Attention: California State Water Resources Control Board **9/13/2016**

C.c.: Senator Mike McGuire, Senator Rob Bonta, Assemblyman Jim Wood,

Amber Morris (C.D.F.A.), Patrick Foy (C.D.F.W.)

Regarding: Proposed Regulations for Cannabis Cultivation & Water Rights in 2018

From: Jason Browne (Expert Witness / Cannabis Industry Consultant)

Greetings,

After having reviewed the S.W.R.C.B. website and licensing information, and having attended an initial public meeting (*held within a banned jurisdiction*), I would like to share the following comments, concerns and suggestions, for your review and consideration:

1) It's important to point out, at the onset, that the materials and statements made available to the public on the S.W.R.C.B. website in regards to medical cannabis cultivation are completely inaccurate, and should be changed if this agency desires applicants to take your role in cannabis regulation seriously. The photographs of marijuana plantations, and the horrible instances of water contamination, illegal dumping, booby traps and other nefarious activities associated with marijuana cultivation, all stem from illegal cartel grows and other criminal enterprises. Such operations have <u>nothing whatsoever to do</u> with the cultivation of medical cannabis by qualified patients, or with the licensed cultivation policies being discussed here today. None of those operations enjoy any legal protections under the C.U.A. and M.M.P.A. now, nor will they in the future.

In fact, such illegal operations have dramatically increased in every jurisdiction that has effected a local "ban" on medical cannabis cultivation. This is no coincidence. Local city and county bans have <u>directly caused an increase</u> in those illegal grow operations, throughout the State. I suspect this is actually the underlying purpose of local bans, as it affords continued financial opportunities for those who profit from cannabis prohibition, at the expense of patients' health and the safety of our communities.

2) There is no factual basis for S.W.R.C.B. to categorize water uses and discharges related to the commercial cultivation of cannabis in California as being "wasteful" or "harmful". I asked three very poignant questions at the public meeting, and the answers I received confirmed my suspicions that these rules have nothing to do with water:

A) I asked whether or not S.W.R.C.B. had conducted any research yet, comparing the amounts of water needed to produce a pound of cannabis, with the amounts of water needed to produce a pound of various other commercial crops grown in California (including Rice, Alfalfa, Grapes and Almonds), and what the crop value of a pound of cannabis is, compared with the crop value of a pound of these other crops. The answer I received was "not yet".

B) I asked whether or not S.W.R.C.B. holds any other commercial growers in California to similar water use standards as those defined under SB 837 for cannabis farmers. The answer I received was “no”.

C) And I asked if these rules really had anything to do with water use, or if they really were just about “cannabis”. The answer I received was “it’s really just about cannabis”.

It is an easily researched fact that cannabis is one of the most water efficient crops grown in California, and that it is also the most valuable commercial crop, pound for pound, being cultivated in the golden state today. I intend on providing you with more information on this subject, to be included within the public comments of S.W.R.C.B., and for your ongoing consideration. It is my hope that your agency will take a lead scientific role in the evaluation of water consumption and discharges, as they relate both to cannabis, and to the other major crops grown in California. This information should prove valuable to our State Legislature in completing any “clean up bills”, and should also influence the final rules being proposed by all M.C.R.S.A. Licensing Agencies next year.

At this time, no other crops in California are subjected to such extreme water use standards. Under our current water use regulations, any Licensee under M.C.R.S.A. may divert water directly from a stream, to water any other personal or commercial crops, or even just to play in when it’s hot outside, and such diversions are completely legal, so long as the water never comes into contact with cannabis roots. There is no scientific basis for these extreme water conservation rules only applying to one crop in the entire State of California, and not to any others. The obvious reason for this discrimination against cannabis farmers is that the language was added at the behest of the cannabis prohibition industries. It has no place in any reasonable farming regulations, and the language of SB 837 should be amended, accordingly.

Likewise with the rules governing water discharges. The varieties of fertilizers used for both commercial and organic crop production in California have already been evaluated by State and Federal agencies, and their respective discharge prevention rules are already established. The impacts of such discharges on any watershed do not change based on the nature of the crops being fertilized. The rules governing discharges into watersheds should logically be the same for any crops, and cannabis is no exception.

3) With all of that being said, it is important to note that cannabis farmers are actually some of the most environmentally conscious farmers in California. So long as the rules governing water diversions and waste discharges do not become prohibitively expensive (undermining the stated purposes of regulated cannabis cultivation), your agency will discover that cannabis farmers are eager and willing to be on the forefront of watershed stewardship practices in commercial agriculture. In fact, I anticipate that licensed cannabis farmers will assist your agency in identifying many unlawful water diversions and waste discharges emanating from unlicensed farmers, as well as from other local agricultural and industrial operations. And this will help S.W.R.C.B. to focus public attention on the actual health of our watersheds.

4) In the past two years, I have observed that the presence of law enforcement personnel has increased dramatically in both S.W.R.C.B. and C.D.F.W. This coincided with the de-funding of C.A.M.P., and their subsequent re-branding as C.E.R.T. This appears to be an expansion of regional "drug taskforces", a literal jobs program for the prohibition industry, and it's important to understand the financial implications of this expansion, as it relates to the Public Purposes of S.W.R.C.B. and C.D.F.W.

During the public meeting, a small presentation was given by the Water Enforcement Team ("W.E.T. Agents") and C.D.F.W. Agents. Because this particular meeting took place in a "banned county", where no M.C.R.S.A. License Applications are even being considered, the primary focus of the County representatives present was on how S.W.R.C.B. and C.D.F.W. resources could be used to ostensibly target any remaining medical cannabis farms in the area with water use violations, prior to 2018. The County also expressed an intention to ban patients from even using ground water (from their own wells) to water their cannabis plants. This discussion was a stark reminder of how public resources are routinely being squandered under the guise of cannabis prohibition, with no regard for the public interest or the rights of landowners and patients.

It seems clear that the prohibition industry desires to misappropriate pubic funds and misapply the law, in order to "enforce" provisions of M.C.R.S.A. that do not exist. If local cities or counties opt to pursue nuisance abatement actions against local patients and farmers, they have their own code enforcement budgets to pay for it, and should not be allowed to appropriate state agents and funding to do so. In the interests of preventing this waste of public resources, and in preventing enforcement actions that run counter to what M.C.R.S.A. actually states, I suggest that S.W.R.C.B. and C.D.F.W. both consider the following:

- Instruct all of your agents (including the "W.E.T. Agents") that under C.H.S.C. Section 11362.775(b), the rules governing patient Collectives and Cooperatives under are still in effect, until one year after the B.M.M.R. posts a notice on its Internet Website that the licensing authorities have commenced issuing licenses pursuant to the M.C.R.S.A., and that those protections are not legally repealed until then.

- Instruct all of your agents that your mission and funding does not include assisting in the enforcement of local ordinances, and withhold all M.C.R.S.A. funding that your agencies receive from being applied in any jurisdictions having effective or de-facto cultivation bans on the books. There are no license applicants in these jurisdictions, by virtue of their opting out of the regulatory framework. These public resources are intended to ensure compliance with M.C.R.S.A., and should not be diverted to communities that fall outside of that regulatory framework. For legal purposes, banned communities have literally outlawed all medical cannabis production within their jurisdictions, placing 100% of their cannabis enforcement budgets outside the purview of State Licensing Agencies. Their own local budgets should pay for these bans, not state licensing funds.

This concludes my initial round of Public Comments to the State Water Resources Control Board and California Department of Fish and Wildlife. Please review this document, as part of your ongoing deliberations, and include it within your Workshop Survey and other discussions between State and Local Licensing Agencies, in regards to the subject of water management and licensing under M.C.R.S.A.

I thank you for your time and consideration in these matters. I am available to discuss these matters in more detail, in either a voluntary or professional capacity.

Sincerely,

Jason Browne (Expert Witness / Cannabis Industry Consultant)