

More Ag Law Developments – Property Rights Edition

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Overview

Private property rights are a fundamental constitutional right, and three recent court developments have made that point. Two cases involved the protection of private property and a third one involved rights to hunt, fish and otherwise utilize public lands.

Ag law in the courts and property rights – it's the topic of today's post.

"Ag Gag" Update

Some states have enacted laws that limit access to livestock confinement facilities with the purpose of protecting them from those intent on doing them harm. The laws have generally been struck down on free speech and equal protection grounds, but the Iowa law has been upheld and that could have implications for other states.

The Iowa "ag gag" law has been in and out of the courts for several years. Recently, the current version of the law that bans a trespasser's use of a camera or recording in a confinement livestock facility was upheld as constitutional. *People for the Ethical Treatment of Animals, Inc. v. Reynolds, No. 4:21-cv-00231-SMR-HCA (S.D. Iowa Mar. 19, 2025)*. The court said the law directly advanced Iowa's substantial interests in protecting property rights and privacy while leaving open ample alternatives for animal rights activists to get their message out in a lawful manner.

The court's ruling was in response to a question sent to it from a higher court which had previously upheld the portion of the law making it a crime to "place" a camera while trespassing in a livestock facility. But the higher court asked the lower court to rule on the question of whether Iowa could also bar the "use" of a camera or recording device while a person was trespassing in a livestock facility. The lower court said Iowa could, and its finding that the law was constitutional could have implications for similar laws in other states.

Public Lands and Hunting

In a big win for hunters, a federal court has upheld the right to access corner-locked public lands in parts of the U.S. West. The decision provides access to more than 3 million acres that had been previously inaccessible.

A recent federal court opinion has used an 1885 law originally passed to deal with the "range wars" between cattle barons to provide access to previously "corner-locked" public lands. *Iron Bar Holdings, LLC v. Cape, No. 23-8043, 2025 U.S. App. LEXIS 6240 (10th Cir. Mar. 18, 2025)*.



The case involved hunters that used an “A-frame” ladder to cross between tracts of public land in Wyoming that were diagonal from each other - they only touched at a corner. All surrounding land was privately owned. The hunters were sued for trespass. But the court said that if you don’t physically touch private land or cause damage, crossing at a corner is not trespassing. In other words, if you can drop a GPS pin on the actual corner and step cleanly from public land to public land, you’re within your rights. But GPS signals can be off by several feet, and corner markers can be buried, missing or hard to find. Touching a private fence, stepping onto private land or causing damage could still get you in trouble.

So, the court’s opinion isn’t a green light to be reckless, but it does provide some clarity to an area of the law that had been confusing for decades.

Environmentalists and Defamation

Recently, a North Dakota jury said an environmental group must pay more than \$660 million in connection with the group’s protests against an energy company’s oil pipeline in 2016. The verdict, if it’s upheld on appeal, could have an impact on future protests that damage property rights of others.

The company’s lawsuit focused on statements the group made claiming that the company had used aggressive tactics against the protestors and was desecrating tribal burial grounds. The company claimed the statements were defamatory and had damaged its relationship with its lenders.

The jury agreed, and held the group liable for defamation, trespass, nuisance and civil conspiracy. The environmental group may appeal, but the verdict will likely have an impact on environmental organizations and other protest groups that do more than simply voice their concerns in a reasoned and well-thought-out manner – at least in North Dakota and other states in the Plains and Midwest.

There’s a difference between free speech and breaking the law. While the First Amendment provides the right to peaceful protest, private property rights are also a fundamental constitutional right

Conclusion

Property rights are fundamental constitutional rights. It’s refreshing to see the courts (and a jury) uphold them in a well-balanced manner against other equally fundamental constitutional rights.

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