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State of Vermont
Agency of Natural Resources

Julia S. Moore, P.E.
Agency Secretary

Peter W. Walke
Deputy Secretary

February 22, 2018

Federation of Vermont Lakes and Ponds
via Email

Dear Officers & Directors of FOVLAP,

Thank you for your thoughtful correspondence on the matter of AIS, S.75, and Act 67. The path forward for the Agency and Vermont's wardens will continue to be one of education and prevention as well as enforcement, and I appreciate your suggestions on how we might achieve greater compliance and cleaner water—improvements we all desire.

Act 67 outlines many steps that the Agency must take, and law enforcement is certainly among those. The enforcement path can often seem the most effective and, at times might be. I can assure you that wardens are hired for their ability to operate professionally and autonomously and, because of their oaths, will enforce this law as they do all others—most especially the laws that align with the mission of the Department. As with all other laws regarding fish, wildlife, and general public safety, State wardens are educated on aquatic invasive species threats and regulations.

Because this is a civil offense, wardens have absolute discretion in enforcement, but as a point of clarification they do not have discretion with regards to the fine. A “waiver” amount is set annually, as you may know, by a panel of judges at the judicial bureau and this amount is what is charged and printed on the ticket as if it were the fine itself. Only in cases of contest and at the judicial bureau (by a hearing officer/judge) may a minimum or maximum be imposed. The waiver fine for violations associated with this law has been set at \$392.00—a substantial amount.

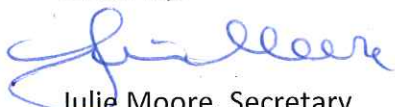
Absent other circumstances, wardens will still likely warn initial offenders and follow the path of education first which is our practice when laws are passed or amended. Please keep in mind that if a warden doesn't happen to be present at a water access point when a violation occurs, the warden will likely pay a home visit to the accused. My point being, this attention will be no small matter and a home visit from a State Game Warden will be noticed. Whether via warning or a ticket, the necessary message will have been delivered. Subsequent violations will certainly be addressed by a ticket as all warnings are documented electronically for future investigations.

This letter appears to be largely driven by one instance in which the warden opted not to write a ticket and issued a warning instead. In addition to the above reasons a warden might exercise their judgement and not issue a ticket, there were circumstances in this case which also led the warden to that conclusion. First, the violation occurred before the schedule of fines was completed. Second, the amount of milfoil involved was small. Third, the person who had the milfoil on their boat did not appear to be aware of it. Intent and awareness of a violation are key factors in a warden's determination of whether to issue a warning, a ticket, or neither.

The Federation's suggestions for education and outreach are appreciated, and many are already being implemented by the Agency. Each year, educational signage on evolving AIS threats is developed and displayed at public access areas. Per the requirements of Act 67, information on the new law is prominently displayed at most accesses and will be displayed at all sites by the beginning of this year's boating season. Because this is the first full year that the new regulations are in effect, there will be a substantial push by the Agency to inform the public. Hand-out materials and press releases are already in the works, and the Agency will pursue other media as needed to ensure proper messaging on the new, and very important, legislation. Because of your interest in the matter, Agency staff may work with FOVLAP to explore other avenues for outreach. Also, it should be noted that a sizable portion of the revenue generated through the registration of motorboats in Vermont is allocated to AIS initiatives, and education and spread prevention are the top priority for these funds.

You are correct in that a strong educational program and robust law enforcement are both critical in the protection of the State's waters from aquatic invasive species, as well as a host of other looming threats. I appreciate your devoted efforts focused on our parallel missions and encourage you to be present and vigilant at every opportunity, including the encouragement of reporting violations to our Wardens and other Agency staff.

Sincerely,



Julie Moore, Secretary
Vermont Agency of Natural Resources

cc via email: Louis Porter, Commissioner, Department of Fish & Wildlife
Emily Boedecker, Commissioner, Department of Environmental Conservation