

MEMORANDUM OF UNDERSTANDING

between
The COLORADO BUREAU OF LAND MANAGEMENT
UNITED STATES DEPARTMENT OF THE INTERIOR
and
The ROCKY MOUNTAIN REGION
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE
Agreement No. 07-MU-11020000-030
and
The COLORADO OFFICE OF OUTFITTERS REGISTRATION
and
The COLORADO DIVISION OF WILDLIFE
and
The COLORADO DIVISION OF PARKS AND OUTDOOR RECREATION
on

The Coordination and enhancement of Services to and by the Outfitting Industry in Colorado on National Forest System, BLM and State Public Lands

I. BACKGROUND

It is the mutual desire of the U.S. Department of Agriculture, Forest Service, the U.S. Department of the Interior, Bureau of Land Management, The Colorado Division of Wildlife, The Colorado Division of Parks and Outdoor Recreation, and the Colorado Office of Outfitters Registration to cooperate in maintaining and enhancing the quality of service provided to the outfitting industry in Colorado on National Forest System lands and Bureau of Land Management administered public lands through the coordinated application of Federal and State laws and regulations governing the operation of outfitting and guiding services.

II. PURPOSE

The parties involved in this Memorandum of Understanding (MOU) recognize outfitting as a viable Colorado industry deserving the full consideration in the planning process and so far as feasible, agency policy and procedures governing the outfitting industry on all federal and state lands administered by the Agencies in Colorado. The purpose of this Memorandum of Understanding (MOU) is to maintain and enhance the quality of service provided to and by the outfitting industry in Colorado on National Forest System lands, BLM administered public lands and state public lands; to achieve consistency of permit issuance, administration, and compliance with agency regulations; and to promote cooperative efforts between all parties in the identification and prosecution of individuals who are operating in violation of applicable federal and state laws and regulations.

III. AUTHORITY

A. The Bureau of Land Management, herein referred to as BLM, is

authorized under 43 CFR, Part 8370, Subpart 8372, "Special Recreation Permits Other Than On Developed Recreation Sites" to administer permits for outfitting and guiding on BLM public lands. In addition, the BLM is authorized under 43 CFR, Part 9260, Subpart 9260.0-3 to issue regulations, the violation of which is a criminal offense. The BLM is also authorized to enter into Memorandum of Understandings on the public lands by the Federal Land Policy and Management Act of 1976, PL 94-579.

B. The Forest Service, U.S. Department of Agriculture, herein referred to as the Service, is directed to manage the System (NFS) under the Land and Water Conservation Fund, September 3, 1964 16 USC 551a, June 12, 1960 (PL 86-517) and other applicable laws as the National Environmental Policy Act of 1969 and the Forest and Rangeland Renewable Resource Planning Act (1971) as amended by the National Forest Management Act of 1976. In addition, the Service is authorized by 16 USC 551, 16 USC 559, and 36 CFR, Part 261 to promulgate rules and regulations and make arrests for violations of laws and regulations relating to the National Forests.

C. The Colorado Division of Wildlife, hereinafter referred to as the DOW, is created by § 24-1-124 (3)(h)(I), C.R.S. and authorized to protect, preserve, enhance and manage the wildlife in the state of Colorado pursuant to title 33 of the Colorado Revised Statutes. In addition, the DOW is authorized to enforce all provisions of title 33 of the Colorado revised statutes.

D. The Colorado Division of Parks and Outdoor Recreation, hereinafter referred to as Parks, is created by § 24-1-124(3)(i), C.R.S. and authorized to protect, preserve, enhance and manage the natural, scenic, scientific, and outdoor recreation areas in the State of Colorado pursuant to article 10 of title 33 of the Colorado Revised Statutes. In addition, Parks is authorized to enforce all provisions of article 32 (River Outfitter Licensing) of title 33 of the Colorado Revised Statutes.

E. The Office of Outfitters Registration, Division of Registrations, herein referred to as the Office, is authorized to register and regulate entities that, for compensation, provide outfitting services to residents and non-residents. In addition, the Office is authorized to enforce the all provisions set forth in the Colorado Revised Statutes, Sections 12-55.5-101 through 12-55.5-117, as well as all applicable agency rules.

IV. DEFINITIONS

A. "Permitting Agencies": Those entities that are authorized by federal or state statutes, rules or regulations to manage, administer and issue permits or licenses for the use of federal and state lands. This definition includes, but is not limited to the permitting section of the BLM, the permitting section of the Service, the permitting section of the DOW.

B. "Enforcement Agencies": Those entities that are authorized by federal or state statutes, rules or regulations to investigate, arrest or prosecute a violation of law. This definition includes, but is not limited to the enforcement section of the BLM, the enforcement section of the Service, Parks and the enforcement section of

the DOW.

C. "Regulatory Agencies": Those entities that are authorized by federal or state statutes, rules or regulations to issue permits, licenses or registrations, as well as to regulate, investigate, or prosecute a violation of law or statute. This definition includes, but is not limited to, the River Outfitter Licensing section of Parks, and the Office.

V. PROCEDURES

The Service, BLM, DOW, Parks, and the Office mutually agree as follows:

A. All Agencies

1. To maintain close cooperation through the interchange of information in matters of mutual interest including enforcement of laws, reporting complaints, violations and unsatisfactory performance and to mutually advise of any convictions of outfitters and guides for violations of laws or regulations.
2. To hold joint meetings annually between the Service, BLM, the DOW, Parks, and the Office to discuss MOU changes and other policy matters.
3. Each party will designate their representative(s) as its official contact in regard to the MOU by a letter with copies to all parties upon signing this MOU and each year thereafter until the MOU terminates. These representatives (or their designee) are responsible for coordinating their respective agency's responsibilities during the administration of this MOU in a timely and efficient manner. If they cannot resolve a coordination problem, they shall immediately communicate the problem to the next higher level of authority within the Service, BLM, the DOW, Parks, or the Office for resolution.
4. All Agencies will update the other Permitting, Regulatory or Enforcement Agencies of any proposed rule or regulation changes that may have an affect on the other agencies.

B. Permitting Activities

1. Permitting and Regulatory Agencies will coordinate the permitting and registration of outfitters that want to provide outfitting services for the purpose of hunting or fishing.
2. In the event of a proposed change of ownership of an outfitting business affecting BLM, Service or state lands, the BLM, Service, DOW, OOR or Parks will make a reasonable attempt to contact any other affected parties prior to reissuing a permit registration to the new owner.
3. When a new outfitter business becomes available on Service or BLM

public lands, or an individual proposing an outfitter business initiates an application, the Service or BLM will make a reasonable attempt to contact the other parties to this MOU to check the outfitter's background before a permit is issued.

4. In cases of routine permit renewal where no change is involved and no compliance problems exist, the permit may be processed without prior consultation if the permittee holds a current registration.

5. The Permitting Agencies will provide the Regulatory Agencies an updated "list" of current permitted outfitters on an annual basis, by June 30 of each year.

6. The Regulatory Agencies will provide the permitting agencies a list of active outfitters on an annual basis by June 30 of each year.

C. Enforcement Activities

1. To jointly share information and investigations relating to unlawful outfitting activities as appropriate and as authorized by law with other Enforcement or Regulatory Agencies.

2. To coordinate prosecution efforts to determine which agency will pursue primary action.

3. To provide supporting testimony in legal actions taken against violators.

4. To maintain the sensitivity of confidential information and documents as a result of investigative leads or case files, within the respective statutory parameters.

VI. ADMINISTRATIVE PROVISIONS

A. The participants shall comply with all Federal and State Statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-353), which prohibits discrimination on the basis of race, color, handicap, or national origin; (b) Title IX of the Education amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex.

B. COMMENCEMENT/EXPIRATION/TERMINATION. This MOU takes effect upon the date of last signature and shall remain in effect for five (5) years from the date of execution. This MOU may be extended or amended upon written request of the BLM, SERVICE, DOW, Parks, or the Office and the subsequent written concurrence of the others. The BLM, Service, DOW, Parks, or the Office may terminate this MOU with a sixty (60) day written notice to the other parties.

C. PARTICIPATION IN SIMILAR ACTIVITIES. This agreement in no way restricts any of the parties from participating in similar activities with other public or private agencies, organization, and individuals.

D. NON-FUND OBLIGATING DOCUMENT. Nothing in this MOU shall obligate the Service, BLM, DOW, Parks or the Office to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Service, BLM, DOW, Parks or the Office will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

E. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

F. RESPONSIBILITIES OF PARTIES. The Service, BLM, DOW, Parks, and the Office and their respective agencies and offices will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.

G. ESTABLISHMENT OF RESPONSIBILITY. This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

VII. RESPONSIBLE PARTIES

A. Each agency has designated the following individuals as its representatives and official contacts in regard to this Memorandum of Understanding.

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B. AUTHORIZED REPRESENTATIVES. By signature below, the cooperator certifies that the individuals listed in this document as representatives of the cooperator are authorized to act in their respective areas for matters related to this agreement.