

September 30, 2021

Via Electronic Mail

Ms. Patricia Mattingly, Director
Bureau of Indian Affairs, Southwest Region
1001 Indian School Road, N.W.
Albuquerque, New Mexico 87104

Re: Cannabis Seizure at Picuris Pueblo

Dear Director Mattingly:

Yesterday, three officers of the BIA's law enforcement division, two from the Northern Pueblos Agency and one from the Regional Office, we understand, went onto Picuris Pueblo land and seized a small number (approximately nine, we think) of cannabis plants being grown by a Picuris member and her non-member husband, both of whom have valid registry identification cards (medical cannabis cards) issued by the State of New Mexico Department of Health. No notice of this raid was given to Pueblo Governor Quanchello, who was in his office at the Pueblo at the time, or to any other Pueblo official, either before or after the raid occurred. The BIA officers did not give the owners of the cannabis plants any citation or other paperwork, or notify them that any form of enforcement action would be taken against them; they merely seized the plants from the field where they were being grown, and left.

As you may know, a person holding a valid medical marijuana card issued by the State is entitled to possess an "adequate supply" of cannabis, meaning enough to last for three months, as determined by the Department of Health. Of course, state law does not normally apply to tribal members on tribal land, but Picuris does have its own medical cannabis code, under which persons holding valid New Mexico registry identification cards are entitled to be issued tribal registry identification cards.

I am sure that you are aware that New Mexico has had a medical marijuana law (the "Lynn and Erin Compassionate Use Act," NMSA §§ 26-2B-1 through 10) in place since 2007. Tens of thousands of New Mexicans have been issued medical marijuana cards under that Act. We are unaware of any federal enforcement action that has ever been undertaken against any such person, despite the fact that cannabis remains a Schedule 1 drug, whose possession and sale is illegal under federal law. And it is no less illegal on private land than it is within Indian country. Like New Mexico, the Pueblo of Picuris has determined that allowing persons with debilitating health conditions to possess cannabis is a reasonable step that assists such persons in managing their conditions. And of course, in light of its successful experience with its medical marijuana law, the State has now enacted a law legalizing (under State law) the possession and

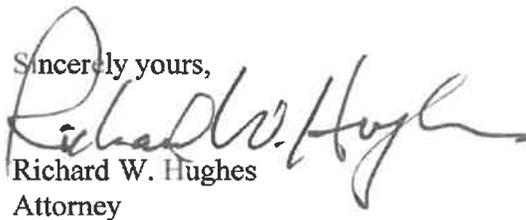
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sale of marijuana by anyone in the State, subject to various regulations. The Pueblo has initiated talks with the State for an intergovernmental agreement (“IGA”), which is expressly authorized by the new statute, under which the Pueblo would conduct its own cannabis operation.

We consider yesterday’s raid at the Pueblo to have been a gross invasion of the Pueblo’s sovereign authority over its members and other persons residing on its lands. While possession of cannabis is, as we acknowledged, technically a violation of federal law, the fact that the United States has plainly adopted a hands-off attitude in the many states that have legalized cannabis possession and sale, for medical purposes and, increasingly, for personal, recreational use, demonstrates that cannabis possession is not considered by the federal government to be a matter warranting law enforcement attention. We are thus extremely surprised, and concerned, that BIA law enforcement officers, who surely have far more pressing priorities, would take it upon themselves to carry out an operation like this, particularly where it was against persons whose possession of cannabis was for medical purposes.

We would like a full explanation of the motivation behind this raid, and of the policy of the Bureau on this subject. As we noted above, the Pueblo has opened talks with the State of New Mexico aimed at entering into an IGA under the provisions of the recently enacted recreational cannabis law. The Pueblo’s intention is to operate in compliance with the same standards as are being adopted by the State, and the Pueblo (which as you know has no casino or any other significant revenue-producing enterprises) is very hopeful that the operation will generate revenues that it can use to support tribal programs and services. But if such an operation is going to be the target of BIA raids, that hope will be completely frustrated. We cannot understand why the Bureau would pursue a policy as was reflected in yesterday’s operation, and trust that you will provide us with the Bureau’s supposed justification.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard W. Hughes". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard W. Hughes
Attorney

xc: Hon. Craig Quanchello, Governor
Lt. Gov. Wayne Yazza, Jr.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

IN REPLY REFER TO:
Office of Justice Services
ES Control 0014

OCT 21 2021

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Honorable Craig Quanchello
Governor, Pueblo of Picuris
P.O. Box 127
Penasco, New Mexico 88340

Dear Governor Quanchello:

This correspondence is in response to a September 30, 2021 letter received from the Pueblo of Picuris through attorney Richard W. Hughes expressing concerns about a September 29, 2021 incident. This letter was sent to Bureau of Indian Affairs (BIA) Southwest Regional Office Regional Director Patricia Mattingly, who forwarded the letter via email to the BIA Office of Justice Services (OJS) District IV Office. The letter concerned a BIA OJS seizure of cannabis plants from a family residence on the Pueblo of Picuris on September 29, 2021.

This letter indicates that two (2) BIA OJS Northern Pueblos Agency (NPA) Officers and another officer seized nine (9) marijuana plants from the residence of a tribal member and her non-Indian husband on land held in trust for the Pueblo. This letter expressed the Pueblo's concern that no prior notification of the seizure was given to Picuris Pueblo Officials. To protect officer safety and to ensure the integrity of law enforcement investigations, prior notification of law enforcement operations is generally not appropriate.

This letter also expressed the Pueblo's concerns that the cannabis plants may have been unfairly seized. Despite changes in tribal and state law, possessing and growing marijuana remains a federal offense (21 U.S.C. § 841(a)(1); 21 U.S.C. § 844(a)). BIA OJS is obligated to enforce federal law and does not instruct its officers to disregard violations of federal law in Indian Country (25 U.S.C. § 2803).

We share the Pueblo's concern for public safety and look forward to our continued partnership to protect the well-being of the citizens of the Pueblo of Picuris. Should you have any further

questions or concerns, please feel free to contact me at the BIA OJS District IV Office at (505) 563-3882, via email at brenda.gonzales2@bia.gov, or via mail at 1001 Indian School Rd, Suite 251, Albuquerque, NM 87104.

Sincerely,

A handwritten signature in black ink that reads "Brenda Gonzales". The signature is written in a cursive style with a large initial "B" and a long horizontal stroke at the end.

Brenda Gonzales
Special Agent in Charge

cc: Richard Hughes, Attorney at Law, Rothstein Donatelli, LLP
Patricia Mattingly, Regional Director, BIA, Southwest Region
Shannon McKenna, Superintendent, BIA, Northern Pueblos Agency