



**U.S. OFFICE OF SPECIAL COUNSEL**  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

**The Special Counsel**

August 19, 2024

The President  
The White House  
Washington, D.C. 20500

Re: OSC File Nos. DI-23-000278; DI-23-001004; and DI-23-001057

Dear Mr. President:

I am forwarding to you reports transmitted to the Office of Special Counsel (OSC) in response to the Special Counsel's referral of disclosures of wrongdoing at the Department of Agriculture (USDA), U.S. Forest Service (FS), Chattahoochee-Oconee National Forest, Blairsville, Georgia, and Francis Marion National Forest, Huger, South Carolina. The whistleblowers, Law Enforcement Officer (LEO) [REDACTED], LEO [REDACTED], and former LEO [REDACTED], consented to release of their names and commented on the reports. I have reviewed the disclosures, agency reports, and whistleblower comments and, in accordance with 5 U.S.C. § 1213(e), have determined that the reports contain the information required by statute, and the findings appear reasonable.<sup>1</sup>

### *The Allegations*

[REDACTED] and [REDACTED] alleged that in violation of FS Manual Chapter 5385.4 (FSM 5385.4), radios provided to LEOs working in the Chattahoochee-Oconee National Forest did not include the frequencies necessary to contact local Sheriff's Departments while performing their duties. FSM 5385.4 requires that the agency provide LEOs with radios capable of communicating with local Sheriff's Offices, Fire and Emergency Medical Services, or 911 centers within their areas of responsibility (AORs). [REDACTED] and [REDACTED] explained that FS had not obtained Memoranda of Understanding between the agency and local sheriff's departments, which would authorize the use of the departments' frequencies. As a result, FS LEOs are often unable to transmit critical information to local police departments or fellow FS employees unless they move to a location with better service. [REDACTED] alleged the same issue affected LEOs at the Francis Marion National Forest.

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<sup>1</sup> The investigation was conducted by Judith McKenzie-Abraham in USDA-Office of General Counsel's (OGC), Atlanta Office, and Ellen Hornstein of USDA-OGC's Washington Office.

## *The Agency Reports*

### *a. Georgia Investigation*

The investigation at the Chattahoochee-Oconee National Forest (Georgia Investigation) substantiated that LEOs did not have radio communications in compliance with FSM 5385.4. The Georgia Investigation found that the three LEOs, and one LEO-in-training, working in the Chattahoochee-Oconee National Forest experienced significant deficiencies in the radio communications systems provided to them. ██████████ was relying on a cellular telephone for 99% of emergency communications, but most of ██████████ AORs did not have cellular service, meaning that ██████████ had to drive to areas with cellular coverage to request assistance. ██████████ had only one of five counties in ██████████ AORs with full radio support, and a third LEO had communications with only three of eight counties in ██████████ AORs. The investigation noted that the radio communication in Georgia was more complicated because of the use of conventional and trunking radio systems<sup>2</sup> with multiple protocols and a variety of frequency spectra. The report noted that for the LEOs to perform their jobs properly and safely, they must be able to communicate with the 28 individual Georgia counties associated with the Chattahoochee-Oconee National Forest, the Georgia Department of Natural Resources (which covers National Forest Lands), and the state or county dispatch services.

The investigation identified several causes of these deficiencies and outlined steps to improve FS LEOs' radio systems. To address these issues in the short term, FS provided satellite telephones for emergency communications to the three LEOs. Additionally, FS installed the requisite radio equipment capable of using frequencies on state and local conventional radio systems in Georgia LEOs' AORs in all law enforcement vehicles. However, the investigation found that FS still needed to obtain the authorization for use of relevant frequencies to make them useable by this equipment because at the time of the investigation they were still inaccessible. The investigation noted FS intended to execute the necessary forms for LEOs to have access to all relevant state or county radio frequencies on its system.<sup>3</sup> By December 2023, FS had executed Form FS-1500-15A for 27 of the 28 counties in Georgia LEOs' AORs. The investigation also found that 3 of the 28 counties in Georgia LEOs' AORs do not have a current FCC license for their radio frequencies. The FS is working with the three counties regarding their expired FCC licenses to obtain authorization for use of their frequencies. Finally, the investigation found that LEO radios did not have access to Georgia State-Wide SouthernLinc LTE System (SouthernLinc), a statewide cellular system designed to connect to all other radio systems in Georgia, because FS lacked an agreement to do so. The report stated that FS submitted a request for dispatch services on SouthernLinc to the Georgia Department of Public Safety.

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<sup>2</sup> A trunking radio system is a two-way radio system that uses a control channel to automatically assign frequency channels to groups of user radios.

<sup>3</sup> FS Grants and Agreements form FS-1500-15A, Memorandum of Understanding for Cooperative Frequency Use.

*b. South Carolina Investigation*

The investigation at the Francis Marion National Forest in South Carolina also substantiated that LEOs there did not have radio communications in compliance with FSM 5385.4. Like the LEOs in Georgia, LEOs in South Carolina were unable to communicate with local sheriff's offices, fire department and emergency medical services, and 911 centers in their AORs.

The investigation found almost identical deficiencies with the radio system as those in Georgia: inadequate radio equipment, a lack of access to relevant frequencies,<sup>4</sup> outdated FCC licenses, and no agreement for dispatch services.<sup>5</sup> Investigators noted that the FS had begun implementing many of the same steps initiated in Georgia to improve FS LEOs' radio systems, including installing new radio equipment and executing Form FS-1500-15A, but with South Carolina-specific frequencies and vendors. While these efforts were ongoing, FS provided satellite telephones for the LEOs in Francis Marion National Forest.

*Supplemental Reports*

OSC sought supplemental reports on the status of the agency's efforts to provide LEOs in the Chattahoochee-Oconee and Francis Marion National Forests with operable radios with the ability to connect to emergency services throughout their AOR by the end of January 2024.

*a. Supplemental Report for Investigation in Georgia*

In the supplemental report, the USDA noted that as of March 2024, three of the four LEOs assigned to the Chattahoochee-Oconee National Forests had radio communications and dispatch services in the high-priority counties within their AOR and the fourth LEO will have radio communications in the high-priority counties in [REDACTED] AOR by the end of May 2024.<sup>6</sup> Much of the delay is due to one county refusing to release its frequency to FS, though the report notes that the agency was able to find separate radios that work in that county. Another Georgia county uses an obsolete system for which even the county cannot obtain new radios; however, the county is transitioning to a modern system in the next 24 months and, in the interim, has provided the LEO in that county with a radio that functions on the county's existing system.

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<sup>4</sup> The South Carolina Investigation found FS-1500-15A forms had to be executed for all South Carolina cooperators as they had all expired by the time of the investigation.

<sup>5</sup> The South Carolina Investigation noted that the FS has signed a statewide dispatch service agreement with South Carolina Department of Natural Resources.

<sup>6</sup> In a June 28, 2024 update, USDA confirmed that the fourth LEO does have radio communications in all high-priority counties in [REDACTED] AOR

The supplemental report also noted that the FS's request to the Georgia Department of Public Safety (DPS) for access to its frequencies on SouthernLinc and dispatch services is still pending and has been delayed due to a change in leadership of GA DPS in the Fall of 2023. Concern regarding the delayed response to the request has led the FS's Law Enforcement and Investigations Division's Assistant Director to identify a new point of contact in GA DPS and based on a meeting with that new point of contact, the FS anticipates it could take up to a year for a response from GA DPS.

The FS estimates that all the deficiencies involved in the radio communications will be 90% resolved by the end of May 2024. Communications in most of the high-priority counties in the Georgia LEOs' AORs will be covered by that time, but full coverage in the state may be delayed.<sup>7</sup>

*b. Supplemental Report for Investigation in South Carolina*

In the supplemental report, the USDA noted that as of March 2024, all three LEOs assigned to the Francis Marion National Forest have radio communications and dispatch services in the high-priority counties in their AOR.

The supplemental report also noted that the frequencies used by 2 of the 14 South Carolina counties were incompatible with the LEOs' current equipment. However, FS has found a temporary solution by using radio equipment loaned by the county. The supplemental report notes that the FS will determine which type of radio equipment functions with the radio systems used by those counties and obtain and program that type of radio equipment for all South Carolina LEOs. Further, FS has completed the vendor selection for programming the South Carolina LEOs' radios for access to the state's trunking radio system, Palmetto, and the South Carolina LEOs will have their radios programmed for access to Palmetto by the end of April 2024. Finally, the FS needs an executed form FS-1500-15A and valid FCC license on file for 4 of the 14 counties in South Carolina LEOs' AOR. FS's Law Enforcement and Investigations Division is working to ensure the forms are executed and the counties obtain FCC licenses, if necessary. The supplemental report notes that the pace at which the four counties are verifying their frequencies and obtaining licenses has been slow, but the agency does not have control over the counties' responses.

Both supplemental reports noted that since the referral of this matter, the FS Chief Information Officer has sent weekly reports to the FS's Law Enforcement and Investigations Division to ensure resolution of any remaining communications issues.

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<sup>7</sup>In a June 28, 2024 update USDA noted that on June 5th, 2024 the agency executed an MOU with the Georgia Department of Natural Resources which gives USFS LEOs access to the Georgia Department of Natural Resources "legacy" statewide VHF radio network for emergency law enforcement and other cooperative operations. With this access, USFS LEOs in Georgia now have communications capabilities in all of the state's high-priority counties and in over 90% of the state overall.

*The Whistleblower Comments*

a. [REDACTED]

[REDACTED] stated that [REDACTED] and others made FS management aware of the communication issues in the Chattahoochee-Oconee National Forest in March 2022 and that [REDACTED] and others made straightforward suggestions on how to ameliorate the problems. However, FS continuously insisted upon using radios with FS proprietary software which made programming the radios impossible. Subsequently, in March 2023, FS refused to use available radios identified by the LEO union because they did not have FS proprietary software. [REDACTED] noted that if the agency had listened to him or the union, the communication issues would have been solved within weeks.

In response to the Georgia Investigation supplemental report, [REDACTED] expressed disappointment that the radio issue is still unresolved and believes the agency is not going to meet its next deadline. [REDACTED] also noted that the agency's supplemental report discusses "newly found" radios that were distributed to LEOs, but [REDACTED] and others notified Georgia Law Enforcement and Investigations Division management about these radios in 2023.

b. [REDACTED]

[REDACTED] provided comments on the Georgia Investigation report. [REDACTED] noted that [REDACTED] recently left the agency and did not have first-hand knowledge of the status of the radio communication issues at the Chattahoochee-Oconee National Forest at the time. However, a former colleague stated that the radio issue remained ongoing. [REDACTED] expressed concern that without further oversight by OSC, the agency could allow the communications issue to fall by the wayside.

c. [REDACTED]

[REDACTED] stated [REDACTED] believed that additional investigation into issues with the radio communications in the Francis Marion National Forest was necessary, because at the time of [REDACTED] comments, which were written just days before the agency's proposed completion date of January 2024, [REDACTED] did not have functioning radio services in [REDACTED] main AORs (Berkley and Charleston counties). While [REDACTED] noted that [REDACTED] was provided with a satellite phone, it took several months for it to be operational, and it was not efficient in contacting local sheriffs' departments. [REDACTED] stated that that matter should remain under OSC review until FS has implemented the required forms and that dispatch services are in place in those counties.

In [REDACTED] comments on the supplemental report, [REDACTED] noted that [REDACTED] now had dispatch services with the South Carolina Department of Natural Resources and with Berkeley County. However, the FS's Service Agency Addendum Form for Berkeley County is expired and

needs to be resubmitted. [REDACTED] also stated that [REDACTED] does not have dispatch services with Charleston County, which [REDACTED] believes is necessary to follow agency regulations. Still, [REDACTED] expressed confidence that FS was moving towards compliance with FSM 5385.4.

*The Special Counsel's Findings*

I thank the whistleblowers for bringing these allegations to OSC's attention. The investigations identified major deficiencies in the Forest Service's radio communications system to Law Enforcement Officers in the Chattahoochee-Oconee and Francis Marion National Forests. The USDA has taken steps to correct these deficiencies and is working to provide a safer work environment for its employees. While the efforts to improve LEOs' communication systems are still ongoing, the progress that the agency has made and plans for future resolution show the commitment to providing employees communication services in compliance with FSM 5385.4. I have determined that the reports contain the information required by statute and the findings appear reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency reports, and whistleblower comments to the Chairs and Ranking Members of the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Natural Resources. I have also filed redacted copies of these documents and the redacted referral letter in our public file, which is available online at [osc.gov](https://osc.gov). This matter is now closed.

Respectfully,



Hampton Dellinger  
*Special Counsel*

Enclosures