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A Brief Legal History of Wisconsin Conservation

Jason J. Czarnecki

Carolyn Drell

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A BRIEF LEGAL HISTORY OF WISCONSIN CONSERVATION

JASON J. CZARNEZKI* & CAROLYN DRELL**

The State of Wisconsin's longstanding conservation ethic includes the passage of the Conservation Education Statute, which required conservation of natural resources be taught in public schools, and the creation of "Earth Day." However, a lack of recent interest and scholarship in Wisconsin's important conservation history and development of conservation law has driven us to write this Article which offers a brief legal history of Wisconsin conservation—how the state's conservation values were expressed in law, how its natural resources law has evolved and what that has (and has not) embodied, and how Wisconsin helps us define modern concepts of "conservation." Specifically, this Article discusses the pre- and post-WWII history of Wisconsin conservation law and explores the nature of Wisconsin's conservation movement and law—why it came to be, why it now finds itself in decline, and what lessons should be carried forward. We argue that the elements that allowed for Wisconsin's exceptional conservation record were neither surprising nor revolutionary. Instead, the combination of public investment in conservation causes, the creation of jobs that allowed working class Wisconsinites to become stewards to their natural resources, and the state's established commitment to providing broad access to policymakers helped make environmentalism a personal issue for Wisconsinites from across the sociopolitical spectrum. The slow erosion over several decades of the coalitions between working class and academic environmentalists, large-scale divestment from conservation causes, and the rerouting of jobs in conservation to industry—led by groups who tend to oppose regulation for being anti-business—fostered the decline of conservation policy in the state. Moreover, this decline, we argue, effectively mirrors environmentalism's decline at the national level. Nevertheless, by understanding how environmentalism came to falter in Wisconsin, we hope to better understand how it can regain its footing, both in the state and elsewhere.

* Jason J. Czarnecki is the Gilbert and Sarah Kerlin Distinguished Professor of Environmental Law, and Associate Dean for Environmental Law Programs and Strategic Initiatives, at the Elisabeth Haub School of Law at Pace University in New York. I wish to thank Emily McGowan and Brianna Grimes for their outstanding research assistance, as well as feedback received from colleagues at the Elisabeth Haub School of Law's faculty workshops.

** Carolyn Drell is a J.D. Candidate (Class of 2024) at the Elisabeth Haub School of Law at Pace University.

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I. INTRODUCTION

The State of Wisconsin’s longstanding conservation ethic has been well documented. Embodied in the passage of the Conservation Education Statute (1935), Wisconsin became the first state to require “adequate instruction in the conservation of natural resources” in order to be certified to teach science or social studies, as well as require that conservation of natural resources be taught in public elementary and high schools.¹ In fact, “Earth Day” was created in Wisconsin by U.S. Senator Gaylord Nelson (D-WI) as a nationwide environmental teach-in. Wisconsin’s conservation history is fundamental to the state’s culture—its passage of environmental and natural resources law was due in large part to the Wisconsin idea,² which embraced science, democracy, and public participation. The state embraces its vast natural resources, bordering two Great Lakes (Lake Michigan and Lake Superior), containing over 15,000 inland lakes, rivers, and streams, offering over sixty state parks and recreation areas, and being home to over 17 million acres of forest land.³ Any list of conservation icons includes both Aldo Leopold and John Muir, two men with significant ties to Wisconsin and the first two individuals inducted into the

1. See *Wisconsin’s Environmental Education & Conservation History*, ENV’T EDUC. IN WIS., <https://eeinwisconsin.org/resource/about.aspx?s=123926.0.0.2209&mode=p> [<https://perma.cc/SLN4-Z8MA>]; WIS. DEP’T OF PUB. INSTRUCTION, GUIDE TO CONSERVATION EDUCATION IN WISCONSIN SCHOOLS 7–8 (1949), <https://content.wisconsinhistory.org/digital/collection/tp/id/67949> [<https://perma.cc/6VWW-AP39>].

2. See generally *Progressivism and the Wisconsin Idea*, WIS. HIST. SOC’Y, <https://www.wisconsinhistory.org/Records/Article/CS417> [<https://perma.cc/C8EQ-W955>].

3. See Upper Midwest Water Sci. Cntr., *Water Use in Wisconsin*, U.S. GEOLOGICAL SURV. (Feb. 1, 2019), <https://www.usgs.gov/centers/upper-midwest-water-science-center/science/water-use-wisconsin> [<https://perma.cc/TEK3-KMYA>]; see also WIS. DEP’T NAT. RES., WISCONSIN 2020 STATEWIDE FOREST ACTION PLAN 14 (2020), <https://widnr.widennet/view/pdf/77tgnbh66w/2020-Statewide-Forestry-Action-Plan.pdf?t.download=true&u=acpgx5> [<https://perma.cc/34B7-DSGV>].

Wisconsin Conservation Hall of Fame in 1985.⁴ Leopold held a chaired position in game management at the University of Wisconsin-Madison, wrote *A Sand County Almanac*, and was appointed to the Wisconsin Conservation Commission in 1943.⁵ Muir, founder of the Sierra Club, grew up around the woods and farmlands of Wisconsin and took botany and geology classes at the same university, before eventually moving to California.⁶

“Conservation law” or “natural resources law” in Wisconsin has its roots as early as the turn of the last century with the creation of the three-man fish commission (1874); fish wardens (1885), game wardens (1887), and the Office of the State Fish and Game Warden (1891); and the establishment of a Forestry Commission (1897), the first state park at St. Croix Falls (1901), and the Department of State Forestry (1903).⁷ In 1908, Wisconsin created its first Conservation Commission (seven unsalaried men); and, in 1915, the state created the first salaried Conservation Commission, absorbing the duties of the park board, forestry board, fisheries commission, and fish and game warden office.⁸ The Wisconsin Conservation Commission and Department was created in 1927, and by the 1930s, an organized legal structure implementing conservation law was being developed.⁹ Thus, with origins decades earlier, one could say that Wisconsin conservation law formally began in the 1930s with the forestry activity of the Civilian Conservation Corps in Wisconsin (beginning in 1933), the passage of the state’s Soil Conservation District Law (1937), the organization of the first statewide forest inventory (1935), and the creation of the Wisconsin Conservation Department (1927).¹⁰ Like the rest of

4. *About the Wisconsin Conservation Hall of Fame*, WIS. CONSERVATION HALL OF FAME, <https://wchf.org/about/> [<https://perma.cc/WN9V-Z2DV>].

5. *See Aldo Leopold*, WIS. CONSERVATION HALL OF FAME, <https://wchf.org/aldo-leopold/> [<https://perma.cc/AFM8-BNU4>].

6. *John Muir*, WIS. CONSERVATION HALL OF FAME, <https://wchf.org/john-muir/> [<https://perma.cc/J8LY-N35P>]; *Muir, John 1838-1914*, WIS. HIST. SOC’Y, <https://www.wisconsinhistory.org/Records/Article/CS10872> [<https://perma.cc/FZ8P-DPLF>].

7. Dave Gjestson, *Key Factors in Shaping WCD History*, THE S. CENT. WIS. ASS’N OF RETIRED CONSERVATIONISTS, <https://www.wisarc.org/dnrhistory.php> [<https://perma.cc/4XUW-BDR2>].

8. *Id.*

9. *Id.*

10. U.S. DEP’T OF AGRIC., NAT. RES. CONSERVATION SERV., WISCONSIN CONSERVATION HISTORY 14, 48 (2010), https://wisconsinlandwater.org/assets/documents/Wisconsin_Consevation_History.pdf [<https://perma.cc/5B3R-98W5>]; Wis. Dep’t of Nat. Res., *Long List of ‘Firsts’ for Wisconsin Forestry*, WIS. NAT. RES. MAG., Spring 2021, <https://dnr.wisconsin.gov/wnrmag/2021/Spring/Timeline> [<https://perma.cc/N22Z-NRSH>]; *LLC History, Rules & Regulations*, DUNN CNTY., WIS., <https://dunncountywi.gov/lwcregulations#:~:text=Wisconsin%27s%20Soil%20Conservation%20District%20Law,linking%20conservation%20to%20county%20government> [<https://perma.cc/UWS5-X4PZ>].

the United States, conservation law in Wisconsin was firmly established and entrenched by 1968, when the Wisconsin Conservation Department and environmental protection functions from other state agencies were incorporated under one umbrella, creating the Wisconsin Department of Natural Resources.¹¹

The history of the Wisconsin conservation ethic and its natural resources law and policy can also be more personal and more local. Gerald Czarnezki (Grandpa Gerry), the grandfather of one of the authors of this Article (Jason), was a lumberjack, like many men in the three previous generations of the Czarnezki family, before joining the Navy for World War II. He served in President Franklin Delano Roosevelt's Civilian Conservation Corps, studied conservation after the war, and belonged to the first graduating class of what is now the College of Natural Resources in Stevens Point, Wisconsin.¹² Born in 1920 in the rural northern Wisconsin town of Hammel in Taylor County, he went on to work as a supervisor in the Milwaukee County Parks System,¹³ pioneering at-the-time novel ideas like leaving grass longer and not mowing the lawn along creeks, river beds, and wetlands to preserve habitat for nesting birds and other wildlife. He also started the policy of cutting dead trees for firewood, rather than landfilling the deadwood—something that is now common policy everywhere. He was, at the time, considered something of a radical conservationist, muted by his quiet and deliberative tone. He was an outdoorsman, an avid hunter and fisher who enjoyed sitting quietly in nature. He knew the name of every tree and the sound of every bird. He taught respect for the natural world, which in his eyes and as part of his Catholic faith were God's creatures. He taught us that the hunter should be thankful every time we kill a wild animal and that every part of the animal must be used as, for his family and the generations before, hunting wild game was the primary source of protein. He died in 2007, in time to see Jason teach environmental law, a subject which did not exist when he was in college, at a law school he dropped out of due to lack of funds. He would tell friends and family that Jason taught

11. Wis. Dep't of Nat. Res., *supra* note 10.

12. *Obituary of Gerald Czarnezki*, MILWAUKEE J. SENTINEL (Jan. 10, 2007), <https://www.legacy.com/us/obituaries/jsonline/name/gerald-czarnezki-obituary?id=3142362> [<https://perma.cc/E64Q-Y4PH>] (“He was in the Civilian Conservation Corps, WW II US Navy veteran and member of H.A. Todd Jr. American Legion Post 537 and retired supervisor with Milwaukee County Parks.”).

13. Of note, three public parks in Milwaukee—Lake Park, Riverside Park, and Washington Park—were designed by Frederick Law Olmsted. Archer Parquette, *The Lasting Legacy of Frederick Law Olmsted and His 3 Signature Milwaukee Parks*, MILWAUKEE MAG. (Apr. 5, 2022), <https://www.milwaukeeemag.com/the-lasting-legacy-of-frederick-law-olmsted-and-his-3-signature-milwaukee-parks/> [<https://perma.cc/C8K5-W3Q7>].

conservation, and, in many ways, his life and the rise and fall of Wisconsin conservation law cover the same timeline.

Perhaps driven by Grandpa Gerry's "good works" view of religion and love of the natural world, his "environmentalism"—a word he never used—was coupled with his commitment to "social justice"—another word absent from his vocabulary. He believed in "conservation" and kindness toward others, and that everyone in his then-racially diverse neighborhood on Milwaukee's North 49th Street should be treated the same way and afforded respect. In this way, his conservation ethic included a progressive economic agenda.¹⁴ His family can recall well his participation in strikes and picket lines, including once protesting the opening of a non-union Cub Foods grocery. He later moved to Milwaukee's south side so he could vote for his politician eldest son and likely because (what we only really realize now, decades later) it meant he could be closer to his grandchildren. Like any self-respecting Milwaukeean, he also would never drink Coors beer, which at the time was non-union, sticking only to the Wisconsin brews of Schlitz, Miller, Pabst, and Old Style. The strikes, union meetings, and neighbors in his life were decidedly working class, made of white and black Milwaukeeans, and committed to making sure everyone could afford to eat, the water was clean, working conditions were good, public spaces in the city like parks and pools were well maintained, and the lakes surrounding Milwaukee County and the forests of northern Wisconsin were well managed. It is telling that many of these resources, like city and county parks, public transit systems, public golf courses and playgrounds, and freshwater shorelines, have substantially degraded over the past twenty years.¹⁵

This Article offers a brief legal history of Wisconsin conservation—how the state's conservation values were expressed in law, how the state's natural resources law has evolved and what that has (and has not) embodied, and how Wisconsin helps us define modern concepts of "conservation." Surprisingly, given the state's history, very little has been written about Wisconsin conservation law.¹⁶ Perhaps tellingly, even the *Wisconsin Environmental Law*

14. JEDEDIAH PURDY, *THIS LAND IS OUR LAND: THE STRUGGLE FOR A NEW COMMONWEALTH* 134–35 (2019) (noting link between strong environmental and progressive agendas based on union strikes).

15. See Shamane Mills, *Wisconsinites Love Their Parks, but Communities are Struggling to Fund Them*, WIS. PUB. RADIO (Dec. 13, 2021, 6:55 AM), <https://www.wpr.org/wisconsinites-love-their-parks-communities-are-struggling-fund-them> [<https://perma.cc/Q232-QYKE>].

16. See, e.g., Christian John Otjen, *A History of the Forestry Conservation Movement in the State of Wisconsin* (1914) (B.A. thesis, University of Wisconsin) (on file with the University of Wisconsin Library); Jackson Turner Main, *History of the Conservation of Wild Life in Wisconsin* (1940) (M.A. thesis, University of Wisconsin) (on file with the University of Wisconsin Library); DAVID L. GJESTSON, *THE GAMEKEEPERS WISCONSIN WILDLIFE CONSERVATION FROM WCD TO*

Handbook, which includes conservation and natural resources topics like forestry and wildlife, has not been updated since 2007.¹⁷

The lack of recent interest in Wisconsin’s important conservation history has driven us to write this Article which: (1) discusses the pre- and post-WWII history of Wisconsin “conservation law”—which we operationally define here as those public institutions, laws, and regulations which seek to conserve and preserve the state’s natural resources such as wetlands, water, forests, wildlife, and state parks and state lands held under the public trust doctrine; and (2) explores the nature of Wisconsin’s conservation movement and law—why it came to be, why it now finds itself in decline, and what lessons should be carried forward. We also question whether an inclusive and equality-seeking conservation movement ever existed during the period when it was most likely to occur (during a time of great economic prosperity and legislative action following WWII) in a place where we might or might not expect it to occur—in a state home to one of the most segregated cities in America (Milwaukee), where Earth Day was founded, and where progressive politics emerged and Socialist mayors thrived, but which has recently become notably more conservative.¹⁸

This brief history of significant conservation values and strong natural resources law—if it existed at all outside of retroactive mythmaking—lasted Grandpa Gerry’s life span, with three generations of the extended Czarnecki family finding careers in the environment, conservation, and nature in that period.¹⁹ If it existed, what can be learned? Why did conservation law find

CWD (2013) (ebook); Thomas R. Huffman, *Defining the Origins of Environmentalism in Wisconsin: A Study in Politics and Culture*, 16 ENV’T HIST. REV. 47 (1992).

17. See generally MICHAEL BEST & FRIEDRICH LLP, WISCONSIN ENVIRONMENTAL LAW HANDBOOK (Lauren L. Azar & Linda H. Bochert eds., 4th ed. 2007).

18. Mallory Cheng, *Milwaukee’s Still Super Segregated, but a Few Neighborhoods Have Become More Diverse*, WUWM 89.7 (Apr. 5, 2022, 3:46 PM), <https://www.wuwm.com/2022-04-05/milwaukes-still-super-segregated-but-a-few-neighborhoods-have-become-more-diverse> [https://perma.cc/8YFH-W3WL]; see discussion *infra* Parts IV, V.

19. I am an environmental and natural resources law professor and have been honored to lead one of the nation’s best and largest environmental law programs. My father Joe was a Wisconsin State Representative and Senator committed to environmental legislation, as described in Part III below. My uncle Rob (my Dad’s brother and Gerry’s youngest child) was a Park Ranger for Alaska State Parks. Mike Lietz, my second cousin (my Dad’s cousin, nephew of Gerry and my Grandma Eleanor Czarnecki (nee Lietz) was a Forestry Specialist for the Wisconsin Department of Natural Resources (WDNR) based in northern Wisconsin, and his nephew Rich Lietz now works in the Forestry Division at the WDNR. John Czarnecki (my father’s cousin) works in urban planning and natural resource management in Alaska. The obituary of my Grandpa Gerry’s brother Milan does not read much differently than his own:

passage and why is it in decline? As we try to reform modern environmentalism to be more inclusive and rebuild the conservation ethic, can we find seeds and lessons from the past that provide some guidance? We argue that the elements that allowed for Wisconsin's exceptional conservation record were neither surprising nor revolutionary. Instead, the combination of public investment in conservation causes, the creation of jobs that allowed working class Wisconsinites to become stewards to their natural resources, and the state's established commitment to providing the citizenry with broad access to policymakers helped make environmentalism a personal issue for Wisconsinites from across the sociopolitical spectrum.

Part II of this Article defines conservation and the roots of American conservation, while Part III discusses the birth of Wisconsin conservation. Part IV and V consider the development, as well as rise and fall, of Wisconsin conservation law from the Progressive Era through World War II to Earth Day in 1970 to the last conservation actions and passage of environmental statutes by the Wisconsin State Legislature in the early 1990s. With political ideological division gaining steam in the mid-1990s, the Wisconsin conservation ethic began its retreat, with 2001 legislation designed to protect wetlands as perhaps the legislature's last great environmental achievement. Its retreat turned into decline as the Wisconsin Supreme Court and Wisconsin State Legislature has further limited protection of natural resources over the past twenty years.²⁰ The slow erosion over several decades of the coalitions between working class and

After his education, he worked in the grain fields in Montana for a period of time & farmed in the Town of Hammel for 7 years. He then worked for the USDA as a soil conservation technician from 1957-1986 when he retired. He also did carpenter work for several years. In retirement, he enjoyed his time working in the woods, maintained a Christmas tree plantation, enjoyed cooking maple syrup, fishing and bow/gun hunting. He also enjoyed spending time with his grandchildren & great grandchildren who brought him much happiness.

Obituary of Milan G. Czarnecki, HEMER FUNERAL SERV. (Jan. 11, 2016), <http://hemerfuneralserviceobituaries.blogspot.com/2016/01/milan-g-czarnecki.html> [https://perma.cc/6F66-WWL3]. Jim Czarnecki (Milan's son) was the Water Quality Coordinator at Kenai Watershed Forum in Soldotna, Alaska, and worked for the Missouri Department of Conservation. The list goes on.

20. See e.g., Jason Stein, Lee Burgquist & Tom Daykin, *GOP Bills Would Limit Government Regulation of Private Property*, MILWAUKEE J. SENTINEL (Dec. 1, 2015), <https://archive.jsonline.com/news/statepolitics/gop-bills-would-limit-government-regulation-of-private-property-b99626017z1-359556381.html/> [https://perma.cc/RXN5-X7EK]; David Strifling, *Is Wisconsin's Public Trust Doctrine Eroding?*, MARQ. UNIV. L. SCH. FAC. BLOG (Jan. 7, 2016), <https://law.marquette.edu/facultyblog/2016/01/is-wisconsins-public-trust-doctrine-eroding/> [https://perma.cc/KM6X-3A76]; David Strifling, *AG Kaul, WDNR Reverse Slide of Wisconsin's Public Trust Doctrine*, MARQ. UNIV. L. SCH. FAC. BLOG (June 9, 2020), <https://law.marquette.edu/facultyblog/2020/06/ag-kaul-wdnr-reverse-slide-of-wisconsins-public-trust-doctrine/> [https://perma.cc/R9SS-JCWH].

academic environmentalists, large-scale divestment from conservation causes, and the rerouting of jobs from conservation to industry—led by groups who tend to oppose regulation for being anti-business—precipitated the decline of conservation policy in the state.²¹ Moreover, this decline, we argue, effectively mirrors environmentalism’s decline at the national level. Nevertheless, by understanding how environmentalism came to falter in Wisconsin, we hope to better understand how it can regain its footing, both in the state and elsewhere.

II. THE AMERICAN CONSERVATION MOVEMENT

The roots of modern conservation in the United States are generally traced to the Progressive Era at the turn of the twentieth century, though conservation “as an expression of cultural commitment to an enduring and resilient relationship with the natural world” goes back millennia.²² However, the conservation theories that emerged in the late-1800s and early-1900s still inform much of the conception of conservation policy as it is defined today.

The dawn of conservationist thinking in the United States began as Enlightenment advances in taxonomy, biology, and natural history intersected with unprecedented levels of human-caused environmental degradation from the Industrial Revolution.²³ These changes necessitated new frameworks for conceiving of and managing the relationship between humans and the natural world. George Perkins Marsh’s 1864 treatise, *Man and Nature*, articulated for American thinkers of the era the notion that man’s unchecked exploitation of the natural environment, his “profligate waste,” would leave not only physical scars on the terrain, but moral scars on the conscience.²⁴ From Marsh there developed two seemingly distinct views of conservation: the preservation ethic embodied by John Muir, and the utilitarian resource conservation ethic of his contemporary Gifford Pinchot, future head of the U.S. Forest Service. The conservation practices institutionalized during the Progressive Era tended to follow Pinchot’s utilitarian view. For example, this era saw the founding of the

21. See e.g., *supra* note 20 and accompanying sources; Chris Hubbich, *Report: Wisconsin Led Nation in Cuts to Environmental Protection Since 2008*, WIS. STATE J. (Dec. 6, 2019), https://madison.com/news/local/environment/report-wisconsin-led-nation-in-cuts-to-environmental-protection-since-2008/article_daffc6a9-4984-5f9b-b2ce-415ed65e3ee3.html [<https://perma.cc/RN54-8W8C>]; Joe Tarr, *Wildlife Populations in Significant Decline*, WIS. PUB. RADIO (Oct. 18, 2022, 8:00 AM), <https://www.wpr.org/wildlife-populations-significant-decline> [<https://perma.cc/N2HS-K5QF>].

22. Curt Meine, *Conservation Movement, Historical*, in 1 ENCYC. BIODIVERSITY 883, 884 (Simon Levin ed., 2001).

23. *Id.* at 886.

24. GEORGE P. MARSH, *MAN AND NATURE; OR, PHYSICAL GEOGRAPHY AS MODIFIED BY HUMAN ACTION* 9, 35 (1864).

National Forest Service and its focus on timber harvest,²⁵ as well as what Muir viewed as the destruction, not preservation, of Yosemite National Park, following the damming of the Hetch Hetchy Valley.²⁶

By the 1930s, the Dust Bowl and Great Depression, and the subsequent New Deal policies created to address them, also led to a rethinking of the distinctions between Pinchot and Muir. Conservationists realized that solving complex issues of soil erosion, wildlife range reduction, and shock-resistant food systems were not adequately addressed by either perspective in its entirety.²⁷ As a result, the era saw an emergence of a more unified ethic, where scientific breakthroughs in ecology and the needs of a growing population led some conservation-minded thinkers “to marry ecology and the various fields of resource management in the effort to sustain not only the yields of particular commodities, but the healthy functioning of the ecosystems generally.”²⁸

While much has been made in academic discussions of the distinction between the Muir and Pinchot land ethics, the dichotomy may be a false one in the context of mid-twentieth century conservation policy. In his 1992 revisit of former Secretary of the Interior Stewart Udall’s groundbreaking book, *The Quiet Crisis*, Dan Tarlock discussed how these distinctions were ultimately rejected:

With the benefit of thirty years of hindsight, we can now appreciate the book as the foundation of a new resource-use ethic that breaks with both the then dominant ideal of scientific conservation as well as with its first cousin, preservation. Secretary Udall helped to precipitate this break by defining conservation as neither simply wise use (read managed exploitation) or preservation, but rather in modern terms as the maintenance of ecosystem stability or, as we now say, biodiversity.²⁹

As this framework perhaps best describes the land use approach taken by policymakers in the mid-twentieth century, for the purposes of this Article, the definition of “conservation” will follow Udall and mean the “maintenance of ecosystem stability” for both sustainable resource use as well as aesthetic and recreational value.

25. Forest Service Organic Administration Act of 1897, 16 U.S.C. §§ 479–482, 551; *Our History*, U.S. DEP’T OF AGRIC., FOREST SERV., <https://www.fs.usda.gov/learn/our-history> [<https://perma.cc/V7ZS-J5LQ>].

26. John Muir, NAT’L PARK SERV., <https://www.nps.gov/yose/learn/historyculture/muir.htm> [<https://perma.cc/W238-ECM3>] (Oct. 3, 2023).

27. Meine, *supra* note 22, at 892.

28. *Id.*

29. A. Dan Tarlock, *The Quiet Crisis Revisited*, 34 ARIZ. L. REV. 293, 296–97 (1992).

As conservation policy at the federal level shifted between the Progressive Era and the environmental “revolution” of the 1970s, state legislatures were also grappling with their own unique conservation and resource management challenges. Wisconsin, with its rich timber reserves, thousands of lakes and streams, and miles of Great Lakes frontage, offers a view of these shifts throughout the twentieth century and into today. However, several unique geographical and sociological features of Wisconsin allowed the conservation movement to flourish in region-specific ways, even as aspects of Wisconsin-style conservation became part of the national conservation paradigm.

III. THE BIRTH OF WISCONSIN CONSERVATION

Conservation, land use, and natural resources management have been fundamental legal phenomena in Wisconsin since the state was admitted to the Union. The Wisconsin Constitution contains a number of provisions impacting conservation:

The constitution details financial provisions related to forests and minerals, creates the Commission of Public Lands, establishes jurisdiction of rivers and lakes providing the foundation for the public trust doctrine, and contains the recently enacted right to hunt and fish amendment. The former two provisions affect land use planning. . . . The general finance provisions provide for the taxation of forests and minerals, and authorize the legislature, using monies from the treasury or taxes, to acquire and preserve state forests.³⁰

Perhaps most significantly, article IX, section 1, of the Wisconsin Constitution provides that “the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well as to the inhabitants of the state as to the citizens of the United States.”³¹ This provision embodies the public trust doctrine in Wisconsin, protecting public use rights in navigable waters. The provision has not been amended since its enactment in 1848, when its language was borrowed from the Northwest Ordinance of 1787 and the Wisconsin Enabling Act, the federal statute authorizing the Territory of Wisconsin to organize as a state.³² The state, serving as trustee, holds title to navigable waters in trust for the citizens of the state and the nation. The

30. Jason J. Czarnecki, *Environmentalism & The Wisconsin Constitution*, 90 MARQ. L. REV. 465, 467 (2007) (citing WIS. CONST. art. VIII, § 1; art. VIII, § 10; art. X, § 7; art. IX, § 1; art. I, § 26; art. VIII, §§ 1, 10).

31. WIS. CONST. art. IX, § 1.

32. JACK STARK, *THE WISCONSIN STATE CONSTITUTION: A REFERENCE GUIDE* 177 (G. Alan Tarr ed., 1997).

waterways protected by the doctrine have been broadened past commercial use³³ to include any waterway capable of recreational interests.³⁴

The doctrine protects a significant amount of the state's waterways and water resources for public purposes.³⁵ Hunters, fishers, and sportsmen served as the catalyst for protecting Wisconsin's waterways and habitat for waterfowl. In *Diana Shooting Club v. Husting*, the Wisconsin Supreme Court recognized the public nature of navigable waters and held that the state's navigable waters "should be free to all for commerce, for travel, for recreation, and also for hunting and fishing, which are now mainly certain forms of recreation."³⁶ And in *Nekoosa Edwards Paper Co. v. Railroad Commission*,³⁷ the court recognized that navigable waters "have ceased to be navigable for pecuniary gain," and that with population increase, the waters will be used for a variety of additional recreational purposes such as sailing, rowing, canoeing, bathing, and skating.³⁸

That tradition of protecting waterways is a narrative found in many states. Where Wisconsin's conservation history diverges from the national movement, or even the more localized activism of other states, has to do with its original stakeholders. The wider late-nineteenth century environmental argument has been positioned as a split between wealthy, elite preservationists seeking natural playgrounds free from human intrusion and utilitarian conservationists who believed in managed natural resource exploitation.³⁹ Though the interplay between these interests was most pronounced in the West, both groups found, throughout the United States, that they were forced to deal with the continued, unfettered growth of the very industrial interests to which they were created in response.⁴⁰ These challenges were present in Wisconsin as well, but with slightly different interests on the environmental side of the debate.

From its earliest days of statehood, the battle for the conservationist soul of Wisconsin was waged between, on one side, academics and scientists with deep connections to the state political sphere, and on the other, powerful industrial interests that saw resource exploitation as a necessary step in the work of

33. See *Olson v. Merrill*, 42 Wis. 203, 212 (1877) (discussing the saw-log test for navigability).

34. See *State v. Bleck*, 114 Wis. 2d 454, 466–67, 338 N.W.2d 492 (1983).

35. See Czarnetzki, *supra* note 30, at 468–70.

36. 156 Wis. 2d 261, 271, 145 N.W. 816 (1914).

37. 201 Wis. 40, 47, 228 N.W. 144 (1929).

38. *Id.*

39. See Samuel Hays, *From Conservation to Environment: Environmental Politics in the United States Since World War II*, 6 ENV'T. REV. 14, 15–16 (1982).

40. See ROBERT GOTTLIEB, *FORCING THE SPRING: THE TRANSFORMATION OF THE AMERICAN ENVIRONMENTAL MOVEMENT* 36–37 (1993).

society-building.⁴¹ In her 1991 article about the history of Wisconsin's Natural Resource Board, Christine L. Thomas argues that both groups retained strong footholds in Wisconsin society throughout the mid-1800s, and were critical to the creation, half a century later, of the formalized Wisconsin environmental legal framework.⁴² These groups made early environmentalism in Wisconsin considerably less moralistic than its national counterpart, consisting of the relatively straightforward interplay between science and economics.

The former group of academics was entrenched at the University of Wisconsin-Madison. The university was founded in 1849, the year after Wisconsin gained statehood, and where other midwestern states self-consciously sequestered their universities far from political influence, the flagship University of Wisconsin-Madison is located at the opposite end of State Street from the State Capitol.⁴³ Its scientists and academics enjoyed considerable political influence as a result, and the so-called "Wisconsin idea"—a term coined in 1912 to "describe the participation of Wisconsin academics in the policy-making process of the state"—can be traced back to its founding.⁴⁴ Scientists, from within the university and elsewhere in the state, were the first to express alarm at the widespread resource exploitation they saw happening in northern Wisconsin.⁴⁵

This early resource exploitation, which would become Wisconsin's first environmental flashpoint, was primarily the work of two interrelated interests. First, settlers from both Germany and the northeastern United States were quick to recognize the vast profits that could be made from agriculture in the "northlands." The Germans especially viewed the terrain as similar to the forests of their homeland and believed replacing it with farms would yield similarly favorable results.⁴⁶ The second group included lumber and railroad companies, which saw the potential for mutual benefit with the settlers by recognizing that the state's seemingly endless lumber resources would be critical to the growth of a westward-expanding nation.⁴⁷ Together, these groups formed the backbone of what Thomas R. Huffman calls "a 'sociopsychological' attitude in Wisconsin's political culture that the area was the provenance of

41. Christine L. Thomas, *One Hundred Twenty Years of Citizen Involvement With the Wisconsin Natural Resource Board*, 15 ENV'T. HIST. REV. 61, 63–64 (1991).

42. *Id.*

43. Jack Stark, *The Wisconsin Idea: The University's Service to the State*, in STATE OF WISCONSIN BLUE BOOK 1995-1996, at 101 (1995).

44. Thomas, *supra* note 41, at 63; *see generally* CHARLES MCCARTHY, THE WISCONSIN IDEA (1912).

45. *See* McCarthy, *supra* note 44, at 153.

46. *See id.* at 20.

47. *Id.* at 34.

boundless and accessible wealth in natural resources.”⁴⁸ The federal government also recognized the utility of Wisconsin’s natural resources in contributing to the project of national growth. For example, the national forest product research laboratory of the U.S. Department of Agriculture’s (USDA) Forest Service, founded in 1910, is housed at the University of Wisconsin-Madison.⁴⁹

How could the state continue to benefit from the exploitation of its water and lumber resources given concerns of overuse? For the most part, the significant profit to be made from forest exploitation led politicians in the state to adopt a “policy of ‘no policy’” toward resource management throughout the 1860s.⁵⁰ By then, however, the academic scientists who had been raising concerns over what they viewed as a slow-moving environmental crisis, began more forcefully urging the state legislature to intervene.⁵¹ Their cause was buoyed by the publication of Marsh’s *Man and Nature*, which warned that the U.S.’s resources, particularly in timber, were not as inexhaustible as once thought.⁵² In response to these efforts, the legislature passed an 1867 bill establishing the first State Forestry Commission.⁵³ This three-person panel, made up of two well-regarded scientists and a popular lawyer and railroad builder, Hans Crocker, was tasked with creating a report on the effects of deforestation in the state. The panel was allotted only enough funding to print its findings.⁵⁴ Nevertheless, the finished report was comprehensive and wide-ranging, pushing for the planting of shelter trees in farm areas and warning of erosion, water quality issues, and even climactic changes (nearly three decades before German professor Svante Arrhenius would publish the article that is now credited as humanity’s first warnings about a changing climate).⁵⁵ The legislature responded by passing a tax credit for trees planted on agricultural land, which remains in place today.⁵⁶ For all the commission’s forward-

48. Huffman, *supra* note 16, at 50.

49. *USDA Forest Service, Forest Products Laboratory*, APA, <https://www.apawood.org/usda-forest-service-forest-products-laboratory> [<https://perma.cc/KW62-FZN7>].

50. Thomas, *supra* note 41, at 65.

51. *See id.*

52. Angela Cannon, *Visionaries in Wisconsin’s Conservation History B6* (Dec. 1993) (M.S. thesis, University of Wisconsin College of Natural Resources) (on file with University of Wisconsin Minds System).

53. Wis. Dep’t of Nat. Res., *supra* note 10.

54. Thomas, *supra* note 41, at 65–66.

55. *Id.* at 65–66; *see also* Svante Arrhenius, *On the Influence of Carbonic Acid in the Air Upon the Temperature on the Ground*, 9 PUBL’NS ASTRONOMICAL SOC’Y PAC. 14, 14 (1897); *see also generally* I. A. LAPHAM, J. G. KNAPP & H. CROCKER, REPORT ON THE DISASTROUS EFFECTS OF THE DESTRUCTION OF FOREST TREES NOW GOING ON IN THE STATE OF WISCONSIN (1867).

56. Thomas, *supra* note 41, at 65.

thinking, however, little else came from the initial report. As Thomas notes, no other environmental policy would be passed in the state for another thirty-eight years.⁵⁷

Though the State Forestry Commission was disbanded once its report was published, Wisconsin would establish several more environment-minded groups before the close of the nineteenth century. Among these were the three-man fish commission (1874), the fish wardens (1885) and game wardens (1887), and the Office of the State Fish and Game Warden (1891).⁵⁸ In 1897, the legislature also reinstated the State Forestry Commission.⁵⁹ A full chronology of Wisconsin conservation and environmental laws and their implementing agencies can be found in Appendix A.

If the early roots of Wisconsin conservation seem neither as auspicious nor as democratic as might be expected for the state that established the first Earth Day, this slow march toward a regional “land ethic” was par for what was happening elsewhere in the country.⁶⁰ Even so, the state legislature’s understanding that some conservationist accommodations had to be made, seen in its adoption of the tree-planting tax credit, would set Wisconsin apart from the rest of the country.⁶¹

By the early twentieth century and the rise of the national Progressive Era, Wisconsin began to establish itself as a leader in environmental policy. A 1908 meeting of state governors on the topic of conservation, called by President Theodore Roosevelt and held at the White House, so inspired then-Wisconsin Governor James O. Davidson that he established the first state conservation commission upon his return home.⁶² The commission put out two reports, the first in 1908 and the second in 1911, warning of the potentially dire results of the state’s unfettered natural resource exploitation and setting forth recommendations.⁶³ The suggestions from the second report, published by a commission that included head of the State Forestry Department E.M. Griffith, enacted “what was believed to be the most comprehensive law for the protection of natural resources in the nation.”⁶⁴ In particular, Chapter 143 of Wisconsin Law, 1911, connected the health of the environment with the police power of the state, making it unlawful “for any person, firm, or corporation,

57. *Id.*

58. Gjestson, *supra* note 7.

59. *Id.*

60. Cannon, *supra* note 52, at B25.

61. *See generally* Meine, *supra* note 22, at 895.

62. Thomas, *supra* note 41, at 70.

63. Cannon, *supra* note 52, at 15.

64. *Id.*; *Edward Merriam (E.M.) Griffith*, WIS. CONSERVATION HALL OF FAME, <https://wchf.org/edward-merriam-griffith/> [<https://perma.cc/HHK3-H86U>].

unreasonably to waste or maliciously to injure, destroy, or impair any natural resource in this state.”⁶⁵

By the end of the Progressive Era, the state adopted a more conservative approach to agencies. In 1915, Governor Emmanuel L. Philipp oversaw a major agency reorganization that consolidated the numerous citizen commissions into a single conservation commission, made of three professionals who were appointed in staggered six-year terms.⁶⁶ Until 1927, these professional scientists, removable at the governor’s discretion, were almost solely responsible for the state’s resource management decisions, a reflection of the same interplay between science and legislation that formed the by-then-embraced Wisconsin idea.⁶⁷

Though coordinated citizen involvement in Wisconsin’s environmental policymaking had stalled for a time, the citizenry of the state soon became more ecologically minded than ever. The first Izaak Walton League chapter was organized in Wisconsin in 1922, the same year the league was founded nationally,⁶⁸ foreshadowing a conservation ethic that was dependent upon respect for the rights of all others (and also embodied in Chapter 143 of Wisconsin Law, 1911). Recently, Jason re-discovered an old and tattered package which contained research materials and a handwritten draft for Grandpa Gerry’s college paper on water pollution written in 1948. It also contained, in pristine condition, an American Nature Association (ANA) Quarterly Bulletin from 1939 marked up with his grandfather’s handwriting. The bulletin was a discussion about water pollution in rivers and streams by Kenneth A. Reid of the league—the league now being famous for bringing the lawsuit that ended clearcutting in the national forests under the Forest Service Organic Act of 1897.⁶⁹ His first marked passage states: “The whole theory and practice of pollution is one evasion of responsibility. It involves also a flagrant disregard for the rights of others and is in every sense an improper and unsocial practice.”⁷⁰ This idea finds itself again in his grandfather’s paper draft,

65. Cannon, *supra* note 52, at 34.

66. Thomas, *supra* note 41, at 70–71.

67. *Id.* at 71; see also J. David Hoeveler, *The University and the Social Gospel: The Intellectual Origins of the “Wisconsin Idea”*, 59 WIS. MAG. HIS. 282 (1976).

68. Cannon, *supra* note 52, at B21.

69. See generally *Izaak Walton League v. Butz*, 522 F.2d 945 (4th Cir. 1975) (the Monongahela case).

70. Kenneth A. Reid, *Water—The Orphan Step-Child of Conservation*, 2 AM. NATURE ASS’N Q. BULL. 1, 7 (1939).

meticulously hand edited by Jason's Grandma Eleanor. Gerry writes: "Water pollution is evading responsibility. It forgets about the rights of others."⁷¹

This emerging view (fully embraced two decades later by Wisconsin legislators, as well as Grandpa Gerry, in the post-WWII period) vindicated academics near the capitol, and they began to widen the scope of their concern from forest and water to soil erosion, wildlife, and air quality.⁷² That year, long-time Forest Service member Aldo Leopold, coming from the north of the state, would arrive at the University of Wisconsin-Madison and solidify his "land ethic" and a view of environmental management that would become near-mythological in influence.⁷³

By 1927, state-level policymakers would again seek citizen input with the passage of a bill establishing a conservation commission and department and authorizing hearings for public input by 1933.⁷⁴ The department was particularly important in helping to cement citizen engagement in the creation of environmental policy, as it included a six-person citizen commission that would select the director and oversee the agency's decisions. As Thomas notes, the department would "continue under basically the same management scheme for the next 40 years."⁷⁵ By 1934, a committee, which included Leopold, was appointed by the commission to find ways to increase public participation.⁷⁶ In 1935, the legislature passed the Conservation Education Statute, the first of its kind in the nation, which mandated that resource conservation be taught in public elementary and high schools, further increasing the attention to environmental causes.⁷⁷ These actions would set the stage for Wisconsin's outsized role in the national environmental movement over the following decades.

71. Gerald Czarneski, *Water Pollution: Water and Sickness* 35 (unpublished college paper) (on file with author).

72. *Id.* at 15.

73. *See generally* ALDO LEOPOLD, *A SAND COUNTY ALMANAC: AND SKETCHES HERE AND THERE* (1949); *see also* RICHARD L. KNIGHT, *ALDO LEOPOLD AND THE ECOLOGICAL CONSCIENCE* (Richard L. Knight & Susanne Riedel eds., 2002); *cf.* Roberta L. Millstein, *Debunking Myths About Aldo Leopold's Land Ethic*, 217 *BIOLOGICAL CONSERVATION* 391, 391 (2018) (noting that while Leopold's writings on environmentalism were undoubtedly influential, more recent debate involves questions of whether his effect was as immediate as it is now viewed and misunderstandings about Leopold's original meanings).

74. Thomas, *supra* note 41, at 72.

75. *Id.*

76. *Id.*

77. *Wisconsin's Environmental Education & Conservation History*, *supra* note 1.

IV. THE PROGRESSIVE ERA AND POST-WWII

Public and policy-making attention in the Progressive Era was mostly on forestry in Wisconsin, though some of the resulting reforms would set the stage for wider ranging conservation actions to come. For example, 1929's Rural Zoning Law, which granted county boards the power to regulate where and to what extent industrial, agricultural, and recreational activities could take place, created a means for strong governmental oversight of resource management that would prove critical to environmentalism in the decades that followed.⁷⁸

Between 1935 and 1954, the Wisconsin Conservation Department benefitted from growing federal, public, and press interest in conservation, increasing from 120 employees and a \$500,000 budget to 850 employees with an annual budget of \$8 million.⁷⁹ Leopold's outsized influence on the conservation commission, at the very least, promised a steady supply of radical-leaning conservation ideas that would touch on nearly every natural resource issue—from broader concerns about the nature of forestry in general, to discrete issues like deer population control—from 1924 until his death in 1948. More influential than his specific policy proposals, however, was Leopold's ethical approach to ecology, which was philosophical rather than immediately practical, and would eventually trigger a "partisan battle for bragging rights to Leopold's intellectual heritage [that] was manifest in the state as conservation began to change into environmentalism" in the mid-twentieth century.⁸⁰

The Great Depression provided another flashpoint for forest concern. Though Wisconsin was spared from the Dust Bowl effects created by agricultural mismanagement in the country's southern and eastern Midwest, the crisis brought renewed interest to earlier warnings of impending ecological disaster from unchecked logging and timber interests in the state. The subsequent New Deal again implicated public interest, when the Civilian Conservation Corps (CCC) established fourteen camps in Wisconsin to work on a variety of forestry issues.⁸¹ Civilians in the programs undertook soil reclamation and trail making projects, and aimed to return "tax delinquent lands back into a multiple use and sustainable yield forest."⁸² Between the CCC and the Works Progress Administration, Wisconsinites became better acquainted with the conservation issues plaguing their state, earned money to support their families, and learned new conservation management skills.⁸³ (Leopold's

78. See Huffman, *supra* note 16, at 51.

79. Thomas, *supra* note 41, at 74.

80. Huffman, *supra* note 16, at 50.

81. Thomas, *supra* note 16, at 73.

82. Cannon, *supra* note 52, at B23.

83. *Id.*

“radical” conservation ideas and the practical impacts of time working in the CCC can be seen in Grandpa Gerry’s policies and work at the Milwaukee County Park System.) This capacity building around conservation, combined with state-mandated conservation education in schools, helped create a more environmentally conscious Wisconsin citizenry, who would insist on having a greater role in environmental decision-making, as discussed in more detail below. By the end of WWII, Wisconsin saw another increase in conservation interest from its citizens, thanks to more expendable income and increased leisure time for pursuits like hunting and fishing, camping, and the enjoyment of nature.⁸⁴

Despite these events cementing conservation’s ideological foothold among Wisconsin citizens, there were few genuine reforms to the root causes of environmental degradation—namely, the paper and timber industries. By 1953, Wisconsin had surpassed Maine as the largest paper-producing state in the country.⁸⁵ However, concern was moving from strictly forestry-focused conservation to a broader scope. This more holistic approach was reflected in the passage of the state Water Pollution Abatement Act of 1947 and then the Federal Water Pollution Control Act of 1948.⁸⁶ The 1949 publication of Leopold’s *A Sand County Almanac*, which emphasized saving “all parts” of an ecological system,⁸⁷ also captured hearts and minds in the state. After seeing the disastrous effects of industry on the Wisconsin River, which was clogged with a “multitude of paper mills, dams and water power facilities,” public outcry stopped a proposed dam on the still pristine Wolf River—encouragement to concerned citizens that they had the power to shift policy.⁸⁸ Nevertheless, we are seeing industry’s impacts still today with “forever chemicals” in the water supply of Wisconsin’s small paper mill towns.⁸⁹

This robust citizen involvement would consistently bring environmental policy reforms across the finish line. Two largely informal citizen collectives were responsible for the brunt of environmental lobbying prior to 1960. The first were Republicans from the north country, primarily hunters and fishermen who belonged to sporting groups and wanted to see their outdoor interests

84. Thomas, *supra* note 41, at 74.

85. Huffman, *supra* note 16, at 50.

86. Cannon, *supra* note 52, at B25.

87. *Id.* at B26.

88. *Id.* at B25–B26.

89. See e.g., Laura Schulte & Katelyn Ferral, *U.S. is Recommending Low Limits for ‘Forever Chemicals.’ Many Wisconsin Communities Have Tested Over It.*, MILWAUKEE J. SENTINEL (Mar. 24, 2023, 5:01 AM), <https://www.jsonline.com/story/news/investigations/public-investigator/2023/03/24/new-federal-pfas-guidance-has-wisconsin-towns-scrambling/70013638007/> [https://perma.cc/9VXT-NT2T].

protected by the state government.⁹⁰ The second was made up of progressive reformers, including the Izaak Walton League, who saw conservation as an important political weapon.⁹¹ Though these groups would seem odd bedfellows now, in the mid-twentieth century they formed what Huffman calls “the conservation establishment,” a diverse “alliance” of rural Republicans, state administrators, and progressive environmental champions who, together, had the numbers to effectively lobby for their shared interests.⁹² The fact that those interests were mostly restricted to impacts on hunting and fishing issues did not, for the moment, deter the members who would have preferred more expansive conservation reforms. They would get their chance soon.

One of the most profound turning points for Wisconsin environmentalism occurred with the creation of the Department of Natural Resources (DNR) in 1968. In 1965, Governor Warren Knowles went to the state legislature with the idea of streamlining government for more efficiency and responsiveness, enlisting industrialist William Kellett to oversee the eighteen-person “Kellett Commission” to research and make recommendations for reorganization.⁹³ The finished report, published in January 1967, suggested merging all state functions into twenty-six agencies.⁹⁴ By combining the Conservation Department with the Department of Resource Development, which handled industrial water pollution regulation, the state argued it could take a “systems approach” to resource use while also responding to pressing issues in a more nimble and effective manner.⁹⁵ Conservationists were less optimistic, fearing that merging two agencies with disparate goals would inevitably allow industrial interests to overshadow environmental concerns.⁹⁶ A legislative battle ensued, resulting in a compromise that gave the Conservation Department four seats on the agency’s board compared to the Department of Resource Development’s three.⁹⁷ Most critically, however, was the designation of an assistant attorney general who would protect public rights in matters of resource use.⁹⁸ The creation of a public intervener, as this new position was named, quelled the fears of the increasingly ornery citizens that the agency could act

90. Huffman, *supra* note 16, at 51–52.

91. *See id.*

92. *Id.*

93. Thomas, *supra* note 41, at 74–75.

94. *Id.* at 75.

95. Cannon, *supra* note 52, at B29.

96. Thomas, *supra* note 41, at 75.

97. *Id.*

98. *Id.*

unilaterally and remained a wildly popular and successful advocacy position throughout its twenty-eight-year existence.⁹⁹

The DNR proved to be exactly what Wisconsin needed to rally buy-in from its diverse stakeholders. Republicans concerned with overbearing federal environmental intervention were satisfied that a state entity could efficiently address any major issues, liberal environmental activists felt that the concerns of the citizenry were given pride of place over industry preferences, and the legislature saw the DNR as the culmination of a history of multi-interest compromise in the state.¹⁰⁰ As a result, the DNR became the “paramount agency in Wisconsin government” and “exemplified the acme of institutional environmentalism at the state level, signifying that centralized government control was an essential constituent of the reform approach to modern environmental administration.”¹⁰¹ The meeting of the minds between disparate political interests paved the way for Wisconsin to take its place as the country’s preeminent environmental policy leader.

V. EARTH DAY 1970 TO 2001 WISCONSIN ACT 6

Like the rest of the United States, conservation law in Wisconsin was firmly established by 1968. That year, the Wisconsin Conservation Department and environmental protection functions from other state agencies were incorporated under one umbrella, creating the Wisconsin Department of Natural Resources.¹⁰² Though its designation of the first Earth Day in 1970 cemented Wisconsin’s status as the nation’s environmental thought leader, it was one event in a series that exemplified the state’s success at crafting bipartisan approaches to environmental policy. Two years earlier, after the overwhelming response to Rachel Carson’s 1960 book, *Silent Spring*, alerted average Americans to the dangers to the environment posed by the pesticide DDT,¹⁰³ Wisconsin decided to do something about the issue. In 1968, the Wisconsin Citizen’s Natural Resource Association (CNRA) enlisted the Natural Resources Defense Fund to help lobby the fledgling DNR for a state ban on DDT.¹⁰⁴ Citizen activists consisting of bird watchers, professors from the University of Wisconsin-Madison, and political organizers requested a hearing from the public intervenor on the dangers of the pesticide, and after six months of

99. *Id.*; Jodi Habush Sinykin, *At a Loss: The State of Wisconsin After Eight Years Without the Public Intervenor’s Office*, 88 MARQ. L. REV. 645, 645 (2004).

100. Huffman, *supra* note 16, at 60.

101. *Id.* at 61.

102. *Id.* at 60.

103. RACHEL CARSON, *SILENT SPRING* 8 (1962).

104. Cannon, *supra* note 52, at B28.

testimony, hearing examiner Maurice Van Susteran ruled in May 1970 that DDT was indeed polluting state waters and ushered in a ban on the pesticide.¹⁰⁵ Wisconsin's ban came directly on the heels of Michigan's ban,¹⁰⁶ and helped pave the way for a federal ban on DDT in 1972.¹⁰⁷ Of note, Jason's father, Joe, vividly remembers Grandpa Gerry reading the paperback of *Silent Spring* when Joe was in grade school. Gerry gave it to Joe to read. Jason's Aunt Mary, a librarian, still has the copy. Joe noticed this because Gerry never bought books, and instead always went to library. Something about that book caused Gerry, an avid reader, to buy it. *Silent Spring* is the only book Joe ever recalled Gerry buying.

Earth Day heralded Wisconsin's enthusiasm for its environmentalist reputation. Governor Gaylord A. Nelson delivered a speech in Seattle, Washington on September 20, 1969, as part of a speaking tour meant to emphasize the importance of conservation, in which he called for interdisciplinary approaches to the issue.¹⁰⁸ He called on his audience to organize "teach-ins" in the style of civil rights and anti-war conferences to discuss environmental concerns, and discussed the "imminent crisis of the environment."¹⁰⁹ The first Earth Day, declared in Wisconsin on April 22, 1970, was a direct result, pushing politicians throughout the country to follow suit in an effort to align themselves with the growing popularity of the environmental movement.¹¹⁰ The event signaled that the changes in Wisconsin conservation ideology that had taken place over the past decades, brought about by interests from across the state's sociopolitical spectrum, had come to a fruitful, bipartisan conclusion.

It could not have been anticipated in this jubilant moment that momentum for environmental causes would slow, much less how the tide of public opinion would turn completely, over the coming decades. Throughout the 1970s, Wisconsin's legislature took the initiative to pass a slew of environmental legislation. Though much of it was likely too technical to grab the attention of the average citizen, the effort demonstrated how seriously Wisconsin took its

105. Virginia Small, *Lessons from the Historic Banning of DDT*, SHEPHERD EXPRESS (Nov. 20, 2018, 2:50 PM), <https://shepherdexpress.com/news/features/lessons-from-the-historic-banning-of-ddt/> [<https://perma.cc/W43R-899N>].

106. Dave Dempsey, *DDT: The 50th Anniversary Everyone Forgot*, FOR LOVE OF WATER (May 24, 2019), <https://forloveofwater.org/ddt-the-50th-anniversary-everyone-forgot/> [<https://perma.cc/9GVV-89FV>].

107. *DDT—A Brief History and Status*, EPA, <https://www.epa.gov/ingredients-used-pesticide-products/ddt-brief-history-and-status> [<https://perma.cc/8P9E-7GML>] (Apr. 3, 2023).

108. See Huffman, *supra* note 16, at 47.

109. *Id.*

110. *Id.*

role as an environmentalist state. For example, the Wisconsin Environmental Protection Act, signed into law in 1971, expanded the requirements of the National Environmental Policy Act of 1968 and made environmental impact statements a requirement for state-funded projects.¹¹¹ Wisconsin banned the production and sale of the toxic industrial chemicals polychlorinated biphenyls (PCBs) in 1977, two years before the federal government would ban them.¹¹² It followed up with a ban on phosphates in home detergents in 1979, which so angered appliance industry groups and home economists that the legislature built a three-year sunset date into the bill, and the ban was not renewed again until 1984.¹¹³ On the other hand, the Recycling and Solid Waste Reduction Law, which went into effect in 1990, sought to curb the total amount of waste going into Wisconsin landfills.¹¹⁴ And once again, Wisconsin led the nation with a 1992 law that strictly regulated disposal of air conditioners and other appliances that could have deleterious effects on the ozone layer.¹¹⁵

Jason's father, Joseph ("Joe") J. Czarnecki, served in the Wisconsin State Legislature in the second decade of a twenty-year period of Wisconsin passing environmental law, mirroring the efforts at the federal level. Born in Milwaukee in 1954, Joe was elected to the Wisconsin State Assembly in 1980 and served until 1983.¹¹⁶ From 1983 to 1993, he was a member of the Wisconsin State Senate;¹¹⁷ he was, at the time, the youngest person serving in the body at age twenty-eight. While at John Marshall High School in Milwaukee, he helped found the "Earth Action" student group in 1970, the same year "Earth Day" was created. Earth Action published a pamphlet entitled "15 Ways You Can Depollute the Earth" with advice that we knew to follow fifty years ago but don't follow now: "So cut down on power consumption."

111. Cannon, *supra* note 52, at B30; *Wisconsin Environmental Protection Act (WEPA)*, UNIV. WIS., CAMPUS PLAN. & LANDSCAPE AGRIC., <https://cpla.fpm.wisc.edu/planning/wisconsin-environmental-policy-act/> [<https://perma.cc/7RK4-F6BF>].

112. Cannon, *supra* note 52, at B31; *What are PCBs?*, NAT'L OCEAN SERV., <https://oceanservice.noaa.gov/facts/pcbs.html> [<https://perma.cc/9CZA-VERW>] (Jan. 1, 2023).

113. Duane Shuettgeltz, *DNR Memoirs: Story Behind Phosphate Ban*, WIS. NAT. RES. MAG., Fall 2018, <https://dnr.wisconsin.gov/wnrmag/2018/Fall/memoirs#:~:text=Following%20several%20other%20jurisdictions%20around,and%20expired%20three%20years%20later> [<https://perma.cc/HJ6C-WL7G>].

114. Cannon, *supra* note 52, at B32; *Wisconsin's Waste Reduction and Recycling Law*, WIS. DEP'T OF NAT. RES., <https://dnr.wisconsin.gov/topic/Recycling/law.html> [<https://perma.cc/8T66-TLFR>].

115. Cannon, *supra* note 52, at B32.

116. WIS. LEGIS. REFERENCE BUREAU, STATE OF WISCONSIN BLUE BOOK 1991-1992, at 36 (Lawrence Barish ed., 1991).

117. *Id.*; WISCONSIN LEGIS. REFERENCE BUREAU, STATE OF WISCONSIN BLUE BOOK 1993-1994, at 313 (Lawrence Barish ed., 1993).

Joe's upbringing in the home of Grandpa Gerry and Grandma Eleanor—with duck decoys, hunting rifles and fishing gear, tree and bird identification books, and binoculars—led to his consistent recognition by the non-profit group Environmental Decade for his legislative voting record. Of significance, Joe's sponsored bills that were signed into state law not only protected the environment and influenced conservation of wetlands and endangered species, and supported hunting and sportsmen, but also protected urban communities and their public spaces.

Senator Czarnecki drafted and sponsored the Steel Shot Bill (Senate Bill 141, 1985–1986 Session), which passed, banning lead shot in waterfowl hunting as lead pollutes streams and introduces the toxin into the food chain (1985 Wisconsin Act 155), making Wisconsin one of the first states to do so.¹¹⁸ However, Joe's biggest accomplishment garnered little notice or recognition. He helped stop the building of the Lake, North, and South freeways which would have cut up Milwaukee's lakeshore and local communities. His budget amendment stopped the Stadium South Freeway in 1983,¹¹⁹ a construction project that would have gone straight thru and destroyed the beautiful and large Jackson Park and Manitoba School on Milwaukee's near south side. Stopping the North Side Freeway avoided the destruction of Sherman Park, one of the city's oldest and most diverse communities,¹²⁰ which also happened to be near the childhood home of Jason's Dad, where Grandpa Gerry and Grandma Eleanor still lived. Only the Hoan Bridge, which ironically hovers over Milwaukee's sewage treatment plant that converts human waste to milorganite fertilizer, exists as the remnant of what was to be the lakeshore freeway.¹²¹

118. See 1985 Wis. Act 155.

119. See 1983 Wis. Act 27. The substance of this measure in the passed budget bill was also earlier introduced by then-Representative Czarnecki, but was not passed, in Assembly Bill 835 in 1982. See STATE OF WISCONSIN ASSEMBLY JOURNAL, EIGHTY-FIFTH SESSION 3513–14 (1982), <https://docs.legis.wisconsin.gov/1981/related/journals/assembly/19820528.pdf>. [<https://perma.cc/C6AL-C7AN>] (referencing the hearing regarding Stadium South Freeway in Milwaukee County).

120. See Paul Geenen, *Sherman Park*, ENCYC. OF MILWAUKEE, <https://emke.uwm.edu/entry/sherman-park/> [<https://perma.cc/H4X9-ET42>] (“In 1968 the Milwaukee County Expressway Commission began purchasing homes in a block-wide strip from Sherman Boulevard to Sixth Street to clear land for what was planned as the Park West Freeway. Valuable housing stock was lost and home values plummeted on the land surrounding the freeway right-of-way. Sherman Park residents formed a task force and worked with researchers at University of Wisconsin-Milwaukee to produce an environmental impact statement that halted freeway construction in Sherman Park, though not before the land was cleared up to Sherman Boulevard (43rd Street).”).

121. See Audrey Nowakowski, *What's That Smell When You Drive Over Milwaukee's Hoan Bridge?*, WUWM 89.7 (May 10, 2019, 5:00 AM), <https://www.wuwm.com/regional/2019-05-10/whats-that-smell-when-you-drive-over-milwaukees-hoan-bridge> [<https://perma.cc/H3JQ-7C33>];

In the background of these environmental milestones, businesses reliant on timber and agriculture—particularly dairy farming—had not simply disappeared in Wisconsin, but had learned when to keep their heads down. Rather than appear opposed to the fervent environmental movement and risk the ire of an engaged citizenry, these industries started to quietly chip away at regulations in novel ways. Wisconsin’s 1982 Right to Farm Law, adopted at a time when such laws were sweeping midwestern states and designed to curb conflicts between residents of newly built suburbs and their preexisting agricultural neighbors, had the effect of limiting the use of private nuisance actions against farmers.¹²²

By 1995, a sea change was underway in Wisconsin (as was the case at the federal level with the released “Contract with America”¹²³). That year, the renewal of the Right to Farm Law increased its strength and put sweeping limitations on what a citizen, or even the state, could do in the face of agricultural pollution (discussed in more detail below).¹²⁴ Accusations that the DNR had become “politicized” gained traction. Also in 1995, Republican Governor Tommy Thompson signed off on a state budget that purported to streamline state governance, but which had the effect of making the head of the DNR a governor-appointed position, rather than one selected by the citizen-run Natural Resources Board.¹²⁵ This budget also effectively eliminated the public intervenor, bringing the office down to one attorney with no secretarial support, removing it from the Department of Justice and placing into the DNR’s Bureau of Legal Services, and stripping it of its power to sue on behalf of Wisconsin citizens.¹²⁶ The move was met with public outcry, angering the American Federation of Labor and Congress of Industrial Organizations, hunting and fishing groups, politicians, environmental organizations, and the public in what

Milwaukee Freeways: Lake Freeway, Wis. HIGHWAYS, <https://www.wisconsinhighways.org/milwaukee/lake.html> [https://perma.cc/H3QR-AUZ3] (Nov. 7, 2021).

122. Amy A. Schultz & Harvey M. Jacobs, *Confined Animal Feeding Operations and State-based Right to Farm Laws: Managing Twenty-first Century Agriculture with a Twentieth Century Framework in the Case of Wisconsin, United States*, 72 J. SOIL & WATER CONSERVATION 133A, 133A–34A (2017).

123. Republican Nat’l Comm., *Contract with America*, TEACHING AM. HIST. (Sep. 27, 1994), <https://teachingamericanhistory.org/document/republican-contract-with-america/> [https://perma.cc/3SFF-4TA7].

124. Emily D’Onofrio, “Only the Intervenor Cared”: A Critical Juncture in the Rise of Dairy CAFOs and Neoliberal Environmental Policy in Wisconsin 61–63 (May 2018) (M.A. thesis, University of Tennessee, Knoxville) (on file with the Tennessee Research and Creative Exchange (TRACE)).

125. Sinykin, *supra* note 99, at 645, 664.

126. *Id.*

was ironically one of Wisconsin's last moments of bipartisan cohesion (perhaps the second-to-last) around an environmental issue.¹²⁷

In 2001, the Supreme Court of the United States in the *SWANCC* decision (and later in *Rapanos* in 2006) significantly limited the ability of the federal government to protect wetlands.¹²⁸ The State of Wisconsin's response to the *SWANCC* decision represents perhaps the final great legal act of the state's conservation ethic. In a special session called by Republican Governor Scott McCallum, the Wisconsin State Legislature passed 2001 Wisconsin Act 6.¹²⁹ With the support of Ducks Unlimited and the Wisconsin Wildlife Federation, both houses of the state legislature—which at the time were each controlled by different political parties—unanimously passed a statute that gave the Wisconsin Department of Natural Resources water quality certification authority over any wetland in Wisconsin that was no longer protected by the federal government.¹³⁰

However, over the last two decades, protection of Wisconsin's natural resources, in particular waterways and wetlands, have been in decline due to decisions of the Wisconsin Supreme Court, which have limited the scope of the public trust doctrine and actions by the state legislature, while hamstringing government environmental regulation on private property.¹³¹ Wisconsin now leads the nation in cuts to environmental protection,¹³² has experienced significant drops in wildlife populations,¹³³ and finds itself aggressively scrutinized by environmental non-profits and the progressive media for its declining environmental protection through the undermining of the very democratic principles that first helped create Wisconsin's conservation ethic.¹³⁴

127. *Id.*

128. See *Solid Waste Agency v. Army Corps of Eng'rs*, 531 U.S. 159, 174 (2001); *Rapanos v. United States*, 547 U.S. 758, 767 (2006).

129. WIS. STAT. § 281.37 (2021–22); MICHAEL J. CAIN, WISCONSIN'S WETLAND REGULATORY PROGRAM 6 (2008).

130. Michael J. Cain, *Reversing the Loss of Our Nation's Wetlands*, NAT'L WETLANDS NEWSL., Mar.-Apr. 2010, at 16, 18.

131. See *supra* note 20 and accompanying sources.

132. Hubbich, *supra* note 21.

133. Tarr, *supra* note 21.

134. Bill Berry, *Report Finds a Decade of Environmental Neglect in Wisconsin*, WIS. EXAMINER (Oct. 10, 2022, 6:45 AM), <https://wisconsinexaminer.com/2022/10/10/report-finds-a-decade-of-environmental-neglect-in-wisconsin/> [<https://perma.cc/L5KY-78Q4>]; *Wisconsin's Green Fire Releases Opportunities Now Report "Imbalance of Power—How Wisconsin is Failing Citizens in Conserving Natural Resources and Protecting our Environment,"* WIS. GREENFIRE (Sept. 27, 2022), <https://wgreenfire.org/wisconsins-green-fire-releases-opportunities-now-report-imbalance-of-power-how-wisconsin-is-failing-citizens-in-conserving-natural-resources-and-protecting-our->

VI. THE RISE AND FALL OF WISCONSIN CONSERVATION

While the above history outlines the environmental institutions created since the beginning of Wisconsin's statehood, the success of those institutions had much to do with the coalitions built because of them. In this Part, we argue that the state's early commitment to conservation education, the public investment in natural resource preservation, and the jobs that relied on both helped to bridge sociopolitical divides. Existing environmental conservation commitments made by wealthy East Coast industrialists found surprising allies in everyday Wisconsinites who valued the state's natural resources both for their economic utility and their potential for recreation. This common stewardship of the state's environment, and the existing institutions that gave citizens an active role in protecting it, helped cement Wisconsin's legacy as the birthplace of a new environmental movement. Later, the chipping away of those coalition-building cornerstones—the loss of the public intervenor, the passage of pro-agribusiness legislation, and growing class divides—directly led to the movement's decline.

A. Explaining the Rise of Wisconsin Environmentalism

Wisconsin's environmental successes in the twentieth century cannot be attributed to a single event, though several throughlines exist. The geographic and social proximity between academics and legislators may have sped up the process of turning interest into action, but citizen involvement was ignited by the state's longstanding commitment to formalized environmental education, beginning in 1928 when the first forest schools were established and typified by the 1935 passage of the Wisconsin Conservation Education Statute.¹³⁵ This early education, combined with the reliance on conservation practices for many Wisconsinites' livelihoods during the Great Depression, helped establish coalitions between wealthy elites and middle- and working-class citizens when it came to environmental conservation issues.¹³⁶ The combination of conservation education, public investment in conservation projects, and access to government helps explain why environmental issues became a major concern in Wisconsin at all, but it was the united front created, for a brief time, across classes that made the state so effective at passing environmental legislation.

Prior to American environmentalism's twentieth century heyday, the most fervent supporters of environmental causes were wealthy urbanites who viewed

environment/?utm_source=rss&utm_medium=rss&utm_campaign=wisconsins-green-fire-releases-opportunities-now-report-imbalance-of-power-how-wisconsin-is-failing-citizens-in-conserving-natural-resources-and-protecting-our-environment [https://perma.cc/2DQ9-YSJB].

135. *Wisconsin's Environmental Education & Conservation History*, *supra* note 1.

136. See Cannon, *supra* note 52, at B22; see also Huffman, *supra* note 16, at 47, 51–52.

nature as a salve for the societal ills embodied by urban life. In her 2016 book, *The Rise of the American Conservation Movement: Power, Privilege, and Environmental Protection*, Dorceta E. Taylor refers to the “power elite theory,” which “contends that environmental discourses and policies were conceptualized and orchestrated by elites in accordance with upper- and middle-class values and interests.”¹³⁷ By the 1870s, for example, wealthy city-dwellers who had made their fortunes as industrialists were growing weary of the pollution and overpopulation found at home, and the frontier “emerged as the perfect place for silk stocking-clad men of wealth and power to explore and experiment with the pioneer lifestyle.”¹³⁸ If these elites were moved by the writings of conservationist and University of Wisconsin alum John Muir, who romanticized the idea of thousand-mile walks and quiet communion with the natural world, most of them did not actually emulate his approach.¹³⁹ Instead, “[m]any nineteenth-century genteel men preferred to travel and explore in a way that allowed them to bring all the creature comforts and trappings of wealth with them,” including trainloads of provisions and hired help to cater to their needs while in the wilderness.¹⁴⁰

Many wealthy businessmen from cities also formed clubs of fellow elite nature appreciators, like the Audubon Society and the Boone and Crockett Club, which had the political access and interest to effectively rally for conservation legislation. In Wisconsin, the Ne-Pee-Nauk Duck Club, established in 1882 and comprising mostly wealthy Chicago businessmen who traveled to Wisconsin to duck hunt,¹⁴¹ made the push for wetland preservation law into a major club activity and helped bring about the Wisconsin Supreme Court’s elucidation of the state’s public trust doctrine.¹⁴² The clubs were also frequented by Wisconsin’s political elite: The Blackhawk Club counted then-Governor George W. Peck among its members, and when he fell behind in dues, the club even adopted a resolution that the “Chief Executive of the State of Wisconsin, all ex-governors and succeeding governors, shall be considered honorary members entitled to all the rights and privileges of the club except the right to vote.”¹⁴³ These and other Wisconsin hunting clubs, like the Caw Caw

137. DORCETA E. TAYLOR, *THE RISE OF THE AMERICAN CONSERVATION MOVEMENT: POWER, PRIVILEGE, AND ENVIRONMENTAL PROTECTION* 28 (2016).

138. *Id.* at 67.

139. *Id.* at 65, 82.

140. *Id.* at 82.

141. *Nee-Pee-Nauk Clubhouse*, WIS. HIST. SOC’Y, <https://www.wisconsinhistory.org/Records/Image/IM40511> [<https://perma.cc/KA53-FXKK>].

142. *See generally* *Ne-Pee-Nauk Club v. Wilson*, 96 Wis. 290, 71 N.W. 661 (1897).

143. Walter A. Fraulisch, *Early Wisconsin Shooting Clubs*, WIS. MAG. HIST., June 1945, at 391, 395, <http://www.jstor.org/stable/4631705> [<https://perma.cc/S6FL-BXXM>].

Club and the aforementioned Diana Shooting Club, may have been organized by wealthy businessmen, but membership was still made up of plenty of everyday people. Whether the leaders of these clubs embraced their cross-cultural nature is another matter. For example, though membership in hunting clubs often required “bagging” a certain number of trophy kills, members dismissed any cries of environmentalist hypocrisy by insisting that their hunting had “an effect so trivial, that in comparison with that of the market hunter, it need not be taken into consideration. The game paucity of to-day is due to the skin hunter, the meat killer, [and] the market shooter.”¹⁴⁴ Though it may have been hard for the wealthy elites who instituted these clubs to conceal their apparent disdain for the lower classes, the clubs nevertheless helped pass some of the first national and state laws designating hunting seasons, protecting songbirds, and regulating fisheries.¹⁴⁵

For middle- and working-class Wisconsinites, the Great Depression created a reliance on conservation that went beyond subsistence and provided the push necessary for environmental causes to transcend some class norms, if not race and gender ones. The jobs provided by the CCC and Works Progress Administration (WPA) as part of the New Deal were not only lifesaving, but gave many Wisconsinites their first introduction to conservation.¹⁴⁶ As noted earlier, though Wisconsin had largely been spared the devastation caused by agricultural mismanagement that gave rise to the Dust Bowl in more southern states, the event was a wake-up call for policymakers who had earlier failed to heed warnings from academics that unchecked deforestation and water pollution in the northern part of the state would lead to disaster. In Wisconsin, the CCC was an especially potent force, employing “thousands of young men in the state’s cut-over areas and, to a lesser extent, in the development or improvement of recreational facilities in state and county parks.”¹⁴⁷ (It is perhaps not surprising that Grandpa Gerry Czarnecki was in the CCC as a young man.)

Despite the urgent need for a work-relief program with access to the federal coffers, Wisconsin policymakers were initially loath to accept money from any outsiders, lest the state become beholden to non-Wisconsinites. C.L. Harrington, superintendent of Wisconsin state parks and forests from 1923 to 1958, privately wrote of the proposed CCC camps, “I don’t like this taking

144. *A Plank*, FOREST & STREAM, Feb. 3, 1894, at 89.

145. See e.g., *Nee-Pee-Nauk Clubhouse*, *supra* note 141.

146. See Carol Ahlgren, *The Civilian Conservation Corps and Wisconsin State Park Development*, WIS. MAG. HIST., Spring 1988 at 184, 184–85, <https://www.jstor.org/stable/4636125> [<https://perma.cc/L7A8-MQ7G>].

147. *Id.*

money from Washington because then Washington can dictate to you what you can do and what you can't do. But the pressure's building up on me and I guess I've got to give in."¹⁴⁸ Harrington, a forester himself, was also concerned about the prospect of gaggles of ill-supervised young men without forestry experience being housed in public-funded camps in the cut-over areas of the state, writing that "[t]his did not appeal to the general line of thinking of any of us from this part of the country. At least from this state."¹⁴⁹ Nevertheless, in the summer and fall of 1935, the CCC established eight camps in Wisconsin state parks and one at the University of Wisconsin Arboretum in Madison, and extensive work projects were soon underway.¹⁵⁰ The state would eventually have forty camps that employed thousands of young men for trail marking, mapping, planning, tree-planting, and water preservation projects,¹⁵¹ allowing them to avoid idleness while sending money back home.

Though the U.S.'s entry into World War II cut off funding for the program by 1943, the CCC's legacy in the state was reflected in both Wisconsin policy and in the hearts and minds of working Wisconsinites.¹⁵² The state planning board commissioned a 1939 planning report by the landscape architect Kenneth Schellie, which recommended that state park policy going forward include master plans and topographical maps, use indigenous plants and building materials, and that structures should "harmonize" with their environment.¹⁵³ In 1983, fifty years after the CCC wrapped up its Wisconsin operations, the legislature passed a statute creating the Wisconsin Conservation Corps (WCC), which permitted women to work on projects and allowed (in fact, required) its members to live at home rather than on camps.¹⁵⁴ But intangibly, the experience of having so many of the young men of Wisconsin working in hands-on conservation projects also established the preservation of nature as an important aspect of being a Wisconsinite, giving members of the working class a genuine stake in the future of their state's natural resources, which if managed correctly could continue providing jobs and recreation forever. Emil Bellinger, a junior foreman at Perrot State Park's CCC camp, said in a 1985 interview reflecting on his experience, "This assistant superintendent asked: 'How the heck did you get people carrying stones up there? That's just like slave labor!' But we

148. *Id.* at 190.

149. *Id.* at 190–91.

150. *Id.* at 191–92.

151. *Id.* at 191.

152. *Id.* at 204.

153. *Id.* at 203.

154. *Id.* at 204.

were'n't carrying stones. Those boys were building a trail, and that was *their* trail."¹⁵⁵

By the end of World War II, Wisconsin had become the home of two groups—wealthy hunting club members and working class CCC alums—who, despite their myriad differences, had a shared interest in preserving the state's environment and natural resources. This helps explain why, as the national environmental movement crested in the 1960s and 1970s, Wisconsin became a leader in conservation policy. On one side were wealthy hunters with a long-standing interest in keeping Wisconsin's wilderness their playground, and on the other, everyday people who understood firsthand through the CCC and the state's conservation education program that clean air and water and a steady supply of timber required active stewardship of the environment. If the former had more direct access to the halls of power in the state, the presence of a public intervenor from 1967 to 1995 and the close relationship between the state's public university and its legislature may have slightly evened the playing field.¹⁵⁶ It certainly helps to explain why the legacy of Wisconsin's environmentalism—itsself part of the "Wisconsin idea"—is still considered deeply populist.¹⁵⁷ Whatever resentment may have existed between these two groups, on the issue of natural resource protection they could largely agree.

If Wisconsin's environmental legacy is typified by its establishment of the first Earth Day, the coalitions were responsible for several underappreciated successes in the years that followed. The bans on polychlorinated biphenyls in 1977 and on phosphate detergents in 1979, the 1982 Employees' Right to Know Act about toxic chemicals in their work environments, and the groundbreaking Nonmetallic Reclamation Bill of 1994 all demonstrate the power Wisconsin's citizens had to pass environmental laws, even those that were clearly unfriendly to businesses.¹⁵⁸

In the second half of the twentieth century, as middle-class liberal environmentalists came to replace elite hunting club members as the wealthy interest holders, while blue collar union workers stood in for the CCC alums,

155. *Id.*

156. See Sinykin, *supra* note 99, at 645, 664.

157. RUSSELL FEINGOLD, WHO YOU CALLING A POPULIST, BUDDY? (1996), <https://mail.populist.com/4.96.Feingold.html> [<https://perma.cc/Z9NZ-NZUB>] ("Of course, Senator Robert M. LaFollette Sr. of Wisconsin was a leading figure among progressives, and I am part of his progressive legacy. Part of that legacy is 'the Wisconsin idea,' the marshaling of the resources of government, business, academia and citizens' groups to come up with solutions to social and economic challenges.").

158. See Sinykin, *supra* note 99, at 646; Cannon, *supra* note 52; Shuettgeltz, *supra* note 113; Brian Obach, *The Wisconsin Labor-Environmental Network: A Case Study of Coalition Formation Among Organized Labor and the Environmental Movement*, 12 *ORG. & ENV'T* 45, 52 (1999).

the need for formalized coalitions became more apparent. By the mid-1970s, as nuclear energy became a “point of intense conflict” in the state, with workers who were supportive of the construction of more nuclear facilities on one side and environmental activists who were deeply opposed on the other, several groups with ties to both labor and environmentalism attempted to bridge the gap.¹⁵⁹ The most successful of these was the Wisconsin Labor-Environmental Network (WLEN), a group of environmental organizations and unions that was active in the 1980s and 1990s and emerged out of a national movement to coordinate lobbying to defend both OSHA and the EPA. Though not always capable of perfect cooperation, WLEN was vital for garnering citizen support for the recycling statute and the Workers’ Right to Know law.¹⁶⁰ Both groups benefitted from the collaboration, not just indirectly because clean air and water helps everyone, but tangibly: “Through their interaction with environmentalists who emphasized the significance of environmental issues to workers, union leaders developed a growing awareness of environmental problems and began to identify protecting the environment as a valid union issue.”¹⁶¹

Though coalition building was a critical force for the sustained efficacy of Wisconsin’s conservation lawmaking, the tenuousness of the relationships between group members from different socioeconomic classes had clear vulnerabilities that, when exploited, ushered in the downfall of environmental policy in the state.

B. The Fall of Wisconsin Environmentalism

Agriculture, particularly the dairy industry, remains an important economic and cultural aspect of Wisconsin life. While in the popular imagination the sector is run by mom-and-pop dairy farmers on quaint, low-impact farms, that is no longer the case: From 2015 to 2020, the state lost over 2,700 of its 10,000 small-scale, family-run dairy farms, while the number of industrial farms and concentrated animal feeding operations (CAFOs) saw a 55% increase in roughly the same period.¹⁶² Opponents of CAFOs point to their long-distance odors, groundwater pollution, increased methane emissions, and animal overcrowding that can lead to higher rates of disease¹⁶³—all issues that would

159. Obach, *supra* note 158, at 52.

160. *Id.* at 54.

161. *Id.* at 59.

162. Rick Barrett & Lee Bergquist, *Industrial Dairy Farming Is Taking Over Wisconsin, Crowding Out Family Operations and Raising Environmental Concerns*, MILWAUKEE J. SENTINEL, <https://www.jsonline.com/in-depth/news/special-reports/dairy-crisis/2019/12/06/industrial-dairy-impacts-wisconsin-environment-family-farms/4318671002/> [<https://perma.cc/BMP8-556V>] (Feb. 11, 2020, 8:30 PM).

163. D’Onofrio, *supra* note 124, at 3.

have made the Wisconsin environmentalists of the last century spring into action. Now, however, those environmentalists have little ability to redress the harms, or even avenues through which they can make their concerns heard by policymakers.¹⁶⁴ Thus, the rise of industrial farming is both the result of a decline in citizen environmental activism in Wisconsin and exemplary of the factors responsible for that decline.

Certainly, corporate lobbying and campaign contributions from the agribusiness sector helped elect state representatives in Wisconsin who were amenable to drowning out citizens' environmental concerns in favor of business interests. But something more subtle was also occurring: The coalitions that helped usher in Wisconsin's robust environmental policy in the twentieth century were fragile by design, making it almost miraculous that those groups had come together to support any policy at all. But the existing resentment between wealthy academics and blue-collar workers, paused when it came to some environmental issues, still roiled under the surface and could be weaponized by corporate interests. Exploiting those divides while also spending to ensure the Wisconsin legislature was more agribusiness-friendly would not only secure looser regulations for industry, but turn the fight into one between neighbors rather than one between citizens and corporate interests.

First, as noted above, industry groups began chipping away at citizen-environmentalists' abilities to intervene in environmental degradation, including by lobbying behind Wisconsin's 1982 Right to Farm Law. Adopted at a time when similar laws were sweeping midwestern states—and when CAFOs first started to proliferate in Wisconsin¹⁶⁵—the law was ostensibly designed to curb conflicts between residents of newly built suburbs and their preexisting agricultural neighbors by limiting the use of private nuisance actions against farmers.¹⁶⁶ However, the 1995 renewal of the act increased its strength and put sweeping limitations on what a citizen, or even the state, could do in the face of agricultural pollution.¹⁶⁷ The 1995 amendments raised the *prima facie* requirements for private nuisance from allowing recovery for substantial and unreasonable interference with the use and enjoyment of one's property to requiring a showing of a "substantial threat to public health or safety."¹⁶⁸

164. *Id.* at 3–4.

165. Andrew C. Hanson, *Brewing Land Use Conflicts: Wisconsin's Right to Farm Law*, 75 WIS. LAW. 10 (2002).

166. Schultz & Jacobs, *supra* note 122, at 133A–34A.

167. D'Onofrio *supra* note 124, at 62.

168. Hanson, *supra* note 165.

One narrative that was easily deployed to further break up the coalitions was “politicization.” Unable to bring most nuisance claims against agricultural interests, citizens concerned about environmental degradation were being pushed to appeal directly to policymakers—an effort that became significantly harder when, also in 1995, a state budget signed by Republican Governor Tommy Thompson had the effect of eliminating the public intervenor position and making the head of the DNR governor-appointed, rather than elected by the citizen-run Natural Resources Board.¹⁶⁹ Thompson purportedly wanted to “streamline” state operations.¹⁷⁰ Instead, the budget had the effect of kneecapping citizens’ access to the legislature and making what little protections remained less effective. For example, after the DNR was given the authority to oversee large-scale dairy operations in 2003, a 2010 study found that in seven years, the agency had never denied a permit request or revoked a permit when a farm exceeded pollution standards.¹⁷¹

As a lack of direct representation made it more difficult for concerned citizens to have a voice in environmental legislation, the jobs supplied by agribusiness made it undesirable to intervene at all. As recently as 2022, one in nine working Wisconsinites held jobs in the agriculture sector.¹⁷² With the interests of “Big Ag” seemingly opposed to the goals of environmentalists, insisting on more robust regulation of agriculture could understandably appear like a threat to those who depend on the industry for their livelihoods.¹⁷³ The result was citizens slowly turning away from environmental advocacy as their reliance on industry became more cemented, which ironically was in part because of laws like the Right to Farm Act.¹⁷⁴ No single event signaled the death of the Wisconsin environmental movement that had started with a bang only half a century earlier. Instead, as policy allowed major industries to flourish, there was a slow rending apart of the coalitions that had once made the environmental movement such a powerful force in the state. The result was environmentalism’s push to the fringes of state politics—and, perhaps more

169. Sinykin, *supra* note 99, at 664.

170. *Id.*

171. JUDEE BURR, BENJAMIN DAVIS & MEGAN SEVERSON, THE POWER TO POLLUTE: BIG AGRIBUSINESS’S POLITICAL DOMINANCE IN MADISON AND ITS IMPACT ON OUR WATERWAYS 6 (2013), https://environmentamerica.org/wisconsin/wp-content/uploads/2013/12/WI_AgriBiz_sern-2.pdf [<https://perma.cc/K4BS-CBEC>].

172. WIS. DEPT. OF WORKFORCE DEV., WISCONSIN AGRICULTURAL EDUCATION AND WORKFORCE DEVELOPMENT COUNCIL ANNUAL REPORT 10 (2022), <https://dwd.wi.gov/waewdc/pdf/reports/2022-waewdc-annual-report.pdf> [<https://perma.cc/T45Y-84FP>].

173. See generally Richard N.L. Andrews, *Environmental Regulation and Business ‘Self-Regulation’*, 31 POL’Y SCIS. 177 (1998).

174. See generally BURR, DAVIS & SEVERSON, *supra* note 171.

powerful, a loss of the state's conservation ethic. Though there are recent bright spots in Wisconsin environmental policy, such as the 2021 creation by Governor Tony Evers of the Office of Environmental Justice,¹⁷⁵ the robust citizen involvement of the past century has not yet recovered.

VII. CONCLUSION

Grandpa Gerry (1920–2007): The conservation movement started during Grandpa Gerry's formative years and died with him. What conditions allowed for the conservation movement and progressive reforms at the state level, and, later, for example, the Clean Air Act (1970) and Clean Water Act (1972) to be unanimously passed by the U.S. Senate¹⁷⁶ at the national level? Why did acts of environmental lawmaking end at the same time of conservation movement? Can the conservation movement be revived?

The early conservation movement, seeking to protect natural resources from exploitation, was not a democratic movement, instead relying on elites and experts.¹⁷⁷ A pamphlet in Grandpa Gerry's archives argues that these elite "conservationists and sportsmen in the past have been practically the sole guardians of the purity of public waters."¹⁷⁸ Perhaps elites are not the path to revitalize conservation today. For example, Justin Farrell's book, *Billionaire Wilderness*, uses Jackson Hole and the Yellowstone Club to illustrate how the ultra rich engage in environmental hoarding under the guise of conservation—

175. See Exec. Order No. 161: Relating to the Creation of the Office of Environmental Justice, Wis. Office of the Governor (2021), <https://evers.wi.gov/Documents/EO/EO161-OEJ.pdf> [<https://perma.cc/B9F8-EX77>].

176. Shelia Hu, *The Clean Air Act 101*, NAT'L RES. DEF. COUNCIL (Oct. 21, 2022), <https://www.nrdc.org/stories/clean-air-act-101#whatis> [<https://perma.cc/TRZ6-CWLS>]; *Celebrating the 50th Anniversary of the Clean Water Act*, WIS. DEP'T OF NAT. RES., [https://dnr.wisconsin.gov/topic/SurfaceWater/CWA50th#:~:text=History%20of%20the%20Clean%20Water%20Act&text=In%201972%2C%20growing%20public%20awareness,\(originally%20enacted%20in%201948\)](https://dnr.wisconsin.gov/topic/SurfaceWater/CWA50th#:~:text=History%20of%20the%20Clean%20Water%20Act&text=In%201972%2C%20growing%20public%20awareness,(originally%20enacted%20in%201948)) [<https://perma.cc/8Y73-JC26>].

177. See Adam Rome, *Conservation, Preservation, and Environmental Activism: A Survey of the Historical Literature*, NAT'L PARKS SERV. (Jan. 16, 2003), <https://www.nps.gov/parkhistory/hisnps/NPSThinking/nps-oah.htm> [<https://perma.cc/G6GC-WCB7>] (noting that the "classic starting point for the study of conservation" is SAMUEL P. HAYS, CONSERVATION AND THE GOSPEL OF EFFICIENCY: THE PROGRESSIVE CONSERVATION MOVEMENT, 1890–1920 (1959)); *id.* ("Before Hays, scholars accepted the view of conservation held by the movement's first leaders, who saw themselves as champions of democracy: The conservation movement sought to protect the nation's natural resources from short-sighted exploitation by rapacious corporations. Hays rejected the view that the movement was democratic. He argued instead that the driving force among conservationists was a commitment to scientific management of resources by experts. For Hays, a new understanding of the conservation movement provided new insight into the reform spirit of the Progressive era.").

178. Reid, *supra* note 70, at 11.

an example of the cooptation of environmentalism in the most anti-progressive way possible.¹⁷⁹

Perhaps a modern conservation movement will come from workers, which raises the questions of who comprises the modern working class and how can they be activated. Purdy, in his book, *This Land is Our Land*, notes the “anomalous period of widely shared growth that lasted across the North Atlantic between the end of World War II and the beginning of the 1970s.”¹⁸⁰ For Grandpa Gerry, and activists leading up to and during this period of prosperity, “the workplace and the woods and the waters were all part of the environment, and working people should defend both to defend themselves.”¹⁸¹ The existence of this period must be proven and evaluated to determine under what conditions it arose, can be (re)created and, most importantly, sustained. Perhaps this is what the current “sustainability” movement is attempting to achieve.

While Purdy is optimistic about the future of environmental law, it is unclear who takes the place of the now destroyed union movement. As Purdy states:

The beginning of the modern environmental lawmaking was the last domestic act of the New Deal state. . . . Legislators assumed that they could retool national capitalism. The activist and radical wings of organized labor talked about striking to enforce environmental and health and safety standards. Most of that would seem fantastical today. But maybe it need not.¹⁸²

The factors that allowed environmentalism to flourish in Wisconsin are not extinct. By tying future prosperity to the state’s natural resources, through the creation of jobs in natural resource conservation, for example, it can flourish again. There is reason for optimism. The Citizen Climate Corps proposed by President Joe Biden has already taken off in states across the country, funded by a mix of federal and state investment and employing young people to become stewards of their local resources.¹⁸³ While nowhere near the scale of the CCC as of yet, the Citizen Climate Corps models a modern application of the same kind of public investment in conservation jobs that helped build

179. JUSTIN FARRELL, *BILLIONAIRE WILDERNESS: THE ULTRA-WEALTHY AND THE REMAKING OF THE AMERICAN WEST* 83–84, 155–157 (2020).

180. PURDY, *supra* note 14, at 130.

181. *Id.* at 134. To me, this is the best phrase of his book.

182. *Id.* at 90.

183. Maxine Joselow, *Civilian Climate Corps Programs Take Off in States Across the Country*, WASH. POST (Oct. 14, 2022, 7:40 AM), <https://www.washingtonpost.com/politics/2022/10/14/civilian-climate-corps-programs-take-off-states-across-country/> [https://perma.cc/9URE-2NVR].

personal connections between Americans and their environment that the CCC accomplished nearly a century ago, thereby ushering in the demand for more conservation policy from the bottom up. As the history of Wisconsin's conservation movement shows, creating opportunities for citizens to understand their personal, individualized stake in the future of the country's natural resources can go a long way toward protecting those resources through the law.

Appendix A

Chronology of the Wisconsin Conservation and Environmental Laws and Agencies¹⁸⁴

Year	Event
1851	First restrictions on game species established.
1854	Law passed forbidding the trapping or snaring of quail, grouse, and prairie chicken except on one's own land.
1855	First law restricting hunting to a limited area, not on the land of another, was passed.
1857	Law created forbidding anyone to kill, trap, or wound songbirds within any cemetery, or to destroy nests or remove eggs and young birds from nests.
1864	Law passed banning the killing or trapping of muskrat, mink, otter, beaver, fisher, marten, or fox within a certain calendar period; this was the first law created protecting mammals other than deer.
1867	First State Forestry Commission authorized.
1871	First law passed to prohibit certain methods of hunting.
1873	State Association for the Preservation of Game formed.
1874	Three-person Fish Commission appointed to distribute fish spawn received from the Federal Bureau of Fisheries.
1879	Rolla Baker appointed as Wisconsin's first warden.
1885	Three "fish wardens" authorized to patrol the Great Lakes.
1887	First four "game wardens" authorized by law.
1891	Office of the State Fish and Game Warden created.
1892	First official observance of Arbor Day in Wisconsin.
1897	Three-person Forestry Commission established.
1899	Interstate Park Commission appointed.

184. *Chronology of Wisconsin History Since 1848*, WIS. HIST., <http://www.wishistory.com/wishistory.html> [<https://perma.cc/CJ4G-9M2L>]; Kathryn A. Kahler & Andrea Zani, *From the Archives of a 'Superagency' Five Decade Timeline Tells Tale of DNR Dedication and Endurance*, WIS. DEP'T OF NAT. RES. (2018), <https://dnr.wisconsin.gov/sites/default/files/topic/documents/DNR%2050%20Timeline.pdf> [<https://perma.cc/LKC3-U524>]; *Environmental Law*, WIS. STATE L. LIBR., <https://wilawlibrary.gov/topics/environ.php> [<https://perma.cc/ARV9-JT46>]; *Wisconsin's Environmental Education & Conservation History*, *supra* note 1; Gjestson, *supra* note 7; U.S. DEP'T OF AGRIC., NAT. RES. CONSERVATION SERV., *supra* note 10, at 8, 10, 37, 48–49; *Long List of 'Firsts' for Wisconsin Forestry*, *supra* note 10; Main, *supra* note 16; Otjen, *supra* note 16; MICHAEL BEST & FRIEDRICH LLP, *supra* note 17; Thomas, *supra* note 41.

1901	Legislature bans catching or killing of any wild birds except game birds; first state park at St. Croix Falls.
1903	Department of State Forestry established with authorized superintendent.
1904	First state forester appointed, E. M. Griffith.
1905	Forestry Commission replaced by the State Forestry Board.
1907	Act passed exempting all lands planted to forest trees, up to forty acres per person, from taxation.
1908	First Wisconsin Conservation Commission created (seven unsalaried men).
1909	Forestry Board authorized to inspect any locomotives operating in the forest region and order out of use any engines without proper protection to prevent forest fires.
1911	Conservation Commission reauthorized; first state nursery established at Trout Lake, Vilas County.
1913	Elk protected for the first time; law creates the State Game Farm authorizing state fish and game wardens to purchase game birds and eggs for breeding and propagation; first legislative recognition of the importance of education in conservation through law enabling game warden to request that subordinates do educational work lecturing at schools, farmers' institutes, and other meetings.
1915	Three-person salaried Conservation Commission and state Board of Agriculture created.
1917	Law passed requiring public school teachers to spend thirty minutes each month teaching protection of animal and bird life; Conservation Commission temporarily granted power to open and close hunting seasons, subject to legislative revision.
1923	One-person salaried Conservation Commission authorized.
1927	Wisconsin Conservation Commission and Department created (WCD); Conservation Commission appointed a research bureau to study game diseases; Forest Crop Law creates first forest land tax relief; County Forest Reserve Law enacted.
1928	Division of Game formed within the Wisconsin Conservation Department; Langlade County establishes first county forest.
1933	Wisconsin Conservation Department authorized to open and close seasons, prescribe bag limits, and regulate methods of harvesting fish and game; Civilian Conservation Corps formed; U.S. Soil Erosion Service begins first soil erosion control project near Coon Valley, Wisconsin.
1934	County Game Committees formed.

1935	First statewide forest inventory conducted; Wisconsin Conservation Education Statute passed.
1936	First rules protecting groundwater quantity adopted through regulation of groundwater well installation.
1937	Soil Conservation District Law passed, establishing conservation districts; Federal Aid in Wildlife Restoration Act (Pittman-Roberson Act) became law.
1939	County Game Committees renamed Conservation Congress.
1941	Conservation Curriculum Committee established within Department of Public Instruction (DPI).
1951	First statewide program for acquiring and managing natural areas for scientific research, teaching conservation and natural history, and preserving rare plant and animal species and communities established.
1968	Wisconsin Conservation Department becomes the Wisconsin Department of Natural Resources (DNR) and Natural Resources Board is created.
1969	First rules regulating dumps take effect.
1970	First Earth Day, founded by Senator Gaylord Nelson, is celebrated.
1971	Wisconsin Environmental Education Council (WEEC) created by executive order; Wisconsin becomes first state to ban DDT pesticide.
1972	Wisconsin Environmental Policy Act becomes law; first list of Wisconsin endangered and threatened species developed following enactment of state's endangered species law.
1974	State's first Inland Lake Renewal Project created; EPA delegated authority to administer NPDES program to State of Wisconsin through Wisconsin Pollutant Discharge Elimination System (WPDES); first comprehensive metallic mining law passed.
1975	Wisconsin Water Pollutant Discharge Elimination System is developed.
1976	DNR issues first fish consumption advisory warning people not to eat Great Lakes fish contaminated with PCBs.
1977	Bans the production and sale of toxic industrial chemicals polychlorinated biphenyls (PCBs); Great Lakes Commercial Fishing Boards and Wisconsin Waterways Commission created; Wisconsin becomes first state to adopt a wildlife policy by administrative rule; Hazardous Waste Management Act enacted.
1978	Office of Endangered and Nongame Species created within DNR; Wisconsin's Hazardous Substance Spills Law enacted.

1979	Bans phosphates in home detergents (with three-year sunset date); DNR creates an environmental education specialist position; fish and game violation hotline created.
1980	DNR forms Acid Deposition Task Force; Wisconsin's Shoreland Protection Program enacted.
1981	Waste Facility Siting Board (WFSB) created.
1982	Wisconsin Soil Conservation District Law revised, abolishing conservation districts and establishing Land Conservation Committees as a unit of county government; Bureau of Endangered Resources formed.
1984	Ban on phosphates in home detergents renewed.
1985	Curriculum planning standard enacted by Wisconsin State Legislature requiring that school districts develop and implement K-12 environmental education curriculum by September 1, 1990; environmental warden positions created.
1985	Wisconsin bans lead shot in hunting as lead pollutes streams and introduces the toxin into the food chain when hunting waterfowl.
1986	Governor Tony Earl signs Wisconsin's Acid Rain Law; Natural Resources Foundation of Wisconsin established.
1988	Air Toxics Rule limits emissions of 438 hazardous air pollutants; six peregrine falcons released by DNR marking return of bird to Wisconsin that was nearly extinct in the 1970s.
1990	Recycling and Waste Reduction Law enacted; statutes enacted creating the Wisconsin Environmental Education Board (WEEB); DNR urban forestry program created.
1992	Strict law regulating disposal of air conditioners and other appliances that could have effects on the ozone layer created.
1993	Outbreak of waterborne disease, Cryptosporidia, leads to new monitoring of drinking water drawn from lakes and rivers.
1994	Wisconsin's Land Recycling Law takes effect to address abandoned and contaminated brownfields.
1995	Statutes revised to include the principle of sustainable forest management; Brownfields Revolving Loan Program created through legislation.
1997	Environmental Remediation Tax Incremental Financing Law passed; new legislation requires municipalities to develop plans to control runoff.
1998	Wisconsin Model Academic Standards for Environmental Education are developed and published by the Department of Public Instruction; first automated license issue system created.

2001	LEAF Program (K-12 Forestry Education Program) created, coordinated by DNR Division of Forestry and Wisconsin Center for Environmental Education.
2002	Captive Wildlife Law enacted; Natural Resources Board adopts rule package to reduce polluted runoff from farms, urban areas, and construction sites.
2003	Office of Energy formed to coordinate utility project reviews with the Public Service Commission.
2004	Groundwater protection laws expand DNR's authority; Green Tier law allows businesses with good environmental record to benefit beyond the regulatory process; Wisconsin's mercury rule created, requiring large coal-fired utility plants to reduce mercury emissions; Livestock Facility Siting Law passed.
2006	Digital soil survey of Wisconsin completed; Renewable Energy and Energy Efficiency Bill passed; Wisconsin joins Interstate Wildlife Violator Compact; out-of-state firewood banned from state parks.
2007	Emergency rules created to control spread of viral hemorrhagic septicemia, a deadly fish virus found in Lake Winnebago; first urban park in state park system created at Lakeshore State Park.
2008	Rule approved to reduce mercury emissions by 90%; Great Lakes Compact ratified.
2009	Mentored Hunting Bill passed, allowing children ten and up to hunt accompanied by an adult; ballast water regulation begins; Electronic Recycling Bill signed into law; DNR launches Clean Diesel Grant Program.
2013	Guidelines for Wetland Compensatory Mitigation in Wisconsin are finalized; Wisconsin Walleye Initiative begins to restock walleye in Wisconsin lakes.
2017	Minimum age for hunting removed.