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March 14, 1997

Frank Sapienza  
Secretary of Drug and Chemical Evaluation  
Office of Diversion Control  
U.S. Department of Justice  
Drug Enforcement Administration  
Washington, D.C. 20537

Re: Petition of Jon Gettman and Trans-High Corporation

Dear Mr. Sapienza:

On July 10, 1995 my clients filed their petition pursuant to 21 CFR 1308.44 challenging the classification of Marijuana as a Schedule I drug. The petition was accepted for filing on July 27, 1997. In a July 27, 1995 letter, then Deputy Administrator Greene stated that the DEA will determine within a reasonable period of time whether there are sufficient grounds for our petition, and if there are sufficient grounds there will be a medical and scientific recommendation from the Secretary of HHS which will be binding on the DEA, and only then will the DEA initiate proceedings for rulemaking.

On November 19, 1996, you indicated that James Milford was the new Deputy Administrator and the six other petitions before my clients' were not related to proposed rule changes for marijuana. Please let me know the date of the other petitions and the names of the petitioners. In our conversation, I asked you what standard the DEA employs to determine "sufficient grounds" for the petition in the absence of a medical and scientific evaluation from HHS. You stated the standard was whether there was new information or information not considered before or information presented in a different way. It is clear that my clients' petition presents such sufficient grounds.

In our conversation of November 19, 1996 you stated that our petition was assigned to Dr. Judy Lawrence for review in early 1997 and that the petition would be passed on to her once she finished reviewing another petition assigned to her.

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You should know that my clients' request for the Administration to conduct an official scientific and medical evaluation of marijuana in accordance with its responsibilities under 21 USC 811b originated with a letter to Attorney General Reno on October 14, 1994

In a letter of March 1, 1995 DEA Administrator Constantine argued that a recent determination that marijuana had no "accepted medical use" in the United States rendered the issue moot. When reminded of rulings on the U.S. Court of Appeals which were contrary to his position, Mr. Constantine (on April 21, 1995) invited my clients to submit scientific data on the topic of marijuana's abuse potential. Thereafter the petition was filed.

On October 20, 1995 my clients sent HHS Secretary Shalala a letter in reference to her responsibilities to issue a triennial report on Drug Abuse and Drug Abuse Research under Section 506b of the Public Health Service Act, USC 290aa-4, noting that no such report had been published since 1991.

On March 27, 1996, my clients received a letter from the Acting Director of NIDA's Office of Science Policy and Communications, Robin Kawazoe, assuring my clients that a triennial report "should be released in the near future." By May 31, 1996, my clients received the medical and scientific evaluation of record for marijuana and other cannabinoids and noted their obsolescence in terms of scientific citations with contemporary relevance.

In December 29, 1996, in response to ballot initiatives in California and Arizona, the Secretary of Health and Human Services promised the public a full scientific and medical evaluation of marijuana's therapeutic potential. On January 8, 1997, the Director of the Office of National Drug Control Policy, General Barry McCaffrey commissioned the Institute of Medicine to review scientific literature on marijuana's therapeutic potential.

Neither the internal review announced by Secretary Shalala nor the IOM study commissioned by General McCaffrey satisfy the Administration's responsibilities under 21 USC 811 regarding my clients' petition. It is troubling that the Administration has considerable time to entertain scientific and medical reviews of marijuana except those required by the statutes of the U.S. Code.

It has been 20 months since the filing of my clients' petition and as far as we know the petition has yet to be passed on to HHS. Given the Administration's failure to maintain their statutory responsibilities to report on drug abuse research, their failure to submit my clients' petition for a formal review by HHS considerably undercuts the integrity of the Administration's public positions.

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My clients have hoped over the last two years that the DEA would see it is to the Country and the Administrations's benefit to act on this petition with due diligence rather than waiting for my clients to resort to a court order.

We share the Administration's concern for preserving the integrity of the scientific and medical review process, and regardless of the status of the DEA's review of my clients' petition, my clients would like an opportunity to discuss these issues with appropriate officials from the DEA, Secretary Shalala, and General McCaffrey. I believe that all parties would benefit from a frank exchange of views.

I look forward to hearing from you.

Sincerely,

*Simone Monasebian*  
Simone Monasebian, Esq.