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February 6, 2024

Director
Law Enforcement and Investigations Staff
Mail Stop 1140
1400 Independence Ave SW
Washington, DC 20250-1140

RE: RIN 0596-AD57: United States Forest Service Law Enforcement; Criminal Prohibitions

Dear Director:

Thank you for the opportunity to provide comments on the proposed rule change regarding the United States Forest Service (“USFS”) Law Enforcement and Criminal Prohibitions as noticed in Vol. 88, No. 190 of the Federal Register on Wednesday, October 3, 2023. Mesa County values our collaborative partnership with the dedicated staff of the US Forest Service (“USFS”) in the management of the Grand Mesa, Uncompahgre, and Gunnison National Forests, as well as the Manti-La Sal National Forests.

Mesa County is comprised of more than 1.5 million acres of public lands, including more than 550,000 acres of national forests. Management and policy decisions made for federal lands in Western Colorado exert a profound and direct influence on the well-being and interests of Mesa County and its residents. Mesa County has a long-standing history of working with the USFS to ensure that our citizens remain safe and are protected under state law while visiting our National Forests. Mesa County and the USFS have an existing cooperative agreement, 19-LE-11020400-009, in which the USFS pays the Mesa County Sheriff’s Office for law enforcement services provided within USFS boundaries.

Without the USFS assimilating Colorado laws, over land for which it has only a proprietary interest, Colorado Revised Statute 16-3-110, already provides a functional mechanism for Federal Law Enforcement Officers to make arrests when witnessing the commission of a misdemeanor or felony:

C.R.S. 16-3-110

(1) For the purposes of this section, “peace officer” means:

(a) A peace officer as described in section 16-2.5-101; or

(b) A federal law enforcement officer who, pursuant to federal statutes and the policy of the agency by which the officer is employed, is authorized to use deadly physical force in the performance of his or her duties.


(2) A peace officer shall have the authority to act in any situation in which a felony or misdemeanor has been or is being committed in such officer's presence, and such authority shall exist regardless of whether such officer is in the jurisdiction of the law enforcement agency that employs such officer or in some other jurisdiction within the state of Colorado or whether such officer was acting within the scope of such officer's duties when he or she observed the commission of the crime, when such officer has been authorized by such agency to so act. The local law enforcement agency having jurisdiction shall be immediately notified of the arrest and any person arrested shall be released to the custody of the local law enforcement agency.


Additional reasons why Mesa County opposes the USFS assimilating Colorado laws, as proposed, include the following:

- Mesa County's believes USFS Law Enforcement in Mesa County is understaffed, which is part of the underlying reason for our existing agreement to provide law enforcement services.
- In Mesa County there is a federal courthouse and a United States Attorney's Office ("USAO"). Through our partnerships with federal law enforcement agencies, Mesa County believes neither the Federal Court House nor the United States Attorney's Office in Mesa County is staffed for the additional workload that may result from the USFS assimilation of Colorado laws.
- With a federal courthouse and USAO in Grand Junction, Mesa County recognizes our citizens are well positioned in the event they receive a summons into federal court. Mesa County further recognizes many Colorado counties with USFS land do not have a federal courthouse and a summons to federal court for those Coloradans may create an unnecessarily undue burden.
- Mesa County has concerns about the lack of initial and on-going training on the enforcement of Colorado laws that USFS Law Enforcement Officers would have, should the USFS assimilate the Colorado laws, as proposed.
- Mesa County is concerned that this rule is not authorized under federal law. USFS has only proprietary jurisdiction over the National Forest Lands within Mesa County. Under the Assimilative Crimes Act ("ACA") in 18 U.S.C. § 13, the USFS may only assimilate state law in areas of exclusive or concurrent federal jurisdiction. At this time, the State of Colorado has not ceded jurisdiction of the National Forest Lands within Mesa County.


Again, Mesa County wishes to be a good partner with the USFS and ensure that visitors to our National Forests are protected under state law. The Mesa County Sheriff's Office is committed to continuing to work with the USFS to provide state law enforcement services within USFS lands in Mesa County.

Sincerely,


Bobbie Daniel
Mesa County Commissioner


Cody Davis
Commissioner


Janet Rowland
Commissioner


Todd Rowell
Mesa County Sheriff

CC: Mesa County Administration
Todd Starr, Mesa County Attorney