

Matt Martin

From: Matt Martin
Sent: Wednesday, March 30, 2016 3:54 PM
To: Matt Martin
Subject: FW: OPT OUT PLEASE!!!

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax

From: Barbara Tyler
Sent: Wednesday, March 30, 2016 3:45 PM
To: MAC
Subject: OPT OUT PLEASE!!!

Dear MAC Committee,

I have lived in the city of Bend for 25 years then was able to realize my dream of moving "out to the country" in the Tumalo area. I love all of Central Oregon for the many reasons we all do and try to add to the livability of the community by volunteering for various non profits interested in managing growth and change.

I urge you strongly to OPT OUT of treating the growing of marijuana as a crop. While I have no objections to the legalization of marijuana and voted yes on measure 91, I have been distressed to see what is happening in our community by the marijuana grows. There are two growing green houses in my community and they are disruptive of dark night skies, the quiet of the evenings and fills the air with a horrible odor.

Please set some strong regulations on the growing of marijuana in our rural areas and OPT OUT!! Work for us to keep Central Oregon the amazing place it is.

Thank you,

Barbara Tyler

Matt Martin

From: Matt Martin
Sent: Thursday, March 31, 2016 8:24 AM
To: Matt Martin
Subject: FW: MAC Deliberations and Work Product

Importance: High

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Robert H Blake III
Sent: Thursday, March 31, 2016 6:48 AM
To: MAC
Cc: Board; Nick Lelack; Matt Martin
Subject: MAC Deliberations and Work Product
Importance: High

Dear MAC Members with copies to Board of Commissioners and Messrs. Lelack and Martin,

It will be virtually impossible for me to present comments to the MAC today in person. I am a member of the OHA Rules Advisory Committee ("RAC"), The OHA RAC has a meeting today that likely will preclude my being able to arrive in Bend early enough to present. Perhaps someone can read this e-mail to the group today as part of the public presentation prior to the meeting.

Although I have not spoken to all of you individually, we would recognize each other. As a 57 year old parent of three children (aged 21 through 28), I very much understand the concern with introducing cannabis production, processing, retail, and other related operations into our county and communities. It is my understanding and observation that the MAC reached important consensus on odor, light, and other land use considerations at its last meeting. If we can agree on odor, light, etc. considerations, then it seems logical that zoning designation, minimum acreage, and setback regulations become easier to address for grow facilities. From the outset, I have stated that indoor grow facilities should be treated differently than outdoor greenhouse operations. Virtually all neighbor complaints directed toward cannabis have been related to outdoor greenhouse operations and location.

Therefore, I make the following requests related to grow facilities and other cannabis operations:

- If property is zoned in a manner that permits farming, indoor cannabis growing should be an outright permitted use without new setback or minimum acreage regulations. Odor, light, and other concerns can

and should be 100% mitigated by indoor environmental controls that are prescribed by new, reasonable regulation.

- Cannabis wholesale and processor operations should be an outright permitted use on EFU property. Given the BOC's request to the legislature during the last session, we have gained important guidance as to reasonable regulation and right to farm.
- Minimum acreage requirements for EFU property should be eliminated.
- Cannabis retail, wholesale, and research operations should be permitted in commercially zoned property within the unincorporated areas of the county subject to state mandated setbacks.

As I think back upon the public hearings and testimony related to cannabis that the BOC held over the past year, I am reminded by the singularity of purpose presented by opponents and proponents. The opponents generally oppose cannabis operations on any and all grounds. One might call the opponents "prohibitionists" at times. The majority of proponents have been cannabis farmers who simply want to grow cannabis as any other crop. The problem is that for many citizens cannabis is NOT just another crop. Cannabis is a crop that when consumed has mind and body altering effects. It also is illegal federally at this time. For those who consume cannabis for medical purposes, the results are truly amazing and beneficial. For those who consume cannabis as adult users on a recreational basis, it is a relaxant and analgesic that is consumed as others might do with alcohol.

We as a county should take a leadership position on cannabis. We should not act as prohibitionists. Nor should we act as free market endorsers. Cannabis should be respected for its medicinal and other properties. Cannabis is a powerful substance when consumed. From my perspective as a parent and citizen, we need to develop a vibrant and pervasive educational campaign directed to youth that talks about the benefits and concerns of cannabis use, in much the same way we have done with tobacco and alcohol. To maintain a prohibitionist approach is ill-founded on many grounds. We have a personal moral and overall governmental responsibility to provide this education, beginning in our schools. This responsibility is paramount given the passage of Measure 91.

I will return to the discussion of greenhouses. We live in a rural county. Farming is not easy in our county due to climate, soil, and other considerations. The environmental conditions for cannabis growing, however, are almost ideal. Cannabis growing does not require a lot of water or power, if grown in outdoor greenhouses or now even indoors given new technologies. Cannabis can result in significant revenue for farmers and other individuals who have struggled economically for years. Cannabis can bring significant revenue and economic multiplier effects to our county due to increased employment. Yet, greenhouses can be termed unsightly. I have driven around the county quite a bit over the past few months. Whether one views Bendistillery's property on Rte. 20 with its greenhouse and outdoor shipping containers or other properties with outdoor non-cannabis greenhouses as being unsightly, they are permitted uses. Many large commercial farms for crops other than cannabis use greenhouses. We cannot and should not make cannabis an exception that is subject to unreasonable regulation or prohibition. We will expose the county to unnecessary lawsuits, if we do pursue unreasonable regulation or prohibition of cannabis farming.

Therefore, I implore the MAC to set aside ideological positions and focus on reasonable regulation of cannabis operations and funding of a robust educational campaign, primarily directed to our youth, regarding cannabis consumption. Our young people are already confused enough with cannabis legalization at the state level and the medical program.

As many of you know, our team's cannabis operations are quite focused on medical benefits and research. It will take a number of years to prove the medical benefits of cannabis to the mainstream physician community through clinical trials and/or observational studies. In the meantime, we must take the time to educate our

youth. The days of “just say no” are long gone. Again, we must embrace a leadership responsibility to educate our youth and overall citizenry as to cannabis. Over time, cannabis will prove out to be a substance of profound medical value. And, if consumed in reasonable amounts, as many of us and our forebearers consumed alcohol upon reaching home after a hard day at work, cannabis can be a most effective relaxant and analgesic.

In closing, we have experienced some “bad actors” in the cannabis industry. The new laws and regulations passed by the Oregon legislature will eliminate these “bad actors” for the most part. The water right requirement for cannabis growing is the strongest regulation. Those who continue to operate in an illegal manner or without “good neighbor” respect will be prosecuted, if we implement reasonable land use regulations. We hope that the MAC, which has strong representation of opponents and proponents, will reach consensus this evening on important setback, minimum acreage, and other considerations. Smaller scale indoor cannabis growing should be treated much differently than large scale cannabis farming. If the MAC members argue over what the majority of us citizens consider to be little things and quibbling, then you have squandered a leadership opportunity. There is a pathway to consensus. Please find this pathway and reach consensus as fellow citizens. Since I know many of you and have heard all of you express your concerns, consensus is within reach.

Thank you for your work and effort.

Sincerely yours,

Bob Blake

Robert H. Blake, III
President
Oregonians for Better Health, Inc.
Bend, Oregon 97701

Matt Martin

From: Matt Martin
Sent: Thursday, March 31, 2016 11:35 AM
To: Matt Martin
Subject: FW: Example of Odor Issues from Colorado
Attachments: Basalt Colorado Pot Grow Site Emits Odors - County License at Risk.pdf

Greetings-

(Bcc: MAC, BOCC)

As requested, I am forwarding this message to you.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Liz Lotochinski
Sent: Thursday, March 31, 2016 8:52 AM
To: Matt Martin; Nick Lelack
Subject: Example of Odor Issues from Colorado

Please share the attached with the MAC committee and the BOCC. Even though we have discussed odor, this collection of three articles demonstrate the ongoing nuisance of odor emitted from a commercial marijuana site and the steps a Colorado county implemented to mitigate it.

Pitkin County requires annual business licenses for marijuana operations and the commissioners were considering whether to renew the license of a 25,000-square-foot marijuana production facility since the owners of that grow site could not control the odors.

The grow site eventually installed a carbon filtration system at a cost of over \$1 million.

The commissioners granted a license renewal with several caveats:

- County can revoke or suspend the licenses for the entire facility, or portions of it, with just 10 days' notice if the odor persist.
- The grower must pay the county for a third party (hired by the county) to monitor the odors.
- The grower must meet with commissioners on a quarterly basis until they no longer deem it necessary.

As recently as February 10, 2016, it was reported by a third-party monitor that the carbon filtration system has stemmed the stench and complaints have significantly dropped. (<http://www.aspendailynews.com/section/home/169994>)

Liz

Rick Carroll
rcarroll@aspentimes.com

August 11, 2015

<http://www.aspentimes.com/news/17671193-113/basalt-area-marijuana-farms-license-in-peril>

Basalt-area marijuana farm's license in peril



Aspen Times file |

The license allowing High Valley Farms to grow marijuana comes up for renewal on Sept. 23, when Pitkin County commissioners will decide on its fate. At a work session Tuesday, commissioners raised doubt that the license will be renewed because of the odor coming from the grow site.

In a highly charged meeting Tuesday, Pitkin County commissioners told the owners of High Valley Farms, a marijuana grow facility that debuted last year, that its license is in serious peril because of its chronic stench.

The meeting was the latest in a series of county commissioner work sessions over the smell wafting from High Valley Farms, located in the Basalt area. And each time, Jordan Lewis, co-owner of the greenhouses, has assured commissioners and neighbors the stench will be eradicated. The neighbors also have been making repeated claims that the odor hasn't gone away, continually and negatively impacting their lifestyle.

At Tuesday's meeting the Pitkin Board of County Commissioners room overflowed with frustrated Holland Hills residents, Lewis defended his Basalt-area operation and accused the neighbors of engaging in a "mob mentality," and commissioners showed lost confidence that the smell will be arrested.

Near the meeting's end, commissioners said the license is in jeopardy, while Commissioner George Newman called for its immediate suspension, which could not be done at a work session and would require a special hearing.

Instead, on Sept. 23, Lewis will learn the fate of his farm, which furnishes both medical and recreational cannabis products to his Silverpeak Apothecary in Aspen. That's when commissioners will formally meet to decide whether to renew his license, which expires the next day.

If commissioners don't renew the license, they could give High Valley Farms 30 days to wind down its operation.

"If you have a skunk living under your deck, would you live with it or would you remove it?" Newman said. "I would suggest you remove it. The residents of Holland Hills are asking us to remove it."

When commissioners granted High Valley Farms its agriculture license last year, a condition of the approval was that it would not emit marijuana-type smells. And the county's retail marijuana licensing regulations also state, "All retail marijuana establishments shall be equipped with a proper ventilation system so that odors are filtered and do not materially interfere with the enjoyment of adjoining property."

Commissioner Chair Steve Child apologized to both the neighbors and Lewis for last year's approval.

"I think the county did a disservice in approving what we did approve," he said. "I wish we could have cut the size of the operation in half. If you had two greenhouses (there are four at the farm), you would be in a better position to have less odor and less damage if you didn't get renewed."

Lewis asked the commissioners to "take steps in the meantime to look at this fair and objectively," saying there's "a certain mob mentality" among residents who want to see his farm closed. That drew a chorus of boos, prompting County Manager Jon Peacock to warn one part-time resident — Dr. Ted DeWeese, a professor of radiation oncology and molecular radiation at Johns Hopkins University — to pipe down or leave the meeting.

"Even if we didn't have a single marijuana plant in that facility, we would still be getting complaints," said Lewis, who was emphatic that the smell will be eradicated once a new technology comes online.

Commissioner Rachel Richards, however, along with other commissioners, said Lewis has made those same assurances in the past. Yet the smell has been resilient, despite such odor-suppression tactics as a mist droplet system, a dry-air vapor system and odor destruction through ionization. Lewis said the next strategy is to install a hydroxyl unit.

"We have been pressing as hard as humanly possible and we have spared no expenses at all on getting this done," Lewis said.

But commissioners said the residents are bearing the brunt of Lewis' experiments.

"We've extended our goodwill and trust to you, and we've asked (the neighbors) to live with too much when it comes to what those results have been, and we take the blame for that," Richards said.

Richards said the neighbors are living with a "certain anxiety" in their "day-to-day lives that shouldn't exist."

Some residents expressed fear of potential health problems.

"It's affected my health," Nancy Booth said.

"It's not getting any better, and it won't get any better," she said of the smell.

DeWeese said that the greater the odor, the greater levels of THC — the psychoactive ingredient in marijuana — which can pose health problems. The doctor said the situation playing out at High Valley Farms is reminiscent of when people were exposed to high levels of mercury in Chesapeake Bay.

Other residents said a double-standard appears to be in play. Contractor David Lambert said he had been red-tagged twice by the county because his business created dust, which resulted in complaints. But the county hasn't taken any punitive action against High Valley Farms, he said.

Another neighbor, Chris Cox, said: "To me, this is pollution going into our air. If it was a company sending pollution into the river, it would be shut down. If it was noise, it would be shut down."

Residents said the smell gets in their hair and clothes. Some said they can't go outside to barbecue food because the smell reeks so bad. Others said they have to shut their windows during the heat of the summer.

To his defense, Lewis said he knows of at least five legal or illegal grow operations in the area. Legal ones could be caregivers growing medical cannabis.

"Holland Hills has five grows in that neighborhood," he said. "There is also illegal manufacturing in Basalt. These things exist. There's not just a few of them, there's a lot of them."

He added: "A lot of the complaints have come during the nighttime. At night our ventilation system is running at an absolute minimum. ... At a certain point we all have to acknowledge that there are other factors."

Commissioner Patti Clapper called for the county to investigate other legal and illegal grows near Highway 82, “because you can smell it all the way from Emma to Aspen Village on some days.”

The county launched its own probe into the smells coming from High Valley Farms starting June 9, when Environmental Health Manager Kurt Dahl began to monitor the smell. He recorded faint, moderate, strong or very strong odors on 19 different occasions from June 11 through July 31.

rcarroll@aspentimes.com

Next Article:

Rick Carroll

rcarroll@aspentimes.com

September 23, 2015

<http://www.aspentimes.com/news/18326784-113/high-valley-farms-lives-to-grow-another-year>

High Valley Farms lives to grow

Jordan Lewis said he was “literally betting the farm” on his pot-growing facility near Basalt. The gamble paid off — for the time being at least.

Pitkin County commissioners voted 4-1 Wednesday to renew separate, one-year licenses for High Valley Farms, which is co-owned by Lewis and is the cannabis supplier to Silverpeak Apothecary in Aspen and other marijuana dispensaries in Colorado.

The approval comes with conditions that relate to the farm’s skunk-like pot smell that compelled nearby residents to urge commissioners to revoke the licenses.

Commissioners cautioned Lewis and his associates that they can revoke or suspend the licenses for the entire facility, or portions of it, with just 10 days notice if the stench persist.

“We won’t tolerate another lost summer,” said Commissioner Michael Owsley, referring to the ongoing complaints from residents who said the smell was so pungent they couldn’t enjoy time outdoors in their neighborhoods, while they kept their home windows shut because of the stench and health concerns.

High Valley Farms also must pay the county for [a third party](#) that would monitor the odors. The county would hire the independent party to monitor the greenhouses without influence from High Valley Farms.

Additionally, High Valley Farms is required to meet with commissioners on a quarterly basis until they no longer deem it necessary.

Lewis said a new [carbon-filtration system](#) has been online for eight days at one of the greenhouses and the smell has been tamed. Each of the four greenhouses will have its own filtration system. The seven-figure investment was Lewis' ninth-inning bid to get in the good graces of commissioners, who told him [at previous meetings](#) that his licenses wouldn't be renewed when they expired Sept. 24 if the smell remained.

"I'm very pleased to come before the board today and let you know we have solved the odor problem," he said, apologizing to the farm's neighbors, the commissioners and his own family.

"This is not going to repeat itself in the future," he said.

Lewis still has three greenhouses that currently aren't operational because of the potential for odors. All four greenhouses were working earlier this year, but after other smell-mitigation systems failed to fix the problem, he scaled back operations.

George Newman, the dissenting commissioner, wished Lewis luck but said he couldn't vote to renew the licenses because he believes the farm is located too close to residential areas and the 25,000-square-foot facility is too large and out of character with the area.

OVERFLOW CROWD DIVIDED

The commissioners' approval of both the retail cultivation and medical marijuana cultivation licenses came at a meeting that saw a spillover crowd of champions and opponents of the four-greenhouse facility, located at 24350 Highway 82 next to the Roaring Fork Club and across the road from the Holland Hills subdivision. After nearly 3 1/2 hours of meeting downstairs at Aspen City Hall, which the county borrowed because it didn't have enough space in its boardroom, the hearing was relocated to the county building.

The community mood about High Valley Farms has been seemingly mixed. Nearby residents have been complaining that the farm has emitted skunk-like pot smells since it began growing earlier this year. Some said their property values are threatened by the smells.

They had been vocal at previous county meetings about High Valley Farms, which had little public support.

But in recent weeks, High Valley Farms employees had been rallying to get the license renewed, and they showed up in earnest at Wednesday's hearing. Their common theme: High Valley Farms and Silverpeak are excellent, professional employers and have been on

the forefront of public education and outreach about legalized marijuana. Some also contended that a small minority of residents was wielding too much clout about the future of a startup business in a pioneer industry.

One part-time employee, Larry Jordan, wore a Bob Marley T-shirt, his hair down to his waist.

“Yes, I do have long hair, but I don’t smoke pot; I don’t drink,” he said. “I attend the Christ Community Church.”

Jordan said High Valley Farms, which staffs 75, treats its employees well and pays better than other large employers such as City Market and Whole Foods. He and other workers said they have been incorrectly and unfairly stereotyped as potheads.

But others in attendance, such as Bronwyn Anglin, vice president of the Holland Hills Homeowners Association, said Lewis has not been a good neighbor, and she accused two local writers of intimidating residents into not speaking out against the farm. Other neighbors said they don’t like being the subject of the “experiment” by High Valley Farms.

“It’s about smell and nothing else, no matter what the newspapers may print from time to time,” said Kent Schuler of Holland Hills.

Despite the differences among crowd members, they struck a civil tone without the boos or hisses that came at another recent meeting.

“I don’t think there’s a lot to say here by saying, ‘Here you go — you’re out of business,’” Commissioner Rachel Richards said. “That’s your punishment. ... I think it’s about correcting the problem.”

Commissioner Steve Child, noting that 75 percent of county residents voted in favor of Amendment 64 in 2012, added he would prefer that county marijuana merchants grow their own pot rather than having it shipped in from Denver.

Commissioner Patti Clapper said the community should be mindful that there are other cannabis growers in the area who could be contributing to the smell.

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Scott Condon
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September 22, 2015

<http://www.aspentimes.com/news/18300228-113/basalt-pot-farm-owners-propose-third-party-odor>

Basalt pot farm owners propose third party odor investigator

The owners of a midvalley marijuana greenhouse complex are proposing that an independent third party be appointed to investigate any complaints about odors wafting off its site near Basalt.

High Valley Farms suggested to Pitkin County that a third party could routinely monitor the air for marijuana odor at the greenhouse complex's property line along Highway 82. High Valley Farms owners Jordan Lewis and Mike Woods agreed to pay for the time required for a county employee or a contractor to monitor the air once a day Monday through Friday.

If a marijuana odor is detected, the third party will try to determine if it is coming from the greenhouse complex. If it is, High Valley Farms will be notified and required to take immediate corrective actions, the proposal to the county said.

"The third party will have full access to the exterior of the (High Valley Farms) facility as necessary to accomplish these duties and objectives," said the firm's letter to the county.

An independent odor investigator also would play a key role in handling complaints from neighbors, according to the proposal. High Valley Farms is proposing to set up a dedicated phone line to field complaints about marijuana odors allegedly coming from its site.

"The calls will be routed directly to the county and the third party," the proposal says. "The third party will visit the ... site as soon as reasonably possible to determine if the odor is coming from (the) facility."

If corrective action is necessary, High Valley Farms wants four business days to complete it. Once it thinks it has solved the problem, the third party would return to review.

Lewis said in the letter that High Valley Farms will have spare parts on site to quickly repair the new carbon-filtration system it is installing at a price of more than \$1 million.

The four greenhouses went into operation in March and have spurred numerous complaints from neighbors, particularly residents of Holland Hills. People claim the greenhouses occasionally emit a “skunklike smell.”

The county commissioners have warned Lewis and Woods that they must resolve the issue or their license won’t be renewed. One proposed retrofit to the original system failed to resolve the issue. The partners are convinced the new carbon filters will eliminate odors. The new systems have been installed in two greenhouses. The marijuana plants were cleared out of the remaining two greenhouses until they are fitted with the filtration systems later this month.

The county commissioners toured the site Sept. 16 and will hold a hearing Wednesday. They haven’t had time yet to react to the proposal for a third-party odor investigator. The meeting is scheduled to start at noon in the Aspen City Council Chambers. A change of venue was scheduled to accommodate the anticipated audience.

Some critics of the greenhouse are lobbying the county to make High Valley Farms prove the system is fully operational before extending the license.

High Valley Farms sees the third-party sniffer as a way to ensure it is accountable and that its facility isn’t being blamed for odors that aren’t coming from its site. Members of the facility’s team have suggested in previous hearings that odors could be coming from other sites in and near Holland Hills, where other marijuana is being grown.

“We are 100 percent responsible for any odor that crosses our property line,” Woods said. “We can’t get involved or blamed for neighborhood issues.”

Woods said the filtration system has proven effective in the two greenhouses, so they will press the point that it should be assumed the same system will work with the other two greenhouses.

“It is very important to understand that the business cannot survive with only two greenhouses in operation,” Woods said via email. “The financing for the project is based on all four houses being in production. To delay the start of the cultivation cycle in these two remaining greenhouses, even for a short period of time, will force us out of business.”

scondon@aspentimes.com

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Midvalley pot facility passes the smell test

by Collin Szewczyk, Aspen Daily News Staff Writer
Wednesday, February 10, 2016

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Third-party monitor finds no odor from grow operation near Basalt

A third-party monitor has not reported any odor violations at a midvalley cannabis-grow operation since a new carbon-filtration system was installed in September, and residential complaints have also since dissipated.

Kurt Dahl, Pitkin County environmental health manager, told the county commissioners on Tuesday that High Valley Farms near Basalt appears to have solved its odor issue that nearly led to its demise last year.

"From the records ... it seems to me that there's not odor coming off the property," he said.

The operation came under fire last summer from residents of the Holland Hills neighborhood; they complained voraciously about a skunky smell emitting from the facility.

But the farm installed the new system at great expense, and complaints have dropped off sharply ever since. At a license-renewal hearing on Sept. 23, commissioners told Jordan Lewis, founder and CEO of Aspen's Silverpeak Apothecary dispensary and High Valley Farms, that the operation's future would be tied to absolute odor mitigation. Quarterly meetings were scheduled to assess its compliance.

The odor monitor, Ryan Randolph, who holds a bachelor's degree in chemistry, walks the perimeter of the grow operation a couple times a week, checking for smells and sending a report of his findings — or lack thereof — to Dahl.

"He has not noticed an odor," Dahl told the commissioners. "We've not gotten any complaints, and also High Valley Farm set up a complaint line that texts my phone, as well as the other monitor's phone, and sends us emails. We have not received anything on that line as well."

Randolph's services are paid for by the county, with High Valley Farms reimbursing the cost. The complaint line, created by High Valley Farms, is 970-279-1375.

Dahl added that the last complaint filed on the website roaringforkskunksmell.com occurred in mid-October. It appears as if the problem has been remedied, he said.

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« March 2016

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He said he's also checked with a few Holland Hills residents who told him they were pleased the odor issue has been remedied. The county's log of clean reports spanned Sept. 15 through Jan. 29.

However, Commissioner George Newman said two residents called him to say they detected the smell of cannabis on Highway 82 near the facility as recently as Sunday. The source, though, was not confirmed.

Randolph's responsibility is limited to determining if any odor is coming from the farm. He does not go into surrounding neighborhoods to search for pot odors or other possible grow operations.

Two Holland Hills residents, Kent Schuler and Heather Isberian, told county officials that they have noticed a significant decline in odors, but were still concerned that the smell would return with warmer temperatures.

"Last year at this time we had no issues, either," Schuler said. "I've only smelled it one time [recently] and hopefully it's for a good reason."

Isberian said she noticed the smell of cannabis until late November, but hasn't since.

"It definitely has decreased," she said.

Isberian told the commissioners she would like to see the quarterly meetings stretch through the summertime to ensure the issue has been fixed. Both residents added that they were unaware of the complaint line.

Commissioner Michael Owsley suggested that a Holland Hills resident shadow Randolph on site visits and keep their own log.

Schuler said Dave Lambert, another resident who could not attend the meeting, was concerned about irrigation water and how it is being disposed of following its use on pot plants.

Lewis said the water is collected, and some is reused and some taken offsite for disposal.

"We have a very comprehensive plan that involves attorneys, water engineers and landscapers," he said. "Yes, we do use some of that water to irrigate during the summer. And that is within the same rights that every single other person in this valley has, and we operate under the same laws that they operate."

Dahl said tests on the irrigation water from the facility show it's below average residential wastewater standards for nitrates and just slightly above for phosphates.

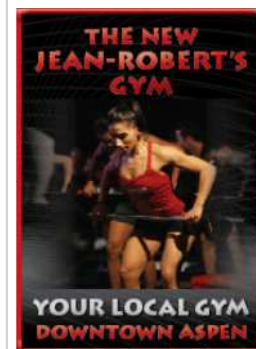
"It's really average of what would be going into the ground for septic waste," he said.

Lewis said that High Valley Farms is proud to be the first grow facility to solve the odor issue. But he added that there will always be some people who oppose cannabis and say there are issues.

The quarterly meetings and monitoring will continue through the summer, though Lewis said he would like to see the monitoring continue as an impartial safeguard.

"It seems like the program is working for the most part," Newman said.

collin@aspendedailynews.com



The Fed will likely raise short-term interest rates later this year.

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Matt Martin

From: Matt Martin
Sent: Friday, April 01, 2016 2:41 PM
To: Matt Martin
Subject: FW: Dismay/Bob Blake

Importance: High

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Robert H Blake III
Sent: Friday, April 01, 2016 9:49 AM
To: Board
Cc: MAC; Matt Martin; Nick Lelack; mary orton
Subject: Dismay/Bob Blake
Importance: High

Dear Deschutes Board of Commissioners with copies to MAC members, Nick Lelack, Matt Martin, and Mary Orton,

Unfortunately I was unable to attend last evening's MAC meeting. I also am unable to locate any video recording of the meeting, if there is one. I received a de-briefing of the meeting late last evening. It appears that very little progress was made in regard to zoning, minimum acreage, etc. This result is disappointing.

As I have stated from the outset, leadership is never easy. We live in a democratic society. Cannabis is a divisive topic for all the reasons that we have learned through this land use regulation development process in Deschutes County. We know that we can develop satisfactory noise, odor, and sight regulations that are reasonable.

The right thing to do is for Deschutes County to "opt in" and implement reasonable regulations of cannabis operations. I understand what it is to be an elected representative and to serve on boards of directors. One cannot make every constituent happy. The permitting of cannabis operations can be done effectively and without neighborhood disruption given the development of reasonable land use regulations. In composing the MAC with citizens of polarized interests, we now better understand the issues. However, no workable solutions have resulted due to the polarity of interests and biases.

I have very little to say other than to state my disappointment. To "just say no" to cannabis in unincorporated Deschutes County is NOT the right thing to do. Indoor growing should be permitted as it has existed in Deschutes County for years. Outdoor greenhouse growing can be managed from noise, odor, sight, etc.

perspectives. The Campion/Schutt-Petsche property dispute is unfortunate. It is these types of disputes that reasonable regulations can prevent.

We already have cost Deschutes County and cannabis operators a lot of revenue, jobs, etc. with the delay in implementing reasonable regulations. Please be the leaders that we elected and stand strong and implement reasonable land use regulations.

Sincerely yours,

Bob Blake

Robert H. Blake, III
President
Oregonians for Better Health, Inc.
Bend, Oregon 97701

Matt Martin

From: Matt Martin
Sent: Friday, April 01, 2016 2:41 PM
To: Matt Martin
Subject: FW: OSP and Central Oregon Enforcement Team Serve Warrants, Butane Honey Oil Lab Seized - Deschutes County (Photo)

Greetings-

(Bcc: MAC, BOCC)

Liz Lotochinski asked that this attachment be forwarded to the MAC.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Liz Lotochinski
Sent: Friday, April 01, 2016 1:55 PM
To: Matt Martin
Subject: FW: OSP and Central Oregon Enforcement Team Serve Warrants, Butane Honey Oil Lab Seized - Deschutes County (Photo)

Matt – please forward to the MAC committee and BOCC.

Enjoy your weekend.

From: Oregon State Police [<mailto:info@flashalert.net>]
Sent: Friday, April 01, 2016 12:51 PM
To:
Subject: OSP and Central Oregon Enforcement Team Serve Warrants, Butane Honey Oil Lab Seized - Deschutes County (Photo)

OSP AND CENTRAL OREGON ENFORCEMENT TEAM SERVE WARRANTS, BUTANE HONEY OIL LAB SEIZED - DESCHUTES COUNTY (PHOTO)

News Release from **Oregon State Police**
Posted on FlashAlert: April 1st, 2016 12:50 PM

Downloadable file: [lab_evidence.jpg](#)

Downloadable file: [lab_equipment.jpg](#)

Downloadable file: [Hamehook_residence.jpg](#)

Downloadable file: [Hamehook_plants.jpg](#)

On January 21, 2016 an OSP Trooper conducted a traffic stop on a 2004 Toyota 4Runner in Bend as the driver was using his handheld electronic device. It was discovered the driver, Trevor A THAYER, age 29, of Bend, had a suspended driver's license. A subsequent search of his vehicle led to the discovery of 63 pounds of processed marijuana.

Evidence from that traffic stop indicated a larger organization existed which was involved the unlawful production of butane honey oil and unlawful production and sales of marijuana. The investigation was continued by OSP detectives and the Central Oregon Drug Enforcement Team (CODE).

On March 30, 2016, two search warrants were executed at two locations in Bend as a result of the investigation. The first warrant was served at 56022 Remington Drive. The resident, Trevor THAYER (the subject of the initial traffic stop) was arrested for Unlawful Manufacture of Marijuana and Felon in Possession of a Firearm. He was booked in the Deschutes County Jail.

The Central Oregon Emergency Response Team (CERT) served the second warrant at 63465 Hamehook Road due to the size, location and information received about potential hazards at that location. CODE and OSP detectives searched the residence and discovered the residence was not being lived in but being used only as a location to manufacture butane honey oil and grow marijuana.

A large scale butane honey oil operation was discovered including several pressurized vessels used to store butane which is extremely sensitive to heat and has a high explosion potential. The OSP Explosives Unit responded and rendered one of the vessels safe.

Total evidence seized from both residences was over 136 pounds of marijuana, 104 mature marijuana plants, a butane honey oil conversion lab, and other evidence of the drug organization.

Two males contacted at this location; Thaddeus E PETTERSON, age 37, of Bend, and Jason M PITTMAN, age 32, of Bend were both cited to appear in court for Possession, Delivery and Manufacture of Marijuana.

The CODE Team is comprised of members from the Bend Police Department, Deschutes County Sheriff's Office, Redmond Police, Crook County Sheriff's Office, Prineville Police Department, Warm Springs Police, DEA, FBI and OSP.

More information will be released when appropriate as this is an ongoing investigation.

NOTE- Butane Honey Oil is considered a "Cannabinoid extract" which is described by Oregon Revised Statute as a substance obtained by separating cannabinoids from marijuana by:

- (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;
- (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
- (c) Any other process identified by the commission, in consultation with the authority, by rule.

The manufacture of Butane Honey Oil (BHO) is extremely dangerous due to explosive hazards and is illegal by Oregon Revised Statute unless the manufacturer is a licensee or licensee representative which is acting in compliance with ORS 475B.245. Violation is a Class B Felony. Refer to the following Statute.

475.856 Unlawful manufacture of marijuana; exceptions. (1) Except for licensees and licensee representatives that are engaged in lawful activities, and except for a person acting within the scope of and in compliance with

ORS 475B.245, it is unlawful for any person to manufacture marijuana.

(2) Unlawful manufacture of marijuana is a Class C felony.

(3) Notwithstanding subsection [(3)] (2) of this section, unlawful manufacture of marijuana is a:

(a) Class B misdemeanor, if a person 21 years of age or older manufactures homegrown marijuana at a household and the total number of homegrown marijuana plants at the household exceeds four marijuana plants but does not exceed eight marijuana plants.

(b) Class B felony, if a person manufactures a cannabinoid extract.



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Matt Martin

From: Matt Martin
Sent: Monday, April 04, 2016 10:50 AM
To: Matt Martin
Subject: FW: Deschutes County Should OPT OUT of Commercial Pot
Attachments: MJ Tax Revenues.xlsx; RR 3-14 Measure 91 (1).pdf

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Shirley Morgan
Sent: Sunday, April 03, 2016 11:47 AM
To: MAC
Subject: Deschutes County Should OPT OUT of Commercial Pot



TO: Marijuana Advisory Committee (MAC)

CC: Commissioners Unger, Debone, and Baney
Community Development: Nick LeLack and Matt Martin
mac@deschutes.org
<http://www.deschutes.org/cd/page/recreational-and-medical-marijuana-land-use-regulation>

Re: Over **100** Clackamas County Land Use Applications Submitted-98% Marijuana Production and a Reflection of Assumed Tax Revenues

Dear MAC Advisory Committee,

In 2015 the legislature redefined marijuana as an agricultural farm crop through HB3400 which means that commercial marijuana can be grown and processed in all exclusive farm use areas without any neighbor notification or conditional use permits. HB3400 also gave local jurisdictions **4 options** since

marijuana is still a federally illegal drug operating by cash only and brings with it a lot of public safety, quality of life, and property value risks to our communities.

1. LOCAL JURISDICTIONS COULD **OPT OUT** OF HAVING COMMERCIAL POT GROWS, PROCESSORS, WHOLESALERS, & RETAILERS IN THEIR COMMUNITY IF THEY VOTED **55%** NO OR GREATER IN THE NOVEMBER 2014 ELECTION.
2. IF JURISDICTIONS GOT UNDER **55%** THEY COULD SEND A REFERRAL TO THE VOTERS IN NOVEMBER OF 2016 AND LET THEM DECIDE IF THEY WANTED TO **OPT OUT** OF HAVING COMMERCIAL POT GROWS, PROCESSING, WHOLSALING, RETAILING AS WELL AS ANY ADDITIONAL MEDICAL MARIJUANA DISPENSARIES OR PROCESSING SITES.
3. **LAND USE** REGULATIONS
4. **DO NOTHING** AND LET IT GO TO THE STATE RULES

In July of 2015 Clackamas County Commissioners were presented these options by the planning department in a commissioner policy meeting and three of the five Commissioners voted to do land use regulations.

Over 80 cities and 19 counties in Oregon have banned commercial marijuana in their cities and counties, therefore only leaving a handful who have opened the door to a federally illegal drug.

UPDATE: The result is significant for Clackamas County-since the marijuana legalization law became official on Jan. 4, 2016, to date Clackamas County already has **100** marijuana land use applications with 98% being marijuana production sites and to date there have already been **15** marijuana complaints as reported in the Clackamas County Planning Commission meeting on Monday, March 28, 2016. To see all 100 land use locations: <http://www.clackamas.us/planning/>

CITIZEN COMPLAINTS HAVE BEEN

1. The odor is so obnoxious we can't even sit on our own front deck.
2. Out of State investors (Washington, Montana, Colorado, Alabama, Florida, California, Arizona, Nevada) are flooding into Oregon and setting up 300' x 700' compounds with 6' non see through fences with razor wire on the top, increasing traffic with bully behaviors to neighbors, and blocking views. (Deschutes County example)



3. Out of State investors are preying upon vulnerable properties which have not sold for a long time, then they are enticing elderly owners with large sums of cash down and getting them to carry the contract without telling them that they are going to grow pot
4. Out of State and in state investors are buying up horse stables and trying to turn them into pot grows in the middle of rural residential farming communities, setting up no turn around security gates and robotic cameras that invade neighbors privacy. Neighbors are putting up blocking screens just to protect their privacy.



5. Growers are setting up make shift green houses and blasting green house lights 24hours a day ruining night skies.



6. Putting up gates with no turn around returns often pushing traffic into neighboring property drive ways.



7. Many properties are clear cutting all of the trees on the property



8. Along with clear cutting trees they are doing Illegal excavation trying to create ground water ponds to water pot plants



8-20-15



12-17-15

It is being touted that Clackamas County land use regulations are being used as a model for other counties, yet their land use regulations are the most liberal in the State and have opened up the door for commercial marijuana growing in almost every rural residential forest farming, timber, ag forest and exclusive farm use zone in the County.

<http://www.clackamas.us/planning/marijuana.html>



It is estimated that for every commercial pot grow location, there are 15 to 22 surrounding homes whose public safety, quality of life, and property values will be greatly impacted. This is a complete and utter takeover by a federally illegal drug of our rural residential forest farming, agriculture, timber and exclusive farm use communities.

Marijuana production Sites	
Sandy	9
Canby	6
Clackamas	3
Oregon City	8
West Linn	1
Estacada	4
Boring	26
Portland	6
Damascus	2
Eagle Creek	5
Aurora	3
Rhodesdendron	3
Weiches	1
Calton	1
Beavercreek	1
Medalla	1
Madras	3
Nikeville	4
Mt. Angel	2
Wilsonville	1
Woodburn	1



On another note, it was also consistently brought before Clackamas County commissioners that approving such a program without first considering the costs would be foolish, as Clackamas County only has 4 code enforcement officers and most of the rural areas of the County only have 1 deputy at any given daypart of the day.

Based on the attached State of Oregon Report - "Revenue Impact of Marijuana Legalization Under Measure 91" - pg. 14 (Tables 12 & 13), the **total net Oregon state tax revenue** projected was between \$9,385,696 and \$21,024,214 per year between 2017 and 2019, with the comment that this was not an accurate assessment because marijuana has never been legalized before and there was no tool to measure how the black marijuana would operate under such a program and what impact this would have on marijuana retail sales.

One can only guess and assume what potential tax revenues might be gained or lost in such a program since marijuana is still a federally illegal drug and certainly has no guarantee that it will be a successful venture.

- Assuming the City/County revenue split is proportional to population (which should be approximately proportional to licenses) the 2017-2019 Marijuana tax revenue for Deschutes County will be \$73,535, \$155,965, and \$164,720 respectively per year.
- For **unincorporated Deschutes County** the 2017-2019 Marijuana tax revenue will be ~\$24,512, \$51,988, and \$54,907 respectively per year. This revenue will not come close to covering the costs of increased administrative, sheriff, other services and social costs, let alone offset the losses associated with decreased property values, tourism, reputation and property tax revenue decreases due to decreased property values.

		2017	2018	2019
	Estimated Total Net Oregon Marijuana Tax Revenue*	\$9,385,696	\$19,906,765	\$21,024,214
	* State of Oregon Report - "Revenue Impact of Marijuana Legalization Under Measure 91" - pg. 3			
Percent	Distribution			
40.00%	Common School Fund	\$3,754,278	\$7,962,706	\$8,409,686
20.00%	Mental Health Alcoholism and Drug Services Account	\$1,877,139	\$3,981,353	\$4,204,843
20.00%	Cities and Counties	\$1,877,139	\$3,981,353	\$4,204,843
15.00%	State Police Account	\$1,407,854	\$2,986,015	\$3,153,632
5.00%	Oregon Health Authority	\$469,285	\$995,338	\$1,051,211
	Oregon Population	3,995,000		
	Deschutes County population	156,500		
	Percent Oregon pop. in Deschutes County	3.917%		
	Assume 1/3 of Deschutes County pop. in Unincorporated areas	52,167		
	Percent Oregon pop. in Deschutes County Unincorporated areas	1.306%		
	Assume revenue split proportional to population (which should be similar to licenses)			
	Revenue to cities/Counties	\$1,877,139	\$3,981,353	\$4,204,843
	Total Deschutes County revenue	\$73,535	\$155,965	\$164,720
	DC Unincorporated area share/yr.	\$24,512	\$51,988	\$54,907

We continue to recommend that the Deschutes County Commissioners send a referral to the voters and continue the moratorium opt out, as there will never be a decision more impactful to Deschutes County than this and that decision belongs to the voters.

Respectfully,

Shirley Morgan
Welches, Oregon 97067

A former Member of the Clackamas County Marijuana Task Force



<https://www.youtube.com/watch?v=uTLLUKsbyaY&feature=youtu.be>
www.protectoursociety.org

Public Safety

http://www.oregonlive.com/portland/index.ssf/2015/04/suspected_gunman_in_portland_d.html
<http://www.katu.com/news/local/Woman-dies-after-being-hit-by-driver-smoking-pot-in-Gresham-police-say-330922082.html>
<http://www.kgw.com/story/news/investigations/2015/06/01/oregon-hash-oil-explosions/28312933/>
https://www.youtube.com/watch?v=IFNe_KZhPZw
<http://www.cbsnews.com/news/man-fatally-shoots-himself-after-eating-5-marijuana-candies/>
<http://www.kptv.com/story/30437629/pacific-power-legal-indoor-pot-growing-operations-causing-power-outages#ixzz3qZoqvyJv>
http://www.oregonlive.com/portland/index.ssf/2015/12/driver_was_high_on_marijuana_w.html
<http://registerguard.com/rg/news/local/33860628-75/hash-oil-explosion-apparently-caused-veneta-area-house-fire-on-monday-fire-official-says.html.csp>
http://www.masslive.com/politics/index.ssf/2016/02/six_takeaways_from_colorado_co.html

Quality of Life

http://www.oregonlive.com/marijuana/index.ssf/2015/10/marijuana_use_doubles_so_does.html#incart_river_home
<http://www.katu.com/news/local/Clackamas-County-residents-hope-to-stop-unwanted-pot-grows-334457271.html>

Property Values

<http://golocalpdx.com/news/will-marijuana-grow-sites-affect-neighboring-property-values>
<http://portlandtribune.com/cr/28-opinion/264469-136392-unwanted-marijuana-grows-we-can-smell-the-difference>

Estimated Total Net Oregon Marijuana Tax Revenue*

*** State of Oregon Report - "Revenue Impact of Marijuana Legalization"**

Percent	Distribution
40.00%	Common School Fund
20.00%	Mental Health Alcoholism and Drug Services Account
20.00%	Cities and Counties
15.00%	State Police Account
5.00%	Oregon Health Authority

Oregon Population

Deschutes County population

Percent Oregon pop. in Deschutes County

Assume 1/3 of Deschutes County pop. in Unincorporated areas

Percent Oregon pop. in Deschutes County Unincorporated areas

Assume revenue split proportional to population (which should be similar to l

Revenue to cities/Counties

Total Deschutes County revenue

DC Unincorporated area share/yr.

2017	2018	2019
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tion Under Measure 91" - pg. 3

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\$469,285	\$995,338	\$1,051,211

3,995,000
156,500
3.917%

52,167

1.306%

licenses)

\$1,877,139	\$3,981,353	\$4,204,843
\$73,535	\$155,965	\$164,720
\$24,512	\$51,988	\$54,907

Total Po pulation:	156,489
Male Po pulation:	77,365
Under 5 years:	4,902
5 to 9 ye ars:	5,130
10 to 14 years:	5,294
15 to 17 years:	3,162
18 and 1 9 years:	1,727
20 years:	804
21 years:	790
22 to 24 years:	2,578
25 to 29 years:	4,919
30 to 34 years:	5,008
35 to 39 years:	5,338
40 to 44 years:	5,211
45 to 49 years:	5,299
50 to 54 years:	5,574
55 to 59 years:	5,415
60 and 6 1 years:	2,262

62 to 64 years:	3,018
65 and 66 years:	1,722
67 to 69 years:	2,269
70 to 74 years:	2,854
75 to 79 years:	1,791
80 to 84 years:	1,331
85 years and over:	967
Female Population:	79,124
Under 5 years:	4,704
5 to 9 years:	4,911
10 to 14 years:	5,041
15 to 17 years:	3,002
18 and 19 years:	1,627
20 years:	768
21 years:	795
22 to 24 years:	2,470
25 to 29 years:	4,875
30 to 34 years:	4,996
35 to 39 years:	5,177

40 to 44 years:	5,388
45 to 49 years:	5,734
50 to 54 years:	6,082
55 to 59 years:	6,091
60 and 6 1 years:	2,273
62 to 64 years:	3,162
65 and 6 6 years:	1,758
67 to 69 years:	2,280
70 to 74 years:	2,756
75 to 79 years:	2,035
80 to 84 years:	1,545
85 years and over:	1,654



LEGISLATIVE REVENUE OFFICE

900 Court St NE Rm. 143
Salem, Oregon 97301
(503) 986-1266

www.oregonlegislature.gov/lro

THE REVENUE IMPACT OF MARIJUANA LEGALIZATION UNDER MEASURE 91

In the November 2014 general election, voters will decide on ballot Measure 91 entitled the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act of 2014. This report estimates the revenue that is likely to result from the legalization and taxation of recreational marijuana use in Oregon. The initiative would legalize recreational marijuana purchase and use by individuals age 21 and over. It assigns the responsibility for the regulation and control of marijuana to the Oregon Liquor Control Commission (OLCC). Additionally, members of the public would be able to grow up to four plants at a time, and allowed to give limited amounts of marijuana and marijuana products to other individuals over age 21.

Summary of Revenue Estimates

The Legislative Revenue Office (LRO) estimates that in fiscal year 2017, the revenue from legal marijuana is expected to be \$16.0 million with a lower range of \$13.1 million and an upper range of \$19.4 million. The **net revenue** (after startup and administrative costs) **in fiscal year 2017** is estimated to be **\$9.4** million with a **lower range of \$6.5** million and an **upper range of \$12.8** million. Marijuana sales are expected to accelerate in the 2018 and 2019 fiscal years. For the **2017-19 biennium**, the net revenue (after administrative costs) is estimated to be **\$40.9** million.

Legalization of marijuana will convert the current black market for marijuana to a gray market as tax and regulatory compliance are slow to take hold. The legalized regulated market is likely to achieve higher efficiency and more innovation with time and as circumstances improve. These technological advances are likely to exert downward pressure on the legal retail price in the future and drive a shift from the gray market to the legal recreational market. However, changes in federal law enforcement could substantially alter growth of the market in either direction because marijuana remains illegal at the federal level.

Legalization Initiatives

Oregon has a history of marijuana decriminalization. It was the first state to decriminalize cannabis possession in 1973. By 1978 the decriminalization in Oregon was followed by Alaska, California, Colorado, Mississippi, New York, Nebraska, North Carolina, and Ohio. In the second half of the 1990's many states have adopted a medical marijuana program. In 1996, California was the first state to legalize medical marijuana through Proposition 215. Since then, 23 states (including Oregon in 1998) and the District of Columbia have adopted medical marijuana programs. Full-scale legalization of recreational marijuana was first adopted in Washington and Colorado In 2011. Voters in these two states passed ballot measures (Initiative 502 in Washington) (Amendment 64 in Colorado) to legalize recreational marijuana.

Internationally, a number of nations have moved to decriminalize marijuana, but legalization remains relatively rare¹. In December 2013, Uruguay was the first nation to adopt full legalization. It is the first national government to approve full-scale legalization of the drug. Even the coffee shops in the Netherlands must rely on black market suppliers, as the wholesaling of marijuana remains illegal. The same is true in Portugal 14 years after decriminalization².

In Oregon, Measure 91 is being considered by voters in the 2014 election. The measure would legalize recreational marijuana use, personal cultivation of up to 4 plants, and commercial cultivation, processing, and retail sales. Each stage of production would have an associated license, and an individual would be able to carry multiple licenses. At the same time, voters in Washington, D.C. will decide on Initiative 72. The measure would legalize adult possession of up to 2 ounces of cannabis, and allow up to six plants to be grown for personal consumption. The measure would not allow the taxation of cannabis, however, because of current law that bars voters from approving taxation via ballot initiative. Alaska is also voting on Initiative 2 for the legalization of recreational marijuana. The measure establishes a Marijuana Control Board for rulemaking and for marijuana facility restrictions with local government control. It also proposes a marijuana tax, which would be \$50 per ounce sold by a marijuana cultivation facility³.

Federal Government Policy

At the federal level, marijuana remains on the list of Schedule I controlled substances under the Controlled Substances Act. The classification is reserved for substances that have a high level of addictive potential and no accepted medicinal value. In October, 2009, the Obama administration sent a memo to federal prosecutors urging them not to prosecute people who had been distributing medical marijuana in accordance with state law. In August 2013, the United States Department of Justice announced an update to their marijuana policy. The department deferred the right to challenge the legalization laws of Colorado and Washington. A memo drafted by Deputy Attorney General James Cole outlined the priorities for federal enforcement of marijuana prohibition under the Controlled Substances Act. The priorities are as follows:

¹ The Economist: [The difference between legalization and decriminalization](#) (6/2014)

² <http://www.spiegel.de/international/europe/evaluating-drug-decriminalization-in-portugal-12-years-later-a-891060.html>

³ more on Alaska legalization measure at <http://guardianlv.com/2014/07/alaska-will-vote-on-the-legalization-of-recreational-marijuana-in-november/#CfRF3ZbO1AkKXtMX.99>

- Prevent the distribution of marijuana to minors
- Prevent the revenue from marijuana sale from going to criminal enterprises, gangs, and cartels
- Preventing the distribution of marijuana to other states from states where it is legal
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana
- Preventing drugged driving and the exacerbation of other adverse health consequences of marijuana use
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands
- Preventing marijuana possession or use on federal property

The memo went on to say that states which enforced their medical and/or recreational marijuana policies to protect against the list of harms above would not attract federal enforcement action. If states failed to control marijuana production, processing, sale, and use in a way consistent with the above guidelines, then federal action could be brought. The memo states that federal authorities still retain the authority to challenge the regulatory structure itself or enforce criminal prosecutions of individuals. As states consider loosening restrictions on recreational or medical marijuana, the likelihood of federal involvement will be reduced if controls can be put in place to prevent negative outcomes.

Recreational Marijuana Legalization: The Colorado and Washington Experience

Upon the passage of initiatives to legalize marijuana for recreational use, Colorado and Washington developed regulatory and taxation structures to control the recreational marijuana market. Colorado opened its first retail outlets on January 1, 2014, while Washington followed in July 2014. The states differ in their method of taxation and the ability of individuals to grow their own cannabis. Colorado allows individuals to grow up to six of their own plants, while Washington prohibits personal cultivation. Both have licensed retail outlets that can sell to the general public provided that they are 21 years of age or older.

At first, Colorado extended the opportunity to receive licenses to sell recreational marijuana to medical marijuana businesses¹ in good standing. Many of the retail outlets in Colorado have marijuana available for both medical customers and recreational customers. In July 2014, regulating authorities extended the opportunity for non-medical entities to apply for a license. After state and local business licenses are approved, these additional stores would likely open in late 2014. Prices for an ounce of recreational marijuana in Colorado hover around \$400 per ounce for the highest grade, and can dip as low as \$180 per ounce for less potent strains. These prices will likely decline somewhat with the addition of new licensed businesses. The price may also be reduced by new discoveries of higher yield strains or improved growing techniques.

In Colorado, the taxation structure of Amendment 64 imposes a 15 percent excise tax at the wholesale level. The Colorado Department of Revenue determines the wholesale price for taxation purposes two times a year. The rate for July 1, 2014 to December 31 2014 is \$1,876 per pound, or \$117.25 per ounce. The wholesale tax for this period is \$17.59 per ounce. In addition to this tax, there is a 10 percent sales tax that is particularly for recreational marijuana, and a 2.9% statewide sales tax. Local jurisdictions may also have their own sales taxes. Revenue collected for the first five months of implementation is shown below.

Exhibit 1

Colorado Marijuana Taxes, Licenses, and Fees Transfers and Distribution \$Millions					
	Jan-14	Feb-14	Mar-14	Apr-14	May-14
Retail Marijuana Sales Tax (2.9%) Transfer to Marijuana Cash Fund	0.42	0.44	0.57	0.64	0.64
Retail Marijuana Sales Tax (10%)	1.40	1.43	1.90	2.22	2.07
Retail Marijuana Excise Tax (15% on Wholesale)	0.20	0.34	0.61	0.73	1.14
Retail Marijuana Licenses and Fees	0.10	0.10	0.11	0.14	0.07
Total Recreational Marijuana Transfers and Distributions	2.11	2.32	3.19	3.73	3.92

Source: Colorado Department of Revenue, Office of Research and Analysis

The first recreational marijuana stores opened in Washington during July, 2014. To date, the state has issued 24 retail store licenses. Supply has been somewhat limited at first and retail prices have been around \$700/ounce. Washington's tax structure is applied as a percentage of the value of the product. The state charges a tax of 25 percent at the grower level, 25 percent at the processor level, and 25 percent at the retail level. As prices change in the market, the amount of taxes collected will change as well. Retail sales are also subject to the statewide sales tax of 6.5 percent as well as any local sales taxes. As of June, revenue estimates were \$51.2 million for the 2015-17 biennium with an increase in subsequent years as more retailers and growers are licensed.

Costs are influenced by the markups and taxes at the various levels of distribution of recreational marijuana. Additionally, Internal Revenue Code 280 E prohibits tax deductions for any business involved in the trafficking of controlled substances. This drives up the costs marijuana businesses will face relative to the gray market or other agricultural or retail firms. The price level can influence the amount of marijuana sold and also the tax revenue. Consumers respond to lower prices by consuming more of a product, and higher prices by consuming less. The existing black market in marijuana has the potential to turn into a gray market that would allow the consumers to choose where they purchase the product based on the relative price of the gray market product to the legalized product. These price changes can affect the amount of tax revenue that is collected on a given volume of marijuana.

Oregon Medical Marijuana Program

The Oregon Medical Marijuana Program (OMMP) began in 1998. It is entirely funded by registry fees for patients, caregivers, and grow sites. The cost for a patient registry is \$200, with a discount to \$60 for patients receiving food stamp benefits, \$50 for residents enrolled in the Oregon Health Plan, and \$20 for patients receiving Social Security benefits. Patients with any of the following conditions can be eligible for medical marijuana after certification by a physician: Alzheimer's disease, cachexia, cancer, glaucoma, HIV/AIDS, nausea, Post Traumatic Stress Disorder (PTSD), severe pain, seizures, persistent muscle spasms, and multiple sclerosis. In 2014, medical marijuana patients numbered 66,922, while 32,796 caregivers were registered to purchase marijuana for homebound patients. Doctors who treated OMMP patients numbered at 1,604. The registry fees have covered the cost of the program and have occasionally produced a surplus that was used to fund other budgetary needs. Medical marijuana users are assumed to continue in that program which effectively offers them a preferable price and access conditions. Their numbers are deducted from the total number of users in later steps.

Oregon Recreational Marijuana (Measure 91) Revenue Estimates

Oregon recreational marijuana under Measure 91 will be taxed (\$35 per ounce of flowers and \$10 for leaves) at the producer level. This section describes the steps taken to estimate the market size and revenue impact of taxation. In order to estimate the revenue resulting from that tax, it is necessary to develop an estimate of the size of the legal market (ounces sold and taxed.)

The general methodology in this research would progress in the following steps:

- Estimate the number of current users.
- Adjusted to the Oregon current population estimates of age groups over 21
- Reduce the number of users by the medical participants (OMMP) and the self-growers.
- Estimate the rates of consumption to calculate the overall volume of ounces used (potential local market). Once that number is determined, the amount of use by the different categories will be applied.
- Estimate the price which will determine how much the black market competes with the legal market. The price will be determined by the costs and markups that the new structure will impose on the product. Experience from other regulated markets, models built by Washingtonⁱⁱ, and experience in Washington and Colorado confirms that the regulated market imposes more costs than what is facing the illicit product.
- Estimate the size of the legal market which is established by the price elasticity.
- Add new (induced) users and the tourist/commuter users (naturally new users and tourists will only utilize the legal market).
- Estimate the base year revenue with all the above assumption.
- Finally the revenue will be estimated and adjusted to reflect startup difficulties and agency costs, particularly in the first fiscal year 2017 and then the 17-19 biennium.

As a measure of sensitivity the projection will be extend for later years to examine different scenarios.

User Estimates

To derive estimates of how many people in Oregon use marijuana, we utilized the National Survey on Drug Use and Health for 2010-2011. The Substance Abuse and Mental Health Services Administration (SAMHSA) has been publishing state estimates of the prevalence of marijuana use (both percentages and estimated counts.) In 2013, SAMHSA developed a more accurate model (Model-Based Prevalence Estimates⁴) for the 2012 data. The data are summarized in Table 1.

⁴ For further information on the revised model, see the NSDUH short report titled *Revised Estimates of Mental Illness from the National Survey on Drug Use and Health* at <http://samhsa.gov/data/default.aspx>. For the further details on the revised weight and predictors used for these 2010-2011 SMI and AMI small area estimates, see the "2010-2011 NSDUH: Guide to State Tables and Summary of Small Area Estimation Methodology" at <http://www.samhsa.gov/data/NSDUH/2k11State/NSDUHsae2011/Index.aspx>.

Table 1

Estimates of below 18 Users as percentage of population			12 or Older Estimate	12 or Older 95% CI (Lower)	12 or Older 95% CI (Upper)	12-17 Estimate	12-17 95% CI (Lower)	12-17 95% CI (Upper)
Last Month	1	Oregon	10.98	9.31	12.90	10.26	8.45	12.40
		U.S.	6.94	6.71	7.17	7.64	7.30	8.00
Past Year	2	Oregon	16.01	14.05	18.20	18.63	16.21	21.32
		U.S.	11.55	11.25	11.86	14.13	13.66	14.60
Estimates of over 18 Users as percentage of population			18-25 Estimate	18-25 95% CI (Lower)	18-25 95% CI (Upper)	26 or Older Estimate	26 or Older 95% CI (Lower)	26 or Older 95% CI (Upper)
Last Month	1	Oregon	25.35	22.14	28.87	8.73	6.88	11.00
		U.S.	18.78	18.22	19.35	4.80	4.54	5.07
Past Year	2	Oregon	39.19	35.26	43.27	11.96	9.82	14.50
		U.S.	30.38	29.67	31.09	7.95	7.62	8.30

NOTE: State and census region estimates, along with the 95 percent Bayesian confidence (credible) intervals, are based on a survey-weighted hierarchical Bayes estimation approach and generated by Markov Chain Monte Carlo techniques. For the "Total U.S." row, design-based (direct) estimates and corresponding 95 percent confidence intervals are given. The top group, denoted by 1, signifies *Marijuana Use in the Past Month*, by Age Group and State: Percentages, Annual Averages Based on 2010 and 2011 NSDUHs. The second group, denoted by 2, signifies *Marijuana Use in the Past Year*, by Age Group and State: Percentages, Annual Averages Based on 2010 and 2011 NSDUHs.

In order to align with the Oregon population estimates it was necessary to adjust those age group categories using Portland State University (PSU)⁵ 2013 estimates. It is also important as well to isolate the age groups identified to be below 21, the legal age of consumption. The users from age groups below 21 were assumed not to be involved in the regulated market and their statistics are omitted from this point on.

Table 2

Oregon	All Ages	21 to 25	% of Total	% of > 21	26 and Over	% of Total	% of > 21	21 and Over
Population	3,919,020	256,773	6.6%	8.9%	2,641,939	67.4%	91.1%	2,898,712

Population statistics show the 21-24 category and 25-29 category, which required an adjustment to create the 21-25 and 26 and over categories.

Using the two tables above, an estimate for the number of users by age group can be easily developed, while using the confidence intervals developed previously (table 1) to indicate a lower and upper range for these estimates.

⁵

Population Research Center, PSU, Population Estimates by Age and Sex for Oregon July 1, 2013

Table 3

		21-25 Estimate	21-25 95% CI (Lower)	21-25 95% CI (Upper)		26 or Older Estimate	26 or Older 95% CI (Lower)	26 or Older 95% CI (Upper)
Population		256,773				2,641,939		
Last Month Users		65,103	56,843	74,118		230,528	181,835	290,719
Past Year Users		100,625	90,527	111,096		316,096	259,438	383,139
Additional Month (13) Percentage		39%	39%	40%		42%	41%	43%

The additional month percentage (13th month) in table 3, is only shown as an indication of use patterns. It can be thought of as a rough measure of the ratio of people who reported using in an additional month of the year to people who reported using in the last year and it comes to an average of 40%.

Medical users are known to number 66,922⁶ and are distributed between the age groups: 5,928 are assumed to be of the 21 to 25 age group while the rest are in the 26 and older group. Medical marijuana users are likely to have preferable price and access conditions through the OMMP program, which will entice them to continue in that program.

Users who grow their own are observed by Crawford⁷ at an 8% level. This is a reasonable level to continue in the new legalized structure. It is also reasonable in relation to a high-price product and the allowance present in the initiative for selling plants which encourages growers to continue their horticultural practice. The growers' assumption will result in a reduction of the number of users who will potentially purchase from licensed retail outlets by 27,984. That number is also distributed according to the age groups. 7,576 of those aged 21-25 are assumed to grow their own and the rest of the home growers are allocated to the 26 and older age group.

Consumption (Use) Rates

The use rates utilized much of the information from the study conducted by Crawfordⁱⁱⁱ. The survey utilized in the study was parsed out to identify different levels of consumption for various categories of users: Super users and regular users (table 4)

Table 4

	21-25 Estimate	21-25 95% CI (Lower)	21-25 95% CI (Upper)		26 or Older Estimate	26 or Older 95% CI (Lower)	26 or Older 95% CI (Upper)
Super Users	5,590	5,029	6,172		17,561	14,413	21,286
Regular Users	81,531	72,802	90,583		217,133	168,155	275,088

The Heavy (Super) Users: This group consisted of the everyday heavy users (mostly men) at an average of 2.25 ounces in a month (27 ounce/year).

⁶ Medical user statistics (OHA)

⁷ Seth Crawford research, OSU **Oregon's Informal Marijuana Economy, 2014**

The Regular (Occasional) Users: This category showed men to use an average of 11.8 grams, while women are found to use slightly less at 11.1 grams. 40% are calculated to have used all 12 months (from the earlier statistics) of the year, and 60% are assumed to use for 8 months of the year.

The New (Induced) Users: New users induced by legalization are assumed to be 3.9% of the total using one month increase use for the occasional users. This is equivalent to 72,818 ounces per year. These users are assumed to be attracted by a reduced social stigma, increased availability, and the elimination of fines for possession.

Adding the usage rate of the new users to the occasional user rate will result in an average of 9.8 grams a month (4.145 ounces/year). The resulting consumption estimated results are shown in Table 5.

Table 5

Consumption in ounces	21-25 Estimate	21-25 95% CI (Lower)	21-25 95% CI (Upper)		26 or Older Estimate	26 or Older 95% CI (Lower)	26 or Older 95% CI (Upper)
Super Users	150,937	135,790	166,645		474,145	389,156	574,709
Regular Users (+Induced)	337,931	301,751	375,451		899,982	696,974	1,140,195
Total Use	488,869	437,541	542,095		1,374,127	1,086,131	1,714,905

Prices in a Regulated Market

The regulated market is segmented vertically into three types of businesses: producers, processors, and retailers. This segmentation could be combined or vertically integrated. However, in order to guard for compliance with the department of Justice Memo, and based on work by BOTC Analysis Corporation^{iv} for the state of Washington, it's likely that each business will have a cost structure that will be manifested in a markup to the price received from the previous level. The markup will cover each of the businesses costs and profits. Usually the markup in various other businesses represents different costs based on the type of business and products sold. Different industries impose varying markups to the product being transacted (from 60% to more than 120%). OLCC currently marks up liquor at around 110%. This research used the following schedule to approximate markup: although many permutations of markup percentages were examined.

Schedule 2

with 20% Fed tax 280E implication included elsewhere	
As % of price	Cost Category
6.80%	Federal Corporation Tax Rate at around 34%
33.3%	Costs of Labor (Compensation, Social Security, Unemployment, Insurance, and Other labor costs)
15.5%	Cost of doing Business (Insurances, Security, Transport, Finance, Rent, Inventory)
7.5%	Fees (Lab, Regulation, Certification, Other)
20.0%	Net Profit
1.80%	State Taxes @ 9%
84.9%	Total

This research used the markup for only the processor and retailer businesses. Producers' prices in a regulated market were assumed to start at the current rate for medical supplies. Few additions were considered at different levels to reach a reasonable estimate of what the price of legalized cannabis will be. As will be described in the coming sections, this research reached the conclusion that the regulated legal price is likely to fall within \$330 to \$340 an ounce.

Price Estimate Models

Current producer's costs based on a paper by the Rand Corporation^v and other research finds the cost of producing a gram of marijuana at \$2 (\$50 per ounce.) This price is consistent with the cost of the Oregon Medical Marijuana Program. The model is created by starting with this baseline price and stepping through the different levels of the business layers. The model will give us a reasonable estimate of what the price of the regulated legal marijuana is likely to be.

According to the white paper on legalized cannabis in Washington State^{vi}, the federal tax code, strictly applied, could actually prevent the viable existence of any legal cannabis business. It is assumed here however, that some means of compliance will exist and still allow for the businesses to somewhat comply with the IRC. In that regard, it is assumed that the inability to deduct cost of goods under IRC section 280E will impose about 20 to 25% additional costs to the businesses. The first combination in Table 6 assumes the cost passed to the processor to only include the producer cost and the tax added, while the IRC 280 E implication will be added only to the retailer price at the end of the process.

Table 6

	Cost OMMP	Tax	Producer's Cost	Markup Processor	Markup Retailer	Federal Tax 280E Implication
				100%	100%	20%
Price	\$50.0	\$28.0	\$78.0	\$156.0	\$312.0	\$374.4
				89%	89%	20%
Price	\$50.0	\$28.0	\$78.0	\$147.0	\$277.9	\$333.5
				88%	88%	20%
Price	\$50.0	\$28.0	\$78.0	\$146.6	\$275.7	\$330.8
				85%	85%	20%
Price	\$50.0	\$28.0	\$78.0	\$144.2	\$266.7	\$320.0
				75%	85%	20%
Price	\$50.0	\$28.0	\$78.0	\$136.5	\$252.5	\$303.0
				65%	80%	20%
Price	\$50.0	\$28.0	\$78.0	\$128.7	\$231.7	\$278.0

The second combination illustrated in Table 7 assumes the cost passed to the processor includes the producer cost, the tax added, and the IRC 280 E implication at 20% of the producer price at the beginning of the process. Moreover, this scenario assumes that the commercial producers add 20% profit, which is not the case for the medical producers (who can only recover cost) under the current medical producers' requirements.

Table 7

	Cost OMMP	Tax	Producer's Cost	Federal Tax 280E Implication	Producer Profit @ 20%	Markup Processor	Markup Retailer
				@ 20%	20%	100%	100%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$224.6	\$449.3
						89%	89%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$211.7	\$400.2
						88%	88%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$211.2	\$397.0
						85%	85%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$207.7	\$384.0
						75%	85%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$196.6	\$363.6
						65%	85%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$185.3	\$333.6

The third combination shown in Table 8 assumes the cost passed to the processor includes the producer cost, the tax added, and 1.5% collection costs for administering the tax as a service fee. Moreover, this scenario assumes that the IRC 280 E implication will be considered at two stages of the process, which adds 10% at the processor level and 20% to the retailer price.

Table 8

	Cost OMMP	Tax	Producer's Cost	Collection Cost 1.5%	Markup Processor	Federal Tax 280E Implication	Markup Retailer	Federal Tax 280E Implication
Price	\$50.0	\$28.0	\$78.0	\$79.2	100% \$158.3	10% \$174.2	100% \$348.3	20% \$418.0
Price	\$50.0	\$28.0	\$78.0	\$79.2	89% \$149.2	10% \$164.2	89% \$310.3	20% \$372.3
Price	\$50.0	\$28.0	\$78.0	\$79.2	88% \$148.8	10% \$163.7	88% \$307.8	20% \$369.4
Price	\$50.0	\$28.0	\$78.0	\$79.2	84.9% \$146.4	10% \$161.0	84.9% \$297.7	20% \$357.3
Price	\$50.0	\$28.0	\$78.0	\$79.2	75.0% \$138.5	10% \$152.4	85.0% \$281.9	20% \$338.3
Price	\$50.0	\$28.0	\$78.0	\$79.2	65.0% \$130.6	10% \$143.7	80.0% \$258.6	20% \$310.4

The fourth combination in Table 9 assumes the cost passed to the processor includes the producer cost, the tax added, 20% commercial profit, and 1.5% collection costs for administering the tax as a service fee. Moreover, this scenario assumes that the IRC 280 E implication will be considered at two stages of the process, which adds 10% at the processor level and 20% to the retailer price.

Table 9

	Cost OMMP	Tax	Producer's Cost	Profit at 20% Collection Cost	Markup Processor	Federal Tax 280E Implication	Markup Retailer	Federal Tax 280E Implication
Price	\$50.0	\$28.0	\$78.0	21.5% \$94.8	100% \$189.5	10% \$208.5	100% \$417.0	20% \$500.4
Price	\$50.0	\$28.0	\$78.0	\$94.8	89% \$178.6	10% \$196.5	89% \$371.4	20% \$445.7
Price	\$50.0	\$28.0	\$78.0	\$94.8	88% \$178.2	10% \$196.0	88% \$368.5	20% \$442.1
Price	\$50.0	\$28.0	\$78.0	\$94.8	84.9% \$175.2	10% \$192.8	84.9% \$356.4	20% \$427.7
Price	\$50.0	\$28.0	\$78.0	\$94.8	75.0% \$165.8	10% \$182.4	85.0% \$337.5	20% \$405.0
Price	\$50.0	\$28.0	\$78.0	\$94.8	65.0% \$156.4	10% \$172.0	80.0% \$309.6	20% \$371.5

To further compare the price in the regulated market, we look at the regulated markets in Colorado and Washington. The prices are about \$400 and \$700 respectively. Removing an approximate measure of the taxes in the regimes of those two states and adding an amount similar to the tax proposed by M-91 will get a price of about \$323 to \$455. In a similar comparison, the prices in Oregon medical marijuana dispensaries average about \$200. That medical price is supposed to reflect compensation for the costs of growing on behalf of the medical patients and

not meant to include profits. If we add profits of a commercial operation, federal and state corporate taxes, and an allowance for IRC 280 E, we can easily reach the \$330 to \$340 range.

Elasticity of Demand and the Gray Market

Elasticity is the measure by which demand responds inversely to percentage changes in price. The Rand Corporation assumed -0.54 as price elasticity of demand for marijuana. Elasticity as estimated by different sources ranged from -0.5 to -0.85, as a percentage decline in quantity demanded in response to a 1% increase in price. However, it seems that most work starts with elasticity higher than that of tobacco. Thus, if the elasticity of tobacco in Oregon is measured at 0.6% then it is reasonable to assume that marijuana (with its higher price) has a slightly higher elasticity (between -0.7 and -0.75%).

Elasticity of a product emerging from the black market is likely to work in a discrete fashion to signal movement in and out of the legal to the gray market. In other words, the quantity of demand in Oregon (in a closed market) is likely to stay the same, but the source of the supply will be determined by the difference in price. That proportion between the two markets will be dependent on the difference in price. Thus, the elasticity will determine the size of each market. If the legal market is able to provide a supply at an advantageous (consumer) price and equal or better quality than that of the gray market, then the gray markets will quickly become unprofitable and will be squeezed out^{vii}. The illicit price however, is likely to start aligning around a mean in a tighter arrangement as a response to (can't impose higher prices) competition from the legal market. Table 10 shows what the gray market size will be under the assumptions of various elasticities and a range of future regulated prices. It is instructive to note that under high prices and high elasticities the (closed) Oregon market will be dominated by the gray market. Assuming the elasticity of marijuana is somewhere between 0.7 and 0.75, and averaging the middle values of the different scenarios results in an initial gray market size of about 65.7%.

Table 10

Assumed Gray Market Price: \$177/oz.							
Elasticity	Price	\$321	\$332	\$338	\$342	\$347	\$411
-0.5		40.7%	43.8%	45.3%	46.7%	48.0%	66.1%
-0.55		44.7%	48.2%	49.9%	51.4%	52.8%	72.7%
-0.6		48.8%	52.5%	54.4%	56.1%	57.6%	79.3%
-0.65		52.9%	56.9%	58.9%	60.7%	62.4%	85.9%
-0.7		56.9%	61.3%	63.5%	65.4%	67.2%	92.5%
-0.725		59.0%	63.5%	65.7%	67.7%	69.6%	95.8%
-0.75		61.0%	65.7%	68.0%	70.1%	72.0%	99.2%
-0.8		65.1%	70.1%	72.5%	74.8%	76.8%	105.8%
-0.85		69.2%	74.4%	77.1%	79.4%	81.6%	112.4%

Revenue Estimates for the Base Year

The estimate of revenue starts with a base year estimate. A base year is an analysis unit where we assume all elements are working under constant assumptions. Applying all the assumptions introduced in the previous sections while using the 95% confidence intervals (Tables 2-5) to signify the lower and upper range for the estimate. Thereafter, adjustments for the initial start year

and subsequent years will be introduced to allow for possible changes and variation of the assumptions in the base.

Thus, we determined the quantity demanded in the base year to be about 1.8 million ounces (see Table 5). Then, we assume the gray market, at \$177 per ounce, to satisfy 65.7% of the current demand. The blended tax rate is assumed to be \$28 per ounce (\$35 flowers and \$10 leaf) with 72:28 flowers to leaf ratio.

Increased consumption due to tourism and commuters is estimated at 19.6%. This is derived from the reported 42% tourist traffic in Colorado proportioned to the number of surrounding states with medical marijuana programs.

Including all these assumptions, results in a base year estimate of \$21.4 million with a lower range of \$17.5 million and an upper range of \$21.7 million (Table 11).

Table 11

Base Year Revenue		Estimate In \$	Lower Range	Upper Range
Ounces Demanded	in ounces	1,862,996	1,523,672	2,257,000
Regulated Market at 34.3 %	Tax rate @ \$28	17,877,180	14,621,054	21,658,017
With Tourism and Commuters	Increase 19.6%	21,381,107	17,486,781	25,902,988

Revenue Estimates for Fiscal Year 2017

The revenue for FY 2017 is assumed to be 70% of the base year. This is due to normal and usual startup difficulties in any new program. These difficulties stem from developing rules and regulations, newly legalized product, and unknown numbers of participants with developing and varying level of compliance. An increase of 5% (1.5% annually) will accrue within the 3 years since the base year, mostly due to annual population growth.

The measure specifies that the Oregon Liquor Control Commission (OLCC) will be the agency responsible for regulation and enforcement. That will require the OLCC to spend about \$7.14 million in startup and administration costs. The OLCC will also collect application fees and apply them toward the costs of regulation. The resulting net revenue in Fiscal Year 2017 **is \$9.4 million with a lower range of \$6.5 million and an upper range of \$12.8 million.**

The measure requires net revenue to be distributed in percentages to different uses. The Common School Fund receives 40%, 20% goes to mental health and addiction, the State Police gets 15% and 10 % each to cities and counties, while the last 5% goes to the Oregon Health Authority.

Table 12

FY 2017 Revenue expectation		Estimate	Lower Range	Upper Range
Annual Base Revenue		\$21,381,107	\$17,486,781	\$25,902,988
Fiscal Year 2017 Revenue and distributions				
Revenue Expected (@70%) due to program startup and other unforeseen difficulties adding 1.5 % average annual pop growth (3 years) (Gross Revenue)	75% of annual Base	\$16,035,830	\$13,115,086	\$19,427,241
OLCC start up and Administration Costs		\$(7,074,934)	\$(7,074,934)	\$(7,074,934)
License and Application Fee Revenue		\$424,800	\$424,800	\$424,800
Net Revenue		\$9,385,696	\$6,464,952	\$12,777,107
Distributions				
Common School Fund	40%	\$3,754,279	\$2,585,981	\$5,110,843
Mental Health Alcoholism and Drug Services Account	20%	\$1,877,139	\$1,292,990	\$2,555,421
State Police Account	15%	\$1,407,854	\$969,743	\$1,916,566
Cities	10%	\$938,570	\$646,495	\$1,277,711
Counties	10%	\$938,570	\$646,495	\$1,277,711
Oregon Health Authority	5%	\$469,285	\$323,248	\$638,855

Revenue Estimates for the 2017-19 Biennium

The revenue for fiscal years 2018 and 2019 are expected to accelerate by about 6% and 5.5% respectively as efficiencies and improvements take hold to a net annual average of \$20.5 million.

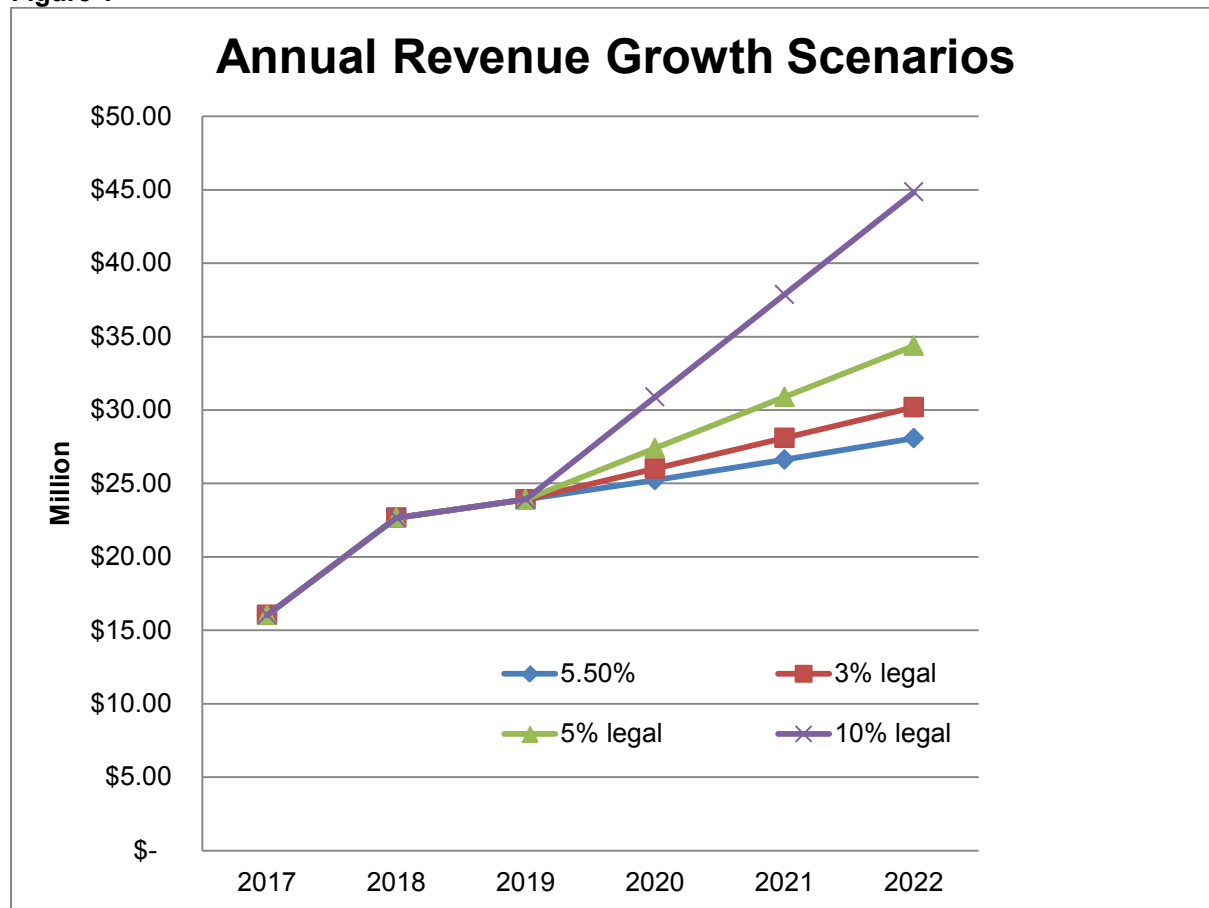
Table 13

	FY 2018	FY 2019	BN 17-19
Gross Revenue	\$22,663,973	\$23,910,492	\$46,574,466
OLCC Costs	\$(3,162,209)	\$(3,291,278)	\$(6,453,487)
License Fees			
Annual	\$360,000	\$360,000	\$720,000
App Fees	\$45,000	\$45,000	\$90,000
Net Revenue	\$19,906,765	\$21,024,214	\$40,930,979
Distribution			
Common School Fund	\$7,962,706	\$8,409,685	\$16,372,391
Mental Health Alcoholism and Drug Services Account	\$3,981,353	\$4,204,843	\$8,186,196
State Police Account	\$2,986,015	\$3,153,632	\$6,139,647
Cities	\$1,990,676	\$2,102,421	\$4,093,098
Counties	\$1,990,676	\$2,102,421	\$4,093,098
Oregon Health Authority	\$995,338	\$1,051,211	\$2,046,549

Long-Range Revenue Scenarios

The Regulated legalized market is likely to achieve higher efficiency and more innovation which is likely to exert downward pressure on future price and consequently on the gray markets^{viii}. The chart below shows several of these possibilities. They include an annual growth of 5.5 in the legal market, a 3% annual increase in market share for the regulated market (reduction in gray market), a higher level of 5% annual growth in the regulated market, and 10% annual expansion of the legal market.

Figure 1



Potential market size in Oregon however, depends on institutional changes, particularly at the federal level. If these changes occur relatively smoothly, the market could grow substantially from the initial estimates. On the other hand, if these changes occur only slowly or not at all, growth of the market will be far more limited.

It is important to note that legalization is potentially beneficial in changing the costs related to enforcement of the current illegal climate. Regulation and enforcement costs and priorities will also likely to be different under a new regulated environment. This research did attempt to look into the cost side of legalization and only concentrated on the revenue and taxation aspect.

Results and Conclusions

LRO estimates that in the base year of the analysis, the revenue is expected to be \$21.4 million with a lower range of \$17.5 million and an upper range of \$25.9 million.

- The revenue for FY 2017 is assumed at 75% of the base year, due to normal and usual startup difficulties in a new program. The net revenue (after startup and other administrative costs) in Fiscal Year 2017 is **\$9.4 million** with a lower range of \$6.5 million and an upper range of \$12.8 million.
- As the system improves and the new regime becomes more established, growth will accelerate by 6 % in fiscal year 2018 (\$19.9 million) and 5.5% in fiscal year 2019 (\$21million). The net revenue in the **17-19 biennium is \$40.9 million**.
- Total users are estimated to be 416,721. Of those 100,625 are in the 21-25 age group, and 316,096 are 26 and older.
- Medical Marijuana users are 66,922 of total, and Users who grow their own are 8%, the same percentage that grows currently, that comes to 27,984 Oregonian. That leaves 321,815 users as the base for the market.
- Users align into two subcategories: Heavy (super) users which number 23,151 and regular (occasional) users numbering 298,664. Heavy users are found to consume 27 ounces per year, while occasional users are estimated to consume 4.14 ounces per year (which includes 3.9% increase in consumption as a result of legalization).
- The total consumption for the 21 and over age group is 1,862,996 ounces per year.
- The blended tax rate is \$28 per ounce (\$35 flowers, and \$10 leaf) with 72:28 flowers to leaf ratio.
- The new market is organized into three vertically segmented businesses, producers, processors and retailers. Assuming the initial costs of production equivalent to current medical production, then marking up for state and federal Taxes (including IRC 280E), the cost of doing business (labor costs including employment taxes and insurance, fees, business insurance, utilities, security, and capital investment with reasonable profit) at each level of these three business, will push consumer prices to a range of \$330 to \$340 per ounce.
- Current average price of illegal (black market) marijuana (\$177 per ounce) will carry to a grey market. The emerging legal market price is likely to reduce the gray market price variability in the short term and cluster it more around the \$177 mean.
- With elasticity of around -0.7 to -0.75 (slightly higher than the elasticity of Tobacco at -0.6) will create a grey market of about 66% of estimated consumption. This is consistent with price differential and profit potential.
- Grey markets exist primarily due to price differentials. The closer the prices between the legal and illicit, the smaller the size of that gray market. In this case, the black market existed first and it is convenient for the consumer to continue buying at the lower price while the shadow seller makes profit. The illicit suppliers don't have to comply with taxation and regulations as well as all the requirements of the legal business, nor to the segmentation of the legal supply structure. All these costs are a potential margin for the gray market profit.
- Increased consumption due to tourism and commuters is estimated at 19.6%.
- The legalized market is likely to achieve higher efficiency and more innovation which is likely to exert downward pressure on future price and consequently on the gray markets. Different scenarios of growth show anywhere from \$27 to \$45 million annually.
- Potential market size in Oregon depends on institutional changes, particularly at the federal level. If these changes occur relatively smoothly, the market could grow substantially from these initial estimates. However, if these changes occur only slowly or not at all, growth of the market will be far more limited.

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- i **State Tax Notes**, (6/24/2013), Shaforth F Getting, High on State Taxes
 - ii **Dynamic Simulation Scenario Model-Final** for Washington DOR, Jon Caulkins; 2013
 - iii **Estimating the Quasi-Underground: Oregon's Informal Marijuana Economy**, 2014
Seth S. Crawford Oregon State University, Department of Sociology
 - iv **Modeling Cannabis Businesses and Costs of Legal Compliance**, Luigi Zamarra, CPA, 2013.
 - v Rand Corporation **Insights on the Effects of Marijuana Legalization on Prices and Consumption**
BEAU KILMER ,CT-351, September 2010
 - vi **BOTC Corporation White Paper1, 2013 For WLCB**
BOTC Corporation White Paper2, letter to WLCB June 17, 2013
 - vii **State Tax Notes**, (10/22/2012) Gangs, Ganjapreneurs, or Government: Marijuana Revenue Up for Grabs.

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- Oglesby Pat, State Tax Notes, (10/22/2012) Gangs, Ganjapreneurs, or Government: Marijuana Revenue Up for Grabs.
- State Board of Equalization (10/28/2009), Prepared Testimony of Robert Ingenito, Research&statistics.

Matt Martin

From: Matt Martin
Sent: Monday, April 04, 2016 11:30 AM
To: Matt Martin
Subject: FW: Letter to MAC and BOCC regarding MJ Regulations
Attachments: open letter to farm bureau PDF.pdf

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Jim Petsche
Sent: Monday, April 04, 2016 11:22 AM
To: MAC; Tammy Baney; Alan Unger; Tony DeBone
Subject: Letter to MAC and BOCC regarding MJ Regulations

Please find attached a letter to the MAC, the BOCC and the Deschutes Farm Bureau regarding regulations they are currently working on regarding Marijuana production and processing in Deschutes County.

Regards,
Jim Petsche

Open letter to the MAC, BOCC and Deschutes County Farm Bureau

I'm aware that the Farm Bureau is showing support for the new marijuana growers in the county.

Well I'm a farmer myself, a current member of the Farm Bureau and have lived on rural property and raised crops & animals for the last 35 years. I have some issues with the current 'crop' of these new 'farmers'.

Farmers generally make pretty good neighbors, they are stable, friendly and responsible individuals with plain old good family friendly values.

From what I've seen, some of the new 'farmers' - seem to be nothing of the sort. Sure there are responsible growers that try to keep neighbor impacts to a minimum but there are also others that push the limits of the rules for their own self interest. These are the ones that the MAC and the Commissioners need to set up Reasonable Rules for... so we can ALL co-exist peacefully.

In my experience driving around the county, some growers seem to have little concern for the neighbors and do not work with them to minimize the impacts on the surrounding properties. Many seem to build anything they can get away with, leave storage containers, 'temporary' trailers, cars that don't run and junk lying around. The greenhouses are frequently not subject to county permitting because of their 'temporary' nature and thus have minimal standards. There are semi-permanent occupants living overnight on some properties that are not zoned for occupancy. Some grow facilities get built along scenic highways (see the hoop houses built near Plainview Road on Hwy 20 in the Landscape Management Combining Zone) and have tremendous impact on the the view of our mountain vistas.

The state legislature defined marijuana as a 'crop' though they went on to further define it as a 'unique agricultural product' and as such should be subject to unique rules to govern it's production. Apparently the Farm Bureau wants nothing of the sort as they propose it is exactly like any other historical farm crop.

Marijuana is a product that is high in value and apparently needs substantial fencing, video cameras and proper screening. The people growing it don't even want to have their addresses given out for fear of someone stealing their product. It is generally a highly intensive greenhouse operation with a number of people required to produce and process the crop, with extensive electrical, mechanical fans and watering systems and it produces an intense odor for many weeks that can travel 1000 feet or more and is offensive to most people. This is far cry from a traditional farming crop by almost anyone's standards.

Under current standards in Deschutes County a large marijuana greenhouse can be sited 25 feet from any property line and in my personal case a 4000 sf pot greenhouse actually **was** sited 39 feet from my property line. I can tell you from actual experience that this is NOT a satisfying situation as it adversely affects the use of my property greatlygiven the sights, sounds and smells of the operation.

We simply cannot keep the existing county regulations as they are! This situation will happen to many other rural property owners as new marijuana production greenhouses pop up in the future unless existing rules are changed significantly.

Imagine having a large greenhouse - or several - pop up very close to your property line and home.

Setbacks of 500 ft or more, lighting regulation, odor control and noise standards simply have to be adopted for this new industry to keep conflicts to a minimum among rural residents who by and large are farmers as well.

We need reasonable regulations to keep it so neighbors respect neighbors - not so someone can take the position that since "I'm a farmer - I can do whatever I want".

I certainly respect the right to farm rules as I apply manure to my own fields, apply chemicals responsibly and perform night operations during the growing season. But now the new pot growers want to turn the 'right to farm' on it's head and bring their nuisance odors and noises to the existing rural residents and shove them into their faces without reasonable setbacks and controls. There are thousands of existing rural residential property owners in this county that are trying to farm as well and trying to live their lives responsibly and not have adverse impacts on their neighbors. There are just a few dozen pot growers who hope to make a fortune by putting up 'industrial-like' complexes in our rural communities with razor wire and electric fences, intense odors, noise, light pollution, increased traffic and visual impacts in our neighborhoods near our children. City children get a 1000 foot setback from marijuana facilities, why should children growing up in the rural county have any less separation.

IT IS JUST NOT RIGHT! The property rights of just a few marijuana growers cannot and should not stomp on the rights of the existing rural residents.

Setting reasonable rules for this new industry **does NOT create any precedents for all farmers.** It helps to keep the peace and only lets responsible people enter the 'new' farming industry.

It makes good sense for ALL of us to have the County Commissioners set reasonable time place and manner restrictions that apply ONLY to the unique marijuana industry both for existing Medical production and new Recreational grows.

Regards,
Jim Petsche
Tumalo, OR

Matt Martin

From: Matt Martin
Sent: Tuesday, April 05, 2016 3:59 PM
To: Matt Martin
Subject: FW: Attached for BOCC and MAC
Attachments: bocc mac.pdf

Greetings-

As requested, I am distributing the attached message to MAC members.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Mark Murzin
Sent: Tuesday, April 05, 2016 3:39 PM
To: Matt Martin; Alan Unger; Tammy Baney; Tony DeBone
Subject: Attached for BOCC and MAC

To Matt & the Commissioners:

Please see the attached regarding the Marijuana Advisory Committee, for distribution to the MAC and the BOCC.

Thanks,

Mark

On February 2, 2016, Commissioner Unger stated in a hearing before the Measure 91 Joint Committee that “if we can’t regulate time, place and manner on rural EFU, if we can’t protect the rural lifestyle of rural living, we’re going to go to a ballot measure”. In a press release dated January 15, 2016, it was stated that the desire was to put together a balanced group that includes both rural residents and representatives from the marijuana industry. The Marijuana Advisory Committee (MAC) Charter states that the MAC will develop and recommend reasonable time, place and manner land use regulations intended to mitigate the impacts of medical and recreational marijuana uses to the Board of County Commissioners (BOCC).

I do not believe the MAC has carried out the stated purpose. While there is still one meeting scheduled for the MAC, I do not believe this will be reversed. In observing the composition of the MAC and the progress made to date, I believe the MAC is unfairly balanced in favor of the marijuana industry and against the rural residents of Deschutes County. It has been extremely difficult to reach consensus on most issues, and despite the change in meeting sessions from three to four hours, and the increase in the number of meetings from five to seven, the MAC will fall far short in even discussing many of the items on the matrix of issues before the committee. The MAC has spent excessive amounts of time on issues that are raised by or specifically beneficial to one or more of the marijuana industry representatives. Those same representatives are **not** spending enough time discussing reasonable regulations that would protect the rural lifestyle of rural living.

There is provisional consensus on issues of odor, noise and lighting. However, these have to be taken in context of the overall positions, especially since there are differing views on parcel size, setbacks and number of licensees per parcel. In a variety of written and oral comments to the MAC, the representatives of the marijuana industry have stated there should be no minimum EFU acreage and only 50 foot setbacks, yet at the same time having no apparent problem with issues of odor, noise and lighting since those were provisionally agreed to. Does anyone really know what the constant noise from fans will be like at a property line? Is the noise any less bothersome between 7am and 10pm, than it is between 10pm and 7am as proposed? Has anyone sat on their back deck or kept their windows open and listened to the fans going 24/7 or smelled the odor from a grow, and felt like this is a reasonable nuisance that a rural homeowner should put up with? If 1,000 feet is deemed a reasonable distance from schools, then it should not be only 50 feet in rural areas.

While I appreciate the tremendous time commitment and work performed by the members of the MAC, the reality is that the results to date (which I presume will not materially change in the last session) are not consistent with Commissioner Unger’s stated goal of protecting the rural lifestyle of rural living and the stated goal of mitigating impacts in the MAC Charter. On occasion, committees are formed and the actual results differ from the objectives. At this time, all the BOCC can do is thank the committee for its service, and either promulgate its own regulations or allow the voters of the county to take on the responsibility of opting out. I urge the BOCC to adopt reasonable regulations for medical marijuana that protect the rural lifestyle of rural living, and to continue the opt out for recreational growing, processing and wholesaling of recreational marijuana in unincorporated Deschutes County.

Respectfully submitted,

Mark Murzin, Tumalo

Matt Martin

From: Matt Martin
Sent: Wednesday, March 30, 2016 3:54 PM
To: Matt Martin
Subject: FW: OPT OUT PLEASE!!!

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax

From: Barbara Tyler
Sent: Wednesday, March 30, 2016 3:45 PM
To: MAC
Subject: OPT OUT PLEASE!!!

Dear MAC Committee,

I have lived in the city of Bend for 25 years then was able to realize my dream of moving "out to the country" in the Tumalo area. I love all of Central Oregon for the many reasons we all do and try to add to the livability of the community by volunteering for various non profits interested in managing growth and change.

I urge you strongly to OPT OUT of treating the growing of marijuana as a crop. While I have no objections to the legalization of marijuana and voted yes on measure 91, I have been distressed to see what is happening in our community by the marijuana grows. There are two growing green houses in my community and they are disruptive of dark night skies, the quiet of the evenings and fills the air with a horrible odor.

Please set some strong regulations on the growing of marijuana in our rural areas and OPT OUT!! Work for us to keep Central Oregon the amazing place it is.

Thank you,

Barbara Tyler

Matt Martin

From: Matt Martin
Sent: Thursday, March 31, 2016 8:24 AM
To: Matt Martin
Subject: FW: MAC Deliberations and Work Product

Importance: High

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Robert H Blake III
Sent: Thursday, March 31, 2016 6:48 AM
To: MAC
Cc: Board; Nick Lelack; Matt Martin
Subject: MAC Deliberations and Work Product
Importance: High

Dear MAC Members with copies to Board of Commissioners and Messrs. Lelack and Martin,

It will be virtually impossible for me to present comments to the MAC today in person. I am a member of the OHA Rules Advisory Committee ("RAC"), The OHA RAC has a meeting today that likely will preclude my being able to arrive in Bend early enough to present. Perhaps someone can read this e-mail to the group today as part of the public presentation prior to the meeting.

Although I have not spoken to all of you individually, we would recognize each other. As a 57 year old parent of three children (aged 21 through 28), I very much understand the concern with introducing cannabis production, processing, retail, and other related operations into our county and communities. It is my understanding and observation that the MAC reached important consensus on odor, light, and other land use considerations at its last meeting. If we can agree on odor, light, etc. considerations, then it seems logical that zoning designation, minimum acreage, and setback regulations become easier to address for grow facilities. From the outset, I have stated that indoor grow facilities should be treated differently than outdoor greenhouse operations. Virtually all neighbor complaints directed toward cannabis have been related to outdoor greenhouse operations and location.

Therefore, I make the following requests related to grow facilities and other cannabis operations:

- If property is zoned in a manner that permits farming, indoor cannabis growing should be an outright permitted use without new setback or minimum acreage regulations. Odor, light, and other concerns can

and should be 100% mitigated by indoor environmental controls that are prescribed by new, reasonable regulation.

- Cannabis wholesale and processor operations should be an outright permitted use on EFU property. Given the BOC's request to the legislature during the last session, we have gained important guidance as to reasonable regulation and right to farm.
- Minimum acreage requirements for EFU property should be eliminated.
- Cannabis retail, wholesale, and research operations should be permitted in commercially zoned property within the unincorporated areas of the county subject to state mandated setbacks.

As I think back upon the public hearings and testimony related to cannabis that the BOC held over the past year, I am reminded by the singularity of purpose presented by opponents and proponents. The opponents generally oppose cannabis operations on any and all grounds. One might call the opponents "prohibitionists" at times. The majority of proponents have been cannabis farmers who simply want to grow cannabis as any other crop. The problem is that for many citizens cannabis is NOT just another crop. Cannabis is a crop that when consumed has mind and body altering effects. It also is illegal federally at this time. For those who consume cannabis for medical purposes, the results are truly amazing and beneficial. For those who consume cannabis as adult users on a recreational basis, it is a relaxant and analgesic that is consumed as others might do with alcohol.

We as a county should take a leadership position on cannabis. We should not act as prohibitionists. Nor should we act as free market endorsers. Cannabis should be respected for its medicinal and other properties. Cannabis is a powerful substance when consumed. From my perspective as a parent and citizen, we need to develop a vibrant and pervasive educational campaign directed to youth that talks about the benefits and concerns of cannabis use, in much the same way we have done with tobacco and alcohol. To maintain a prohibitionist approach is ill-founded on many grounds. We have a personal moral and overall governmental responsibility to provide this education, beginning in our schools. This responsibility is paramount given the passage of Measure 91.

I will return to the discussion of greenhouses. We live in a rural county. Farming is not easy in our county due to climate, soil, and other considerations. The environmental conditions for cannabis growing, however, are almost ideal. Cannabis growing does not require a lot of water or power, if grown in outdoor greenhouses or now even indoors given new technologies. Cannabis can result in significant revenue for farmers and other individuals who have struggled economically for years. Cannabis can bring significant revenue and economic multiplier effects to our county due to increased employment. Yet, greenhouses can be termed unsightly. I have driven around the county quite a bit over the past few months. Whether one views Bendistillery's property on Rte. 20 with its greenhouse and outdoor shipping containers or other properties with outdoor non-cannabis greenhouses as being unsightly, they are permitted uses. Many large commercial farms for crops other than cannabis use greenhouses. We cannot and should not make cannabis an exception that is subject to unreasonable regulation or prohibition. We will expose the county to unnecessary lawsuits, if we do pursue unreasonable regulation or prohibition of cannabis farming.

Therefore, I implore the MAC to set aside ideological positions and focus on reasonable regulation of cannabis operations and funding of a robust educational campaign, primarily directed to our youth, regarding cannabis consumption. Our young people are already confused enough with cannabis legalization at the state level and the medical program.

As many of you know, our team's cannabis operations are quite focused on medical benefits and research. It will take a number of years to prove the medical benefits of cannabis to the mainstream physician community through clinical trials and/or observational studies. In the meantime, we must take the time to educate our

youth. The days of “just say no” are long gone. Again, we must embrace a leadership responsibility to educate our youth and overall citizenry as to cannabis. Over time, cannabis will prove out to be a substance of profound medical value. And, if consumed in reasonable amounts, as many of us and our forebearers consumed alcohol upon reaching home after a hard day at work, cannabis can be a most effective relaxant and analgesic.

In closing, we have experienced some “bad actors” in the cannabis industry. The new laws and regulations passed by the Oregon legislature will eliminate these “bad actors” for the most part. The water right requirement for cannabis growing is the strongest regulation. Those who continue to operate in an illegal manner or without “good neighbor” respect will be prosecuted, if we implement reasonable land use regulations. We hope that the MAC, which has strong representation of opponents and proponents, will reach consensus this evening on important setback, minimum acreage, and other considerations. Smaller scale indoor cannabis growing should be treated much differently than large scale cannabis farming. If the MAC members argue over what the majority of us citizens consider to be little things and quibbling, then you have squandered a leadership opportunity. There is a pathway to consensus. Please find this pathway and reach consensus as fellow citizens. Since I know many of you and have heard all of you express your concerns, consensus is within reach.

Thank you for your work and effort.

Sincerely yours,

Bob Blake

Robert H. Blake, III
President
Oregonians for Better Health, Inc.
Bend, Oregon 97701

Matt Martin

From: Matt Martin
Sent: Thursday, March 31, 2016 11:35 AM
To: Matt Martin
Subject: FW: Example of Odor Issues from Colorado
Attachments: Basalt Colorado Pot Grow Site Emits Odors - County License at Risk.pdf

Greetings-

(Bcc: MAC, BOCC)

As requested, I am forwarding this message to you.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Liz Lotochinski
Sent: Thursday, March 31, 2016 8:52 AM
To: Matt Martin; Nick Lelack
Subject: Example of Odor Issues from Colorado

Please share the attached with the MAC committee and the BOCC. Even though we have discussed odor, this collection of three articles demonstrate the ongoing nuisance of odor emitted from a commercial marijuana site and the steps a Colorado county implemented to mitigate it.

Pitkin County requires annual business licenses for marijuana operations and the commissioners were considering whether to renew the license of a 25,000-square-foot marijuana production facility since the owners of that grow site could not control the odors.

The grow site eventually installed a carbon filtration system at a cost of over \$1 million.

The commissioners granted a license renewal with several caveats:

- County can revoke or suspend the licenses for the entire facility, or portions of it, with just 10 days' notice if the odor persist.
- The grower must pay the county for a third party (hired by the county) to monitor the odors.
- The grower must meet with commissioners on a quarterly basis until they no longer deem it necessary.

As recently as February 10, 2016, it was reported by a third-party monitor that the carbon filtration system has stemmed the stench and complaints have significantly dropped. (<http://www.aspendailynews.com/section/home/169994>)

Liz

Rick Carroll
rcarroll@aspentimes.com

August 11, 2015

<http://www.aspentimes.com/news/17671193-113/basalt-area-marijuana-farms-license-in-peril>

Basalt-area marijuana farm's license in peril



Aspen Times file |

The license allowing High Valley Farms to grow marijuana comes up for renewal on Sept. 23, when Pitkin County commissioners will decide on its fate. At a work session Tuesday, commissioners raised doubt that the license will be renewed because of the odor coming from the grow site.

In a highly charged meeting Tuesday, Pitkin County commissioners told the owners of High Valley Farms, a marijuana grow facility that debuted last year, that its license is in serious peril because of its chronic stench.

The meeting was the latest in a series of county commissioner work sessions over the smell wafting from High Valley Farms, located in the Basalt area. And each time, Jordan Lewis, co-owner of the greenhouses, has assured commissioners and neighbors the stench will be eradicated. The neighbors also have been making repeated claims that the odor hasn't gone away, continually and negatively impacting their lifestyle.

At Tuesday's meeting the Pitkin Board of County Commissioners room overflowed with frustrated Holland Hills residents, Lewis defended his Basalt-area operation and accused the neighbors of engaging in a "mob mentality," and commissioners showed lost confidence that the smell will be arrested.

Near the meeting's end, commissioners said the license is in jeopardy, while Commissioner George Newman called for its immediate suspension, which could not be done at a work session and would require a special hearing.

Instead, on Sept. 23, Lewis will learn the fate of his farm, which furnishes both medical and recreational cannabis products to his Silverpeak Apothecary in Aspen. That's when commissioners will formally meet to decide whether to renew his license, which expires the next day.

If commissioners don't renew the license, they could give High Valley Farms 30 days to wind down its operation.

"If you have a skunk living under your deck, would you live with it or would you remove it?" Newman said. "I would suggest you remove it. The residents of Holland Hills are asking us to remove it."

When commissioners granted High Valley Farms its agriculture license last year, a condition of the approval was that it would not emit marijuana-type smells. And the county's retail marijuana licensing regulations also state, "All retail marijuana establishments shall be equipped with a proper ventilation system so that odors are filtered and do not materially interfere with the enjoyment of adjoining property."

Commissioner Chair Steve Child apologized to both the neighbors and Lewis for last year's approval.

"I think the county did a disservice in approving what we did approve," he said. "I wish we could have cut the size of the operation in half. If you had two greenhouses (there are four at the farm), you would be in a better position to have less odor and less damage if you didn't get renewed."

Lewis asked the commissioners to "take steps in the meantime to look at this fair and objectively," saying there's "a certain mob mentality" among residents who want to see his farm closed. That drew a chorus of boos, prompting County Manager Jon Peacock to warn one part-time resident — Dr. Ted DeWeese, a professor of radiation oncology and molecular radiation at Johns Hopkins University — to pipe down or leave the meeting.

"Even if we didn't have a single marijuana plant in that facility, we would still be getting complaints," said Lewis, who was emphatic that the smell will be eradicated once a new technology comes online.

Commissioner Rachel Richards, however, along with other commissioners, said Lewis has made those same assurances in the past. Yet the smell has been resilient, despite such odor-suppression tactics as a mist droplet system, a dry-air vapor system and odor destruction through ionization. Lewis said the next strategy is to install a hydroxyl unit.

"We have been pressing as hard as humanly possible and we have spared no expenses at all on getting this done," Lewis said.

But commissioners said the residents are bearing the brunt of Lewis' experiments.

"We've extended our goodwill and trust to you, and we've asked (the neighbors) to live with too much when it comes to what those results have been, and we take the blame for that," Richards said.

Richards said the neighbors are living with a "certain anxiety" in their "day-to-day lives that shouldn't exist."

Some residents expressed fear of potential health problems.

"It's affected my health," Nancy Booth said.

"It's not getting any better, and it won't get any better," she said of the smell.

DeWeese said that the greater the odor, the greater levels of THC — the psychoactive ingredient in marijuana — which can pose health problems. The doctor said the situation playing out at High Valley Farms is reminiscent of when people were exposed to high levels of mercury in Chesapeake Bay.

Other residents said a double-standard appears to be in play. Contractor David Lambert said he had been red-tagged twice by the county because his business created dust, which resulted in complaints. But the county hasn't taken any punitive action against High Valley Farms, he said.

Another neighbor, Chris Cox, said: "To me, this is pollution going into our air. If it was a company sending pollution into the river, it would be shut down. If it was noise, it would be shut down."

Residents said the smell gets in their hair and clothes. Some said they can't go outside to barbecue food because the smell reeks so bad. Others said they have to shut their windows during the heat of the summer.

To his defense, Lewis said he knows of at least five legal or illegal grow operations in the area. Legal ones could be caregivers growing medical cannabis.

"Holland Hills has five grows in that neighborhood," he said. "There is also illegal manufacturing in Basalt. These things exist. There's not just a few of them, there's a lot of them."

He added: "A lot of the complaints have come during the nighttime. At night our ventilation system is running at an absolute minimum. ... At a certain point we all have to acknowledge that there are other factors."

Commissioner Patti Clapper called for the county to investigate other legal and illegal grows near Highway 82, “because you can smell it all the way from Emma to Aspen Village on some days.”

The county launched its own probe into the smells coming from High Valley Farms starting June 9, when Environmental Health Manager Kurt Dahl began to monitor the smell. He recorded faint, moderate, strong or very strong odors on 19 different occasions from June 11 through July 31.

rcarroll@aspentimes.com

Next Article:

Rick Carroll

rcarroll@aspentimes.com

September 23, 2015

<http://www.aspentimes.com/news/18326784-113/high-valley-farms-lives-to-grow-another-year>

High Valley Farms lives to grow

Jordan Lewis said he was “literally betting the farm” on his pot-growing facility near Basalt. The gamble paid off — for the time being at least.

Pitkin County commissioners voted 4-1 Wednesday to renew separate, one-year licenses for High Valley Farms, which is co-owned by Lewis and is the cannabis supplier to Silverpeak Apothecary in Aspen and other marijuana dispensaries in Colorado.

The approval comes with conditions that relate to the farm’s skunk-like pot smell that compelled nearby residents to urge commissioners to revoke the licenses.

Commissioners cautioned Lewis and his associates that they can revoke or suspend the licenses for the entire facility, or portions of it, with just 10 days notice if the stench persist.

“We won’t tolerate another lost summer,” said Commissioner Michael Owsley, referring to the ongoing complaints from residents who said the smell was so pungent they couldn’t enjoy time outdoors in their neighborhoods, while they kept their home windows shut because of the stench and health concerns.

High Valley Farms also must pay the county for [a third party](#) that would monitor the odors. The county would hire the independent party to monitor the greenhouses without influence from High Valley Farms.

Additionally, High Valley Farms is required to meet with commissioners on a quarterly basis until they no longer deem it necessary.

Lewis said a new [carbon-filtration system](#) has been online for eight days at one of the greenhouses and the smell has been tamed. Each of the four greenhouses will have its own filtration system. The seven-figure investment was Lewis' ninth-inning bid to get in the good graces of commissioners, who told him [at previous meetings](#) that his licenses wouldn't be renewed when they expired Sept. 24 if the smell remained.

"I'm very pleased to come before the board today and let you know we have solved the odor problem," he said, apologizing to the farm's neighbors, the commissioners and his own family.

"This is not going to repeat itself in the future," he said.

Lewis still has three greenhouses that currently aren't operational because of the potential for odors. All four greenhouses were working earlier this year, but after other smell-mitigation systems failed to fix the problem, he scaled back operations.

George Newman, the dissenting commissioner, wished Lewis luck but said he couldn't vote to renew the licenses because he believes the farm is located too close to residential areas and the 25,000-square-foot facility is too large and out of character with the area.

OVERFLOW CROWD DIVIDED

The commissioners' approval of both the retail cultivation and medical marijuana cultivation licenses came at a meeting that saw a spillover crowd of champions and opponents of the four-greenhouse facility, located at 24350 Highway 82 next to the Roaring Fork Club and across the road from the Holland Hills subdivision. After nearly 3 1/2 hours of meeting downstairs at Aspen City Hall, which the county borrowed because it didn't have enough space in its boardroom, the hearing was relocated to the county building.

The community mood about High Valley Farms has been seemingly mixed. Nearby residents have been complaining that the farm has emitted skunk-like pot smells since it began growing earlier this year. Some said their property values are threatened by the smells.

They had been vocal at previous county meetings about High Valley Farms, which had little public support.

But in recent weeks, High Valley Farms employees had been rallying to get the license renewed, and they showed up in earnest at Wednesday's hearing. Their common theme: High Valley Farms and Silverpeak are excellent, professional employers and have been on

the forefront of public education and outreach about legalized marijuana. Some also contended that a small minority of residents was wielding too much clout about the future of a startup business in a pioneer industry.

One part-time employee, Larry Jordan, wore a Bob Marley T-shirt, his hair down to his waist.

“Yes, I do have long hair, but I don’t smoke pot; I don’t drink,” he said. “I attend the Christ Community Church.”

Jordan said High Valley Farms, which staffs 75, treats its employees well and pays better than other large employers such as City Market and Whole Foods. He and other workers said they have been incorrectly and unfairly stereotyped as potheads.

But others in attendance, such as Bronwyn Anglin, vice president of the Holland Hills Homeowners Association, said Lewis has not been a good neighbor, and she accused two local writers of intimidating residents into not speaking out against the farm. Other neighbors said they don’t like being the subject of the “experiment” by High Valley Farms.

“It’s about smell and nothing else, no matter what the newspapers may print from time to time,” said Kent Schuler of Holland Hills.

Despite the differences among crowd members, they struck a civil tone without the boos or hisses that came at another recent meeting.

“I don’t think there’s a lot to say here by saying, ‘Here you go — you’re out of business,’” Commissioner Rachel Richards said. “That’s your punishment. ... I think it’s about correcting the problem.”

Commissioner Steve Child, noting that 75 percent of county residents voted in favor of Amendment 64 in 2012, added he would prefer that county marijuana merchants grow their own pot rather than having it shipped in from Denver.

Commissioner Patti Clapper said the community should be mindful that there are other cannabis growers in the area who could be contributing to the smell.

rcarroll@aspentimes.com

Scott Condon
scondon@aspentimes.com

September 22, 2015

<http://www.aspentimes.com/news/18300228-113/basalt-pot-farm-owners-propose-third-party-odor>

Basalt pot farm owners propose third party odor investigator

The owners of a midvalley marijuana greenhouse complex are proposing that an independent third party be appointed to investigate any complaints about odors wafting off its site near Basalt.

High Valley Farms suggested to Pitkin County that a third party could routinely monitor the air for marijuana odor at the greenhouse complex's property line along Highway 82. High Valley Farms owners Jordan Lewis and Mike Woods agreed to pay for the time required for a county employee or a contractor to monitor the air once a day Monday through Friday.

If a marijuana odor is detected, the third party will try to determine if it is coming from the greenhouse complex. If it is, High Valley Farms will be notified and required to take immediate corrective actions, the proposal to the county said.

"The third party will have full access to the exterior of the (High Valley Farms) facility as necessary to accomplish these duties and objectives," said the firm's letter to the county.

An independent odor investigator also would play a key role in handling complaints from neighbors, according to the proposal. High Valley Farms is proposing to set up a dedicated phone line to field complaints about marijuana odors allegedly coming from its site.

"The calls will be routed directly to the county and the third party," the proposal says. "The third party will visit the ... site as soon as reasonably possible to determine if the odor is coming from (the) facility."

If corrective action is necessary, High Valley Farms wants four business days to complete it. Once it thinks it has solved the problem, the third party would return to review.

Lewis said in the letter that High Valley Farms will have spare parts on site to quickly repair the new carbon-filtration system it is installing at a price of more than \$1 million.

The four greenhouses went into operation in March and have spurred numerous complaints from neighbors, particularly residents of Holland Hills. People claim the greenhouses occasionally emit a “skunklike smell.”

The county commissioners have warned Lewis and Woods that they must resolve the issue or their license won’t be renewed. One proposed retrofit to the original system failed to resolve the issue. The partners are convinced the new carbon filters will eliminate odors. The new systems have been installed in two greenhouses. The marijuana plants were cleared out of the remaining two greenhouses until they are fitted with the filtration systems later this month.

The county commissioners toured the site Sept. 16 and will hold a hearing Wednesday. They haven’t had time yet to react to the proposal for a third-party odor investigator. The meeting is scheduled to start at noon in the Aspen City Council Chambers. A change of venue was scheduled to accommodate the anticipated audience.

Some critics of the greenhouse are lobbying the county to make High Valley Farms prove the system is fully operational before extending the license.

High Valley Farms sees the third-party sniffer as a way to ensure it is accountable and that its facility isn’t being blamed for odors that aren’t coming from its site. Members of the facility’s team have suggested in previous hearings that odors could be coming from other sites in and near Holland Hills, where other marijuana is being grown.

“We are 100 percent responsible for any odor that crosses our property line,” Woods said. “We can’t get involved or blamed for neighborhood issues.”

Woods said the filtration system has proven effective in the two greenhouses, so they will press the point that it should be assumed the same system will work with the other two greenhouses.

“It is very important to understand that the business cannot survive with only two greenhouses in operation,” Woods said via email. “The financing for the project is based on all four houses being in production. To delay the start of the cultivation cycle in these two remaining greenhouses, even for a short period of time, will force us out of business.”

scondon@aspentimes.com

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SALT WATER HOT TUB EXPERTS

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Midvalley pot facility passes the smell test

by Collin Szewczyk, Aspen Daily News Staff Writer
Wednesday, February 10, 2016

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Third-party monitor finds no odor from grow operation near Basalt

A third-party monitor has not reported any odor violations at a midvalley cannabis-grow operation since a new carbon-filtration system was installed in September, and residential complaints have also since dissipated.

Kurt Dahl, Pitkin County environmental health manager, told the county commissioners on Tuesday that High Valley Farms near Basalt appears to have solved its odor issue that nearly led to its demise last year.

"From the records ... it seems to me that there's not odor coming off the property," he said.

The operation came under fire last summer from residents of the Holland Hills neighborhood; they complained voraciously about a skunky smell emitting from the facility.

But the farm installed the new system at great expense, and complaints have dropped off sharply ever since. At a license-renewal hearing on Sept. 23, commissioners told Jordan Lewis, founder and CEO of Aspen's Silverpeak Apothecary dispensary and High Valley Farms, that the operation's future would be tied to absolute odor mitigation. Quarterly meetings were scheduled to assess its compliance.

The odor monitor, Ryan Randolph, who holds a bachelor's degree in chemistry, walks the perimeter of the grow operation a couple times a week, checking for smells and sending a report of his findings — or lack thereof — to Dahl.

"He has not noticed an odor," Dahl told the commissioners. "We've not gotten any complaints, and also High Valley Farm set up a complaint line that texts my phone, as well as the other monitor's phone, and sends us emails. We have not received anything on that line as well."

Randolph's services are paid for by the county, with High Valley Farms reimbursing the cost. The complaint line, created by High Valley Farms, is 970-279-1375.

Dahl added that the last complaint filed on the website roaringforkskunksmell.com occurred in mid-October. It appears as if the problem has been remedied, he said.

[Outdoor Recreation](#)[Movies](#)[Games](#)

Calendar

« March 2016

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
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He said he's also checked with a few Holland Hills residents who told him they were pleased the odor issue has been remedied. The county's log of clean reports spanned Sept. 15 through Jan. 29.

However, Commissioner George Newman said two residents called him to say they detected the smell of cannabis on Highway 82 near the facility as recently as Sunday. The source, though, was not confirmed.

Randolph's responsibility is limited to determining if any odor is coming from the farm. He does not go into surrounding neighborhoods to search for pot odors or other possible grow operations.

Two Holland Hills residents, Kent Schuler and Heather Isberian, told county officials that they have noticed a significant decline in odors, but were still concerned that the smell would return with warmer temperatures.

"Last year at this time we had no issues, either," Schuler said. "I've only smelled it one time [recently] and hopefully it's for a good reason."

Isberian said she noticed the smell of cannabis until late November, but hasn't since.

"It definitely has decreased," she said.

Isberian told the commissioners she would like to see the quarterly meetings stretch through the summertime to ensure the issue has been fixed. Both residents added that they were unaware of the complaint line.

Commissioner Michael Owsley suggested that a Holland Hills resident shadow Randolph on site visits and keep their own log.

Schuler said Dave Lambert, another resident who could not attend the meeting, was concerned about irrigation water and how it is being disposed of following its use on pot plants.

Lewis said the water is collected, and some is reused and some taken offsite for disposal.

"We have a very comprehensive plan that involves attorneys, water engineers and landscapers," he said. "Yes, we do use some of that water to irrigate during the summer. And that is within the same rights that every single other person in this valley has, and we operate under the same laws that they operate."

Dahl said tests on the irrigation water from the facility show it's below average residential wastewater standards for nitrates and just slightly above for phosphates.

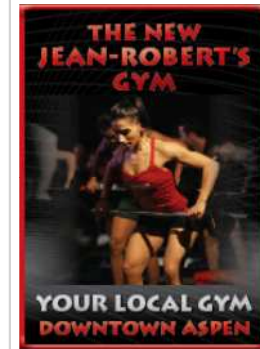
"It's really average of what would be going into the ground for septic waste," he said.

Lewis said that High Valley Farms is proud to be the first grow facility to solve the odor issue. But he added that there will always be some people who oppose cannabis and say there are issues.

The quarterly meetings and monitoring will continue through the summer, though Lewis said he would like to see the monitoring continue as an impartial safeguard.

"It seems like the program is working for the most part," Newman said.

collin@aspendailynews.com



The Fed will likely raise short-term interest rates later this year.

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Matt Martin

From: Matt Martin
Sent: Friday, April 01, 2016 2:41 PM
To: Matt Martin
Subject: FW: Dismay/Bob Blake

Importance: High

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Robert H Blake III
Sent: Friday, April 01, 2016 9:49 AM
To: Board
Cc: MAC; Matt Martin; Nick Lelack; mary orton
Subject: Dismay/Bob Blake
Importance: High

Dear Deschutes Board of Commissioners with copies to MAC members, Nick Lelack, Matt Martin, and Mary Orton,

Unfortunately I was unable to attend last evening's MAC meeting. I also am unable to locate any video recording of the meeting, if there is one. I received a de-briefing of the meeting late last evening. It appears that very little progress was made in regard to zoning, minimum acreage, etc. This result is disappointing.

As I have stated from the outset, leadership is never easy. We live in a democratic society. Cannabis is a divisive topic for all the reasons that we have learned through this land use regulation development process in Deschutes County. We know that we can develop satisfactory noise, odor, and sight regulations that are reasonable.

The right thing to do is for Deschutes County to "opt in" and implement reasonable regulations of cannabis operations. I understand what it is to be an elected representative and to serve on boards of directors. One cannot make every constituent happy. The permitting of cannabis operations can be done effectively and without neighborhood disruption given the development of reasonable land use regulations. In composing the MAC with citizens of polarized interests, we now better understand the issues. However, no workable solutions have resulted due to the polarity of interests and biases.

I have very little to say other than to state my disappointment. To "just say no" to cannabis in unincorporated Deschutes County is NOT the right thing to do. Indoor growing should be permitted as it has existed in Deschutes County for years. Outdoor greenhouse growing can be managed from noise, odor, sight, etc.

perspectives. The Campion/Schutt-Petsche property dispute is unfortunate. It is these types of disputes that reasonable regulations can prevent.

We already have cost Deschutes County and cannabis operators a lot of revenue, jobs, etc. with the delay in implementing reasonable regulations. Please be the leaders that we elected and stand strong and implement reasonable land use regulations.

Sincerely yours,

Bob Blake

Robert H. Blake, III
President
Oregonians for Better Health, Inc.
Bend, Oregon 97701

Matt Martin

From: Matt Martin
Sent: Friday, April 01, 2016 2:41 PM
To: Matt Martin
Subject: FW: OSP and Central Oregon Enforcement Team Serve Warrants, Butane Honey Oil Lab Seized - Deschutes County (Photo)

Greetings-

(Bcc: MAC, BOCC)

Liz Lotochinski asked that this attachment be forwarded to the MAC.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Liz Lotochinski
Sent: Friday, April 01, 2016 1:55 PM
To: Matt Martin
Subject: FW: OSP and Central Oregon Enforcement Team Serve Warrants, Butane Honey Oil Lab Seized - Deschutes County (Photo)

Matt – please forward to the MAC committee and BOCC.

Enjoy your weekend.

From: Oregon State Police [<mailto:info@flashalert.net>]
Sent: Friday, April 01, 2016 12:51 PM
To:
Subject: OSP and Central Oregon Enforcement Team Serve Warrants, Butane Honey Oil Lab Seized - Deschutes County (Photo)

OSP AND CENTRAL OREGON ENFORCEMENT TEAM SERVE WARRANTS, BUTANE HONEY OIL LAB SEIZED - DESCHUTES COUNTY (PHOTO)

News Release from **Oregon State Police**
Posted on FlashAlert: April 1st, 2016 12:50 PM

Downloadable file: [lab_evidence.jpg](#)

Downloadable file: [lab_equipment.jpg](#)

Downloadable file: [Hamehook_residence.jpg](#)

Downloadable file: [Hamehook_plants.jpg](#)

On January 21, 2016 an OSP Trooper conducted a traffic stop on a 2004 Toyota 4Runner in Bend as the driver was using his handheld electronic device. It was discovered the driver, Trevor A THAYER, age 29, of Bend, had a suspended driver's license. A subsequent search of his vehicle led to the discovery of 63 pounds of processed marijuana.

Evidence from that traffic stop indicated a larger organization existed which was involved the unlawful production of butane honey oil and unlawful production and sales of marijuana. The investigation was continued by OSP detectives and the Central Oregon Drug Enforcement Team (CODE).

On March 30, 2016, two search warrants were executed at two locations in Bend as a result of the investigation. The first warrant was served at 56022 Remington Drive. The resident, Trevor THAYER (the subject of the initial traffic stop) was arrested for Unlawful Manufacture of Marijuana and Felon in Possession of a Firearm. He was booked in the Deschutes County Jail.

The Central Oregon Emergency Response Team (CERT) served the second warrant at 63465 Hamehook Road due to the size, location and information received about potential hazards at that location. CODE and OSP detectives searched the residence and discovered the residence was not being lived in but being used only as a location to manufacture butane honey oil and grow marijuana.

A large scale butane honey oil operation was discovered including several pressurized vessels used to store butane which is extremely sensitive to heat and has a high explosion potential. The OSP Explosives Unit responded and rendered one of the vessels safe.

Total evidence seized from both residences was over 136 pounds of marijuana, 104 mature marijuana plants, a butane honey oil conversion lab, and other evidence of the drug organization.

Two males contacted at this location; Thaddeus E PETTERSON, age 37, of Bend, and Jason M PITTMAN, age 32, of Bend were both cited to appear in court for Possession, Delivery and Manufacture of Marijuana.

The CODE Team is comprised of members from the Bend Police Department, Deschutes County Sheriff's Office, Redmond Police, Crook County Sheriff's Office, Prineville Police Department, Warm Springs Police, DEA, FBI and OSP.

More information will be released when appropriate as this is an ongoing investigation.

NOTE- Butane Honey Oil is considered a "Cannabinoid extract" which is described by Oregon Revised Statute as a substance obtained by separating cannabinoids from marijuana by:

- (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;
- (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
- (c) Any other process identified by the commission, in consultation with the authority, by rule.

The manufacture of Butane Honey Oil (BHO) is extremely dangerous due to explosive hazards and is illegal by Oregon Revised Statute unless the manufacturer is a licensee or licensee representative which is acting in compliance with ORS 475B.245. Violation is a Class B Felony. Refer to the following Statute.

475.856 Unlawful manufacture of marijuana; exceptions. (1) Except for licensees and licensee representatives that are engaged in lawful activities, and except for a person acting within the scope of and in compliance with

ORS 475B.245, it is unlawful for any person to manufacture marijuana.

(2) Unlawful manufacture of marijuana is a Class C felony.

(3) Notwithstanding subsection [(3)] (2) of this section, unlawful manufacture of marijuana is a:

(a) Class B misdemeanor, if a person 21 years of age or older manufactures homegrown marijuana at a household and the total number of homegrown marijuana plants at the household exceeds four marijuana plants but does not exceed eight marijuana plants.

(b) Class B felony, if a person manufactures a cannabinoid extract.



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Matt Martin

From: Matt Martin
Sent: Monday, April 04, 2016 10:50 AM
To: Matt Martin
Subject: FW: Deschutes County Should OPT OUT of Commercial Pot
Attachments: MJ Tax Revenues.xlsx; RR 3-14 Measure 91 (1).pdf

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Shirley Morgan
Sent: Sunday, April 03, 2016 11:47 AM
To: MAC
Subject: Deschutes County Should OPT OUT of Commercial Pot



TO: Marijuana Advisory Committee (MAC)

CC: Commissioners Unger, Debone, and Baney
Community Development: Nick LeLack and Matt Martin
mac@deschutes.org
<http://www.deschutes.org/cd/page/recreational-and-medical-marijuana-land-use-regulation>

Re: Over **100** Clackamas County Land Use Applications Submitted-98% Marijuana Production and a Reflection of Assumed Tax Revenues

Dear MAC Advisory Committee,

In 2015 the legislature redefined marijuana as an agricultural farm crop through HB3400 which means that commercial marijuana can be grown and processed in all exclusive farm use areas without any neighbor notification or conditional use permits. HB3400 also gave local jurisdictions **4 options** since

marijuana is still a federally illegal drug operating by cash only and brings with it a lot of public safety, quality of life, and property value risks to our communities.

1. LOCAL JURISDICTIONS COULD **OPT OUT** OF HAVING COMMERCIAL POT GROWS, PROCESSORS, WHOLESALERS, & RETAILERS IN THEIR COMMUNITY IF THEY VOTED **55%** NO OR GREATER IN THE NOVEMBER 2014 ELECTION.
2. IF JURISIDCTIONS GOT UNDER **55%** THEY COULD SEND A REFERRAL TO THE VOTERS IN NOVEMBER OF 2016 AND LET THEM DECIDE IF THEY WANTED TO **OPT OUT** OF HAVING COMMERCIAL POT GROWS, PROCESSING, WHOLSALING, RETAILING AS WELL AS ANY ADDITIONAL MEDICAL MARIJUANA DISPENSARIES OR PROCESSING SITES.
3. **LAND USE** REGULATIONS
4. **DO NOTHING** AND LET IT GO TO THE STATE RULES

In July of 2015 Clackamas County Commissioners were presented these options by the planning department in a commissioner policy meeting and three of the five Commissioners voted to do land use regulations.

Over 80 cities and 19 counties in Oregon have banned commercial marijuana in their cities and counties, therefore only leaving a handful who have opened the door to a federally illegal drug.

UPDATE: The result is significant for Clackamas County-since the marijuana legalization law became official on Jan. 4, 2016, to date Clackamas County already has **100** marijuana land use applications with 98% being marijuana production sites and to date there have already been **15** marijuana complaints as reported in the Clackamas County Planning Commission meeting on Monday, March 28, 2016. To see all 100 land use locations: <http://www.clackamas.us/planning/>

CITIZEN COMPLAINTS HAVE BEEN

1. The odor is so obnoxious we can't even sit on our own front deck.
2. Out of State investors (Washington, Montana, Colorado, Alabama, Florida, California, Arizona, Nevada) are flooding into Oregon and setting up 300' x 700' compounds with 6' non see through fences with razor wire on the top, increasing traffic with bully behaviors to neighbors, and blocking views. (Deschutes County example)



3. Out of State investors are preying upon vulnerable properties which have not sold for a long time, then they are enticing elderly owners with large sums of cash down and getting them to carry the contract without telling them that they are going to grow pot
4. Out of State and in state investors are buying up horse stables and trying to turn them into pot grows in the middle of rural residential farming communities, setting up no turn around security gates and robotic cameras that invade neighbors privacy. Neighbors are putting up blocking screens just to protect their privacy.



5. Growers are setting up make shift green houses and blasting green house lights 24hours a day ruining night skies.



6. Putting up gates with no turn around returns often pushing traffic into neighboring property drive ways.



7. Many properties are clear cutting all of the trees on the property



8. Along with clear cutting trees they are doing Illegal excavation trying to create ground water ponds to water pot plants



8-20-15



12-17-15

It is being touted that Clackamas County land use regulations are being used as a model for other counties, yet their land use regulations are the most liberal in the State and have opened up the door for commercial marijuana growing in almost every rural residential forest farming, timber, ag forest and exclusive farm use zone in the County.

<http://www.clackamas.us/planning/marijuana.html>



It is estimated that for every commercial pot grow location, there are 15 to 22 surrounding homes whose public safety, quality of life, and property values will be greatly impacted. This is a complete and utter takeover by a federally illegal drug of our rural residential forest farming, agriculture, timber and exclusive farm use communities.

Marijuana production Sites	
Sandy	9
Canby	6
Clackamas	3
Oregon City	8
West Linn	1
Estacada	4
Boring	26
Portland	6
Damascus	2
Eagle Creek	5
Aurora	3
Rhodesdendron	3
Weiches	1
Calton	1
Beavercreek	1
Madras	1
Medford	3
McMinnville	4
Mt. Angel	2
Wilsonville	1
Woodburn	1



On another note, it was also consistently brought before Clackamas County commissioners that approving such a program without first considering the costs would be foolish, as Clackamas County only has 4 code enforcement officers and most of the rural areas of the County only have 1 deputy at any given daypart of the day.

Based on the attached State of Oregon Report - "Revenue Impact of Marijuana Legalization Under Measure 91" - pg. 14 (Tables 12 & 13), the **total net Oregon state tax revenue** projected was between \$9,385,696 and \$21,024,214 per year between 2017 and 2019, with the comment that this was not an accurate assessment because marijuana has never been legalized before and there was no tool to measure how the black marijuana would operate under such a program and what impact this would have on marijuana retail sales.

One can only guess and assume what potential tax revenues might be gained or lost in such a program since marijuana is still a federally illegal drug and certainly has no guarantee that it will be a successful venture.

- Assuming the City/County revenue split is proportional to population (which should be approximately proportional to licenses) the 2017-2019 Marijuana tax revenue for Deschutes County will be \$73,535, \$155,965, and \$164,720 respectively per year.
- For **unincorporated Deschutes County** the 2017-2019 Marijuana tax revenue will be ~\$24,512, \$51,988, and \$54,907 respectively per year. This revenue will not come close to covering the costs of increased administrative, sheriff, other services and social costs, let alone offset the losses associated with decreased property values, tourism, reputation and property tax revenue decreases due to decreased property values.

		2017	2018	2019
	Estimated Total Net Oregon Marijuana Tax Revenue*	\$9,385,696	\$19,906,765	\$21,024,214
	* State of Oregon Report - "Revenue Impact of Marijuana Legalization Under Measure 91" - pg. 3			
Percent	Distribution			
40.00%	Common School Fund	\$3,754,278	\$7,962,706	\$8,409,686
20.00%	Mental Health Alcoholism and Drug Services Account	\$1,877,139	\$3,981,353	\$4,204,843
20.00%	Cities and Counties	\$1,877,139	\$3,981,353	\$4,204,843
15.00%	State Police Account	\$1,407,854	\$2,986,015	\$3,153,632
5.00%	Oregon Health Authority	\$469,285	\$995,338	\$1,051,211
	Oregon Population	3,995,000		
	Deschutes County population	156,500		
	Percent Oregon pop. in Deschutes County	3.917%		
	Assume 1/3 of Deschutes County pop. in Unincorporated areas	52,167		
	Percent Oregon pop. in Deschutes County Unincorporated areas	1.306%		
	Assume revenue split proportional to population (which should be similar to licenses)			
	Revenue to cities/Counties	\$1,877,139	\$3,981,353	\$4,204,843
	Total Deschutes County revenue	\$73,535	\$155,965	\$164,720
	DC Unincorporated area share/yr.	\$24,512	\$51,988	\$54,907

We continue to recommend that the Deschutes County Commissioners send a referral to the voters and continue the moratorium opt out, as there will never be a decision more impactful to Deschutes County than this and that decision belongs to the voters.

Respectfully,

Shirley Morgan
Welches, Oregon 97067

A former Member of the Clackamas County Marijuana Task Force



<https://www.youtube.com/watch?v=uTLLUKsbyaY&feature=youtu.be>
www.protectoursociety.org

Public Safety

http://www.oregonlive.com/portland/index.ssf/2015/04/suspected_gunman_in_portland_d.html
<http://www.katu.com/news/local/Woman-dies-after-being-hit-by-driver-smoking-pot-in-Gresham-police-say-330922082.html>
<http://www.kgw.com/story/news/investigations/2015/06/01/oregon-hash-oil-explosions/28312933/>
https://www.youtube.com/watch?v=IFNe_KZhPZw
<http://www.cbsnews.com/news/man-fatally-shoots-himself-after-eating-5-marijuana-candies/>
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Quality of Life

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<http://www.katu.com/news/local/Clackamas-County-residents-hope-to-stop-unwanted-pot-grows-334457271.html>

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<http://golocalpdx.com/news/will-marijuana-grow-sites-affect-neighboring-property-values>
<http://portlandtribune.com/cr/28-opinion/264469-136392-unwanted-marijuana-grows-we-can-smell-the-difference>

Estimated Total Net Oregon Marijuana Tax Revenue*

*** State of Oregon Report - "Revenue Impact of Marijuana Legalization"**

Percent	Distribution
40.00%	Common School Fund
20.00%	Mental Health Alcoholism and Drug Services Account
20.00%	Cities and Counties
15.00%	State Police Account
5.00%	Oregon Health Authority

Oregon Population

Deschutes County population

Percent Oregon pop. in Deschutes County

Assume 1/3 of Deschutes County pop. in Unincorporated areas

Percent Oregon pop. in Deschutes County Unincorporated areas

Assume revenue split proportional to population (which should be similar to l

Revenue to cities/Counties

Total Deschutes County revenue

DC Unincorporated area share/yr.

2017	2018	2019
\$9,385,696	\$19,906,765	\$21,024,214

tion Under Measure 91" - pg. 3

\$3,754,278	\$7,962,706	\$8,409,686
\$1,877,139	\$3,981,353	\$4,204,843
\$1,877,139	\$3,981,353	\$4,204,843
\$1,407,854	\$2,986,015	\$3,153,632
\$469,285	\$995,338	\$1,051,211

3,995,000
156,500
3.917%

52,167

1.306%

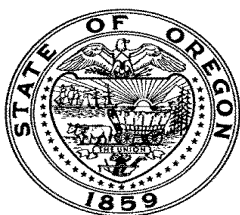
licenses)

\$1,877,139	\$3,981,353	\$4,204,843
\$73,535	\$155,965	\$164,720
\$24,512	\$51,988	\$54,907

Total Po pulation:	156,489
Male Po pulation:	77,365
Under 5 years:	4,902
5 to 9 ye ars:	5,130
10 to 14 years:	5,294
15 to 17 years:	3,162
18 and 1 9 years:	1,727
20 years:	804
21 years:	790
22 to 24 years:	2,578
25 to 29 years:	4,919
30 to 34 years:	5,008
35 to 39 years:	5,338
40 to 44 years:	5,211
45 to 49 years:	5,299
50 to 54 years:	5,574
55 to 59 years:	5,415
60 and 6 1 years:	2,262

62 to 64 years:	3,018
65 and 66 years:	1,722
67 to 69 years:	2,269
70 to 74 years:	2,854
75 to 79 years:	1,791
80 to 84 years:	1,331
85 years and over:	967
Female Population:	79,124
Under 5 years:	4,704
5 to 9 years:	4,911
10 to 14 years:	5,041
15 to 17 years:	3,002
18 and 19 years:	1,627
20 years:	768
21 years:	795
22 to 24 years:	2,470
25 to 29 years:	4,875
30 to 34 years:	4,996
35 to 39 years:	5,177

40 to 44 years:	5,388
45 to 49 years:	5,734
50 to 54 years:	6,082
55 to 59 years:	6,091
60 and 6 1 years:	2,273
62 to 64 years:	3,162
65 and 6 6 years:	1,758
67 to 69 years:	2,280
70 to 74 years:	2,756
75 to 79 years:	2,035
80 to 84 years:	1,545
85 years and over:	1,654



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THE REVENUE IMPACT OF MARIJUANA LEGALIZATION UNDER MEASURE 91

In the November 2014 general election, voters will decide on ballot Measure 91 entitled the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act of 2014. This report estimates the revenue that is likely to result from the legalization and taxation of recreational marijuana use in Oregon. The initiative would legalize recreational marijuana purchase and use by individuals age 21 and over. It assigns the responsibility for the regulation and control of marijuana to the Oregon Liquor Control Commission (OLCC). Additionally, members of the public would be able to grow up to four plants at a time, and allowed to give limited amounts of marijuana and marijuana products to other individuals over age 21.

Summary of Revenue Estimates

The Legislative Revenue Office (LRO) estimates that in fiscal year 2017, the revenue from legal marijuana is expected to be \$16.0 million with a lower range of \$13.1 million and an upper range of \$19.4 million. The **net revenue** (after startup and administrative costs) **in fiscal year 2017** is estimated to be **\$9.4** million with a **lower range of \$6.5** million and an **upper range of \$12.8** million. Marijuana sales are expected to accelerate in the 2018 and 2019 fiscal years. For the **2017-19 biennium**, the net revenue (after administrative costs) is estimated to be **\$40.9** million.

Legalization of marijuana will convert the current black market for marijuana to a gray market as tax and regulatory compliance are slow to take hold. The legalized regulated market is likely to achieve higher efficiency and more innovation with time and as circumstances improve. These technological advances are likely to exert downward pressure on the legal retail price in the future and drive a shift from the gray market to the legal recreational market. However, changes in federal law enforcement could substantially alter growth of the market in either direction because marijuana remains illegal at the federal level.

Legalization Initiatives

Oregon has a history of marijuana decriminalization. It was the first state to decriminalize cannabis possession in 1973. By 1978 the decriminalization in Oregon was followed by Alaska, California, Colorado, Mississippi, New York, Nebraska, North Carolina, and Ohio. In the second half of the 1990's many states have adopted a medical marijuana program. In 1996, California was the first state to legalize medical marijuana through Proposition 215. Since then, 23 states (including Oregon in 1998) and the District of Columbia have adopted medical marijuana programs. Full-scale legalization of recreational marijuana was first adopted in Washington and Colorado In 2011. Voters in these two states passed ballot measures (Initiative 502 in Washington) (Amendment 64 in Colorado) to legalize recreational marijuana.

Internationally, a number of nations have moved to decriminalize marijuana, but legalization remains relatively rare¹. In December 2013, Uruguay was the first nation to adopt full legalization. It is the first national government to approve full-scale legalization of the drug. Even the coffee shops in the Netherlands must rely on black market suppliers, as the wholesaling of marijuana remains illegal. The same is true in Portugal 14 years after decriminalization².

In Oregon, Measure 91 is being considered by voters in the 2014 election. The measure would legalize recreational marijuana use, personal cultivation of up to 4 plants, and commercial cultivation, processing, and retail sales. Each stage of production would have an associated license, and an individual would be able to carry multiple licenses. At the same time, voters in Washington, D.C. will decide on Initiative 72. The measure would legalize adult possession of up to 2 ounces of cannabis, and allow up to six plants to be grown for personal consumption. The measure would not allow the taxation of cannabis, however, because of current law that bars voters from approving taxation via ballot initiative. Alaska is also voting on Initiative 2 for the legalization of recreational marijuana. The measure establishes a Marijuana Control Board for rulemaking and for marijuana facility restrictions with local government control. It also proposes a marijuana tax, which would be \$50 per ounce sold by a marijuana cultivation facility³.

Federal Government Policy

At the federal level, marijuana remains on the list of Schedule I controlled substances under the Controlled Substances Act. The classification is reserved for substances that have a high level of addictive potential and no accepted medicinal value. In October, 2009, the Obama administration sent a memo to federal prosecutors urging them not to prosecute people who had been distributing medical marijuana in accordance with state law. In August 2013, the United States Department of Justice announced an update to their marijuana policy. The department deferred the right to challenge the legalization laws of Colorado and Washington. A memo drafted by Deputy Attorney General James Cole outlined the priorities for federal enforcement of marijuana prohibition under the Controlled Substances Act. The priorities are as follows:

¹ The Economist: [The difference between legalization and decriminalization](#) (6/2014)

² <http://www.spiegel.de/international/europe/evaluating-drug-decriminalization-in-portugal-12-years-later-a-891060.html>

³ more on Alaska legalization measure at <http://guardianlv.com/2014/07/alaska-will-vote-on-the-legalization-of-recreational-marijuana-in-november/#CfRF3ZbO1AkKXtMX.99>

- Prevent the distribution of marijuana to minors
- Prevent the revenue from marijuana sale from going to criminal enterprises, gangs, and cartels
- Preventing the distribution of marijuana to other states from states where it is legal
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana
- Preventing drugged driving and the exacerbation of other adverse health consequences of marijuana use
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands
- Preventing marijuana possession or use on federal property

The memo went on to say that states which enforced their medical and/or recreational marijuana policies to protect against the list of harms above would not attract federal enforcement action. If states failed to control marijuana production, processing, sale, and use in a way consistent with the above guidelines, then federal action could be brought. The memo states that federal authorities still retain the authority to challenge the regulatory structure itself or enforce criminal prosecutions of individuals. As states consider loosening restrictions on recreational or medical marijuana, the likelihood of federal involvement will be reduced if controls can be put in place to prevent negative outcomes.

Recreational Marijuana Legalization: The Colorado and Washington Experience

Upon the passage of initiatives to legalize marijuana for recreational use, Colorado and Washington developed regulatory and taxation structures to control the recreational marijuana market. Colorado opened its first retail outlets on January 1, 2014, while Washington followed in July 2014. The states differ in their method of taxation and the ability of individuals to grow their own cannabis. Colorado allows individuals to grow up to six of their own plants, while Washington prohibits personal cultivation. Both have licensed retail outlets that can sell to the general public provided that they are 21 years of age or older.

At first, Colorado extended the opportunity to receive licenses to sell recreational marijuana to medical marijuana businesses¹ in good standing. Many of the retail outlets in Colorado have marijuana available for both medical customers and recreational customers. In July 2014, regulating authorities extended the opportunity for non-medical entities to apply for a license. After state and local business licenses are approved, these additional stores would likely open in late 2014. Prices for an ounce of recreational marijuana in Colorado hover around \$400 per ounce for the highest grade, and can dip as low as \$180 per ounce for less potent strains. These prices will likely decline somewhat with the addition of new licensed businesses. The price may also be reduced by new discoveries of higher yield strains or improved growing techniques.

In Colorado, the taxation structure of Amendment 64 imposes a 15 percent excise tax at the wholesale level. The Colorado Department of Revenue determines the wholesale price for taxation purposes two times a year. The rate for July 1, 2014 to December 31 2014 is \$1,876 per pound, or \$117.25 per ounce. The wholesale tax for this period is \$17.59 per ounce. In addition to this tax, there is a 10 percent sales tax that is particularly for recreational marijuana, and a 2.9% statewide sales tax. Local jurisdictions may also have their own sales taxes. Revenue collected for the first five months of implementation is shown below.

Exhibit 1

Colorado Marijuana Taxes, Licenses, and Fees Transfers and Distribution \$Millions					
	Jan-14	Feb-14	Mar-14	Apr-14	May-14
Retail Marijuana Sales Tax (2.9%) Transfer to Marijuana Cash Fund	0.42	0.44	0.57	0.64	0.64
Retail Marijuana Sales Tax (10%)	1.40	1.43	1.90	2.22	2.07
Retail Marijuana Excise Tax (15% on Wholesale)	0.20	0.34	0.61	0.73	1.14
Retail Marijuana Licenses and Fees	0.10	0.10	0.11	0.14	0.07
Total Recreational Marijuana Transfers and Distributions	2.11	2.32	3.19	3.73	3.92

Source: Colorado Department of Revenue, Office of Research and Analysis

The first recreational marijuana stores opened in Washington during July, 2014. To date, the state has issued 24 retail store licenses. Supply has been somewhat limited at first and retail prices have been around \$700/ounce. Washington's tax structure is applied as a percentage of the value of the product. The state charges a tax of 25 percent at the grower level, 25 percent at the processor level, and 25 percent at the retail level. As prices change in the market, the amount of taxes collected will change as well. Retail sales are also subject to the statewide sales tax of 6.5 percent as well as any local sales taxes. As of June, revenue estimates were \$51.2 million for the 2015-17 biennium with an increase in subsequent years as more retailers and growers are licensed.

Costs are influenced by the markups and taxes at the various levels of distribution of recreational marijuana. Additionally, Internal Revenue Code 280 E prohibits tax deductions for any business involved in the trafficking of controlled substances. This drives up the costs marijuana businesses will face relative to the gray market or other agricultural or retail firms. The price level can influence the amount of marijuana sold and also the tax revenue. Consumers respond to lower prices by consuming more of a product, and higher prices by consuming less. The existing black market in marijuana has the potential to turn into a gray market that would allow the consumers to choose where they purchase the product based on the relative price of the gray market product to the legalized product. These price changes can affect the amount of tax revenue that is collected on a given volume of marijuana.

Oregon Medical Marijuana Program

The Oregon Medical Marijuana Program (OMMP) began in 1998. It is entirely funded by registry fees for patients, caregivers, and grow sites. The cost for a patient registry is \$200, with a discount to \$60 for patients receiving food stamp benefits, \$50 for residents enrolled in the Oregon Health Plan, and \$20 for patients receiving Social Security benefits. Patients with any of the following conditions can be eligible for medical marijuana after certification by a physician: Alzheimer's disease, cachexia, cancer, glaucoma, HIV/AIDS, nausea, Post Traumatic Stress Disorder (PTSD), severe pain, seizures, persistent muscle spasms, and multiple sclerosis. In 2014, medical marijuana patients numbered 66,922, while 32,796 caregivers were registered to purchase marijuana for homebound patients. Doctors who treated OMMP patients numbered at 1,604. The registry fees have covered the cost of the program and have occasionally produced a surplus that was used to fund other budgetary needs. Medical marijuana users are assumed to continue in that program which effectively offers them a preferable price and access conditions. Their numbers are deducted from the total number of users in later steps.

Oregon Recreational Marijuana (Measure 91) Revenue Estimates

Oregon recreational marijuana under Measure 91 will be taxed (\$35 per ounce of flowers and \$10 for leaves) at the producer level. This section describes the steps taken to estimate the market size and revenue impact of taxation. In order to estimate the revenue resulting from that tax, it is necessary to develop an estimate of the size of the legal market (ounces sold and taxed.)

The general methodology in this research would progress in the following steps:

- Estimate the number of current users.
- Adjusted to the Oregon current population estimates of age groups over 21
- Reduce the number of users by the medical participants (OMMP) and the self-growers.
- Estimate the rates of consumption to calculate the overall volume of ounces used (potential local market). Once that number is determined, the amount of use by the different categories will be applied.
- Estimate the price which will determine how much the black market competes with the legal market. The price will be determined by the costs and markups that the new structure will impose on the product. Experience from other regulated markets, models built by Washingtonⁱⁱ, and experience in Washington and Colorado confirms that the regulated market imposes more costs than what is facing the illicit product.
- Estimate the size of the legal market which is established by the price elasticity.
- Add new (induced) users and the tourist/commuter users (naturally new users and tourists will only utilize the legal market).
- Estimate the base year revenue with all the above assumption.
- Finally the revenue will be estimated and adjusted to reflect startup difficulties and agency costs, particularly in the first fiscal year 2017 and then the 17-19 biennium.

As a measure of sensitivity the projection will be extend for later years to examine different scenarios.

User Estimates

To derive estimates of how many people in Oregon use marijuana, we utilized the National Survey on Drug Use and Health for 2010-2011. The Substance Abuse and Mental Health Services Administration (SAMHSA) has been publishing state estimates of the prevalence of marijuana use (both percentages and estimated counts.) In 2013, SAMHSA developed a more accurate model (Model-Based Prevalence Estimates⁴) for the 2012 data. The data are summarized in Table 1.

⁴ For further information on the revised model, see the NSDUH short report titled *Revised Estimates of Mental Illness from the National Survey on Drug Use and Health* at <http://samhsa.gov/data/default.aspx>. For the further details on the revised weight and predictors used for these 2010-2011 SMI and AMI small area estimates, see the "2010-2011 NSDUH: Guide to State Tables and Summary of Small Area Estimation Methodology" at <http://www.samhsa.gov/data/NSDUH/2k11State/NSDUHsae2011/Index.aspx>.

Table 1

Estimates of below 18 Users as percentage of population			12 or Older Estimate	12 or Older 95% CI (Lower)	12 or Older 95% CI (Upper)	12-17 Estimate	12-17 95% CI (Lower)	12-17 95% CI (Upper)
Last Month	1	Oregon	10.98	9.31	12.90	10.26	8.45	12.40
		U.S.	6.94	6.71	7.17	7.64	7.30	8.00
Past Year	2	Oregon	16.01	14.05	18.20	18.63	16.21	21.32
		U.S.	11.55	11.25	11.86	14.13	13.66	14.60
Estimates of over 18 Users as percentage of population			18-25 Estimate	18-25 95% CI (Lower)	18-25 95% CI (Upper)	26 or Older Estimate	26 or Older 95% CI (Lower)	26 or Older 95% CI (Upper)
Last Month	1	Oregon	25.35	22.14	28.87	8.73	6.88	11.00
		U.S.	18.78	18.22	19.35	4.80	4.54	5.07
Past Year	2	Oregon	39.19	35.26	43.27	11.96	9.82	14.50
		U.S.	30.38	29.67	31.09	7.95	7.62	8.30

NOTE: State and census region estimates, along with the 95 percent Bayesian confidence (credible) intervals, are based on a survey-weighted hierarchical Bayes estimation approach and generated by Markov Chain Monte Carlo techniques. For the "Total U.S." row, design-based (direct) estimates and corresponding 95 percent confidence intervals are given. The top group, denoted by 1, signifies *Marijuana Use in the Past Month*, by Age Group and State: Percentages, Annual Averages Based on 2010 and 2011 NSDUHs. The second group, denoted by 2, signifies *Marijuana Use in the Past Year*, by Age Group and State: Percentages, Annual Averages Based on 2010 and 2011 NSDUHs.

In order to align with the Oregon population estimates it was necessary to adjust those age group categories using Portland State University (PSU)⁵ 2013 estimates. It is also important as well to isolate the age groups identified to be below 21, the legal age of consumption. The users from age groups below 21 were assumed not to be involved in the regulated market and their statistics are omitted from this point on.

Table 2

Oregon	All Ages	21 to 25	% of Total	% of > 21	26 and Over	% of Total	% of > 21	21 and Over
Population	3,919,020	256,773	6.6%	8.9%	2,641,939	67.4%	91.1%	2,898,712

Population statistics show the 21-24 category and 25-29 category, which required an adjustment to create the 21-25 and 26 and over categories.

Using the two tables above, an estimate for the number of users by age group can be easily developed, while using the confidence intervals developed previously (table 1) to indicate a lower and upper range for these estimates.

⁵

Population Research Center, PSU, Population Estimates by Age and Sex for Oregon July 1, 2013

Table 3

		21-25 Estimate	21-25 95% CI (Lower)	21-25 95% CI (Upper)		26 or Older Estimate	26 or Older 95% CI (Lower)	26 or Older 95% CI (Upper)
Population		256,773				2,641,939		
Last Month Users		65,103	56,843	74,118		230,528	181,835	290,719
Past Year Users		100,625	90,527	111,096		316,096	259,438	383,139
Additional Month (13) Percentage		39%	39%	40%		42%	41%	43%

The additional month percentage (13th month) in table 3, is only shown as an indication of use patterns. It can be thought of as a rough measure of the ratio of people who reported using in an additional month of the year to people who reported using in the last year and it comes to an average of 40%.

Medical users are known to number 66,922⁶ and are distributed between the age groups: 5,928 are assumed to be of the 21 to 25 age group while the rest are in the 26 and older group. Medical marijuana users are likely to have preferable price and access conditions through the OMMP program, which will entice them to continue in that program.

Users who grow their own are observed by Crawford⁷ at an 8% level. This is a reasonable level to continue in the new legalized structure. It is also reasonable in relation to a high-price product and the allowance present in the initiative for selling plants which encourages growers to continue their horticultural practice. The growers' assumption will result in a reduction of the number of users who will potentially purchase from licensed retail outlets by 27,984. That number is also distributed according to the age groups. 7,576 of those aged 21-25 are assumed to grow their own and the rest of the home growers are allocated to the 26 and older age group.

Consumption (Use) Rates

The use rates utilized much of the information from the study conducted by Crawfordⁱⁱⁱ. The survey utilized in the study was parsed out to identify different levels of consumption for various categories of users: Super users and regular users (table 4)

Table 4

	21-25 Estimate	21-25 95% CI (Lower)	21-25 95% CI (Upper)		26 or Older Estimate	26 or Older 95% CI (Lower)	26 or Older 95% CI (Upper)
Super Users	5,590	5,029	6,172		17,561	14,413	21,286
Regular Users	81,531	72,802	90,583		217,133	168,155	275,088

The Heavy (Super) Users: This group consisted of the everyday heavy users (mostly men) at an average of 2.25 ounces in a month (27 ounce/year).

⁶ Medical user statistics (OHA)

⁷ Seth Crawford research, OSU **Oregon's Informal Marijuana Economy, 2014**

The Regular (Occasional) Users: This category showed men to use an average of 11.8 grams, while women are found to use slightly less at 11.1 grams. 40% are calculated to have used all 12 months (from the earlier statistics) of the year, and 60% are assumed to use for 8 months of the year.

The New (Induced) Users: New users induced by legalization are assumed to be 3.9% of the total using one month increase use for the occasional users. This is equivalent to 72,818 ounces per year. These users are assumed to be attracted by a reduced social stigma, increased availability, and the elimination of fines for possession.

Adding the usage rate of the new users to the occasional user rate will result in an average of 9.8 grams a month (4.145 ounces/year). The resulting consumption estimated results are shown in Table 5.

Table 5

Consumption in ounces	21-25 Estimate	21-25 95% CI (Lower)	21-25 95% CI (Upper)		26 or Older Estimate	26 or Older 95% CI (Lower)	26 or Older 95% CI (Upper)
Super Users	150,937	135,790	166,645		474,145	389,156	574,709
Regular Users (+Induced)	337,931	301,751	375,451		899,982	696,974	1,140,195
Total Use	488,869	437,541	542,095		1,374,127	1,086,131	1,714,905

Prices in a Regulated Market

The regulated market is segmented vertically into three types of businesses: producers, processors, and retailers. This segmentation could be combined or vertically integrated. However, in order to guard for compliance with the department of Justice Memo, and based on work by BOTC Analysis Corporation^{iv} for the state of Washington, it's likely that each business will have a cost structure that will be manifested in a markup to the price received from the previous level. The markup will cover each of the businesses costs and profits. Usually the markup in various other businesses represents different costs based on the type of business and products sold. Different industries impose varying markups to the product being transacted (from 60% to more than 120%). OLCC currently marks up liquor at around 110%. This research used the following schedule to approximate markup: although many permutations of markup percentages were examined.

Schedule 2

with 20% Fed tax 280E implication included elsewhere	
As % of price	Cost Category
6.80%	Federal Corporation Tax Rate at around 34%
33.3%	Costs of Labor (Compensation, Social Security, Unemployment, Insurance, and Other labor costs)
15.5%	Cost of doing Business (Insurances, Security, Transport, Finance, Rent, Inventory)
7.5%	Fees (Lab, Regulation, Certification, Other)
20.0%	Net Profit
1.80%	State Taxes @ 9%
84.9%	Total

This research used the markup for only the processor and retailer businesses. Producers' prices in a regulated market were assumed to start at the current rate for medical supplies. Few additions were considered at different levels to reach a reasonable estimate of what the price of legalized cannabis will be. As will be described in the coming sections, this research reached the conclusion that the regulated legal price is likely to fall within \$330 to \$340 an ounce.

Price Estimate Models

Current producer's costs based on a paper by the Rand Corporation^v and other research finds the cost of producing a gram of marijuana at \$2 (\$50 per ounce.) This price is consistent with the cost of the Oregon Medical Marijuana Program. The model is created by starting with this baseline price and stepping through the different levels of the business layers. The model will give us a reasonable estimate of what the price of the regulated legal marijuana is likely to be.

According to the white paper on legalized cannabis in Washington State^{vi}, the federal tax code, strictly applied, could actually prevent the viable existence of any legal cannabis business. It is assumed here however, that some means of compliance will exist and still allow for the businesses to somewhat comply with the IRC. In that regard, it is assumed that the inability to deduct cost of goods under IRC section 280E will impose about 20 to 25% additional costs to the businesses. The first combination in Table 6 assumes the cost passed to the processor to only include the producer cost and the tax added, while the IRC 280 E implication will be added only to the retailer price at the end of the process.

Table 6

	Cost OMMP	Tax	Producer's Cost	Markup Processor	Markup Retailer	Federal Tax 280E Implication
				100%	100%	20%
Price	\$50.0	\$28.0	\$78.0	\$156.0	\$312.0	\$374.4
				89%	89%	20%
Price	\$50.0	\$28.0	\$78.0	\$147.0	\$277.9	\$333.5
				88%	88%	20%
Price	\$50.0	\$28.0	\$78.0	\$146.6	\$275.7	\$330.8
				85%	85%	20%
Price	\$50.0	\$28.0	\$78.0	\$144.2	\$266.7	\$320.0
				75%	85%	20%
Price	\$50.0	\$28.0	\$78.0	\$136.5	\$252.5	\$303.0
				65%	80%	20%
Price	\$50.0	\$28.0	\$78.0	\$128.7	\$231.7	\$278.0

The second combination illustrated in Table 7 assumes the cost passed to the processor includes the producer cost, the tax added, and the IRC 280 E implication at 20% of the producer price at the beginning of the process. Moreover, this scenario assumes that the commercial producers add 20% profit, which is not the case for the medical producers (who can only recover cost) under the current medical producers' requirements.

Table 7

	Cost OMMP	Tax	Producer's Cost	Federal Tax 280E Implication	Producer Profit @ 20%	Markup Processor	Markup Retailer
				@ 20%	20%	100%	100%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$224.6	\$449.3
						89%	89%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$211.7	\$400.2
						88%	88%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$211.2	\$397.0
						85%	85%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$207.7	\$384.0
						75%	85%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$196.6	\$363.6
						65%	85%
Price	\$50.0	\$28.0	\$78.0	\$93.6	\$112.3	\$185.3	\$333.6

The third combination shown in Table 8 assumes the cost passed to the processor includes the producer cost, the tax added, and 1.5% collection costs for administering the tax as a service fee. Moreover, this scenario assumes that the IRC 280 E implication will be considered at two stages of the process, which adds 10% at the processor level and 20% to the retailer price.

Table 8

	Cost OMMP	Tax	Producer's Cost	Collection Cost 1.5%	Markup Processor	Federal Tax 280E Implication	Markup Retailer	Federal Tax 280E Implication
Price	\$50.0	\$28.0	\$78.0	\$79.2	100% \$158.3	10% \$174.2	100% \$348.3	20% \$418.0
Price	\$50.0	\$28.0	\$78.0	\$79.2	89% \$149.2	10% \$164.2	89% \$310.3	20% \$372.3
Price	\$50.0	\$28.0	\$78.0	\$79.2	88% \$148.8	10% \$163.7	88% \$307.8	20% \$369.4
Price	\$50.0	\$28.0	\$78.0	\$79.2	84.9% \$146.4	10% \$161.0	84.9% \$297.7	20% \$357.3
Price	\$50.0	\$28.0	\$78.0	\$79.2	75.0% \$138.5	10% \$152.4	85.0% \$281.9	20% \$338.3
Price	\$50.0	\$28.0	\$78.0	\$79.2	65.0% \$130.6	10% \$143.7	80.0% \$258.6	20% \$310.4

The fourth combination in Table 9 assumes the cost passed to the processor includes the producer cost, the tax added, 20% commercial profit, and 1.5% collection costs for administering the tax as a service fee. Moreover, this scenario assumes that the IRC 280 E implication will be considered at two stages of the process, which adds 10% at the processor level and 20% to the retailer price.

Table 9

	Cost OMMP	Tax	Producer's Cost	Profit at 20% Collection Cost	Markup Processor	Federal Tax 280E Implication	Markup Retailer	Federal Tax 280E Implication
Price	\$50.0	\$28.0	\$78.0	21.5% \$94.8	100% \$189.5	10% \$208.5	100% \$417.0	20% \$500.4
Price	\$50.0	\$28.0	\$78.0	\$94.8	89% \$178.6	10% \$196.5	89% \$371.4	20% \$445.7
Price	\$50.0	\$28.0	\$78.0	\$94.8	88% \$178.2	10% \$196.0	88% \$368.5	20% \$442.1
Price	\$50.0	\$28.0	\$78.0	\$94.8	84.9% \$175.2	10% \$192.8	84.9% \$356.4	20% \$427.7
Price	\$50.0	\$28.0	\$78.0	\$94.8	75.0% \$165.8	10% \$182.4	85.0% \$337.5	20% \$405.0
Price	\$50.0	\$28.0	\$78.0	\$94.8	65.0% \$156.4	10% \$172.0	80.0% \$309.6	20% \$371.5

To further compare the price in the regulated market, we look at the regulated markets in Colorado and Washington. The prices are about \$400 and \$700 respectively. Removing an approximate measure of the taxes in the regimes of those two states and adding an amount similar to the tax proposed by M-91 will get a price of about \$323 to \$455. In a similar comparison, the prices in Oregon medical marijuana dispensaries average about \$200. That medical price is supposed to reflect compensation for the costs of growing on behalf of the medical patients and

not meant to include profits. If we add profits of a commercial operation, federal and state corporate taxes, and an allowance for IRC 280 E, we can easily reach the \$330 to \$340 range.

Elasticity of Demand and the Gray Market

Elasticity is the measure by which demand responds inversely to percentage changes in price. The Rand Corporation assumed -0.54 as price elasticity of demand for marijuana. Elasticity as estimated by different sources ranged from -0.5 to -0.85, as a percentage decline in quantity demanded in response to a 1% increase in price. However, it seems that most work starts with elasticity higher than that of tobacco. Thus, if the elasticity of tobacco in Oregon is measured at 0.6% then it is reasonable to assume that marijuana (with its higher price) has a slightly higher elasticity (between -0.7 and -0.75%).

Elasticity of a product emerging from the black market is likely to work in a discrete fashion to signal movement in and out of the legal to the gray market. In other words, the quantity of demand in Oregon (in a closed market) is likely to stay the same, but the source of the supply will be determined by the difference in price. That proportion between the two markets will be dependent on the difference in price. Thus, the elasticity will determine the size of each market. If the legal market is able to provide a supply at an advantageous (consumer) price and equal or better quality than that of the gray market, then the gray markets will quickly become unprofitable and will be squeezed out^{vii}. The illicit price however, is likely to start aligning around a mean in a tighter arrangement as a response to (can't impose higher prices) competition from the legal market. Table 10 shows what the gray market size will be under the assumptions of various elasticities and a range of future regulated prices. It is instructive to note that under high prices and high elasticities the (closed) Oregon market will be dominated by the gray market. Assuming the elasticity of marijuana is somewhere between 0.7 and 0.75, and averaging the middle values of the different scenarios results in an initial gray market size of about 65.7%.

Table 10

Assumed Gray Market Price: \$177/oz.							
Elasticity	Price	\$321	\$332	\$338	\$342	\$347	\$411
-0.5		40.7%	43.8%	45.3%	46.7%	48.0%	66.1%
-0.55		44.7%	48.2%	49.9%	51.4%	52.8%	72.7%
-0.6		48.8%	52.5%	54.4%	56.1%	57.6%	79.3%
-0.65		52.9%	56.9%	58.9%	60.7%	62.4%	85.9%
-0.7		56.9%	61.3%	63.5%	65.4%	67.2%	92.5%
-0.725		59.0%	63.5%	65.7%	67.7%	69.6%	95.8%
-0.75		61.0%	65.7%	68.0%	70.1%	72.0%	99.2%
-0.8		65.1%	70.1%	72.5%	74.8%	76.8%	105.8%
-0.85		69.2%	74.4%	77.1%	79.4%	81.6%	112.4%

Revenue Estimates for the Base Year

The estimate of revenue starts with a base year estimate. A base year is an analysis unit where we assume all elements are working under constant assumptions. Applying all the assumptions introduced in the previous sections while using the 95% confidence intervals (Tables 2-5) to signify the lower and upper range for the estimate. Thereafter, adjustments for the initial start year

and subsequent years will be introduced to allow for possible changes and variation of the assumptions in the base.

Thus, we determined the quantity demanded in the base year to be about 1.8 million ounces (see Table 5). Then, we assume the gray market, at \$177 per ounce, to satisfy 65.7% of the current demand. The blended tax rate is assumed to be \$28 per ounce (\$35 flowers and \$10 leaf) with 72:28 flowers to leaf ratio.

Increased consumption due to tourism and commuters is estimated at 19.6%. This is derived from the reported 42% tourist traffic in Colorado proportioned to the number of surrounding states with medical marijuana programs.

Including all these assumptions, results in a base year estimate of \$21.4 million with a lower range of \$17.5 million and an upper range of \$21.7 million (Table 11).

Table 11

Base Year Revenue		Estimate In \$	Lower Range	Upper Range
Ounces Demanded	in ounces	1,862,996	1,523,672	2,257,000
Regulated Market at 34.3 %	Tax rate @ \$28	17,877,180	14,621,054	21,658,017
With Tourism and Commuters	Increase 19.6%	21,381,107	17,486,781	25,902,988

Revenue Estimates for Fiscal Year 2017

The revenue for FY 2017 is assumed to be 70% of the base year. This is due to normal and usual startup difficulties in any new program. These difficulties stem from developing rules and regulations, newly legalized product, and unknown numbers of participants with developing and varying level of compliance. An increase of 5% (1.5% annually) will accrue within the 3 years since the base year, mostly due to annual population growth.

The measure specifies that the Oregon Liquor Control Commission (OLCC) will be the agency responsible for regulation and enforcement. That will require the OLCC to spend about \$7.14 million in startup and administration costs. The OLCC will also collect application fees and apply them toward the costs of regulation. The resulting net revenue in Fiscal Year 2017 **is \$9.4 million with a lower range of \$6.5 million and an upper range of \$12.8 million.**

The measure requires net revenue to be distributed in percentages to different uses. The Common School Fund receives 40%, 20% goes to mental health and addiction, the State Police gets 15% and 10 % each to cities and counties, while the last 5% goes to the Oregon Health Authority.

Table 12

FY 2017 Revenue expectation		Estimate	Lower Range	Upper Range
Annual Base Revenue		\$21,381,107	\$17,486,781	\$25,902,988
Fiscal Year 2017 Revenue and distributions				
Revenue Expected (@70%) due to program startup and other unforeseen difficulties adding 1.5 % average annual pop growth (3 years) (Gross Revenue)	75% of annual Base	\$16,035,830	\$13,115,086	\$19,427,241
OLCC start up and Administration Costs		\$(7,074,934)	\$(7,074,934)	\$(7,074,934)
License and Application Fee Revenue		\$424,800	\$424,800	\$424,800
Net Revenue		\$9,385,696	\$6,464,952	\$12,777,107
Distributions				
Common School Fund	40%	\$3,754,279	\$2,585,981	\$5,110,843
Mental Health Alcoholism and Drug Services Account	20%	\$1,877,139	\$1,292,990	\$2,555,421
State Police Account	15%	\$1,407,854	\$969,743	\$1,916,566
Cities	10%	\$938,570	\$646,495	\$1,277,711
Counties	10%	\$938,570	\$646,495	\$1,277,711
Oregon Health Authority	5%	\$469,285	\$323,248	\$638,855

Revenue Estimates for the 2017-19 Biennium

The revenue for fiscal years 2018 and 2019 are expected to accelerate by about 6% and 5.5% respectively as efficiencies and improvements take hold to a net annual average of \$20.5 million.

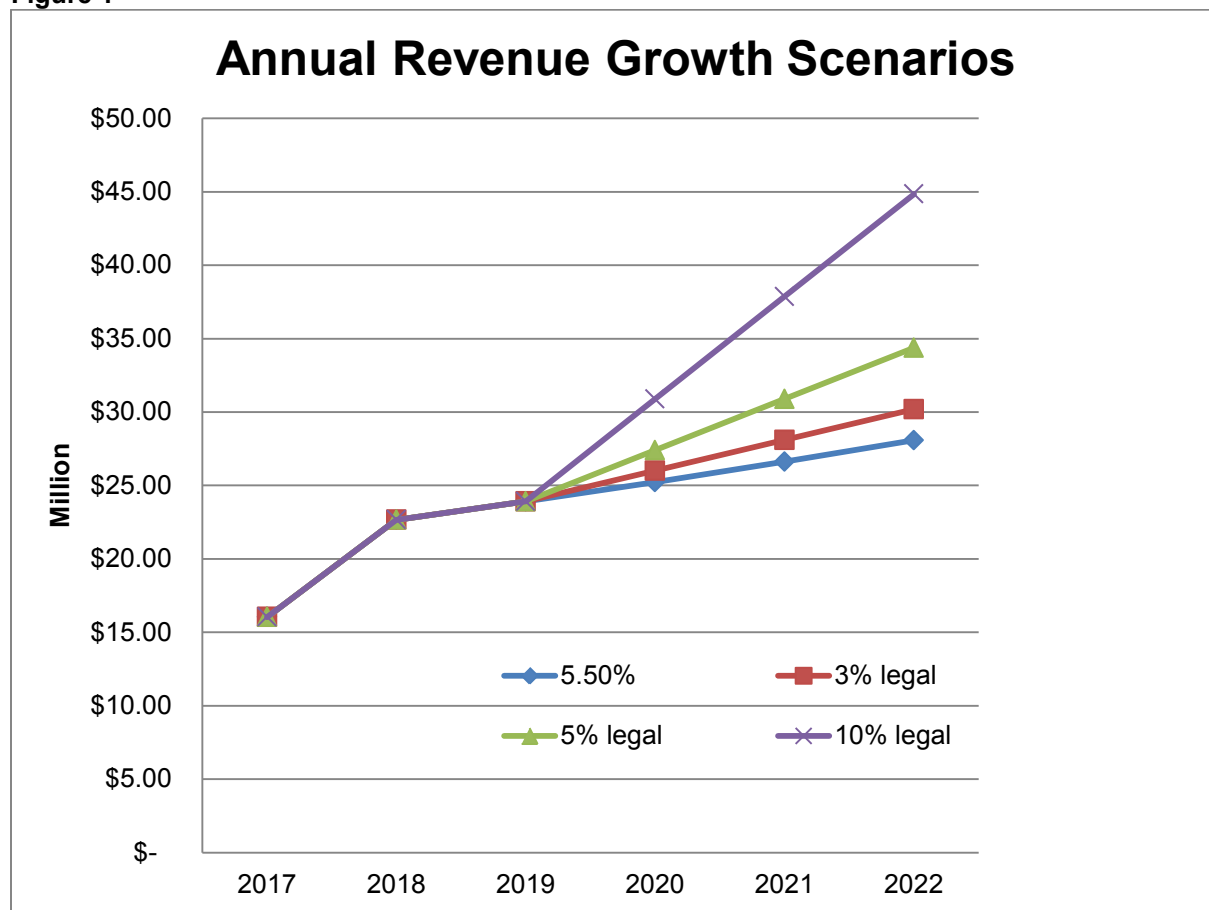
Table 13

	FY 2018	FY 2019	BN 17-19
Gross Revenue	\$22,663,973	\$23,910,492	\$46,574,466
OLCC Costs	\$(3,162,209)	\$(3,291,278)	\$(6,453,487)
License Fees			
Annual	\$360,000	\$360,000	\$720,000
App Fees	\$45,000	\$45,000	\$90,000
Net Revenue	\$19,906,765	\$21,024,214	\$40,930,979
Distribution			
Common School Fund	\$7,962,706	\$8,409,685	\$16,372,391
Mental Health Alcoholism and Drug Services Account	\$3,981,353	\$4,204,843	\$8,186,196
State Police Account	\$2,986,015	\$3,153,632	\$6,139,647
Cities	\$1,990,676	\$2,102,421	\$4,093,098
Counties	\$1,990,676	\$2,102,421	\$4,093,098
Oregon Health Authority	\$995,338	\$1,051,211	\$2,046,549

Long-Range Revenue Scenarios

The Regulated legalized market is likely to achieve higher efficiency and more innovation which is likely to exert downward pressure on future price and consequently on the gray markets^{viii}. The chart below shows several of these possibilities. They include an annual growth of 5.5 in the legal market, a 3% annual increase in market share for the regulated market (reduction in gray market), a higher level of 5% annual growth in the regulated market, and 10% annual expansion of the legal market.

Figure 1



Potential market size in Oregon however, depends on institutional changes, particularly at the federal level. If these changes occur relatively smoothly, the market could grow substantially from the initial estimates. On the other hand, if these changes occur only slowly or not at all, growth of the market will be far more limited.

It is important to note that legalization is potentially beneficial in changing the costs related to enforcement of the current illegal climate. Regulation and enforcement costs and priorities will also likely to be different under a new regulated environment. This research did attempt to look into the cost side of legalization and only concentrated on the revenue and taxation aspect.

Results and Conclusions

LRO estimates that in the base year of the analysis, the revenue is expected to be \$21.4 million with a lower range of \$17.5 million and an upper range of \$25.9 million.

- The revenue for FY 2017 is assumed at 75% of the base year, due to normal and usual startup difficulties in a new program. The net revenue (after startup and other administrative costs) in Fiscal Year 2017 is **\$9.4 million** with a lower range of \$6.5 million and an upper range of \$12.8 million.
- As the system improves and the new regime becomes more established, growth will accelerate by 6 % in fiscal year 2018 (\$19.9 million) and 5.5% in fiscal year 2019 (\$21million). The net revenue in the **17-19 biennium is \$40.9 million**.
- Total users are estimated to be 416,721. Of those 100,625 are in the 21-25 age group, and 316,096 are 26 and older.
- Medical Marijuana users are 66,922 of total, and Users who grow their own are 8%, the same percentage that grows currently, that comes to 27,984 Oregonian. That leaves 321,815 users as the base for the market.
- Users align into two subcategories: Heavy (super) users which number 23,151 and regular (occasional) users numbering 298,664. Heavy users are found to consume 27 ounces per year, while occasional users are estimated to consume 4.14 ounces per year (which includes 3.9% increase in consumption as a result of legalization).
- The total consumption for the 21 and over age group is 1,862,996 ounces per year.
- The blended tax rate is \$28 per ounce (\$35 flowers, and \$10 leaf) with 72:28 flowers to leaf ratio.
- The new market is organized into three vertically segmented businesses, producers, processors and retailers. Assuming the initial costs of production equivalent to current medical production, then marking up for state and federal Taxes (including IRC 280E), the cost of doing business (labor costs including employment taxes and insurance, fees, business insurance, utilities, security, and capital investment with reasonable profit) at each level of these three business, will push consumer prices to a range of \$330 to \$340 per ounce.
- Current average price of illegal (black market) marijuana (\$177 per ounce) will carry to a grey market. The emerging legal market price is likely to reduce the gray market price variability in the short term and cluster it more around the \$177 mean.
- With elasticity of around -0.7 to -0.75 (slightly higher than the elasticity of Tobacco at -0.6) will create a grey market of about 66% of estimated consumption. This is consistent with price differential and profit potential.
- Grey markets exist primarily due to price differentials. The closer the prices between the legal and illicit, the smaller the size of that gray market. In this case, the black market existed first and it is convenient for the consumer to continue buying at the lower price while the shadow seller makes profit. The illicit suppliers don't have to comply with taxation and regulations as well as all the requirements of the legal business, nor to the segmentation of the legal supply structure. All these costs are a potential margin for the gray market profit.
- Increased consumption due to tourism and commuters is estimated at 19.6%.
- The legalized market is likely to achieve higher efficiency and more innovation which is likely to exert downward pressure on future price and consequently on the gray markets. Different scenarios of growth show anywhere from \$27 to \$45 million annually.
- Potential market size in Oregon depends on institutional changes, particularly at the federal level. If these changes occur relatively smoothly, the market could grow substantially from these initial estimates. However, if these changes occur only slowly or not at all, growth of the market will be far more limited.

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- i **State Tax Notes**, (6/24/2013), Shaforth F Getting, High on State Taxes
 - ii **Dynamic Simulation Scenario Model-Final** for Washington DOR, Jon Caulkins; 2013
 - iii **Estimating the Quasi-Underground: Oregon's Informal Marijuana Economy**, 2014
Seth S. Crawford Oregon State University, Department of Sociology
 - iv **Modeling Cannabis Businesses and Costs of Legal Compliance**, Luigi Zamarra, CPA, 2013.
 - v Rand Corporation **Insights on the Effects of Marijuana Legalization on Prices and Consumption**
BEAU KILMER ,CT-351, September 2010
 - vi **BOTC Corporation White Paper1, 2013 For WLCB**
BOTC Corporation White Paper2, letter to WLCB June 17, 2013
 - vii **State Tax Notes**, (10/22/2012) Gangs, Ganjapreneurs, or Government: Marijuana Revenue Up for Grabs.

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- Oglesby Pat, State Tax Notes, (10/22/2012) Gangs, Ganjapreneurs, or Government: Marijuana Revenue Up for Grabs.
- State Board of Equalization (10/28/2009), Prepared Testimony of Robert Ingenito, Research&statistics.

Matt Martin

From: Matt Martin
Sent: Monday, April 04, 2016 11:30 AM
To: Matt Martin
Subject: FW: Letter to MAC and BOCC regarding MJ Regulations
Attachments: open letter to farm bureau PDF.pdf

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Jim Petsche
Sent: Monday, April 04, 2016 11:22 AM
To: MAC; Tammy Baney; Alan Unger; Tony DeBone
Subject: Letter to MAC and BOCC regarding MJ Regulations

Please find attached a letter to the MAC, the BOCC and the Deschutes Farm Bureau regarding regulations they are currently working on regarding Marijuana production and processing in Deschutes County.

Regards,
Jim Petsche

Open letter to the MAC, BOCC and Deschutes County Farm Bureau

I'm aware that the Farm Bureau is showing support for the new marijuana growers in the county.

Well I'm a farmer myself, a current member of the Farm Bureau and have lived on rural property and raised crops & animals for the last 35 years. I have some issues with the current 'crop' of these new 'farmers'.

Farmers generally make pretty good neighbors, they are stable, friendly and responsible individuals with plain old good family friendly values.

From what I've seen, some of the new 'farmers' - seem to be nothing of the sort. Sure there are responsible growers that try to keep neighbor impacts to a minimum but there are also others that push the limits of the rules for their own self interest. These are the ones that the MAC and the Commissioners need to set up Reasonable Rules for... so we can ALL co-exist peacefully.

In my experience driving around the county, some growers seem to have little concern for the neighbors and do not work with them to minimize the impacts on the surrounding properties. Many seem to build anything they can get away with, leave storage containers, 'temporary' trailers, cars that don't run and junk lying around. The greenhouses are frequently not subject to county permitting because of their 'temporary' nature and thus have minimal standards. There are semi-permanent occupants living overnight on some properties that are not zoned for occupancy. Some grow facilities get built along scenic highways (see the hoop houses built near Plainview Road on Hwy 20 in the Landscape Management Combining Zone) and have tremendous impact on the the view of our mountain vistas.

The state legislature defined marijuana as a 'crop' though they went on to further define it as a 'unique agricultural product' and as such should be subject to unique rules to govern it's production. Apparently the Farm Bureau wants nothing of the sort as they propose it is exactly like any other historical farm crop.

Marijuana is a product that is high in value and apparently needs substantial fencing, video cameras and proper screening. The people growing it don't even want to have their addresses given out for fear of someone stealing their product. It is generally a highly intensive greenhouse operation with a number of people required to produce and process the crop, with extensive electrical, mechanical fans and watering systems and it produces an intense odor for many weeks that can travel 1000 feet or more and is offensive to most people. This is far cry from a traditional farming crop by almost anyone's standards.

Under current standards in Deschutes County a large marijuana greenhouse can be sited 25 feet from any property line and in my personal case a 4000 sf pot greenhouse actually **was** sited 39 feet from my property line. I can tell you from actual experience that this is NOT a satisfying situation as it adversely affects the use of my property greatlygiven the sights, sounds and smells of the operation.

We simply cannot keep the existing county regulations as they are! This situation will happen to many other rural property owners as new marijuana production greenhouses pop up in the future unless existing rules are changed significantly.

Imagine having a large greenhouse - or several - pop up very close to your property line and home.

Setbacks of 500 ft or more, lighting regulation, odor control and noise standards simply have to be adopted for this new industry to keep conflicts to a minimum among rural residents who by and large are farmers as well.

We need reasonable regulations to keep it so neighbors respect neighbors - not so someone can take the position that since "I'm a farmer - I can do whatever I want".

I certainly respect the right to farm rules as I apply manure to my own fields, apply chemicals responsibly and perform night operations during the growing season. But now the new pot growers want to turn the 'right to farm' on it's head and bring their nuisance odors and noises to the existing rural residents and shove them into their faces without reasonable setbacks and controls. There are thousands of existing rural residential property owners in this county that are trying to farm as well and trying to live their lives responsibly and not have adverse impacts on their neighbors. There are just a few dozen pot growers who hope to make a fortune by putting up 'industrial-like' complexes in our rural communities with razor wire and electric fences, intense odors, noise, light pollution, increased traffic and visual impacts in our neighborhoods near our children. City children get a 1000 foot setback from marijuana facilities, why should children growing up in the rural county have any less separation.

IT IS JUST NOT RIGHT! The property rights of just a few marijuana growers cannot and should not stomp on the rights of the existing rural residents.

Setting reasonable rules for this new industry **does NOT create any precedents for all farmers.** It helps to keep the peace and only lets responsible people enter the 'new' farming industry.

It makes good sense for ALL of us to have the County Commissioners set reasonable time place and manner restrictions that apply ONLY to the unique marijuana industry both for existing Medical production and new Recreational grows.

Regards,
Jim Petsche
Tumalo, OR

Matt Martin

From: Matt Martin
Sent: Tuesday, April 05, 2016 3:59 PM
To: Matt Martin
Subject: FW: Attached for BOCC and MAC
Attachments: bocc mac.pdf

Greetings-

As requested, I am distributing the attached message to MAC members.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Mark Murzin
Sent: Tuesday, April 05, 2016 3:39 PM
To: Matt Martin; Alan Unger; Tammy Baney; Tony DeBone
Subject: Attached for BOCC and MAC

To Matt & the Commissioners:

Please see the attached regarding the Marijuana Advisory Committee, for distribution to the MAC and the BOCC.

Thanks,

Mark

On February 2, 2016, Commissioner Unger stated in a hearing before the Measure 91 Joint Committee that “if we can’t regulate time, place and manner on rural EFU, if we can’t protect the rural lifestyle of rural living, we’re going to go to a ballot measure”. In a press release dated January 15, 2016, it was stated that the desire was to put together a balanced group that includes both rural residents and representatives from the marijuana industry. The Marijuana Advisory Committee (MAC) Charter states that the MAC will develop and recommend reasonable time, place and manner land use regulations intended to mitigate the impacts of medical and recreational marijuana uses to the Board of County Commissioners (BOCC).

I do not believe the MAC has carried out the stated purpose. While there is still one meeting scheduled for the MAC, I do not believe this will be reversed. In observing the composition of the MAC and the progress made to date, I believe the MAC is unfairly balanced in favor of the marijuana industry and against the rural residents of Deschutes County. It has been extremely difficult to reach consensus on most issues, and despite the change in meeting sessions from three to four hours, and the increase in the number of meetings from five to seven, the MAC will fall far short in even discussing many of the items on the matrix of issues before the committee. The MAC has spent excessive amounts of time on issues that are raised by or specifically beneficial to one or more of the marijuana industry representatives. Those same representatives are **not** spending enough time discussing reasonable regulations that would protect the rural lifestyle of rural living.

There is provisional consensus on issues of odor, noise and lighting. However, these have to be taken in context of the overall positions, especially since there are differing views on parcel size, setbacks and number of licensees per parcel. In a variety of written and oral comments to the MAC, the representatives of the marijuana industry have stated there should be no minimum EFU acreage and only 50 foot setbacks, yet at the same time having no apparent problem with issues of odor, noise and lighting since those were provisionally agreed to. Does anyone really know what the constant noise from fans will be like at a property line? Is the noise any less bothersome between 7am and 10pm, than it is between 10pm and 7am as proposed? Has anyone sat on their back deck or kept their windows open and listened to the fans going 24/7 or smelled the odor from a grow, and felt like this is a reasonable nuisance that a rural homeowner should put up with? If 1,000 feet is deemed a reasonable distance from schools, then it should not be only 50 feet in rural areas.

While I appreciate the tremendous time commitment and work performed by the members of the MAC, the reality is that the results to date (which I presume will not materially change in the last session) are not consistent with Commissioner Unger’s stated goal of protecting the rural lifestyle of rural living and the stated goal of mitigating impacts in the MAC Charter. On occasion, committees are formed and the actual results differ from the objectives. At this time, all the BOCC can do is thank the committee for its service, and either promulgate its own regulations or allow the voters of the county to take on the responsibility of opting out. I urge the BOCC to adopt reasonable regulations for medical marijuana that protect the rural lifestyle of rural living, and to continue the opt out for recreational growing, processing and wholesaling of recreational marijuana in unincorporated Deschutes County.

Respectfully submitted,

Mark Murzin, Tumalo

Matt Martin

From: Matt Martin
Sent: Wednesday, April 06, 2016 9:50 AM
To: Matt Martin
Subject: FW: Mitigating Negative Consequences of Legal Cannabis in Deschutes County

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: alfalfavalleyfarms
Sent: Tuesday, April 05, 2016 9:14 PM
To: MAC
Subject: Mitigating Negative Consequences of Legal Cannabis in Deschutes County

Dear MAC,

We've heard alot about the alleged negative consequences of Legal cannabis in Oregon on the MAC, and I wanted to address 5 main points that seem to be a main concern about implementing reasonable rules and regulations:

1. Reduced Tourism: The article below from the Denver post among others shows that the first year of recreational cannabis in Colorado was the biggest tourism year in its history. Some argue it was because of Cannabis legalization, but either way the only thing that matters is that clearly there was no reduced tourism. If anything it was increased tourism.

http://www.denverpost.com/business/ci_28368011/2014-record-colorado-tourism

2. New Criminals: Criminals are not going to go to a state that is implementing extremely strict regulations to grow marijuana. It's easier to go to a state with Medical marijuana with no regulations. When a facility is licensed by OLCC they require GPS coordinates of licensed premises. This gives law enforcement a huge advantage they didn't have before as there are many Cannabis gardens in Oregon and before they couldn't tell which ones were legal or not. With reasonable regulations and licensing implemented, this puts a target over the illegal Cannabis grows, while at the same time paying law enforcement tax revenue from cannabis sales to use towards enforcement they didn't have access to before. You will also see self enforcement from cannabis industry leaders on anything criminal because they can report illegal activities without fear of prosecutions themselves due to licensing and legalization which they couldn't before.

3. Damaged Environment: Hands down the worst environmental damage in Rural Deschutes county is toxic herbicides, fertilizers, Extremely high water usage on horse feeds such as Alfalfa and Triticale. A typical 40 acre field of this uses 200,000-450,000 of gallons per day. This is equivalent to a full season of 30,000 sq ft of greenhouse. The difference between the two is that growing cannabis would generate around \$2,000,000-\$4,000,000 v.s. \$15,000-\$30,000 of alfalfa using 1/365th of the water.

4. Lower Property Values: I keep hearing that Cannabis businesses actually lower property values, but I have yet to see any proof of this. I've actually hired a realtor to see if this is true, and they were unable to find virtually any property that have gone down in value in the last 2 years. They used MLS and comps of most recently sold land, and said that the property values in the county have had continued growth for over 2 years. I would ask anyone that says that this is decreasing property values to please show proof. We personally have people stop in our driveway all the time just looking through there real estate papers trying to find a place to buy, always talking about how they can't find any places for sale.

5. Fencing/Security requirements: I also wanted to talk about the Fencing/Security requirements the OLCC requires. I've attached the following pictures as this is what every Power company substation, and power station etc in our county has around it. This one literally sits across from a cannabis farm that has been referenced repeatedly. You can see it in the background of some the pictures and how much taller the power company fences are. Please note that this is 10' fence/privacy slats with 1' of barbwire making its combined height of 11' v.s. 7' fence with 1' of barbwire (state required). I haven't seen anyone raising awareness about all of these power company fences with barbwire all over the county. Many opponents of the cannabis industry say who are we trying to keep out? The answer is simple: the same people the power companies are trying to keep out, people who aren't approved by the state of Oregon to be there.

I greatly appreciate your time in reviewing these very important issues.

Thanks in advance,
Andrew Anderson





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Colorado tourism numbers set record in 2014

State, local tax coffers swell beyond \$1 billion for first time from record number of tourists

By Jason Blevins

The Denver Post

The Denver Post

Posted: Tue Jun 23 16:53:27 MDT 2015

A record 71.3 million visitors spent \$18.6 billion in Colorado in 2014, marking a high point for the state's thriving tourism industry.

With Denver and high country **resort communities reporting record performances** in 2014, it's not surprising the state set new benchmarks for tourism last year.

The Colorado Tourism Office on Tuesday released a trio of reports showing the state outpacing national growth rates in every tourism category. It was the fourth year in a row that visitor counts and spending increased in Colorado.

"We are far outstripping the national average at getting our share of guests into Colorado," said Al White, director of the Colorado Tourism Office who soon will be taking on a role as senior consultant with the state's Office of Economic Development and International Trade.

This isn't about marijuana, White said.

"This is because we are doing a good job in Colorado. Is marijuana beneficial?" White said. "Marginally, yes I think it may be a decision influencer for some people coming."

White had research outfit Strategic Marketing & Research Insights, or SMARI, ask travelers it polled whether marijuana played a role in their decision to possibly take a vacation in the state.

Sixty-five percent said marijuana didn't make a difference. Among the rest, 16 percent said they were more likely to visit because of legal recreational weed sales, and 18 percent said pot sales made them less likely to visit.

"So it's a double-edged sword," White said. "We have had records for the last four years in a row, and three years of those marijuana wasn't even legal. It may be a modest benefit to us, but it is not the reason we are seeing great records."

The highlights from 2014:

- **Research firm Dean Runyan & Associates tallied** direct spending by visitors at \$18.6 billion, with 66 percent of that coming from overnight visitors who paid for lodging. That's a **7.4 percent increase over 2013**, which also was a record year for Colorado. The national annual growth rate in visitor expenditures for 2014 was 4.5 percent.

- Runyan reported that the Denver metro area accounted for more than half of the state's travel spending, with mountain resorts making up the next largest chunk at 23 percent. But Runyan's survey showed mountain resorts accounting for 24.6 percent of all travel-generated earnings, versus 4.1 percent of all travel-generated earnings coming from the Denver metro area. (Explanation: Holidays are pricier in Vail than Lakewood.)

- Runyan's research showed the state's tourism-dependent businesses generating \$1.1 billion in local and state taxes in 2014, surpassing the billion-dollar mark for the first time. That's about \$215 in tax revenue for every Colorado resident.

- Tourism supported 155,300 jobs in Colorado in 2014, a 3.3 percent increase over 2013. Those workers earned \$5.1 billion in 2014, a 7.1 percent increase over 2013.

- Longwoods International, which surveys 2 million travelers each year for its state and city clients, **tallied a record 71.3 million visitors to Colorado in 2014**. Overnight trips reached 33.6 million, an increase of 8 percent over 2013.

- Colorado remains the country's top ski destination with a 21 percent share of all overnight ski trips.

- Longwoods showed a record 16.1 million of 2014's visitors were influenced by the state's marketing campaign. Visits to friends and family climbed 11 percent in 2014 to a new high of 13.3 million.

- Overnight visitors to Colorado spent \$12.5 billion in 2014, a 19 percent increase over 2013. Spending by daytrippers reached \$2.7 billion, up 27 percent from 2013.

- Spending by overnight visitors in 2014 climbed in all five main business sectors of the state's tourism industry: lodging spending was up 18 percent to \$3.4 billion, transportation spending rose 20 percent to \$2.9 billion, food and drink spending

climbed 24 percent to \$2.6 billion, sightseeing and attractions spending climbed 14 percent to \$1.9 billion, and retail spending climbed 21 percent to \$1.7 billion.

- Longwoods showed that travelers staying in vacation rental homes contributed 21 percent to all travel expenditures, revealing the soaring role of rent-by-owner homes in the travel industry.
- The top out-of-state markets for Colorado vacationers were California, Texas, Illinois, Florida and New York. Colorado residents remained the top vacationers in their own state, making up 34 percent of all overnight leisure travelers in 2014, which marks a decline from 2013 and 2014.

The state's top tourism champions credited — not surprisingly — their work for the surge in visitors. The state's 4-year-old, \$7.2 million "Come To Life" ad campaign generated 1.7 million additional trips to Colorado, according to SMARI.

That means the state's television, print and radio ads — \$5.3 million for summer and \$1.9 million for winter — stirred a \$2.6 billion impact between April 2014 and March 2015, according to SMARI.

"It's a very strong campaign that makes a very close and personal connection with people and makes them want to visit Colorado," said Denise Miller, a vice president at SMARI.

Most important for tourism leaders who lobby state legislators for increased tourism marketing money each year, the ad campaign delivered \$361 for every \$1 invested, a return on investment that will certainly highlight next year's tourism lobbying efforts. That's up from a \$228 return on each dollar invested in 2012.

"This is why the legislature likes to give us money," White said. "Because we give them back way more than they give us."

Jason Blevins: 303-954-1374, jblevins@denverpost.com or twitter.com/jasonblevins

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Matt Martin

From: Matt Martin
Sent: Wednesday, April 06, 2016 9:51 AM
To: Matt Martin
Subject: FW: How to Preserve Farmland in Rural Deschutes County

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: alfalfavalleyfarms
Sent: Tuesday, April 05, 2016 9:26 PM
To: MAC
Subject: How to Preserve Farmland in Rural Deschutes County

Dear MAC,

Something that is very near and dear to me as 5th generation farming family is how to preserve rural Deschutes farmland.

Since 1993, Rural Deschutes County EFU property owners have been on notice if they lease, buy or build on farmland that farming has nuisances; specifically, light, odor, and noise. I think people need to remember that just because you want to build your house on EFU, that doesn't change the fact that it is zoned EFU specifically for farming and all of the nuisances that have been a part of farming since the beginning of time.

It's extremely concerning that people will build homes on the middle of a piece of EFU knowing they are on notice from the 1993 Right to Farm Act and then ask to have it rezoned simply because they built there home there. If you don't want to farm, why would you live on EFU? For most I believe the short answer is they put there own priorities/interests like mountain views over the already existing right to farm laws that protect farming everywhere in this nation for all agricultural crops. Its no different than buying a house next to the airport only to move in and complain about the sound or smell of the planes.

Nationwide, farmland is being swallowed up by urbanization. In 15 years many united states citizens will be eating food from other countries as they won't be able to afford food grown in the US. This is due to the rapid population growth.

How does building homes on EFU in rural Deschutes preserve farmland? Where is the farming? Alfalfa and horse grains are a hobby farm as they are not a consumable product for humans.

Will my neighbors soon be able to tell me which kind of vegetables or animals to raise? This is an extremely dangerous situation for the future of consumable products in our nation. I think people have a lack of understanding on how big precedence in one legal case can be used in another case in another industry. It's in all our best interests to keep as many civil rights as we can, as every year we lose more and more.

Thanks in Advance,
Andrew Anderson

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Matt Martin

From: Matt Martin
Sent: Wednesday, April 06, 2016 4:18 PM
To: Matt Martin
Subject: FW: White Paper: Unique Solution for MJ in Deschutes County
Attachments: White Paper - Unique Solution for MJ in Deschutes County 4-6-16.pdf

Importance: High

MAC Members-

Liz asked that this attachment be forwarded to the MAC.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Liz Lotochinski
Sent: Wednesday, April 06, 2016 3:17 PM
To: Matt Martin
Cc: Nick Lelack; Tammy Baney; Tony DeBone; Alan Unger
Subject: White Paper: Unique Solution for MJ in Deschutes County
Importance: High

Hi Matt,
Please share the attached white paper with the MAC.

I have taken the opportunity to copy the commissioners on this email.

Commissioners Unger, Baney and DeBone: While the volume of testimony, opinions, emails and letters on the topic of marijuana you receive must be overwhelming, I would appreciate your time in reading the attached document in its entirety.

Kind regards to all.

Liz

A Different Approach to Marijuana Businesses in Deschutes County if Voters Rescind Opt Out

April 6, 2016

The Marijuana Advisory Committee (MAC) has been attempting to develop consensus-driven regulations on time/place/manner (TPM) use standards for all types of marijuana businesses in various zones in the unincorporated areas of Deschutes County. Consensus, it turns out, was rarely achieved.

Summary

This white paper looks at the current estimated supply of medical and projected supply of recreational marijuana, the amount predicted to be consumed by medical and recreational users, the quantity of excess marijuana across Oregon and what happens to that surplus product.

Realizing the taxes associated with the recreational program may not be as lucrative as the marijuana industry and lawmakers hope, and appreciating the negative impacts marijuana grow sites will have on nearby property owners, it becomes clear that some breakthrough idea is needed. A solution to limit the excess marijuana, protect existing property owners and make a level playing field for those interested in entering the marijuana industry is necessary. The unique approach later described in this document was implemented for this very industry at the county level in a different state.

Excess Oregon Marijuana

When in 2015, Oregon state lawmakers disfranchised voters in decisions pertaining to how, when and where the commercial recreational marijuana industry would expand by declaring, in HB3400, marijuana a crop and affording it protection under Oregon's Right to Farm laws, a grievous situation occurred that will result in marijuana overtaking significant amounts Oregon's farmland. Recognizing local jurisdictions should be given some latitude to develop regulations to mitigate the nuisance impacts of medical and recreational marijuana businesses, Oregon's legislators then passed SB1598 in the 2016 session.

With the Oregon Medical Marijuana Program (OMMP) operating since 1998, a flourishing medical marijuana (MMJ) industry exists to support the 74,531 current MMJ patients.¹

But the 46,209 OMMP growers are clearly growing much more marijuana (MJ) than can possibly be consumed by those 74,000+ MMJ patients as reported in the Privateer Holdings document Diversion of Medical Marijuana in Oregon (April 2015)². The report indicates an excess of 161.5 TONS of medical marijuana is produced in Oregon every year based on average yields per plant with a six-plant limit per patient and with daily patient consumption of 1.5 grams.

Over 161 tons of excess medical pot. That is enough Oregon-produced medical marijuana to supply the needs of all patients in Arizona, Colorado, Oregon and Washington, according to the report.

Privateer Holdings, by the way, is a private equity firm with investments in the medical marijuana industry and a portfolio of businesses: a 60,000 sq. ft. research and medical marijuana production facility in Canada; Leafly, an online marijuana information resource, and the "Marley Natural" brand of marijuana. The company is headquartered in Seattle.

When Privateer Holdings estimates that 161 tons of excess medical marijuana is being produced, and when OMMP cannot provide information to assess existing medical production quantities, and with an untold new number of legal – or not – MMJ grow sites coming online since before and after the passage

of Measure 91 (M91), we can only surmise that there is a huge abundance of medical MJ being manufactured.

Now let's factor in the burgeoning recreational marijuana (RMJ) industry in Oregon. If our legislators would have left M91 well enough alone, none of these discussions and issues would have occurred.

Measure 91 legalized adult use of marijuana, allowed households with adults to grow a total of four plants and specified how much MJ an adult could have in their possession either at home or on the go.

But Oregon's senators and representatives didn't leave well enough alone. Instead our lawmakers wanted to create a "tax and regulate"-based marijuana industry. But that tax and regulate approach isn't working so well since both taxation and regulation are flagrantly or furtively being circumvented.

As of 3/18/16, Oregon Liquor Control Commission (OLCC) has received 466 applications from RMJ producers (growers) since January 4, 2016.³ *(That number on 4/5/16 was 563 grower applications – so 97 additional grower applications state-wide were submitted in 12 business days.)* Let's say each of those 466 growers has a 5,000 square foot grow accommodating about 750 plants (~6.25 sq ft per plant). Using the same calculations from Privateer Holdings' report, those 350,000 (750 X 466) plants would produce about 339,500 pounds of pot per year. That's 170 tons of recreational pot produced on an annual basis.

Referring to OLCC's own estimates in their September 2014 report titled "The Revenue Impact of Marijuana Legalization under Measure 91,"⁴ the total recreational consumption of "super," "regular" and "induced" users is projected to be 116,000 pounds or 58 tons.

Here's a review of those estimated numbers for annual marijuana production and consumption in Oregon showing **an excess of 273 tons**:

	Production-Pounds	Consumed-Pounds	Excess-Pounds	Excess-Tons
Medical MJ	408,000	84,769	323,231	161 tons
Recreational MJ	<u>339,500</u>	<u>116,000</u>	<u>223,500</u>	<u>112 tons</u>
Total	747,500	200,769	546,731	273 tons

Some might argue these calculations aren't accurate, but if we *double* OLCC's consumption estimate **Oregon would still produce over 173 tons of excess marijuana.**

Total	747,500	401,538	345,962	173 tons
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It's worth asking the question, "What's happening to the excess marijuana now?"

In a February 2016 Newsweek article⁵, Sam Chapman, co-founder of New Economy Consulting (a marijuana monitoring firm in Oregon), said that about 80 percent of the state's pot ends up crossing Oregon's borders, much of it heading to the East Coast. There is high demand in New York and Florida and elsewhere for Oregon-grown marijuana. Residents in these states, the article says, "are able to take advantage of the quality facilitated by legal cannabis systems in other states."

In February this year, Oregon State Police pulled over a man for speeding and found 113 pounds of pot (worth \$226,000) in his car.⁶

Ohio State Troopers found 21 pounds of marijuana (worth over \$95,000) during a probable cause search of a car driven by a fellow from Ashland, OR.⁷

In January 2016, the former Eugene fire captain, his wife and their son (formerly a Eugene city employee) were charged in Maryland with importing up to 99 pounds of pot, possession with intent to distribute and marijuana possession. The trio faces charges in Lane County as well.⁸

In Bend in early April 2016, police stopped a man using a handheld device while driving. After pulling the fellow over, police found over 63 pounds of marijuana in the car.^{8A} This fellow, a felon, was in possession of a firearm and driving on an expired license. His arrest led police to a home being used to make illegal “honey oil” and grow unlawful marijuana.

Look also at the Craigslist ads around Oregon offering – illegally by the way – “free” marijuana products for a small “donation.” Anyone can reply to these ads and receive pot, often for a small delivery fee. Anyone. Youth, or folks beyond Oregon’s borders.

And remember this was supposed to be a “taxed and regulated” industry. Oregon is collecting not a penny of tax on any of these transactions. The leaky borders of our state will only become more sieve-like. The illegal supply of Oregon marijuana to the black market will continue to increase.

Lack of Oversight in Oregon’s Medical Marijuana Program

Even back in 2012, The Oregonian’s website, Oregonlive.com, published an article with this headline: “Drug traffickers exploit Oregon medical marijuana program's lax oversight and loose rules.”⁹

The article says: “Exploitation of the marijuana program is made possible by scant state oversight and Oregon's exceptionally generous medical marijuana possession and plant limits, all of which lead to the production of far more pot than a typical patient needs.”

And it goes on to include: “Oregon law lacks provisions for inspecting marijuana grow sites of any size, so authorities have no clear idea how much pot they produce and what growers do with their excess.”

And now ask the question: how possibly can one state agency – OHA – provide adequate oversight to the 46,209 existing growers? If OHA’s OMMP decided to inspect each MMJ site once per year, with an estimated three hours per inspection (for research, drive time and inspection) it would require 69 full-time staff working 40 hours per week for a 50-week work year.

Let’s take it local to Deschutes County where over 1,800 MMJ growers are located. When Deschutes County’s planning department requested information on medical grow site addresses, this is the response received from OMMP’s manager André Ourso, “Due to confidentiality provisions in statute the program is prohibited from disclosing grow site addresses.” Mr. Ourso goes onto write this: “... our tracking and reporting database [a requirement of HB 3400] **is currently under construction and does not contain grow site registration information in it yet.**”

Well no wonder there’s been no oversight! OMMP hasn’t been tracking grow site addresses.

It’s also clear why there’s been an explosion of new “medical” marijuana grow operations springing up around Deschutes County closely timed with Ballot Measure 91.

When concerned neighbors inquire about the legality of these new “medical” grow sites, they’re met with either silence from the county or a confirmation that it is a licensed medical grow site. But local county and law enforcement officials do not receive any data on the number of plants permitted at an individual site. These growers know they can hide in plain site without legal, code or license ramifications.

Reviewing the estimated 173 tons of excess medical and recreational marijuana produced annually in the State of Oregon, it begs the question: **When is enough enough?**

At least OLCC's Division 25 Production Size Limitations Section 845-025-2040¹⁰ says the following:

On an annual basis, the Commission will evaluate market demand for marijuana items, the number of person [sic] applying for producer licenses or licensed as producers and **whether the availability of marijuana items in this state is commensurate with the market demand.**

Following this evaluation the Commission may amend this rule as needed.

Limiting Excess Marijuana in Oregon and Deschutes County

It's absolutely imperative that our state and local leaders find some way to limit the outrageous quantity of excess marijuana that is and will continue to be produced in Oregon.

It's even more crucial that Deschutes County Board of Commissioners protect public safety, quality of life and property values and ensure peace is maintained among residents and between neighbors.

Since one state department is willing to consider supply-versus-demand statistics of a high-value, federally illegal drug highly sought across the country in states where its use and possession remains illegal, it seems prudent that Deschutes County should also take a careful look at MJ supply vs demand.

In fact, Deschutes County could establish a leadership role in ensuring it is not adding to the excess quantity of pot already being produced in Oregon.

Deschutes County does not need to play in the game of illicit drug trade. It can choose the better path of ensuring supply of the product, either medicinal or recreational, more closely matches the demand from users.

After all, marijuana CAN cross county lines so the worry of lack of product for recreational or medical users is an invalid argument. Pot from Clackamas or Jackson or Lane or Washington or Multnomah counties can easily supply the needs of Deschutes' residents. It does not have to be grown here on virtually every parcel of farm land.

(Consider that not one avocado is grown in Deschutes County, yet guacamole is plentiful for all who wish to eat it!)

If we knew ahead of opting in to RMJ how many marijuana businesses in each of the four categories (retail, wholesale, processor and production) would apply for OLCC licenses, some appeasement of rural residents' concerns might occur. But the stance of those in the marijuana industry appears determined to blanket our fine county with retail stores and marijuana grows and processing facilities and wholesale sites.

So what to do about the situation?

First, establish regulations for time/place/manner of growing medical and recreational marijuana. The MAC is doing its best to assist in these efforts.

Give the voters back their vote by allowing Deschutes residents to decide what types, if any, of marijuana businesses should be allowed in unincorporated areas of the county.

Then follow Commissioner Baney's March 21 suggestion to require a county license for all marijuana businesses, recreational and medicinal. This gives the county the ability to manage, track and verify that those businesses are adhering to county code and all applicable laws (well, with the exception of federal laws...).

Marijuana Tax Revenue: Is it Worth it?

The allure of tax revenue is understandable, but we must cautiously consider the consequences of expanding a federally illegal, high-value, cash-based product into the rural county. And would any tax revenue compensate for the cost to public safety, quality of life and property values undoubtedly impacted by marijuana grows?

Recreational marijuana tax disbursement calculations are rather complicated. House Bill 2041 (2015) allows OLCC to reimburse themselves from the collected RMJ tax for their costs of administering the RMJ tax. Then OLCC will disperse the RMJ tax based on defined percentages to a variety of entities (schools, mental health, state police, OHA, etc.). Currently, cities and counties will receive 10% each for local law enforcement. Marijuana tax revenue after July 2017 will be dispersed to cities and counties based on the number of licenses issued by OLCC in a given city or county. Areas that prohibit recreational marijuana facilities won't receive marijuana tax revenue. The number of all RMJ license applications received by OLCC as of 4/5/16 is 816³ across 23 counties.

Does Deschutes County want to play a license catch-up game with Multnomah (137 licenses as of 4/5/16), Jackson (105), Clackamas (98), Lane (92), and Washington (94) counties?

Since the number of licensed or illegal MMJ grow sites in Deschutes County is unknown, and since an unknown number of that unknown number may convert to RMJ, and since an undetermined number of *new* RMJ grow sites are working to set up business, and since a realistic estimate determines an excess 173 tons of pot will be produced in Oregon every year, a viable method of limiting extra MJ supply is needed.

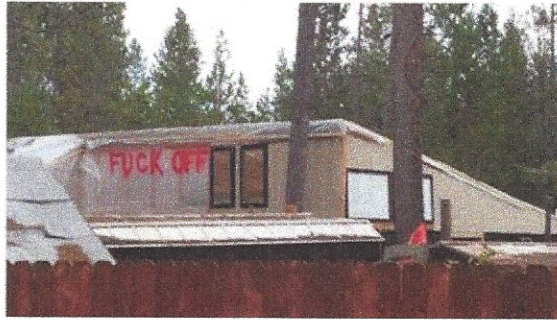
Impacts to Rural Neighbors of Marijuana Businesses

When you consider that EACH pot grow site can negatively impact up to 22 other property owners, that's almost 40,000 parcels impacted by just the medical grow sites. Based on Deschutes County Planning Commission's recommendations submitted to the County Commissioners, an additional 1,925 EFU20+ parcels of land would be eligible for pot grow sites or a potential of 42,350 *additional* affected neighbors. Over 80,000 neighboring parcels of land affected by MJ grows sites indicates many nearby residents to MJ grow sites could have nuisance impacts from multiple grow operations.

MAC members were asked to consider Section 2.2 of Deschutes County Comprehensive Plan (DCCP)¹¹. On page 7 was this conclusion: the "data highlights the fact that farming in Deschutes County is generally not commercially profitable. For a majority of farmers, farming is not a sustaining economic activity, but rather a lifestyle choice. **Living on a farm and farming as a secondary economic activity acknowledge a shift from commercial farming towards the benefits of a rural lifestyle.**"

MAC members were also pointed to Deschutes County Rural Living Handbook¹² and pages 8 and 9 of this document talk about being good neighbors and that this effort is a two-way street.

Though examples are plenty that some (not all) marijuana growers are not pleasant neighbors. Take for example the testimony submitted to Deschutes County by a couple who lived on Sandpiper Road in southern Deschutes County. When they tried to talk with their pot-growing neighbors about the noise emanating from the property, they were met with this slogan painted on the side of the neighboring MJ greenhouse:



Eventually the couple left their former neighborhood and moved into Bend proper. But the owner of their former leased home still has not been able to rent, lease or sell it.

A former horse training facility is now a very large commercial grow site. When neighbors walk on a nearby road, the workers on this MJ site stop and stare at the passersby in an attempt at intimidation.

Another neighbor to a large commercial grow site was fearful of being caught looking at the grow operation when a truck on that property drove up. The neighbor said the marijuana grower is vindictive and didn't want to provoke any more issues with the grower.

Another neighbor to a grow site has seen visitors to or workers of the grow site climb through barbed wire fencing and pass by No Trespassing signs to get on that neighbor's property.

Other residents who walk around their rural neighborhoods witness passengers in parked cars smoking pot next to or near rural marijuana grow sites. The pot smokers then speed off when seen.

A partner in a planned rural marijuana grow business was sentenced to 30 days in jail, 80 hours of community service and a \$24,350 fine for second-degree assault.

These are not nice neighbors. And while these examples may be circumstantial, they do demonstrate that indeed neighbor-vs-neighbor conflicts have happened and will continue to occur if an unmanageable number of marijuana grow sites are permitted to start operation in rural Deschutes County.

Proposed Solution

While the time/place/manner regulations the MAC is attempting to develop will help in a small way to mitigate the nuisance marijuana brings to rural neighborhoods in our county, here's a unique solution to controlling quantities of both marijuana and grow sites: **the County Commissioners should hold a drawing for MJ licenses in the county.**

Take for example New York City's limit of 850 licenses for pedicabs in the city. When the number of licensed pedicab operators falls below 840, the city draws another set of applicants to ensure the number of licenses stays at or near 850 operators.¹³

Consider also California's Alcoholic Beverage Control which holds drawings when more applications are received on a county by county basis than there are licenses available. Montana and Florida hold liquor license lotteries too.

Michigan and Wisconsin hold lotteries for game hunting. So does Oregon.

Take, as another example, **Adams County, Colorado**. The five County Commissioners followed the staff's suggestion to cap the number of marijuana facilities at 10 divided up in the following categories:

- three retail stores,
- three grow facilities,
- three infused-product manufacturing facilities
- one testing facility.¹⁴

Ten total marijuana licenses across all license types in the entire Adams County.

On Jan. 27, 2015, Adams County randomly selected those 10 applicants out of 1,608 submitted applications¹⁵. The 10 applicants had six months to secure the necessary approvals through the county and state. Applicants did not have to secure permits, show experience or have cash-on-hand to join the lottery system. A waitlist of five additional applicants drawn in each category were kept in a reserve waitlist.

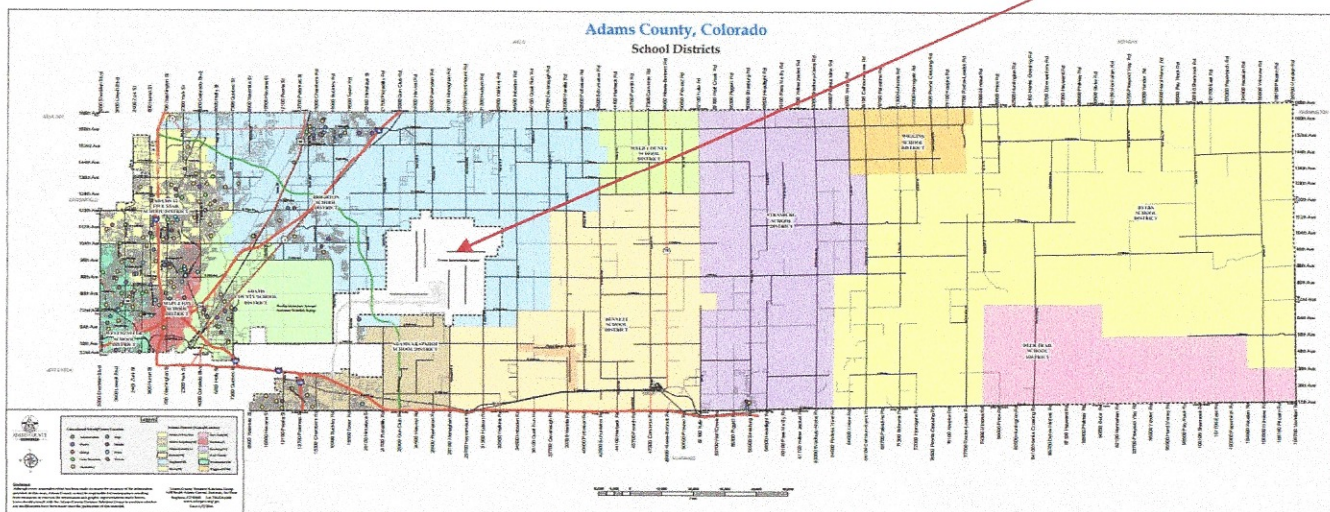
If a lottery winner failed to secure all requirements within six months, the county would go to the next waitlisted name, and that person would immediately begin the same process to open shop. This situation occurred in July 2015 when two of the original 10 applicants were unable to secure all the necessary permits. They were replaced by two waitlisted applicants drawn in the original lottery, and those two are currently attempting to complete their permits and other requirements within their six-month allotted time.

Please note that **Adams County maintains a prohibition on all medical marijuana establishments**.

And just for comparison's sake, here's some demographic information of the two counties:

(courtesy Wikipedia)	Deschutes County, OR	Adams County, CO
Population (2014)	170,388	469,193
Square Miles	3,055	1,182
Population Density/sq mi	52	378
Seat	Bend	Brighton
Founded	1916	1901

Adams County is located northeast of Denver, and its land surrounds the Denver International Airport.



(Map: <http://co-adamscounty.civicplus.com/DocumentCenter/Home/View/435>)

Abel Montoya, Adams County Director of Long Range Strategic Planning, shared some interesting information in a recent conversation. Adams County staff looked at other cities and counties that allowed RMJ facilities to determine a relative number of businesses commensurate with demand.

Adams County commissioners wanted to introduce marijuana slowly into the county. They intentionally considered the amount of time and attention needed to process each MJ application versus staff's available time.

During that first year of licensing MJ businesses, the county leaders realized they would want to evaluate their permitting process, determine what staff increases would be needed, and account for administrative procedures that were not initially considered. In addition, Adams County requires annual certification for renewal of marijuana licenses which affords the county the opportunity to review regulatory issues and nuisance complaints, and require conditioning permits as appropriate. It also allows the county the ability to deny the renewal of a license.

The City and County of Denver complimented Adams County on their process. Noting that Adams slowly integrated the new marijuana businesses into the community was in stark contrast to how Denver rolled it out. This methodical approach allowed Adams County to ensure adequate public outreach into impacted neighborhoods and school districts would uncover possible issues and prevent complaints.

Adams County used GIS analyses to create up to 20 different scenarios using various zoning codes and various setbacks from different impacted users (industrial, educational, etc.). This scenario planning helped to identify how tolerable those businesses or individuals would be in the different zones to the new marijuana industry.

Based on the planning, Adams County identified 40-50 potential parcels for all use standards. Adams County also performed an economic analysis on the various parcels: vacant or not, age of existing structures, required new construction or rehabilitation of existing structures.¹⁶

Keep in mind that Colorado has no outdoor grow sites because the marijuana industry wasn't in favor of them. The area's climate only allows a short five-month growing season. In addition, said Mr. Montoya, security problems of outdoor grows, even with the best safety intentions, are an issue. Significant challenges are inherent in protecting a high-value crop grown outdoors or in a hoop house, he said.

The benefit of the lottery system for assigning marijuana licenses is that anyone with a desire to enter the industry had a chance, Mr. Montoya said. He gave the example of an IHOP waitress who had her lottery ticket drawn. Large MJ business or small, everyone had an equal footing in the lottery system.

Now compare Adams County's population of 470,000 with 10 recreational MJ sites and no medical marijuana businesses to Deschutes County population of 170,000 with over 1,800 medical marijuana grow sites, an unknown number of illegal grow sites and an untold number of interested RMJ growers waiting in the wings.

The best solution for all involved in our Deschutes County is to conduct a lottery for 10 total licenses distributed to three retail stores, five grow sites, one extract processing business and one wholesale facility located in unincorporated areas of the county.

Conclusion

The idea of a lottery system in Deschutes County for RMJ licenses becomes sensible. Sensibleness seems to be lacking in our conversations to date. "Reasonable" regulations are from the point of view of marijuana businesses but sensible quantities of marijuana are what we ought to be addressing. And the proposed lottery system of 10 total licenses (three retail stores, five grow sites, one extract processing business and one wholesale facility) adhering to time/place/manner regulations is the best solution for Deschutes County.

In conclusion then, the following steps are recommended:

- Continue developing rules and regulations to reduce the nuisance impact of all MJ sites across the county, and require time/place/manner standards to be applied to all existing medical and all new recreational marijuana sites.
- Require county business licenses for all marijuana businesses, both medical and recreational, to provide the county revenue and knowledge of where the sites are located.
- Allow voters their previously-denied right to vote on the serious matter of expanding an already out-of-control marijuana industry in rural Deschutes County.
- If the ballot measure fails, implement a county-wide lottery system granting a total of 10 recreational marijuana licenses in the following categories: three retail stores, five grow sites, one extract processing business and one wholesale facility.

A lottery system for 10 marijuana recreational licenses will help deter additional excess marijuana is produced in Deschutes County, will provide equal footing to all MJ businesses, will ensure the County staff can adequately manage the licensing process, and will moderate nuisance impacts between MJ grow sites and their nearby residents.

Respectfully submitted,

Liz Lotochinski
April 6, 2016

¹ OREGON MEDICAL MARIJUANA PROGRAM STATISTICAL SNAPSHOT January 2016
<https://public.health.oregon.gov/DiseasesConditions/ChronicDisease/MedicalMarijuanaProgram/Documents/OMMP%20Statistic%20Snapshot%20-%2001-2016.pdf>

² DIVERSION OF MEDICAL MARIJUANA IN OREGON, A PRIVATEER HOLDINGS WHITEPAPER, April 15, 2015
<https://olis.leg.state.or.us/liz/2015R1/Downloads/CommitteeMeetingDocument/74976>

³ OLCC Marijuana License Applications Statistics by County
http://www.oregon.gov/olcc/marijuana/Documents/mj_app_stats_by_county.pdf

⁴ OLCC report: THE REVENUE IMPACT OF MARIJUANA LEGALIZATION UNDER MEASURE 91, September 2014, <https://www.oregonlegislature.gov/lro/Documents/RR%203-14%20Measure%2091.pdf>

⁵ Newsweek article, "POT IS STILL LIGHTING UP THE BLACK MARKET," February 14, 2016,
<http://www.newsweek.com/weed-black-market-424706>

⁶ Twin Cities Pioneer Press, “Former SPCO cellist arrested in Oregon; 113 pounds of marijuana seized,” February 15, 2016, <http://www.twincities.com/2016/02/15/former-spc0-celist-arrested-in-oregon-police-say-113-pounds-of-marijuana-seized/>

⁷ WCMH-TV Columbus, “OSHP seize \$95k worth of marijuana during traffic stop,” February 2, 2016, <http://nbc4i.com/2016/02/02/oshp-seize-95k-worth-of-marijuana-during-traffic-stop/>

⁸ The Register-Guard, “Former Eugene fire captain, public works employee indicted on marijuana and money laundering charges,” January 23, 2016, <http://registerguard.com/rg/news/local/33983140-75/former-eugene-fire-captain-public-works-employee-indicted-on-marijuana-and-money-laundering-charges.html.csp#>

^{8A} Bend Bulletin, “One arrested, two cited in hash oil operation discovery,” April 2, 2016, <http://www.bendbulletin.com/localstate/deschutescounty/4178793-151/one-arrested-two-cited-in-hash-oil>

⁹ The Oregonian, “Drug traffickers exploit Oregon medical marijuana program's lax oversight and loose rules,” September 22, 2012, http://www.oregonlive.com/health/index.ssf/2012/09/drug_traffickers_exploit_orego.html

¹⁰ OREGON LIQUOR CONTROL COMMISSION DIVISION 25: RECREATIONAL MARIJUANA GENERAL REQUIREMENTS APPLICABLE TO ALL MARIJUANA LICENSEES, http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_845/845_025.html

¹¹ Section 2.2 of Deschutes County's Comprehensive Plan, http://www.deschutes.org/sites/default/files/fileattachments/community_development/page/730/chapter_2_resource_management.pdf

¹² Deschutes County Rural Living Handbook, <http://deschuteswcd.com/images/pdf/Deschutes%20RLH%202010.pdf>

¹³ New York City's Pedicab Law Rules, http://www1.nyc.gov/assets/dca/downloads/pdf/about/pedicab_law_rules.pdf

¹⁴ The Denver Post, “Adams County to hold lottery system for 10 marijuana businesses,” December 16, 2014, [HTTP://WWW.DENVERPOST.COM/ADAMSCO/CI_27149891/ADAMS-COUNTY-HOLD-LOTTERY-SYSTEM-10-MARIJUANA-BUSINESSES](http://WWW.DENVERPOST.COM/ADAMSCO/CI_27149891/ADAMS-COUNTY-HOLD-LOTTERY-SYSTEM-10-MARIJUANA-BUSINESSES)

¹⁵ The Denver Post, “Adams County selects applicants for marijuana businesses,” January 27, 2015, http://www.denverpost.com/adamsco/ci_27404346/adams-county-selects-applicants-marijuana-businesses-today

¹⁶ Abel Montoya, Adams County Director of Long Range Strategic Planning, provided to this author several documents used by his county for their planning purposes on this lottery system. If requested, these documents will be made available.

Matt Martin

From: Matt Martin
Sent: Thursday, April 07, 2016 8:28 AM
To: Matt Martin
Subject: FW: The DEA Will Soon Decide Whether it Will Reschedule Marijuana

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: alfalfavalleyfarms
Sent: Wednesday, April 06, 2016 9:16 PM
To: MAC
Subject: The DEA Will Soon Decide Whether it Will Reschedule Marijuana

Dear MAC,

I've attached a great article on how the DEA will decide on if they will reschedule Cannabis before the 2nd quarter of 2016. I think this shows the federal government itself doesn't believe that Cannabis should be a schedule 1 drug anymore.

<http://fortune.com/2016/04/06/dea-decision-marijuana-reschedule/>

Thanks in Advance,
Andy Anderson

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Matt Martin

From: Matt Martin
Sent: Thursday, April 07, 2016 8:29 AM
To: Matt Martin
Subject: FW: meeting and comments

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: ingmanc
Sent: Wednesday, April 06, 2016 9:18 PM
To: MAC
Cc: Matt Martin; Board
Subject: meeting and comments

Everyone,

I have lived in Deschutes County for 20 years. I have worked in and paid taxes to Deschutes County for 20 years.

This is what my observations are and my comments of the MAC are.

I have been to every MAC meeting since the beginning.
It is lopsided to the Pro members.. no question.

The last meeting of March 30, 2016 was incredible to observe.

Matt Cyrus commandeered the entire meeting.
Numerous times when there was vigorous dialogue going on he would raise his arm and say "I know how to solve this".
Each time he did that he would turn to Hohengarten and grin or wink. So much for her being "at large" and representing either side.
Never was he reined in.
In my opinion it was like watching the back row of a 6th grade study hall.

Andrew Anderson likes to remind us that he is a 5th generation farmer. Andrew, maybe you have been here for so long you take the beauty of Deschutes County for granted. It is why so many people bring their children here and recreate here. Why tourism emphasizes clean air, beautiful views and healthy living. Wherever I go so many people tell me how lucky I am to live in Bend and wish that they could. They see it through new eyes. They know how lucky we are.

Andrew Anderson also likes to remind us that in his investigated efforts, property values are unaffected . Maybe for now. Give it time Andrew. If left to the pro-pot industry no one will want to come here with their families, especially with their children Then you will see values go down for the rural residents who are close to a grow or don't have the acreage and water that makes it valuable Not everyone has "Mac Mansions" Andrew. If they do they probably worked very hard for years to get it.

This is why I wish to see a continuation of the opt-out. It is too complex an issue to come to reasonable TPM to decide at this time.

Take time to consider ALL sides. With input from every one before coming to a decision.

Please.

Cynthia Ingman

Matt Martin

From: Matt Martin
Sent: Thursday, April 07, 2016 9:27 AM
To: Matt Martin
Subject: FW: submittal comments re mj and the MAC meeting #7

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Nunzie
Sent: Thursday, April 07, 2016 9:17 AM
To: MAC; Board
Subject: submittal comments re mj and the MAC meeting #7

Kindly enter this into the mac record and the BOCC discussions on marijuana:

Deschutes County can barely keep pace with it's own land use approvals exclusive of marijuana. Code enforcement issues continue to increase. Land use issues are increasing in complexity and each year including today CDD does not have oversight staff to assure that conditions of land use approvals are actually implemented. Relying on complaints is a sore subject as your CDD director has expressed at your recent work session last month on code enforcement needs.

Adding non conforming uses and grandfathering standards to the discussion of marijuana land use regulations for the MAC #7 meeting is unwarranted.

Recently your CDD has rubber stamped potato washing/processing operation, tomato operation and/or hydroponic veggies when we all know what is being grown / planned with a wink is marijuana.

Your specific regulations are meaningless unless you do the following:

The County needs to implement a marijuana license to be able to reasonable regulate marijuana in Deschutes County. Relying on OHA's or OLCC's license does not suffice.

The County needs immediate and direct access to every marijuana site such that it can implement it's land use regulations, such that a planner or building official or county code enforcement officer or county sheriff can visit the site: this is another reason for the business license.

The following items need to be addressed:

map showing identification and location of farm soils such that farm soils are not used contrary to the zone protections

Site Plan review to include all dimensions drawn to scale with dimensions including:

photo of Fencing or Screening that is aesthetic earth tones and excludes reflective materials, parked vehicles, mounded dirt

LM zone that is respected

LUCS that is complete both for visible and non-visible

Vault: definition, size, mobility, maximum size
grow lights to be included in the lighting ordinance
employee parking designation
septic tank, drain field, reserve drain field such that a structure or greenhouse/hoop house or other ag exempt building is not placed over the top of these
definition of time for a "temporary" building or "temporary" item brought onto the property
methodology to prohibit living in agricultural exempt buildings including tiny homes, 5th wheels, travel trailers etc used as unpermitted residences
metal storage containers: maximum numbers
setbacks of peripheral items used in support of marijuana such as water tanks, propane tanks, dumpsters, trash receptacles etc
a Deschutes County requirement that a meter is installed on a groundwater well used for marijuana production/processing/wholesale/retail
fire access not being blocked by peripheral items that are not mobile (such as propane tanks, large trailer beds that have no truck/engine attached, unlicensed or uninsured vehicles)
Site plan review to show setbacks for all aspects of the marijuana operation proposed including compost, ponds, effluent dispersal, distances to adjacent wells and distances to dwellings on adjacent parcels.

It is imperative that Deschutes County get this right the first time; This is your opportunity to preserve our Deschutes County. The public trust to preserve rural livability and air quality is in your hands.

Public health and safety are in your lap on your watch.

The numbers of OHA licensees are staggering: the evidence from other counties who have opted in is staggering.

Until you can identify each OHA licensed property, the best thing Deschutes County can do is implement the **strictest rules** while keeping the Opt Out in place.

UGB's is where this industry belongs: in heavy industrial parks, in commercial areas where there are fire sprinklers, where there is housing and where there is transportation.

I trust you grasp the intensity of this industry. I encourage you to continue your learning
Nunzie Gould

RECEIVED
BY: mjm
APR 07 2016
DELIVERED BY: AT
MAC MF

3 minute talk OUTLINE

Jim Petsche
Tumalo, OR

I'd like to talk to you today about 2 things:

- 1- Setbacks which you are supposed to talk about today and
- 2-the Proposal you floated at the last MAC meeting that got voted on 9 to 4 concerning the number of licenses per parcel. I'd like to show you an ACTUAL example of how that might work to see if you'd like to change the proposal a bit

SETBACKS:

The picture I'm sending around is from MY property taken from a distance of 80 feet from the existing greenhouse which is 40 x 140 (approx 5000 sf) still pretty massive at that distance I also like to point out that a SETBACK isn't really a SETBACK if someone FILLS the space with large fertilizer tanks, '18 wheelers used as temporary storage' and propane tanks virtually ON the property line. Just pointing out the reality of the situation for your discussions tonight.

REAL LIFE EXAMPLE of one of the proposals from last weeks's MAC meeting:

Here is the aerial photo of my property which I showed at an earlier MAC meeting. Existing greenhouse clearly shown. (approx 40 x 140 +/- 5000 sf of canopy per OLCC regulations)

They yellow crosshatched post it shows how ONE additional greenhouse could be sited on the property (at 200 setback per planning commission rec'd) and still meet the OLCC Tier II rules using the MAC's definition that a greenhouse is a structure of some type.

If however, you use the OLCC definition that says a greenhouse WITHOUT supplemental lighting is defined as an OUTDOOR GROW then actually 7 additional greenhouses of this same size could be sites

AND

then 8 more greenhouses could be added on this adjacent 19 acre parcel for the 2nd license (per your proposal of 1 for 1st 10 acres and one more license for every additional 10 acres.)

Thanks for letting me show you this REAL WORLD situation

OUTDOOR
OLCC RULES
LICENSE #2

40 x 140 Greenhouse (typ)

± 5000 sf Canopy each



OUTDOOR
OLCC RULES
LICENSE #1

40 x 140 Greenhouse (typ)

± 5000 sf Canopy each

40 x 140' Indoor



Property
Line

40 x 140'



RECEIVED

BY: mym

APR 07 2016

Dear MAC Members,

DELIVERED BY: At

I have been present at each meeting listening to your process. Thank you for your efforts to come together to discuss co-creative solutions that serve all Deschutes County residents. Though I must admit, I do find it very difficult to sit and listen when I realize there is a lack of critical information lacking in some areas. MAC mtg.

I have been in the horticulture industry my entire life, starting with a family plant nursery, and began cultivating medicinal cannabis and patient advocacy in 1996. My daughter has special needs and greatly benefits from medicinal cannabis. I now work for an investment firm dedicated to the cannabis industry as VP of Business Development. I am also on the OLCC Rules Advisory Committee for Business. My previous career is in solar and energy efficiency. I hold a NABCEP Certification, thereby have knowledge of electrical loads and capacities.

Lot size:

Larger parcel size and increased set back requirements only serve to attract out of state businesses that can afford such expensive properties. When that much money is spent on a property, the business plan will scale up production to justify that expense. This does not support small farmers

Electrical Load:

Previously presented was a concern for electrical load capacity for increased power demand for production operations. The electrical coop Presidents mentioned an inquiry they had for 12MW system, which would require a new substation.

Most power consumption is from high intensity lighting, with an average of 1000 watts per fixture. Each fixture has a footprint of 24-36 square feet. Therefore 12MW would be equal to 12,000 lights which would require at least 288,000sf of plant canopy. There is no license that exists that allows for this size operation.

The Tier II licensee, utilizing indoor lighting, would require approximately 200 lights. Which would only be 1000A, equivalent to 5 houses, a machine shop, and is smaller than many industrial operations.

Outdoor Cultivation:

My business plan includes outdoor cultivation in a way that would not cause a smell nuisance to any neighbors as I would not be flowering outdoors. Please review your outdoor growing to include non-flowering option.

Transportation:

My business plan would require on site processing prior to drying. Please allow for processing of fresh material, and not require this very delicate fresh flower material be transported off site. Additional transportation is also the greatest security risk and would have truckloads of cannabis unnecessarily moving around the County at much higher rates.

Matt Martin

From: Matt Martin
Sent: Friday, April 15, 2016 2:21 PM
To: Matt Martin
Subject: FW: Bringing clarity to the MAC being unbalanced claim

MAC Members-

The following message was received via the mac@deschutes.org e-mail address.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: alfalfavalleyfarms
Sent: Friday, April 15, 2016 11:53 AM
To: MAC
Subject: Bringing clarity to the MAC being unbalanced claim

Dear MAC,

There seems to be alot of talk about the MAC being unevenly balanced towards the cannabis industry, and I wanted to bring clarity to who is in the cannabis industry and isn't, proving this allegation has no merit.

Studies nationally show that 58% of the nation in current polls think cannabis should be legal. That means that if Deschutes county is balanced like the nation, we should have had more people apply to the MAC that were in support than against.

<https://www.washingtonpost.com/news/wonk/wp/2016/03/25/support-for-marijuana-legalization-has-hit-an-all-time-high/>

The fact that there are only 4 marijuana industry business owners (Andy, Hunter, Lindsey, Josh) shows that we are less than balanced from the industry side, but growing support for our industry to be legal everywhere makes people not even involved in the industry interested in supporting the cause.

Prohibitionists will tell you everything in the world to convince you why cannabis is bad, just as they said the sky would fall with legalization. It hasn't. All I ask is that you look at the facts and make a decision based off of them. I don't believe this claim has any merit, and would like it entered in the report reflecting who on the MAC is involved in the industry for the public and the BOCC to clearly see.

Making allegations that a committee is unfairly balanced with no proof, and no factual basis just because they don't vote the same way as you or agree with your ideas is unjust, and should not be allowed to continue. It's slanderous.

While serving on the MAC the following people were directly involved in the cannabis industry:

Andy Anderson

Hunter Nuebauer

Lindsey Pate

Joshua Rodriguez

Matt Cyrus-Hemp, not cannabis (which we weren't even talking about on the MAC as they are legally defined separately) This was misrepresented by the Bend Bulletin.

I greatly appreciate your attention to this matter.

Thanks in Advance,
Andrew Anderson

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The Washington Post

Wonkblog

Support for marijuana legalization has hit an all-time high

By **Christopher Ingraham** March 25

A [new survey released today](#) by the the AP-NORC Center for Public Affairs Research finds that a record-high percentage of Americans -- 61 percent -- say they support marijuana legalization.

The survey uses the same question wording ("Do you think the use of marijuana should be made legal, or not?") on marijuana as previous Gallup surveys, which had shown a previous high of [58 percent support for legalization](#) last October.

However, AP-NORC asked a follow-up question that found a considerable amount of nuance in Americans' support marijuana legalization. Twenty-four percent of legalization supporters said marijuana should be made available "only with a medical prescription." Another 43 percent said there should be "restrictions on purchase amounts." And one-third of legalization supporters said there should be "no restrictions" on purchase amounts.

"This is yet another demonstration of just how ready Americans are for the end of marijuana prohibition," said Tom Angell of the Marijuana Majority, a marijuana reform group. "The growing level of support for legalization that we see in poll after poll is exactly why we're now in a situation -- for the first time in history -- where every major presidential candidate in both parties has pledged to let states set their own marijuana laws without federal interference."

Marijuana legalization is particularly popular among Democrats (70 percent support) and independents (65 percent). Nearly half (47 percent) of Republican voters support legalization as well.

There is a considerable age gap on the question. Eighty-two percent of 18-to-29 year olds support legalization, compared to only 44 percent of those aged 60+.

The survey comes at a potential tipping point for drug reform. Next month, the United Nations will [hold a special session](#) in New York to re-evaluate the state of international drug laws. Many researchers and

public health experts have been encouraging the UN to take a less-punitive approach to drug policy. Yesterday, a group of medical and public health experts [urged governments to decriminalize all drug use](#) and experiment with regulated drug markets in some cases.

Here in the U.S. it's likely that voters in a number of states, including California, Nevada, Arizona and Massachusetts, will consider whether to legalize recreational marijuana at the ballot box this fall. And Vermont's legislature [may opt to legalize marijuana](#) before then.

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And just last week, the U.S. Supreme Court tossed out a lawsuit against Colorado's marijuana regulatory regime brought by [two neighboring states](#). Marijuana policy reformers say the decision gives some breathing room to other states considering legalization experiments.

Still, the AP-NORC survey numbers show the support for legalization is by no means uniform. Kevin Sabet of Smart Approaches to Marijuana, a group that lobbies against marijuana legalization, said in an email that given that nearly a quarter of marijuana legalization supporters only want to see it authorized with a doctor's prescription, that "does not show strong support for legalization at all." He notes that even under current medical marijuana laws, doctors [aren't even able to write prescriptions](#) for medical marijuana -- they can only issue "recommendations."

Previous Gallup surveys have not delved into the limits on support for legalization in the same way, so it isn't possible to compare those numbers with previous data.

But the survey is still likely to put some wind at the back of reformers hoping for victories on marijuana this year. And the growing levels of public support for legal marijuana -- up from 44 percent at the start of the Obama administration -- mean that the next president and Congress may face more pressure to make changes to marijuana law at the federal level.

More from Wonkblog:

[Pot legalization hasn't done anything to shrink the racial gap in drug arrests](#)

[These 'marijuana goggles' are supposed to make you feel stoned](#)

[Voters are doing what politicians won't on marijuana reform](#)

Christopher Ingraham writes about politics, drug policy and all things data. He previously worked at the Brookings Institution and the Pew Research Center.

Market Watch

DJIA **-0.16%**

NASDAQ **-0.16%**

Last Update:

4:40 PM

[Get quote](#)

04/15/2016

(DJIA&NASDAQ)

Matt Martin

From: Matt Martin
Sent: Tuesday, April 19, 2016 8:20 AM
To: Matt Martin
Subject: FW: Illegal Pot Production in Colorado - Crime, Export

Greetings-

(Bcc: MAC, BOCC)

As requested, I am forwarding this message to you.

Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Liz Lotochinski
Sent: Tuesday, April 19, 2016 5:59 AM
To: Matt Martin
Subject: Illegal Pot Production in Colorado - Crime, Export

Matt-
Please share with MAC and BOCC.

While some may believe an expansion of marijuana will create no problems, the article below from Colorado shows in that state where recreational marijuana has been legal for 2 years, illegal grows, organized crime and nationwide export are a widespread problem.

Some have said marijuana will not lure in unsavory elements. This article refutes that claim with reference to the death of an intruder at an illegal pot grow house.

Instead of renting houses (as described in this article), illegal pot producers will set up shop in ag buildings in Deschutes County.

Marijuana is a high value, cash-based, federally illegal product. Sensible citizens must ask why we would want to introduce widespread recreational marijuana operations in our county which can and will hide illegal sites as is already happening behind the veil of medical producers.

Please consider these facts as you read this article:

	Medical Growers	Recreational Growers	Population
Oregon	46,209	589*	3.97 million
Colorado	776	532	5.36 million
*as of 4/14/16			

Question: Why does Deschutes County require more production sites?

More illicit pot being grown in Colorado homes, shipped out of state

Feds: People are coming from out of state to grow marijuana behind the veil of Colorado's pot legalization

By Jesse Paul *The Denver Post*

POSTED: 04/15/2016 03:49:32 PM MDT

[HTTP://WWW.DENVERPOST.COM/MARIJUANA/CI_29772385?SOURCE=RSS](http://www.denverpost.com/marijuana/ci_29772385?source=rss)

Authorities say organized crime elements with out-of-state ties increasingly are using Colorado homes to grow large amounts of marijuana illegally for transport and sale across the nation.

The uptick in these so-called "pirate grows" has become a priority for federal, state and local law enforcement agencies, who have dedicated resources to quashing the trend.

"We've seen more and more of it," said Tom Gorman, director of the Rocky Mountain High Intensity Drug Trafficking Area. "When we first legalized marijuana, we saw pockets of it — a lot of Colorado people growing illegally for the black market. Now, you're seeing a lot of people coming in from out of state to hide behind the legal market."

"It's gotten really out of hand," he added.

While many of these illicit operations have gravitated to areas around Pueblo and Colorado Springs, the problem spans the state, including the Denver area, investigators say. Criminals set up shop in homes they rent or buy, then quickly begin cultivating hundreds, or even thousands, of plants.

Law enforcement flexed its muscle Thursday morning by raiding about 30 locations — many of them homes — between El Paso County and the north Denver area as part of an operation targeting a pot trafficking organization.

Also, over 12 days this month, authorities in Pueblo raided eight homes with suspected illegal marijuana grows filled with hundreds of mature and developing pot plants.

In each case, the county sheriff's office found the residents were from out of state — many with international ties.

"Their plan is to send it out of state," said Pueblo County Sheriff Kirk Taylor. "That's well-documented."

The rise in these pirate grows coincides with a similar boom in massive illicit outdoor pot cultivation operations, a number of which were discovered in the past year on federal land. In several of those cases, federal authorities arrested Mexicans on felony drug cultivation charges.

The illicit house grows, however, provide a year-round way to produce higher-quality pot as opposed to the weather-dependent method of planting marijuana out in the open and hoping it is not discovered as it matures.

"Now, **instead of public land grows, they are coming into communities**," Taylor said. "They are buying and renting homes and putting these (grows) in basements and garages."

In plain sight

From March 30 to April 10, 12 people — all from Florida — were arrested as part [of the Pueblo-area raids](#) that resulted in the seizure of some 2,400 marijuana plants. Five of those suspects originally were from Cuba, authorities say.

In one of the raids during that span, deputies also seized 67 pot plants from a Pueblo West home inhabited by two Russian immigrants who recently moved to the area from New York.

Many of the operations were prompted by tips from the public. One came after authorities in Texas stopped a vehicle full of marijuana grown in Pueblo.

"They can kind of hide in plain sight," said Barbra Roach, special agent in charge of the Drug Enforcement Administration's Denver division. "They don't try to abide by the law in any way. For a while, they were going into warehouses. Now they are just going into homes."

Roach said the unintended consequences of the illicit grows can be vast, from fires to water pollution to devaluing rental property.

"There's a lot of law enforcement activity focused on this," said John Walsh, Colorado's U.S. attorney. "These operations violate federal law but also state law."

Walsh said the DEA has been working with local police departments and sheriff's offices to address the problem. He pointed to [an operation last year](#) that targeted 20 people in southern Colorado's Fremont and Custer counties accused of harvesting marijuana at eight properties and shipping it to Florida via UPS.

Federal agents and local police confiscated 28 guns, more than \$25,000 and 50 pounds of processed marijuana as part of that case.

"We probably have more substantial marijuana trafficking cases in this office than we have ever had," he said.

Colorado law allows people 21 and older to grow up to six plants — three or fewer of which can be mature, flowering plants — provided it's done in an "enclosed, locked space."

Some cities have limited the number of plants that can be grown in a single house, and some cities have imposed other zoning or code restrictions on home-growing. Denver has a cap of 12 plants.

Some illegal home grows have been discovered after residents called police to report marijuana smells.

The Thursday morning operations targeted at least one Denver home that was nestled in a neighborhood near the intersection of Federal Boulevard and West First Avenue. Neighbors say officers dragged out stacks of marijuana plants and growing materials.

Money and crime

Those living nearby knew the residents were cultivating pot — partly because of the smell — but were surprised by the amount seized from the home.

"They didn't cause any problems or anything," said neighbor Joshua Bower. "They just had a whole bunch of weed in their house."

But in Huerfano County, just south of Pueblo, Sheriff Bruce Newman said he is worried about the potential of violent crime accompanying the increase in illegal pot grows he's seeing.

"There's a lot of people coming from out of state," he said. "It's getting to be a pretty big trend."

An intruder was killed at a home about 20 miles west of Walsenburg on March 14 as he tried to break into a house with a 400-plant illicit cultivation operation where two Florida residents lived.

A Fort Morgan-area man was killed as he and two others tried to break into the rural house near the intersection of Huerfano County roads 520 and 530. Newman believed the intruders were after the illegal pot.

He added: "Anytime there's money to be made, crime comes with it."

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