

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 19, 2012

2:14 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Alan Dick
Representative Neal Foster
Representative Bob Herron
Representative Cathy Engstrom Munoz
Representative Berta Gardner
Representative Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 360

"An Act enacting the Interstate Mining Compact and relating to the compact; relating to the Interstate Mining Commission; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 365

"An Act relating to the rapid response to, and control of, aquatic invasive species."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 360

SHORT TITLE: INTERSTATE MINING COMPACT & COMMISSION

SPONSOR(S): STATE AFFAIRS

02/24/12	(H)	READ THE FIRST TIME - REFERRALS
02/24/12	(H)	RES, FIN
03/19/12	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 365

SHORT TITLE: AQUATIC INVASIVE SPECIES
SPONSOR(s): RESOURCES

03/14/12 (H) READ THE FIRST TIME - REFERRALS
03/14/12 (H) RES
03/19/12 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE BOB LYNN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 360 on behalf of the House State Affairs Standing Committee, sponsor.

ED FOGELS, Deputy Commissioner
Office of the Commissioner
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 360.

GREGORY CONRAD, Executive Director
Interstate Mining Compact Commission (IMCC)
Washington, DC

POSITION STATEMENT: Testified in support of HB 360.

MIKE SATRE, Executive Director
Council of Alaska Producers
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 360.

MARK VINSEL, Executive Director
United Fishermen of Alaska (UFA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of the concept of HB 365.

DARCY ETCHEVERRY, Invasive Weed Specialist
Fairbanks Soil & Water Conservation District
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 365.

TRISH WURTZ, PhD
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 365.

ACTION NARRATIVE

[2:14:44 PM](#)

CO-CHAIR ERIC FEIGE called the House Resources Standing Committee meeting to order at 2:14 p.m. Representatives Munoz, Dick, Gardner, Kawasaki, Seaton, and Feige were present at the call to order. Representatives Herron, Foster, and P. Wilson arrived as the meeting was in progress.

HB 360-INTERSTATE MINING COMPACT & COMMISSION

[2:15:22 PM](#)

CO-CHAIR FEIGE announced that the first order of business would be HOUSE BILL NO. 360, "An Act enacting the Interstate Mining Compact and relating to the compact; relating to the Interstate Mining Commission; and providing for an effective date."

[2:15:38 PM](#)

REPRESENTATIVE BOB LYNN, Alaska State Legislature, introduced HB 360 on behalf of the House State Affairs Standing Committee, sponsor. He said the mining industry has been historically the cornerstone of Alaska's economy and is getting even more significant. Currently, Alaska has seven operating mines and employs more than 200 people in good, high paying jobs. The Interstate Mining Compact Commission (IMCC) is a multi-state governmental organization representing the natural resource and environmental protection interests of its various member states. The compact's purpose is to advance the protection and restoration of land, water, and other resources affected by mining. The IMCC is the collective voice of the mining states in Washington, DC. He said HB 360 would authorize Alaska to participate in IMCC as a full voting member. Currently, Alaska is only an associate member and cannot vote.

[2:17:46 PM](#)

ED FOGELS, Deputy Commissioner, Office of the Commissioner, Department of Natural Resources (DNR), said he will provide his perspective on HB 360 and the Interstate Mining Compact Commission. He pointed out that Alaska's mining activity has been significantly increasing over the last 10 years with seven mines now operating and significantly contributing to the economies of the state and local areas. All are working well from an environmental perspective, in large part due to a strong

state permitting and regulatory process. Along with the increased mining activity has been increased public discussion about mining and its impacts, and some have questioned the strength of Alaska's permitting process. While [DNR] believes it is a strong process, it also believes the process can be improved and strengthened. Per the governor's initiative, [DNR] is scrubbing its permitting processes from top to bottom.

[2:19:09 PM](#)

MR. FOGELS said one key thing DNR is working on in trying to improve its permitting process for mining and other resource sectors is improving its relationship with the federal agencies and the federal government. This is because the federal processes are typically the timeline drivers for each of these resource development projects, and that is why the Interstate Mining Compact Commission is so important to the State of Alaska. He said the Interstate Mining Compact Commission brings together the mining and environmental regulatory programs from 25 member states and the IMCC is a very robust mechanism for information exchange. Additionally, the Interstate Mining Compact Commission brings with it the full force of 25 states when it talks with congressmen and testifies at hearings in Washington, DC. In addition to being a very powerful voice in Congress, the IMCC has discussions with federal permitting agencies at the headquarters level in Washington, DC.

[2:21:35 PM](#)

MR. FOGELS provided an example of how the IMCC has helped the interests of the states and Alaska in particular. Recently the U.S. Environmental Protection Agency (EPA) started an initiative where it is looking at possibly taking over bonding for hard rock mining in the nation. All the mining states are tremendously worried about this initiative because the bonding piece is the very end of a long permitting process and if EPA takes over that bonding piece it threatens to take over the entire permitting process by the other states. He said the IMCC has done a spectacular job of bringing all states together to dialog with EPA, to debate, to provide information, and to educate the EPA on what is actually involved in developing a bond for a significant hard rock mine.

MR. FOGELS noted he is currently the governor's designee to the Interstate Mining Compact Commission and in this role he has seen the benefits Alaska has gained from this organization as an associate member. He said HB 360 is a good piece of legislation

and Alaska would be very well served by becoming a full member of the Interstate Mining Compact Commission.

2:22:40 PM

REPRESENTATIVE P. WILSON asked why Alaska has not joined the Interstate Mining Compact Commission before.

MR. FOGELS replied Alaska has been an associate member for about six years and he thinks the reason Alaska has not joined the IMCC to date is that it is not an easy process because the state must pass legislation. There is also a fiscal consideration to becoming a full member because the dues go up. He understood the fiscal note is \$60,000 with \$40,000 of that for dues. He explained that a complicated dues formula is spread out amongst all the states - half is spread out evenly between the states and half is pro-rated depending on the value of mineral production in each state. He added that in recent years the level of engagement with the federal agencies has really gone up as Alaska tries to get resource development projects permitted within the state. Alaska must work smarter with the federal agencies, which has elevated the importance of the IMCC to Alaska.

2:24:06 PM

REPRESENTATIVE KAWASAKI, noting that five other states are associate members, inquired what the benefits are and what the difference is between being an associate member and a full member.

MR. FOGELS responded the single biggest benefit is that Alaska would be a voting member. Right now Alaska participates in all the meetings, a tremendous value with the information exchange, but it does not participate as a voting member sitting on some of the committees. He added he thinks it important for Alaska to pay its dues to this organization because the more full members the more powerful IMCC's voice in Washington, DC.

REPRESENTATIVE KAWASAKI asked what things a member of the Interstate Mining Compact Commission would actually vote on.

MR. FOGELS answered he could provide details in this regard but deferred to IMCC executive director Gregory Conrad to provide the information.

2:25:50 PM

REPRESENTATIVE KAWASAKI drew attention to the IMCC's Interstate Mining Compact background paper which states on page 1 that by adopting the compact the member states obligate themselves to undertake and maintain certain types of programs. He inquired what those programs would be.

MR. FOGELS replied predominantly those are regulatory programs for the mining industry. When the compact was first enacted in the 1960s and 1970s the state of environmental regulation for mining was nowhere near what it is today. The original intent of the compact was to get the states together to develop strong mine regulatory and permitting programs. At this point, Alaska has already built its environmental regulatory program for the mining industry, so has already met that part of the obligation.

REPRESENTATIVE KAWASAKI asked whether Alaska would be obligated to adopt more stringent regulations if the IMCC were to adopt regulations more stringent than the state's.

MR. FOGELS responded the state would not be obligated to that at all. He said he thinks there is a provision specifically in the compact language that nothing in the compact can supersede a state's laws or regulations.

[2:27:24 PM](#)

CO-CHAIR SEATON inquired whether the IMCC is just commenting or is it negotiating with the federal government in regard to the EPA bonding issue. If the IMCC is negotiating, he asked whether Alaska be more bound by that agreement with the federal government as a voting member than as a non-voting member.

MR. FOGELS answered he does not believe Alaska would. The role IMCC has played in the bonding initiative has been to bring the states together and call the EPA to meetings with all the states by teleconference and in person, and the commission submits comments on behalf of all the states to the federal agencies. So, the negotiation that goes on is with the states and the federal agency. It is sort of an advisory role so nothing is binding. The idea is to talk sense into a federal agency that is working some initiative that may be adverse to the states' interests. Whatever that federal agency ends up doing is what will be binding on all the state in the end.

[2:29:00 PM](#)

CO-CHAIR SEATON surmised the Interstate Mining Compact is different than other compacts where restrictions in the compact apply to all member states, so Alaska would not be bound by the Interstate Mining Compact.

MR. FOGELS concurred, saying the IMCC is an advisory, facilitating, and lobbying body for the states' regulatory programs. It does not pass any rules or requirements beyond what is in the current compact language. He understood the only real requirement is that Alaska has a regulatory program in place.

[2:30:14 PM](#)

MR. FOGELS, in response to Representative Herron, offered his belief that Alaska would be the first western state to join the Interstate Mining Compact Commission, although North Dakota or South Dakota might be full members. The other western states are associate members at this time. In further response, he said his perspective on the reason for this slow participation is that when the IMCC originated in the 1960s and 1970s it was primarily East Coast coal-related states, so the IMCC had a very strong coal focus over the years. Recently he has seen a shift to some of the non-coal issues, which has been very valuable. More of the western states are now starting to pay attention and realize that the IMCC is going to be a valuable tool and organization to join. At least two or three other western states are actively pursuing full membership at this time.

MR. FOGELS, in response to Representative Munoz, explained that the commission's advocacy is for issues and regulatory programs of the states and not for specific projects.

[2:32:59 PM](#)

GREGORY CONRAD, Executive Director, Interstate Mining Compact Commission (IMCC), offered testimony in support of HB 360. He noted Alaska has been an associate member of the IMCC since 2006, during which time the state has learned about the benefits and services provided by IMCC. On the basis of this experience the state has chosen to move forward with HB 360 to become a full IMCC member. He explained that upon becoming a full member through the enactment of HB 360, Alaska would have a formal vote in guiding the direction of the compact. Alaska would also be in a position to chair the compact's various standing committees and help lead the compact in directions favorable to both Alaska and the other member states. Alaska would continue to enjoy the

other benefits to which it has been exposed over the past six years, including access to all IMCC communications, meetings, programs, and initiatives.

MR. CONRAD said Alaska's participation as a full member would also be understood by those who work with the compact on a regular basis, including Congress and federal agencies. The presence of IMCC in Washington, DC, allows it to monitor federal agency and congressional initiatives that might impact states' rights as well as development constraints on mineral issues. Alaska's participation in the IMCC would open avenues for the state to be heard in unique and valuable ways not otherwise available to it and to be supported with the clout that comes from 24 states speaking together as one voice. Since the IMCC focuses solely on mining and related environmental protection issues with the federal government, it is able to delve deeper into the mining-related concerns that matter most to Alaska.

[2:36:07 PM](#)

REPRESENTATIVE KAWASAKI again drew attention to the IMCC's Interstate Mining Compact background paper which states [on page 1] that by adopting the compact the member states obligate themselves to undertake and maintain certain types of programs. He asked whether Mr. Conrad has reviewed Alaska's laws to see whether the state currently has those programs in place.

MR. CONRAD replied the key aspect of this is that the IMCC is not a regulatory body, so the organization does not as a matter of course require regulation by the states. The IMCC advocates and encourages states to develop regulatory and other programs in the area of mineral resource development and protection that would demonstrate leadership by the states in these areas. He said his understanding is that Alaska's laws and regulations are in very good stead.

[2:37:20 PM](#)

REPRESENTATIVE KAWASAKI noted that of the 19 current member states and 5 associate members, 3 of the top 10 mining states are absent - the western states of Arizona, California, and Montana. Additionally, Colorado and New Mexico are only associate members. He inquired why other states have not yet joined given how long the IMCC has been around.

MR. CONRAD concurred with Mr. Fogels' statement that when the IMCC began in the 1960s and 1970s it was primarily focused on

coal-related issues. National legislation, the Surface Mining Control and Reclamation Act [of 1977], was critical for the states because it had a state lead concept. The coal states were the initial states that joined and formed the compact and advocated for many of the key legislative proposals in Washington, DC. Over time the IMCC has expanded its scope and focus beyond coal issues. The current focus in Washington, DC, is as much on non-coal and hard rock issues as on coal issues. Over the last 10-15 years the western states have seen the value of being part of an organization that is focused solely on mining issues for the states. Therefore, more western states are becoming involved in IMCC, beginning with New Mexico and recent associate member, Colorado. He said he has been in negotiations and discussions with Arizona, Colorado, and Montana. He met with Nevada's mineral resources committee two weeks ago and Nevada is seriously considering coming in as a member state. It is a process for becoming involved. The newer associate member states have gained an understanding of the work of the compact and are now moving toward full membership. The IMCC is working on development of legislation in New Mexico, Colorado, and Utah and it is a matter of finding the appropriate opportunity to introduce bills that are currently in draft form.

[2:40:33 PM](#)

REPRESENTATIVE P. WILSON asked whether IMCC is just now starting to get new members since the original group of coal states.

MR. CONRAD responded the newest members joining are almost all western members with hard rock influence, which has been the impetus for their interest. The newest member states are the ones similarly situated to Alaska regarding issues, concerns, and regulatory focus.

REPRESENTATIVE P. WILSON clarified she is asking whether any new states have already entered IMCC or are new states just starting to enter the organization. She inquired whether the 19 [full member] states are the original coal states and whether the associate members are thinking about joining because the IMCC has expanded [its focus].

MR. CONRAD answered it has been a process by which states have become exposed to and become involved in the IMCC. The originating legislation required four states for the compact to be in place and effective. Kentucky was the first state to join in 1966, followed by Pennsylvania, North Carolina, Oklahoma, West Virginia, and South Carolina. North and South Carolina do

not have coal development, so a number of states have been involved that do not have coal. This newest impetus for becoming involved began in 2000 with New Mexico and on through 2007 with Colorado. Now, Nevada and Montana are looking at the IMCC.

[2:43:54 PM](#)

CO-CHAIR SEATON noted Alaska is considering several coal deposits for strip mining and is considering several open pit prospects as well as several underground prospects for hard rock mining. He asked whether Mr. Conrad is referring to open pit or underground mining when referring to hard rock mining. He further asked whether Alaska's interests would align with those of the other 19 voting states.

MR. CONRAD believed they do align. He said the IMCC has a very broad range of interests from the states in all types of mining. So, when he says "hard rock", perhaps "non-coal" may be more embracing, as well as the different methods of mining - underground, surface, open pit. The work of the compact is generally driven by the national issues that are before the federal agencies or Congress; for example, the bonding issue mentioned by Mr. Fogels, which pervades all types of mining and minerals. Another area IMCC is working on is mine safety and health legislation, which embraces both coal and non-coal and different types of mines and mining. The IMCC has been involved with the issue of coal waste and coal combustion waste and other kinds of mine waste. Depending upon where the issue is being driven from, the IMCC covers a plethora of different types of mining. As a result, there is interest from all of the member states in development of these particular issues, whether before Congress or agencies. The states find themselves generally very well aligned when it comes to developing IMCC's position on any particular legislative or regulatory issue and the IMCC operates generally by consensus.

[2:47:53 PM](#)

CO-CHAIR SEATON related that Montana has enacted a prohibition on the use of cyanide. He inquired whether that issue has come up and how it was handled or not handled at the compact level.

MR. CONRAD replied that is a good example given there has been concern about the use of cyanide at mining operations over the years and in the recent past. In the context of the compact, a state will bring an issue to the table to share information in

terms of how it is impacting that state from the regulatory perspective; or, if there is a particular rule of a national scope, it will give all the states an opportunity to weigh in on that issue. States are usually not positioning themselves with respect to what is happening in the respective states other than being aware of that and offering advice and counsel to a particular state that may be dealing with a particular challenge associated with that issue. Unless it is at a national level in terms of a federal rule making, the compact would generally not be taking a position on what is going on in a particular state, it is left to the state itself.

[2:50:03 PM](#)

REPRESENTATIVE HERRON, noting Article VIII of the compact, Entry into Force and Withdrawal, asked whether any state has had the need to withdraw.

MR. CONRAD responded the only state to withdraw was New Mexico in 1983, but it rejoined in 2000.

[2:50:40 PM](#)

REPRESENTATIVE MUNOZ recollected that a mine in the Juneau area experienced many years of difficulty and delays with the US. Army Corps of Engineers' 404 permit. She asked how the IMCC would help to communicate to the federal agencies that there could be problems with the permitting in a particular situation.

MR. CONRAD answered that the issue of requirements for 404 permits has been brought before the IMCC by several states struggling with it, including Alaska. The benefit is sharing the type of challenges being faced so the state can benefit from the advice of the other states in how those states have been dealing with the corps. To the extent that the corps has recently moved forward with a rule making on nationwide permits for coal mines, the IMCC would be able to develop a position on that rule making and communicate that through formal written comments, testimony at public hearings, and potentially raising it as part of congressional oversight hearings.

[2:52:57 PM](#)

MR. FOGELS, in response to Representative Herron, said the administration supports HB 360.

[2:53:14 PM](#)

CO-CHAIR FEIGE opened public testimony on HB 360.

MIKE SATRE, Executive Director, Council of Alaska Producers, stated that his nonprofit trade association, which represents the major mines and developmental projects in the state of Alaska, supports HB 360. He said his organization believes Alaska has one of the most rigorous permitting processes in the world for mining because Alaska's process is rigorous, science based, transparent, and predictable. However, what might be rigorous one day might not be the next and the only way to stay on top of the game is by finding ways to continuously improve. One of the ways to do that is by sharing information with peers and in this case those peers are other mining producing states. As a full member of the IMCC, Alaska would be able to exchange information regarding best regulatory and reclamation practices with states that have lots of experience from mining coal for many years, which is important to Alaska as it looks to develop new coal deposits in the state.

MR. SATRE maintained that in regard to metal mining this is the chance for Alaska to take the lead amongst western states to show the West how mining is done responsibly in Alaska and how everybody in the West should be doing it. This would lay the foundation for a properly regulated mining economy throughout the West. Rather than asking why other states are not part of the IMCC the question should be, "How can Alaska take a leadership role in this?" The state can be a policy leader by being a full member of the IMCC.

[2:55:32 PM](#)

MR. SATRE said a main reason his organization supports full membership in the IMCC is echoed on the IMCC web site. Paraphrasing from the site he related that the IMCC was founded on the premise that the mining industry is one of the most basic and important to the nation. At the same time it is essential that an appropriate balance be struck between the need for minerals and the protection of the environment, but the IMCC recognizes that individual states have the power to establish and maintain programs of land and other resource development restoration regulations appropriate to cope with the effects of mining. The IMCC would not shift the responsibility of these programs. On the other hand, the member states believe a united position in dealing with the federal government affords a decided advantage. The commission feels strongly that the collective voice of many is important in its efforts to preserve

and advocate states' rights. Mr. Satre added that if the State of Alaska is going to continue to seek primacy on permitting and regulatory issues, the IMCC is the most appropriate forum to do it from the mining industry's standpoint.

REPRESENTATIVE HERRON said he supports HB 360 and asked whether Mr. Satre has heard of anybody opposing Alaska joining the IMCC.

MR. SATRE answered that he personally has not.

CO-CHAIR FEIGE closed public testimony after ascertaining no one else wished to testify.

[2:57:34 PM](#)

CO-CHAIR SEATON said he is favorably disposed to HB 360, but noted he has not heard comment from anyone in his district or from individual mines about HB 360. He requested the bill be held until he can hear from them.

CO-CHAIR FEIGE held over HB 360 and said he plans to move the bill out of committee on 3/21/12.

HB 365-AQUATIC INVASIVE SPECIES

[2:59:34 PM](#)

CO-CHAIR FEIGE announced that the next order of business would be HOUSE BILL NO. 365, "An Act relating to the rapid response to, and control of, aquatic invasive species."

[2:59:59 PM](#)

CO-CHAIR SEATON, noting HB 365 is a House Resources Standing Committee bill, explained the impetus for the bill came from the committee's [1/23/12] hearing on invasive species. Pictures were shown at that hearing of *Didemnum vexillum* (D. vex), an invasive species growing in Sitka's Whiting Harbor. The purpose of HB 365 is for those times where an invasive species is found in a limited area; it would provide Alaska's state agencies with a tool for rapid response on an emergency basis instead of waiting one or two years while the invasive species spreads [as happened in Whiting Harbor]. The bill would not apply to an infestation that is in general or has spread along coastline, but rather to an invasive species in one limited geographic locality that could be resolved.

3:02:19 PM

CO-CHAIR SEATON pointed out that HB 365 reads "aquatic" invasive species, so would apply to inland waterways as well as marine waters. However, he continued, when constructing the bill the thought was marine aquatic and the question is whether these emergency powers should be provided for inland waterways. For example, [northern] pike are endemic and spreading in some areas and the idea is not for something that has become endemic or has spread and that would require treating a massive amount of the environment. Rather, the objective is to treat something that is contained in a limited area, thereby nipping it in the bud.

3:03:28 PM

CO-CHAIR SEATON drew attention to the executive summary of the 2002 "Alaska Aquatic Nuisance Species Management Plan" by the Alaska Department of Fish & Game (ADF&G) included in the committee packet. He noted that page v of the plan talks about developing an inter-division Alaska Invasive Species Prevention and Response Program within ADF&G. However, instead of emergency response capability, the plan talks about listing and educating people ahead of time, as seen on page VI.

3:05:02 PM

REPRESENTATIVE GARDNER, addressing the eight actions listed on page v of the aforementioned plan, inquired whether the following two actions have been implemented [original punctuation provided with formatting changes]:

Prevent the spread of invasive species already introduced into Alaska, through the identification and closing of transport pathways.

Develop protocols for early detection, rapid response to, control and management of new invasive species.

3:05:43 PM

CO-CHAIR SEATON understood the plan has been shelved and not implemented. He said the usual problem is that the departments come to the legislature saying an emergency response cannot be undertaken due to the lack of legislative authority to omit the procedure of following regulations and conducting studies before acting. He pointed out HB 365 would provide that authority for a geographically insulated infestation. For example, HB 365

would have made stopping the D. vex infestation in Whiting Harbor a priority and no studies would have had to be done for how that would affect other species in the harbor. For limited geographic areas, long-time studies allow the possibility of an invasive species spreading and becoming endemic, creating huge ecological and economic consequences. Mariculture in Southeast Alaska could be rendered defunct by the spread of D. vex; herring fisheries could be rendered defunct in bays infested with D. vex because the invasive species could then be spread throughout Alaska by infected herring nets. The bill would give ADF&G and the Department of Natural Resources (DNR) the tools to respond to an invasive outbreak in a limited geographic area, such as a bay, on an emergency basis. He added that HB 365 is not intended to require ADF&G to drop everything in a management area to concentrate on an infested area, so a clarifying amendment will be offered in this regard.

[3:11:30 PM](#)

REPRESENTATIVE P. WILSON observed that five fiscal notes accompany HB 365 and two of them alone add up to \$938,000. She suggested the bill be limited to marine species to ensure its passage, saying it is important to get a quick response to an invasive species because it is unknown how far the D. vex from Whiting Harbor has already traveled as a result of the lack of a quick response.

CO-CHAIR SEATON responded the aforementioned is one of two forthcoming amendments and a third amendment clarifies that the priority designation is only for the particular infested area and not an entire region. Most of the problems with HB 365 come from addressing both fresh and marine waters, he said.

[3:13:44 PM](#)

REPRESENTATIVE MUNOZ inquired how an ongoing emergency situation like Whiting Harbor would be handled during the time that the plan is being developed.

CO-CHAIR SEATON replied things have to start someplace. He said the Whiting Harbor problem was not responded to in the timely fashion it should have been. He further thought DNR should be required to write into mariculture leases that a contaminated lease will not be compensated for the destruction that will need to occur to sterilize that mariculture area.

CO-CHAIR FEIGE opened public testimony.

[3:16:26 PM](#)

MARK VINSEL, Executive Director, United Fishermen of Alaska (UFA), noted UFA is a statewide trade association representing 37 member groups from fisheries throughout Alaska and its offshore waters. He said UFA supports HB 365 in concept, given its awareness of the tremendous threat of invasive marine and inland species and the potential devastating effect on fisheries. No other state has as much to lose from invasive species as Alaska - it is important to have rapid response abilities in advance of something happening, which is the basis of UFA's support for the bill. He said UFA has supported previous bills that would have set up an invasive species council. It can be difficult to determine whether an issue would be the responsibility of ADF&G or DNR, but HB 365 puts it strongly on ADF&G. Therefore, UFA is very interested in ADF&G's advice on how best to make this work. He thanked the committee for introducing HB 365 and reiterated UFA's general support for the bill's concept.

[3:18:28 PM](#)

DARCY ETCHEVERRY, Invasive Weed Specialist, Fairbanks Soil & Water Conservation District, stated she works with the district to coordinate management of Elodea in the Fairbanks area. Elodea is an aquatic invasive plant with the potential to impact Alaska's freshwater resources and fish habitat, she explained. When introduced into freshwater systems, Elodea can restrict flow, increase sedimentation, and damage fish habitat. The current known distribution of Elodea in Alaska is limited to a handful of lakes and sloughs in Anchorage, the Cordova area, and Fairbanks, so the time to act is now.

MS. ETCHEVERRY said a coordinated effort is needed from all state, federal, and private agencies, but so far the response effort has been led by nonprofit and federal agencies. Support is needed from the state agencies managing these waters to lead this response effort. The ADF&G 2002 Alaska Aquatic Nuisance Species Management Plan outlines how to accomplish effective management and adopts the following policies: develop an inter-division Alaska invasive species prevention program; provide leadership and coordination between state, federal, international agencies, tribes, and non-governmental organizations; and develop protocols for early detection and rapid response to control and manage new invasive species. The plan is an excellent framework to coordinate aquatic nuisance

species management in Alaska, but it appears few of these tasks have been accomplished to date. If the plan and adopted ADF&G policies are insufficient to facilitate early detection and rapid response, she said she is then in favor of HB 365 to have rapid response to aquatic invasive species entered into Alaska's administrative code. She urged the committee to also consider the cost of implementing any invasive species response plan and to provide the agencies with needed resources and personnel. She discouraged the committee from eliminating freshwater habitats from HB 365 because freshwater invasive species can also be detrimental to fisheries and economies.

3:21:20 PM

TRISH WURTZ, PhD, noted she is testifying as a private citizen, but that she is a member of the Fairbanks Cooperative Weed Management Area. She said ADF&G's 2002 Alaska Aquatic Nuisance Species Management Plan has excellent descriptions about what the department planned to do to prevent the introduction of invasive species and eradicate them as quickly as possible. However, she reported, very little of what was described in the plan has actually been undertaken. Of particular concern is the invasive aquatic plant Elodea that was discovered in 2010 growing in Chena Slough near Fairbanks.

DR. WURTZ illustrated the seriousness of this discovery by reviewing what other states have gone through with invasive aquatic plants. Hydrilla, a close relative of Elodea, was introduced to Florida in the 1960s and within 20 years it spread throughout the state. Boating and swimming can no longer occur in the worst infested lakes, nor can fishing because a line cannot be drawn through the water. Additionally, fish cannot survive because Hydrilla fills the lake from top to bottom. The State of Florida now spends \$20 million per year solely trying to control Hydrilla. Learning from Florida's failure to respond quickly, the State of Minnesota did act quickly when in fall 2007 Elodea was found growing in a single lake near Minneapolis. Minnesota's Department of Natural Resources mapped and treated the infestation with aquatic herbicides within two months of its discovery. In Idaho an infestation of Hydrilla was found in December 2007 in the Bruneau River. In three months the Idaho Department of Agriculture treated and successfully killed the infestation with aquatic herbicide and mechanical pulling. In upstate New York an infestation of Hydrilla was found in August 2011 in one of the Finger Lakes. By October 2011 a coalition of groups had worked together to treat the infestation with aquatic

herbicide and had petitioned the state legislature for \$1 million to kill the infestation completely.

DR. WURTZ said the aforementioned states understand what the term rapid response means. In contrast, since the August 2010 discovery of Elodea in the Fairbanks area, all that ADF&G has done is to grudgingly attend a few meetings. The department needs to get to work and demonstrate real leadership and true rapid response in defense of Alaska's freshwater resources. She urged the committee not to give up the freshwater component of HB 365. She said she strongly supports the section of the bill that says rapid response shall be given priority over other activities of the department.

[3:25:36 PM](#)

REPRESENTATIVE P. WILSON reported that the owner of the aquatic farm in Whiting Harbor offered to take care of the *D. vex* infestation and estimated it would cost about \$30,000. However, a state or federal agency - she did not know which - forbid the owner from doing so and now he has completely lost the farm. She asked whether there is a way to provide that the person involved can help with the eradication efforts.

CO-CHAIR SEATON responded the rapid response is not dictated in HB 365, but it does dictate that chemical, biological, mechanical or physical methods, singly or in combination, can be used in that limited geographic area. He said there is nothing in the bill that would preclude a farm owner from doing something. The hope is that the plan developed by ADF&G will be inclusive enough to allow the most rapid response possible. He reiterated that the Department of Natural Resources (DNR) needs to include in its mariculture permits the recognition that there will not be a long court battle and an infestation in a limited area will be taken care of right way regardless of any damage.

REPRESENTATIVE GARDNER stated a way must be found to ensure people will not be so afraid of an invasive species being discovered that they try to hide it; people must be willing to quickly come forward in those cases where they have an interest.

[3:30:02 PM](#)

CO-CHAIR SEATON moved to adopt Amendment 1, labeled 27-LS1439\A.1, Bullard, 3/16/12, written as follows [original punctuation provided]:

Page 2, line 11:

Delete "activities of the department and activities regulated by the department"

Insert "activities regulated by the department in that limited or isolated geographic area"

CO-CHAIR FEIGE objected for discussion purposes.

[3:30:41 PM](#)

REPRESENTATIVE GARDNER inquired about instances in which something is discovered that is not confined to a limited area.

CO-CHAIR SEATON answered that an invasive species which has become endemic or spread into many areas along the coast cannot be eradicated by an emergency response. He reported that the bill's original language has been misinterpreted to mean [ADF&G's] activities and activities regulated by [ADF&G] within an entire management area. Rather, the intent is that when an invasive species is identified in a bay the other activities in that bay will become secondary and emergency response can be done to ensure the invasive species does not spread [beyond that bay], which is what Amendment 1 attempts to accomplish.

CO-CHAIR FEIGE removed his objection. There being no further objection, Amendment 1 was adopted.

[3:32:25 PM](#)

CO-CHAIR SEATON moved to adopt Conceptual Amendment 2, written as follows [original punctuation provided]:

Add "marine" before "aquatic invasive species" throughout the bill

CO-CHAIR SEATON added that this would also apply to the language on page [2], line 19, such that "or freshwater" would be removed.

CO-CHAIR FEIGE objected for discussion purposes.

[3:33:06 PM](#)

REPRESENTATIVE MUNOZ observed the fiscal analysis includes a freshwater species. She asked whether insertion of "marine" would change that focus of going after freshwater plants.

CO-CHAIR SEATON replied Conceptual Amendment 2 would remove that freshwater plant, as well as pike and other freshwater species, from the bill. He said he agrees with the people who testified that it is necessary to address freshwater plants, but said it may add so much weight to the bill that it will be unable to move through the legislature because most of the fiscal note comes from the freshwater.

[3:35:21 PM](#)

REPRESENTATIVE GARDNER asked whether Co-Chair Seaton is saying the odds of passing HB 365 will decrease if freshwater species are not removed from the bill. She said she opposes Conceptual Amendment 2 for the reason stated earlier by Co-Chair Seaton - that addressing invasive species must start somewhere and this statement would include the freshwater species.

CO-CHAIR SEATON responded he would prefer to not propose the amendment for the same reason; however, the weight of trying to deal with the diversity of emergency regulations applying throughout all the freshwaters of the state, along with the fiscal note, would complicate the bill such that nothing would be done. He said he is hoping the state will not be in the position of having an invasive species and it being said it is the legislature's fault for not having something in place that could have rapidly dealt with the species. Therefore, he is reluctantly offering the amendment because he thinks it necessary for the bill to move.

[3:37:02 PM](#)

REPRESENTATIVE KAWASAKI stated that taking out the freshwater portion misses a big point of the discussion and is bad state policy, so he will vote against the amendment.

REPRESENTATIVE P. WILSON agreed with Representatives Gardner and Kawasaki, but pointed out that the freshwater portion would add seven positions. While it is a shame it must be looked at in this way, she said she will vote for the amendment.

REPRESENTATIVE MUNOZ said the focus needs to be on the immediate threats and the inland aquatic threats are very serious. She added that this is one of the key issues western states are talking about. The State of Montana has established a fund of \$10 million for responding to emergencies. She said Alaska needs to move forward with all of the identified species and she will therefore not vote for the amendment.

[3:39:50 PM](#)

CO-CHAIR FEIGE removed his objection.

REPRESENTATIVE GARDNER said she will support the amendment, but she would like to consider the other part of the bill to be a template for getting started and that the lessons learned for how best to respond will be expanded to inland waters.

REPRESENTATIVE KAWASAKI maintained his objection.

A roll call vote was taken. Representatives Herron, Foster, Gardner, P. Wilson, Feige, and Seaton voted in favor of Conceptual Amendment 2. Representatives Munoz and Kawasaki voted against it. Therefore, Conceptual Amendment 2 was adopted by a vote of 6-2.

[3:41:17 PM](#)

CO-CHAIR FEIGE kept public testimony open and in response to Representative Munoz said he is holding over HB 365 because he would like to get an answer from ADF&G regarding the status of its 2002 Alaska Aquatic Nuisance Species Management Plan.

CO-CHAIR SEATON said he would like to ask DNR to address a way to enfold in its permits emergency response to invasive species in localized areas.

REPRESENTATIVE MUNOZ requested that ADF&G provide the committee with an update of the Whiting Harbor situation.

REPRESENTATIVE KAWASAKI said he would like ADF&G to address how money could be saved in the fiscal note so that both marine and freshwater aquatic invasive species could be addressed.

CO-CHAIR FEIGE held over HB 365.

[3:43:36 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:43 p.m.