

August 14, 2017

Attorney General Jeff Sessions  
Office of the Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue  
Washington, DC 20530-0001

Re: Alturas Indian Rancheria Marijuana Cultivation and Distribution. Your assigned ID # 3791891

Honorable Attorney General Sessions:

I have written several letters to you in the past few months regarding the ongoing marijuana cultivation and distribution operation being run by two individuals on the federal trust land of the Alturas Indian Rancheria. While I am aware that there may well be an investigation underway by several law enforcement agencies, I write you once again to plead with you to make this gross violation of the Controlled Substance Act a priority. I call your attention to my letters of February 13 and July 17, 2017, incorporated herein by reference, for more details on this massive violation of Federal and State drug and financial laws.

In my discussions with various law enforcement officials, it is readily apparent that the "Cole" and "Wilkinson" memorandums are causing confusion as to the current marijuana policy of the Office of the Attorney General. The fact that the President has yet to appoint the US Attorney for the Eastern District here in California lends even more confusion to the policy. I respectfully ask that you withdraw those two memos.

While I personally believe that any policy that violates federal law is incorrect per se, the Cole and Wilkinson Policy Memorandums are currently misunderstood throughout law enforcement. Not only do these memos undercut the rule of law, they are inconsistent with the views of Indian Country. The vast majority of tribes want nothing to do with the cultivation and distribution of marijuana. While tribes mutually support each other on issues of sovereignty, no tribal association or group believes this is an issue of sovereignty. Tribes

steadfastly resist the application of state laws on their sovereign lands and while a few tribes are now submitting that state laws should effectively preempt federal laws as it relates to the cultivation and distribution of marijuana, due to the Cole and Wilkinson memos, the vast majority of Indian Country realizes the hypocrisy of such a position. I was the former Deputy Assistant Secretary for Indian Affairs in the Department of the Interior under the Bush Administration and am very knowledgeable about Indian Country. I understand the political reasons your predecessor issued the two memos, but if someone is telling you that the withdrawal of those policy statements would create an outcry in Indian Country they are simply wrong.

As I stated in my previous correspondence, even under the policy directives found in the Cole and Wilkinson memorandums, the fact is that the marijuana cultivation and distribution operation does not comport with any of the eight priorities. This overtly illegal operation is using your Office's policy directives and subverting any rational application of the criteria set forth in those memos as cover for their criminal enterprise. This operation is simply a criminal enterprise established under the cover of State authorized marijuana activity. As to each of the eight criteria:

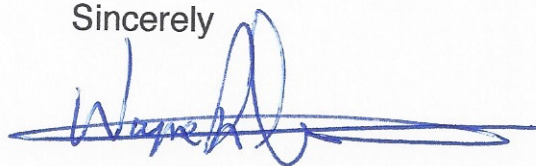
1. Since the marijuana is sold "on the street" there is no assurance that minors are not purchasing the drug. In fact, it would be safe to assume that minors would be part of the target consumers.
2. We know that the "harvest" crew is a group of well tattooed hispanic young men. While neither race or tattoos mean that criminal gangs or enterprises are involved, the lack of any oversight of any kind certainly does not guarantee that criminal enterprises are not involved.
3. There is no assurance that the marijuana cultivated in Alturas is not shipped to Oregon and/or Nevada. While we have no direct evidence that marijuana is indeed being diverted to other states, with no State oversight in place, there is a high probability that it is being sold wherever there is a market.
4. This marijuana business is the poster operation for using the state-authorized marijuana activity as cover for the trafficking of illegal drugs. There is absolutely no State oversight and the compliance requirements under State law merely grants this illegal operation cover. This operation was originally established under the pretext of a medical marijuana facility, but when it began cultivating and distributing the marijuana none of the encumbrances of the State law are in place.
5. Firearms have been observed at or in the possession of individuals working in the facility.

6. Since the drugs are sold to anyone, anywhere, there is no control over either drugged driving or any adverse health effects associated with marijuana use.
7. While the operation is on the federal land of the Tribe, toxic waste from the plant is dumped on the land and leeches into the Fish and Wildlife Preserve mere yards from the plant.
8. Marijuana is most certainly possessed and used on federal land.

It is clear by any analysis of the eight priorities set forth in the Cole Memo that this cultivation and distribution operation violates all eight policy priorities. While it is impossible to prove the negative, it seems to me that any rationale analysis of the policy priorities would place the burden on the operation to prove they are compliant, not for others to prove they are not. As I stated previously, even under the flawed policy priorities of your predecessor, this operation is totally non compliant. I urge you to close this illegal drug operation as quickly as possible and prevent the sale of these illicit drugs to minors, other states, criminal enterprises, and the other adverse effects of this massive drug operation.

If I can be of any service to your Office feel free to contact me.

Sincerely



Wayne R. Smith  
Tribal Administrator

Phillip Ferrari, Executive Assistant United States Attorney  
Jon R. Black, Special Agent, USDOJ Drug Enforcement Administration  
Shawn Sheridan, Special Agent, USDOJ, BIA Bureau of Drug Enforcement  
Mike Poindexter, Sheriff of Modoc County