11604 HOUSE RESOURCES

A Petition To Protect Alaska's Consumers, Children, Elderly and Dairy Farmers

January/February, 2005

"Don't Let Outside Groups Tax Our Milk Money!"

We, the undersigned citizens of Alaska on behalf of Alaska's school children, consumers and its dairy farmers, hereby express our support for bipartisan **House Joint Resolution #5** sponsored by **Alaska State Representatives Bob Lynn and Carl Gatto (R) and Ethan Berkowitz (D)** to oppose the imposition of a milk tax on Alaskans.

U.S. Senator Ted Stevens, U.S. Senator Lisa Murkowski, Congressman Don Young, and Governor Murkowski have valiantly fought to prevent the implementation of the "dairy import assessment" (assessment) in Washington. We appreciate their efforts and encourage their continued leadership on this issue.

The assessment is an onerous "milk tax" passed as part of the *Farm Security and Rural Investment Act of 2002* ("farm bill"). It is nothing more than a hidden and unfair tax on Alaska's dairy producers to help subsidize the dairy promotion establishment in the lower 48 states. If implemented, the assessment/milk tax would require Alaska dairy farmers to pay into the national dairy promotion program that presently benefits the lower 48 states and does nothing to help Alaska's dairy farmers or consumers of all ages.

Alaska dairy farmers would be forced to pay a milk tax of 15 cents per hundredweight, a cost that would likely be passed on to all of Alaska's consumers (the elderly, school children, low income families, etc.) – by greedy milk processors, promoters and other middlemen – <u>far in excess of the 15 cents</u> milk tax to be forced on Alaska's dairy farmers. The price on all dairy products, including cheese, butter and milk powder, would rise as well. **Therefore, we urge The State Legislature of Alaska to approve House Joint Resolution #5 without delay. No Outside taxes for Alaskans!**

Please Print Your Name, Address, etc.

Name	Home Address or Email Address	Telephone Number
Andrew Gregory	8456 D Rickenbacker Elmendorf AFB AK 99506	907-753-0307
Debbie Dakeda	461 Scorpio Cir. Anchorage AK 99508	907-753134 4
Donald Bamley	7612 Dover Ave Anchorage AK 99504	907 337 3181
Stan Karella	101 Showers Ave Anchorage AK. 99515	(907) 952-7420
Linda Lapod	368 Oak St Anch AK 99504	333-0400
Mary F Lapod	7220 E 4th	333 6952

Fight the milk tax...support HJR5!!

Name	Address	Phone	e-Mail
Theresa Gonzales	8420 Brookridge Dr.	337-8484	
[illegible]	8707 E. 20th Ave # 8	776-6697	
Michelle [illegible]	3908B Gracelino Ct.		
[illegible]	[illegible]	333-3366	
[illegible] Kautter	EFB Exchange 5800 Westover Ave, Elmendorf AFB, AK 99506		
William Schend	8380 Pioneer DR ANCH, AK 99504		

Dear Representative Lynn:

I am writing to thank you and Representatives Carl Gatto and Ethan Berkowitz for introducing bipartisan House Joint Resolution #5 that opposes imposing a milk tax on Alaskans.

I understand that greedy Outside milk processors, promoters and other middlemen want to force Alaska dairy farmers to pay a milk tax of 15 cents per hundredweight on their dairy production. This tax would likely be passed on to all of Alaska's consumers: the elderly, school children, bakeries, ice cream shops, low income families, and those living in remote areas.

The milk currently does not apply to Alaskans because we do not produce enough milk to meet our in-state demands. If this terrible tax is implemented by Lower 48 Congressmen and Senators it will tax Alaskans' milk for the first time in our state's history.

I urge you to pass House Joint Resolution #5 without delay. No Outside milk taxes for Alaskans!

Sincerely,

Mary A. Davis	337-8566	anndavis45@Hotmail.com
H'd Bennetts	677-8173	hlbennetts@hotmail.com
	688-2641	cokedrinkinchick@hotmail.com
	746-6900	PALMER, AK
Tracey M Bassett	746-6900	Palmer, AK
Mary Dillingham	357-4524	Palmer. AK.
JAMES W. SAMSON	337-2979	Anchorage, AK

Fight the milk tax...support HJR5!!

Name	Address	Phone	e-Mail
Teresa Harris	1531 Eagle St	222-6004	
Geraldine Brutz	11133 Glenn Cir	694-2422	
Julia Tolin	243-D Selvig Ave	428-0032	
Cathy Taunton	3307 Bonifacio Pkwy #1	333-5284	
Anthony Johnson	705 Muldoon Rd. AK 99504	337-0055	
[illegible]	1160 n-1 Grand Larry Anchorage AK 99504	337 1827	
Mi Toner		339-9894	hotchick5ty@aol.com

Fight the milk tax...support HJR5!!

Name	Address	Phone	e-Mail
LaTisha Jones	415 Beluga Ave ft. Richardson AK	9076460976	
Shannon	Admiral Suites	706-563-4550	
Miguel A Pelon		1-907-745-6948	
Kelli Hood	3307 Boniface PRKWY	907 333-4370	
Melanie Pattie	7630 Maryland Ave 99504	907 337-6208	
Nicola Matthews	329 Krane Dr AK AK 99504	743-8281	
Stephen V. Matthews	329 Krane Dr. Anchorage AK 99504	(907) 745-	
KRISTEN JENSEN	2656 LEE STREET ANCHORAGE, AK 99504	(907) 644-10	
Tiana Cupp	7410 East 4th Anchorage, AK 99504	907-753-3400	
Aurora Ingram	6109 Debarr Rd Apt #309, AK 99504	907 952-0570	
James Hunt	7200 Moon Rd. Columbus GA 31987	706 568 9100	
Karen Davis	PO Box 102047 ANCH, AK 99510-2047	(907) 522-9	
Natasha Vance	3196 B Fairchild Ave. EAFB, AK.	929-4135	
Wendy Nolan	P.O. Box 879536, Wasilla, AK 99687	357-4837	
Valerie Greynolds	3044 Andrews Ave Unit F EAFB AK 99506	644-049	
Kevin Greynolds	3044 Andrews Ave Unit F EAFB AK 99506	6440493	
Tia Davidson	3042 Andrews Ave Unit D EAFB AK 99506	428-0068	
Corey Davidson	3042 Andrews Ave Unit D EAFB AK 99506	428-0068	
LoRayne E. Thompson	10135 Raven Crest Circle E.R. 99577	696-	
Krysta Krzyzanek	PO Box 211374, Anch, AK 99521	350-12	MK

We, the undersigned oppose an Alaskan Milk Tax and support The Resolution to ban a milk tax as proposed by the following legislators in the Juneau session this January / February 2005: Lynn, Berkowitz and Gato.

	Name	e-mail and street address	signature
1)	Ilona Richey	7700 Chaimlop. Anchorage AK 99504 Iraxak@alaska.com	Ilona Richey
2)	Stevis Walker	12xx W Dimond Spl 2T Anch. AK 99515	
3)	Elisabeth E. Hemmig	3804 Wesleyan Dr Anchorage Alaska 99508	Elisabeth E. Hemmig
4	[illegible]	3804 WESLEYAN DR. ANCHORAGE AK 99508	
5	Philip Richey	7700 Chaimlop Anchorage AK 99504 Iraxa@alaska.com	

A Petition To Protect Alaska's Consumers, Children, Elderly and Dairy Farmers

January/February, 2005

"Don't Let Outside Groups Tax Our Milk Money!"

We, the undersigned citizens of Alaska on behalf of Alaska's school children, consumers and its dairy farmers, hereby express our support for bipartisan **House Joint Resolution #5** sponsored by **Alaska State Representatives Bob Lynn and Carl Gatto (R) and Ethan Berkowitz (D)** to oppose the imposition of a milk tax on Alaskans.

U.S. Senator Ted Stevens, U.S. Senator Lisa Murkowski, Congressman Don Young, and Governor Murkowski have valiantly fought to prevent the implementation of the "dairy import assessment" (assessment) in Washington. We appreciate their efforts and encourage their continued leadership on this issue.

The assessment is an onerous "milk tax" passed as part of the *Farm Security and Rural Investment Act of 2002* ("farm bill"). It is nothing more than a hidden and unfair tax on Alaska's dairy producers to help subsidize the dairy promotion establishment in the lower 48 states. If implemented, the assessment/milk tax would require Alaska dairy farmers to pay into the national dairy promotion program that presently benefits the lower 48 states and does nothing to help Alaska's dairy farmers or consumers of all ages.

Alaska dairy farmers would be forced to pay a milk tax of 15 cents per hundredweight, a cost that would likely be passed on to all of Alaska's consumers (the elderly, school children, low income families, etc.) – by greedy milk processors, promoters and other middlemen – far in excess of the 15 cents milk tax to be forced on Alaska's dairy farmers. The price on all dairy products, including cheese, butter and milk powder, would rise as well. **Therefore, we urge The State Legislature of Alaska to approve House Joint Resolution #5 without delay. No Outside taxes for Alaskans!**

Please Print Your Name, Address, etc.

Name	Home Address or Email Address	Telephone Number
NELLIE BUTLER	17327 MEADOW C EAGLE RIVER AK. 99577	694-2558
Christine Hull	3520 Balchen #A Anch 99507	677-7008
WILLIAM C LAUDER	6764 LUNAR DR ANCH., 99504	338-1338
Gary Howard	10249 Chain of Rak Eagle River AK 99577	622-2722
CLIFF COLLEY	960 NORMAN ST Anch AK 99504	337-4546
SCOTT MARVIN	3438 COPC Anch AK 99506-	224-8562

A Petition To Protect Alaska's Consumers, Children, Elderly and Dairy Farmers

January/February, 2005

"Don't Let Outside Groups Tax Our Milk Money!"

We, the undersigned citizens of Alaska on behalf of Alaska's school children, consumers and its dairy farmers, hereby express our support for bipartisan **House Joint Resolution #5** sponsored by **Alaska State Representatives Bob Lynn and Carl Gatto (R) and Ethan Berkowitz (D)** to oppose the imposition of a milk tax on Alaskans.

U.S. Senator Ted Stevens, U.S. Senator Lisa Murkowski, Congressman Don Young, and Governor Murkowski have valiantly fought to prevent the implementation of the "dairy import assessment" (assessment) in Washington. We appreciate their efforts and encourage their continued leadership on this issue.

The assessment is an onerous "milk tax" passed as part of the *Farm Security and Rural Investment Act of 2002* ("farm bill"). It is nothing more than a hidden and unfair tax on Alaska's dairy producers to help subsidize the dairy promotion establishment in the lower 48 states. If implemented, the assessment/milk tax would require Alaska dairy farmers to pay into the national dairy promotion program that presently benefits the lower 48 states and does nothing to help Alaska's dairy farmers or consumers of all ages.

Alaska dairy farmers would be forced to pay a milk tax of 15 cents per hundredweight, a cost that would likely be passed on to all of Alaska's consumers (the elderly, school children, low income families, etc.) – by greedy milk processors, promoters and other middlemen – far in excess of the 15 cents milk tax to be forced on Alaska's dairy farmers. The price on all dairy products, including cheese, butter and milk powder, would rise as well. **Therefore, we urge The State Legislature of Alaska to approve House Joint Resolution #5 without delay. No Outside taxes for Alaskans!**

Please Print Your Name, Address, etc.

Name	Home Address or Email Address	Telephone Number
Wanda Richardson	8501 B Creekside Street Anchorage, AK 99504	907-332-2307
Carlos M. DaSilva	503 A Richardson Dr. Fort Richardson, AK 99505	907.428-0151
Ema L. Da Silva	503 A Richardson Dr. Fort Richardson, AK 99505	907-428-0151.

Fight the milk tax...support HJR5!!

Name	Address	Phone	e-Mail
Audrey Roberts	1200 Dimond	336-0282	
Julie Galindo	1001 Boniface 2-0	258-2290	
[illegible]	1121 friendly	333-6167	
[illegible]	903 W. 40th	727-6664	
Victoria [illegible]	3800 Parsons	279-2621	
Wendy Larsen	211 McCarrey St	830 8143	
[illegible]			
Beatrice Patrick	6412 E 10th Ave 99504	339-7287	
Theresa Bashans	801 Airport Heights	884 0851	
[illegible]	Box 69 Talkeetna	430.06[illegible]	
[illegible]	Box 71 [illegible]	9 8676	
Lydia Rommer	7801 Chaim Loop	337-0923	
Jeffrey N. Rommer	7801 Chaim Loop	337-0923	

We, the undersigned oppose an Alaskan Milk Tax and support The Resolution to ban a milk tax as proposed by the following legislators in the Juneau session this January/February 2005: Lynn, Berkowitz and Gato.

Name	e-mail and street address	signature
Cindy Zakrzewski	3925 Lynn Dr #G	Cindy Zakrzewski
~~Wrathell Collins~~	3925 Lynn Dr #G	

THE WHITE HOUSE
WASHINGTON

April 17, 2002

Dear Mr. Castillo:

Thank you for your letter to the President urging him to oppose the dairy import assessment in the farm bill.

One of the top priorities for the Administration in agriculture policy is the expansion of international trade, and its vital component, the honoring of the United States' trade commitments. The Administration opposes an assessment on imports that would provoke serious legal challenge by our trade partners. We will work with the Congress in the farm bill conference to ensure that the final provision upholds the long-term interests of traders and dairy producers through American leadership in trade liberalization.

I appreciate your informative letter and your support for our efforts to expand market opportunities for agriculture.

Sincerely,

Larry Lindsey

Lawrence B. Lindsey
Assistant to the President for Economic Policy

Mr. A. Mario Castillo
Executive Director
The Dairy Trade Coalition
2472 Belmont Road, NW
Washington, D.C. 20008

SUPPORT GOVERNMENT

ALASKA STATE LEGISLATURE

Chair:
House Finance Subcommittees for:
Department of Public Safety
Department of Law

Member:
House Finance Committee
Legislative Council

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928

District:
600 E. Railroad Ave.
Wasilla, AK 99654

REPRESENTATIVE BILL STOLTZE

Representative_Bill_Stoltze@legis.state.ak.us

July 2, 2004

Senator Ted Stevens
522 Hart Senate Office Building
Washington, D.C. 20515-0201

Dear Senator Stevens;

I am writing to express my support of the Alaska Dairy Coalition's opposition to including Alaska in the milk tax.

This change is occurring in order to make the milk tax compatible with global trade laws, which all states will have to pay to comply. However, the passing of this legislation will not benefit Alaska or its dairy industry. We are a "milk deficit" state and would receive none of the benefits associated with this tax. This was recognized in the origi0nal legislation passed in 1983 and we were origi ally exempted from this tax along with Hawaii and Puerto Rico.

By including Alaska in this tax, it would increase the cost to local dairy producers, and raise the already high prices of milk and other dairy products. To protect our local dairy producers and keep the price of dairy products reasonable for all Alaskans I am opposing Alaska being included in the milk tax and would ask your support in opposing it as it comes before you in the Senate.

Sincerely,

Bill Stoltze
Alaska State Representative
House District 16

Alaska Department of
NATURAL RESOURCES

BRIEFING PAPER:

Mandatory Dairy Promotion Assessment
(Milk Tax)

Office of the Commissioner
& Division of Agriculture
January 31, 2005

Alaska, as well as Hawaii and Puerto, was exempted from the mandatory dairy promotion assessment (known as a "Milk Tax") contained within the Dairy Stabilization Act of 1983. The exemption was correct in 1983 and remains so today. The rationale for that exemption has not changed.

First, Alaska is a milk deficit state. More milk is consumed in Alaska than is produced in the state. In total, Alaskan farmers supply less than 50% of the fluid milk consumed in Alaska. A national promotional effort to promote milk and dairy product consumption will not help Alaskan farmers since all of the milk they are producing, or will produce in the foreseeable future, will be purchased regardless of any national promotion.

Second, a "Milk Tax" will only raise costs and not lead to increased sales. Alaskan dairy farmers are producing on a very small margin, and any increase in costs is dangerous to their ability to continue production.

Third, a "Milk Tax" has the potential to lead to an increased milk price for consumers of Alaskan milk if the cost of the assessment can be passed on to consumers.

Fourth, the small amount of money that would be collected from Alaskan farmers would be relatively minor when compared with money from other states. The national promotional efforts are not impacted to any real degree as a consequence of two states and one territory being exempted from the "Milk Tax."

Lastly, Similar acts are under constitutional challenge. For instances, the Beef Act is currently before the U.S. Supreme Court on the issue of whether the mandatory assessment to support advertising campaigns violates free speech. Similar to "Beef - it's what's for dinner", the "got milk" campaign might not survive constitutional muster. Given the uncertain status of these types of programs, it may be prudent to wait and see what the outcome of the Beef Act case is.

COUNCIL ANNETTE ISLANDS RESERVE

METLAKATLA INDIAN COMMUNITY

VICTOR C. WELLINGTON, SR., MAYOR
JUDITH A. LAUTH, SECRETARY
OPAL J. HUDSON, TREASURER

ESTABLISHED 1867

POST OFFICE BOX
METLAKATLA, ALASKA
PHONE (907)
FAX (907)

May 7, 2004

The Honorable Ted Stevens
Attn: Ms. Karina Waller, Leg. Assistant
United States Senate
SH-522 Hart Senate Office Building
Washington, DC 20510-0201
Fax: (202)224-2354

Dear Senator Stevens:

The Metlakatla Indian Community wishes to voice its opposition to the implementation of the dairy import assessment.
We believe that the assessment is an onerous 'milk tax' passed as part of the *Farm Security and Rural Investment Act of 2002* ("farm bill"). It is nothing more than a hidden and unfair tax on Alaska's dairy producers to help subsidize dairy farmers in the lower 48 states.

If implemented, the assessment/milk tax would require Alaskan dairy farmers to pay into the national dairy promotion program that presently benefits the lower 48 states but does nothing to help Alaska's dairy farmers or consumers. Alaskan dairy farmers would be forced to pay a milk tax of 15 cents per hundredweight, a cost that would likely be passed on to Alaska's consumers (the elderly, school children, low income families, etc.) – by greedy milk processors and other middlemen- far in excess of the 15 cents milk tax to be forced upon Alaska's dairy farmers. The price on all dairy products, including the cheese and butter, would rise as well.

The Metlakatla Indian Community is concerned that a rise in the cost of milk and dairy products, which are already extremely high in our state, would adversely affect efforts to improve the nutritional and general health of Alaskans, especially those citizens living in remote areas of our state.

I therefore urge you to keep the milk tax from becoming law once and for all. Thank you for your attention in this matter.

Sincerely,
Metlakatla Indian Community

Victor C. Wellington, Sr., Mayor

PO Box 357 • Gakona Alaska 99586 • (907) 822-5399 • Fax (907) 822-5810

AD 04-696

May 18, 2004

The Honorable Ted Stevens
Attn: Ms. Karina Waller, Leg. Assistant
United States Senate
SH-522 Hart Senate Office Building
Washington, DC 20510-0201

Dear Senator Stevens,

The Mt. Sanford Tribal Consortium wishes to voice its opposition to the implementation of the dairy import assessment (assessment).

We believe that the assessment is an onerous "milk tax" passed as part of the Farm Security and Rural Investment Act of 2002 ("farm bill"). It is nothing more than a hidden and unfair tax on Alaska's dairy producers to help subsidize dairy farmers in the lower 48 states.

If implemented, the assessment/milk tax would require Alaskan dairy farmers to pay into the national dairy promotion program that presently benefits the lower 48 states but does nothing to help Alaska's dairy farmers or consumers. Alaskan dairy farmers would be forced to pay a milk tax of 15 cents per hundredweight, a cost that would likely be passed on to Alaska's consumers (the elderly, school children, low income families, etc.) – by greedy milk processors and other middlemen – far in excess of the 15 cents milk tax to be forced upon Alaska's dairy farmers. The price on all dairy products, including cheese and butter, would rise as well.

Mt. Sanford Tribal Consortium is concerned that a rise in the cost of mild and dairy products, which are already extremely high in our state, would adversely affect efforts to improve the nutritional and general health of Alaskans, especially those citizens living in remote areas of our state.

I therefore urge you to keep the milk tax from becoming law one and for all. Thank you for your attention in this matter.

Sincerely,

Evelyn Beeler
President

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3886

550 WEST 7TH AVENUE, SUITE 14
ANCHORAGE, ALASKA 99501-365
PHONE: (907) 269-0431
FAX: (907) 269-8918

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

June 18, 2004

Jlona Richey
Tracks of Alaska
7700 Chalmi Loop
Anchorage, AK 99504

Dear Ms. Richey:

The Governor has asked that I respond to your letter dated May 14, 2004. Currently, Alaska and Hawaii are exempt from the $.15 cents milk tax. As you are aware, there is an effort to reverse the exemption. Our Congressional Delegation in Washington D.C. is opposed to the tax and is monitoring this issue very closely.

The Department of Natural Resources, Division of Agriculture is on record opposing this tax. Thank you for your concern and support.

Sincerely,

Thomas E. Irwin
Commissioner

cc: Governor Frank H. Murkowski
John Torgerson, Acting Director, Division of Agriculture, DNR

Track # 04-1083

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

Congress of the United States

Washington, DC 20510

July 22, 2004

The Honorable Ann M. Veneman
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Veneman:

It is our understanding that a segment of the dairy industry may urge you to extend the mandatory 15-cent per hundred weight domestic dairy promotion assessment or "milk tax" to Alaska, Hawaii, and Puerto Rico, as a prerequisite for implementing the assessment on dairy products imported into the United States as authorized by the Farm Security and Rural Investment Act of 2002. We are writing to oppose the possible extension of this assessment.

Alaska, Hawaii, and Puerto Rico were exempted from the domestic dairy promotion assessment created by the Dairy Production and Stabilization Act of 1983 due to our milk deficits, which continue to this day. This exemption was maintained in the Farm Security and Rural Investment Act of 2002. As many of our constituents have informed us, the milk tax would harm many Alaskan, Hawaiian, and Puerto Rican dairy producers and consumers of milk products including children, low income families, Alaska Natives, bakeries, and other small businesses. It could also potentially end dairy production in Alaska, Hawaii, and Puerto Rico.

For the aforementioned reasons, we will strongly oppose any plan or scenario – irrespective of its construction – that would lead to the implementation of the milk tax. Thank you for your consideration of our views.

Sincerely,

Senator Lisa Murkowski

Don Young, Member of Congress

Senator Ted Stevens

Neil Abercrombie, Member of Congress

Senator Daniel K. Inouye

Ed Case, Member of Congress

Senator Daniel K. Akaka

Aníbal Acevedo-Vilá, Member of Congress

cc: The Honorable Thad Cochran, Chairman, Senate Agriculture Committee
The Honorable Tom Harkin, Ranking Minority Member, Senate Agriculture Committee
The Honorable Robert Goodlatte, Chairman, House Agriculture Committee
The Honorable Charles W. Stenholm, Ranking Minority Member, House Agriculture Committee
The Honorable Bill Hawks, Under Secretary of Agriculture for Marketing and Regulatory Programs
The Honorable A.J. Yates, Administrator, Agricultural Marketing Service
Mr. Barry Jackson, Deputy Assistant to the President and Deputy to the Senior Advisor to the President
Mr. Charles F. Conner, Special Assistant to the President for Agricultural Trade & Food Assistance
Mr. Daniel Heath, Associate Director, National Economic Council

Congress of the United States

Washington, DC 20510

July 22, 2004

The Honorable Robert B. Zoellick
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Zoellick:

It is our understanding that a segment of the dairy industry may urge you to extend the mandatory 15-cent per hundred weight domestic dairy promotion assessment or "milk tax" to Alaska, Hawaii, and Puerto Rico, as a prerequisite for implementing the assessment on dairy products imported into the United States as authorized by the Farm Security and Rural Investment Act of 2002. We are writing to oppose the possible extension of this assessment.

Alaska, Hawaii, and Puerto Rico were exempted from the domestic dairy promotion assessment created by the Dairy Production and Stabilization Act of 1983 due to our milk deficits, which continue to this day. This exemption was maintained in the Farm Security and Rural Investment Act of 2002. As many of our constituents have informed us, the milk tax would harm many Alaskan, Hawaiian, and Puerto Rican dairy producers and consumers of milk products including children, low income families, Alaska Natives, bakeries, and other small businesses. It could also potentially end dairy production in Alaska, Hawaii, and Puerto Rico.

For the aforementioned reasons, we will strongly oppose any plan or scenario – irrespective of its construction – that would lead to the implementation of the milk tax. Thank you for your consideration of our views.

Sincerely,

Senator Lisa Murkowski

Don Young, Member of Congress

Senator Ted Stevens

Neil Abercrombie, Member of Congress

Senator Daniel K. Inouye

Ed Case, Member of Congress

Senator Daniel K. Akaka

Aníbal Acevedo-Vilá, Member of Congress

cc: The Honorable Charles Grassley, Chairman, Senate Finance Committee
The Honorable Max Baucus, Ranking Minority Member, Senate Finance Committee
The Honorable William M. Thomas, Chairman, House Ways & Means Committee
The Honorable Charles B. Rangel, Ranking Minority Member, House Ways & Means Committee
Mr. Jim Murphy, Assistant U.S. Trade Representative for Agricultural Affairs
Mr. Barry Jackson, Deputy Assistant to the President and Deputy to the Senior Advisor to the President
Mr. Charles F. Conner, Special Assistant to the President for Agricultural Trade & Food Assistance
Mr. Daniel Heath, Associate Director, National Economic Council

FISCAL NOTE

STATE OF ALASKA
2005 Legislative Session

Fiscal Note Number: 1
Bill Version: H.J.R. 5
() Publish Date: 3/23/2005

Revision Date/Time
Dept. Affected: N/A
Title: No Milk Tax
BRU
Component
Sponsor: Representative Lynn
Requester: House Resources Committee
Component No.

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

The House Resources Committee has determined that passage of this resolution will have no fiscal impacts.

Prepared by: Jim Pound
Phone 465-3004
Division: for House Resources
Date/Time 3/21/2005 1:55pm
Approved by: Representative Ramras & Representative Samuels
Date 3/23/2005
Agency: Co-Chairs House Resources Committee

(Revised 9/2002 OMB)

HJR

6

Representative Beth Kerttula

Alaska State Legislature District 3

HJR 6

Labeling of Fish Products

Sponsor Statement

As Alaskans, we all know that Alaskan fish tastes better and is healthier than farmed fish. Alaskans have long shown their support of country-of-origin labeling (COOL) and labeling of farmed or wild fish. These national labeling standards will help maintain the vitality of Alaska's fishing industry by allowing consumers to make informed choices in the marketplace.

Under the Farm Security and Rural Investment Act of 2002, COOL requirements for fish were to be implemented on September 30, 2004. However, the United States Department of Agriculture (USDA) has pushed the effective date to April 2005 and extended the comment period on proposed regulations to February 2, 2005. Included in the proposed regulations is an exclusion for processed food items, which would include canned and smoked fish. Many Alaskan fish products are processed in some way and sometimes these are the only products available to many Americans.

House Joint Resolution supports the timely implementation of COOL and opposes the exclusion of processed food items from the requirements.

State Capitol ◇ Juneau, Alaska 99801-1182 ◇ (907) 465-4766 ◇ Fax (907) 465-4748
E-mail: Rep.Beth.Kerttula@legis.state.ak.us ◇ http://www.kerttula.net

Alaska Trollers Association

130 Seward St., No. 211
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

February 2, 2004

Representative Gabrielle LeDoux, Co-Chair
Representative Bill Thomas, Co-Chair
House Special Committee on Fisheries
Alaska State Legislature
Juneau, AK 99811

Dear Representatives LeDoux, Thomas, and Committee Members:

I am writing to express the Alaska Trollers Association's (ATA) support for HJR6, which advocates labeling of canned and smoked seafood products for country of origin, as well as distinguishing between wild and farm raised.

ATA has long supported reasonable labeling programs, as a means to provide consumers with information they need and want to make informed choices about the foods they eat. Recent passage by Congress of Country of Origin Labeling (COOL) is a substantial step toward that end.

Unfortunately, the USDA chose during the regulatory drafting process to omit simple canned and smoked seafood products from the list of covered commodities. The USDA considers those foodstuffs to be "processed". While much of Alaska's seafood is canned and smoked, it is not significantly altered and still retains its natural characteristics. It is difficult to believe that those items are what most people consider "processed food" - as they would the protein in some TV dinners, or other products that are blended with other foods, sauces, or chemicals.

Consumers are becoming much more discerning when it comes to selection of seafood, but in the marketplace it is often hard to distinguish where it comes from or how it is harvested. And, this is becoming increasingly difficult as a greater number of species are being raised in more countries around the world. Labeling will provide a service to those people who care to know. And, Alaska seafood is likely to fare well in their purchasing decisions, which is why the state should care.

While ATA strongly supports labeling of seafood, we also appreciate some of the concerns that have been expressed by those who will have to implement the program. Therefore, we support working with others in the food service industry where necessary, to ease unnecessary burdens.

Please don't hesitate to contact me if I can be of assistance on this or other matters.

Best Regards,

Dale Kelley

Dale Kelley
Executive Director

Southeast Alaska Fishermen's Alliance
9369 North Douglas Highway
Juneau, AK 99801

Phone 907-586-6652 Fax 907-523-1168 E-mail: seaf[illegible]@gci.net

January 25, 2004

House Special Committee on Fisheries
House Resource Committee
State Capitol
Juneau, AK 99801-1182

RE: Support for HJR 6

The Southeast Alaska Fishermen's Alliance supported the federal Country of Origin Labeling (COOL) legislation that requires labeling of fish and shellfish and distinguishes between wild and farmed fish and shellfish. We support HJR 6 that has the Alaska legislature supporting the implementation of COOL regulations. It is important that the federal government understand during this comment period that the regulations be extended to cover labeling of canned, smoked, and cured products and reverse the current decision that exempts these products.

We appreciate that the legislature would be willing to send a resolution during this comment period supporting labeling and asking that the labeling be extended to canned and smoked products. Consumers are asking for wild salmon again it is important that the products be labeled so they can make informed choices and receive the product they wish to buy.

The Southeast Alaska Fishermen's Alliance is a non-profit membership based fishermen's organization representing permit holders involved in the salmon, crab, shrimp and longline fisheries of Southeast Alaska.

Sincerely,

Kathryn L. Hansen

Kathryn L Hansen

OCEANA

175 SOUTH FRANKLIN STREET, SUITE 418 JUNEAU, ALASKA 99801 907.586.4050 WWW.OCEANA.ORG

January 25, 2005

The Honorable Beth Kerttula
Alaska State Legislature
State Capitol, Room 430
Juneau, AK 99801-1182

Dear Representative Kerttula:

Thank you for introducing House Joint Resolution 6 (HJR 6), a resolution relating to the labeling of fish products and processed food items containing fish to identify the country of origin and to distinguish between wild and farmed fish and fish products. Oceana, a global non-profit organization dedicated to restoring and protecting the health of the world's oceans, strongly supports this resolution.

Alaska's salmon fisheries are crucial to our economy and to a sustainable existence. Labeling wild Alaska salmon—including canned, smoked, and pouched—is a win-win situation all around. It is good for the health of American consumers in that it allows them to make informed choices about their seafood selections. It is good for Alaska and will help us maintain a strong market for the vibrant fisheries that are so important to our livelihoods and economy. Additionally, it is good for the environment. It is well documented that salmon farms are a source of pollution and allow for foreign invasive Atlantic salmon to escape into Pacific waters. There is no substitute for healthy wild Alaska salmon, whether fresh, frozen, smoked, canned, or pouched.

Oceana fully supports HJR 6. This resolution supports the long-term viability of our critically important salmon fisheries. Thank you for supporting Alaska's fishermen and sustainable oceans.

Sincerely,

Jim Ayers
Director, Pacific Region

UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

January 24, 2005

Representative Bill Thomas, Co-Chair
Representative Gabrielle LeDoux, Co-Chair
House Fisheries Committee
Alaska State Legislature
State Capitol (Mail stop 3100)
Juneau, AK 99801-1182

Dear Representative Thomas,

United Fishermen of Alaska supports the CS for HJR 6 relating to the labeling of fish products and processed food items containing fish. Americans have expressed their desire to know whether their seafood product is farmed or wild caught as well as to distinguish what country it was harvested in. UFA has been working diligently for the last five years on such regulations which will benefit the northwest commercial fishing salmon industry along with many others.

United Fishermen of Alaska represents 31 Alaska Commercial fishing organizations and hundreds of individual fishermen and fishing related businesses. We support the CS for HJR 6 and thank you for your attention to this matter.

Sincerely,

Mark Vinsel
Executive Director

CC: Representative Beth Kerttula

United Southeast Alaska Gillnetters
P.O. Box 23370, Ketchikan, AK 99901 Phone & Fax (907) 247 2471 Email usag_gillnetters@att.net

January 21, 2005

The Honorable Beth Kerttula
House of Representatives
State Capitol, Room 430
Juneau, AK 99801 Send Via Fax to: 465-4748

Dear Representative Kerttula,

The United Southeast Alaska Gillnetters (USAG) is an association of about 150 small business owners who catch salmon by drift gillnetting in Southeast Alaska and market salmon throughout the United States. Many of our members also participate in other fisheries such as crab, shrimp, longline, and dive fisheries. USAG supports HJR 6 which supports the application of the federal country of origin labeling legislation (COOL) to processed as well as unprocessed seafood items. We believe the American consumer wants to know and has the right to know if the fish and seafood products they are purchasing are wild or farm raised. This is particularly important if we are to realize the maximum benefit from ASMI's "wild" Alaska seafood marketing efforts. In trade publication articles, salmon farmers have written that ASMI's "wild" salmon marketing has increased the sales of all salmon because the consumer cannot distinguish the difference between farmed and wild salmon in retail outlets. This is a totally unacceptable situation and we wholeheartedly support your efforts to encourage the federal government to apply the COOL regulations to all seafood products.

We also believe the State of Alaska should continue to work with other agriculture states to have the COOL regulations apply to all food items consumed in this country. Again, thank you for introducing this resolution and for your continuing support of our Alaska seafood industry.

Yours truly,

Kenneth Duckett
Executive Director

cc Representative Bill Thomas Via Fax to: 465-2652
Co-chair House fisheries Committee

Cordova District Fishermen United

Celebrating 70 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 Telephone 907.424.3447 Fax 907.424.3430
E-mail: cdfu@ak.net

January 25, 2005

Representative Gabrielle LeDoux, Co-Chair
Representative Bill Thomas, Co-Chair
House Fisheries Committee
Alaska State Legislature
State Capitol (Mail stop 3100)
Juneau, AK 99801-1182

Dear Representative LeDoux,

Cordova District Fishermen United (CDFU) supports the CS for HJR 6 relating to the labeling of fish products and processed food items containing fish. CDFU, along with United Fishermen of Alaska, has been working for several years to have these type of federal regulations implemented. The American public would like to have their seafood products identified as farmed or wild as well as know what country their seafood was harvested in.

Cordova District Fishermen United represents hundreds of commercial fishermen in Area E Copper River and the Prince William Sound. We support the CS for HJR 6 and appreciate your attention to this matter.

Sincerely,

Diane Platt

Diane Platt
Executive Director

CC: Representative Beth Kerttula

Representative Beth Kerttula

Alaska State Legislature District 3

HJR 6

Labeling of Fish Products

Sponsor Statement

As Alaskans, we all know that Alaskan fish tastes better and is healthier than farmed fish. Alaskans have long shown their support of country-of-origin labeling (COOL) and labeling of farmed or wild fish. These national labeling standards will help maintain the vitality of Alaska's fishing industry by allowing consumers to make informed choices in the marketplace.

Under the Farm Security and Rural Investment Act of 2002, COOL requirements for fish were to be implemented on September 30, 2004. However, the United States Department of Agriculture (USDA) has pushed the effective date to April 2005 and extended the comment period on proposed regulations to February 2, 2005. Included in the proposed regulations is an exclusion for processed food items, which would include canned and smoked fish. Many Alaskan fish products are processed in some way and sometimes these are the only products available to many Americans.

House Joint Resolution supports the timely implementation of COOL and opposes the exclusion of processed food items from the requirements.

State Capitol ◇ Juneau, Alaska 99801-1182 ◇ (907) 465-4766 ◇ Fax (907) 465-4748
E-mail: Rep.Beth.Kerttula@legis.state.ak.us ◇ http://www.kerttula.net

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HJR 6
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: Fish and Game
Title: Labeling of Fish Products
RDU
Component
Sponsor: Representative Kerttula
Requester: House Special Committee on Fisheries
Component No.

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson
Phone 465-6137
Division: Legislative Liaison
Date/Time 1/25/05 11:47 AM
Approved by: Acting Commissioner Wayne Regelin
Date 1/25/2005
Agency: Alaska Department of Fish & Game

(Revised 12/2003 OMB)

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HJR 6
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: Environmental Conservation
Title: Labeling of fish products
RDU: Environmental Health
Component: Food Safety and Sanitation
Sponsor: Rep Kerttula
Requester: House Fisheries
Component No.: 2343

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type–Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*

This House Joint Resolution has no fiscal impact on the department.

Prepared by: Kristin Ryan, Director — Phone (907) 269-7644
Division: Environmental Health — Date/Time 1/25/05 11:59 AM
Approved by: Kurt Fredriksson — Date 1/25/2005
Agency: Department of Environmental Conservation

(Revised 12/2003 OMB)

Federal Register

Tuesday,
October 5, 2004

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 60

Mandatory Country of Origin Labeling of Fish and Shellfish; Interim Rule

maintained for a period of 1 year from the date the origin and production designations are made at retail.

How Does This Regulation Impact Existing State Country of Origin Labeling Programs?

To the extent that State country of origin labeling programs encompass commodities which are not governed by this regulation, the States may continue to operate them. For those State country of origin labeling programs that encompass commodities that are governed by this regulation, these programs are preempted.

Can Food Products That Are Not Covered by This Regulation Be Voluntarily Labeled With COOL Information?

Yes. Such voluntary claims must be truthful and accurate and adhere to existing Federal labeling regulations.

Prior Documents in This Proceeding

This interim final rule is issued pursuant to the Farm Bill, the 2002 Appropriations, and the 2004 Appropriations, which amended the Act.

On October 11, 2002, AMS published Guidelines for the Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts (67 FR 63367) providing interested parties with 180 days to comment on the utility of the voluntary guidelines.

On November 21, 2002, AMS published a notice requesting emergency approval of a new information collection (67 FR 70205) providing interested parties with a 60-day period to comment on AMS' burden estimates associated with the recordkeeping requirements as required by the Paperwork Reduction Act of 1995 (PRA). On January 22, 2003, AMS published a notice extending this comment period (68 FR 3006) an additional 30 days.

On October 30, 2003, AMS published the proposed rule for the mandatory COOL program (68 FR 61944) with a 60-day comment period. On December 22, 2003, AMS published a notice extending the comment period (68 FR 71039) an additional 60 days.

Overview of the Law

Section 10816 of Public Law 107–171 (7 U.S.C. 1638–1638d) amended the Act (7 U.S.C. 1621 *et seq.*) to require retailers to inform consumers of the country of origin of covered commodities beginning September 30, 2004.

The intent of this law is to provide consumers with additional information on which to base their purchasing decisions. COOL is a retail labeling program and as such does not provide a basis for addressing food safety. Seafood products, both imported and domestic, must meet the food safety standards of the Food and Drug Administration (FDA). The law defines the term "covered commodity" as muscle cuts of beef (including veal), lamb, and pork; ground beef, ground lamb, and ground pork; farm-raised fish and shellfish; wild fish and shellfish; perishable agricultural commodities; and peanuts. The law excludes items from needing to bear a country of origin declaration when a covered commodity is an "ingredient in a processed food item." The law defines the terms "retailer" and "perishable agricultural commodity" as having the meanings given those terms in PACA. The law defines the term "wild fish" as naturally-born or hatchery-raised fish and shellfish harvested in the wild and excludes net-pen aquacultural or other farm-raised fish.

The law specifically outlines the criteria a covered commodity must meet in order to bear a "United States country of origin" declaration. In the case of farm-raised fish and shellfish, the covered commodity must be derived from fish or shellfish hatched, raised, harvested, and processed in the United States. In the case of wild fish and shellfish, the covered commodity must be derived from fish or shellfish harvested in the waters of the United States or by a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel. In addition, the law also requires that fish and shellfish covered commodities be labeled to indicate whether they are wild or farm-raised.

To convey the country of origin information, the law states that retailers may use a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers. Food service establishments, such as restaurants, cafeterias, food stands, and other similar facilities are exempt from these labeling requirements.

The law makes reference to the definition of "retailer" in section 1(b) of PACA as the meaning of "retailer" for the application of the labeling requirements under the COOL law. Under this interim final rule, a retailer is any person engaged in the business of selling any perishable agricultural commodity at retail. Retailers are required to be licensed when the invoice cost of all purchases of produce exceeds $230,000 during a calendar year. Since fish markets and similar specialty shops do not generally sell fruits and vegetables, they do not meet the PACA definition of a retailer and therefore are not covered by this rule.

The law requires any person engaged in the business of supplying a covered commodity to a retailer to provide the retailer with the product's country of origin information. In addition, the law states the Secretary of Agriculture may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail. The law prohibits the Secretary from using a mandatory identification system to verify the country of origin of a covered commodity and provides examples of existing certification programs that may be used to certify the country of origin of a covered commodity. The law contains enforcement provisions for both retailers and suppliers that include civil penalties of up to $10,000 for each violation. The law also encourages the Secretary to enter into partnerships with States with enforcement infrastructure to the extent possible to assist in the program's administration.

II. Highlights of This Interim Final Rule

Covered Commodities

The term "covered commodity" includes: farm-raised fish and shellfish (including fillets, steaks, nuggets, and any other flesh) and wild fish and shellfish (including fillets, steaks, nuggets, and any other flesh).

Exclusion for Ingredient in a Processed Food Item

Items are excluded from labeling under this regulation when a covered commodity is an ingredient in a processed food item. Under this interim final rule, a "processed food item" is defined as: a retail item derived from fish or shellfish that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component (breading, tomato sauce), except that the addition of a component (such as water, salt, or sugar) that enhances or represents a further step in the preparation of the product for consumption, would not in itself result in a processed food item. Specific processing that results in a change in the character of the covered commodity includes cooking (*e.g.*, frying, broiling, grilling, boiling, steaming, baking,

roasting), curing (*e.g.*, salt curing, sugar curing, drying), smoking (cold or hot), and restructuring (*e.g.*, emulsifying and extruding, compressing into blocks and cutting into portions). Examples of items excluded include fish sticks, surimi, mussels in tomato sauce, seafood medley, coconut shrimp, soups, stews, and chowders, sauces, pates, salmon that has been smoked, marinated fish fillets, canned tuna, canned sardines, canned salmon, crab salad, shrimp cocktail, gefilte fish, sushi, and breaded shrimp.

Labeling Covered Commodities of United States Origin

The law prescribes specific criteria that must be met for a covered commodity to bear a "United States country of origin" declaration. The specific requirements for each commodity are as follows:

(a) Farm-raised Fish and Shellfish—covered commodities must be derived exclusively from fish or shellfish hatched, raised, harvested, and processed in the United States, and that has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) outside of the United States.

(b) Wild Fish and Shellfish—covered commodities must be derived exclusively from fish or shellfish either harvested in the waters of the United States or by a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel, and that has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) outside of the United States.

Labeling Country of Origin for Imported Products That Have Not Been Substantially Transformed in the United States

Under this interim final rule, an imported covered commodity shall retain its origin as declared to U.S. Customs and Border Protection at the time the product enters the United States, through retail sale, provided it has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) in the United States.

Covered commodities imported in consumer-ready packages are currently required to bear a country of origin declaration on each individual package under the Tariff Act of 1930 (Tariff Act). This interim final rule does not change these requirements.

Labeling Imported Products That Have Been Substantially Transformed in the United States

Under this interim final rule, in the case of wild fish and shellfish, if a covered commodity was imported from country X and substantially transformed (as established by U.S. Customs and Border Protection guidelines and policies) in the United States or aboard a U.S. flagged vessel, the product shall be labeled at retail as "From [country X], processed in the United States." The covered commodity must also be labeled to indicate that it was derived from wild fish or shellfish.

In the case of farm-raised fish, if a covered commodity was imported from country X at any stage of production and substantially transformed (as established by U.S. Customs and Border Protection guidelines and policies) in the United States, the product shall be labeled at retail as "From [country X], processed in the United States." The covered commodity shall also be labeled to indicate that it was derived from farm-raised fish or shellfish.

Defining Country of Origin for Blended Products

Under this interim final rule, the country of origin declaration of blended or commingled retail food items comprised of the same covered commodity (*e.g.*, bag of shrimp) having different origins, shall indicate the countries of origin for covered commodities in accordance with existing Federal legal requirements when the commingled product contains imported covered commodities that have not subsequently been substantially transformed in the United States. When the retail product contains imported covered commodities that have subsequently undergone substantial transformation in the United States commingled with other imported covered commodities that have subsequently undergone substantial transformation in the United States (either prior to or following substantial transformation in the United States) and/or U.S. origin covered commodities, the declaration shall indicate the countries of origin contained therein or that may be contained therein.

Remotely Purchased Products

For sales of a covered commodity in which the customer purchases a covered commodity prior to having an opportunity to observe the final package (*e.g.*, Internet sales, home delivery sales, etc.) the retailer may provide the country of origin and method of production information (wild and/or farm-raised), either on the sales vehicle or at the time the product is delivered to the consumer.

Markings

Under this interim final rule, the country of origin declaration and method of production (wild and/or farm-raised) designation may be provided to consumers by means of a label, stamp, mark, placard, band, twist tie, pin tag, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers. The country of origin declaration and method of production (wild and/or farm-raised) designation may be combined or made separately. Except as provided in § 60.200(g) and § 60.200 (h)(2) of this regulation, the declaration of the country(ies) of origin of a product shall be listed according to existing Federal legal requirements. Abbreviations and variant spellings that unmistakably indicate the country of origin, such as "U.K." for "The United Kingdom of Great Britain and Northern Ireland" are acceptable. The adjectival form of the name of a country may be used as proper notification of the country(ies) of origin of imported commodities provided the adjectival form of the name does not appear with other words so as to refer to a kind or species of product. Symbols or flags alone may not be used to denote country of origin.

With respect to the production designation, various forms of the production designation are acceptable, including "wild caught," "wild," "farm-raised," "farmed," or a combination of these terms for blended products that contain both wild and farm-raised fish or shellfish provided it can be readily understood by the consumer and is in conformance with other Federal labeling laws. Designations such as "ocean caught," "caught at sea", "line caught," "cultivated," or "cultured" do not meet the requirements of this regulation. Alternatively, the method of production (wild and/or farm-raised) designation may also be in the form of a check box. However, the labeling requirements under this rule do not supersede any existing Federal legal requirements, unless otherwise specified, and any such country of origin and method of production (wild and/or farm-raised) notification must not obscure or intervene with other labeling information required by existing regulatory requirements.

In order to provide the industry with as much flexibility as possible, this rule does not contain specific requirements

Rules and Regulations

Federal Register
Vol. 69, No. 248
Tuesday, December 28, 2004

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 60

[No. LS–03–04]

RIN 0581–AC26

Mandatory Country of Origin Labeling of Fish and Shellfish

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule; extension of comment period.

SUMMARY: On October 5, 2004, the Agricultural Marketing Service (AMS) published an interim final rule (69 FR 59708) for the mandatory country of origin labeling (COOL) program for fish and shellfish as mandated by the Farm Security and Rural Investment Act of 2002 (Farm Bill) and the 2002 Supplemental Appropriations Act (Appropriations Act), which amended the Agricultural Marketing Act of 1946 (Act) to direct the Secretary of Agriculture to promulgate regulations by September 30, 2004, requiring retailers to notify their customers of the country of origin of covered commodities. The FY 2004 Consolidated Appropriations Act (Public Law 108–199) delayed the applicability of mandatory COOL for all covered commodities except wild and farm-raised fish and shellfish until September 30, 2006. AMS is extending the comment period to February 2, 2005, at the request of industry trade associations to provide interested parties with additional time to file comments.

DATES: Comments must be submitted on or before February 2, 2005, to be assured of consideration.

ADDRESSES: Send written comments to: Country of Origin Labeling Program, Room 2092–S; Agricultural Marketing Service (AMS), USDA; STOP 0249; 1400 Independence Avenue, SW., Washington, DC 20250–0249, or by facsimile to (202) 720–3499, or by e-mail to *cool@usda.gov*. Comments received will be posted to the AMS Web site at: *http://www.ams.usda.gov/cool/*. Comments sent to the above location that specifically pertain to the information collection and recordkeeping requirements should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street, NW., Room 725, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: William Sessions, Associate Deputy Administrator, Livestock and Seed Program, AMS, USDA, by telephone on (202) 720–5707, or via e-mail to: *william.sessions@usda.gov*.

SUPPLEMENTARY INFORMATION: The Farm Bill and the Appropriations Act amended the Act to direct the Secretary of Agriculture to promulgate regulations by September 30, 2004, requiring retailers to notify their customers of the country of origin of covered commodities. The FY 2004 Consolidated Appropriations Act (Public Law 108–199) delayed the applicability of mandatory COOL for all covered commodities except wild and farm-raised fish and shellfish until September 30, 2006.

On October 5, 2004, AMS published an interim final rule (69 FR 59708) for the mandatory country of origin labeling program for fish and shellfish. The comment period was originally scheduled to end on January 3, 2005. However, two industry trade organizations have requested additional time for retailers to examine their systems in light of the requirements of the interim final rule in order to provide more meaningful comments. Further, the Food and Drug Administration (FDA) recently published the final rule to implement the Bioterrorism Act's recordkeeping requirements and more time is needed for the industry to compare the FDA regulation recordkeeping requirements with the recordkeeping requirements under the COOL interim final rule. Therefore, AMS has determined that there is sufficient justification for extending the comment period 30 days until February 2, 2005.

Authority: 7 U.S.C. 1621 *et seq.*

Dated: December 22, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–28349 Filed 12–27–04; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Parts 1806, 1822, 1902, 1925, 1930, 1940, 1942, 1944, 1951, 1955, 1956, 1965, 3560, and 3565

RIN 0575–AC13

Reinvention of the Sections 514, 515, 516 and 521 Multi-Family Housing Programs

AGENCY: Rural Housing Service, USDA.

ACTION: Interim final rule; extension of comment period.

SUMMARY: The comment period for the interim final rule is being extended an additional 30 days from December 27, 2004, in order to provide opportunities for further comment on this rule and its criteria. This interim final rule was published in the **Federal Register** on November 26, 2004, (69 FR 69032).

DATES: Comments on the interim final rule must be received on or before January 26, 2005, to be assured of consideration.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- Agency Web Site: *http://rdinit.usda.gov/regs/*. Follow the instructions for submitting comments on the Web site.
- E-Mail: *comments@usda.gov*. Include the RIN number (0575-AC13) in the subject line of the message.
- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.
- Mail: Submit written comments via Federal Express Mail or another mail courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW, 7th Floor, Suite 701, Washington, DC 20024.

HOUSE COMMITTEE REPOI

(9)

Date Referred to Committee: February 2, 2005 **FURTHER REFERRALS:**

Date of Committee Action: 2/9/05

The RESOURCES Committee considered: **HJR 6**

HOUSE JOINT RESOLUTION NO. 6 **LABELING OF FISH PRODUCTS**

Relating to the labeling of fish products and processed food items containing fish to identify the country of origin and to distinguish between wild and farmed fish and fish products.

Recommends it be replaced with [ ] HCS *or* [ ] CS *for* HJR 6 (FSH)

For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ **[ ] Same Title [ ] New Title**

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
F&G	2			✓
DEC	1			✓

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	OLSON	✓			
	Gatto	✓			
	SEATON	✓			
	McDonough	✓			
	ELKINS	✓			
Chair:	SAMUELS	X			
Chair:	RAMRAS	✓			

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION

HOUSE COMMITTEE REPOI

(9)

Date Referred to Committee: February 2, 2005 **FURTHER REFERRALS:**

Date of Committee Action: 2/9/05

The RESOURCES Committee considered: **HJR 6**

HOUSE JOINT RESOLUTION NO. 6 **LABELING OF FISH PRODUCTS**

Relating to the labeling of fish products and processed food items containing fish to identify the country of origin and to distinguish between wild and farmed fish and fish products.

Recommends it be replaced with [ ] HCS *or* [✓] CS *for* HJR 6 (FSH)

For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ [ ] Same Title [✓] New Title

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES** *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

***PREVIOUS* FISCAL NOTES**				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
F&G	2			✓
DEC	1			✓

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	OLSON	✓			
	GATTO	✓			
	SEATON	✓			
	LaDOUX	✓			
	ELKINS	✓			
Chair:	SAMUELS	X			
Chair:	RAMRAS	✓			

HOUSE COMMITTEE REPOI

(9)

Date Referred to Committee: February 2, 2005 **FURTHER REFERRALS:**

Date of Committee Action: 2/9/05

The RESOURCES Committee considered: **HJR 6**

HOUSE JOINT RESOLUTION NO. 6 **LABELING OF FISH PRODUCTS**

Relating to the labeling of fish products and processed food items containing fish to identify the country of origin and to distinguish between wild and farmed fish and fish products.

Recommends it be replaced with [ ] HCS *or* [✓] CS *for* HJR 6 (FSH)

For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_____ [ ] Same Title [✓] New Title

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
L..W
LWF
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS FISCAL NOTES

List by Dept(s):	FN#	Fiscal	Indet.	Zero
F&G	2			✓
DEC	1			✓

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	OLSON	✓			
	GATTO	✓			
	SEATON	✓			
	LaDOUX	✓			
	ELKINS	✓			
Chair:	SAMUELS	X			
Chair:	RAMRAS	✓			

HJR

9

ALASKA STATE LEGISLATURE

SESSION ADDRESS
Alaska State Capitol
Juneau, AK 99801-1182
(907) 465-2487
Fax (907) 465-4956

INTERIM ADDRESS
112 Mill Bay Road
Kodiak AK 99615
(907) 486-8872
Fax (907) 486-5264

Representative Gabrielle LeDoux

SPONSOR STATEMENT FOR HOUSE JOINT RESOLUTION 9

This resolution from the Alaska State Legislature urges that the United States Congress respect the judicial process and refrain from enacting any legislation that would alter the punitive damages awarded to more than 32,000 plaintiffs as a result of the 1989 Exxon Valdez oil spill as finally determined by the federals courts.

Nearly 15 years after the disaster, and more than ten years after the original jury verdict, the plaintiffs are still waiting resolution of the lawsuit.

While the United States Congress considered the Oil Pollution Act of 1990, Exxon Mobil Corporation sought an amendment that would have substantially reduced the punitive damages that it would have paid for the Exxon Valdez oil spill. This resolution urges Congress only to let the courts determine this matter.

Representative_Gabrielle_LeDoux@legis.state.ak.us

HOUSE COMMITTEE REPORT

(9)
Date Referred to Committee: February 14, 2005 **FURTHER REFERRALS: Judiciary**

Date of Committee Action: 3/30/05

The RESOURCES Committee considered: **HJR 9**

HOUSE JOINT RESOLUTION NO. 9 **URGE CONGRESS HONOR EXXON VALDEZ JUDGMENT**

Urging the United States Congress to honor the process and judgment of the federal courts in the case of the Exxon Valdez disaster and to refrain from enacting legislation that would affect the outcome of the courts' resolution of the case.

Recommends it be replaced with [ ] HCS *or* [ ] CS *for* ~~HJR~~ ( )
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR [ ] Same Title [ ] New Title

[ ] attach amendments
[ ] add new referral to _____ Committee
[ ] Letter of Intent_____ Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Leg. Council				✓

PREVIOUS FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	OLSON	✓			
	ELKINS	✓			
	LeDOUX	✓			
	CRAWFORD	✓			
Chair:	RAMRAS	✓			
Chair:	SAMUELS	✓			

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: HJR 9
() Publish Date:

Revision Date/Time (Note if correction):
Title "Urging the United States Congress to honor the process and judgment of the federal courts..."
Sponsor "Representatives LeDoux, Gara, ..."
Requestor House Resources Committee

Dept. Affected: Legislature
BRU Legislative Council
Component: Council and Subcommittees Session Expenses
Component No. 783

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director — Phone 465-6626
Division Administrative Services — Date/Time 3/29/05 10:02 AM
Approved by: Pamela Varni, Executive Director — Date 3/29/2005
Agency Legislative Affairs Agency

(Revised 9/2001 OMB)

Exxon Valdez Update[1]

The Spill

When the Exxon Valdez ran aground on Bligh Reef in 1989, it released eleven million gallons of toxic crude oil that spread throughout and beyond Prince William Sound. The oil spread past numerous islands and along the coast of the Kenai Peninsula, Cook Inlet, and Kodiak Island. The spill disrupted the lives and livelihoods of those in its path, including fishermen in commercial fisheries that were closed for the 1989 season; additional commercial fisheries that were not closed but suffered significant price declines; the subsistence fisheries in Prince William Sound and Lower Cook Inlet villages; shore-based businesses dependent on the fishing industry; and the people of cities such as Cordova.

Initial Litigation

Litigation included both civil and criminal actions. Civil suits came first but developed slowly due to their number and complexity. Both the United States and the State of Alaska sued Exxon for environmental damage, and that litigation was settled by means of a consent decree whereby Exxon agreed to pay to the governments, for environmental damage, $900 million over a period of ten years, with a "re-opener" provision allowing for additional claims of up to $100 million for damage discovered after settlement.

Exxon was prosecuted by the federal government for various environmental crimes. Exxon Corporation and Exxon Shipping pleaded guilty to a total of four counts of violating three different environmental laws, were jointly fined $25 million and ordered to pay restitution in the amount of $100 million.

The Class Action Suit

The civil cases were ultimately (with a few exceptions) consolidated into one class action suit with more than 32,000 plaintiff class members from all fifty states, which has been winding its way through the courts for nearly 16 years. In the consolidated cases, there was never any dispute as to Exxon's liability for compensatory damages, only the amount of economic losses and the appropriateness of punitive damages were controverted. By the time of the punitive damages phase of the trial in 1994, the parties had stipulated that the actual damages were estimated to be between $432 million and $768 million, and compensable harm was eventually determined to be $513 million.

This figure does not include additional harms that have never been compensated. The Ninth Circuit observed that the spill "obviously caused harm beyond the 'purely economic.'" The District Court Judge found: "The social fabric of Prince William Sound and Lower Cook Inlet

[1] Unless otherwise noted, all information contained in this update is from the January 24, 2004, Order No. 364 of the U.S. District Court for the District of Alaska, *In re: the EXXON VALDEZ*, Case Number A89-0095CV.

was torn apart," citing research that clearly delineated a chronic pattern of spill-related economic loss, social conflict, cultural disruption and psychological stress; an increased incidence of alcohol and drug abuse, domestic violence, mental health problems, and occupation related problems; and a high percentage of affected fishermen suffering from severe depression, post-traumatic stress disorder, generalized anxiety disorder, or a combination of all three.

Punitive Damages

For the punitive damages phase of the trial, unusually detailed jury instructions were developed. The jury was specifically instructed that even if it found Exxon's conduct reckless, it was not required to award punitive damages; that it must use reason in setting the amount of punitive damages; that any award should bear a reasonable relationship to the harm caused; that punitive damages are not intended to provide compensation; and that jurors should assume the plaintiffs had already been fully compensated.

Factors the jury was told it could consider in setting an amount of punitive damages included the reprehensibility of the defendants' conduct, the amount of harm suffered by members of the plaintiff class as a result of the defendants' conduct, and the financial condition of the defendants. As to the defendants' wealth, the jury was instructed to consider the defendants' financial condition only in terms of what level of award would be necessary to achieve punishment and deterrence. The jury was also instructed that it should not count any damage to natural resources or the environment in general when assessing harm suffered by plaintiff class members, and that it could consider mitigating factors (such as criminal fines or civil awards already levied for the same conduct) and the extent to which the defendants had taken steps to remedy the consequences of the spill and prevent future ones.

The Alaska jury deliberated for 22 days on the issue of punitive damages and ultimately returned a unanimous verdict in the amount of $5 billion. The District Court denied Exxon's motion to reduce the award, concluding that it was not so grossly excessive as to violate the defendants' due process rights.

Appeals and Remands

Exxon appealed both its liability for, and the amount of, the punitive damages awarded by the jury and upheld by the District Court in 1994. The Ninth Circuit Court of Appeals rejected Exxon's contention that punitive damages should have been barred and concluded that there was substantial evidence to support a jury verdict of liability for punitive damages as to both Exxon and the ship's captain. In the end, the Court of Appeals also found that the amount of the award was too high and remanded the matter to the District Court for further review and reduction of the award. After considering the briefing and hearing oral arguments, the District Court found again in 2002 that the award of punitive damages complied with due process. It reduced the punitive damages award to $4 billion and entered the judgment on December 10, 2002. Exxon appealed again, and the plaintiffs also appealed.

The Ninth Circuit Court of Appeals, prior to receiving briefing on either appeal, vacated the $4 billion punitive damages judgment and again remanded the case to the District Court, this time to

consider the award in light of a recent U.S. Supreme Court case providing new guidance on evaluating punitive damages awards. Both parties submitted supplemental briefing and engaged in oral arguments applying the new guidance. The District Court then considered, for the third time, the question of whether the $5 billion punitive damages award against Exxon comports with due process. The court applied the Supreme Court guidance and concluded that the $5 billion award was not grossly excessive and that it had no principled means by which it could reduce the award. Ultimately, however, to comply with the directive of the Ninth Circuit's remand, the District Court entered judgment in the amount of $4.5 billion and encouraged plaintiffs to cross appeal if Exxon chose to take further appeal of the punitive damages award. In doing so, the District Judge stated that he would have denied the defendants any reduction in the award had it not been for the specific direction imposed by the Court of Appeals to effect some reduction in the punitive damages award.

The $4.5 billion judgment entered by the District Court represents a 9:1 ratio between punitive damages and the $513 million of compensated harm. Courts applying the Supreme Court's punitive damage decisions have understood those decisions to provide a general guideline that "[s]ingle-digit multipliers are more likely to comport with due process." In the three cases in which the Supreme Court held that punitive damage awards were excessive, the awards ultimately approved on remand were 9:1 (*State Farm v. Campbell*), 10:1 (*Cooper v. Leatherman*) and 12.5:1 (*BMW v. Gore*).

Current Status of Case

Presently, Exxon is appealing the punitive damages award for the third time. The Ninth Circuit Court of Appeals is expected to issue its decision on the appeal sometime later this year.

Ongoing Damage

Damage from Exxon Valdez oil continues to this day. According to the 2003 Status Report of the Exxon Valdez Oil Spill Trustee Council, more than fifteen different species and resources, as well as commercial fishing, recreation and tourism, and subsistence harvesting, have still not fully recovered; and the recovery of five resources is considered unknown.[2] Trustee Council-funded researchers with the National Marine Fisheries Service's Auke Bay Laboratory found beaches in Prince William Sound still contaminated in 2001. More oil was found than expected, especially in the subsurface; subsurface oil was less weathered and more toxic; and oil was found in the intertidal zone, closest to the zone of biological production. Other Trustee Council-funded research indicates that these remaining pockets of oil may be impeding the recovery of several species.

[2] Not recovering: common loon, cormorants, harbor seal, harlequin duck, Pacific herring, and pigeon guillemot. Recovering: clams, designated wilderness, intertidal communities, killer whale (AB pod), marbled murrelet, mussels, sea otter, and sediments. Recovery unknown: cutthroat trout, dolly varden, Kittlitz's murrelet, rockfish, subtidal communities.

Natural Resource Damages: A Primer

Introduction

The purpose of this primer is to define Natural Resource Damage (NRD) concepts and terms, and discuss the following topics as they relate to NRD: the authority under which NRD are assessed; the definition of natural resources; the role of EPA; the designation of Natural Resource Trustees; and the conduct of natural resource damage assessments (NRDAs) and restorations. **Although impacts to natural resources may be addressed under other statutory authorities, this site focuses on provisions under CERCLA or OPA.**

Natural resource injuries may occur at sites as a result of releases of hazardous substances or oil. Trustees use NRDAs to assess injury to natural resources held in the public trust. This is an initial step toward restoring injured resources and services and toward compensating the public for their loss.

CERCLA and OPA Statutory Authority

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) provides a comprehensive group of authorities focused on one main goal: to address any release, or threatened release, of hazardous substances, pollutants, or contaminants that could endanger human health and/or the environment. CERCLA's response provisions focus on the protection of human health and the environment. The statute also provides authority for assessment and restoration of natural resources that have been injured by a hazardous substance release or response.

The Oil Pollution Act (OPA) was enacted in reaction to the Exxon Valdez oil spill and provides authority for oil pollution liability and compensation as well as for the Federal government to direct and manage oil spill cleanups. Similar to CERCLA, OPA contains authorities to allow the assessment and restoration of natural resources that have been contaminated by the discharge, or threatened discharge, of oil.

Natural Resources Defined

Both CERCLA and OPA define "natural resources" broadly to include "land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources..." Both statutes limit "natural resources" to those resources held in trust for the public, termed Trust Resources. While there are slight variations in their definitions, both CERCLA and OPA state that a "natural resource" is a resource "belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by" the United States, any State, an Indian Tribe, a local government, or a foreign government [CERCLA §101(16); OPA §1001(20)].

NRD are for injury to, destruction of, or loss of natural resources, including the reasonable costs of a damage assessment [CERCLA §§101(6); 107(a)(4)(C); OPA §§1001(5); 1002(b)(2)]. The measure of damages is the cost of restoring injured resources to their baseline condition, compensation for the interim loss of injured resources pending recovery, and the reasonable cost of a damage assessment [43 CFR Part 11 ; 15 CFR Part 990].

EPA's Role: Notification and Coordination

EPA is not a Natural Resource Trustee, nor is it authorized to act on behalf of Natural Resource Trustees. **Rather, under CERCLA and OPA, EPA shares with the U.S. Coast Guard the general responsibility for investigating and responding to contamination by hazardous substances or oil. The Coast Guard is primarily responsible for contamination involving the coastal zone including all U.S. waters subject to the tide, the Great Lakes, and deepwater ports.** EPA is primarily responsible for contamination on land and inland waters.

Natural Resource Trustees

Under both CERCLA and OPA, responsibility for protection of natural resources falls with Federal, State, and Tribal Trustees. This is because no one individual "owns" a natural resource; rather, they are held in trust for the public.

Both CERCLA and OPA provide authority for designated Trustees to act as Natural Resource Trustees on behalf of the public. In both CERCLA and OPA, certain Federal, State, and Indian Tribe officials can be designated as Trustees. However, under OPA foreign governments can also choose officials to act as Trustees.

Trustees have been given responsibility for restoring injured natural resources. The two major areas of Trustee responsibility under CERCLA and OPA are:

- **Assessment of injury to natural resources; and**
- **Restoration of natural resources injured or services lost due to a release or discharge.**

To meet these responsibilities, both statutes provide several mechanisms. **The Trustees can** either:

- **Sue in court to obtain compensation from the potentially responsible parties (PRPs) for NRD and the costs of assessment and restoration planning; or**
- **Conduct assessments or restorations in accordance with certain standards specified by the Federal government and file a claim for reimbursement from the Trust Fund established under OPA; or**
- **Participate in negotiations with PRPs to obtain PRP-financed or PRP-conducted assessments and restorations of NRD.**

Details about these statutory tools can be found in NRD Related Statutory Information.

NRD Assessments

One of the primary responsibilities of Trustees under both CERCLA and OPA is to assess the extent of injury to a natural resource and determine appropriate ways of restoring and compensating for that injury. A natural resource damage assessment (NRDA) is the process of collecting, compiling, and analyzing information to make these determinations. Trustees have the option of using the methodologies prescribed by the Department of the Interior (DOI), 43 CFR Part 11, or the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), 15 CFR Part 990. The DOI regulations are to assess NRD under CERCLA, while the NOAA methodologies are applicable for NRDAs under OPA. NRDAs are underway in a variety of locations; many of which involve one or more Superfund sites.

The overall intent of the assessment regulations is to determine appropriate restoration and compensation for injuries to natural resources. If a Federal or State Trustee goes into Federal court and sues a potentially responsible party (PRP) for NRD under CERCLA, an assessment done in accordance with the DOI regulations is given the force and effect of a "rebuttable presumption" [CERCLA §107(f)(2)(C)]. If a Federal, State, or Tribal Trustee sues a PRP for NRD under OPA, an assessment done in accordance with the NOAA regulations is given a rebuttable presumption [OPA §1006(e)(2)]. This means that the burden of persuasion in court shifts to the PRP. It will be the task of the PRP to disprove the Trustee's assessment.

NRD Restorations

Under CERCLA, monies recovered from an NRD claim are to be used only for restoration or replacement of the injured natural resource, or for acquisition of an equivalent resource (hereinafter called "restoration" unless otherwise noted) [CERCLA §107(f)(1)]. Under OPA, recovered sums are to be used only to reimburse or pay costs incurred by the Trustee with respect to the natural resources [PA §1006(f)]; these include costs incurred while conducting NRDAs and developing and implementing plans for "the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources" [OPA §1006(c)]. **Any amount in excess of these costs must be deposited in the Oil Spill Liability Fund [OPA §1006(f)].**

Restoration actions are principally designed to return injured resources to baseline conditions, but may also compensate the public for the interim loss of injured resources from the onset of injury until baseline conditions are re-established. Restoration activities have been successfully completed at several sites.

Natural Resource Trustees are required to develop and implement plans for the restoration of natural resources. The Trustee's plans form the basis of calculating NRD for court actions or claims against the OPA Trust Fund [OPA §§1006(c), (d)(1)-(2), 1012(a)(2)].

Suzanne: Here are some FAQ's from another EPA site on OPA.

1. Which federal agencies are responsible for implementing the Oil Pollution Act (OPA)?

Executive Order 12777, issued on October 18, 1991, delegated the authority to implement the Oil Pollution Act (OPA) to several federal agencies. EPA carries the responsibility for non-transportation-related onshore facilities and incidents in the Inland Zone. **United States Coast Guard (USCG) has responsibility for marine transportation-related facilities and incidents in the Coastal Zone. The Department of Transportation's Office of Pipeline Safety within the Research and Special Programs Administration oversees onshore transportation-related facilities. The Department of Interior has responsibility for off-shore fixed facilities beyond the coastline. The National Oceanic and Atmospheric Administration is responsible for natural resource damage assessments relating to oil discharges.**

2. How can I report an oil spill?

Spills should be reported immediately to the National Response Center at 800-424-8802. Threats of discharges or releases to the waters of the U.S. should also be reported.

3. What is the definition of oil?

Oil is defined as oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil [40 CFR 112.2 and CWA Section 311(a)(1)]. Section 1001(23) of the Oil Pollution Act (OPA) further narrows this definition be excluding any substance which is specifically listed or designated as a hazardous substance under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund").

4. Does the Oil Pollution Act (OPA) preempt state laws?

No. The Oil Pollution Act (OPA) Section 1018(a) specifically provides that the OPA does not preempt state laws.

5. Who is responsible for cleanup costs incurred under the Oil Pollution Act (OPA)?

Section 1001(32)(B) of the Oil Pollution Act (OPA) states that in the case of an onshore facility, any person owning or operating the facility is the responsible party.

6. Who can be ordered to cleanup an oil spill?

EPA can enter into an agreement or order any person who owns or operates a facility to perform a cleanup under Section 311(c) and/or (e) of the Clean Water Act (CWA), as amended by the Oil Pollution Act (OPA).

7. Where can I find the text of the laws dealing with Oil Spills?

The Oil Pollution Act (OPA) can be found at http://www4.law.cornell.edu/uscode/33/ch40.html.

Timeline of *Exxon Valdez* Punitive Damages Litigation

Date	Litigation Milestones
1989	▪ *Exxon Valdez* oil tanker runs aground on Bligh Reef in Prince William Sound, Alaska, discharging 11 million gallons of toxic crude oil. Within a month, numerous civil suits are filed in U.S. District Court and Alaska State court for compensatory and punitive damages.
1990	▪ U.S. District Court initially denies motion for certification of class action, resulting in thousands of additional individual lawsuits being filed, mostly in State court.
1991	▪ State court grants motion for certification of class action. ▪ Exxon removes most of the certified class action cases pending in State court to U.S. District Court. These cases are consolidated by the District Court into In re: Exxon Valdez Oil Spill Litigation.
1992	▪ Cases consolidated in In re: Exxon Valdez Oil Spill Litigation consist of nearly 200 direct actions on behalf of approximately 5,000 named plaintiffs and five certified class actions, with class membership estimated to be in the tens of thousands.
1993	▪ U.S. District Court dismisses the first of Exxon's many attempts to avoid punitive damages by arguing it is not subject to them as a matter of law.
1994	▪ U.S. District Court grants final approval of mandatory punitive damages class. ▪ Trial takes place from May 2 – September 16. ▪ U.S. District Court jury returns a verdict for plaintiffs, finding Exxon liable for punitive damages in the amount of $5 billion. ▪ Exxon, and the ship's captain, file 22 post-trial motions seeking, among other things, a new trial on the issue of punitive damages.
1995	▪ U.S. District Court denies Exxon's post-trial motions.
1996	▪ U.S. District Court enters final judgment as to the mandatory punitive damages class in the amount of $5 billion (paving the way for the appeals process to begin), and stays execution of the judgment based on Exxon's posting of an irrevocable letter of credit. ▪ Exxon seeks entitlement to a portion of the punitive damages award based on secret settlement agreements made with a group of seafood processors who agreed to obtain the punitive damages on Exxon's behalf.
1997	▪ Exxon appeals the amended judgment, both as to liability and amount of the punitive damages award.
2002	▪ Ninth Circuit affirms original judgment regarding liability for punitive damages but vacates the award and remands to the U.S. District Court to reduce the amount of the award. ▪ On remand, U.S. District Court concludes that the full $5 billion punitive damages is constitutionally permissible but reduces award to $4 billion based on Ninth Circuit's direction that the award be reduced.
2003	▪ Exxon and plaintiffs both appeal the reduced award to the Ninth Circuit. ▪ U.S. Supreme Court decides a separate case (State Farm Mutual Auto Insurance Co. v. Campbell), revisiting due process issues as they relate to punitive damages. ▪ Prior to hearing the appeal, the Ninth Circuit vacates the $4 billion punitive judgment without ruling on the merits and remands to the U.S. District Court to reconsider the award in light of the State Farm decision. ▪ Exxon files second renewed motion to reduce the amount of the punitive damages

Date	Litigation Milestones
	award.
2004	▪ U.S. District Court issues its order on remand, in which it considers the recent Supreme Court case, concludes that the punitive damages award still comports with due process and that the full $5 billion is not excessive, and enters a final judgment for $4.5 billion in punitive damages. ▪ Exxon appeals to the Ninth Circuit, and plaintiffs cross appeal. ▪ Ninth Circuit receives briefing on appeal.
2005	▪ Ninth Circuit expected to hear oral argument and issue a decision on appeal later this year.

UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

March 3, 2005

Representative Ralph Samuels, Co-Chair
House Resources Committee
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau AK 99801-1182

Dear Representative Samuels,

UFA represents thirty-one Alaska commercial fishing groups and hundreds of individual fishermen, crew members and related businesses.

United Fishermen of Alaska (UFA) supports HJR 9 as a meaningful statement from the State of Alaska to urge that the United States Congress respect the judicial process and refrain from enacting any legislation that would alter the punitive damages awarded to more than 32,000 plaintiffs as a result of the 1989 Exxon Valdez oil spill as finally determined by the federal courts.

The sixteen year delay in just compensation has prolonged the economic damage from the spill beyond justification. All reasonable positions in this sad episode have received due process in courts. Fishermen and communities should be compensated without any undue further delay.

We appreciate your consideration and encourage your support of HJR 9.

Sincerely,

Mark D. Vinsel
Executive Director

CC: Representative Gabrielle LeDoux

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Draggers Association • Alaska Longline Fishermen's Association • Armstrong Kata • At-sea Processors Association
Bristol Bay Reserve • Concerned Area [illegible] Fishermen • Cordova District Fishermen United • Douglas Island Pink and Chum
Fishing Vessel Owners Association • Groundfish [illegible] orum • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association
North Pacific Fisheries Association • North Pacific Scallop Cooperative • Northern Southeast Regional Aquaculture Association
Old Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation
Purse Seine Vessel Owner Association • Seafood Producers Cooperative • Southeast Alaska Herring Seiners Marketing Association
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Catcher Boats • United Salmon Association United Southeast Alaska Gillnetters • Valdez Fisheries Development Association
Western Gulf of Alaska Fishermen

Support

Statement in Support of House Resolution re: Exxon

To whom it may concern:

Before the 3/24/89 Exxon Valdez oil spill, 43 U.S.C. Sec. 1653 established a Trans-Alaska Pipeline Liability Fund (TAPLF), by which vessel owners and operators, if they spilled oil that had passed through the Alaska pipeline were strictly liable for damages from the discharge, up to $100,000,000.

When the spill occurred on 3/24/89, plaintiffs looked to the Fund as one source of money to pay damages, but brought our primary litigation claims in state and federal court, arguing that state statutes, state common law theories (such as negligence, trespass and nuisance), and federal admiralty law all gave claimants (fishermen, municipalities, businesses, landowners, etc) rights of action. We were aware then that 43 U.S.C. Sec. 1653 (c)(9) said specifically that the law that established the Fund "shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements," and thus assumed that the existence of the Fund legislation, and the Fund itself, should not bar, or hold back our claims.

With increased federal interest in legislation after the spill (which ultimately resulted in OPA 90), we were very concerned that the industry would try to interfere with what we viewed as our non-Fund existing remedies. We were able to secure a special section in OPA that said, "Nothing in this title shall apply to any cause of action or right of recovery arising from any incident which occurred prior to August 18, 1990. Such claims shall be adjudicated pursuant to the law applicable at the date of the incident. 33 U.S.C. Sec. 2717(e)." OPA also added some good language that we fought for, (and which applied both to future spills and retroactively to our case), relating to the right of a municipality or state to recover for additional public services (like police and fire services) after a spill, which language countered a legal doctrine based on a case called Flagstaff which said that such costs were not recoverable, but had to be passed through to taxpayers, and also permitting states and municipalities to recover for lost revenues, such as taxes.

As we were pursuing our federal and state claims after the passage of OPA 90, Exxon argued in federal court to Judge Holland that all of those claims had to be pursued first before the Liability Fund, even though section 1653 (c)(9) said specifically that it "shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements."

In 1992, when it appeared that Judge Holland might require us to present all the claims first to the TAPLF before we could proceed on our other claims in federal court, we asked for an amendment to the TAPLF legislation which would clarify that the Fund was not the exclusive arbiter of damages from oil spills. Exxon and other oil companies opposed the legislation as it was inconsistent with their position in court that at the very least we had to exhaust remedies with the Fund before we could pursue court claims.

Matt Jamin
Jamin, Ebell, Schmitt & Mason

adn.com
Anchorage Daily News

16 years later, pressure mounts to settle spill suit

EXXON VALDEZ: State, federal lawyers must decide by next summer whether to seek additional damages.

By TOM KIZZIA
Anchorage Daily News

(Published: February 27, 2005)

State and federal officials in charge of spending Exxon Valdez oil spill settlement funds are pushing new efforts to reach "closure" on controversies about environmental damage posed by crude oil, some of which still lies buried in the sands of Prince William Sound.

Since the election of Gov. Frank Murkowski in 2002, the oil spill trustees have put some broader, long-range scientific projects on hold. Instead, the trustee council has directed Exxon settlement funds to studies of herring and other injured species in hopes of writing the final chapter on spill damage and the effects of so-called lingering oil.

A key piece of that work has been contracted to a private Seattle consulting firm that normally does much of its work for companies accused of pollution. Integral Consulting has $850,000 in contracts to weigh conflicting studies by government and Exxon scientists and reach independent conclusions on the lingering spill impacts. A state lawyer said the firm is expected to have some answers by late summer or fall.

The change in priorities has drawn strong protests from public advisers and scientists, who say they don't know what's going on because the council has conducted little open discussion. Some critics say they fear the Murkowski and Bush administrations are eager to close the book on a resource-development public-relations mess.

TRUSTEE COUNCIL MISSION

The trustee council was formed to oversee restoration of the ecosystem damaged by the 1989 Exxon Valdez oil spill. The company tanker hit a charted reef and dumped a reported 11 million gallons of crude oil into Prince William Sound.

The oil spill trustees say they haven't been secretive. But under fire from their public advisory group, which approved a sharply critical resolution last month, they say they are trying harder to make their intentions plain. In recent interviews, several trustees said the new priorities are necessary in part to address the lingering oil, which only showed up in studies beginning in 2001.

"The lingering oil was something no one contemplated back in '89 when the spill happened," said Drue Pearce, the Alaska special assistant for the U.S. Department of the Interior, who holds a federal seat on the Exxon Valdez Oil Spill Trustee Council. Pearce said she visited a beach last summer with still-smelly oil buried in the sand and found it "astounding."

Pearce said findings of the Integral Consulting study will be important to state and federal lawyers, who must decide by the summer of 2006 whether to seek additional damages of up to $100 million from the spiller, now known as Exxon Mobil. The 1991 settlement between Exxon and the state and federal governments included a short "reopener" period allowing new claims based on

environmental harm that was not foreseen at the time.

UNRESOLVED QUESTIONS

That litigation deadline aside, the trustees appear uncomfortable with having unresolved questions of environmental damage hover indefinitely over the Sound.

"Maybe (herring) will never recover. But we need to bring closure to that question," said Kurt Fredriksson, acting commissioner of the Department of Environmental Conservation and one of three state trustees. "We need to get restoration of those resources taken care of, or conclude that we cannot."

Scientists involved in past research have questioned the apparent change of direction, saying the new council members were ignoring years of scientific planning and recommendations from peer-review groups. Many were concerned that broader ecosystem research, considered by previous administrations the best way to examine long-term spill impacts, would eventually be canceled. The trustees have $106 million left for scientific work from the $900 million civil settlement paid by Exxon.

Trustees have recently assured them that the long-range work will continue after this pause, said Brenda Norcross, a University of Alaska marine science professor and co-chairwoman of the trustees' scientific advisory committee.

Critics also expressed concern over the Christmas-week firing of the trustee council's science director, Phil Mundy, who had helped build the old research program.

"It's very difficult to get all the work done without a science director," Norcross said.

Mundy said he was given no reason except that his firing was ordered by Murkowski's office. Trustee council executive director Gail Phillips said she could not discuss the decision because it was a confidential personnel matter.

SKEPTICISM ABOUNDS

The council's actions were viewed warily by the advisory committee set up under the settlement to ensure public involvement in how the funds are spent. In January, the committee passed a resolution branding council actions last August secret and illegal, and calling on the council to reconsider its work plan, this time in public.

"I think the controversy is more the secrecy of how they are doing it," said committee member Pat Lavin of the National Wildlife Federation. "We think it's pretty clear the council violated its own procedures."

Lavin and others say the push for new priorities has come largely from trustees representing the state.

Some question giving the important job of summarizing past research to an independent firm like Integral Consulting.

"They're a complete outsider to this. I don't think they've got the history to make the judgment," said Stan Senner, a longtime science coordinator for the trustee council who is now executive director of Audubon Alaska.

But Craig Tillery, an assistant attorney general for the state who has been involved in the oil spill since the tanker hit Bligh Reef, said it's the right time for an independent summary.

"You've got these disparate studies. You don't have an analysis," Tillery said.

Stacy Studebaker, a Kodiak environmentalist who has served nine years on the public advisory committee, is suspicious.

"I think there's a mandate on the state trustees to get this thing over with, to tidy things up," Studebaker said. "They're trying to clean up a PR mess with Exxon."

But her fellow committee member Lavin said the focus on answering the big remaining questions seems to make sense.

"It's exactly what they should be doing," he said. "My great fear is that, voila, the studies show that everything's great. But I have no reason to think that will happen."

LONG-TERM PROJECTS

The trustee council, made up of six top bureaucrats from the federal and state governments, has spent $375 million on buying and protecting habitat, $176 million to reimburse governments for spill response costs, and $173 million on scientific studies.

By the spill's 10-year anniversary in 1999, with echoes of the Exxon Valdez catastrophe growing fainter, officials and science advisers were turning attention to planning long-term projects under the umbrella of the so-called Gulf Ecosystem Monitoring Program, or GEM. In 2002, most of the remaining money, around $87 million, was set aside for GEM studies looking at long-range spill impacts in the context of broader changes in the North Pacific. The council now spends between $3 million and $5 million a year on various studies.

The Bush-Murkowski council began to change course in 2004. An August decision to turn down funding for some GEM projects drew a stern complaint from University of Alaska president Mark Hamilton. He said the council had ignored recommendations of staff and science advisers in rejecting high-ranked projects by university scientists while funding some that had been recommended against.

"Violation of the practices and tenets of science sponsorship which have for generations guided successful research in this country -- including peer review, openness, and transparency -- puts at risk the scientific credibility of not only yourselves as trustees, but the organizations you represent," Hamilton wrote the trustees last September.

The state trustees responded with a stout defense of their prerogative, saying their "highest priority" was projects with "the most direct and immediate restoration effects" on damaged resources and lost services. "While some disappointment is expected among investigators whose projects did not receive funding, no reasonable person should conclude a conspiracy exists in the process or a mystery surrounds our decisions," the state trustees wrote to Hamilton.

Studebaker came back with a newspaper column saying the council didn't need to rubber-stamp projects but did need to explain its reasons. Its failure to do so in August had been "a stick in the eye" to those trying to keep public the often-politicized science surrounding the Exxon Valdez spill, she said.

Trustee council members are now going further to explain their thinking, saying the attention to

assessing and restoring damage is essential under the council's 1994 work plan.

"From where I sit, it was a nicety that we jumped to too quickly," DEC's Fredriksson said of the GEM program. "We hadn't completed the restoration work that had to be done."

He said an assessment of resource recovery hadn't been made since 2002. At that point, five species and several other resources were listed as still recovering, while eight species were listed as "not recovering."

The apparent shift in priorities makes some sense to one prominent oil industry critic, Rick Steiner, a marine biologist at the University of Alaska Anchorage. Steiner, who has pushed government officials to stay focused on restoring the Sound, said it is important for the council to not allow its endowment to become a "cash cow" for general scientific research.

Steiner said he's worried, however, that the Bush and Murkowski administrations appear hostile to reopening spill litigation around continuing effects of the spill, which he contends go far beyond sheens leaching into the water from buried oil. He said debating the larger questions in court could reflect badly on their efforts to open other areas to oil drilling.

"The last thing they want is discussion of 15-year long-term damage we didn't expect," Steiner said.

CONFLICTING INTERESTS?

An example of these conflicting interests, cited by Steiner and others, is that Phillips, who made $105,000 last year as the trustee council's executive director, has played a prominent role in Arctic Power, the group promoting oil development in the Arctic National Wildlife Refuge. Last year, Phillips was Arctic Power's co-chairman. She recently resigned the leadership position because of the complaints, she said, though she remains on the group's board.

"In my mind, it was never a conflict because I had been doing it for so long," said Phillips, a former state House speaker and candidate for lieutenant governor. "But I could understand where people could have thought it was."

Phillips said the question of whether to reopen the spill case is up to state and federal lawyers, not the trustee council.

Tillery, the assistant attorney general, said government lawyers are seriously exploring the potential for a reopener. He would not comment further.

It was Steiner who obtained secret trustee council documents in 2003 outlining the possibilities for reopening the case at that point. The documents, featured in a subsequent story in the Wall Street Journal, detailed growing scientific concern over lingering oil and cited unanticipated damage to pink salmon, sea otters, mussels and harlequin ducks.

"Much, if not all, of the information upon which a claim would be made is generated by the Trustee Council's restoration program," wrote Molly McCammon, Phillips' predecessor, in one of the secret memos.

That was then. Now, said Pearce, vital information for making any such claim is likely to be drawn from the analytical study of lingering oil and damaged resources by Seattle-based Integral Consulting.

INTEGRAL CONSULTING STUDY

The national consulting firm was first recommended to the state for spill restoration work by Murkowski's first DEC commissioner, Ernesta Ballard, who served as a spill trustee until resigning last year. Ballard said this month she had worked with Integral on a project for the Ketchikan Pulp Co. before joining state government.

According to the company's Web site, Integral is a specialist in polluted sediments and does much of its work for private companies accused of spills -- "potential responsible parties," in the legal term. Integral has also been involved in cleanup for government agencies such as the Port of Seattle, its Web site said.

The company reported at a January symposium that initial findings show the buried oil continues to leach into the environment, but most of the resources "currently" classified as injured are not exposed to it, Integral's Web site said.

Several calls to Integral officials handling the Alaska project were not returned.

Trustee council meetings are known for the jaw-dropping tedium of discussions about scientific appropriations of tens of thousands of dollars. So it was all the more surprising that there was little discussion on March 1, 2004, when the council returned from a lunchtime executive session and voted to give $1.5 million to the state Department of Law for research "to fill in gaps related to lingering oil."

The motion was made by Jim Balsiger, Alaska administrator for the National Marine Fisheries Service, with little discussion, other than to specify that the department should work with federal agencies and with Integral Consulting. Ballard seconded.

Assistant attorney general Tillery spoke briefly in support, saying the lingering oil was "a cloud hanging over us of unfinished business," according to a transcript of the trustee council meeting.

Integral later received a $200,000 contract to study sediments and a $650,000 contract to analyze the lingering oil data and provide a fresh assessment of how species have recovered. The latter contract also calls for recommendations on monitoring and treatment of old oil, as well as "effective communication" to the public of the technical results.

CONFUSION LINGERS

Public confusion about the state's intentions has not been helped by turnover among the Murkowski administration trustees. In addition to Ballard, who left last October to become a senior vice president for the forest products giant Weyerhaeuser, Fish and Game Commissioner Kevin Duffy resigned at the end of the year to head the factory trawlers association. Now the third trustee, Attorney General Gregg Renkes, has resigned amid conflict of interest allegations involving a coal technology company.

Fredriksson said the spill trustees sought to explain themselves with a passage in their annual report released this month, which Phillips read aloud when asked about the changes:

"Over the next eighteen months, the Council has determined the need to realign priorities and restorative activities, placing focus on critical work required to reach closure in areas of restoration related to lingering oil and injured species."

The trustees also acceded to a request from public advisory committee members for more

dialogue, Phillips said. The next council meeting, scheduled for June in Cordova, will include time for an unprecedented back-and-forth conversation with committee members, she said.

"I think most of the trustees would agree we haven't done as great a job of communicating with our PAC as we might," Pearce said.

Reporter Tom Kizzia can be reached at tkizzia@adn.com or in Homer at 1-907-235-4244.

Print Page | Close Window

HJR

14

ALASKA STATE LEGISLATURE
HOUSE RESOURCES COMMITTEE

Representative Jay Ramras
Co-Chairman
(907) 465-3004
Fax: (907) 465-2833
Representative_Jay_Ramras@legis.state.ak.us

119 N. Cushman St., Suite 213
Fairbanks, AK 99701

Representative Ralph Samuels
Co-Chairman
(907) 465-2095
Fax: (907) 465-3810
Representative_Ralph_Samuels@legis.state.ak.us

716 W. 4th Avenue
Anchorage, AK 99501

State Capitol, Juneau, Alaska 99801-1182

FAX

Please deliver the following pages to: Legis. Legal

Fm: Staff, Resources Committee, Jim Pound

Fax #:465-2029 **Total number of pages including cover: 1**

Date: 2/15/06 4:12 PM

Re: Resource Committee amendments to HJR 14 and HB 324

Please amend and final the above referenced pieces of legislation as "CS" (RES)

HJR 14 –24-LS0670\G

Delete Page 2, Line 11-14

[*FURTHER RESOLVED by the Alaska State Legislature that the United States Congress is urged to include a provision in S. 293 to provide that the land grants do not interfere with public access to or along fishing streams or the continued use of established hunting, dog mushing, motorized vehicle, mining, and recreational trails or roads; and be it*]

HB 324 – 24-LS1218\G

Page 1, Line 7

(1) **knowingly** import orange hawkweed....

Thank you

IOUSE COMMITTEE REPO

(9)
Date Referred to Committee: February 1, 2006 **FURTHER REFERRALS:**

Date of Committee Action: February 15, 2006

The RESOURCES Committee considered: **HJR 14**

HOUSE JOINT RESOLUTION NO. 14 **URGE CONGRESS TO GRANT LAND TO UNIVERSITY**

Urging the United States Congress to pass legislation to convey land to the University of Alaska.

Recommends it be replaced with [ ] HCS or [✓] CS for HJR 14 **(** RES **)**
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR_______ [✓] Same Title [ ] New Title

[ ] attach amendments
[ ] add new referral to ___________ Committee
[ ] Letter of Intent__________ Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES
*Assigned by Chief Clerk's Office

List by Dept(s):	*FN#	Fiscal	Indet.	Zero

PREVIOUS FISCAL NOTES

List by Dept(s):	FN#	Fiscal	Indet.	Zero

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
[signature]	Gatto			X	
Paul K Seaton	SEATON	X			
[signature]	ELKINS	✓			
[signature]	LeDOUX			✓	
Harry T. Crawford Jr	CRAWFORD			✓	
Chair: [signature]	SAMUELS	X			
Chair: [signature]	RAMRAS	X			

ALASKA STATE LEGISLATURE

INTERIM
50 Front St.
Suite #203
Ketchikan, Alaska 99901
Phone: (907) 247-4672
Fax: (907) 225-8546

SESSION
Suite 416
State Capitol Building
Juneau, Alaska 99801
Phone: (907) 465-3424
Fax: (907) 465-3793

REPRESENTATIVE JIM ELKINS

Sponsor Statement

House Joint Resolution 14 has been introduced to urge the United States Congress to pass legislation to convey land to the University of Alaska.

HJR 14 voices support for U.S. Senate Bill 293 the federal University Land Bill by Senator Lisa Murkowski (R-AK). That legislation provides a grant from the federal government of 250,000 acres and up to an additional 250,000 acres match from the state.

As the largest landholder in Alaska, it is important that the Federal government provide support to the University of Alaska. The University needs a more dependable revenue stream, and this legislation will make the University of Alaska System more stable and similar to other land grant institutions across the nation. Eventually they will be able to become financially independent from yearly funding allocations from the Legislature.

In conjunction with House Bill 130, this land grant package will give the University of Alaska as much as 760,000 acres and will make them the envy of universities around the globe. HJR 14 will inform the members of Congress how important S.293 is to Alaskans because producing a long-term revenue stream for the University is imperative and in the best interests of all Alaskans.

S 293 IS

109th CONGRESS

1st Session

S. 293

To provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 3, 2005

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) Findings- The Congress finds that--

(1) the University of Alaska is the successor to and the beneficiary of all Federal grants and conveyances to or for the Alaska Agricultural College and School of Mines;

(2) under the Acts of March 4, 1915, 38 Stat. 1214, and January 21, 1929, 45 Stat. 109., the United States granted to the Territory of Alaska certain Federal lands for the University of Alaska;

(3) the Territory did not receive most of the land intended to be conveyed by the Act of March 4, 1915, before repeal of that Act by section 6(k) of the Alaska Statehood Act (Public Law 85-508, 72 Stat. 339);

(4) only one other State land grant college in the United States has obtained a smaller land grant from the Federal Government than has the University of Alaska, and all land grant colleges in the western States of the United States have obtained substantially larger land grants than has the University of Alaska;

(5) an academically strong and financially secure state university system is a cornerstone to

the long-term development of a stable population and to a healthy, diverse economy and is in the national interest;

(6) the Federal Government now desires to acquire certain lands for addendum to various conservation units;

(7) the national interest is served by transferring certain Federal lands to the University of Alaska which will be able to use and develop the resources of such lands and by returning certain lands held by the University of Alaska located within certain Federal conservation system units to Federal ownership; and

(8) the University of Alaska holds valid legal title to and is responsible for management of lands transferred by the United States to the Territory and State of Alaska for the University and an exchange of lands for lands that are capable of producing revenues to support the education objectives of the original grants is consistent with and in furtherance of the purposes and terms of, and thus not in violation of, the Federal grant of such lands.

(b) Purposes- The purposes of this Act are--

(1) to fulfill the original commitment of Congress to establish the University of Alaska as a land grant university with holdings sufficient to facilitate operation and maintenance of a university system for the inhabitants of the State of Alaska; and

(2) to acquire from the University of Alaska lands it holds within Federal parks, wildlife refuges, and wilderness areas to further the purposes for which those areas were established.

SEC. 2. LAND GRANT.

(a) Notwithstanding any other provision of law and subject to valid existing rights, the University of Alaska ('University') is entitled to select up to 250,000 acres of Federal lands or interests in lands in or adjacent to Alaska as a land grant. The Secretary of the Interior ('Secretary') shall promptly convey to the University the Federal lands selected and approved in accordance with the provisions of this Act.

(b)(1) Within forty-eight (48) months of the enactment of this Act, the University of Alaska may submit to the Secretary a description of lands or interests in lands for conveyance. The initial selection may be less than or exceed 250,000 acres and the University may add or delete lands or interests in lands, or until 250,000 patented acres have been conveyed pursuant to this Act, except that the total of land selected and conveyed shall not exceed 275,000 areas at any time.

(2) The University may select lands validly selected but not conveyed to the State of Alaska or to a Native Corporation organized pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), except that these lands or interests in lands may not be approved or convey to the University unless the State of Alaska or the Native Corporation relinquishes its selection in writing.

(3) The University may not make selections within a conservation system unit, as defined in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101), or in the Tongass National Forest except within lands classified as LUD III or LUD IV by the United States Forest Service and limited to areas of second growth timber where timber harvest occurred after January 1, 1952.

(4) The University may make selections within the National Petroleum Reserve--Alaska ('NPRA'), except that--

(A) no selection may be made within an area withdrawn for village selection pursuant to section 11(a) of the Alaska Native Claims Settlement Act for the Native villages of Atkasook, Barrow, Nuiqsit and Wainwright;

(B) no selection may be made in the Teshekpuk Lake Special Management Area as depicted on a map that is included in the final environmental impact statement for the Northeast NPRA dated October 7, 1998; and

(C) No selections may be made within those portions of NPRA north of latitude 69 degrees North in excess of 92,000 acres and no selection may be made within such area during the two year period extending from the date of enactment of this Act. The Secretary shall attempt to conclude an agreement with the University of Alaska and the State of Alaska providing for sharing NPRA leasing revenues within the two year period. If the Secretary concludes such an agreement, the Secretary shall transmit it to the Congress, and no selection may be made within such area during the three year period extending from the date of enactment of this Act. If legislation has not been enacted within three years of the date of enactment of this Act approving the agreement, the University of Alaska may make selections within such area. An agreement shall provide for the University of Alaska to receive a portion of annual revenues from mineral leases within NPRA in lieu of any lands selections within NPRA north of latitude 69 degrees North, but not to exceed ten percent of such revenues or $9 million annually, whichever is less.

(5) Within forty-five (45) days of receipt of a selection, the Secretary shall publish notice of the selection in the Federal Register. The notice shall identify the lands or interest in lands included in the selection and provide for a period for public comment not to exceed sixty (60) days.

(6) Within six months of the receipt of such a selection, the Secretary shall accept or reject the selection and shall promptly notify the University of his decision, including the reasons for any rejection. A selection that is not rejected within six months of notification to the Secretary is deemed approved.

(7) The Secretary may reject a selection if the Secretary finds that the selection would have a significant adverse impact on the ability of the Secretary to comply with the land entitlement provisions of the Alaska Statehood Act or the Alaska Native Claims Settlement Act (43 U.S.C. 1601) or if the Secretary finds that the selection would have a direct, significant and irreversible adverse effect on a conservation system unit as defined in the Alaska National Interest Conservation Act.

(8) The Secretary shall promptly publish notice of an acceptance or rejection of a selection in the Federal Register.

(9) An action taken pursuant to this Act is not a major Federal action within the meaning of section 102(2)(C) of Public Law 91-190 (83 Stat. 852, 853).

(c) The University may not select Federal lands or interests in lands reserved for military purposes or reserved for the administration of a Federal agency, unless the Secretary of Defense or the head of the affected agency agrees to relinquish the lands or interest in lands.

(d) The University may select additional lands or interest in lands to replace lands rejected by the Secretary.

(e) Lands or interests in lands shall be segregated and unavailable for selection by and conveyance to the State of Alaska or a Native Corporation and shall not be otherwise encumbered or disposed of by the United States pending completion of the selection process.

(f) The University may enter selected lands on a non-exclusive basis to assess the oil, gas, mineral and other resource potential therein and to exercise due diligence regarding making a final selection. The University, and its delegates or agents, shall be permitted to engage in assessment techniques including, but not limited to, core drilling to assess the metalliferous or other values, and surface geological exploration and seismic exploration for oil and gas, except that exploratory drilling of oil and gas wells shall not be permitted.

(g) Within one year of the Secretary's approval of a selection, the University may make a final decision whether to accept these lands or interests in lands and shall notify the Secretary of its decision. The Secretary shall publish notice of any such acceptance or rejection in the Federal Register within six months. If the University has decided to accept the selection, effective on the date that the notice of such acceptance is published, all right, title, and interest of the United States in the described selection shall vest in the University.

(h) Lakes, rivers and streams contained within final selections shall be meandered and lands submerged thereunder shall be conveyed in accordance with section 901 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2430; 43 U.S.C. 1631).

(i) Upon completion of a survey of lands or interest in lands subject to an interim approval, the Secretary shall promptly issue patent to such lands or interests in lands.

(j) The Secretary of Agriculture and the heads of other Federal departments and agencies shall promptly take such actions as may be necessary to assist the Secretary in implementing this Act.

SEC. 3. RELINQUISHMENT OF CERTAIN UNIVERSITY OF ALASKA HOLDINGS.

(a) As a condition to any grant provided by section 2 of this Act, the University shall begin to convey to the Secretary those lands listed in 'The University of Alaska's Inholding Reconveyance Document' and dated November 13, 2001.

(b) The University shall begin conveyance of the lands described in section 3(a) of this Act upon approval of selected lands and shall convey to the Secretary a percentage of these lands approximately equal to that percentage of the total grant represented by the approval. The University shall not be required to convey to the Secretary any lands other than those referred to in section 3(a) of this Act. The Secretary shall accept quitclaim deeds from the University for these lands.

SEC. 4. JUDICIAL REVIEW.

The University of Alaska may bring an appropriate action, including an action in the nature of mandamus, against the Department of the Interior, naming the Secretary, for violation of this Act or for review of a final agency decision taken under this Act. An action pursuant to this section

may be filed in the United States District Court for the District of Alaska within two (2) years of the alleged violation or final agency decision and such court shall have exclusive jurisdiction over any such suit.

SEC. 5. STATE MATCHING GRANT.

(a) Notwithstanding any other provision of law and subject to valid existing rights, within forty-eight (48) months of receiving evidence of ownership from the State, the University may, in addition to the grant made available in section 2 of this Act, select up to 250,000 acres of Federal lands or interests in lands in or adjacent to Alaska to be conveyed on an acre-for-acre basis as a matching grant for any lands received from the State of Alaska after February 1, 2005.

(b) Selections of lands or interests in lands pursuant to this section shall be in parcels of 25,000 acres or greater.

(c) Grants made pursuant to this section shall be separately subject to the terms and conditions applicable to grants made under section 2 of this Act.

END

A Land Grant College Without the Land:

A History of the University of Alaska's Federal Land Grant

A Report to the University of Alaska Statewide Office of Land Management

by Terrence M. Cole, Ph.D.

Chair, Department of History
University of Alaska Fairbanks

November 1993

Table of Contents

I. EXECUTIVE SUMMARY

The University of Alaska is a land- grant college without the land. In 1915, Congress reserved for Alaska's land-grant institution potentially more than a quarter-of-a-million acres in the Tanana Valley, proceeds from the sale and development of which would help finance the operation of the school. Under the terms of the measure, written by Delegate James Wickersham, the college was to receive every surveyed and unclaimed Section 33 in an area of about 14,000 square miles between Fairbanks in the north and the foothills of the Alaska Range in the south, in addition to the main campus of about 2,250 acres four miles from Fairbanks.

However, this large Tanana Valley land-grant never materialized. For decades, almost all of the land in the Tanana Valley (like the rest of Alaska) remained unsurveyed and therefore unavailable. As late as the 1950s, only 0.6 percent of Alaska had been properly surveyed under the standard rectangular system, and a territorial report concluded that at the speed Alaska was being surveyed, it could take as long as 43,510 years to complete the job. (Chipperfield 1954: 4) Due primarily to this incredibly slow pace of federal land surveys, Alaska's landgrant institution received only a fraction of the land Congress reserved for it in 1915; in addition to its 2,250 acre campus, the University of Alaska received less than 9,000 acres out of a reservation created for it totalling approximately 268,800 acres.

To partially remedy the situation, Congress granted an additional 100,000 acres to Alaska's land-grant college in 1929, but even with this additional grant, the total was less than half of the original acreage authorized in 1915.

Further efforts to increase the size of Alaska's higher education federal land- grant were made from the 1930s through the 1950s. Several bills were submitted to Congress that would have reserved up to 10 million acres for Alaska's land-grant college, but strong opposition, primarily from the Department of Interior, doomed the effort.

With the passage of the Alaska statehood bill in 1958, the university's legal rights to further land under the 1915 reservation were extinguished. The statehood act repealed the 1915 reservation because Congress apparently believed the enormous statehood entitlement of more than 103 million acres—far larger than that of any other state in American history—would provide sufficient resources so that the 49th state could adequately support its university. Alaska Delegate E.L. "Bob" Bartlett agreed with the majority of Congress that by not targeting specific amounts of land for specific purposes, such as had traditionally been done for the support of higher education elsewhere, the new state would have greater flexibility and more control of its own affairs.

Bartlett claimed in 1958 that in exchange for giving up the "in-place" grants—such as the Tanana Valley Section 33 reservation-the state of Alaska had received not only a far greater percentage of the public domain than other western states, but also greater freedom to choose land wherever it wished "without any reference at all to the traditional section-by-section formula." This freedom, as Bartlett predicted, helped the state immeasurably, for instance, when the state selected land at Prudhoe Bay, which turned out to be the richest oil field in North American history. But the cost of this greater freedom in land choice was a vastly smaller educational land grant for Alaska.

Traditionally, the size of land grants were most often determined by a state's population not by its area. Nevertheless, some of the last western states were given generous grants despite their sparse populations. For instance, Oklahoma and New Mexico each received about one million acres to support higher education. But, Alaskan higher education never shared in this federal bounty. Alaska received less land specifically dedicated for the support of higher education than any other western public land state, and less educational land or script than all but one of the contiguous states. Among the 48 states which had received federal land or land scrip to establish land-grant colleges, mining schools, teachers' colleges, and state

The Ordinance of 1785 established the rectangular survey of New England as the basis on which all land west of the Ohio would be subdivided; land was surveyed into townships composed of 36 sections of 640 acres or one square mile each. The 1785 law also established the principle of federal land endowments for education by reserving Section 16 of every township "for the maintenance of public schools, within the said township." (Taylor 1969: 131) After the admission of Ohio in 1803, Section 16 of every township in every new territory or state was typically reserved for schools; any Section 16 which had somehow been preempted was replaced by another section "in lieu thereof." (Hibbard 1939: 310) Over the 19th century, as the need for the expansion of education grew, so did the size of the federal land endowment for schools. With the admission of Oregon in 1848, the usual common school section grant doubled from one section to two (Sections 16 and 36). Utah, New Mexico, and Arizona, three of the last four states admitted before Alaska, each received four sections for school lands (Sections 2, 16, 32 and 36).

Common school grants were by far the largest in terms of acreage; however, higher education also received varying amounts of land. Different states received federal land grants for seminaries, teachers' colleges, mining schools, military schools and universities totaling millions of acres. Most notable among the land grants for higher education were the land-grant agricultural colleges created by the Morrill Act of 1862.

Morrill Act of 1862

The Morrill Act, which has been called "perhaps the most important single act for education ever passed by Congress," revolutionized higher education in America. (Taylor 1969 111) Previously attending a college or university had been the privilege of an elite upper class, but supplied with government land grants totalling more than 11 million acres, the nation created new kinds of colleges in every state and territory that would stress the teaching of "agriculture and the mechanic arts" to the "industrial classes." Thanks to the creation of the system of land-grant colleges and universities, which eventually spread to all 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands, the doors of higher education swung open for the first time to millions of working class men and women. "Democracy's College" is the apt title of the classic history of the land-grant college movement.

Inequities of the Land Grants

Despite the laudable goals of the Morrill Act, serious problems with the legislation emerged. The acreage of each state's land grant was based on population as measured by the size of its congressional delegation; for each senator and representative a state sent to Congress, it received 30,000 acres. Therefore, the law favored the heavily populated, industrialized eastern states over the more sparsely settled and primarily agricultural western states. For instance, Rhode Island, the smallest state in the union, received 120,000 acres in scrip, a larger land grant than that of either Oregon, Nebraska, Kansas, Nevada, or Colorado, all of which received the minimum of 90,000 acres. Similarly, Connecticut (180,000 acres) received more than California (150,000 acres), and New Jersey (210,000 acres) more than Montana (140,000 acres).

Besides the glaring inequities between eastern and western states, except in a few instances, the land grants never created the financial endowments for the agricultural colleges which Congress had intended. As one historian has noted, the disposal record of the various states' agricultural college land grants "is clouded by scandal, fraud, and poor management. Many states realized less than one dollar an acre for their land, and some were even swindled out of the proceeds of the sales altogether." (Madsen 1976: 34) The poorest performance was that of Brown University in Rhode Island, which received only 42 cents an acre for its land.

One of the few states to earn a significant income from its land grant was New York, which received the largest grant of nearly one million acres (in scrip). Ezra Cornell, founder of New York's land-grant college, Cornell University, invested the scrip in 500,000 acres of the pinelands of northern Wisconsin to amass a nest egg of