of Conservation Voters**

Brianne D. Callahan  
Executive Director  
**Massachusetts Baykeeper**

Scott Strand  
Executive Director

**Minnesota Center for Environmental Advocacy**

Gary Botzek  
Executive Director

**Minnesota Conservation Federation**

Barry Drazkowski  
President

**Minnesota Division -- Izaak Walton League of America**

Scott Slesinger  
Legislative Director

**Natural Resources Defense Council**

Nina Bell, J.D.  
Executive Director

**Northwest Environmental Advocates**

Bob Rees  
Executive Director

**Northwest Guides and Anglers Association**

Dan Gulizio  
Baykeeper

**Peconic Baykeeper**

Paul Gallay  
President and Hudson Riverkeeper

**Riverkeeper, Inc.**

Forrest English  
Program Director

**Rogue Riverkeeper**

Jason Flanders  
Program Director

**San Francisco Baykeeper**

Nicole Barker  
Executive Director

**Save the Dunes**

F. S. Ryan, III  
Waterkeeper

**Snake River Waterkeeper**

Navis A. Bermudez  
Deputy Legislative Director  
**Southern Environmental Law Center**

Justin Bloom  
Executive Director  
**Suncoast Waterkeeper**

Jennifer McKay  
Policy Specialist  
**Tip of the Mitt Watershed Council**

Bruce McIntosh  
Staff Ecologist  
**Western Nebraska Resources Council**