



Written by [Joe Wolverton, II, J.D.](#) on May 15, 2016

## Wyoming Rancher Fights Feds and Wins, Freed From Millions in EPA Fines

In a settlement announced on May 9, President Obama and his Justinian scheme of ruling by regulation was dealt a judicial blow by one American with the will to withstand the federal assault on his freedom.

Two years ago, rancher Andy Johnson (shown) was forced into a fight with the overweening and overstepping Environmental Protection Agency (EPA) over his building in 2013 of a stock pond on his property located near Bridger, Wyoming.



How the stock pond came to the EPA's attention is still a mystery, but the agency's determination to leave Johnson, a father of four, penniless was all too clear.

According to a conversation I had with Harold Johnson of Pacific Legal Fund (PLF), the law firm representing Johnson, the EPA threatened Johnson with the imposition of exorbitant fines, (reportedly \$37,500 a day), the amount of which totaled nearly \$20 million!

A story in Hotair published last year set out the sinister nature of 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."

Until now, at least in this case.

"This is a victory for common sense and the environment, and it brings an end to all the uncertainty and fear that the Johnson family faced," said Jonathan Wood, a staff attorney with Pacific Legal Foundation, in a statement released on the firm's website.

PLF's press release outlined details of the settlement reached between Johnson and the Obama administration.

"This settlement is a win for the Johnson family, and a win for the environment," said Wood in the statement. "Under it, the Johnsons will pay no fine. They will not lose their property. They will not have to agree to federal jurisdiction or a federal permit, which would have surely entailed onerous conditions. In effect, the government will treat the pond as an exempt stock pond, in exchange for Andy



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further improving on the environmental benefits he has already created.”

The victory — for it surely is — is not an unalloyed one, however.

“The settlement provides that Andy will plant willows around the pond and temporarily fence off part of it from livestock,” Wood explains. “Of course, there is some irony in this last provision: The EPA insists this isn’t a stock pond, while their chief concern is how livestock reach it.”

In other words, Johnson won’t have to bankrupt himself and put his family through the hell of financial ruin, but he isn’t allowed by the terms of the settlement to exercise absolute control over his own land.

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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.

It’s been almost 240 years since 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.”

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

It may be that the problem is more sinister than simple power-hungry petty tyrants sitting behind desks in D.C. and seeking to exercise dominion over ponds, privies, plants, and all property owned by individuals who dare improve upon it without government go-ahead.

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



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evidence of an extraordinary abuse of power — even for Barack Obama — by the all but unknown EPA Office of Homeland Security.

I then quoted an Associated Press story on the subject:

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, 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.

The settlement signed by Andy Johnson is indeed, as Johnson said, “a huge victory for us as well as private property owners across the country,” but it is also a warning that the war against property and individual liberty is still being waged by a federal government bent on building a bureaucratic empire on the ruins of a once-great republic.



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