

Drug Watch

International

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"International NGO in Special Consultative Status with the Economic and Social Council of the United Nations"

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September 15, 2010

The Honorable Eric Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Dear Attorney General Holder:

On behalf of the members of Drug Watch International, Inc, a non-profit NGO dedicated to the prevention of drug abuse, I am requesting that you intervene to prevent the voters of the state of Arizona from creating a positive conflict with federal law by enacting a referendum that would permit the cultivation, distribution, and possession of marihuana.

A voter initiative has been filed with the Secretary of State in Arizona that will place a referendum before the voters of that state on November 2, 2010 that, among other things, will directly conflict with the federal Controlled Substances Act (21 USC 801, et seq.). Section F of the Arizona referendum states:

States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put the state of Arizona in violation of federal law.

This statement is erroneous. In passing the CSA, Congress recognized that there would be a dual system of federal and state regulation of controlled substances and specifically addressed this in 21 USC 903 (Application of State Law) that contained a preemption clause:

No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together. (emphasis added)

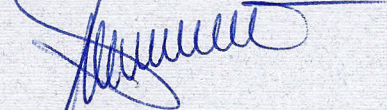
The underlined section that I've emphasized reiterates what is inherent in the Constitution's *Supremacy Clause*, i.e., that no state may enact a law relating to controlled substances that presents a *positive conflict* with the CSA. Despite containing incorrect statements to the contrary, Arizona's proposed initiative, if passed, will present a positive conflict with the federal CSA.

Your Department recently invoked the *Supremacy Clause* to challenge the constitutionality of an Arizona state law to regulate immigration. We ask and expect that if the initiative permitting commerce in marijuana is approved by the voters of Arizona, that your Department will act just as swiftly to challenge its constitutionality arising from the fact that it will present a positive conflict between state and federal law.

We also urge you, as the nation's top law enforcement officer, to speak out on this issue now, before the citizens of Arizona vote for what, if passed, will be an unconstitutional law. We are not suggesting that you interfere in a matter of state politics but that you simply state the fact that the proposed initiative contains incorrect statements with respect to federal law and the United States Constitution, both of which your position and oath of office require you to defend.

Thank you for your attention to this matter and best personal wishes.

Sincerely,

A handwritten signature in blue ink, appearing to read "John J. Coleman", with a long horizontal flourish extending to the right.

John J. Coleman, Ph.D.
President