

Georgetown couple take on federal protections for rare species

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GEORGETOWN —

In an office lined with pictures of George Washington and Thomas Jefferson, amid awards for upholding “Western Values” and a reproduction of the signing of the Declaration of Independence, Margaret and Dan Byfield work to beat back the federal government, one endangered species at a time.

The Byfields, who run the rousingly named American Stewards of Liberty in this bastion of conservatism, have long toiled in the struggle over property rights and habitat protection with an intensity that outstrips some of their allies.

They now occupy the vanguard of a movement that has grown in Central Texas. While a Williamson County group has spent at least \$900,000 to push back on a federal effort to list several threatened salamanders, and a politically connected Travis County group sets its sights on removing protections for a rare Central Texas songbird, the Byfields are happy to stay out of the spotlight.

“We keep our efforts pure and clean,” Dan Byfield said in an interview, avoiding “political backlash of any kind.”

They’re busy forging alliances with ranchers and property owners such as a chisel-faced Williamson County farmer named Charles Shell, who is a likely plaintiff as the American Stewards of Liberty [prepare to take on the federal government](#) over environmental protections for an endangered, spider-like invertebrate on his land.

The discovery of the horror-movie-named Bone Cave harvestman on his roughly 130-acre farm in northwest Williamson County could potentially cost Shell hundreds of thousands of dollars in resale value. So he sees the endangered species designation as the government forcing him to extend accommodations to some sort of unwanted visitor: “It’s like you go to someone in a subdivision and say, ‘You have a spare bedroom: You have to house a homeless person. And by the way, any damage they cause, that’s your problem.’”

Strategic dissent

More than 1,200 plants and animals are listed as endangered in the U.S.

The Obama administration has taken at least a dozen species off the endangered list — already more species declared recovered than in any single administration since the Endangered Species Act was enacted in 1973. And the federal government plans to delist more, saying the protection helped the species rebound and can now be lifted.

But that's not happening fast enough for the Byfields.

This year they are pushing to remove protections for the lovely sounding Navasota ladies'-tresses, a white orchid found in East and Central Texas, the harvestman and a beetle found in Northeast Texas. They say they plan to act on more this year, arguing in each case that the science that landed the plants and animals on the list was faulty or outdated.

The Byfields aren't scientists, but they have partnered with SWCA Environmental Consultants to advise them about which plants and animals are vulnerable to being taken off the endangered list.

The couple says they spend at least \$50,000, per species, for "good science" to bolster their delisting argument.

In some cases, American Stewards of Liberty have won traction, helping the Permian Basin Petroleum Association organize landowners to stave off the listing of the dune sagebrush lizard, whose habitat overlaps some of the state's richest oil and gas drilling territory.

In other cases, such as Shell's, they have been rebuffed. Earlier this year, the Fish and Wildlife Service denied their petition on the harvestman, confirming the federal government's own scientific findings of the species' rarity.

So the American Stewards of Liberty appear set to appeal the Fish and Wildlife decision through the courts, spending \$450 to \$750 an hour on attorneys to make their pleadings.

Environmental activists say groups like the Byfields' are fighting species listings so factory construction and homebuilding can continue, willy-nilly, despoiling critical habitat.

Practically speaking, the Byfields say, at stake is property value. But ideologically speaking, there's a deep, abiding anxiety about federal overreach that concerns them.

Regulation or robbery?

If environmental groups can be said to have capitalized on the Endangered Species Act to slow sprawl, property rights activists argue the endangered species protections have essentially robbed landowners for decades.

To understand the Byfields and their efforts to remove species from the list, you have to know that their romance is perfumed with a joint skepticism of government, a love affair originating in property rights.

Their work is a throwback to the early 1990s, when landowners in Texas and other parts of the country were pitted in open hostility against the federal government.

For Margaret Byfield, it all started when about a 100 head of her father's cattle were confiscated by armed men — federal land managers in Nevada.

The land managers said they were enforcing grazing restrictions — her family had **had** a long-running federal lease for their cattle — to protect the ecology of the high desert rangelands.

The Forest Service canceled his permit and then confiscated the few cows remaining that were not yet gathered, she says. These were wild cattle, dispersed in rugged remote country.

“Regulatory harassment,” Margaret Byfield calls it.

In 1991, her father, Nevada rancher Wayne Hage, sued the government, arguing the feds were taking his property without compensation.

Margaret, 48, who still keeps a saddle in her office, was heavily involved in the case, starting a nonprofit called Stewards of the Range to advocate the family's case.

About that time, Dan Byfield, a former University of Texas tennis player and son of a conservative-minded water rights lawyer, was asserting himself as the Texas Farm Bureau lobbyist in the “Take Back Texas” property rights movement.

The listings of songbirds, and eventually the Barton Springs salamander, became flash points over the Hill Country's future after scientists tied land development to species habitat destruction. Landowners said designating swaths of the Hill Country as the home of endangered species would ruin property values. U.S. Fish and Wildlife Service officials received death threats, and some Texas politicians who had shown themselves sympathetic to environmental issues moved rightward.

“I sort of give credit or blame to Dan and the Farm Bureau for whipping up flames about the whole Endangered Species Act in Central Texas,” said Ken Kramer, who led the Lone Star chapter of the Sierra Club at the time. “While I think he was mistaken, Dan was coming at it from the perspective as a true believer.”

Soon Dan Byfield began the American Land Foundation, which directed money for fax machines and expert advice to grass-roots groups like Stewards of the Range.

In 2000, Dan Byfield shepherded a letter-writing effort on behalf of Central Texas landowners who didn't want to sell their property to the government as it created the Balcones Canyonlands National Wildlife Refuge, which now stretches over several counties.

In 2002, the couple married, and the property rights work continued unabated.

In the early 2000s, for example, Dan Byfield's group spent \$250,000 on a \$60 million lawsuit on behalf of a northwest Travis County property owner arguing that he had been unable to develop his

property because of the presence of endangered insects, including a rare version of a daddy longlegs. The group claimed Congress had no authority to protect species that don't cross state lines.

"We're not looking to gut the Endangered Species Act," Dan Byfield told the Statesman in 2005. "Although we do believe that what the environmentalists and that act are doing is gutting the Constitution as it relates to property rights."

He lost.

By then, many one-time compatriots had mellowed.

Marshall Kuykendall, one of the chief architects of Take Back Texas, likens Dan Byfield to Bill Bunch, the head of Austin's Save Our Springs Alliance and the bête noire of property rights activists.

"Big government is going to be the end of the world as far as Dan's concerned," said Kuykendall. "The rest of us have moved on," Kuykendall added — but Dan Byfield, like Bunch, continues to fight, he said.

Meanwhile, Margaret Byfield's father's ranching case dragged on, one of the longest disputes in the annals of the federal courts.

While the family won a major victory in 2008, awarding more than \$4.2 million to his estate — Hage had died in 2006, a sainted figure in the property rights movement — an appeals court eventually overturned the verdict on standings grounds.

The Hage family got nothing.

Apart from endangered species issues, the Byfields have taken up challenges to Texas toll roads and wind power transmission lines, which involve government exercise of eminent domain power over private property.

Between 2009 and 2013, American Stewards of Liberty, the consummation of their two organizations, raised just over \$2 million, largely through donations and grants, according to federal tax returns. In 2013, the most recent data available, Margaret Byfield earned \$102,000 as executive director; Dan Byfield earned the same amount as CEO. They were the only two paid employees.

In another sign of their grass-rooted-ness, the Byfields say their biggest single contribution over the last year has been \$50,000 — not from an Exxon Mobil-like corporation but from a family estate.

In keeping with their evangelical approach to private property rights, the Byfields also travel around the country to teach county and local government officials how they can fight federal regulation. Sessions start at \$1,500.

A long, slow push

When the politically connected coalition led by former Texas Comptroller Susan Combs submitted its golden-cheeked warbler delisting petition early this summer, it did so with guns blazing, posting news releases and enlisting the endorsements of state Land Commissioner George P. Bush and other politically connected players.

Not so when the Byfields began filing their delisting petitions.

“Let’s get this done right, let’s get the arguments right, let’s let the (Fish and Wildlife) Service consider these without additional pressure,” Margaret Byfield said of her approach. “We knew that the environmental groups would come after us, so we wanted to go about it quietly.”

Margaret Byfield said the spate of delisting petitions by her group and others is “an indication that our side of the battle, those of us interested in protecting property rights and scientific accountability and good governance, are becoming more sophisticated and organized.”

Fish and Wildlife Service spokeswoman Lesli Gray said [agency decisions](#) are “made on the best available science” and that the agency is committed to “making species preservation work.”

“Recovery of a species may take a long time, but (the delistings under Obama) show the process works,” she said.

As far as the Byfields are concerned, the brewing legal fight is an opportunity, one they’ve spent their lives preparing for.

“It’s not as stressful as our takings case,” said Margaret Byfield, referring to her family’s long lawsuit. “It’s not quite as personal. There’s not a lot to lose if you fail, and there’s a lot to gain if you prevail.”

Targeted species

There are 494 species of animals and 733 species of plants currently listed as endangered in the U.S.

Margaret and Dan Byfields have submitted petitions to delist three: the American burying beetle, Navasota ladies’-tresses and the Bone Cave harvestman. According to the U.S. Fish and Wildlife Service and the Texas Parks and Wildlife Department:

- Known as “Nature’s gravedigger” for its distinctive practice of gathering on a carcass and moving it up to three feet before burying the carcass as a home for its larvae, the **American burying beetle**, whose range includes a sliver of Northeast Texas, was listed as endangered in 1989.
- A member of the orchid family, the **Navasota ladies’-tresses** is an erect, slender-stemmed perennial herb, about a foot tall, producing a single slender, twisted spike of tiny white flowers. Listed as endangered in 1982 with only two known populations in a single county; now it has been identified in 11 Texas counties.

- Found in the limestone caves beneath Travis and Williamson counties, the **Bone Cave harvestman** is an eyeless arachnid pale orange in color. It joined the endangered species list in 1988.