

BS** comments USFS unilaterally adopting state laws Comment deadline 12-4-23. See USFS proposed federal overreach at : <https://www.federalregister.gov/documents/2023/10/03/2023-21563/law-enforcement-criminal-prohibitions>

The USFS wants to institute Enclave Law on all USFS lands and possibly adjoining private properties. This will make all USFS land in the US a federal enclave subject to enclave law. They are following the BLM law enforcement lead and unconstitutionally and illegally looking to unilaterally assimilate Colorado's State laws. The BLM has illegally and unilaterally assimilated 115 of Colorado state laws without a cession of jurisdiction by the State of Colorado, 39 state laws in Utah, and likely have done this in all western states --I have only FOIA'd CO and UT. Will Colorado Sheriffs, County Commissioners, State Representatives of Colorado wake up, get educated, and stand to protect the Constitution and the rule of law? Will our Congressional Representatives (Lauren Boebert) be willing to stop this massive federal overreach, that is enacting **Enclave Law** on all federal lands in Colorado? I have filed complaints about this to Lauren Boebert and Mike Lee (UT) in 2022/23. I also filed a complaint to Colorado Attorney General Phil Weiser in 2022.

All referenced federal documents and federal laws are electronically linked (see blue) in the 12 points below. Go to www.publiclandjurisdiction.com to learn more about jurisdiction on federal lands within the states. See also <https://publiclandjurisdiction.com/has-the-blm-turned-federally-managed-public-lands-into-an-unconstitutional-federal-enclave/>

Per the attached and electronically linked [FOIA document \(FOIA CO-20-015 1278 \(CO-951\)\)](#), the BLM has unilaterally assimilated [115 Colorado laws](#), without a cession of jurisdiction by the State and the required recorded federal acceptance per 40 USC § 255, 40 USC § 355, 40 USC § 3112. With this apparently unconstitutional and illegal unilateral action, the BLM ignored, [18 USC 7](#), [18 USC 13 – Assimilative Crimes Act](#) and the Enclave Clause (aka Jurisdiction Clause) of the US Constitution (Art 1 Sect 8 Clause 17). Additionally, the BLM ignored the federal policy guidelines defined in Federal Jurisdiction reports and federal laws referenced below, regarding how to legally acquire a states' jurisdiction on federal lands within the States and enforce enclave law- 12 citations defined and linked/quoted below:

1. [Part I, Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas within the States](#). "The term Exclusive legislative jurisdiction as used in this report refers to the power "to exercise exclusive legislation" granted to Congress by article I, section 8, clause 17, of the Constitution, and to the like power, which may be acquired by the United States through cession by a State, or by a reservation made by the United States through cession by a State, or by a reservation made by the United States in connection with the admission of a State into the Union."
2. [Part II, Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas within the States](#). "Constitutional consent –The Constitution gives express recognition **to but one means** of Federal acquisition of legislative jurisdiction– by State consent under article I, section 8, clause 17.... No federal legislative jurisdiction without consent, cession, or reservation. It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or (3) unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State."

Ch. 3 (Acquisition of Legislative Jurisdiction), Pages 47-48 declare: “NECESSITY OF STATE ASSENT TO TRANSFER OF JURISDICTION TO FEDERAL GOVERNMENT: Constitutional consent.–The Federal Government **cannot, by unilateral action** on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State. Article I, section 8, clause 17, of the Constitution, provides that legislative jurisdiction may be transferred pursuant to its terms, only with the consent of the legislature of the State in which is located the area subject to the jurisdictional transfer. As was indicated in Chapter II, the consent requirement of Article I, Section 8, Clause 17, as intended by the framers of the Constitution to preserve the States’ jurisdictional integrity against **Federal encroachment.**”

3. President Eisenhower Commissioned the [Federal GSA Inventory Report on Jurisdictional Status of Federal Areas within the States](#). Defines what level of jurisdiction the federal government has on every acre of federal land within the United States. Four types of jurisdiction defined – Exclusive, Concurrent, Partial, and Proprietary Interest Only. 95% of federally owned lands within the United States is held in a Proprietary Interest Only by the federal government.
4. [1973 Military Administrative Law Handbook, Ch 6.8 “\(a\) Methods of Acquisition](#). “There are 3 methods of acquiring Federal legislative jurisdiction over areas within a State: purchase with consent; cession of jurisdiction by the state; and reservation federal legislative jurisdiction at the time the State is admitted to the Union.” Page 27-21 “The requirement for state consent was deliberately inserted by the framers of the Constitution, and **it is not possible for the United States to unilaterally assume Federal jurisdiction over an area within a State**”.
5. [1974 US Army Jurisdiction Regulation 405-20](#) “ (a) Characteristics of exclusive legislative jurisdiction. Only Congress has the authority to legislate for areas held under exclusive legislative jurisdiction and the Federal Government has the responsibility for law enforcement. The State cannot enforce its laws and regulations in such areas”.
6. 18 USC 7, [Department of Justice, Criminal Resource Manual 664](#) “the United States may exercise plenary criminal jurisdiction over lands within state borders: A. Where it reserved such jurisdiction upon entry of the state into the union; B. Where, prior to February 1, 1940, it acquired property for a purpose enumerated in the Constitution with the consent of the state; C. Where it acquired property whether by purchase, gift or eminent domain, and thereafter, but prior to February 1, 1940, received a cession of jurisdiction from the state; and D. Where it acquired the property, and/or received the state’s consent or cession of jurisdiction after February 1, 1940, **and has filed the requisite acceptance.**”
7. 18 USC 7, [Section 1630, DOJ Criminal Resource Manual](#) “Yet it is clear that federal criminal jurisdiction does not exist over real property simply because the United States owns it. See *Adams v. United States*, 319 U.S. 312 (1943). “...”There are three methods by which the United States obtains exclusive or concurrent jurisdiction over federal lands in a state: (1) a state statute consenting to the purchase of land by the United States for the purposes enumerated in Article 1, Section 8, Clause 17, of the Constitution of the United States; (2) a state cession statute; and (3) a reservation of federal jurisdiction upon the admission of a state into the Union. See *Collins v. Yosemite Park Co.*, 304 U.S. 518 (1938). Since February 1, 1940, the United States acquires no jurisdiction over federal lands in a state until the head or other authorized officer of the department or agency which has custody of the lands formally accepts the

jurisdiction offered by state law. See 40 U.S.C. § 255; *Adams v. United States*, 319 U.S. 312 (1943). Prior to February 1, 1940, acceptance of jurisdiction had been presumed in the absence of evidence of a contrary intent on the part of the acquiring agency or Congress. See *Silas Mason Co., Inc. v. Tax Commission*, 302 U.S. 186 (1937). See also JM 9-20.000 et seq., for a discussion of federal enclave jurisdiction.”

8. In 1940, Congress enacted the following statute, which now appears as 50 U.S.C. § 175 (the same statute also appears as 40 U.S.C. § 255), and reads as follows: “Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.”
9. In 22 C.J.S. Criminal Law § 139, p. 373, appears the following: “Generally in order to deprive the state courts of criminal jurisdiction over lands ceded to the United States there must be a surrender of jurisdiction by the state and an acceptance of jurisdiction by the United States. Moreover, where the federal government has not given notice of acceptance of jurisdiction over land acquired by it in a state, the federal courts are without jurisdiction of prosecution for an alleged crime committed therein although a state statute authorizes the United States to take jurisdiction, or at least the United States is without exclusive jurisdiction over the offense, and a state may enforce its criminal laws within the area acquired by the United States.”
10. As to 50 U.S.C. § 175, see *Adams v. United States* (1943), 319 U.S. 312, 63 S.Ct. 1122, 87 L.Ed. 1421, the Supreme Court of the United States stated that “the Act [50 U.S.C. § 175] created a definite method of acceptance of jurisdiction so that all persons could know whether the government had obtained no jurisdiction at all, or partial jurisdiction, or exclusive jurisdiction.”
11. In *Kleppe v. New Mexico*, 426 U.S. 529, 543, 96 S.Ct. 2285, 2293, 49 L.Ed.2d 34, 45 (1976), the United States Supreme Court stated: “Absent consent or cession a State undoubtedly retains **jurisdiction over** federal lands within its territory, but Congress equally surely retains the power to enact legislation respecting those lands pursuant to the Property Clause.” Congress can surely pass laws under the Property Clause for rules and regulations on federal lands as defined within the Property Clause. If State laws conflict with those Congressional laws, “the federal legislation necessarily override conflicting state laws under the Supremacy Clause”. However, the Property Clause does not define the process for forming a federal enclave or enacting enclave law within a state, that process is exclusively controlled by the Enclave Clause and applicable federal laws referenced above regarding acceptance of cessions of state jurisdiction. Also note, that CFR regulations are unilaterally enacted by federal agencies, not laws passed by Congress.

12. FLPMA [43 USC 1701] Section 701 (G) (2) “Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or – as expanding or diminishing Federal or State jurisdiction”.

BLM Complaints filed also applies to USFS illegally enacting enclave law on USFS lands.

The Complaint/s are below all had the 5 bulleted pdf documents below attached. The same complaint was filed with the BLM Director in the state of Utah where the BLM has also unilaterally assimilated [dozens of Utah state laws](#).

- [40 USC 3112, 40 USC 255](#)
- [BLM adopts 115 CO state laws](#)
- [DOJRES~2](#)
- [DOJ Resource Manual 1630 18 USC 7 a](#)
- [statviewer 355](#)

Actual Complaint Filed with BLM Director for the State of Colorado in 2022

From: xxxxxxxx

Sent: Tuesday, March 8, 2022 2:04 PM

To: 'StateDirector, BLM_CO' <BLM_CO_StateDirector@blm.gov>

Subject: The BLM has adopted 115 Colorado State Laws without a cession of jurisdiction by the state Ms. Lavery, I have attached 5 documents to this email, and 2 federal jurisdiction reports are linked in the text below.

Attached is a list of 115 Colorado state laws (obtained thru FOIA), that the Bureau of Land Management (BLM) has assimilated/adopted and is now able to enforce and prosecute as a federal crime on Colorado BLM lands.

Research shows that the BLM obtaining a state's legislative jurisdiction is solely provided thru a cession of jurisdiction by the state- defined in the Enclave Clause of the Constitution- Article 1, Section 8, Clause 17. The assimilation process is also defined in the Assimilative Crimes Act, 18 USC § 13. Many examples of this constitutional cession process are available today- national parks, national monuments, etc. The Colorado National Monument went thru this constitutional/federal statute-guided cession and federal acceptance process in [1983/1984](#)– [link](#).

Since 1940 and passage of 40 USC § 255, 40 USC § 355, 40 USC § 3112 (attached) by Congress the requirement for a state cession of legislative jurisdiction and the recorded acceptance by the federal government is well defined. In the case of the vast majority of BLM federal lands, they are held in a Proprietary Interest Only (aka proprietary jurisdiction) by the federal government. There appears to be little doubt that the BLM would need a cession of concurrent or partial jurisdiction by the Colorado State Legislature to assimilate state laws and prosecute them as a federal crimes.

It appears that by using 43 C.F.R § 8341.1(d) the BLM may be taking an unconstitutional / legally questionable **unilateral action** to adopt/assimilate Colorado states' laws without a cession of jurisdiction (exclusive, concurrent, or partial) by the state and is adopting the state's legislative jurisdiction

pertaining to these 115 state laws. This **unilateral action** by the federal government is forbidden according to several linked historical federal jurisdiction reports referenced below:

1957 GSA federal report titled, [Part II Interdepartmental Committee for the Study of Jurisdiction over Federal Areas within the States, Chapter 3 \(Acquisition of Legislative Jurisdiction\), Page 46](#) it defines the following: “Constitutional consent –The Constitution gives express recognition to but **one means** of Federal acquisition of legislative jurisdiction– by State consent under article I, section 8, clause 17.... No federal legislative jurisdiction without consent, cession, or reservation. It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or (3) unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State.”

In the 1956 federal GSA report on this website, titled, [Part I, Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas within the States](#), Chapter III, Page 13 declares: ” The term Exclusive legislative jurisdiction as used in this report refers to the power “to exercise exclusive legislation” granted to Congress by article I, section 8, clause 17, of the Constitution, and to the like power, which may be acquired by the United States through cession by a State, or by a reservation made by the United States through cession by a State, or by a reservation made by the United States in connection with the admission of a State into the Union.”

In the 1957 federal GSA report, titled, [Part II, Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas within the States](#), Ch. 3 (Acquisition of Legislative Jurisdiction), Pages 47-48 declare: “NECESSITY OF STATE ASSENT TO TRANSFER OF JURISDICTION TO FEDERAL GOVERNMENT: Constitutional consent.–The Federal Government cannot, by **unilateral** action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State. Article I, section 8, clause 17, of the Constitution, provides that legislative jurisdiction may be transferred pursuant to its terms, only with the consent of the legislature of the State in which is located the area subject to the jurisdictional transfer. As was indicated in Chapter II, the consent requirement of Article I, Section 8, Clause 17, as intended by the framers of the Constitution to preserve the States’ jurisdictional integrity against **Federal encroachment.**”

In closing, I would like to summarize that with the BLM unilaterally adopting/assimilating 115 Colorado state laws without a cession of jurisdiction by the State that it appears to be 3 possible violations:

1. **Possible Violation of the Enclave Clause of the US Constitution Art 1, Section 8, Clause 17**
2. **Possible Violation of 40 USC 255, 40 USC § 355, 40 USC § 3112 (current)**
3. **Possible Violation of the Assimilative Crimes Act, 18 USC 13**

Respectfully