



CREATING RESPONSIBLE,
INCLUSIVE CANNABIS POLICIES

August 3, 2019

Mr. Richard Parrott
Director
CalCannabis Cultivation Licensing
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

Re: Terroir vs. Technology
The Argument for an "Indoor LA" Appellation of Origin for the City of Los Angeles

Dear Director Parrott:

Our organization is writing today to request that CalCannabis create an appellation of origin for cannabis grown indoors in the City of Los Angeles. Below please find the reasoning for this request. We look forward to working on this project with you.

A Brief History of Cannabis Cultivation in the City of Los Angeles

The Southland has long demonized marijuana. Local law enforcement, in particular, were not fans.¹ It took until 2007 for the City to begin regulating and it wasn't until 2014 that the City had, in Proposition D², the first ordinance to survive extensive litigation.

Proposition D created a limited immunity defense for retailers. It was otherwise silent on cannabis cultivation. A much sued-upon ordinance released in 2010 ordered all retail operators to grow cannabis on-site but was ultimately abandoned.³

Law enforcement and politicians opposed any licensing of the cannabis industry in the City and early attempts to establish dispensaries which were compliant under the 1996 Compassionate Use Act, were raided and closed, often by the Drug Enforcement Agency (the DEA), a federal entity. To give you some idea of how virulent opposition was, on the day the City Council voted to begin the regulatory process, the DEA raided ten compliant dispensaries, most of which would have qualified for subsequent city approval.⁴

Though the Compassionate Use Act spawned dispensaries in Northern California as early as 1996, medical cannabis dispensaries began appearing all over the City of Los Angeles much later, around 2005. Earlier efforts to open typically resulted in local or federal law enforcement raiding and closing down the entities attempting to provide safe access to patients.⁵

Initially, the thought was that the cannabis traded for donations under a collective/cooperative system would come from Northern California, which by 2005 had been growing as "caregivers" or patient providers under the dictates of the Compassionate Use Act for nearly a decade.

This proved to be immediately problematic. Northern farmers naturally preferred to sell their product as close to home as possible, as it meant less time away from their farms. Northern California cannabis was much in demand, as such it commanded a high price. It was grown mostly outdoors, as a seasonal crop. This meant shortages prior to the Fall harvest.

Sending drivers North to pick-up product was equally hazardous. The California Highway Patrol didn't really tolerate this kind of commerce so if someone got stopped, it was unlikely the cannabis was going to reach its destination prior to a lengthy court case.



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In a classic “if you build it they will come” scenario the collective/cooperative model required under State law was interpreted via case law to allow for “patient providers” cultivators who would be members of these collectives and grow the cannabis the collective traded for donations.⁶ The cultivator was paid a salary and reimbursed for expenses. This transmuted cultivation from an illegal activity to having a valid defense in court.

Local cultivators began showing up at dispensaries, with cannabis flower that was equal to the sun grown cannabis that was coming out of Northern California.⁷ They wanted the protection being a “patient provider” offered (though often this turned out to be illusionary). They also desired the stability of a marketplace which though not licensed, was becoming increasingly tolerated by elected officials, though law enforcement continued to behave problematically.

Growing clandestinely in homes, manufacturing bays and warehouses under artificial light in natural and artificial mediums, cultivators had overcome the poisonous Los Angeles landscape and its withering heat. These cultivators were producing such a high quality product that it was sold for premium rates and was instantly snapped up by middlemen who serviced the wealthy or “creative types” such as film industry personnel. As such, it was a local phenomenon, you did not see this product in other areas of the State.

Indoor Los Angeles growing methods produced a reliable, consistent product, far more so than when cultivation is dependent on a multiplicity of varying weather, water availability and soil conditions. This consistency was particularly important to dispensary operators who were providing cannabis flower exclusively for medical patients up until Prop 64 passed in 2016. In order for cannabis strains to be medically effective, it had to produce the same effects with each use, just like prescription medicines did.

Moreover, these cultivators often specialized in certain strains, producing potent, beautiful flower that were the basis of their reputation. These genetics were jealously guarded and unique, they were what made “LA Indoor Grown” top shelf cannabis. Its purity and consistency are wonderful, richly deserving of its own appellation of origin.

Indoor growing was institutionalized into the City’s Cannabis Ordinance in 2017 and mandates that all growing take place indoors. Today “LA Indoor Grown” is some of the best cannabis in the marketplace and is in such demand that it is difficult to keep it in stock.

Appellations of Origin – Going Beyond the 1500’s and Into the Modern Age

State law now mandates the establishment of an “Appellations of Origin” Program (see section 26063 of the CA Business and Professions Code). Section 26063 (a)(1) of the CA Business and Professions Code would appear to give counties, an automatic appellation of origin stating that:

“Cannabis shall not be advertised, marketed, labeled, or sold as grown in a California county when the cannabis was not grown in that county.”

The County of Los Angeles (the County) has a complete ban on cultivation at this time⁸. The City of Los Angeles (the City) does allow strictly regulated, indoor cultivation.⁹ Because both entities carry the words “Los Angeles” within their name it is extremely important that the City differentiate its appellation of origin from the County.

City of Los Angeles Indoor Cultivation Differs Substantially from Growing Methods Which May Develop in the County of Los Angeles and Thus Must Have its Own Appellation.

Some of these reasons for the differences between City and County grows which may develop in the future within Los Angeles County have to do with climate, one of the criteria often cited for an appellation of origin.

The County has a land mass of 4,084 square miles and contains micro-climates. The climate county-wide is very different in the City of San Fernando then it is in Long Beach, for instance. Should the County opt to allow outdoor



growing in unincorporated areas, these micro-climates may be part of the parcel which comprises an appellation of origin.

It's conceivable, because the county was once the largest agricultural region in the country, that outdoor growing could be feasible. Next door in Santa Barbara, the extensive use of hoops and greenhouses indicates outdoor cultivation, with a little help from technology and in a more temperate climate than characterizes the City of Los Angeles, is possible.

Cannabis grown in the City of Los Angeles is not subject to micro-climates. It is, per City law, grown indoors and cultivators create the conditions which most favor the plant strain. Because of the vagaries of City weather, this would be difficult in an outdoor environment. Sections of the City of Los Angeles which are quite temperate in the Winter can reach temperatures of over 100 degrees in the Summer, a blistering environment not conducive to plant growth.

Thus, one of the requirements of an "Indoor LA" appellation would be that the grower has created a unique indoor environment in which the climate is adapted to the plant, rather than scenarios where the plant must adapt to the climate, soil and water of an area. A key part of this is that an "LA Indoor Grown" appellation requires that the plant be grown exclusively under artificial light.

Soil, another traditional component of an appellation of origin varies throughout the County but is widely contaminated, some of it is so toxic it has spawned cancer clusters.¹⁰ Los Angeles began oil production in 1892, which means for most of the lifetime of that industry there were no environmental protections.¹¹

Beginning in the 1920's farmers started to use pesticides and the use was widespread because the County was the epicenter for agricultural production, the largest agricultural center in the country. Many of these pesticides are now banned for use in the United States. Once again, environmental protections were slow to arrive.¹²

Smog has long been a problem in the LA basin and lately has been getting worse.¹³

The City and County of Los Angeles are prone to forest fires and so much Phos-chek has been dumped on these fires that the ground has an unnatural pinkish tinge in many areas. While the long-term effects of this are still being debated, our organization feels cannabis the color of cotton candy would have little bag appeal.¹⁴

Unlike the County of Los Angeles, the City of Los Angeles is no longer an agricultural producer. Beginning with WWII the City eventually became home to four million people with all the trauma to the land this entails, particularly when accommodating the 50 million tourists the City enjoyed last year. When you add in the pesticide and oil contamination, smog, manufacturing residue, and lack of ground remediation it would be impossible for growers in the City of Los Angeles to use indigenous dirt and produce top shelf product or pass the stringent testing required for cannabis at the state and local level.

Another indicia of a City of Los Angeles indoor grown appellation would be that the grower had developed a medium which optimized plant growth without exposing the plant to contaminants typically found in areas of dense populations or heavy manufacturing. It should be remembered that plants grown indoors are also free of bird droppings, insect fecal matter, and territorial markings by wild animals or domestic pets.

Los Angeles indoor growers have developed some of the world's most effective grow mediums including specialized plant nutrients and are constantly trying to improve upon them (e.g. the adoption of Veganics¹⁵). These are proprietary blends and rise to the level of trade secrets.

Overcoming the contamination of an area by replacing it with a different kind of growing richly deserves an appellation of origin. Particularly when these efforts result in a better and more consistent product than would be possible in a contaminated environment.

Use of local water is another touchstone of traditional appellations of origin. All indoor growers in the City of Los Angeles use the municipal water system, so there's a uniformity in terms of where the water originates from.



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Other sections of the state are enduring damage to watersheds, streams and other water repositories related to outdoor cannabis cultivation. Los Angeles indoor cultivators have in no way contributed to this hurtful practice.

It is how Los Angeles cultivators use water, that makes this area worthy of an appellation. Due to a long drought, growers have learned to be expert water conservationists and use far less water than outdoor grows typically do. City of Los Angeles cultivators also like to recycle water as much as they can.

The City of Los Angeles municipal water system is some of the “hardest” water in the State. It literally will eat through the bottom of water heaters over time. Bitter, mineral infused tap water means that most residents drink bottled water. Restaurants routinely filter the water they serve customers.

City cultivators treat the water to ensure it contains the proper nutrients for the plant. Components which would make it too harsh for the plants are mitigated. Once again, Los Angeles indoor growers have found a way to improve upon nature, or rather have overcome regional difficulties that stand in the way of producing a high quality product which is consistent.

Restricting Appellations of Origin to Sun Grown Cannabis is Exclusionary and Unnecessary

There are arguments proposing that ONLY cannabis grown outdoors in full sunlight would qualify for an appellation.¹⁶ This type of definition would eliminate appellations of origin for most of the rest of the state, is an antiquated method of determining what constitutes an appellation¹⁷ and is at odds with the American system, which is centered on location rather than the components of production.¹⁸

The fix suggested by those arguing for the ouster of most state cultivators from specialized appellations of origin status, (by insisting that only cannabis grown exclusively in sunlight be eligible for a specialized appellation), is the idea that by law, if you grow in a certain county, you may have an appellation of origin for that county.¹⁹

As discussed above, The City of Los Angeles and the County of Los Angeles share the same name, and cultivation is banned in the County. This “shared name” problem is not unique to Los Angeles. San Francisco, Sacramento, San Diego and Ventura County all share their name with cities within these counties.

As demonstrated above, cannabis grown in the County of Los Angeles, particularly if grown outdoors, would be very different from the kind of cultivation that would qualify for an “Indoor LA” appellation of origin.

Our organization has no problem with farmers from different areas establishing their own standards for an appellation of origin, in fact we feel it’s the most equitable way to address the problem. Imposing “sunlight grown” standards on the rest of the state is problematic, particularly when those cultivating exclusively with sunlight are estimated to comprise, at most, 20% of the state’s output.²⁰

Additional problems with allowing one segment of the marketplace to dictate standards for appellations of origin which are so restrictive that 80% of the state’s cultivators would not qualify include:

- The intellectual property of a small percentage of cannabis cultivators is better protected, but all other state cultivators are deprived of this advantage.
- Environmental and cultural boundaries are defining an appellation of origin district, not the quality or uniqueness of the product.
- Allows a small percentage of growers to achieve advertising and marketing advantages over those who do not qualify for an appellation of origin.

Some argue a precursor to establishing an appellation of origin is terroir (pronounced ter-’wär). Terroir can best be defined as a combination of factors that give an agricultural product (as opposed to a commodity) its distinctive character (e.g. cheese, wine, coffee).



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Historically terroir is typically present when human beings produce a product in a uniform manner, in a specific place, achieving something which is unique and special, and varies little from year to year. Given the fact that evidence of terroir goes back to the 1500s, it's not surprising that terrain, rather than technology was originally one of the components of terroir.

If an agricultural product was to be uniform, and there was no technology to ensure this, the terrain and climate needed to be stable and unchanging. But in all cases where terroir is present, it is the effect of man's efforts upon the terrain that creates the specialized product, not the fact a certain kind of terrain exists.

Without allowing for any mechanization or specialized modern farming methods to intrude on a narrow definition of Terroir, you are left with climate, soil and water as the defining characteristics of Terroir. This means that the geography and climate of an area, not human efforts or the specific nature of the production of the product is most prominent. It allows a small group of people to claim an appellation of origin, merely because they own or lease land in the applicable area.

Ryan B. Stoa makes a good argument for rejecting the "Terroir argument" when he says:

"When deciding which system is best for the marijuana industry, it may be useful to keep in mind that the French appellation model—with its stringent rules and standards—was developed over thousands of years of experimentation and refinement. More than likely, it would be premature to apply similar rules to the cultivation of marijuana in its nascent state. Simply recognizing that appellations are a fruitful model for marijuana agriculture, and establishing those appellations, will be a challenging regulatory objective."²¹

Neither the Lisbon Agreement for the Protections of Appellations of Origin definition nor the definition of terroir put forward by the French National Institute of Origin and Quality (Institut National de L'Origine et de la qualite (INAO)) are so restrictive they limit appellations only to agricultural products grown exclusively in sunshine. The Lisbon Agreement definition speaks of characteristics which include human factors. The INAO definition speaks of "a set of human factors within a space which a human community built during its history with a collective productive knowledge. There are elements of originality and typicality of the product."

In other words, efforts to preserve the uniqueness of a product by maintaining both its character and quality using modern methods and technology can be a part of terroir, along with a geographic location.

In the City of Los Angeles, unchecked climate change, rampant pollution, oil production, aero-space manufacturing contamination and the urban occupation of former farmland meant cultivation had to move indoors, even if that was not local law (which it is).

An appellation of origin in the City of Los Angeles has to revolve around man and technology triumphing over a toxic and unusable landscape, producing a consistent product of high quality by building and maintaining an indoor Garden of Eden where plants thrive because the climate, growing medium, water and nutrients are consistent and tailored specifically for the plant strain.

The alternative is to impose an appellation of origin which rests on plants adjusting themselves to pre-existing climate, soil and water conditions and then expecting a uniform result. This is counter to the spirit of both terroir and appellations since both anticipate a uniform result as the result of the efforts of man acting on his environment.

The Southern California Coalition respectfully requests that the CalCannabis Division create an appellation of origin for indoor cultivation in the City of Los Angeles. We would deeply appreciate the opportunity to meet with the appropriate CalCannabis staff to discuss this. We will contact the office to arrange a meeting, or



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phone conference if that would be more convenient. Our Executive Director, Adam Spiker, can be reached at: (714) 654-1930 if you have any questions or concerns.

CalCannabis has recognized the utility of differing methods of cultivation by issuing specific licenses for various styles of cultivation. Let us celebrate our differences, not engage in exclusionary segregation by defining appellations of origin so narrowly that only a small percentage of cultivators may qualify for them.

Founded four years ago, the Southern California Coalition is the Southland's largest trade association for cannabis stakeholders. It is unique in that it has meaningful partnerships with organizations like Americans for Safe Access and organized labor. Our board includes participation by veterans, social equity candidates and women. The Southern California Coalition was an early, strong supporter of the Los Angeles Social Equity Program. The organization works closely with legislators at the local, state and federal level to ensure cannabis policies are inclusive and fair.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Adam Spiker", is written over a horizontal line.

Adam Spiker
Executive Director
The Southern California Coalition

¹ One of the best examples of this demonization was a movie filmed at a West Hollywood movie studio in 1933 entitled "Reefer Madness" which encompasses most of the prejudices of the day. To give you some idea of how long prohibition endured, it would be 72 years after the film was released before the first wave of stable dispensaries opened in West Hollywood. "Reefer Madness" is still around and can be rented on Amazon Prime Video.

² See: <https://www.jennifermcgrath.com/wp-content/uploads/Proposition-D-Los-Angeles-Marijuana.pdf> for the text of Proposition D

³ See Ordinance No. 181067 section 45.19.6 which states: "It is the purpose and intent of this article to regulate the collective cultivation of medical marijuana in order to ensure the health, safety and welfare of the residents of the City of Los Angeles..."

Link to the ordinance at: http://clkrep.lacity.org/online/docs/2008/08-0923_ord_181069.pdf

Section 45.19.6.2 (k) of the ordinance states: "... A registration accepted as complete under this article shall become null and void upon the cessation of marijuana cultivation at the location for 90 days or longer..."

⁴ See: <https://www.latimes.com/local/la-me-medpot26jul26-story.html>



⁵ See: <https://www.safeaccessnow.org/sentencing-in-case-that-closed-west-hollywood-medical-marijuana-center> for information on one of the first and most egregious of these raids.

⁶ CA Supreme Court disposition (Case # S175219)

https://appellatecases.courtinfo.ca.gov/search/case/disposition.cfm?dist=0&doc_id=1915971&doc_no=S175219&request_token=NilwLSIkTkW3WyBFSCJdXEJUFa0UDxfJCNOTztRiCagCg%3D%3D

Ruling by California's Third Appellate District Court:

https://www.safeaccessnow.org/ca_briefs_butte_county

⁷ It's important to remember that there's an ongoing argument about the efficacy of outdoor vs indoor grown cannabis. In the case of Los Angeles indoor cultivators, the value of their product revolved around consistency and effectiveness, not how it was grown.

⁸ See: <http://cannabis.lacounty.gov/frequently-asked-questions/> the section entitled: How Can I Get a License to Operate a Cannabis Business in unincorporated LA County?

⁹ See: Chapter 10 Article 5 Section 105.02 (3)(A)(B) of the Los Angeles Municipal Code

¹⁰ See: <https://www.vcreporter.com/2018/08/kids-and-cancer-resident-of-nearby-rocketdyne-shines-light-on-unusual-diagnoses/>

¹¹ https://www.biologicaldiversity.org/news/press_releases/2018/oil-drilling-pollution-09-10-2018.php

¹² See: From Cows to Concrete: The Rise and Fall of Farming in Los Angeles Hardcover – May 14, 2016 Angel City Press

by [Rachel Surls](#) (Author), [Judith B Gerber](#) (Contributor)

¹³ <https://www.latimes.com/local/lanow/la-me-smog-southern-california-20190701-story.html>

¹⁴ Bag appeal is slang used to indicate that a strain of marijuana is not only aromatic but lovely to look at with dense colas and abundant trichomes.

¹⁵ See: <https://www.leafly.com/news/growing/kyle-kushman-veganic-cannabis-growing-interview> "Veganics is a growing technique that uses no animal by-products. As the medical cannabis marketplace rapidly expands, veganic methods are gaining traction with growers concerned with healthier medicine. Many smokers swear it creates a much more flavorful flower.

Cannabis cultivator Kyle Kushman, winner of 13 Cannabis Cup titles for his Strawberry Cough strain, advocates growing veganic versus just organic. Here's the main difference between the two: while veganic is still organic, by growing without any animal by-products (which organic fertilizers carry), veganic nutrients can result in cleaner, stronger, and more sustainably-grown medicine ..."

¹⁶ See: Swami Select Blog 1/10/2018 at: <https://swamiselect.com/value-terroir-appellations/> "The [Mendocino Appellations Project \(MAP\)](#), working with the [California Growers Association \(CGA\)](#) and the [International Cannabis Farmers Association \(ICFA\)](#), leads this grass roots effort designed to develop consensus around collective recommendations to the California Department of Food and Agriculture (CDFA) for program parameters and baseline qualifiers for Appellation of Origin. [CCIA](#) has been peripherally involved in this discussion as well. We have agreed to and are recommending that, in order to qualify for *Appellation of Origin* (AO), California cannabis must be cultivated outdoors, in full sun and in the ground..."

¹⁷ Ryan B Stoa proposes a definition which states: "An Appellation is a certified designation of origin that may also require that certain quality or stylistic standards be met" See: Stoa, Ryan, Marijuana Appellations: The Case for Cannabicultural Designations of Origin - Pages 513-514 (July 27, 2016). Harvard Law and Policy Review, Volume 11, Issue 2, 2017; Florida International University Legal Studies Research Paper No. 16-16. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2815070

¹⁸ "Generally speaking, appellations in the United States do not have stringent cultivation rules and speak more to the geographic origin of the product than to the product's quality. American wine appellations, composed of states, counties, or American Viticultural Areas (AVAs), are regulated by the Treasury Department's Alcohol and Tobacco Tax and Trade Bureau (TTB).³⁰ The AVA model requires only that wines using an appellation designation come from that appellation region." See: Stoa, Ryan, Marijuana Appellations: The Case for Cannabicultural Designations of Origin - Page 518 (July 27, 2016). Harvard Law and Policy Review, Volume 11, Issue 2, 2017; Florida International University Legal Studies Research Paper No. 16-16. Available at SSRN: <https://ssrn.com/abstract=2815070>

¹⁹ California Business and Professions Code section 26063 (a) (1)(2)(b)

²⁰ <https://mjbizdaily.com/chart-where-does-californias-recreational-marijuana-supply-come-from/>

"However, more than 80% of the state's current estimated annual adult-use production capacity comes from indoor or greenhouse cultivation operations. (Unlike greenhouses – which use natural sunlight – indoor grows rely exclusively on artificial lighting.) Relative to indoor and greenhouse facilities, the production capacity of outdoor growers is limited. They can harvest only once a year, and yields are generally lower given their complete reliance on Mother Nature to maintain temperature and control lighting conditions. Indoor and greenhouse growers, by contrast, are able to harvest multiple times a year."

²¹ See: Stoa, Ryan, Marijuana Appellations: The Case for Cannabicultural Designations of Origin - Page 530 (July 27, 2016). Harvard Law and Policy Review, Volume 11, Issue 2, 2017; Florida International University Legal Studies Research Paper No. 16-16. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2815070