



Written by [Joe Wolverton, II, J.D.](#) on September 28, 2015

EPA Fines Man Almost \$20 Million (to Date) for Building Pond on His Property

Digging a pond on your own property could cost you millions of dollars in fines — if the Environmental Protection Agency finds out about it.

On September 18, the *New York Times* reported the story of Wyoming father of four, Andy Johnson (shown), who is being beaten down by the EPA after the bureaucrats became aware of his building of a stock pond on his property near Fort Bridger, Wyoming. The “newspaper of record” reports:



It is just a splotch of placid water amid endless ripples of grazing land here in western Wyoming. But in the two years since Mr. Johnson dammed a small creek running through his front yard to create the pond, it has become an emblem for conservative groups and local governments that are fighting what Senator Michael B. Enzi called a “regulatory war” with the Obama administration over environmental issues ranging from water quality to gas drilling, coal power plants to sage grouse.

“It makes no sense whatsoever,” Mr. Johnson said, pointing at the waving grasses and birds pinwheeling around the water. “We have wetlands now. I really think the [E.P.A.](#) should be coming in and saying, ‘Good job.’”

The pond battle has pitted Mr. Johnson, a 32-year-old welder, part-time barbecue caterer and father of four girls, against a federal bureaucracy that is, in the best of times, grudgingly tolerated out here. It erupted after officials from the [Environmental Protection Agency](#) paid a visit to the pond and, Mr. Johnson said, told him that he was facing “a very serious matter.”

No one is quite sure how the EPA found out about Johnson’s pond — and the EPA refuses to say who tipped them off — but once it was aware, the full force of the federal government began grinding Johnson down. The *Washington Times* reported on August 30:

Even though the Clean Water Act exempts stock ponds, and Mr. Johnson had obtained the necessary state permits, the EPA ordered him in January 2014 to restore the area to its original condition or accumulate fines of \$37,500 a day. Instead, Mr. Johnson hired a lawyer.

“The EPA is out to expand its power, and I’m a test case,” said Mr. Johnson in a statement. “We’re going to fight them all the way.”

Last week, his attorneys — including the Pacific Legal Foundation and the Budd-Falen law firm in Cheyenne — filed a lawsuit against the agency to stop it from enforcing the compliance order.

The EPA claims it has authority over Johnson’s creek because it eventually feeds into the Green River. This, the feds say, makes the creek “navigable waters.”



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Of course, calling that little stream “navigable waters” is like calling a canoe a cruise ship!

Logic has never been an impediment to tyranny, however.

In fact, in another display of irrational definitions imposed by despots, the gravel and concrete Johnson used to build the dam were classified by the EPA as “pollutants.”

One can excuse the *Environmental* Protection Agency for failing to understand that gravel, rocks, and water are everywhere and thus nearly every home, commercial building, and corner of the earth would be classified as “pollutants” were the EPA’s definitions imposed universally.

According to a conversation I had with Harold Johnson of Pacific Legal Fund, the law firm representing Johnson, as of today, the EPA continues to threaten Johnson with the imposition of exorbitant fines, the amount of which now totals almost \$20 million! Should this sum be imposed on Johnson, it would ruin him financially.

A story in Hotair just exacerbates the EPA’s abuse of Johnson:

Amazingly, Johnson had filed for and been granted the appropriate local and state permits to have a stock pond, and stock ponds are specifically excluded from the traditional wording of the Clean Water Act. No matter ... the agency felt that action was required to save the world and they were going to leap to the rescue.

The truly ironic part is that Johnson had the water in the creek tested above and below his pond and the results indicated that the downstream water was actually *cleaner than when it came in* because the pond allowed sediment to settle out.

All of this is nothing new, though. Under the Obama administration, Americans have become accustomed to the unfettered and frenzied enforcement of usurped “authority.”

In 2014, the *Washington Times* reported on the EPA’s regulatory end run around the Constitution and the rule of law:

The Environmental Protection Agency has quietly floated a rule claiming authority to bypass the courts and unilaterally garnish paychecks of those accused of violating its rules, a power currently used by agencies such as the Internal Revenue Service.

The EPA has been flexing its regulatory muscle under President Obama, collecting more fines each year and hitting individuals with costly penalties for violating environmental rules....

Annual reports filed by the EPA indicated that the coffers are constantly being filled with fines, many of which are enforced not only in violation of the due process requirements protected by the Constitution, but also in violation of the separation of powers set out in that document, wherein the legislative branch is granted exclusive lawmaking authority.

Adding insult to tyranny, the EPA declared that this latest power grab is not a “significant regulatory action” and it did not submit the rule to review.

Two hundred and thirty-nine years ago, Americans declared their independence from a government whose regulations reached the tipping point.

The 10th grievance listed by Thomas Jefferson in the “long train of abuses” committed by king and parliament was: “He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.”



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One of those swarms of bureaucrats is still buzzing has now claimed the authority to seize the substance of Americans without due process of law.

The *Washington Times* reported on August 30 of this year that Andy Johnson's total tab for his EPA fines was \$16 million, and he's only the latest in a long list of homeowners whose lives, liberty, and property are being taken by force by a federal bureaucracy unconcerned by the limits on their power or the damage they do to the hard working people of this country.

It may be that the problem is more sinister than simple power-hungry petty tyrants sitting behind desks in D.C.

A story I wrote in May 2014 may reveal [the depth of the despotism](#):

A "rogue" group within the Environmental Protection Agency (EPA) that is run out of the White House is operating outside the law and for years has "blocked independent investigations by the EPA's inspector general," according to an Associated Press account of an EPA investigator's prepared congressional testimony.

In testimony at a hearing of a House oversight committee scheduled for Wednesday, May 7, Patrick Sullivan, an assistant EPA inspector general for investigations, is expected to provide compelling evidence of an extraordinary abuse of power — even for Barack Obama — by the all but unknown EPA Office of Homeland Security.

I then quoted the Associated Press reporting:

The office of about 10 employees is overseen by EPA Administrator Gina McCarthy's office, and the inspector general's office is accusing it of impeding its independent investigations into employee misconduct, computer security and external threats, including compelling employees involved in cases to sign non-disclosure agreements.

"Under the heavy cloak of 'national security,' the Office of Homeland Security has repeatedly rebuffed and refused to cooperate with the OIG's ongoing requests for information or cooperation," Sullivan wrote in prepared testimony obtained by The Associated Press. "This block unquestionably has hamstrung the Office of Inspector General's ability to carry out its statutory mandate to investigate wrongdoing of EPA employees."

"In other words," I observed in my May 2014 article "a unit within the EPA that is under the direct control of the White House and its political associates is using the 'national security' trope to actively prevent investigations into EPA violations of the law. Given the high profile of their benefactor, this group fears no repercussions."

Americans must demand that state lawmakers step into the breach and protect their citizens from being denied their most fundamental rights. Our Founding Fathers intended that states serve as the ultimate barriers between a frenzied federal government and the people. If those barriers are gone, however, there is nothing that will save the property of Americans from being seized by these "swarms of officers" with usurped authority whose scope and severity know no bounds.

Photo of Andy Johnson: screen-grab from [Pacific Legal Foundation YouTube video](#).



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