



Oregon

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MEMORANDUM

TO: Water Resources Commission

FROM: Justin Dillon, Southwest Region Manager
Scott Prose, Team Lead Assistant Watermaster

SUBJECT: Agenda Item D, February 23, 2023
Water Resources Commission

Update on Cannabis Industry Enforcement

I. Introduction

In this informational report, Justin Dillon, Southwest Region Manager, and Scott Prose, Team Lead Assistant Watermaster, will provide an update to the Commission on Senate Bill 5561 cannabis-related enforcement activities during 2022, staff updates, and future plans for cannabis enforcement in 2023.

II. Background

Senate Bill 5561, a \$5 million funding package passed during the December 2021 Second Special Session, funded 14 permanent Assistant Watermaster positions, the creation of a new Enforcement Section, access to better data tools and technology, and several other key positions to support enforcement and cannabis-related work. These Assistant watermasters respond to complaints, investigate illegal water use, audit cannabis sites for legal water use, and support agency enforcement processes across the state.

Senate Bill 5561 funded the new Enforcement Section to provide additional support to field staff and work with local code enforcement programs, other state agencies, and state and county law enforcement. This historic investment positions the Oregon Water Resources Department (Department) to better address backlogs and workloads associated with cannabis and unauthorized water use around the state. Department staff funded through Senate Bill 5561 have taken a lead role in developing communication and partnerships with cannabis-related natural resource agencies as well as state and local law enforcement. This allows the Department to be more responsive to citizen and stakeholder requests by improving interagency coordination and addressing the illegal appropriation of surface and ground water for illegal cannabis.

House Bill 4061 (2021) went into effect in June of 2022. It focuses on water use at cannabis growing sites. The bill applies to water suppliers, water haulers, and cannabis growers of both hemp and marijuana.

The Department is working alongside local law enforcement, the Oregon Liquor Control Commission (OLCC), and the Oregon Department of Agriculture (ODA) to implement and enforce the new requirements and use our existing authority to assist law enforcement with investigations.

Under House Bill 4061, water suppliers and water haulers have new documentation and record retention requirements for all irrigated crops and nursery. Cannabis producers may face increased penalties for unauthorized water use or hauling water to a grow site that has not been licensed with the OLCC, ODA, or the Oregon Health Authority.

III. Regulatory Actions

Despite the time and resources required to recruit, onboard, and train new staff, 2022 was a productive year for the Department. Senate Bill 5561 staff performed over 2,218 desktop water right investigations of cannabis sites. These investigations revealed 37% of cannabis sites were without water rights. Additionally, staff performed over 677 on-site investigations showing 22% of grow sites were found in violation of Oregon water law. Of the 150 sites found to be in violation, 81 received enforcement notices to achieve compliance, while the remainder were able to come into voluntary compliance within an acceptable timeline. Illicit grow sites received 47 of those notices.

IV. Looking Ahead

House Bill 3000 (2021) and Senate Bill 1564 (2022) instituted laws and funding to address many of the issues but recognized the need for further conversations around maintaining a robust, regulated cannabis industry in Oregon. The bills established a bipartisan task force, including both legislative chambers, to consider specific regulatory issues and to develop a report including findings and recommendations for legislation to the interim committee of the Legislative Assembly related to economic development no later than December 31, 2022.

Department staff served as government appointments on the House Bill 3000 Taskforce and the Law Enforcement and Water and Natural Resources sub-committees. In addition to the recommendations made by the Taskforce, Department staff, as well as representatives from the Department of Environmental Quality, the Oregon Department of Fish and Wildlife, Oregon Occupational Safety and Health, the Department of Justice, the Department of State Lands, and local and state law enforcement, have committed to continued collaboration and communication. Through this collaboration, the Department and partner agencies have been able to begin developing strategies for improved communication and discussion of a task force model approach to addressing the illegal appropriation of waters of the state, as well as violations of other agencies' rules and statutes.

V. **Conclusion**

Recent legislation and historic investments have allowed the Department to address illegal water at cannabis sites through complaint investigation, law enforcement assists, and proactive site investigations. Although much progress has been made in recent years, serious concerns still exist as demonstrated by the continued cannabis-related declarations of emergency filed by multiple counties for 2023. The Department will continue to focus on improved communication with partner agencies, development of new enforcement tools, and the utilization of progressive compliance actions to address the illegal appropriations of surface and groundwater for the irrigation of cannabis.

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