

February 11, 2013

BLM

Salvatore R. Lauro
Director, Office of Law Enforcement and Security
1849 C Street, NW, Rm. 5637
Washington, D.C. 20240

Freedom of Information Act Request

Dear Mr. Lauro,

I have been following the Grand Junction, Colorado BLM land control issues, among others. I am writing for information regarding federal jurisdiction of this and other areas claimed by the federal government. This has been a long standing question in many American's minds, and is ripe for disclosure, or possible adjudication, even to the Supreme Court if necessary.

According to the following law and U.S. Supreme Court and other cases, the federal government does NOT have jurisdiction over most of the People's and State's lands because they have never been ceded to the federal government, so I am requesting information under the Freedom of Information Act (FOIA) as to what laws and authority the BLM/federal government is using to control these vast areas of the People's and State's lands in our Republic, to include all 50 States where the BLM or other agency of the federal government may claim to hold and exercise jurisdiction, including constitutional and statutory authority, and cession evidence of said lands, also including, but not limited to, all "National Park" lands, and any other lands.

Per the following law and precedent, it is clear where federal jurisdiction extends;

Title 4 U.S.C. §72 Public offices; at seat of Government; "All offices attached to the seat of government shall be exercised in the District of Columbia and not elsewhere, except as otherwise expressly provided by law."

Article 1, Section 8, Clause 17; "To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;"

CAHA v. U.S., 152 U.S. 211 (1894) "The laws of congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government."

The jurisdiction of the federal government is limited to very specific areas, primarily in the D.C. and other "territories" over which the federal government has any jurisdiction. The States (and the People specifically) retain ALL other jurisdiction and control over territory within its borders.

The following excerpts are from attorney Lowell H. Becraft, Jr., and his treatise on Federal Jurisdiction at <http://www.constitution.org/juris/fedjur1.htm>;

United States v. Bevans, 16 U.S. (3 Wheat.) 336 (1818):

"The exclusive jurisdiction which the United States have in forts and dock-yards ceded to them, is derived from the express assent of the states by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the state would be supreme and exclusive therein," 3 Wheat., Supra, at 350, 351.

"What, then, is the extent of jurisdiction which a state possesses? "We answer, without hesitation, the jurisdiction of a state is co-extensive with its territory; co-extensive with its legislative power," 3 Wheat., at 386, 387.

"The article which describes the judicial power of the United States is not intended for the cession of territory or of general jurisdiction. ... Congress has power to exercise exclusive jurisdiction over this district, and over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

"It is observable that the power of exclusive legislation (which is jurisdiction) is united with cession of territory, which is to be the free act of the states. It is difficult to compare the two sections together, without feeling a conviction, not to be strengthened by any commentary on them, that, in describing the judicial power, the framers of our constitution had not in view any cession of territory; or, which is essentially the same, of general jurisdiction," 3 Wheat., at 388.

Commonwealth v. Young, Brightly, N.P. 302, 309 (Pa. 1818) (Pennsylvania Supreme Court);

"The legislation and authority of congress is confined to cessions by particular states for the seat of government, and purchases made by consent of the legislature of the state, for the purpose of erecting forts. The legislative power and exclusive jurisdiction remained in the several states, of all territory within their limits, not ceded to, or purchased by, congress, with the assent of the state legislature, to

prevent the collision of legislation and authority between the United States and the several states."

People v. Godfrey, 17 Johns. 225, 233 (N.Y. 1819); (New York Supreme Court);
"To oust this state of its jurisdiction to support and maintain its laws, and to punish crimes, it must be shown that an offense committed within the acknowledged limits of the state, is clearly and exclusively cognizable by the laws and courts of the United States. In the case already cited, Chief Justice Marshall observed, that to bring the offense within the jurisdiction of the courts of the union, it must have been committed out of the jurisdiction of any state; it is not (he says,) the offence committed, but the place in which it is committed, which must be out of the jurisdiction of the state."

United States v. Cornell, 25 Fed.Cas. 646, 648 No. 14,867 (C.C.D.R.I. 1819); (U.S. Supreme Court);

"But although the United States may well purchase and hold lands for public purposes, within the territorial limits of a state, this does not of itself oust the jurisdiction or sovereignty of such State over the lands so purchased. It remains until the State has relinquished its authority over the land either expressly or by necessary implication.

"When therefore a purchase of land for any of these purposes is made by the national government, and the State Legislature has given its consent to the purchase, the land so purchased by the very terms of the constitution ipso facto falls within the exclusive legislation of Congress, and the State jurisdiction is completely ousted."

New Orleans v. United States, 35 U.S. (10 Pet.) 662, 737 (1836) ; (U.S. Supreme Court);

"Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the federal government shall establish forts or other military works. And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction."

New York v. Miln, 36 U.S. (11 Pet.) 102 (1837); (U.S. Supreme Court);

"They are these: that a State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits, as any foreign nation, where that jurisdiction is not surrendered or restrained by the Constitution of the United States. That, by virtue of this, it is not only the right, but the bounden and solemn duty of a State, to advance the safety, happiness and prosperity of its people, and to provide for its general welfare, by any and every act of legislation which it may deem to be conducive to these ends; where the power over the particular subject, or the manner of its exercise is not surrendered or restrained, in the manner just

stated. That all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called internal police, are not thus surrendered or restrained; and that, consequently, in relation to these, the authority of a State is complete, unqualified and exclusive," 36 U.S., at 139.

Pollard v. Hagan, 44 U.S. (3 How.) 212 (1845); (U.S. Supreme Court);

"We think a proper examination of this subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory, of which Alabama or any of the new States were formed," 44 U.S., Supra, at 221.

"[B]ecause, the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in the cases in which it is expressly granted," 44 U.S., Supra, at 223.

"Alabama is therefore entitled to the sovereignty and jurisdiction over all the territory within her limits, subject to the common law," 44 U.S., Supra, at 228, 229.

Quote from Becraft;

"Thus, the cases decided within the 19th century clearly disclosed the extent and scope of both State and federal jurisdiction. In essence, these cases, among many others, hold that the jurisdiction of any particular State is co-extensive with its borders or territory, and all persons and property located or found therein are subject to such jurisdiction; this jurisdiction is superior. Federal jurisdiction results only from a conveyance of state jurisdiction to the federal government for lands owned or otherwise possessed by the federal government, and thus federal jurisdiction is extremely limited in nature. And there is no federal jurisdiction if there be no grant or cession of jurisdiction by the State to the federal government. Therefore, federal territorial jurisdiction exists only in Washington, D.C., the federal enclaves within the States, and the territories and possessions of the United States."

"The above principles of jurisdiction established in the last century continue their vitality today with only one minor exception. In the last century, the cessions of jurisdiction by States to the federal government were by legislative acts which typically ceded full jurisdiction to the federal government, thus placing into the hands of the federal government the troublesome problem of dealing with and governing scattered, localized federal enclaves which had been totally surrendered by the States. With the advent in this century of large federal works projects and national parks, the problems regarding management of these areas by the federal government were magnified. During the last century, it was thought that if a State

ceded jurisdiction to the federal government, the cession granted full and complete jurisdiction. But, with the ever increasing number of separate tracts of land falling within the jurisdiction of the federal government in this century, it was obviously determined by both federal and state public officers that the States should retain greater control over these ceded lands, and the courts have acknowledged the constitutionality of varying degrees of state jurisdiction and control over lands so ceded."

Surplus Trading Co. v. Cook, 281 U.S. 647, 50 S.Ct. 455 (1930); (U.S. Supreme Court);

"[T]he state undoubtedly may cede her jurisdiction to the United States and may make the cession either absolute or qualified as to her may appear desirable, provided the qualification is consistent with the purposes for which the reservation is maintained and is accepted by the United States. And, where such a cession is made and accepted, it will be determinative of the jurisdiction of both the United States and the state within the reservation," 281 U.S., at 651, 652.

"Jurisdiction Over Federal Areas Within The States: Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States, Part II;"

"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 Justice McLean suggested that the Constitution provided the sole mode for transfer of jurisdiction, and that if this mode is not pursued, no transfer of jurisdiction can take place," *Id.*, at 41.

"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 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, such jurisdiction being for exercise by the State, subject to non-interference by the State with Federal functions," *Id.*, at 45.

"The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State," *Id.*, at 46.

"On the other hand, while the Federal Government has power under various provisions of the Constitution to define, and prohibit as criminal, certain acts or omissions occurring anywhere in the United States, it has no power to punish for various other crimes, jurisdiction over which is retained by the States under our

Federal-State system of government, unless such crime occurs on areas as to which legislative jurisdiction has been vested in the Federal Government," Id., at 107.

Becraft quote:

“Thus, from an abundance of case law, buttressed by this lengthy and definitive government treatise on this issue, the ‘jurisdiction of the United States’ is carefully circumscribed and defined as a very precise portion of America. The United States is one of the 51 jurisdictions existing on this continent, excluding Canada and its provinces.”

End of Becraft material.

I am, again, repeating the above information request, and more, under the Freedom of Information Act (FOIA) as to;

1. What laws and authority the BLM/federal government is using to control these vast areas of the People's and State's lands in our Republic, to include all 50 States where the BLM or other agency of the federal government may claim to hold and exercise jurisdiction, including constitutional and statutory authority, and cession evidence of said lands, also including, but not limited to, all “National Park” lands, and any other lands allegedly “owned” by the federal government.

2. The statutory and constitutional authority to lease land to private corporate interests for exploitation for profit, or sell or otherwise dispose of, assets within State territories, including, but not limited to;

- Oil extraction
- Natural Gas extraction
- Mineral deposit use
- Lumber use
- Water rights
- Geothermal source use
- Biomass and Bio-energy land and resource use
- Wind energy land use
- Solar energy land use
- Transmission Corridor land use

...and where these received funds may be allocated apart from the respective States and the People within these respective States.

3. The statutory and constitutional authority to control hunting, fishing, water navigation, and other issues regarding land use within any State territory and apart from State control.

4. The statutory and constitutional authority to for environmental jurisdiction over said State land jurisdiction under any federal government agency.
5. The statutory and constitutional authority to be closing or changing established State roads or lawfully defined “highways” within said lands.
6. The statutory and constitutional authority to arrest citizens on said lands, or in use of said lands within State territories.
7. The statutory and constitutional authority to close off said lands to any of the several State’s Citizens apart from State jurisdiction and authority.

There many be more FOIA requests stemming from this request as more constitutional and statutory law evidence is uncovered and made public.

Thank you for your attention to this matter!

Jeffrey T. Maehr
924 E. Stollsteimer Rd.,
Pagosa Springs, CO 81147

CC: (sources for all states - <http://www.blm.gov/wo/st/en/info/directory.html>)

Colorado State Director Helen Hankins
Contact: Celia Boddington, 202-208-6913
Email: cbodding@blm.gov

Collin Ewing, RMP Project Manager
Colorado Area
cewing@blm.gov
970-244-3027

Email: gjfo_rmp@blm.gov

NRAILA.org
Via website