

90 (ii) provide the chief executive officer or county sheriff described in Subsection (4)  
 91 with a plan for ceasing the violation and complying with 43 U.S.C. Sec. 1733(c)(1) that is  
 92 reasonably acceptable to the political subdivision.

93 (6) The chief executive officer of a political subdivision or a county sheriff may agree  
 94 to a plan described in Subsection (5)(c)(ii).

95 (7) (a) If, after the notice described in Subsections (4) and (5) is served, the bureau or  
 96 the department does not respond by the date described in Subsection (5)(c) or otherwise  
 97 indicate that the bureau or the department is unwilling to take action to cease the violation of  
 98 43 U.S.C. Sec. 1733(c)(1), the chief executive officer or county sheriff may, after consultation  
 99 with the county attorney and the attorney general, pursue all available legal remedies.

100 (b) In seeking any emergency injunction for a violation of 43 U.S.C. Sec. 1733(c)(1), a  
 101 chief executive officer of a political subdivision or a county sheriff shall attempt, to the extent  
 102 possible, to coordinate with the state, the bureau, and the department.

103 Section 2. Section **53-13-106.12** is enacted to read:

104 **53-13-106.12. Law enforcement actions exceeding jurisdiction over proprietary**  
 105 **federal land -- Procedure for determination and legal recourse.**

106 (1) As used in this section:

107 (a) "Bureau" means the Bureau of Land Management, within the department.

108 (b) "Department" means the United States Department of the Interior.

109 ~~Ĥ→ [(c) "Proprietary federal land" means land to which the federal government:~~

110 ~~(i) has acquired right or title; and~~

111 ~~(ii) has not obtained any of the state's authority over the land.]~~

111a **(c) "Jurisdictional authorization" means a federal law, or a rule or regulation adopted**  
 111b **by the department or the bureau, that:**

111c **(i) relates to federal land administered by the bureau; and**

111d **(ii) has a logical nexus with a designated purpose of the federal land in question. ←Ĥ**

112 (2) The chief executive officer of a political subdivision or a county sheriff may, in  
 113 accordance with Subsection (3), determine that action of a law enforcement official of the  
 114 bureau ~~Ĥ→~~ [~~in relation to proprietary federal land;~~] ←Ĥ exceeds the bureau's ~~Ĥ→~~ [~~jurisdiction~~]  
 114a **jurisdictional authorization ←Ĥ .**

115 (3) In evaluating whether the action described in Subsection (2) exceeds the bureau's  
 116 **Ĥ→ [jurisdiction in relation to proprietary federal land] jurisdictional authorization ←Ĥ , the**  
 116a chief executive officer of a political  
 117 subdivision or a county sheriff may consider:

118 (a) the nature and seriousness of the action of the bureau's law enforcement official;

119 (b) the nature of the bureau's ~~jurisdiction~~ → [jurisdiction in relation to the proprietorial federal land]

119a jurisdictional authorization ← ~~jurisdiction~~ ;

120 (c) the policies, plans, and positions of the political subdivision and county sheriff in

121 the affected county that are relevant to action taken by a law enforcement official of the bureau;  
 122 and

123 (d) the extent and nature of any communications between the bureau, the political  
 124 subdivision, and the county sheriff regarding:

125 (i) the actions of the bureau's law enforcement official; ~~H~~→ [or] ←~~H~~

126 (ii) the political subdivision's and county sheriff's policies, plans, and positions

126a ~~H~~→[;] ; or

126b (iii) the terms and conditions of an agreement entered into and described in

126c Subsection 53-13-106.9. ←~~H~~

127 (4) If, after consulting with the ~~H~~→ governor and the ←~~H~~ attorney general, the chief  
 127a executive officer of a

128 political subdivision or a county sheriff makes the determination described in Subsection (2),  
 129 the chief executive officer or county sheriff shall:

130 (a) in accordance with Subsection (5), serve notice of the determination on the bureau  
 131 personally or by certified mail; and

132 (b) provide a copy of the notice described in Subsection (4)(a) to the governor, the  
 133 attorney general, the state's congressional delegation, and the head of the department.

134 (5) The notice described in Subsection (4) shall include:

135 (a) a detailed explanation of the basis for determining that the actions of a law  
 136 enforcement official of the bureau exceed the bureau's ~~H~~→ [jurisdiction in relation to the  
 137 proprietary federal land] jurisdictional authority ←~~H~~ ;

138 (b) a demand that the bureau and the department cease repetition of the law  
 139 enforcement official's actions, and conform the official's future actions to the bureau's  
 140 ~~H~~→ [jurisdiction in relation to the affected proprietary federal land] jurisdictional  
 140a authority ←~~H~~ ; and

141 (c) a specific date, no less than 30 days after the day on which the notice is served, by  
 142 which time the bureau and the department shall:

143 (i) ensure that the bureau's law enforcement official keeps the law enforcement  
 144 official's actions within the limits of the bureau's ~~H~~→ [jurisdiction in relation to the affected  
 145 proprietary federal land] jurisdictional authority ←~~H~~ ; or

146 (ii) provide the chief executive officer or county sheriff described in Subsection (4)  
 147 with a plan for ensuring that the bureau's law enforcement official's actions will be kept within  
 148 the limits of the bureau's ~~H~~→ [jurisdiction in relation to the affected proprietary federal land]  
 148a jurisdictional authority ←~~H~~ .

149 (6) The chief executive officer of a political subdivision or a county sheriff may agree  
 150 to a plan described in Subsection (5)(c)(ii).

151 (7) (a) If, after the notice described in Subsections (4) and (5) is served, the bureau or

152 the department does not respond by the date described in Subsection (5)(c) or otherwise  
153 indicates that the bureau or department is unwilling to comply with the demands described in  
154 Subsections (5)(b) and (c), the chief executive officer or county sheriff may, after consultation  
155 with the county attorney ~~H→~~, the governor, ~~←H~~ and the attorney general, pursue all available  
155a legal remedies.

156 (b) In seeking any emergency injunction against the actions of a law enforcement  
157 official of the bureau that exceed the bureau's ~~H→~~ [jurisdiction in relation to proprietary federal  
158 land] jurisdictional authority ~~←H~~, a chief executive officer of a political subdivision or a county  
158a sheriff shall attempt, to the  
159 extent possible, to coordinate with the ~~H→~~ [state, the bureau] governor, the attorney general ~~←H~~,  
159a and the department.

---

---

Legislative Review Note  
Office of Legislative Research and General Counsel