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## Water Ethics: Law and Policy

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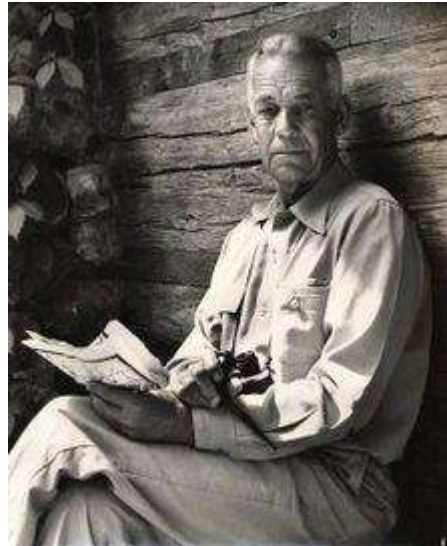
# Environmental Ethic in Wisconsin

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- ▶ Strong history of environmental protection
- ▶ Natural resources are an integrated part of our economy



John Muir



Sigurd Olson



Aldo Leopold



Gaylord Nelson



# Public trust doctrine

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- ▶ **Wisconsin Constitution Article IX, Section I:**
  - ▶ **Jurisdiction on rivers and lakes; navigable waters.** SECTION 1. The state shall have concurrent jurisdiction on all rivers and lakes bordering on this state so far as such rivers or lakes shall form a common boundary to the state and any other state or territory now or hereafter to be formed, and bounded by the same; and 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 to the inhabitants of the state as to the citizens of the United States, without any tax, impost or duty therefor.



# Public trust doctrine: evolution

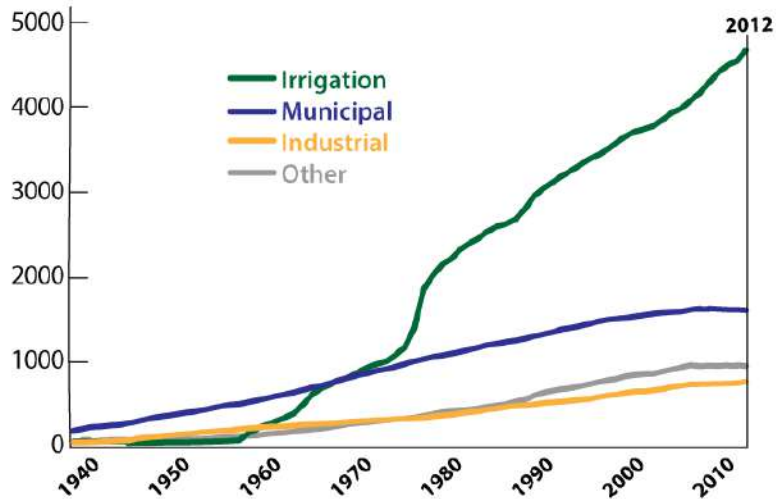
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- ▶ Codified in Chapter 30 (navigation & navigability)
- ▶ Extended by caselaw to water quality
  - ▶ Also grants jurisdiction to DNR or other regulating entities to shoreland or adjacent wetlands due to their immediate impact on water quality and public trust.



## High capacity wells by type in Wisconsin

Number of operating wells with a daily capacity of 100,000 gallons per day or more



Data: Wisconsin Department of Natural Resources Credit: Kate Prengaman/Wisconsin Center for Investigative Journalism



## Public trust doctrine: Groundwater

- Groundwater legislation only got the job half done because it didn't adequately protect impacts to surface waters.
- Disputes over groundwater/surface water rights led to legal action.
  - Lake Beulah
  - Richfield Dairy
  - New Chester Dairy



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# Water quality/quantity: Current challenges

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- ▶ Water quantity issues pervasive in central sands
- ▶ Water quality issues front & center:
  - ▶ Dead zone in Green Bay
  - ▶ Drinking water problems in Kewaunee County
  - ▶ Beach closings due to blue/green algae around the state
  - ▶ Drinking water contamination in Southeast Wisconsin
- ▶ Special interest involvement:
  - ▶ WMC, Farm Bureau, DBA, Realtors, Builders largely driving the agenda
- ▶ Rollbacks: Ch. 30, wetlands, shoreland zoning, mining
- ▶ We've been able to stop some important rollbacks: groundwater, local control of frac sand mining, delay of phosphorus rules



# Current Legislative Issues

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- ▶ What's going on now in the Legislature?
  - ▶ 2015-17 Biennial Budget
    - ▶ \$6 million in cuts to polluted runoff management efforts
      - County conservations staffing
      - Urban and rural pollution control grants
    - ▶ \$15 million in cuts to science, research and education
      - DNR science services and environmental educators, UW Extension, WI Environmental Education Board and WI Center for Environmental Education
      - Grants to non-profit conservation organizations that leverage volunteer manpower for resource management
    - ▶ \$15 million in cuts to Wisconsin environmental traditions
      - Knowles-Nelson Stewardship land conservation program
      - Makes Natural Resources Board Advisory
      - Cuts State Parks system, recycling funding



# Current legislative Issues

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- ▶ Groundwater (water quantity)
- ▶ Shoreland Zoning
- ▶ Water Quality
  - ▶ Farmer led councils
  - ▶ Other ideas floating around the Capitol
- ▶ Frac Sand Mining
- ▶ Microbeads



Photo Credit: George Kraft





# Status of phosphorus rules

- ▶ In 2010, Wisconsin enacted innovative and cost effective rules to control phosphorus from point sources
  - ▶ Includes the Adaptive Management Option, whereby point sources can pay for nonpoint source pollution control – the biggest bang for the buck
  - ▶ An adaptive management project is being implemented in the Yahara River watershed, with the involvement of the Yahara Pride group of farmers
  - ▶ NEW Water (Green Bay) is piloting an adaptive management project in Silver Creek
- ▶ In 2014, Wisconsin passed a bill creating a variance process - rather than using the adaptive management option or technology upgrades, a point source pays into the county conservation system to help reduce phosphorus
  - ▶ That variance proposal must be approved by EPA, and is making it's way through the process right now



# QUESTIONS/DISCUSSION

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