

# THE LITIGATOR

MOUNTAIN STATES LEGAL FOUNDATION

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# White Ranchers Need Not Apply

**On the road in Wyoming, looking for Joe Biden's 'privileged' white ranchers who were denied debt relief due to their race**

Sean Paige

**W**hite farmers and ranchers presumably have had it made in the shade, according to President Joe Biden and Agriculture Secretary Tom Vilsack. As hard as it is to believe, the Biden Administration explicitly excluded white farmers and ranchers from a COVID-19 farm relief package that forgives up to 120% of federal farm loans. Someone forgot to tell Biden that the COVID-19 pandemic didn't discriminate when it shut down the country and the American economy.

Many white farmers and ranchers have understandably felt stung by a move that is unfair, insulting, and blatantly unconstitutional. Mountain States Legal Foundation has teamed up with Southeastern Legal Foundation, based in Atlanta, and filed multiple lawsuits in response. Thus far, we have succeeded in halting the plan preliminarily until the judge can make a final determination regarding the constitutionality of the program. Already, the judge has said that we are likely to succeed in the case.

You might be shocked that the progressives in Washington would be so overt with their racial bias in order to achieve so-called "equity." Behind their actions is the assumption that white ranchers and farmers somehow aren't in need of

debt relief while non-white farmers are. I decided to investigate the validity of this assumption during a recent trip to Wyoming by dropping in on our client, Leisl Carpenter. Leisl is a sixth-generation Wyoming rancher. We're suing the Biden Administration on her behalf.

What I found during a daylong visit with the family did not fit the picture of "white privilege" that the progressives in the Biden White House are fond of touting.

First, I had to find the place known since 1894 as the Flying Heart Ranch. It's nestled in a sea of green that runs right to the base of the Snowy Range, perhaps three miles away. Don't even try to use GPS to get there.

Under towering cottonwood trees sits the ancient chink log homestead, built with hand-hewed timbers sledged down from the mountains by Leisl's great-great-grandfather. A pleasant, sturdy, no-nonsense ranch house was added in the late 1940s, anchored on one side by an awesome stone chimney. The modest trailer where Leisl and an older brother were raised after her parents returned to the ranch in the 1980s is where her mother, Dee-Dee, still lives today.

Upon arrival, I'm greeted by the family dogs and two very contented bay horses that seem to wander the



grounds at will. Leisl herself then appears, with her son, Casen, under one arm, followed by her tall and rangy husband, Tim. They greeted me like an old friend, even though I work in communications at a Denver law firm.

Leisl and Tim looked younger than I imagined. But youth is no defense from challenging circumstances. The responsibility of running the Flying Heart Ranch fell to them suddenly, and tragically, when Leisl's grandparents died within hours of each other in 2009—the grandmother of a sudden aneurysm, and the grandfather of an apparent broken heart after being told by doctors that there was no hope for his wife.

## What I found during a daylong visit with the family did not fit the picture of “white privilege” that the progressives in the Biden White House are fond of touting.

Suddenly, though not yet a high school graduate, it was up to Leisl to fight for the Flying Heart's survival, which has been a touch-and-go struggle since the day it was founded. What fell to her care wasn't some vast ranching empire but a family-run outfit that had weathered hard times and showed the scars. Much of the equipment was broken down. The buildings and fences needed work. The former “herd” had dwindled to just seven animals, which Leisl began collecting as pets – never imagining that they would someday form the nucleus of the total rebuild she would attempt. She also inherited a mountain of farm debt from her grandparents, which sometimes loomed almost as large as the peaks that rose above the pastures.

### Key Facts

**Case:** *Leisl Carpenter v Tom Vilsack and Zach Ducheneaux*

**Court:** U.S. District Court of Wyoming

### Who's Fighting for You?



General Counsel, William E. Trachman, recently joined MSLF after serving in the Trump Administration. He is our lead attorney for this case.

### What's at Stake:

The Biden administration signed the American Rescue Plan Act of 2021, providing \$4 billion to forgive loans for socially disadvantaged farmers and ranchers. But white farmers and ranchers are excluded. It's plain, ugly racial discrimination.



*Above: Leisl Carpenter driving cattle on the ranch.  
Front Cover: Leisl's dog, Bearry, keeps the herd moving*

Leisl was raised on the ranch. Tim, on the other hand, was a “city kid” who dreamed of being a cowboy but had little experience until his courtship of Leisl also made him a voluntary ranch hand. Taking charge of the outfit was a huge responsibility for two teenagers. The first time they tried haying the place themselves was a backbreaking nightmare, which could have crushed most folks, but only cemented their resolve to make it work, no matter what.

“We just don't want to be the generation that loses the ranch,” Leisl told me, recalling what it was that kept them keeping on. “What really drove Tim and I then, and what still drives us today, is a determination to keep it all going and keep it in the family. And failure just isn't an acceptable option.”

Leisl took out the first federal farm loan in the outfit's long history in 2011 to stave off foreclosure. The loan allowed them to upgrade some of the decrepit equipment and consolidate the debt into a more manageable bundle. But the debt still had to be paid, by whatever means necessary.

Survival meant doing anything and everything to stay afloat. Tim acquired butchering skills and hired himself out as a guide. They did the haying for neighbor ranches and rented out spare pasture. They became distributors for animal protein supplements, hired themselves out to other





*"We just don't want to be the generation that loses the ranch," Leisl said. "Failure just isn't an acceptable option." Pictured with son, Casen, and husband, Tim*

ranches as day laborers, and began selling their grass-fed beef directly to consumers on a small scale.

Ranching is not an easy life. They learned the painful way that unvaccinated calves die, that hay harvested at the wrong time can mold and rot; that a mistake when diverting precious water could be disastrous. Natural calamities like drought and wildfire also took a heavy toll.

I was hard-pressed to see their so-called "white privilege." It's clear they work as hard and against as many odds as any other rancher while also fulfilling an essential role in our nation's critical food supply chain.

Eventually, of course, came the COVID-19 lockdown, which threw the cattle market into chaos, broke critical links in supply chains, and sent the economy into a dive. It was financially devastating. Other ranchers they knew lost their land and homes.

Leisl and Tim didn't believe it when they first heard rumors that the \$4 billion in COVID-19 farm debt relief Congress approved wouldn't apply to them—for no other reason than that they happen to be white. When the rumors were confirmed,

Leisl resolved to do something about it, not just for her own sake but for numerous other ranchers who also needed help but were denied because of the Biden Administration's racial discrimination. She had heard her grandparents talk about Mountain States Legal Foundation so she called us for help. With MSLF by her side, Leisl decided to pick up her sling and take on the government Goliath.

Standing in the ranch house kitchen, with son Casen comfortably stashed in a backpack-style baby carrier, Leisl tells me that it was with Casen in mind that she decided to take action, even if she risked becoming a target for hatred and vitriol for daring to take a stand. "I envisioned my son's future if I sat here and did nothing, and I didn't like what I saw," she told me. "I knew I had to stand up because I want him growing up in a better world, a more just world, where he's equal, I'm equal, and every single person is equal because that's what the United States flag is all about."

*Sean Paige is the Director of Communications for Mountain States Legal Foundation.*



**RANCHER SUES BIDEN ADMIN OVER RACIAL DISCRIMINATION IN FARM AID BILL**  
**BREAKING NEWS**

## Spotlight

On June 21, FOX News host Sean Hannity interviewed Leisl Carpenter and MSLF's William E. Trachman about our lawsuit against the Biden Administration.



# The Keystone Pipeline is Dead

## And the ignorant dance on its grave

David McDonald

Canadian oil company TC Energy Corp. announced in June that it had “terminated” the Keystone XL project. After more than a decade of political, legal, and PR battles, culminating in President Biden revoking the project’s existing permit on his first day in office, TC Energy has finally determined that it simply isn’t worth trying to move the project forward.

While environmentalists and tribal activists who opposed the Keystone pipeline no doubt believe they’ve won a great victory, we (and, indeed, the environment) have actually lost here.

The most obvious costs of losing the pipeline are economic. TC Energy estimated that the construction of the Keystone XL would have created roughly 11,000 US-based jobs in 2021. That’s 11,000 jobs that will no longer be going to hardworking Americans and some \$1.6 billion in wages that will no longer be putting food on their tables and entering our economy.

The State Department was even more bullish, estimating spending on the construction of the project would (directly and indirectly) “support a combined total of approximately 42,100 jobs throughout the United States for the up to two-year construction period,” and “contribute approximately \$3.4 billion” to GDP. In addition, TC Energy is now (rightfully) suing the federal government to recoup the billions of dollars the company invested under the protection of a contractual guarantee from the United States that the project would be allowed to move forward. That means the American taxpayer may soon be on the hook for \$15 billion stemming from President Biden’s actions.

In addition, millions were wasted during a decade-plus of legal and regulatory battles that could have been put to productive use elsewhere rather than enriching members of the legal profession at everyone else’s expense. Considering how many people are still suffering from the impacts of the near-total shutdown of the economy in reaction to COVID-19, this was a tragic loss of opportunity for American workers to improve their positions.

But even on the environmentalists’ own terms—setting aside a cold, unfeeling focus on dollars and cents—the death of the Keystone XL Pipeline is a tragedy. Much to the activists’ chagrin, neither TC Energy’s decision nor President Biden’s decision on January 20 will have much of a discernable impact on the world’s demand for affordable, reliable



*Progressives killed the Keystone pipeline even though it would have been safer for the environment than tanker trucks*

energy. Production on the Alberta Tar Sands isn’t diminishing any time soon, and neither is the need to transport the oil produced there to the refineries for ultimate distribution to the world’s energy consumers (you and me).

What has in effect happened, then, is that all the oil that would have been flowing through a secure, state-of-the-art oil pipeline will now be transported to market via rail and truck, means of transport that are more dangerous and polluting than any pipeline. For example, pipelines result in far fewer deaths per year than either trucks or rail, despite transporting about ten times more volume of oil than the other two combined. Transportation by pipeline is 4.5 times less likely to result in a spill than transport by rail.

The death of the Keystone XL means we replace a safe, inexpensive, and relatively eco-friendly means of oil transport with other methods that are more likely to endanger humans and the environment.

Public aversion to oil pipelines, fueled by a sensationalistic press and an activist class who want to prohibit any land development at any cost, is going to result in energy that is more expensive, more dangerous, and more environmentally damaging. We were promised a Green New Deal, but nobody ever said anything about that deal being any good.

*David McDonald is an attorney with Mountain States Legal Foundation.*



# From the Trump Administration to MSLF

## New General Counsel, William E. Trachman, on Fighting the Good Fight

**M**SLF's new General Counsel, William E. Trachman, previously served as Deputy Assistant Secretary for Civil Rights in the Trump Administration. When he finished his service on January 20, it was a golden opportunity to return to the more lucrative world of private law practice. Instead, he took a different path—pushing back against the expanding reach of the federal government. He joined Mountain States Legal Foundation. On July 1, he took the helm of MSLF's legal department as General Counsel. We asked William to tell our readers a bit more about himself, his passion for liberty, and what he believes is at stake for our country right now.

### **What was it like to work in the Trump Administration?**

It was an honor to be entrusted to carry out the Administration's deregulatory agenda and to engage in public service, even if it meant becoming a swamp creature for a few years.

### **What is the greatest threat our country faces today?**

The passive response to government becoming more involved in our personal choices and daily lives. We are blessed to live in the United States, where our founding documents recognize our natural rights and fundamental freedoms. But it seems that some have let—or worse, invited—the government to become a feature of their lives, from the cradle to the grave.

### **Why did you seize the opportunity to work for MSLF?**

I knew of MSLF's powerful influence long before I arrived here. I knew that it had the reputation and the resources to litigate the fight against the Biden Administration's agenda, and I wanted to be a part of its mission and success.

### **What are your top priorities for the legal department moving forward?**

MSLF has a storied history in the natural resources space, and our Center to Keep and Bear Arms, launched in 2020, is off to one of the strongest starts that I've ever seen for a new practice group. My background in equal protection cases will also be a primary focus, and I hope to continue MSLF's tradition in that space, dating back to its cases before the Supreme Court in the 1980s.

### **How has Washington shifted since Biden became president?**

For the worse. The Biden Administration has reflexively sought to undo a number of things that



*"You have to act if you want our freedoms to survive," says William E. Trachman, new head of MSLF's legal department*

President Trump accomplished, regardless of the consequences for American workers or citizens.

### **What motivates you in your work as an attorney?**

Winning. Sorry, I mean learning new things and teamwork.

### **Tell us a little about where you grew up and about your family today.**

I'm from Fresno, California. My father was in radio, and my mother was a travel agent. From an early age, I was interested in politics and political philosophy and moved toward liberty despite attending Berkeley for undergraduate and law school. My wife and I have four young children, ages 5-11. My wife is also an attorney, so our kids know that if they want to win an argument, they better come prepared.

### **What do you like to do for fun outside of work?**

We love family road trips. There is no substitute for loading up our minivan and seeing the country, one stop at a time. We are also active in our Synagogue and the greater Denver community.

### **What role do MSLF supporters play in the work of defending our Constitution?**

A critical one. Our work is possible only because we have the resources necessary to find clients, cover our legal expenses, and hire and retain the highest caliber attorneys and staff. It is no longer sufficient to merely hope that the cause of liberty in America will be just fine. You have to act if you want our freedoms to survive. Supporting MSLF is a critical way to secure the blessings of liberty for yourselves and your posterity.

# MSLF FORUM IN AUSTIN, TX - OCTOBER 8, 2021

Keynote Speaker: Seth Dillon of the Babylon Bee

Forum Topic: Does Federalism Have a Future?

For tickets and more info visit [mslegal.org/events](https://mslegal.org/events)

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#### Zachary Fort

The governor of New Mexico reversed a gun store shutdown order after we filed a lawsuit on his behalf.



#### Leisl Carpenter

She was excluded from Biden's debt relief program because of her race. But the Constitution requires all Americans to be treated equally.

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## Another Supreme Court Victory for Property Rights

Imagine strangers came into your place of business to harass you and your employees. Worse yet, there was nothing you could do to make them leave. On the contrary, the government forced you to allow this intrusion. That's precisely what was going on in the state of California.

But not anymore.

Mountain States Legal Foundation cheered a recent 6-3 Supreme Court decision to uphold property rights in the *Cedar Point Nursery v. Gould* case. The case, filed by our friends at the Pacific Legal Foundation, challenged a California law requiring businesses to open their property to union organizers without compensating those businesses for the use of their property.

Thanks in part to your support, we filed numerous amicus curiae briefs in support of the nursery in this crucial defense against the Left's encroachment of property rights.

David McDonald, MSLF's lead attorney on the case, praised the Court's ruling. "The Court struck a blow for liberty, enforcing meaningful



*The 6-3 decision was a major victory for property rights*

restrictions on the government's ability to invade private property with a forcefulness and clarity we rarely see from the Court on property rights issues. The Cedar Point decision is a major win for small businesses, private property owners, and all Americans who benefit from a limited government and the rule of law."

**To support MSLF's fight to defend your constitutional rights, visit [mslegal.org](http://mslegal.org)**