

**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
7500 ODAWA CIRCLE, HARBOR SPRINGS, MI 49740**

Tribal Council Travel Narrative Report

Name: Julie Shananaquet, TC Secretary	Date: March 18, 2015
Training: National RES Conference	Date: March 9-12, 2015

I respectfully submit this report to my fellow Tribal Council members and the Citizens of LTBB, and extend my thanks to Tribal Council for allowing me the opportunity to represent our Tribe at this event.

This report represents my opinion of the materials presented at the above stated training and will include an summary of the issues brought forward during the training.

Day 1 (Sunday) – Travel Day 03/08/15.

Day 2-5 (Monday-Thursday) – Registration & Daily Breakout Sessions

This year's theme of the National Center for American Indian Enterprise Development (NCAIED) is "Honoring Our Past...Defining Our Future", and began with a different schedule consisting of a first day "Boot Camp", which basically addressed fundamental practices needed to insure the successful startup and continuation of a lucrative business. The individual concurrent breakout sessions included: Establishing and Maintaining Good Credit, Small Business Accounting Essentials, Business Plan Development, Communication Skills, The Importance of Sales, Access to Capital, Supplier Diversity*, Marketing and Successfully Managing the Growth of your small business.

Of special interest during the first day was NCAIED's innovation launch of "Native Edge" and continued promotion and invitation to register continued throughout the week. "Native Edge" is a 24/7 online business site offering Tribes the ability to access training and development videos, search not only for job opportunities but Natives seeking employment, request Native specific RFP's, post your video profile of your business. This site is available via Facebook and additional presentation was made at Wednesday's luncheon by Tasha Zuzalek.

**Supplier Diversity is brought up in other work sessions to endorse Indian to Indian networking and co-op.*

I attended the Tuesday morning General Session consisting of several welcoming speeches made by various presenters (Gary Davis, Pres/CEO, NCAIED, Derrick Watchman, Chairman NCAIED, Raina Thiele, White House Office of Public Engagement) Special Presentation by Cheryl Crazy Bull, American Indian College Fund and Rick Waters University of Phoenix, (One of the College Fund recipients was from LacView Desert) The Tim Wapato Advocate of the Year

was awarded followed by keynote speaker Javier Saade, Associate Administrator of the U.S. Small Business Administration. Upon completion of welcoming speeches and presentations a procession to the Tradeshow occurred followed by Luncheon.

Tuesday afternoon session attendance included Taxation Session. Panelists John Echohawk, NARF Director and Wendy Pearson, Attorney Pearson Law Offices stressed the importance of Tribes participating in and submitting Tax and Regulatory Reform Proposals. The issue of the possibility of the end of the Obama Administration and no longer having an advocate of Native issues could have a negative effect on U.S. financial assistance in the economic arena of tribal diversification. Discussion included the importance of joint tribal ventures. (This thought is also brought up in tribal non-profit and for-profit businesses and the co-op concept that will be discussed later).

Wednesday's agenda contained a multitude of sessions I wanted to attend and I started my day by attending "Non-profits" How Native Nonprofits can help spur and sustain Economic Development (See attachment 1), Brief description: Some Tribes are taking an interesting approach to end the economic stagnation of their tribes and overcoming the challenges of job creation, capital needs and distance to market. Non-profit organizations are often among the top three industries in Indian communities. Native led and operated nonprofit orgs. Help establish and train the skilled workforce and generate the disposable income that can attract for-profit business and help raise profile with state and county governments.

It was during the above session that I realized that my other choice of a session called "Economic Development" - Clearing the Smoke, was running concurrently, I moved into that session.

Special Note: For the first time CNN was in attendance at RES and there is a possibility that I appeared on this segment.

Brief description: The U.S. DOJ recently announced that Indian Tribes can now grow and sell marijuana on their sovereign lands as long as they adhere to the same federal guidelines in place in the four states where the drug has been legalized for recreational use. Specifically, Tribes may not sell to minors, nor may they transport to parts of the country where it is illegal. Tribes that opt to sell marijuana grown on reservations will not be subject to state and local taxes giving them a potentially lucrative business opportunity. Due to the controversial issue of Marijuana in Indian country this session refrained from discussion lending to an adversarial venue.

The presenters gave a history of legislation, and wording that needs to be included in individual state's considering legislation to legalize marijuana, (i.e.the state shall not inhibit or prohibit the tribes from producing, retailing, storing.....marijuana). The presenters asked who in the room had tribal legislation involving marijuana and I let them know we did not cultivate or retail, but had a statute allowing for use for medical purposes, I also let them know we were not involved in issuance of medical marijuana cards, however, we did not prosecute persons legally carrying a medical card who also met any other state requirements associated with a medical card.

Attendees were impressed with the time frame of our legislation and wanted to know if we would be interested in posting for other Tribes to review. I briefly spoke with Presenter Lael Echohawk, Attorney, Garvey, Schubert Barer and requested that she send her presentation. (See attachment 2, e-mail and powerpoint) During my networking with other attendees, I found the majority of respondents were opposed to cultivation and retail of marijuana for recreational use, however, they liked the idea of medical use with no prosecution.

"Agriculture Business Development" – Organic Farming Brief description: Opportunities that exist in organic and other farming operations. Topics included, production, distribution, marketing, financing, potential for international expansion, and how to maximize the resources and capital to feed Indian Country and beyond. (See attachment 3, Handouts)

Special note: This coincides with Native Edge and Tribal Coop.

Thursday's agenda was brief and I attended the following sessions:
"Tribal Economic Development" – Empowerment Zones, Tax Exempt Bonds and Other Economic Diversification Measures. Brief Description: Initiatives that support tribal economic development. Ongoing budget cutbacks highlight the need for tribes to be better empowered. Topics addressed include tribal empowerment zones, tax exempt bonds, tourism and intertribal trade. Joan Timeche moderated this session and sends her hello and inquired into our progress. The exceptional speaker for this panel was Heather Thompson, Attorney, Greenberg Traurig. Her work first began addressing the shortage of fuel/propane for Alaskan tribes and a co-op was formed to deliver fuel at a lower cost to tribes in need. Not only was a trucking company formed, but direct relationship with the fuel companies. Ms. Thompson spoke of the possibilities of goods that could be included in a Native coop and at a lower cost. This could expand to possible other forms of transportation other than just trucking. Unfortunately, the panel participants time was limited and I requested that she send whatever information she has on the existing coop. (See attachment 4) The second speaker gave a brief history how using TED Bonds helped in securing necessary funds for the expansion of their casino and hotel. The third presenter stressed how tourism could not only bring familiarity to your tribe, but also be national and international revenue source. (Unfortunately, I misplaced the handouts, but if found will forward)

"Indigenous Global Trade Opportunities". Brief Description: Interest has grown in exploring global trade opportunities among indigenous groups around the world. As intra-continental trade picks up in the U.S. among tribes and first nations in Canada, intercontinental trade is coming to the forefront. Other continents' indigenous people are seeking assistance from U.S. tribes for their business ventures. This session included representatives from Canada, Australia, Philippines and Africa. Because most of the international representatives relate to the cultural and traditional beliefs they have a kinship and want to work with people have the same basic values as they do.

The final event for the day was the Award Luncheon – Grand Finale Giveaway
During lunch we viewed a very cool video created by the Inter-tribal Agriculture Council. This video was created for presentation based on last year's vast interest and concentration on farming and becoming self-sustaining through strong tribal agricultural efforts. Volunteer of Year was awarded as well as the big giveaway. Closing remarks were made including new hotel location of next year's event. (Mirage) Conference came to a close.

Day 6 (Friday) – Travel Day 03/13/15, not without travel drama.

ATTACHMENT 1

Julie Shananaquet

From: Wendy Pearson <wendy.pearson@wspearson.com>
Sent: Monday, March 16, 2015 8:02 PM
To: Wendy Pearson
Subject: RES Presentation Material - "How Native Non-Profits Can Help Spur and Sustain Economic Development"
Attachments: RES.2015.NPFPANEL2.pdf

Greetings,

Thank you for your interest in the RES 2015 panel presentation relating to how non-profits and tax exempt tribal entities can play a role in economic development in Indian Country. As you requested, I am attaching my presentation power point. If you have any questions or if I can be of assistance, please do not hesitate to contact me. Take care and I wish you the best in your endeavors.

Wendy S. Pearson

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Unless otherwise expressly indicated, any Federal tax advice contained in this correspondence was not intended or written to be used, and cannot be used, for the purpose of: (i) avoiding or evading tax or related penalties imposed under the Internal Revenue Code, or other applicable laws; or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

Catalysts For Growth:

*How Native Non-Profits Can Help Spur And Sustain
Economic Development.*

RES 2015
Las Vegas, NV
March 11, 2015

PEARSON LAW OFFICES, P.S.

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Overview

Address both the advantages and the challenges of doing business with nonprofit (501(c)(3)) entities and Indian Tribal Governments (ITGs)

Address recent federal tax legislation/regulation to incentivize private investment in Indian Country

Address the pros and cons of available entity choices/deal structures for for-profit and nonprofit or ITG joint ventures

Only a snapshot of the possibilities

Mutual Goals Met Through Joint Venture

Expanding Market and Outreach

- NPFs: access to expertise in private sector, way to expand services to beneficiaries, new ways to incentivize investment in the community by offering ROI
- For-profits: access to NPF's knowledge of market conditions and demographics, opportunity to increase market exposure, accreditation and/or added credibility, exploit specific assets of NPF such as intellectual property, acquire community or political support
- ITGs – access to expertise in private sector, way to increase opportunity to create jobs and promote Indian preference, way to access markets or create demand outside of Indian Country, way to increase capacity, separate tribal business from tribe for liability or management reasons.

Mutual Goals Met Through Joint Venture

Expanding Funding Sources

- NPFs: access to capital outside of donations/grants through a commercial enterprise that has ROI incentives, incentivize broader donor base
- For-profits: access to NPF funding sources; access to ITG tax-exempt financing, as well as BIA Indian Loan Guaranty, Insurance, and Interest Subsidy Program (available to all non-Indian businesses that partner with a tribe where the tribal ownership is at least 51%. The borrower's business must be located on or near an Indian reservation and contribute to the economy of the reservation).
- ITGs: access to private and industrial capital, way to monetize tax benefits available in Indian Country

Mutual Goals Met Through Joint Venture

Increasing Opportunity with Tax Advantages

- ITGs: entice private investment with federal tax credits to achieve economic development goals; new BIA leasing regulations present opportunity for tribal governments to lease trust land to taxable enterprises for commercial ventures and eliminate state tax burden, promote native preference
- NPF's: shelter ancillary activity from unrelated business income tax and protect tax exemption
- For-profits: reduce debt costs and tax burden by accessing tax benefits available only through ITGs or NPFs

Tax Incentives to Promote Private Investment in Indian Country

Recent federal action to extend (through 2015) temporary tax benefits to individuals/entities doing business in Indian Country

- New Market Tax Credit
- Low Income Housing Tax Credit
- Accelerated Depreciation
- Indian Employment Tax Credit

Recent federal legislation to promote economic development in Indian Country by reducing state tax Burden

- BIA leasing regulations (25 CFR 162) pertaining to tribal/individual trust land

Additional Tax Exempt Financing opportunities for Indian Tribal Governments to reduce debt cost for certain joint ventures

Tax Incentives to Promote Private Investment in Indian Country

Accelerated Depreciation for Business Property on Indian Reservations

- This provision provides an incentive for private businesses to locate on Indian reservations. It provides qualifying property and infrastructure investments with a faster write-off than such property would otherwise receive under the regular tax code depreciation schedules. Accelerated Depreciation is a critical component of attracting capital-intensive projects to reservations and can bring higher-skilled jobs to Indian communities.

Indian Employment Tax Credit

- This provision provides a 20-percent tax credit for the first \$20,000 of wages for any tribal member or spouse employed by a private business operating on an Indian reservation. The provision is not applicable to tribal government jobs, high-wage jobs (defined as jobs paying more than \$45,000 per year), or gaming jobs.

Tax Incentives to Promote Private Investment in Indian Country

New Markets Tax Credit

- Established in 2000 to spur investments in projects located in low-income communities. Congress is being urged to allocate more credit to Indian focused CDE activity. The benefits of the program include (1) access to financing not otherwise available in the traditional credit market, (2) below market interest rates, and (3) loan forgiveness of around 20% at the end of seven years.
- Non-Indian businesses can benefit from the program by becoming a CDE, investing in an already existing CDE, or creating a joint venture with a tribal enterprise. A CDE applicant may be a for-profit or non-profit

Low Income Housing Tax Credit

- Promotes investment in low-income housing to develop restricted rent housing for a period of years in exchange for 30 to 70% tax credit. Tribal developers of affordable housing can sell the credits to investors to raise capital for their housing projects, which substantially reduces debt.

Tax Incentives to Promote Private Investment in Indian Country

Tax Exempt Financing Opportunities

- CREBS (Clean Renewable Energy Bonds) - Receive \$ for \$ tax credit from feds in lieu of interest paid by issuer
- New TEDBs not limited to “Essential governmental function”

State Tax exemption

- New BIA Leasing Regulations encourage tribes or individual Indians to lease trust land to for-profit entities for all types of commercial activity.
 - Provides no state tax on permanent improvements, activities of lessee, possessory interest of lessee
 - Streamlines BIA approval process of leases or tribes can opt out of BIA review with their own regulations

Challenges to Joint Ventures

Challenges to ITG joint ventures

- Credit allocations are not reaching Indian country (e.g., NMTC, LIHTC)
- Generally entails complicated deal structures with high transaction costs making small deals non-viable
- Compliance risks with onerous recapture of tax credits for violations
- Sovereignty waiver concerns
- BIA Leasing Regs under challenge by 3 states

Challenges of joint ventures with NPFs

- May have to cede control so NPF can protect exempt status
- Activity must be NPF mission related
- Compliance risks with penalties or revocation of exempt status for violations

Options for Structuring Joint Ventures

Liability, tax, and governance factors will shape choice of entity in a joint venture.

LLC/partnership

- preferred investment vehicle for investors who want to participate in the management of the entity's business and limit their personal liability.
- For ITGs, it has the advantage of maintaining tax exemption on pass-through of income
- For NPFs, it does the same, but the structure is more complicated to protect NPF mission – usually requires 51% ownership, or adequate safeguards to ensure activity is mission related.
- Pitfalls: structuring for control; allocation of profits/losses for substantial economic effect; complicated tax rules for use of credits with NPF/ITG; tribally chartered LLC uncertain federal tax status re: integral part

Options for Structuring Joint Ventures

C Corporation:

- NPF can form taxable subsidiary to spin off activity that would create unrelated business taxable income that could jeopardize its tax exemption.
 - Taxable subsidiary will pay income tax on the net income from the activity, but can remit the after-tax profits to the parent NPF as dividends tax-free. Also, Protects exempt assets from legal liability from activities of taxable entity.
 - Pitfalls: must be completely separate/independent entity, careful planning if revenue type is passive (royalties, interest, certain rents).
- ITG: Generally not as favorable to use for ITGs because of taxes when not wholly owned by the ITG.
 - State law corporation are familiar to investors and easy to use for mergers, but are subject to state and federal tax; asset transfer to ITG will be taxable
 - Can use Section 17 corp as parent or holding company; gives investors confidence b/c charter cannot be revoked by tribe
 - Pitfalls: Tribal law corporations still have an uncertain federal tax status

Questions



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ATTACHMENT 2

Julie Shananaquet

From: Lael Echo-Hawk <lechohawk@gsblaw.com>
Sent: Tuesday, March 17, 2015 7:15 PM
To: Julie Shananaquet
Subject: RE: Marijuana in Indian Country powerpoint - RES 2015

Absolutely. I'd be happy to meet with your rep if he is available during NIGA.

Lael

LAEL R. ECHO-HAWK, Attorney
C. 206.271.0106 | P. 206.816.1355 Tel | F. 206.464.0125 Fax | E. lechohawk@gsblaw.com
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-----Original Message-----

From: Julie Shananaquet [<mailto:JShananaquet@LTBBODAWA-NSN.GOV>]
Sent: Tuesday, March 17, 2015 4:03 PM
To: Lael Echo-Hawk
Subject: RE: Marijuana in Indian Country powerpoint - RES 2015

Chi Miigwetch (Big Thank You) Lael,

I needed this as part of my presentation to our Tribal Council. We will have a representative attending San Diego and I will be forwarding your information to him. Again Thank you for your quick response.

Julie

From: Lael Echo-Hawk [lechohawk@gsblaw.com]
Sent: Tuesday, March 17, 2015 4:20 PM
To: Lael Echo-Hawk
Subject: Marijuana in Indian Country powerpoint - RES 2015

Nawa!

Thank you for your interest in the marijuana presentation at RES. Please feel free to contact me with any additional questions. I will also be speaking at the Native Nations Marijuana conference in San Diego before NIGA if you are going to be attending one event or the other and would like to connect while we are there.

Respectfully,
Lael

LAEL R. ECHO-HAWK, Attorney
C. 206.271.0106 | P. 206.816.1355 Tel | F. 206.464.0125 Fax | E. lechohawk@gsblaw.com<<mailto:lechohawk@gsblaw.com>>

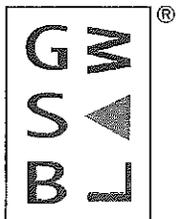
Why Are We Here?

- December 11, 2014 the DOJ released its internal Policy Statement on Marijuana Issues in Indian Country.
- Memo dated October 28, 2014
- Internal policy developed without consultation with tribes.



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Marijuana in Indian Country



**GARVEY
SCHUBERT
BARER**

NCAIED RES 2015

March 11, 2015

Lael Echo-Hawk, Attorney

lechohawk@gsblaw.com

DOJ Policy Statement Regarding Marijuana Issues in Indian Country

- NOT a blanket authorization to begin operations or to legalize marijuana on tribal land.
- Guidance ONLY
- Invitation to talk to your US District Attorney
- Not a coordinated policy position across federal family
 - “Checkerboard on checkerboard”
- Unclear coordination with DOJ HQ & District Office.
- Restates illegality of marijuana federally

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DOJ Policy Statement Regarding Marijuana Issues in Indian Country

- Directs each U.S. District Attorney to:
 - Assess all threats within the District, including those in Indian Country.
 - Consult with the Tribes in their District on a government-to-government basis.
 - Focus enforcement efforts based on that district-specific assessment.
- Invitation to consult – not blanket authorization to legalize

3

Across the Country...

- 4 states legalized the recreational, adult use of marijuana
 - 2012:
 - Washington
 - Colorado
 - 2014:
 - Oregon
 - Alaska
 - Washington D.C.*

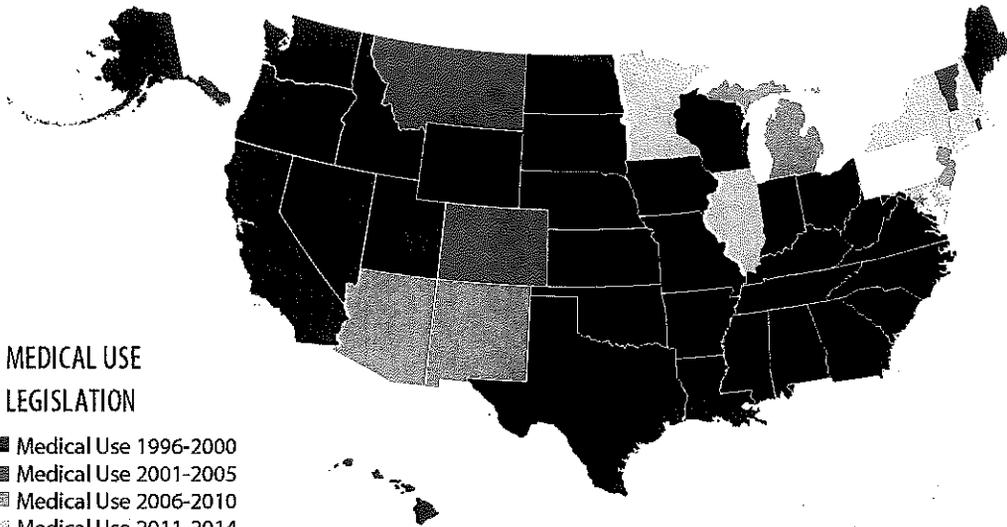
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Across the Country...

- 23 states, plus WA D.C., recognize and permit the medical use of cannabis
 - 1996: California
 - 1998: Alaska, Oregon, Washington
 - 1999: Maine
 - 2000: Colorado, Hawaii, Nevada
 - 2004: Montana
 - 2006: Rhode Island
 - 2007: New Mexico, Vermont
 - 2008: Michigan
 - 2010: Arizona, New Jersey
 - 2011: Delaware, Washington, D.C.
 - 2012: Connecticut, Massachusetts
 - 2013: New Hampshire, Illinois
 - 2014: Maryland, Minnesota, New York

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Across the Country...

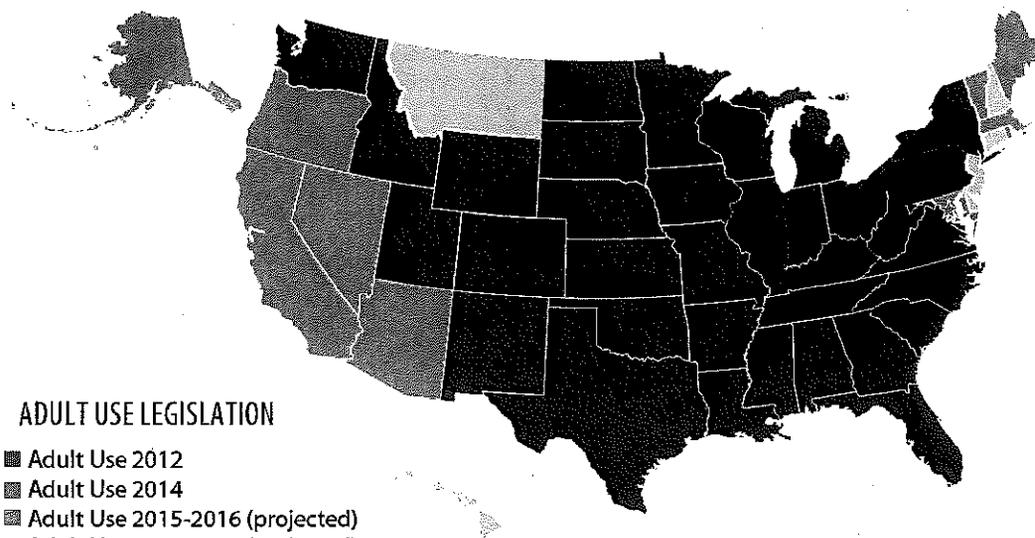


MEDICAL USE LEGISLATION

- Medical Use 1996-2000
- Medical Use 2001-2005
- Medical Use 2006-2010
- Medical Use 2011-2014
- Medical Use 2015-2016 (projected)
- No Medical Use Law

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Across the Country...



ADULT USE LEGISLATION

- Adult Use 2012
- Adult Use 2014
- Adult Use 2015-2016 (projected)
- Adult Use 2017-2020 (projected)
- No Adult Use Law

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Economic forecast

- Legal marijuana grew 74% last year to \$2.7B up from \$1.5B in 2013.* Arcview Market Research report
- Colorado - \$699M total combined sales
 - Taxes - \$63M Revenue (36% from recreational)
 - Licensing - \$13M Revenue
 - 2.85M edible retail products sold
- Washington – estimated to increase by \$252M in 2015*
- AMR estimates \$10.8B in national sales by 2019*

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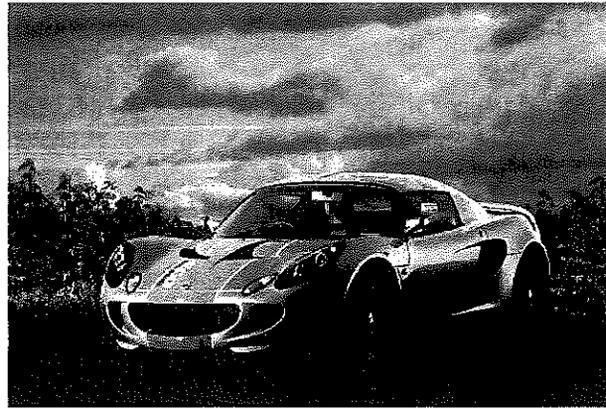
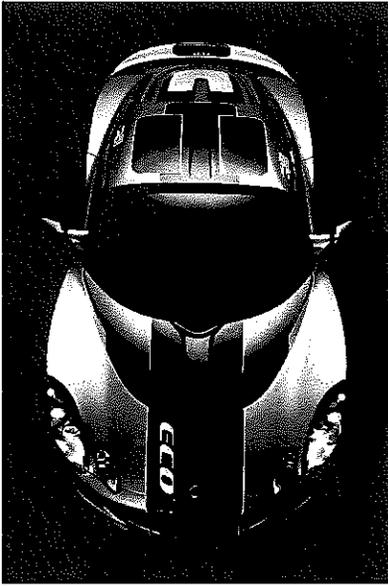
Across the Country...

- 16 states have passed pro-hemp legislation.
 - Hemp = less than .3% THC
- 8 states have removed barriers to hemp production or research.



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Hemp -



“Sustainable hemp technical fabrics have been used as the primary constituent in the high quality “A” class composite body panels and spoiler. The renewable hemp has exceptional material properties that make for a very strong fibre.”

Lotus Eco Elise Press Release

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Economic forecast

- Hemp – estimated \$500M market for hemp products
 - Renewable energy source?
- Global market – more than 25,000 hemp products
- Higher rate of return per acre than any other crop except Tobacco. (Congressional Research Service Report for Congress 2013)

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Cole Memo (8/29/2013)

- In light of WA's and CO's new laws, DOJ identified 8 federal enforcement priorities
 - preventing the distribution to minors;
 - preventing revenue from going to criminal enterprises, gangs, and cartels;
 - preventing the diversion to other states;
 - preventing state-authorized activity from being used as a cover for the trafficking of other drugs or illegal activity;
 - preventing violence and the use of firearms;
 - preventing drugged driving and the exacerbation of other adverse public health consequences;
 - preventing the growing of marijuana on public lands; and
 - preventing possession or use on federal property.

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Cole Memo (6/29/2011)

- Memo from Deputy Attorney General James Cole to US Attorneys
- Provide "guidance regarding Ogden Memo" in light of "Green Rush."

"[W]ithin the past 12 months, several jurisdictions have considered or enacted legislation to authorize multiple large-scale, privately-operated industrial marijuana cultivation centers... [with] revenue projections of millions of dollars. . . ."

"The Ogden [Memo] was never intended to shield such activities from federal enforcement action and prosecution, even where those activities purport to comply with state law." pg. 2. (Emphasis added)

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Casinos – Financial Institution

- **FinCEN's guidance applies to all financial institutions covered under FinCEN regulations, including casinos.”**
- Jim Dowling, a former White House advisor on money laundering issues and now a regulatory consultant to casinos, told gaming executives they are obligated to follow the same marijuana guidelines as banks. **“Casinos can’t accept any money from them, or they have to comply with the new government guidance,”** Dowling said.

Nathan Halverson, *Feds Warn Casinos to Turn Away Gamblers With Medical Marijuana Ties*, KQED News, June 12, 2014, available at <http://ww2.kqed.org/news/06/12/2014/-medical-marijuana-banks-casinos-federal-regulation>

- How can Tribes with a casino participate in the Cannabis industry?

Cole Memo (8/29/2013)

- DOJ’s guidance relies upon expectation that state governments “implement strong and effective regulatory and enforcement systems,” with “robust controls and procedures on paper,” and “effective in practice.” “If state enforcement efforts are not sufficiently robust to protect against [8 enforcement priorities] the federal government may seek to challenge the regulatory structure.”
- Reversal of earlier Cole Memo: The size of an operation is no longer a “proxy” for determining whether the operation implicates DOJ’s enforcement priorities.

NOTE – Guidance only, individual prosecutors have discretion to deviate from federal enforcement priorities.

Washington

- Pending legislation – All marijuana “compacts” to address any marijuana-related issue that involves both state and tribal interests or otherwise has an impact on tribal-state relations.

Oregon

- July 1, 2015 – personal possession and use is permitted
- Liquor Control Commission is tasked with implementation.
- License applications will be accepted starting January, 2016

Alaska

- Alaska has historically allowed possession in small quantities
- Decriminalization effective Feb 24, 2015
 - 1 oz outside the home by person 21 years or older
 - Trade in marijuana - ok
 - Possession of up to 6 plants - ok
- Regulations must be implemented within 9 months

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Changes?

- New President, 2016
- Republican controlled Congress, 2015
- New U.S. Attorney General (Eric Holder resigning)
- New U.S. Deputy Attorney General (James Cole resigning)
- New U.S. Attorney for Western Dist. of Washington
- Nebraska and Oklahoma's suit against Colorado alleging federal preemption

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Federal legislation

- 1 Senate bill introduced
 - The Compassionate Access, Research Expansion and Respect States Act introduced by Sens. Paul, Booker, Gillibrand.
 - Reschedule marijuana from Schedule I to Schedule II
 - Move to Schedule II would mean federal regulatory recognition that marijuana has medicinal value but also high abuse potential.
 - Prohibit federal government from cracking down on medical marijuana operations that are operating in compliance with federal law.
 - Allows hemp (less than .3% THC)
 - Allow financial institutions to provide financial services to state-legal cannabis businesses.
 - First such bill in the Senate as opposed to 15 previously in the House.

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Federal legislation

- 2 House bills introduced
 - Regulate Marijuana Like Alcohol Act, introduced by Rep. Jared Polis (D-Colorado) would completely removed marijuana from the federal government's list of controlled substances and subject it to the same federal regulations currently governing alcohol.
 - States are not required to legalize
 - Creates federal regulatory scheme for states who do legalize
 - Marijuana Tax Revenue Act, introduced by Rep. Earl Blumenauer (D-Oregon). Blumenauer's bill would place a federal excise tax on federally-regulated marijuana.
 - States are not required to legalize
 - Creates federal regulatory scheme for states who do legalize
- 2 similar bills were rejected last session.

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What must Tribes consider when deciding whether to legalize, decriminalize or prohibit marijuana in Indian Country?

- Historical substance abuse on reservations.
- Community concerns for or against
- Other affected Federal Programs: HUD, IHS, 638, USDA, ICW
- Status of legality in your state
- Employment, including federal program employees
- Revenue source?
 - Sales, Taxation, Licensing
- Employment opportunity?

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What does this mean for tribes?

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Legal Options

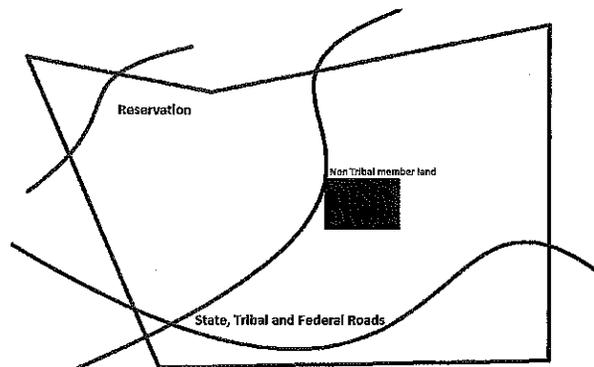
Doing nothing should NOT be an option.

1. Prohibition
2. Authorize limited adult, individual possession
3. Decriminalize.
4. Authorize medical cultivation and/or use only
5. Authorize recreational, medical cultivation, and distribution
6. Participate in state licensed recreational industry

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What should Tribes consider when deciding whether to legalize, decriminalize or prohibit marijuana in Indian Country?

- Price of admission: what additional resources are required if the Tribe decides to legalize, prohibit or decriminalize marijuana.
- Jurisdictional issues: Public Law 280 state civil & criminal jurisdiction over Tribal members
- Other statutes giving state jurisdiction over tribal lands

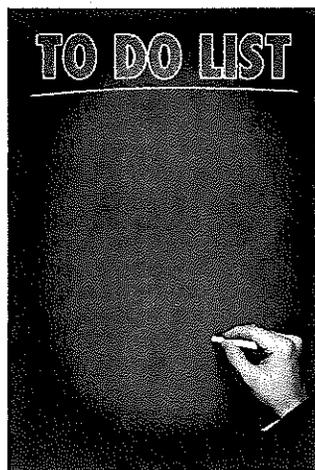


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Consultation with U.S. District Attorney

- Authorization of marijuana will require consultation with DOJ.
- Prohibition of marijuana will require consultation with DOJ.
- DC Headquarters will need to ensure consistency in District-Tribal consultation process.
- Diverse Tribal interests in each District.

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What steps are tribes taking?

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If Tribe Decides to Allow – Development of Robust Regulatory Framework Required

• Rules which protect against the 8 federal enforcement priorities (Cole Memo):

- Distribution to minors;
- Funding criminal enterprises, gangs, and cartels;
- Interstate distribution;
- Trafficking other illegal drugs or illegal activity;
- Violence and use of firearms;
- Drugged driving and other public health consequences;
- Growing on public lands; and
- Possession or use on federal property.

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Make a Decision & Adopt As Tribal Law

- Gather information before making a decision
 - Consider social impacts
- Consider your State's authorization or lack thereof
 - Jurisdiction & resources to implement
 - Political effects
- Memorialize the decision (prohibitive or permissive) in Tribal law
 - Some tribes may have to obtain federal approval of their ordinance by BIA.
- Review all other tribal ordinances to ensure consistency

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Coordination with Law Enforcement

- MOU and/or Non-Prosecution Agreements with law enforcement agencies
 - Department of Justice
 - BLM/Park Rangers
 - State, County, City
 - BIA
- Consider PL-280 and other jurisdictional issues
- Consider federal challenge for BIA

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If Tribe Decides to Allow – Development of Robust Regulatory Framework Required

- **What those rules will likely need to include**
 - Some method for tracing product from seedling through sale, to prevent product from diverting into black market
 - Security requirements
 - Distance buffer from facilities with children
 - Criminal background checks on managers and investors
 - Advertising and packaging restrictions to protect minors
 - Quantity limits on consumer sales
 - Public safety regulations on acceptable extraction methods
 - Required testing of product for potency and mold, etc.
- Independent, policing, enforcement division

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Questions?

Lael Echo-Hawk

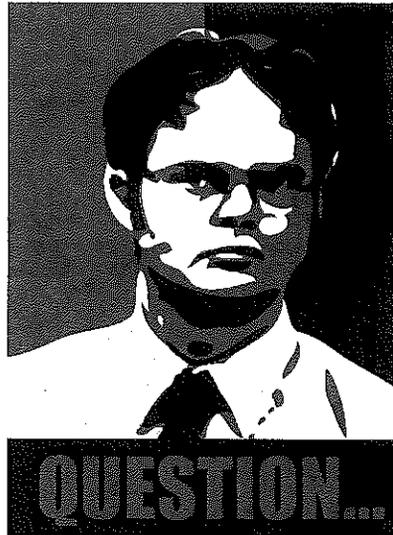
e. lechohawk@gsblaw.com

p. 206.816.1355

www.smokesignalsindianlaw.com

Twitter: @laeleh

Facebook: SmokeSignals IndianLaw



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If Applicable, Carefully Vet Potential Partners

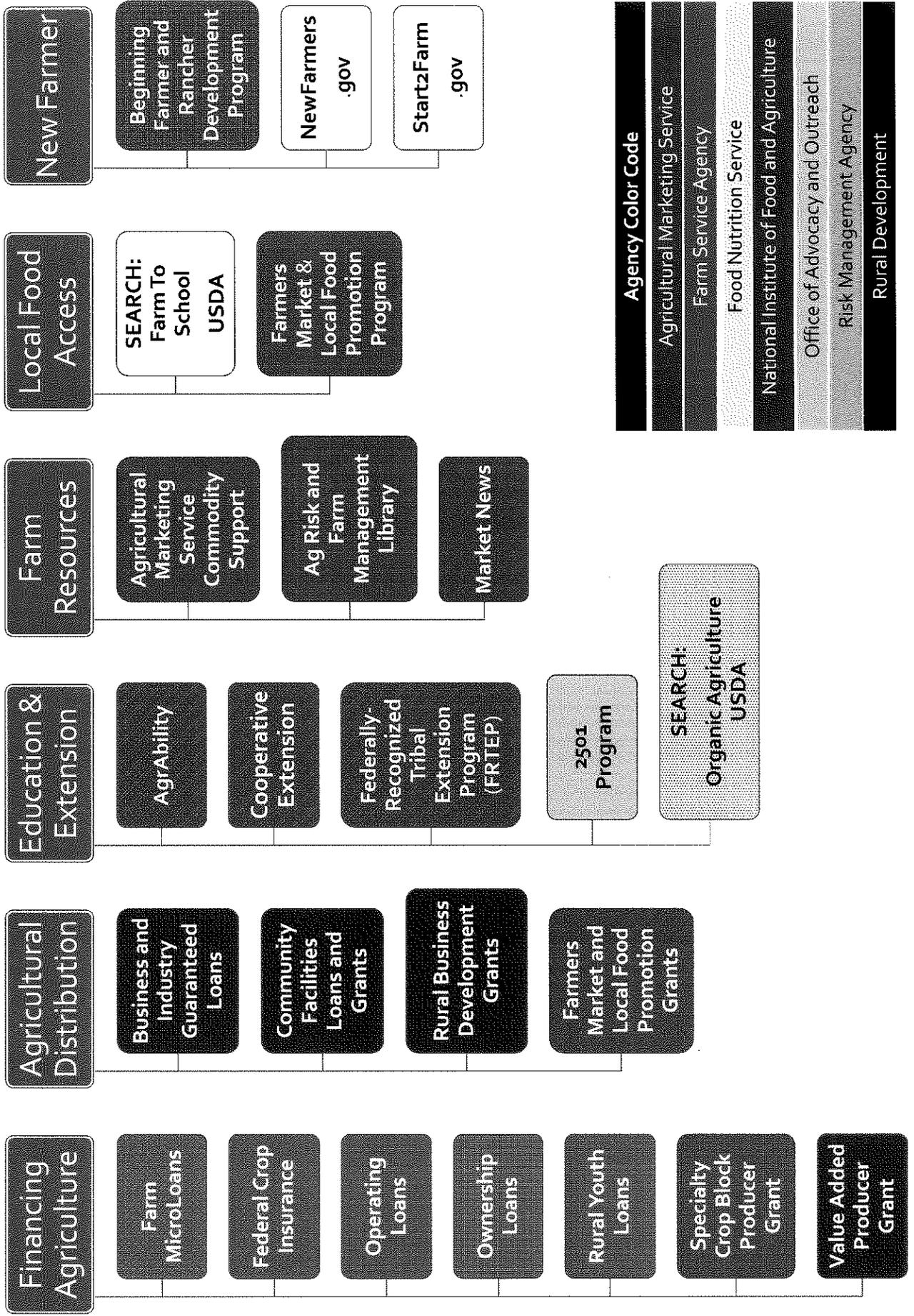
Given the vagueness of the policy & lack of federal unanimity:

- Caution when approached by “gold rushers”
- Do homework first —
 - Community involvement
 - Legal implications relative to your State & US district
 - PLAN
- Then, if appropriate, choose partners who are thoroughly vetted

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ATTACHMENT 3

Agriculture and Food Sovereignty



Agency Color Code
Agricultural Marketing Service
Farm Service Agency
Food Nutrition Service
National Institute of Food and Agriculture
Office of Advocacy and Outreach
Risk Management Agency
Rural Development

What is Organic Certification?

Organic certification verifies that your farm or handling facility located anywhere in the world complies with the USDA organic regulations and allows you to sell, label, and represent your products as organic. These regulations describe the specific standards required for you to use the word "organic" or the USDA organic seal on food, feed, or fiber products. The USDA National Organic Program administers these regulations, with substantial input from its citizen advisory board and the public.

Who Certifies Farms or Businesses?

Your farm or handling facility may be certified by a private, foreign, or State entity that has been accredited by the USDA. These entities are called certifying agents and are located throughout the United States and around the world. Certifying agents are responsible for ensuring that USDA organic products meet all organic standards. Certification provides the consumer, whether end-user or intermediate processor, assurance of the organic product's integrity.

What Can I Be Certified to Produce?

The USDA organic regulations recognize four categories of organic products:

- **Crops:** A plant that is grown to be harvested as food, livestock feed, fiber, or used to add nutrients to the feed.
- **Livestock:** Animals that can be used for food or in the production of food, fiber, or feed.
- **Processed products:** Items that have been handled and packaged (i.e. chopped carrots) or combined, processed, and packaged (i.e. soup).
- **Wild crops:** Plants from a growing site that is not cultivated.

Is There a Transition Period?

Yes. Any land used to produce raw organic commodities must not have had prohibited substances applied to it for the past three years. Until the full 36-month transition period is met, you may not:

- Sell, label, or represent the product as "organic"
- Use the USDA organic or certifying agent's seal

USDA provides technical and financial assistance during the transition period through its Environmental Quality Incentives Program (EQIP). Learn more at <http://1.usa.gov/nrcs-eqip-apply>.

How Much Does Organic Certification Cost?

Actual certification costs or fees vary widely depending on the certifying agent and the size, type, and complexity of your operation. Certification costs may range from a few hundred to several thousand dollars. Before you apply, it is important to understand your certifier's fee structure and billing cycle. Typically, there is an application fee, annual renewal fee, assessment on annual production or sales, and inspection fees.

Once you are certified, the USDA Organic Certification Cost-Share Programs can reimburse you up to 75 percent of your certification costs. To learn more about this and other financial assistance programs, visit www.ams.usda.gov/NOPFinancialAssistance.

Can I Use the USDA Organic Seal?

All raw certified organic products may be labeled with the USDA organic seal. To learn more about organic labeling, including which processed or multi-ingredient products may use the USDA organic seal, visit www.ams.usda.gov/NOPOrganicLabeling.

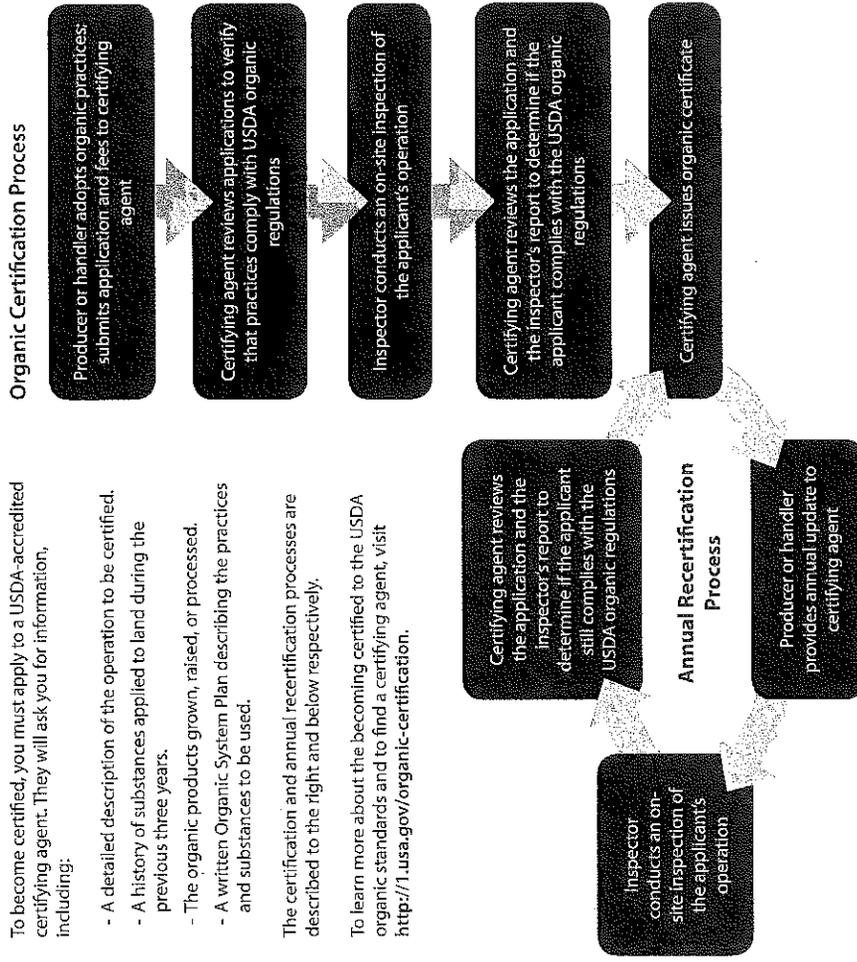
How Do I Get Certified Organic?

To become certified, you must apply to a USDA-accredited certifying agent. They will ask you for information, including:

- A detailed description of the operation to be certified.
- A history of substances applied to land during the previous three years.
- The organic products grown, raised, or processed.
- A written Organic System Plan describing the practices and substances to be used.

The certification and annual recertification processes are described to the right and below respectively.

To learn more about the becoming certified to the USDA organic standards and to find a certifying agent, visit <http://1.usa.gov/organic-certification>.



EXPORTING ORGANIC PRODUCTS FROM THE U.S. (continued)



JAS law—such as meat, dairy products, and alcoholic beverages—may also be exported to Japan. These products do not require an export certificate and may be labeled with the USDA organic seal (but not the Japanese organic logo).

TAIWAN

USDA organic products produced and handled in the U.S. can be sold as organic in Taiwan (effective March 18, 2009).

Terms of the Arrangement. To export products under the partnership, certified operations must:

- Produce livestock without systemic pain killers.
- Ship imports with an **export certificate** (TM-11), completed by a USDA-authorized certifier. Documentation must also include required statements related to prohibited substances.

Labeling Requirements. For packaged retail products, labels or stickers must state the name of the USDA-authorized certifier and may use the USDA organic seal.

OTHER INTERNATIONAL MARKETS

Many additional countries accept USDA organic products without a specific trade partnership. www.globalorganictrade.com

GENERAL REQUIREMENTS

In addition to organic requirements, traded agricultural products must meet all general or commodity-specific import requirements for the destination country.

Labeling. Generally, products must meet labeling requirements in the destination country.

Export Codes. For certain organic products, traders must use harmonized tariff schedule codes for tracking purposes. <http://bit.ly/organic-codes2>

Grading. Exported agricultural commodities must often meet product size, grade, quality, and maturity requirements. www.ams.usda.gov

Food Safety. Most countries require shipments to include specific permits and certificates to ensure the product is healthy and free from pests requiring quarantine. Such requirements vary by country.

IDENTIFYING ORGANIC PRODUCTS

If an organic logo (see below) isn't on the exterior of the shipping box (not required), shippers should review the:

- Receipt (bill of lading) detailing receipt of organic goods and specifying terms of delivery.
- Commercial invoice representing a complete record of the business transaction.
- Any import/export certificate or required statement as required (see above).

INTERNATIONAL ORGANIC LOGOS



USDA organic seal (U.S.)



Canada organic logo



European organic logo



Japanese organic logo

EXPORTING ORGANIC PRODUCTS FROM THE U.S.



Terms of the Arrangement. To export products under the partnership, certified operations must:

- Produce crops without antibiotics.
- Meet additional specifications for wine.
- Ship products with an **EU import certificate**, completed by a USDA-authorized certifier.

Labeling Requirements. For packaged retail products, labels or stickers must state the name of the USDA-authorized certifier and may use the USDA organic seal and/or the EU organic logo.

JAPAN

USDA organic plants, fungi, and plant-based processed products (such as grape juice or corn meal) can be sold as organic in Japan (effective January 1, 2014).

Products must be either produced or have had final processing or packaging occur within the U.S.

Terms of the Arrangement. To trade plants, fungi, and plant-based products under the partnership, certified operations must:

- Ship products with an export certificate (TM-11), completed by a USDA-authorized certifier.

Labeling Requirements. For packaged retail products, labels or stickers must state the name of the USDA-authorized certifier and may use the USDA organic seal. Use of the Japanese organic logo is required on plant and plant based products, and requires a Japanese Agricultural Standards (JAS)-authorized importer.

Other Products. Organic products not regulated by the



December 2013

National Organic Program | Agricultural Marketing Service



USDA Programs in the Local Food Supply Chain

Land Conservation



- [Conservation Reserve Program](#)
- [Agricultural Conservation Easement Program](#)
- [Conservation Stewardship Program](#)
- [Environmental Quality Incentives Program](#)

Production



- [Farm Microloans](#)
- [Farm Storage Loans](#)
- [Organic Cost Share](#)
- [Grass-fed Verification](#)
- [Environmental Quality Incentives Program \(hoop houses/high tunnels\)](#)
- [Rural Energy for America Program](#)

Aggregation/ Distribution



- [Business and Industry Guaranteed Loans](#)
- [Community Facilities Loans and Grants](#)
- [Rural Business Enterprise Grants](#)
- [Rural Business Opportunity Grants](#)
- [Local Food Promotion Program](#)
- [Specialty Crop Block Grants](#)

Processing



- [Business and Industry Guaranteed Loans](#)
- [Community Facilities Loans and Grants](#)
- [Rural Business Enterprise Grants](#)
- [Rural Business Opportunity Grants](#)
- [Value-Added Producer Grants](#)
- [Local Food Promotion Program](#)

Markets / Consumers



- [Farm to School Grants](#)
- [Senior Farmers' Market Nutrition Program](#)
- [WIC Farmers' Market Nutrition Program](#)
- [Community Food Projects Competitive Grants](#)
- [Farmers Market Promotion Program](#)
- [Specialty Crop Block Grants](#)

Research, Education, and Technical Assistance Programs – all along the supply chain

- [Rural Cooperative Development Grants](#)
- [Small Business Innovation Research](#)
- [Risk Management Education Program](#)
- [Federal State Marketing Improvement Program](#)
- [Conservation Technical Assistance](#)
- [Beginning Farmer and Rancher Development Program](#)
- [Sustainable Agriculture Research and Education Program](#)
- [Agriculture and Food Research Initiative](#)

www.usda.gov/knowyourfarmer

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ATTACHMENT 4

HDT follow up/contact info

HDT follow up/contact info

thompsonhd@gtlaw.com

Sent: Friday, March 13, 2015 2:40 PM

Attachments: Image001.jpg (6 KB)

It was so nice seeing you this week. Below is my new contact information.

Very best

Heather

Also, for any folks that were interested in the new tribal intertribal trade co-op, and the co-op propane project, the website is:

www.tribalcoop.com<<http://www.tribalcoop.com>>

Heather Dawn Thompson

Practice Group Attorney

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