



February 18, 2013

**Representative Eric Feige, co-chair
Representative Dan Saddler, co-chair
House Resources Committee
State Capitol
Juneau, AK 99801**

Re: HB 89

Dear Reps. Feige and Saddler:

House Bill 89 would create a quick response system for dealing with marine and freshwater invasive species. While ASGA supports the intent of the legislation, we are uneasy that it could potentially allow a state agency to become immune to responsibility for mistakenly destroying private property.

Specifically, 16.05.093(f) holds the Alaska Department of Fish and Game harmless if it unilaterally decides it is necessary to destroy a crop of shellfish, shellfish production equipment or other floating infrastructure to eradicate an invasive species at a shellfish farm.

Representative Paul Seaton, prime sponsor of HB 89, attempted to respond to our concerns with 16.05.093(h) which states in part: “the department shall consider the potential effects of its response measures on private property while selecting the most effective methods to eradicate or control the aquatic invasive species.”

Frankly, the language is not nearly as strong as we had hoped. Some background might help.

While an invasive species such as the “sea vomit” infecting Whiting Harbor is a serious concern, oyster farmers can completely eradicate the organism from their crops, gear and floating infrastructure utilizing a variety of strategies. While these tunicates are very hard to eradicate from submerged reefs and rocks, there are many treatments an oyster farmer can employ to safely kill the organism without harming the crop of oysters, culture gear, vessels and infrastructure.

Despite the legitimate concerns about the spread of the tunicates in the marine environment and resulting impacts to habitat and wild organisms, there is no threat to human health from consuming oysters that had been covered by the “marine vomit.”

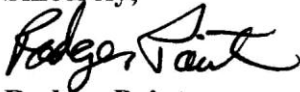
ADFG should work closely with the operators of infected farms to ensure invasive organisms are fully eradicated before ordering destruction of shellfish stocks and other private property. This seems like a common sense response and a course the agency is likely to follow, but we worry about the lack of recourse should ADFG personnel make a quick decision without consultation and interaction with the permit-holder.

We understand the need for a quick response to a situation such as Whiting Harbor and support your intent, but the “hold harmless” clause is troubling, particularly when coupled with the soft language in AS 16.05.093(h): “...the department shall consider the potential effects of its response measures on private property while selecting the most effective methods to eradicate or control the aquatic invasive species.”

A farm might be in the pathway of an invasive species hitchhiking fishing gear on a vessel anchoring nearby or ballast water discharge from a passing freighter. Since the farmer has most of his or her business assets hanging in the water, it should be easy to understand out concern. We don’t want to end up being considered collateral damage.

We’d be pleased to work with your committee to resolve this dilemma.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodger Painter", with a stylized flourish at the end.

Rodger Painter
ASGA President

c.c. Members of the House Resources Committee
 Cora Campbell, ADFG
 Ron Josephson, ADFG
 Cynthia Pring-Ham, ADFG