

**STATEMENT**  
**of**  
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**FOREST SERVICE**  
**U. S. DEPARTMENT OF AGRICULTURE**

**BEFORE THE**  
**UNITED STATES SENATE**  
**CAUCUS ON INTERNATIONAL NARCOTICS CONTROL**

**EXPLORING THE PROBLEM OF DOMESTIC MARIJUANA CULTIVATION**

Madame Chairman, Mr. Co-Chairman and members of the Caucus, my name is David Ferrell and I am the Director of Law Enforcement and Investigations – Forest Service, U.S. Department of Agriculture (USDA) Forest Service. Thank you for the opportunity to present the Department’s views on the “Problem of Domestic Marijuana Cultivation”. I will focus my testimony on the consequences of illegal marijuana grow sites on National Forest System lands.

The Forest Service manages national forests and national grasslands in 42 states and Puerto Rico with the mission<sup>1</sup> *“to sustain the health, diversity and productivity of the Nation’s forests and grasslands to meet the needs of present and future generations.”* Lands in the National Forest System are among the crown jewels of the United States and North America. They produce abundant clean water, and provide high quality wildlife habitat and diverse wildlife and fish populations, forest products, forage and unsurpassed recreation opportunities. The conservation mission of the Forest Service is recognized worldwide, and the agency’s management of National Forest System has the attention, support and devotion of the U.S. public and is respected worldwide.

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<sup>1</sup> <http://www.fs.fed.us/aboutus/mission.shtml>

The attributes that make the lands of the National Forest System excellent producers of wildlife habitat and clean water are also prized by illegal marijuana growers. The lands are remote with few people, the forest vegetation is dense, there is an extensive system of roads and trails (both open and closed), soils are fertile, and water for irrigation is available for the diverting. Because of these environmental factors, the number and sophistication of sites where illegal marijuana is grown on National Forest System lands has risen steadily. The Forest Service recognizes that the insidious spread of illegal marijuana grown from national forest to national forest requires the attention of the combined cooperation of federal, state and local law enforcement agencies to stop the growers. We cannot solve this problem alone; it will take collaboration with other jurisdictions and the support of the public.

### **FOREST SERVICE LAW ENFORCEMENT AUTHORITY**

In 1905, An Act Making Appropriations for the Department of Agriculture for the Fiscal Year Ending June Thirtieth Nineteen Hundred and Six (P.L. 58-138) (16 U.S.C. 559) established the basic law enforcement authority for the Forest Service and provides arrest authority for violations of laws and regulations relating to the National Forests. Additionally, the National Forest System Drug Control Act of 1986 (P. L. 99-570, Title XV) (16 U.S.C. 559b – 559g) provides specific authority for the Secretary of Agriculture “to take actions necessary in connection with the administration and use of the National Forest System to prevent the manufacture, distribution or dispensing of marijuana and other controlled substances.” Forest Service law enforcement was further enhanced under the National Forest System Drug Control Act by the Anti-Drug Abuse Amendments Act of 1988 (P. L. 100-690, Title VI) in which Congress found that National Forest System lands are “a haven for the unlawful production of marijuana and other controlled substances,” which endangers the public, interferes with the ability to manage natural resources, and causes damage and destruction of natural resources. The unlawful production is often generally harmful to the environment and public health and safety, pollutes the air, soil and water and is harmful to wildlife. Congress recognized that “the Forest Service needs additional authority to adequately deal with the problem of controlled substance production...[and to be able] to exercise its investigative authorities outside the boundaries of the National Forest System for drug related crimes arising from within the National Forest System...[without conflicting or interfering]...with the statutory authority, powers, or

responsibilities of any State...[and to cooperate] with any other Federal, State, or local law enforcement authority.”<sup>2</sup>

Under these authorities, Forest Service Law Enforcement and Investigations (LEI) has vigorously pursued the illegal cultivation of marijuana on National Forest System lands in addition to its other obligations and responsibilities.

## **MARIJUANA USE**

On National Forest System lands, the Forest Service enforces section 401 of the Controlled Substances Act (21 USC 841). The Act, 21 U.S.C. 801, *et seq.*, serves as the federal drug law for the United States under which the manufacture, possession, uses and distribution of substances classified by the Act is regulated. Marijuana is classified as a Schedule 1 controlled substance and the Drug Enforcement Administration (DEA) has primary jurisdiction for domestic enforcement.

Marijuana is the most commonly used illegal drug in the United States. The National Survey on Drug Use and Health (NSDUH) conducted annually by the Substance Abuse and Mental Health Services Administration (SAMHSA) reported that for 2010<sup>3</sup>, 17.4 million Americans were current users of marijuana - compared to 14.4 million in 2007. This represents an increase in the rate of current marijuana use in the population 12 and older from 5.8-percent in 2007 to 6.9-percent in 2010.

## **CULTIVATION OF MARIJUANA ON NATIONAL FOREST SYSTEM LAND**

It is thought that marijuana was first grown on National Forest System lands in the mid to late 1960s. The cultivation sites were few in number and occurred in isolated and dispersed geographic areas of the National Forest System because the remoteness of the area aided the illegal operation by allowing it to occur without observation or discovery. The cultivation and production at these early sites corresponded to the increasing societal use and acceptance of marijuana as a recreation drug and cultural symbol. However, by the mid1980s serious and

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Findings in Public Law 100-690, Title VI, Subtitle H, Section 6254, § 6254(a)(3)-(6), November 18, 1988, 102 Stat. 4181, 4363.<sup>2</sup>

<sup>3</sup> Released by SAMHSA 8 September 2011

significant marijuana grow operations were being discovered by Forest Service land managers, the public and State and local law enforcement authorities.

## **DESCRIPTION AND DYNAMICS OF THE CURRENT THREAT**

Today, many National Forest System marijuana grows are cultivated by drug trafficking organizations (DTOs) that are organizationally sophisticated and include armed guards, well-honed logistics and state-of-the-art cultivation practices. DTOs were first detected operating on NFS lands in Southern California in 1995. Since then, DTOs have spread across the country, and today are actively operating in 20 States and 67 National Forests across the National Forest System. DTOs present a serious risk to national forest visitors and employees, as individuals are often armed with semi-automatic rifles and handguns and will protect their marijuana crops with violent actions against anyone entering grow site areas. Marijuana cultivation sites may also be protected by improvised anti-personnel devices. A grow site often consists of 1 or 2 camping or sleeping areas, interconnected by a trail system which provides quick access to additional plots that may be separated by a few yards or up to a half a mile. The camping and sleeping area may be spread over 1 to 2 acres and the “growing areas” 10 to 20 acres, with the total impacted area being up to 50 acres. Grow sites usually have one or two observation posts that overlook natural ingress and egress points to notify and protect individuals in the grow site of anyone that may be in close proximity to the site.

From fiscal year 2005 through fiscal year 2010, Forest Service LEI accumulated data through its Law Enforcement and Investigations Managerial Attainment Reporting System (LEIMARS) documenting that approximately 3,900 sites were eradicated on National Forest System lands. The data also shows that Undocumented Aliens (UDAs) tended 1,607 cultivation sites across the National Forest System. For the 2,334 cultivation sites in California National Forests, 1,437 were tended by UDAs. The DEA finds that marijuana plants can yield approximately 1 pound of marijuana per plant valued at as much as \$2,500 to \$7,000 per pound.<sup>4/5</sup>

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<sup>4</sup>“Cannabis Yield” - June 1992 Drug Enforcement Administration

<sup>5</sup> LA Clear Research Analysis Group quarterly report 2<sup>nd</sup> Quarter 2011 Drug Price List

In July of this year, a multi-agency drug operation, “Full Court Press” was conducted on the Mendocino National Forest. Operations were conducted in Mendocino, Glenn, Colusa, Lake, Trinity and Tehama Counties in California. The success of operation Full Court Press is attributed to enlisting the cooperation of such California State law enforcement agencies as the Highway Patrol, Game and Fish, and National Guard and local law enforcement agencies such as the sheriff’s and district attorney’s offices. During this operation 159 individuals were arrested. Of the 159 individuals, approximately 95% of those arrested were in the country illegally. 60% of those individuals were arrested for immigration violations and 40% were arrested for drug violations and could face immigration violations after criminal proceedings have been adjudicated. A total of 38 weapons, including various semi-automatic pistols, rifles and assault rifles, were seized during the operation. In total, 632,058 marijuana plants were seized during Operation Full Court Press from all California lands covered by the operation: 260,867 marijuana plants (41 percent of the total) were seized from California National Forest lands.

## **THE STRATEGY FOR PURSUIT OF GROWERS**

The Forest Service LEI has developed an interagency and collaborative approach for detecting, investigating and prosecuting those who illegally grow marijuana in National Forests. Federal partners include the DEA, the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the U.S. Immigration and Customs Enforcement (ICE) and State partners include the National Guard, state police and county sheriffs’ organizations. The Office of National Drug Control Policy (ONDCP), DEA, and the Department of the Interior, along with the Forest Service have developed a comprehensive interagency strategy. The strategy is separated into five core elements:

1. Resource Sharing and Allocation: The sharing and allocation of resources among land management and Federal law enforcement agencies enables individual agencies to develop synergy in the investigation and prosecution of DTO(s) and growers. Expertise can be shared across jurisdictions, especially for the Forest Service which has limited policing presence given the amount National Forest System land.
2. Intelligence Collection and Dissemination: The appropriate dissemination of criminal intelligence information among the cooperating agencies is vital to the interdiction, eradication and arrests of the growers and their criminal organization leaders.

3. Financial: The pursuit of cash flow, asset accumulation, distribution networks and key leaders of the DTO are addressed in the financial element of the strategy.
4. Prosecution: Successful prosecutions are dependent upon the execution of the previous components of the strategy.
5. Site Rehabilitation: Lastly, because of our land management and natural resource conservation mission, rehabilitation of the marijuana cultivation sites ensures that the impacts of the illegal cultivation sites are addressed immediately before resource impacts become long lasting.

Each core element is dependent on the other and the failure to adequately address one or more will ultimately be detrimental to the success of the strategy. In order to successfully dismantle and disrupt DTOs involved in marijuana cultivation on public lands, the Forest Service is committed to initiating, coordinating, and expanding investigations beyond simple plant eradications. A collaborative effort with our Federal, State, Tribal and local law enforcement counterparts is crucial as DTOs continue to expand to additional states. A collaborative multi-agency approach focusing on investigations and asset forfeiture will enable the Forest Service and its partners to successfully disrupt, deter, and dismantle DTO marijuana grows and illegal drug manufacturing occurring on National Forest System lands.

## **THE IMPACTS OF CULTIVATION SITES TO NATIONAL FOREST SYSTEM LANDS AND USERS**

Marijuana cultivation operations create intensively disturbed sites, often in remote areas of a National Forest. The remoteness of the grow sites pose challenges for the planning and implementation of cleanup and restoration. Environmental impacts from growing marijuana are severe. Growers clear native vegetation before planting and install miles of plastic tubing to transport large volumes of water from creeks for irrigation, which reduces stream flows for fish and aquatic habitat. Overuse of herbicides and pesticides kill competing vegetation and wildlife. Human waste and trash are widespread. Following harvest, winter rains create severe soil erosion and wash poisons, human waste and trash into streams and rivers.

Illegal cultivation sites are thought to impact the two known National Forest populations of the Fisher (Martes pennanti), also known as the Pacific Fisher. The Fisher is a member of the weasel family and a North American boreal forest or high elevation forest dwelling creature in the United States. The Fisher is also a candidate species for listing under the Endangered Species Act (ESA) and has been identified by the Forest Service as a sensitive species. The copious use of rodenticides by marijuana growers to combat herbivory from small animals such as voles and snowshoe hares, as well as ground and tree squirrels appear to be affecting Fishers. Fishers as apex predators are at the top of the food chain. However, they also are generalists and will feed on any animal that they can catch, as well as carrion. The Forest Service and its cooperators are noticing a trend among the California Fisher populations where the blood and tissue samples have concentrations of warfarin, an anticoagulant rodenticide that causes organ damage in mammals by inhibiting blood coagulation. Warfarin contamination could contribute to continued decline of the Fisher's population, increasing the likelihood of listing under the Endangered Species Act.

Additionally, marijuana growers pose a threat to the unaware public who in the course of their use of the National Forest may happen upon cultivation sites or the armed sentinels guarding the sites. While the actual incidences of direct physical harm to the public is low, there have been several deadly assaults upon Forest Service or cooperating agency law enforcement officers in or around illegal grows.

### **CLEAN UP AND RESTORATION OF MARIJUANA GROWS**

Cleaning up marijuana grow sites on National Forest System lands requires a coordinated effort involving numerous Forest Service staff areas, other federal, state and local agencies, and possibly contract employees or volunteer groups. The most efficient and effective restoration missions have been done in conjunction with eradication operations, when the restoration crews come directly after the eradication teams. This approach provides the greatest utilization of available assets as well as protecting public and employee health and safety.

It is no small accomplishment for a national forest to organize and implement cleanup and restoration operations once a site is released by law enforcement. To be effective and efficient, a

strategic plan is required for operations, safety, logistics, coordination, scheduling, and workforce needs. The typical remediation and cleanup team includes representatives from law enforcement, fire, natural resources, heritage resources, hazardous material and pesticide certified personnel, safety, as well as state and local agencies. Other resource specialties are included depending on the resource issues associated with the grow site. The team develops a plan after conducting a reconnaissance to determine the complexity of the cleanup and restoration required. An inventory must be conducted to identify the kinds of materials present, including hazardous materials; and to identify the most efficient and effective way in which to address resource damage and protect public health.

Site rehabilitation is also carried out at some cultivation sites where the vegetation and forest litter or ground cover has been greatly reduced because of human activity associated with the occupancy and use of the site. Soils become compacted, thus reducing infiltration and percolation of precipitation, most especially rain. Where the loss of forest cover associated with cultivation sites is documented, specialists will prepare the ground for native plant seeding by scarifying the soil or applying certified straw and mulch for ground covering to prevent erosion from occurring or invasive or noxious weeds from becoming established. This work is small-scale and labor intensive, thus making it expensive on a per acre basis. Therefore, it is applied only to sites that meet established criteria based upon physical, ecological or biological criteria.

## **ACCOMPLISHMENTS**

During FY09 and FY10, 514 cultivation sites were reclaimed on National Forest System lands. In 2010, the Pacific Southwest Region of the Forest Service completed cleanup and restoration on 335 sites. Over 261,000 pounds of trash were removed; over 257 miles of irrigation tubing were removed and donated to various organizations; over 300 pounds of active ingredient pesticides were removed; over five tons of fertilizers were removed; and over 440 helicopter net loads of material were removed. Personnel and pack animals also transported loads of refuse and irrigation tubing out to landings and roads for disposal or donation. If left in the forest, these items would promote the reuse of these sites for future marijuana cultivation, would pose health risks to wildlife, the general public, and would cause pollution to the air, soil and water.

## **CONCLUSION**

The illegal cultivation of marijuana in the National Forest System is a clear and present danger to the public and the environment. We are committed to ensuring the safety of the public and Forest Service employees by working with our Federal, State and local partners as well as collaborators to identify, investigate and prosecute illegal growers and their organizations, as well as remediating and restoring grow sites. In the face of this threat, the mission “*to sustain the health, diversity and productivity of the Nation’s forests and grasslands to meet the needs of present and future generations,*” has never had more relevance. Madame Chairman and Mr. Co-Chairman, this concludes my testimony. I am happy to answer any questions that you may have.