

Congress of the United States
Washington, DC 20515

February 5, 2009

The Honorable Eric Holder
Attorney General
United States Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

Dear Attorney General Holder:

Congratulations on your historic nomination and confirmation as our nation's Attorney General. We are writing to request that the Department of Justice, Drug Enforcement Administration (DEA) take immediate action to grant the enclosed *Request for Opportunity Under 5 U.S.C § 556(e) To Respond to New Officially Noticed Evidence and Motion for Reconsideration* in the matter of University of Massachusetts at Amherst Professor Lyle Craker, PhD, Docket No. 05-16.

We are concerned that DEA's recent actions in this matter violate the spirit of the January 20, 2009, memorandum from President Obama's Chief of Staff to the heads of all executive departments and agencies [See Memorandum for the Heads of Executive Departments and Agencies, by Rahm Emanuel, Jan. 20, 2009, available at <http://ombwatch.org/regs/midnightregfreezememo.pdf>]. We urge you to see that the DEA acts swiftly to amend or withdraw the Final Order in this matter to permit President Obama's new Deputy Attorney General and DEA appointees to review Prof. Craker's application on its merits, once they are in office.

As you know, the University of Massachusetts-Amherst is one of the nation's distinguished research universities. Since 2001, Prof. Lyle Craker, an experienced botanist of medicinal plants and soils, has been struggling to obtain a DEA license for a privately-funded facility located at the University of Massachusetts to grow cannabis (marijuana) exclusively for FDA-approved research protocols designed to evaluate its potential medical value. Forty-five members of the House of Representatives and Senators Edward Kennedy and John Kerry, as well as a broad range of scientific, medical and public health organizations including the Lymphoma Foundation of America, the National Association for Public Health Policy, and the Multiple Sclerosis Foundation have all written to DEA in support of Professor Craker's efforts.

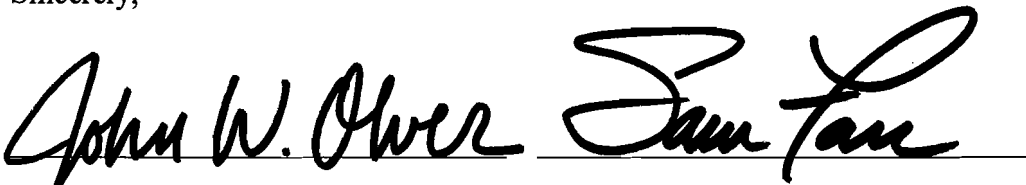
On February 12, 2007, after nine days of testimony from expert witnesses and administration officials, DEA's Administrative Law Judge Mary Ellen Bittner issued an 87-page *Opinion and Recommended Ruling* which concluded that the current sole-supply of cannabis by NIDA was insufficient for the level of research that cannabis deserves and that facilitating advanced clinical research was "in the public interest." The ALJ decision left no doubt that Prof. Craker's and the University of Massachusetts-Amherst are highly qualified to manufacture marijuana for legitimate medical and research purposes with effective controls against diversion.

After almost two more years of delay and less than one week before the change in Presidential Administrations, Deputy Administrator Leonhart published in the Federal Register an eleventh-hour final order rejecting the ALJ recommendation and denying Professor Craker's application. [See Denial of Craker Application, No. 05-16 (published Jan. 14, 2009), 74 Fed. Reg. 2101-03.] However, in her final order, the Deputy Administrator relied upon new evidence that was not part of the administrative record in this matter.

Prof. Craker has requested 60 days in which to present additional documentary evidence, live testimony and argument refuting and in opposition to the evidence officially noticed. Fundamentally, what Professor Craker seeks in the attached Motion for Reconsideration is an essential component of due process: an adequate opportunity to respond to, refute, and show the contrary of material new evidence that does not appear in the record of this proceeding, but which was nonetheless officially noticed by DEA in issuing its published Order denying Prof. Craker's application.

We look forward to working with you and your staff to support policies that respect due process and advance scientific integrity.

Sincerely,

Handwritten signatures of John W. Olver and Sam Farr, each on a horizontal line.

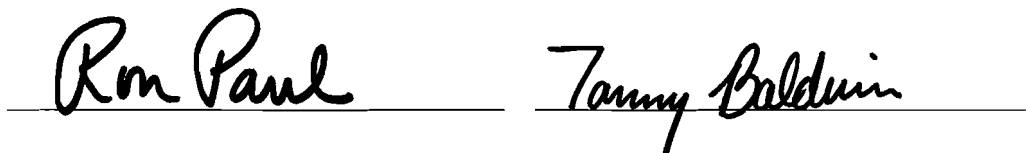
John Olver
Member of Congress

Sam Farr
Member of Congress

Handwritten signatures of Maurice D. Hinchey and Raul M. Grijalva, each on a horizontal line.

Maurice D. Hinchey
Member of Congress

Raul M. Grijalva
Member of Congress

Handwritten signatures of Ron Paul and Tammy Baldwin, each on a horizontal line.

Ron Paul
Member of Congress

Tammy Baldwin
Member of Congress



Robert Wexler
Member of Congress



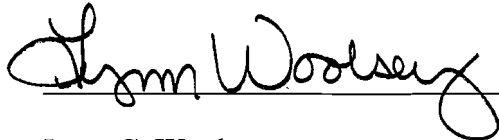
Ed Pastor
Member of Congress



Neil Abercrombie
Member of Congress



Gary Ackerman
Member of Congress



Lynn C. Woolsey
Member of Congress



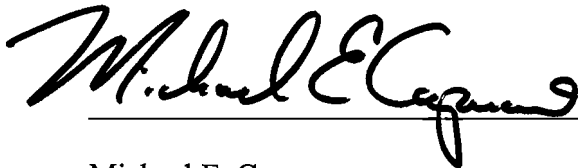
William D. Delahunt
Member of Congress



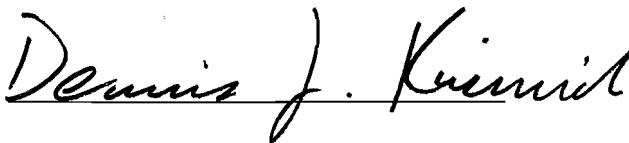
Barney Frank
Member of Congress



Zoe Lofgren
Member of Congress



Michael E. Capuano
Member of Congress



Dennis J. Kucinich
Member of Congress

Enclosure: Request for Opportunity Under 5 U.S.C § 556(e) To Respond to New Officially Noticed Evidence and Motion for Reconsideration, Docket No. 05-16

cc: Michele Leonhart, Deputy Administrator, Drug Enforcement Administration
Rahm Emanuel, White House Chief of Staff, Executive Office of the President