

Sen. Mark Miller: What Happened to Wisconsin?

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MADISON - Wisconsin has a rich heritage of conservation. From the Native American Tribes who inhabited this land for generations, to John Muir, Aldo Leopold, Warren Knowles and Gaylord Nelson – Wisconsin has been a national leader in protecting our land, water and air. The public trust doctrine, enshrined in our state constitution, guarantees that the waters of Wisconsin belong to the people of Wisconsin.

There was a time when this was a shared ethic amongst Democrats and Republicans. Our greatest environmental achievements have always been accomplished together, working toward the goal of making a better Wisconsin for our children and grandchildren. But today, I am disturbed by the erosion of that shared commitment. Governor Walker and Legislative Republicans seem to be rushing towards a new era, one where the bipartisan promises of the past are cast aside in the name of eliminating obstacles for business. Three examples from this legislative session alone demonstrate this regression.

In the early 2000s, water bottling giant Perrier had a plan to open a facility in the central sands

of Wisconsin. There was great concern for the impact this might have on our groundwater resources. High capacity wells in that area have a direct impact on surface waters. As we can see today, they cause lake levels to decrease and rivers to run dry. The threat of Perrier brought together Republicans, Democrats and Democratic Governor Jim Doyle to pass what was supposed to be the first step in protecting groundwater quantity. 2003 Wisconsin Act 310 was passed nearly unanimously, 99-0 in the Assembly and 31-1 in the Senate and signed into law by Governor Doyle. In the years that followed, bi-partisan study groups continued to look at the issue to determine what those next steps forward might be to ensure everyone has reasonable access to the waters of the state.

The 2010 election resulted in the Republican control of both houses of the Legislature, the Governor's office and an about face on the approach to environmental protection. Earlier this year, Republicans passed Wisconsin Act 10 on a partisan 62-35 vote in the Assembly and 19-13 vote in the Senate. The law allows for the repair, replacement and transfer of high capacity well permits without DNR approval. Because high capacity well permits are the only environmental permits without an expiration date, the provisions of this bill essentially grants permanent access to groundwater for those permit holders. This is in direct conflict with the Wisconsin state constitution which protects the waters of Wisconsin for the benefit of all users. It guarantees that the current problems with surface waters in the central sands will continue to get worse.



In the mid-1990s, the threat of a sulfide mine in Crandon, Wisconsin brought Democrats and Republicans together to pass the mining moratorium. This legislation, 1997 Wisconsin Act 171, was passed with overwhelming support, 91-6 in the Assembly and 29-3 in the Senate and signed by Republican Governor Tommy Thompson. Sometimes referred to as the "Prove it First" law, it simply requires that anyone wanting to operate a sulfide mine in the state of Wisconsin needs to demonstrate that another similar mine has been able to operate and close somewhere in the United States without polluting for at least 10 years. Because there has not yet been an example of a mine that can operate without causing pollution, Republicans now want to change the law.

Sen. Tom Tiffany (R-Hazelhurst) and Rep. Rob Hutton (R-Brookfield) have introduced Senate Bill 395 and Assembly Bill 499 which repeal the current Prove it First law. The bill appears to have widespread support on the Republican side. It passed the Senate Sporting Heritage, Mining and Forestry Committee on a partisan 3-2 vote and is rumored to be scheduled before the full Senate later this fall. It is widely opposed by Native American Tribes, conservationists, and government watchdog organizations. But that is virtually meaningless against strong Republican backers like Wisconsin Manufacturers & Commerce and Americans for Prosperity.

The most recent attack was unleashed at the end of September. A new bill is being circulated by Sen. Roger Roth (R-Appleton) and Rep. Jim Steineke (R-Kaukauna) that will end protection for isolated wetlands in Wisconsin. There are two kinds of wetlands and they are regulated differently. The U.S. Army Corps of Engineers, through the Clean Water Act, has jurisdiction over wetlands that are connected to navigable waters. Other wetlands, those that are geographically isolated, are protected by Wisconsin, thanks to a dedicated group of bi-partisan lawmakers.

In 2001, a U.S. Supreme Court decision, *SWANCC vs. U.S. Army Corps of Engineers*, left all geographically isolated wetlands unprotected. In the wake of that decision, legislators in Wisconsin sprang into action. A concerted effort over a 5 month period led to Republican Governor Scott McCallum calling a Special Session to pass a bill which put in place state-level protection for isolated wetlands. 2001 Wisconsin Act 6 was passed unanimously by both houses of the Legislature. Since 2011, a number of proposals have chipped away at the 2001 law, but the latest, LRB 4115/1, proposes eliminating state protection for isolated wetlands.

What has happened to Wisconsin? Not that long ago, when faced with an environmental crisis, Democrats and Republicans worked hand-in-hand to come up with common sense solutions. I worked diligently with my colleagues on both the wetlands and groundwater laws during my tenure in the State Assembly and was proud to have voted for both. Now I see a new generation of Republican lawmakers, very different from the last, who fail to see the forest for the trees.

Native Americans, originating from the Great Law of the Iroquois, have approached conservation with the concept of the seventh generation. Decisions made today should be ones that benefit seven generations from now. While I know we have fallen short at times, the core of that philosophy has been at the heart of Wisconsin's past environmental law. It's what brought us together to ban sulfide mining, protect groundwater and isolated wetlands in an

overwhelming, unified voice.

Today, there is not thought given to seven generations. Rather, the next generation will be saddled with the damage inflicted today. I hope that they are able to rise to the challenge and repair what has been broken.

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