



**REGULAR MEETING OF THE BOARD OF DIRECTORS  
WEDNESDAY, AUGUST 4, 2021, AT 5:30 P.M.  
61750 CHOLLITA ROAD, JOSHUA TREE, CA 92252**

There will be **no public location** to attend in person.

This meeting will be streamed on Zoom at:

<https://us02web.zoom.us/j/87048167949?pwd=ZkN6YjNoTXhyd1FPaldhYmxMaGISQT09>

or you may join by phone at 1-253-215-8782, Meeting ID: 87048167949 Passcode: 198454

## **AGENDA**

1. **CALL TO ORDER -**
2. **PLEDGE OF ALLEGIANCE -**
3. **DETERMINATION OF A QUORUM (ROLL CALL) -**
4. **APPROVAL OF AGENDA -**
5. **PUBLIC COMMENT -** This is the time set aside for public comment on any District-related matter not appearing on the agenda. Government Code prohibits the Board from taking action on these items, but they may be referred to for future consideration. Please state your name and limit your comments to 3 minutes.
6. **LOCAL CANNABIS GROWS -**Mark Ban, General Manager – Recommend that the Board of Directors receive for information only.
7. **GENERAL MANAGER REPORT –** Mark Ban, General Manager
  - Sarah Johnson, Director of Administration
8. **DIRECTOR MEETING REPORTS –**
  - Mojave Water Agency Board of Directors Meeting – July 22, 2021– Director Doolittle
  - Legislative & Public Information Committee – August 4, 2021, at 9:30 a.m. - President Unger, Director Jarlsberg, & Kathleen Radnich
9. **DIRECTOR COMMENTS –** This is an opportunity for Board members to make general comments concerning District business only.
10. **FUTURE DIRECTOR MEETINGS –**
  - Mojave Water Agency TAC – August 5, 2021, at 10:00 a.m. – Director Doolittle
  - Special Citizens Advisory Council Meeting– August 10, 2021, at 6:00 p.m. – Chairperson Barbara Delph
  - JBWD Finance Committee – August 11, 2021, at 9:00 a.m. – President Unger & Vice President Floen
  - JBWD Water Resources & Operations Committee – August 11, 2021, at 10:30 a.m. – Director Reynolds & Director Doolittle
  - Morongo Basin Pipeline Commission – August 11, 2021, at 2:00 p.m. – Vice President Floen
  - JBWD Board of Directors Meeting – August 18, 2021 -

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11. **ADJOURNMENT -**

INFORMATION

The public is invited to comment on any item on the agenda during discussion of that item. Any person with a disability who requires accommodation in order to participate in this meeting should telephone Joshua Basin Water District at (760) 366-8438, at least 48 hours prior to the meeting in order to make a request for a disability-related modification or accommodation.

Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the District's office located at 61750 Chollita Road, Joshua Tree, California 92252 during normal business hours.

**JOSHUA BASIN WATER DISTRICT  
MEETING AGENDA ITEM STAFF REPORT**

**Regular Meeting of the Board of Directors**

**DATE: August 4, 2021**

**REPORT TO:** Board of Directors  
**PREPARED BY:** Mark Ban, General Manager  
**TOPIC:** Local Cannabis Grows  
**RECOMMENDATION:** Recommend that the Board of Directors receive for information only.

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**ANALYSIS:**

For many years, California, and its voters have attempted to address the use of cannabis and the State and Federal laws that were intended to combat drug use that were viewed by some as ineffective and costly. The first attempt was in 1996 with the passing of Proposition 215 that exempted patients or caregivers that cultivated or possessed cannabis from criminal laws. While Proposition 215 and making the possession of cannabis an infraction in 2011 had a large impact on the number of arrests, federal pressure and misdemeanor charges, fines and court fees were still viewed by some as having an adverse effect.

Proposition 64, passed by voters in 2016, further addressed the legalities of cannabis cultivation and possession by, in part, allowing the recreational use of cannabis and the growing of a limited number of plants. While the legalization of cultivation and possession for the personal use of cannabis made significant changes to California laws, Proposition 64's provisions also allowed local government to control the cultivation and sales of commercial cannabis in their jurisdiction and made unlicensed and illegal cultivation a misdemeanor instead of a felony. The result of these provisions has caused significant problems in California that are very present here in the Morongo Basin.

Water District's within our area service hundreds of square miles of open to sparsely developed land that has become a hotspot for the illegal cultivation of cannabis. Although these sites can be responsible for several issues associated with criminal activity, the impact on water use and potential water quality degradation has caused substantial concern among local water agencies. Using the most current data and imagery available, Wagner and Bonsignore, a consultant hired by Mojave Water Agency (MWA) to assist in estimating the number of grow sites and water use, provided a presentation to

the MWA's Technical Advisory Committee on July 22, 2021, that showed as many as 129 potential sites existed in October of 2020 in the Morongo Subarea alone. This is based upon typical visual signatures using aerial imagery and does not account for sites constructed since the aerial imagery was updated. Another important consideration is the number of potential indoor sites that do not have obvious visual signatures in which to identify them. Based upon the time it takes to update data, the unknown considerations, and how quickly these facilities can be set up, it isn't unimaginable that initial estimates are much lower than the actual number. In considering the number of "known" grow sites, the presentation also provided that up to 24 acres of land was being used to facilitate the grow operations within the Morongo Subarea. Based upon the area utilized, it was estimated that approximately 104 acre-feet of water per year, or 34 million gallons of water, may be used to support illegal cultivation in the area. Of course, these figures will only increase as additional sites are identified using updated data.

Illegal grow sites that use everything from professional greenhouses to make-shift structures continue to grow in number, faster than law enforcement can address. In a presentation provided to the Mojave Water Agencies Technical Advisory Ad Hoc Committee on Cannabis by Marina West<sup>1</sup> (presentation attached), it was noted that the San Bernardino County Sheriff's Marijuana Enforcement Team can raid 6 – 8 grows per week, however with hundreds of potential grow sites that are increasing daily, the Sheriff's department is simply unable to keep up with the issue with their current capabilities. Perhaps the largest problem are the penalties those responsible for illegal growing face. Since Proposition 64 reduced the penalties associated with illegal grows to a misdemeanor, the criminal element involved simply lose one site and trade it for another making it near impossible to set a satisfactory example for what can occur if caught affiliated with such a facility.

Making matters worse, water purveyors are limited in their response to illegal grows. We are unable to simply turn off the water supply to these facilities. As such, the District has joined what is being called the Highway 62/247 Initiative where local water agencies have joined together to utilize a combined voice in which to address local and state agencies that can assist in addressing the consequences of Proposition 64. In

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<sup>1</sup> Marina West, General Manager, Bighorn Desert-View Water Agency

addition, staff is also reviewing its rules and regulations and best practices to determine the best course of action in dealing with this issue in the short term.

**FISCAL IMPACT:** FOR INFORMATION ONLY



# Tac Ad Hoc Committee on Cannabis Update

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Thursday, June 3, 2021

Together, we're securing water for today & tomorrow...



# PRESENTATION **OUTLINE**

- Challenges identified so far
- Potential Solutions/Opportunities to Resolve Issues
- Next Steps







# Challenges



# Challenges

- Water use for cannabis (and other crops) growing with increasing land use for this purpose
- Water Use May become material enough to impact land use plans for other purposes like housing
- Mojave Water Agency is not receiving notice of CoSB Well Permitting decisions until after the fact, esp. private wells in the adjudicated area.
  - Possibility that wells are unpermitted too – How are they discovered?
  - Watermaster has to rely on aerial photographs taken each June to track down uses > 10 AF/Yr
    - Many permitted wells are “Agriculture/Irrigation Type” which indicates “high usage” desired and yet no consideration of water rights.
  - Lag of up to two years to track down as new grows “popping up” continuously
  - Difficulty forcing producers into the Judgement after the fact
  - Perception that the land use invites cartels/crime - putting our staff in danger
  - Difficulty collecting fees to purchase water to replenish groundwater basins



# Challenges

- Difficulty tracking water supply sources to sites – Water Hauling is rampant
- Difficulty quantifying water use and impacts to basins – Hauling and Well Pumping
- Impacts to riparian habitats
- Impacts to protected species
- Impacts to water quality (Carbofuran being used, fertilizer, etc.)
- Neighborhood impacts: trash, raw sewage, mass grading, generator noise/emissions, fuel on-site, discharges to land – fertilizer, rodenticides, fuel, etc., light pollution, wind-blown dust, add'l road use (water haulers), water demand/water theft, odor, native plant species destruction (Joshua Tree, etc), threatened species habitat destruction (tortoise, burrowing owl, migratory birds)
- Blight left when grows are taken out: Trash, Raw Sewage, mass grading, etc.
- Growers don't always own land – Squatters?, Unwitting Owners?, Owner/Tenant relations
- Legal and Permitted Hemp grows found to be Cannabis (Analyzer needed to confirm hemp v. cannabis).

# Challenges

- Water agencies limited on powers to deny service based on how the water is used
- VVWRA water quality testing sites are in areas where there are known cannabis farms. Concerned they will end up being held responsible for impacts to groundwater from chemical use polluting the Mojave River area
  - Same concern for groundwater off river
- Reports from April, Sheriff Marijuana Enforcement Team's are raiding 6 – 8 grows per week, however there were 396 grows on Friday April 30<sup>th</sup> and 414 on Monday May 3<sup>rd</sup> (18 added), and last week at Newberry Springs CSD it was reported the number is at least 1,000!
  - Staffing at CoSB and State level enforcement agencies insufficient to tackle issues
  - Growing unpermitted cannabis is only a misdemeanor (Prop. 64) with low fine (\$500)

Are there other issues or challenges others are facing to add to list?



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# Potential Solutions/Opportunities

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- MWA Ordinance making production of water > 10 AF/Y illegal (both inside and outside the adjudicated boundaries – Ames Basin). Develop lien process to collect fees/fines if necessary.
  - Reduce minimal producers to 2 AF/Yr or ?
- Update Watermaster Rules to not allow transfers to others who not parties to the Judgement (does not help with areas outside of the adjudicated boundary).
- Develop Watermaster Rules that don't allow off-site transport/hauling of active sources (Different that permanent transfer of production rights between parties) – Enforcement Mechanisms needed
- Concentrate on property liens and penalties for use > 10 AF/Y for pumping outside of the judgement and others outside of judgement area
- Develop fee for pumping- should this apply to all pumping including Jujubee farms, other farms, and minimal's? If not, then who?





# Potential Solutions/Opportunities

- Require CEQA analysis on well drilling as a non-ministerial act or; demand County agree to well permitting review by MWA
- County-wide moratorium on hemp until situation under control (currently 185 permitted hemp sites in CoSB) OR, at least County moratorium on all new farms or commercial cultivation within Mojave Water Agency's boundaries
- Require environmental analysis on facility and all new farming and commercial cultivation operations, well permits or land use zoning changes – Doesn't address illegal land uses
- Advise Board of Supervisors if they are planning to allow legal cultivation of Cannabis, to develop environmental land use restriction as to approval and C.U.P. process (fees in other counties approx. \$100k), require "bonds" to ensure reclamation (like Solar Farms) at end of use





# Potential Solutions/Opportunities (con't)

- Involve the Building Industry Association --- Agriculture v. Housing
- Gain better understanding of FWS enforcement in adjudication area as well as areas with sensitive habitat and protected species – How do we get them more staffing resources?
- Federal help of DEA or Tribal involvement or ?
- Lahontan (or State) Regional Water Quality Board enforcement action, especially for water quality impact and unpermitted grows – How do we elevate the concern to get more staffing resources?
- Mitigation analysis on General and Specific land use plans and impacts?
- Outline procedure for complaints to land use enforcement in County for illegal cultivation of Cannabis – make available to the public
- Hotlines for community reporting - To whom? How? What information is needed? Can include other perceived violations – unlicensed water trucks, etc.



## Potential Solutions/Opportunities (con't)

- State legislation “fix” – Revert to felony for illegal grow, AB1138 aiding/abetting, Water shut-off “orders” from Judge as part of search warrant processes, etc.

Are there other Solutions that can be added to the list??



# Next Steps Identified For TAC Ad Hoc

- Created a sub-committee of the Ad Hoc to focus on legislative options. Include/Engage legislators directly through these discussions.
- Quantitative analysis of water demand in the region
  - Retail water agencies could provide MWA with metered water use for known cannabis grows to assist in quantitative analysis of use patterns.
  - Identify options for more frequent aerial photography and inventory of “grow operations”
  - Initial data available in June/July for Este and Oeste
- Develop potential tools that MWA is considering for basin management (work in process)
- Ask sheriff to do helicopter ride for the 3 supervisors “Down the Hill” – 2<sup>nd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Districts (majority of BOS don’t represent the unincorporated desert areas)
- MWA and CoSB meeting to discuss well permitting in recognition of the MWA’s responsibility as basin manager