



WRID
DEC 27 '16 RECEIVED
PM 12:58

December 23, 2016

Bert Bryan
General Manager
Walker River Irrigation District
P. O. Box 820
Yerington, Nevada 89447

**Re: Walker River Irrigation District
Personnel Policy Manual
Our File 1709.0282**

Dear Bert:

It is my understanding that you asked whether the Walker River Irrigation District Personnel Policy Manual requires revision due to the legalization of recreational marijuana in Nevada.

While marijuana is still deemed a controlled substance under federal law, it is now recreationally and medically legal in Nevada. We therefore recommend the following changes to the policy.

Section 6 of the policy defines "illegal drugs" and "legal drugs" as follows:

- (a) "Illegal Drugs" means any controlled substance or drug, the sale, possession or consumption of which is illegal. The term also includes prescription drugs not legally obtained and prescription drugs not being used in the manner, combination or quantity prescribed or by the person to whom a drug is prescribed.
- (b) "Legal Drugs" include prescription drugs and over-the-counter drugs which have been legally obtained and are being used in the manner, combination or quantity for which they were prescribed or manufactured.

Since a positive drug test and/or on-duty intoxication would create a situation any time an employee works while impaired or unfit for duty, no substantive changes to the drug or alcohol policy need be made. However, subsection (b) in the Standards of Conduct defines marijuana as an illegal drug and we recommend that it simply be

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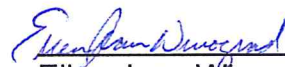
removed from this list. Removal of marijuana from the enumerated illegal drugs will not change the fact that an employee impaired by marijuana use is still in violation of the drug and alcohol policy.

We are therefore including with this letter a proposed Section 6 page that will bear a January 2017 revision date and this can be placed into the Walker River Irrigation District Handbook and the current page removed. Since the original Handbook was approved by the WRID Board, this amendment probably requires Board approval as well. Thereafter, if approved by the Board, since this new change is not eliminating any rights employees otherwise had, it will be sufficient for Walker River Irrigation District to advise employees of this amendment by memo or other written communication disseminated to all employees.

Please let me know if you have any questions.

Very truly yours,

WOODBURN AND WEDGE



Ellen Jean Winograd
Attorney at Law

EJW:sah
Enclosure

Off-Duty Possession or Use of Drugs

Off-duty possession or use of illegal drugs is also prohibited to the extent such possession or use adversely affects WRID legitimate interests or impedes the ability of an employee to safely and efficiently perform his/her job duties.

Co-Workers' Obligations

Any employee who has observed or has personal knowledge that another employee is using or possessing drugs or alcohol in violation of this policy must report that use in good faith to WRID or a supervisor designated by WRID. After the initial report, the employee will refrain from discussing the matter with anyone except WRID or anyone authorized by WRID to investigate. The employee may choose to report anonymously.

Scope

Compliance with this Policy is mandatory for all WRID employees.

Standards of Conduct. The following standards of conduct apply to all employees:

- (a) An employee is prohibited from working while unfit for duty which may include but is not limited to impairment through the use of legal or illegal drugs or alcohol.
- (b) The use, possession, transportation, purchase, promotion or sale of contraband or illegal drugs on WRID property, while performing WRID business is strictly prohibited. In addition, WRID prohibits an employee from being at work under the influence of alcohol or illegal drugs. Illegal drugs are those drugs, including but not limited to:
 - (i) Cocaine
 - (ii) Opiates
 - (iii) Amphetamines
 - (iv) Phencyclidine
 - (v) Alcohol

This definition is not exhaustive and does not apply to legal drugs defined above.

Definitions

- (a) "Illegal Drugs" means any controlled substance or drug, the sale, possession or consumption of which is illegal. The term also includes prescription drugs not legally obtained and prescription drugs not being used in the manner, combination or quantity prescribed or by the person to whom a drug is prescribed.
- (b) "Legal Drugs" include prescription drugs and over-the-counter drugs which have been legally obtained and are being used in the manner, combination or quantity for which they were prescribed or manufactured.
- (c) "Positive Alcohol and Drug Test" means, for the purposes of this policy, that the employee has ingested a drug which causes the employee's drug threshold level to be above the Federal Department of Health and Human Services (DHHS) guidelines as reported by the certified drug testing facility.
- (d) "Reasonable Suspicion" means: