

**CALENDAR ITEM
C98**

A Statewide

08/14/12

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**CONSIDER SUPPORTING STATE LEGISLATION THAT WOULD
CREATE ADDITIONAL CIVIL PENALTIES FOR CULTIVATING A CONTROLLED
SUBSTANCE ON PUBLIC LANDS**

INTRODUCTION:

State Lands Commission staff has been reviewing various legislative proposals introduced in the 2011-12 legislative session that involve lands under the Commission's jurisdiction. This report describes proposed legislation (AB 2284 – Chesbro) that would: 1) impose additional civil penalties for cultivating a controlled substance on resource land under the jurisdiction of certain state or federal agencies, including the Commission, and within a timberland production zone; and, 2) authorize a peace officer to stop a vehicle transporting agricultural irrigation supplies in plain view if the vehicle is traveling on a rock or unpaved road within a timberland production zone or on resource lands within these same jurisdictions. This report further proposes that the Commission consider adopting a support position on this legislation.

LEGISLATIVE PROPOSAL:

AB 2284 (Chesbro): Irrigation

SUMMARY:

AB 2284 imposes additional civil penalties for cultivating a controlled substance on resource land within the jurisdiction of certain state or federal agencies, including the Commission's jurisdiction, and within a timberland production zone. AB 2284 also authorizes a peace officer to stop a vehicle transporting agricultural irrigation supplies in plain view if the vehicle is traveling on a rock or unpaved road within a timberland production zone or on resource lands within these same jurisdictions.

BACKGROUND:

AB 2284 is intended to address large scale illegal marijuana cultivation on resource lands and within timberland production zones. The lands under the scope of the bill include land under the jurisdiction of the Department of Parks and Recreation, the

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Department of Fish and Game, the Department of Forestry and Fire Protection, the California State Lands Commission, a regional park district, the United States Forest Service, and the Bureau of Land Management.

In 2010, the White House reported that approximately 10 million marijuana plants were removed from illegal outdoor marijuana growing sites in seven states, including California. In California alone, nearly 3 million plants were removed from national forests. This report illustrates how illegal marijuana cultivation on resource land has become a significant problem in California. The productive natural ecosystems of state resource lands, together with their remoteness, make them ideal for illegal marijuana cultivation. In addition to public safety risks, significant environmental degradation is associated with illegal marijuana cultivation on state resource lands, including harm to wildlife, vegetation, water, and soil. Additionally, illegal substance cultivation usually involves rampant use of chemicals, whose toxicity can damage resource lands, compromise water quality, and harm wildlife.

To provide context and a sense of the magnitude and impact of illegal marijuana cultivation on resource lands, Operation Trident, during a seven week reclamation effort, removed nearly 90,000 pounds of debris, 93 miles of drip line irrigation, nearly 11,000 pounds of fertilizers, 240 pounds of pesticides, poisons and herbicides, 124 large propane tanks, and 24 car batteries from 393 acres of public lands. Operation Full Court Press, a combined federal, state, and local law enforcement effort against illegal cultivation in the Mendocino National Forest, resulted in the removal of over 52,000 pounds of garbage and 40 miles of irrigation pipe from Mendocino National Forest.

AB 2284 provides that, in addition to existing penalties, a person in violation of provisions of the Fish and Game Code relating to streambed alteration, water pollution, or refuse disposal in waters, in connection with marijuana cultivation on resource land or within a timberland production zone, shall be liable for a civil penalty as follows: 1) \$10,000 for streambed alterations; 2) \$40,000 for water pollution; and 3) \$40,000 for refuse disposal.

AB 2284 also allows a peace officer to stop a vehicle transporting agricultural irrigation supplies in plain view if the vehicle is traveling on a rock or unpaved road on resource lands or within a timberland production zone. Peace officers would be authorized to inspect the bills of lading, shipping, or delivery papers, or other evidence to determine whether the driver is in legal possession of the load. This provision is modeled after current law, which allows the California Highway Patrol to stop any vehicle transporting timber products, livestock, poultry, farm produce, crude oil, petroleum products, or inedible kitchen grease, and inspect shipping papers or other evidence to determine whether the driver is in legal possession of the load, and upon reasonable belief that the driver is not in legal possession, take custody of the vehicle and turn it over to the sheriff.

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OTHER PERTINENT INFORMATION:

AB 2284 is in response to ongoing problems with marijuana cultivation on state resource lands. It proposes to increase civil penalties for three commonly charged violations associated with marijuana cultivation—streambed alteration, water pollution and refuse disposal. Increasing the penalties for these violations is intended to prevent damage to resource land and preserve it as a safe place to recreate. It is also intended to give law enforcement agencies the tools to prevent the establishment of illegal marijuana grow sites on resource land and to recuperate some of the resources spent to investigate, eradicate and clean up grow sites.

AB 2284 was approved by the Assembly on May 31, 2012, on a 53-18 vote, by the Senate Natural Resources & Water Committee on June 26, 2012, on a 6-0 vote, and the Senate Public Safety Committee on July 3, 2012, on a 5-0 vote. It is awaiting consideration in the Senate Appropriations Committee. It is supported by the Mendocino County Board of Supervisors; Mendocino Sheriff's Office; United States Department of Agriculture, Forest Service; California Police Chiefs Association; Regional Council of Rural Counties; League of California Cities; California State Sheriffs' Association; California Peace Officers' Association; and the Arcata City Council. It is opposed by the California Public Defenders Association.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt a support position on AB 2284 (Chesbro).