Family of the Land: Meet the Nettletons from US v. Idaho

Interview with MSLF’s David McDonald on Rayco v. Haaland

The future of MSLF’s natural resources work

By: Stanton J. Skerjanec
“I learned everything I know from my dad,” Paul says. “He was a very with-it, wise rancher. He’s the one who picked up a lot of this 11,000 acres.”

Wise, indeed—Hugh Nettleton is the main reason why Joyce Ranch has over 3,000 acres of contiguous land, with another 8,000 acres as consolidated as possible to ease cattle drives. While any form of ranching certainly takes a lot of land, 11,000 sounds like an enormously challenging territory to manage. I asked Paul why his father bought so many parcels over the years.

“Land has always been the most important thing because land has always been the one thing you can’t make any more of! It’s always going to be valuable.”
Unlike his great-grandfather Matthew, Paul must contend with the burdens of the US Department of the Interior’s Bureau of Land Management (BLM) and every other agency that pretends to know ranching better than Paul. Of course, Paul has never been afraid to go toe-to-toe with the federal government because he knows that the law is on his side.

Back in the 1970s, the Supreme Court of the United States made it clear that stockwater rights on federal lands—even ones where ranchers have to obtain grazing permits—are subject to state law, not federal regulations. In 2007, Paul took that important fact to the Idaho Supreme Court and won. According to Idaho law, if you make a claim to stockwater rights, you have to put the water to beneficial use. If you don’t, those rights are forfeited.

That case, Joyce v. United States, is known by ranchers from all over the state. They know of the time and treasure that Paul invested into making it clear to the feds: if you want to use Idaho’s water, you play by Idaho’s rules. And that means you have to use it or lose it.

Shortly after Paul’s victory in Joyce the Idaho legislature wrote out and codified a procedure that determined whether stockwater rights were being beneficially used or if they had been forfeited. This is what has the BLM in a panic.

Agencies like the BLM have fought tooth and nail to claim and hold onto stockwater rights on federal land for decades. Thing is, they themselves acknowledge that they don’t even have their own livestock to water! Since they don’t always put the water they do have control over to beneficial use, under Idaho’s new law, they may lose that control.

Yet, despite the clear decisions from the Supreme Courts of Idaho and the United States, the federal government is making bizarre arguments to keep the water. They’re saying that the very act of asking whether or not water has been put to beneficial use is a violation of the supremacy of the US Constitution. They don’t disagree that the rights are subject to Idaho’s law, but they are saying Idaho’s law is still unconstitutional...somehow.

What the federal government is attempting is the same thing as a baseball player who doesn’t like a strike zone trying to blindfold the umpire.

I asked Paul why he personally is back in court today. True, he won in 2007, but at a great financial cost. Taking on the behemoth of Washington, DC, is no small task. It’s an even bigger thing to come back now when agencies are more hostile than ever to ranchers.

“It’s the same fight,” he said. “With the Farm Bureau, the other ranchers, and Mountain States, it gave us a lot of confidence to come back and win again.” It’s a win that every rancher across the country is expecting and hoping for, and for good reason.

Many operations are like Joyce Ranch. During the summer, Paul utilizes 120,000 acres of BLM rangeland for his 600 head of cattle. Along the way, of course, the cows need to be watered. If the BLM and other agencies controlled the rights to this stockwater, Paul would have to acquire permission to use it on top of the grazing permits to be on the land in the first place. But if Paul can own the right to water his stock himself, it makes the drive through the rangeland all the easier.
Paul added, “Part of what we’re trying to say is that there are all sorts of private rights already on public land. Ensuring we keep those rights, including stockwater, helps create an impediment to BLM fully prohibiting grazing. There may be a future where they say get off the land—well, they better pay me for the water!”

Paul, I suspect, would fight like hell before he has to sell anything of his property, and I think that’s because he doesn’t view the ranch as property. The ranch is family.

“The BLM isn’t directly coming after my land,” Paul said, “but they sure as hell think theirs is pretty special, with the sage grouse habitats, the bull trout, and all the other species they’re looking after.”

It finally made sense to my city-kid mind. Mountain States has been on the front lines of the natural resources war against the federal government for over 45 years, and we’ve never seen agencies and environmental groups more aggressively try to crush ranching and farming than today. One overly litigious group you’ve heard of before, the Center for Biological Diversity, has been in at least twelve cases where Mountain States was on the other side of the courtroom. That’s just one group and just the cases in which we’re involved. And each case involves the environmental lobby abusing the process to not just minimize ranching’s impact on the environment, but to eliminate it altogether.

*If stockwater rights belong to the federal government, it makes it all the easier for them and their ideological backers to squeeze ranchers out.*

Already, Paul has to pay just to graze on public lands. But, because they’re public, he also has to manage interactions with hikers, ATVs, and other tourist action. “It’s like you rent your apartment, but then anyone can just come in and use your bathroom!” If he also had to deal with stockwater rights, using BLM land would be more than a nuisance. It would be a nightmare.

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**“The Nettleton Family has operated for 150 years a place where folks can make a living.”**

I naively asked why that was such a big deal. It’s a nuisance, sure, to ask some bureaucrat to use water, but it couldn’t be all that much harder to get a water use permit, could it? Ranchers are practically experts in the permit process anyway, so why bother going through a big court fight?

It comes back to what Hugh Nettleton told his son—it’s all about the land.

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The Nettleton Family has operated for 150 years a place where folks can make a living. Paul said that the ranch hands and other employees are a sort of extended family, just as much a part of the history and story of Joyce Ranch as Matthew Joyce himself.

“I tell all my kids and relatives and anyone else who will listen: this is the Joyce Family Ranch. I don’t really own it—I’m just the caretaker for the time. I’ll pass that role on to my son, and he can pass it on to my grandsons. But, as far as owning the ranch, it belongs to the family, and should always stay in the family’s hands.”

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**KEY FACTS**

**Who’s fighting for you?**

Joe Bingham is our Senior Attorney and leader of our natural resources and private property practice.

**What’s at stake:** The US government wants to get around decades of precedent that say stockwater rights on federal lands are subject to state law, not federal law. If successful, the livelihood of ranchers dependent on federal grazing permits could be seriously threatened.
You wrote a post for our blog, The Pamphlet, where you describe the Ray Family’s “escape from limbo.” What limbo were they trying to escape, and why does it exist?

The Ray Family applied to patent their mining claims in 1991. At the time, the process usually took about two to three years. For the Rays, their patent was pending for almost 30 years. Being in bureaucratic purgatory is a dreadful experience. But for the Rays, the delay wasn’t because there was something wrong with the application. The government just didn’t process the application. After we filed suit to force a decision, the government then denied the Rays’ claims altogether.

The government—from Clinton all the way through to Biden—seems to have it out for the Rays. Why do you think that is?

It’s hard to tell. Since their initial application, it seems that bureaucrats within the federal government have grown hostile to mining in general, and patents specifically. And indefinite delay is just one more way of expressing that hostility. It lets bureaucrats kick the can down the road without having to address compelling applications for patents. What we gathered from examining the government’s documents was an internal disagreement on how to handle the Ray Family’s case. Instead of doing the hard work to figure out how to process their application, they just put it in a file drawer and left it there to collect dust, hoping the Rays would eventually get the memo.

Is the Ray Family’s story a single incident, or is this part of a growing trend?

The extreme delay regarding the Rays’ application is unique, but every few years, you’ll see a case on a similar type of “weaponized delay” of 15, 20, 30 years. Is it common? It is certainly more common than folks realize. Mountain States Legal Foundation actually has another similar case like this with Sidney Longwell in Solenex v. Haaland.

What is MSLF doing about that?

The government’s behavior is part of a broader pattern where regulators sweep troublesome citizens and their problems under the rug, hoping they just go away. Whether that is happening at the Bureau of Land Management or the Department of Motor Vehicles, our government is failing its most basic responsibilities to the public. What Mountain States is doing is making the consequences of such dysfunction unpleasant. What is darkly ironic is that—after decades of mismanagement—the government will spend vastly more time on fighting us than they did on just doing their job in the first place.

### KEY FACTS

**Case:** Rayco v. Haaland  
**Court:** US District Court for the Central District of California  
**Who’s fighting for you?** David McDonald has been with Mountain States since 2017, and has developed a specialty for property rights cases such as this.  
**What’s at stake:** The government made a bad-faith excuse to justify denying the Ray Family their patent. The government tried to wait out the Rays, hoping they would give up. They didn’t, and we’re here to help get them justice.
The future of MSLF's natural resources work

The spirit of our nation's industry was once celebrated. It was lauded for raising Americans out of poverty and creating a strong and prosperous nation. Americans were proud to be blessed with an abundance of natural resources, and the skills to make beneficial use of them.

But today, people and businesses, like independent energy producers, are an endangered species of the Free American. You need look no further to understand this than the Longwell Family. Supporters of Mountain States are familiar with the 40-year battle between the late Sidney Longwell and the US Department of the Interior's Bureau of Land Management (BLM) over his federal oil and gas lease and permit in Medicine Bow, Montana. After decades of deliberate indecision by bureaucrats who neither approved nor denied his drilling permit (and thus put Sidney in an indefinite regulatory purgatory), the BLM—at the behest of environmental extremists—outright canceled Sidney's lease altogether. This was a gross miscarriage of justice.

In September 2022, Judge Richard Leon of the US District Court for the District of Columbia issued a comprehensive ruling in favor of Sidney, whose fight is now carried on by his daughter Kelly. Judge Leon's ruling ordered Sidney's lease and permit reinstated. Mountain States is proud of that victory, and we were grateful for Judge Leon's forceful condemnation of the BLM’s tactics. But there's still more ahead, as the BLM has appealed their emphatic loss.

If independent energy producers like the Longwells are an endangered species, the BLM is like a poacher hunting for an illegal prize. No matter the barriers, the prospect of complete control over all public land is too tempting for them to stop. Like poachers, agencies like the BLM have to be dealt with on every front.

In wildlife poaching, you can’t just protect elephants—you have to be diligent about gorillas, tigers, and rhinos, too. So it is in the courts. It isn't enough to protect only energy producers. Ranchers, recreationists, homeowners, and all Americans are due their rights as well, and Mountain States must be there for each of them.

That's why our natural resources practice group continues to fight at every turn for the rights of Americans. In 2023, we're laying the groundwork to launch a new center within MSLF, dedicated to protecting and expanding the rights of Americans. We've seen that this strategy of raising a specialized unit of top-notch attorneys who are experts in a specific and complex field is successful. Our Center to Keep and Bear Arms has been racking up wins since it started. It's time to do the same for the Foundation's cornerstone practice.

“There’s a lot that needs to be done before we can open a new center. It isn't just about raising money. It’s about finding partners and supporters who are in it for the long haul. As we like to say at Mountain States, liberty is a team sport, and now more than ever, we need to find more teammates.”

**KEY FACTS**

**Who's fighting for you?**
Zhonette Brown is our Senior Counsel, having formerly served as our General Counsel. She’s been on the Solenex case since she first came to Mountain States.

**What's at stake:**
The government weaponized delay of their decision on Sidney's lease for 30 years. When finally forced to act, they invalidated the lease entirely. MSLF intends to hold the government accountable for such an arbitrary and capricious decision.
FREE COUNTRY. FREE PEOPLE.

You can help make sure it stays that way.

By donating today you enable us to:

- Defend your property rights in court.
- Fight big government regulations that suffocate small business owners.
- Block the governments attempts to restrict or eliminate your right to own a firearm

JOIN MSLF FREEDOM CLUB

Freedom Club Members are committed to liberty and the rule of law, they make an annual contribution to MSLF of $1,000 or more.

- Monthly Letter from President & CEO
- Freedom Club Label Pin
- Event Invitations and Special seating
- Personal meeting with MSLF leadership

Become a member today to unlock all of these benefits and more!

OTHER WAYS TO GIVE:

The 1776 Wine Club

The 1776 Wine Club is a club exclusively for MSLF members where you will receive three bottles of Pope Valley Wine three times a year with sales benefiting Mountain States Legal Foundation.

If you’d like to enjoy Pope Valley Wine while also supporting Mountain States, then the 1776 Wine Club is the perfect Wine Club for you.

The 5 Stones Society

The 5 Stones Society are monthly givers to MSLF. By making a monthly contribution to MSLF, you are taking a stand in the fight to preserve our individual liberties and the constitution that safeguards them.

- A monthly recurring donation allows you to spread the financial impact of your giving across the entire year, allowing a gradual effect on your budget.
- Your guaranteed donation will help us plan for cases we might otherwise have to refuse.
- Receive a quarterly special communication from MSLF leadership.

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THE FREE AMERICAN: The Other Endangered Species

The work of Mountain States Legal Foundation is about helping Americans who long to be unshackled from a government that has broken its constitutional commitments. Mountain States, since 1977 and to today, has been about playing the role of David challenging the Goliath. It is about safeguarding those who need help in their courageous battles for liberty.

2023 is all about the “other” endangered species. The most at-risk group in this country is not a sagebrush grouse, a fish, or a prairie dog.

The endangered species list we care about protecting is the Free American. They come in all shapes and sizes:

- Ranchers on federal grazing land
- Independent energy producers
- Small-scale miners
- Gun owners in hostile cities and states
- Artists dissenting from the woke orthodoxy
- The meritorious applicant to a university
- The teacher fired for using the wrong pronoun

The list could go on and on. This year, Mountain States is taking the fight to bureaucrats and their ideological allies. 2023 is about protecting American industry from overly litigious organizations. It’s about standing ready against agencies that write regulations in defiance of the separation of powers. It’s about taking the offense against state legislators who would blatantly ignore the Second Amendment. It’s about ferociously defending the right of equality under the law when government treats people differently based on the color of their skin. It’s about pushing back against the control of the language we use or refuse to use.

2023 is about upholding our promise and renewing our commitment to protect the Free American, an endangered species that is threatened by the poaching and predatory trends of Big Government.

Follow the recovery on MSLF’s blog "The Pamphlet"
mslegal.org/blog