

DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION

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**UNITED STATES DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION**

IN THE MATTER OF)

Docket No. 05-16

Lyle E. Craker, Ph.D.)

**GOVERNMENT'S THIRD SUPPLEMENTAL
PREHEARING STATEMENT**

The Government, by and through the undersigned attorney, respectfully submits the following third Supplemental Prehearing Statement and a motion for leave of court to file this third Supplemental Prehearing Statement, as follows.

SUPPLEMENTAL PREHEARING STATEMENT

Matt Strait (Additional testimony)

Matt Strait will testify, that while DEA has grave concerns about marijuana in general, DEA is particularly concerned about the plant material since that is the form in which marijuana is most commonly diverted and abused. In this regard, marijuana is somewhat similar to opium because the pharmaceutical drugs that emanate from opium are extracts, not the opium itself.

As a registration matter, a Schedule I researcher using marijuana could be allowed under current DEA law and policy to obtain marijuana either through NIDA or by import for research. Under these circumstances, a researcher might be permitted to grow various strains of marijuana based upon the marijuana obtained through NIDA or imported, if such cultivation were limited to legitimate research

purposes. Under such a scenario, the applicant would have to secure all applicable registrations, submit protocols and install the proper security.

Helen Kaupang (Additional testimony)

Helen Kaupang will testify that she received the following additional information from Keith Kamita. In the State of Hawaii, 4,666 physicians are eligible to utilize this program as defined under Hawaii Statute 329-121. "Physician" means a person who is licensed under chapters 453(MD) and 460 (DO), and is licensed with authority to prescribe drugs and is registered under section 329-32. "Physician" does not include physician's assistant as described in section 453-5.3.

Proposed Testimony of policy expert to discuss testimony of Rodney Skager, Ph.D.

The Government is in the process of seeking an expert to discuss and rebut the proposed testimony of Rodney Skager, Ph. D., who was a witness listed on the Respondent's Supplemental Prehearing Statement.

**MOTION SEEKING LEAVE TO FILE SUPPLEMENTAL
PREHEARING STATEMENT**

The Government seeks leave to file the above third Supplemental Prehearing Statement based upon the following. The material is not voluminous, the issues that the proposed testimonies relate to previously have been disclosed in the Government's previous prehearing statements, and Respondent will not be prejudiced in addressing the testimonies set forth herein since such testimony will not be presented until the week of September 26, 2005, or the week of December 12, 2005.

The Government will fax this pleading to Respondent's counsel in order to see if Respondent has no objection, objects without filing a response, or objects and seeks to file a response explaining the objection(s).

Respectfully submitted,

 FOR

Brian Bayly
Senior Attorney
Office of Chief Counsel

Dated: August 11, 2005

CERTIFICATE OF SERVICE

On August 11, 2005, I caused the foregoing Supplemental Prehearing Statement to be sent, via same-day courier, to Julie M. Carpenter, Esq., Jenner & Block, LLP, 601 Thirteenth St., NW, Suite 1200 South, Washington, D.C. 20005, and via facsimile at (202) 661-4810, and filed the original and two copies of the foregoing at the DEA Office of Administrative Law Judges by hand delivery.

 FOR

Brian Bayly