

January 26, 2023

Senator Jeff Golden, Chair  
Oregon Senate Natural Resources Committee  
900 Court St. NE, S-421  
Salem, Oregon 97301



**RE: SB 89**

Dear Senator Golden,

The Pacific Coast Shellfish Growers Association (PCSGA) represents shellfish growers from Oregon, California, Washington, Alaska, and Hawaii who farm oysters, clams, mussels, and other bivalve shellfish species. Our growers depend on clean water and healthy ecosystems to produce a nutritious source of protein. We encourage efforts to facilitate clear and consistent permitting processes that will support responsible growth and expansion of shellfish aquaculture. However, SB 89 is a redundant overreach that will strain agency resources and add to the many barriers that are prohibiting growth and expansion of one of the most environmentally-friendly foods on the planet. We oppose this bill.

While we appreciate and agree with the need to ensure responsible growth for the sector, this bill ignores existing regulations and the growing body of scientific research that highlights the benefits seafood farming can provide to society and the environment.<sup>1</sup> In addition to providing a more climate-friendly source of nutritious protein, shellfish farms can provide benefits to local ecosystems (e.g. habitat and improved water quality). As with any form of food production, farming seafood is not without risk. However, research shows that best management practices that have been championed and adopted by farmers in the U.S. and abroad can maximize the benefits of farming seafood, while minimizing the risks. In some areas, such as the coast of Washington, seafood farms are also a primary source of employment for rural communities.<sup>2</sup> This bill does not account for any of this. Instead, it provides unrealistic 'solutions' that will result in more barriers and challenges for seafood farmers that ultimately will hurt communities that may have benefited from the job and economic opportunities by prohibiting sustainable growth of the sector.

Specifically, we are concerned about the following:

1. **'...a person residing or doing business in the county where an aquaculture facility is located may apply to the circuit court for the county in which the aquaculture facility is located for a temporary or permanent injunction...'**

Allowing community members to file for injunctions of this nature sets a dangerous precedent and will greatly reduce innovation and opportunities to build a more sustainable food system. It is particularly concerning in the coastal marine environment where aesthetics

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<sup>1</sup> Costello, C. et. al. 2019. The future of food from the sea. World Resources Institute. <https://oceanpanel.org/publication/the-future-of-food-from-the-sea/>

Gephart, J.A. et. al. 2021. Environmental performance of blue foods. Nature. <https://doi.org/10.1038/s41586-021-03889-2>  
Stanford University. Blue Foods Assessment. <https://bluefood.earth/>. Accessed 2023

Theuerkauf, S. et. al. 2021. Habitat value of bivalve shellfish and seaweed aquaculture for fish and invertebrates: Pathways, synthesis, and next steps. Reviews in Aquaculture. <https://doi.org/10.1111/raq.12584>

<sup>2</sup> Washington Sea Grant. 2015. Shellfish aquaculture in Washington State. Final report to the Washington State Legislature. <https://wsq.washington.edu/shellfish-aquaculture>

and the desire for a pristine view can draw opposition. This opposition will likely come from a vocal minority of residents who can afford the legal fees associated with filing an injunction at the expense of a larger majority of residents who may lose opportunities for jobs and economic benefits, as well as access to a local source of sustainable food. Giving a vocal minority this power will prevent any new aquaculture investments in the state of Oregon. Ultimately this will hurt communities if the injunctions result in the farms having to shut down operations, temporarily or in perpetuity. It will also hurt smaller growers who don't have the resources to pay expensive attorney fees or the time to spend in court. There are more accessible ways for community members to engage in discourse with growers to voice concerns, including the public comment processes for permits, that give a larger majority of the community a voice.

2. The Department shall, ***'Require shellfish cultivators to minimize the use of plastics in shellfish cultivation, to the maximum extent feasible.'***

Plastics are necessary for many aspects of our daily life, including food production. They are particularly important for work in the dynamic, and sometimes hostile marine environment. Relative to other materials, plastics are more durable and resistant to abrasion, UV degradation, and rust. They are also lighter in weight, reducing handling and associated costs. Plastics are necessary for our farms, but our growers recognize that we must use plastics responsibly to minimize our contributions to plastic pollution. We have established best practices and continue to work on additional solutions to reduce our plastic footprint, including beach cleanups and recycling programs. The current language in this bill is problematic because the language is not clear and could result in lengthy permitting delays as agencies work to determine what 'maximum extent feasible' means. We recommend that the language instead focus on making sure farms have a plan to address plastic debris that may escape from their farms.

3. ***'Before approving an application for shellfish cultivation under this chapter, the State Department of Agriculture shall evaluate the cumulative impact of all existing shellfish cultivation in the vicinity of the proposed shellfish cultivation.'***

Cumulative impacts are important to understand, but they are also complex and require analysis of all impacts and stressors in the area, not just aquaculture. Some agencies have developed protocols for evaluating potential cumulative impacts of a single operation and have defined this effort to be commensurate with the significance of the action. In the case of shellfish farming, our impacts are largely minor, temporary effects for the site, and we should not be required to do extensive studies to justify that we also have no cumulative impacts.

Specific to this bill, the language is asking for an assessment of all shellfish in the area before a permit is granted. Collecting the necessary data and analyzing it will also take significant financial and agency staff resources, as well as time to complete. The additional costs and time to obtain permits if they have to wait for these cumulative impact assessments would mostly impact the smaller growers. Even if they are 'exempt' from this requirement in the bill, they still have to provide data if you are looking for a full assessment of all farms. That takes time and resources. How many times will they have to repeat this process? This effort should be conducted independent of the permitting process and the costs of this work should not fall on farmers who are already overwhelmed with the cost of compliance.

4. ***'The provisions of subsection (1) of this section and rules adopted under subsection (2) of this section do not apply to a business entity that: (a) Is owned and operated independently from all other businesses; and (b) Has annual gross revenues of less than \$500,000, as reported on a tax return submitted to the federal government or the Department of Revenue.'***

This definition of small businesses is arbitrary and not a productive way to protect the environment or support a sustainable and resilient food system that is accessible to more people. The smaller growers are important and should be supported, but how do you define small? Is revenue the right metric? Is it the size of the farm? Number of staff? What happens if a community member's small farm is successful and wants to grow? Can they clear these massive hurdles to grow their business? Ultimately, it is responsible actors, not farm size that will drive sustainable production. There are many contributions that farms of varying sizes provide, and in many cases (as is the case with our diverse grower community in Washington) it is the relationships and sharing of resources between the different types of farms that strengthens the resilience and sustainability of the growing community and the food system. A diverse portfolio of farm sizes and production types will spur innovation and forward-looking practices that are critical for protecting the very resources this bill is trying to protect while building a more sustainable, secure, and accessible food supply.

We welcome the opportunity to engage with the Committee and the Bill's sponsors to provide information about shellfish farming practices, and our ongoing work to improve our practices and champion efforts that support clean water and healthy ecosystems. Please contact me anytime at 360-754-2744 or [kimthompson@pcsga.org](mailto:kimthompson@pcsga.org).

Regards,



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Pacific Coast Shellfish Growers Association