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ACTION UPDATE

PRESIDENT OBAMA DECLARES WAR ON PRIVATE PROPERTY RIGHTS! MSLF, COMMITTED TO "THE RIGHT TO OWN AND USE PROPERTY," FIGHTS BACK FROM COAST TO COAST AND BORDER TO BORDER!

The War on Domestic Energy waged by President Obama and his top officials is both well-known and well-documented. It began with cancellation of oil and gas leases in Utah, continued with a bar to drilling in Pennsylvania, reached devastating effect with a federal moratorium in the Gulf of Mexico, and culminated with the killing of a \$4 billion off-shore project in Alaska.

That is only a part of the Obama Administration's record on oil and gas; its attack on coal is another huge and potentially tragic story. Federal judges have ruled against the Administration and its lawyers and even held them in contempt of court; but they press on nonetheless!

As well-known and well-documented is the Obama Administration's War on Business. The Illinois farmer, who told President Obama that he would rather begin his day farming instead of "filling out forms," spoke for all business owners. Said Obama, "(D)on't always believe what you hear." Call the "USDA," he said, "it will turn out some of your fears are unfounded."

Not so. Business owners' fears are fact-based: from the impact of ObamaCare, through the regulatory maze created by an agency alphabet soup (OSHA, MSHA, USDA) to the biggest job-killer, the EPA (its latest rule will cost 7.3 million jobs). Obama's Chief of Staff calls all this, "indefensible."

The last part of the Obama Administration's "trifecta," which has gone unnoticed by everyone except MSLF, is its War on Private Property Rights. It is not just the EPA's new "wetland" rules, the Fish and Wildlife Service's use of the Endangered Species Act, or federal officials' belief that they have the right to bar the use of private property that adjoins federal land.

Extending federal power over land that is miles from navigable waters, designating protected species that range over millions of acres, and attacking use of private property that "impacts" federal land all affect land owners on a massive scale, which is shocking enough. MSLF fights all of this, of course.

What is even worse is when individuals and families are targeted by federal bureaucrats and their scores of lawyers and investigators, in one-sided legal battles in which, for the federal government, cost is no object!

Fortunately, MSLF stands with them and allows them to fight back!

In rural New Jersey, the Hull family owns land along the inner border of a unit of the National Park System. The Hulls thought the National Park Service (NPS) was a good neighbor, but when the Hulls gated the road that accesses their property to protect their children, the NPS used SWAT-garbed Marshals to serve a federal lawsuit charging the Hulls with trespass.

In federal court, the NPS argues that it owns the road—even though for years it ignored, refused to maintain, and said the road was owned by its neighbors. Worst yet, the NPS argues that its refusal to accept the road from the local township two decades earlier—after which it passed to neighbors—is null and void; the NPS may assert its right to the road at any time!

In rural Wyoming, the Forest Service says it may condemn property for a high-altitude bicycle trail because, when the United States relinquished rights to property conveyed to a railroad—which rights were to go to private landowners if the railroad ended service—it did not really give up its rights. Decades later, the Forest Service now says it wants that land back.

In the same case, the Forest Service argued that, when it abandoned land, by ripping up a road, erecting a fence, and planting trees, it did not really abandon the property and wants it back. When the landowner sued for “just compensation,” federal lawyers tried to get his case thrown out.

In Pennsylvania, owners of oil and gas rights were barred from using their property under federal lands when Attorney General Eric Holder settled a “sweetheart lawsuit” with environmental groups. MSLF got Holder’s deal thrown out, but federal lawyers appealed and the Forest Service refuses to comply with a federal court order to allow landowners to use their property.

In New Mexico, a woman who put an unlocked gate on her property to protect her horse was cited criminally by the Forest Service. When she sued, the agency argued successfully that an obscure regulation published decades ago in the *Federal Register* had put her on notice and time barred her case.

In Alaska, a family with valuable mining claims sent in the required forms to the Bureau of Land Management (BLM), which the BLM “lost.” The family found out and, as federal law allows, sought to “cure” the deficiency. The BLM ignored the family, federal law, and federal court rulings, declared the claims “null and void,” and said, essentially, “sue us.” MSLF did!

In California, landowners within a national forest sought to use their private property, but the Forest Service barred them from doing so because their property is within a wilderness area. In a similar case in Montana, the Forest Service barred a landowner from improving a road to reach his land.

... and on and on it goes with MSLF in *David v. Goliath* battles on behalf of American citizens who must defend their constitutional and legal rights against their own government. Thank you for making all this possible!

THE WALL STREET JOURNAL

POSTMODERN TIMES | AUGUST 26, 2011

Guitar Frets: Environmental Enforcement Leaves Musicians in Fear



Agents from the U.S. Fish and Wildlife Service pore through the workshop at the Gibson Guitar factory on Wednesday morning.

Federal agents swooped in on Gibson Guitar Wednesday, raiding factories and offices in Memphis and Nashville, seizing several pallets of wood, electronic files and guitars. The Feds are keeping mum, but in a statement yesterday Gibson's chairman and CEO,

Henry Juskiewicz, defended his company's manufacturing policies, accusing the Justice Department of bullying the company. "The wood the government seized Wednesday is from a Forest Stewardship Council certified supplier," he said, suggesting the Feds are using the aggressive enforcement of overly broad laws to make the company cry uncle.

It isn't the first time that agents of the Fish and Wildlife Service have come knocking at the storied maker of such iconic instruments as the Les Paul electric guitar, the J-160E acoustic-electric John Lennon played, and essential jazz-boxes such as Charlie Christian's ES-150. In 2009 the Feds seized several guitars and pallets of wood from a Gibson factory, and both sides have been wrangling over the goods in a case with the delightful name "United States of America v. Ebony Wood in Various Forms."

The question in the first raid seemed to be whether Gibson had been buying illegally harvested hardwoods from protected forests, such as the Madagascar ebony that makes for such lovely fretboards. And if Gibson did knowingly import illegally harvested ebony from Madagascar, that wouldn't be a negligible offense. Peter Lowry, ebony and rosewood expert at the Missouri Botanical Garden, calls the Madagascar wood trade the "equivalent of Africa's blood diamonds." But with the new raid, the government seems to be questioning whether some wood sourced from India met every regulatory jot and tittle.

It isn't just Gibson that is sweating. Musicians who play vintage guitars and other instruments made of environmentally protected materials are worried the authorities may be coming for them next.

If you are the lucky owner of a 1920s Martin guitar, it may well be made, in part, of Brazilian rosewood. Cross an international border with an instrument made of that now-restricted wood, and you better have correct and complete documentation proving the age of the instrument. Otherwise, you could lose it to a zealous customs agent—not to mention face fines and prosecution.

John Thomas, a law professor at Quinnipiac University and a blues and ragtime guitarist, says "there's a lot of anxiety, and it's well justified." Once upon a time, he would have taken one of his vintage guitars on his travels. Now, "I don't go out of the country

with a wooden guitar."

The tangled intersection of international laws is enforced through a thicket of paperwork. Recent revisions to 1900's Lacey Act require that anyone crossing the U.S. border declare every bit of flora or fauna being brought into the country. One is under "strict liability" to fill out the paperwork—and without any mistakes.

It's not enough to know that the body of your old guitar is made of spruce and maple: What's the bridge made of? If it's ebony, do you have the paperwork to show when and where that wood was harvested and when and where it was made into a bridge? Is the nut holding the strings at the guitar's headstock bone, or could it be ivory? "Even if you have no knowledge—despite Herculean efforts to obtain it—that some piece of your guitar, no matter how small, was obtained illegally, you lose your guitar forever," Prof. Thomas has written. "Oh, and you'll be fined \$250 for that false (or missing) information in your Lacey Act Import Declaration."

Consider the recent experience of Pascal Vieillard, whose Atlanta-area company, A-440 Pianos, imported several antique Bösendorfers. Mr. Vieillard asked officials at the Convention on International Trade in Endangered Species how to fill out the correct paperwork—which simply encouraged them to alert U.S. Customs to give his shipment added scrutiny.

There was never any question that the instruments were old enough to have grandfathered ivory keys. But Mr. Vieillard didn't have his paperwork straight when two-dozen federal agents came calling.

Facing criminal charges that might have put him in prison for years, Mr. Vieillard pleaded guilty to a misdemeanor count of violating the Lacey Act, and was handed a \$17,500 fine and three years probation.

Given the risks, why don't musicians just settle for the safety of carbon fiber? Some do—when concert pianist Jeffrey Sharkey moved to England two decades ago, he had Steinway replace the ivories on his piano with plastic.

Still, musicians cling to the old materials. Last year, Dick Boak, director of artist relations for C.F. Martin & Co., complained to *Mother Nature News* about the difficulty of getting elite guitarists to switch to instruments made from sustainable materials. "Surprisingly, musicians, who represent some of the most savvy, ecologically minded people around, are resistant to anything about changing the tone of their guitars," he said.

You could mark that up to hypocrisy—artsy do-gooders only too eager to tell others what kind of light bulbs they have to buy won't make sacrifices when it comes to their own passions. Then again, maybe it isn't hypocrisy to recognize that art makes claims significant enough to compete with environmentalists' agendas. ★

United States of America v. Hull



Mitsu Yasukawa of *The Star Ledger*

The Hull family (Matt, Lilly, Michelle, Mason, Sawyer, Bonnie, Aaron and their dog Nanook) on their farm near Layton, New Jersey. The road coveted by the National Park Service and for which the Obama Administration and its hundreds of lawyers sued the Hulls, is in the background.

MSLF Battles for a Family's Property Rights in New Jersey

The audacious lawsuit filed by the U.S. Department of Justice for the National Park Service against the Hull family and the outrageous manner in which notice was served on the family did not make the *Wall Street Journal*. But, like the raid described regarding Gibson Guitar, it is the stuff of nightmares: a SWAT-garbed team swooped in at dawn.

The Hull family called MSLF and MSLF agreed to defend the family's right to the property that Matt, Michelle, and Aaron bought.

The National Park Service knows it has no right to the family's property, which the National Park Service has ignored and refused to maintain for decades, but the National Park Service sees this lawsuit as a key case to cement its power to seize property that it covets.

But MSLF will not give up.