

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

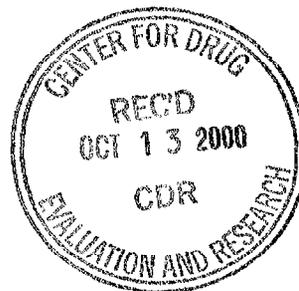
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October 10, 2000

Dockets Management Branch  
Food and Drug Administration  
Department of Health and Human Services  
Room 1-23  
12420 Parklawn Drive  
Rockville, MD 20857



Re: CITIZEN PETITION FOR THE ADOPTION OF A STANDARD OF IDENTITY FOR BOTTLED GLACIER-WATER AND GLACIER-BLEND OR GLACIER-FED WATER UNDER 21 C.F.R. 165.110

### Citizen Petition

The undersigns submits this petition under 21 U.S.C. 321(n) (misbranding), 21 U.S.C. 341 (standards of identity), 21 U.S.C. 343a (misbranding), and 21 U.S.C. 393b (Food and Drug Administration) to request the Commissioner of Food and Drugs to issue a regulation.

### A. Action Requested

Federal regulations identify several types of bottled water based on the source of that water: artesian, ground, spring and well. In addition, several types of bottled water are identified by content: mineral, purified, sterile, and sparkling.

Like the waters identified by the source of the water, the State of Alaska is petitioning the Food and Drug Administration to adopt a standard of identity based on the source for glacier water and glacier-fed water, specifically:

*The name of water that is obtained directly from the melting of glacier ice or from a stream or lake that is fed directly by a glacier and that has not been diluted or otherwise influenced by a non-glacial source is "glacier water."*

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*The name of water that is obtained from a lake or stream that is fed by a glacier and that is also influenced by water that does not have a glacial source other than natural rain or snow fall is "glacier-fed" or "glacier-blend."*

*Glacier water and glacier-fed or glacier-blend water may be collected and transported by pipes, tunnels, trucks, or similar devices. On request, plants shall demonstrate to appropriate regulatory officials the glacial source of the water including the presence or lack thereof of any non-glacial influences.*

The State of Alaska does not support a standard of identity for glacier water that is based on the mineral content of the water or the glacier since no similar requirement exists for other source-identified waters. If the proposed standards of identity are adopted, a water bottler will be able to hydrogeologically correlate the water being bottled and its glacial or glacially-influenced source without the added expense of laboratory analyses and, in some cases, accessing the glacier directly.

#### B. Statement of Grounds

The Food, Drug and Cosmetic Act (21 U.S.C. 301 – 397) provides the Secretary of Health and Human Services with the authority to adopt regulations establishing a standard of identity for food (21 U.S.C. 341). Food may not be labeled in any particular that is false or misleading (21 U.S.C. 343(a)). The Food, Drug and Cosmetic Act clearly provides the Secretary with the necessary authority to adopt the regulation being requested in this petition.

The Congressionally stated mission of the Food and Drug Administration is in part to ensure foods are properly labeled (21 U.S.C. 393(b)). The regulation being requested in this petition fits within this mission.

21 U.S.C. 321(n) states that if an article is alleged to be misbranded because the labeling is misleading, the agency is to take into account, among other things, the representations made or suggested by statement, word, design, or any combination thereof. As shown in Enclosure 5, the totality of the representations being made by many water bottlers as those representations relate to the water being "glacier water" is clearly misleading.

As U.S. citizens have become increasingly concerned about the quality of their municipal drinking water, bottled water has become one of the fastest growing segments of the beverage industry. Congress significantly amended the Safe Drinking Water Act in 1996 to address public concerns and ensure a safer drinking water supply. However, it is expected that a number of those amendments, particularly the Consumer Confidence Report rule (42 U.S.C. 300g-3(c)(4) and 40 C.F.R. 141.151 – 40 C.F.R. 141.155) and the Source Water Assessment program (42 U.S.C. 300j-13(a)), will further exacerbate public angst about the safety of municipal drinking water sources. These concerns will serve to continue the upward growth of the bottled water industry.

The Environmental News Network reported in November 1999 that the U.S. bottled water industry posted \$4.3 billion in revenues in 1998 with sales of 3.8 billion gallons of

bulk bottled water and individual bottled water.<sup>1</sup> Glacier Water Services, Inc., a publicly held company that sells water through vending machines in 29 states, reports that its annual revenues have increased from \$27 million in 1992 to \$56 million in 1998. In 1998, Glacier Water Services, Inc. sold 240 million gallons of water.<sup>2</sup> An August 8, 2000 press release from Glacier Water Services, Inc. reported a 7% increase in revenues for the six-month period ending July 2, 2000 over the same six-month period in 1999.<sup>3</sup>

A huge quantity of fresh water is frozen in polar ice caps and high mountain glaciers. According to the National Snow and Ice Data Center, 10% of the world's land area is presently covered with glaciers—over 15,000,000 square kilometers. 75% of the world's fresh water supply is stored in these frozen rivers of ice.<sup>4</sup> Because of their frozen state, glaciers have low levels of contaminants and bacteria.

Several companies around the world are capitalizing on the aura of purity associated with glacier water including<sup>5</sup>

- Northern Glacier from mountain spring waters in Laurel Run, Pennsylvania;
- Glacier Clear Spring Water from the beautiful mountains of Tennessee;
- Glacier Mist Spring Water (source not identified; company headquartered in Florida);
- Wisconsin Glacier Springs from Oxford, Wisconsin;
- Snowcap Naturally Pure Glacier Water from British Columbia;
- Glacier Water bottled from underground springs in the highlands of Victoria, Australia;
- Alasika, pure glacier water from Alaska bottled in Washington;
- Glacier Mountain, natural mountain spring water; New Jersey;
- Glacier Springs, Mooresville, Indiana;
- Glacier Water, a vending machine bottled water company in 29 states;
- Tahoma Glacier Water from the Carbon River in Mt. Rainier National Park, Washington State;
- Beautiful British Columbia Glacier Water;
- Alaska Icecap from Eklutna Lake, fed by the Eklutna Glacier;
- Canadian Music, premium glacier water from British Columbia's Coastal Glaciers; and
- Ice Age from Canada's West Coast glaciers.

The accuracy of the statements regarding the sources of most of these waters has not been confirmed. However, a review of the National Snow and Ice Data Center's World

<sup>1</sup> Mayell, Hillary and Murphy, Pat, "The Bottled Water Craze; It's Hip to Sip." Environmental News Network 13 November 1999. [http://enn.com/features/1999/11/111399/trinity\\_5548.asp](http://enn.com/features/1999/11/111399/trinity_5548.asp) (3 September 2000).

<sup>2</sup> Glacier Water Services, Inc. <http://glacierwater.com/flash/vendor.html> (2 September 2000).

<sup>3</sup> PR Newswire, "Glacier Water Announces Second Quarter Results." Hoover's Online 8 August 2000. <http://www.hoovershbn.hoovers.com>. (2 September 2000).

<sup>4</sup> All About Glaciers: General Information. <http://nsidc.org/glaciers.quickfacts.html> (2 September 2000).

<sup>5</sup> See enclosed internet pages and labels.

Glacier Inventory would suggest many of these "glacial" claims are false.<sup>6</sup> The State of Alaska can confirm that the source for Alaska Icecap is a glacially fed lake. In addition, water from a glacially fed lake is shipped in bulk to the State of Washington for *Alasika* water, however it is not known if other water is added to the water from Alaska before bottling.

#### C. Environmental Impact.

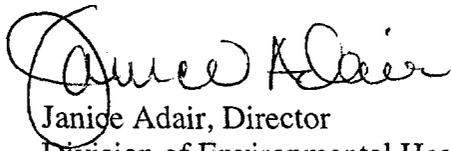
The undersigned claims a categorical exclusion for the preparation of an Environmental Assessment and an Environmental Impact Statement under 21 CFR 25.30(k). This is a request for the establishment of a standard of identity and labeling requirement. No increase in the existing levels of use or change in the intended uses of the product is expected by the adoption of the standard of identity requested in this petition. The undersigned confirms that to the undersigned's knowledge, no extraordinary circumstances exist.

#### D. Economic Impact.

Not applicable.

#### E. Certification.

The undersigned certifies that to the best knowledge and belief of the undersigned this petition includes all information and views on which the petition relies, and that it includes representative data and information known to the petitioner that are unfavorable to the petition.



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<sup>6</sup> World Glacier Inventory, National Snow and Ice Data Center. [http://nsidc.org/NOAA/wgms\\_inventory](http://nsidc.org/NOAA/wgms_inventory). (5 September 2000).