

# A History of Fish and Wildlife Conservation in the United States



## Whitney Tilt

Transplanted bighorn sheep released on Beartooth  
Wildlife Management Area, Montana, 2017

## Why Care about the history of conservation?

Alice: Which way should I go?

Cat: That depends on where you are going.

Alice: I don't know.

Cat: Then it doesn't matter which way you go.”

Lewis Carroll, *Alice in Wonderland*



## What is Conservation?

The challenge of preserving and managing natural resources for the use of future generations by restricting their use by the present generation.

Action: Preserve and manage natural resources

Beneficiary: Future Generations

Cost: Restrictions on use by the present generation



**Wildlife** includes all nonhuman and non-domesticated animals, including fish, reptiles, insects, etc.



**Game** describes animals that are pursued for sport or subsistence and are generally regulated by some entity (in the U.S. it is generally the states).



**Fish (fishes)** is a specific subset of vertebrate wildlife that has gills and fins and lives wholly in water. Commonly denotes “sport” fish.





## **A History of Conservation:**

1. The King's Wildlife and Colonial America to 1815
2. Growing Voice of Sportsmen & Public Trust Doctrine
3. Beginning of Comprehensive Laws & Management
4. Conservation Comes of Age

1. The King's Wildlife  
and Colonial  
America to 1815

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*...strayne, then Bucke and dew doe bound  
and nimble riddeth ground.* COURSING FALLOW DEERE. *But when theyre pinch't the Keeper with his  
with speede makes in and there doth end theyre*



## First Wildlife Law?

Kublai Khan, Mongol Emperor c. 1259-1294 AD, decreed no taking of any animals from March to October.





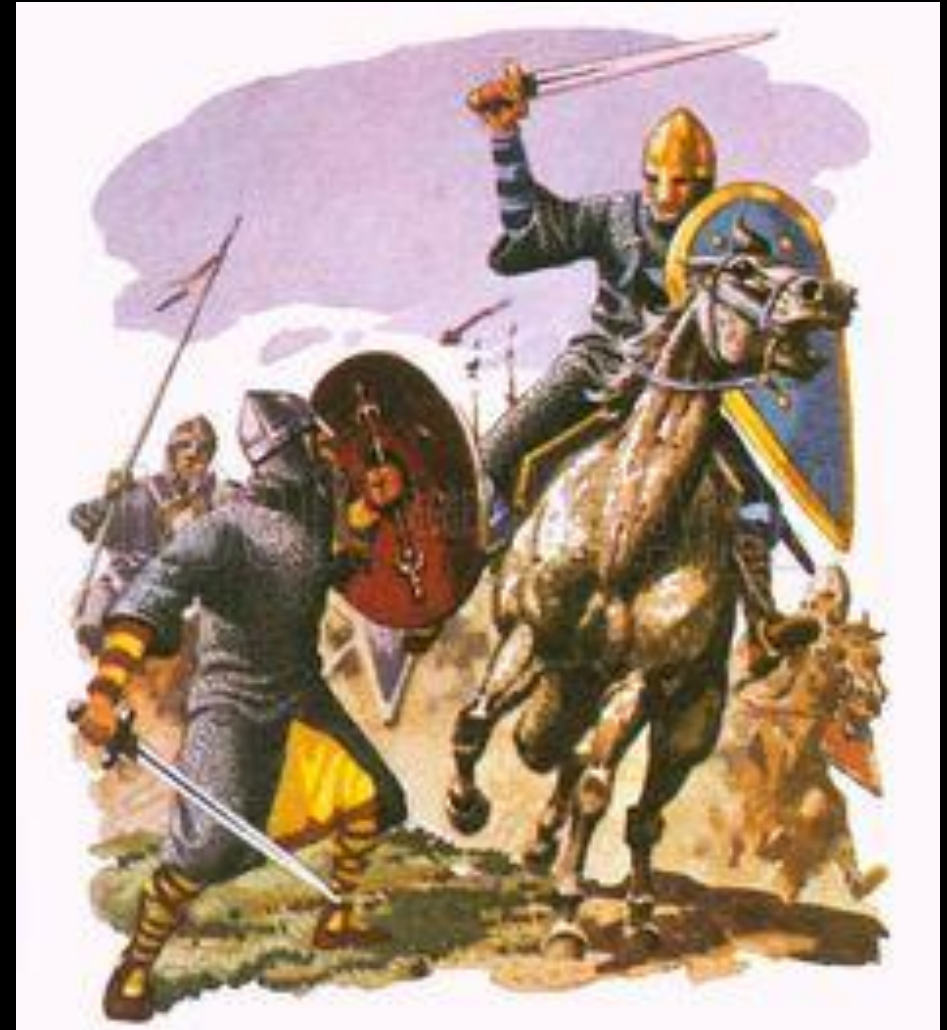
## The King's Wildlife

**Nothing controlled who had weapons more effectually than a prohibition of hunting and sporting.** Therefore it was the policy of the conqueror to reserve this right to himself and such on whom he should bestow it. Accordingly we find in the feudal constitutions, the same law “**prohibiting the rustici** in general from carrying arms, and also proscribing the use of nets, snares, or other engines for destroying the game.”

Sir William Blackstone (1723-1780), legal scholar of Anglo-American jurisprudence

Rustici: Lat. In feudal law. Natives of a conquered country. In old English law. Inferior country tenants, churls, or cliorls, who held cottages and lands by the services of plowing, and other labors of agriculture, for the lord.

- The **Saxon invasion** of England (c. 450 AD)
- **Norman conquest** of Britain (1066 AD), and others
- The majority of laws enacted during this period of **conquest and struggle** for domination maintained the status quo and continued the privilege of access for the noble classes.
- **Magna Carta** (1215 AD) directs the removal of obstructing weirs and nets.



## Magna Carta, 1215 AD

Charter of rights agreed to by King John of England, 1215 AD.

- Promised protection of church rights, protection for the barons from illegal imprisonment, access to swift justice, and limitations on payments to the Crown.
- Neither side stood behind their commitments, and the charter was annulled, leading to war.
- Directs the removal of obstructing weirs and nets.





The Legend of Robin Hood revolves around the unfair treatment of citizens at the hands of King John, especially taxes and access to Sherwood Forest, a royal forest where only the King and his retainers are permitted.



# The Black Act (1725)

- ✓ Any offender who was armed and with a blacked face, armed and/or disguised, found in a forest or royal park, could be **sentenced to death**.
- ✓ It was an offence to hunt, kill, wound or steal deer in these locations, with the first offence punishable by a fine, and the second by **penal transportation**.
- ✓ Other criminalized activities included fishing, the hunting of hares, the destruction of fish-ponds, the destruction of trees and the killing of cattle in these locations – the latter also **punishable by death**.
- ✓ The Act introduced the **death penalty** for over 50 criminal acts.







Assume King George II might have considered this as a violation of his Black Act

<https://www.realtree.com/realtree-max-5-camo>



## Wildlife for Me, Not You

- Game in England was **owned by the Crown**.
  - “royal” species like deer, falcons, and sturgeon that had commercial value and/or sport value.
- Game could be **hunted only with the Crown’s permission**.
- Crown commonly designated large areas of land as royal forests, which were **set apart for the Crown’s exclusive use**.
- Poaching and other violations brought **brutal penalties**.

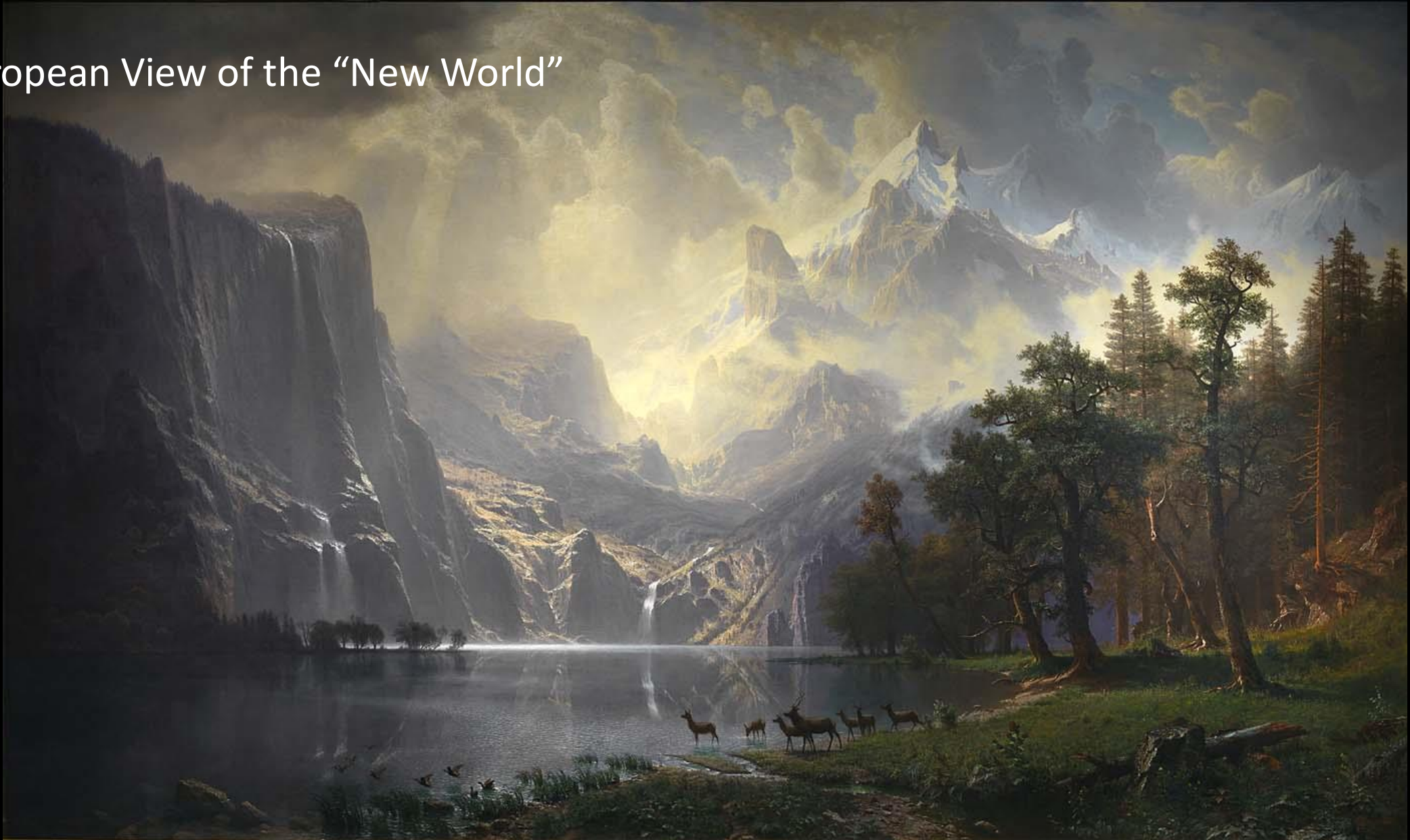
# European Settlement of the New World

“... what could they see but a hideous and desolate wilderness full of wild beasts and wild men?”

Journal of William Bradford, 1620.



## European View of the “New World”



Albert Bierstadt. Among the Sierra Nevada, 1868. Oil on canvas. Smithsonian American Art Museum.





## Era of Abundance & First Game Laws

**1607.** Captain John Smith reported the French were shipping 25,000 beaver pelts per year to Europe. By 1650, beaver were commercially extinct in the American Colonies.

**1630.** Massachusetts Wolf Bounty paid one shilling for each wolf killed.

**1646.** Rhode Island establishes a deer hunting season; violators paid 5 pounds if they got caught.

**1704.** New York protects game birds during the breeding season.

**1748.** North Carolina ships 160,000 deer pelts of England.



Setting: Suffolk County, New York

Lodowick Post, is hunting with his hounds on  
“unpossessed land.”



His hounds jump a fox and are in hot pursuit.





Just as Post is closing in on the fox...

Out steps Jesse Pierson.  
Who promptly kills the fox  
And departs with his prize.

## What Happens Next?

1. \_\_\_\_\_ Pierson says “That’s my fox you #\$\$%!” and Post returns the fox.
2. \_\_\_\_\_ Pierson forgets the whole thing and goes home to watch the Mets on TV.
3. \_\_\_\_\_ This seemingly trivial spat is taken to court and the case becomes an early and celebrated judicial decision.



## Pierson v. Post (1805)

- A long drawn-out legal wrestling match with the parties spending well over a \$100,000 by today's currency.
- Citing the rule of capture, the New York Supreme Court finds for Pierson because he physically ended up with the fox. The lesser act of hot pursuit does not qualify as possession.
- The dissent argues the key policy to be one of fairness among hunters.

## Who Could Hunt in Early America?

In general, citizens were free to take fish and game on all unenclosed lands, even if the land was privately owned.

The 1683 Frame of Government of Pennsylvania set forth the right of its citizens “to fowl and hunt upon the land they hold, and all other lands therein not enclosed.”

“The time of sporting lasts from the 1st of January to the last day of December, as every person has a right of sporting, on all unenclosed land, for all sorts of wild animals and game, without any license or qualifications as to property...”

Englishman John Woods, c. 1820, southeastern Illinois





## Second War for American Independence, the War of 1812

## Human Geography in 1815

With France and Britain no longer contesting U.S. authority on the North American continent and American borders now secure, the United States was now free to spread westward, unmolested.

Three empires: **United States, Mexico, and British North America**, and **countless Native American tribes** maintaining a de facto independence.

Significant First Nations cultures exist in different regions of North America, but “the minds of most Americans were cluttered with stereotypes of warlike, primitive savages who hindered the civilizing work of those of European descent.”  
(Udall 2002)



1844. James Polk elected president.

- Southwest belonged to Mexico.
- Republic of Texas faced off with Mexico
- Great Britain and U.S. vied for the Oregon Territory

Four years later these disputed lands were all part of the United States.





“[It is America’s] **manifest destiny** to overspread and to possess the whole of the continent which Providence has given us for the development of the great experiment of liberty and federative self government entrusted to us.”

John O’Sullivan, editor of *Democratic Review* (1845) in Udall (2002)

Note who’s progressing and who’s retreating



American Progress, John Gast (1872)



“[It is America’s] manifest destiny to overspread and to possess the whole of the continent which Providence has given us for the development of the great experiment of liberty and federative self government entrusted to us.”

### Exercise:

Examining O’Sullivan statement and the underlined words, discuss this statement in terms of the existing human geography of North America at the time (1844) and present day.



## 2. Growing Voice of Sportsmen & Public Trust Doctrine

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# “Who hears the fishes when they cry?”

Henry David Thoreau, *A Week on the Concord and Merrimac Rivers* (1849)



Great Stone Dam, Lawrence, MA. Erected 1815 by the Essex Company. The largest made-made structure of its time: 900-feet long, 30-feet tall, 35-feet thick

## Sportsman

A “sportsman” of the 18th and 19th Century would be defined as a man (not women) who hunts, shoots, and fishes wild animals as a pastime, and (optional) “that behaves sportingly in his conduct of the sport.”

Statesman and sportsman Daniel Webster believed that **hunting and fishing should be conducted according to ethical rules of conduct.**

In 1822, serving in the Massachusetts House of Representatives, Webster introduced a bill passed into law that “no man in the State shall catch trout in any other manner than with the ordinary hook and line.” This is believed to be the first law against netting.



## Sportsmen:

- Witnessed and documented the **increasing loss** of fish and wildlife and **pressed for action**, such as closed seasons and bag limits.
- Formed clubs and game associations that increased their clout.
  - 1887- Boone and Crockett Club.
- Faced a **wall of hostility** from the general populace to any kind of infringement on their individual rights to do whatever they wished.
- Were **handcuffed by the near total** lack of legal precedents and enforcement capability.



## Market Gunning

- Commercial demand for ducks led to market hunting
- At first legal, then illegal
- Highly effective
- Sneak skiffs, Punt Guns, Jack-lighting



Lining up a punt gun shot. Chief U.S. Game Warden George A. Lawyer, with an illegal 10'9" shotgun weighing 250 pounds, 1920.



Jacklighting ducks. Group of illustrations of Michigan hunting scenes published in *Scribners Monthly*, November 1877



## The Feather Trade

“The more exotic, the more expensive, and the more expensive, the more status conferred upon its owner.”

- By 1850, the killing and sale of birds for the millinery trade was big business resulting in the deaths of millions of birds from around the globe.
- Feather, millinery and related trades all run by men. Men also encouraged women to wear the fashionable feather hats as status symbols.
- By 1900, more than 83,000 workers were employed in New York’s millinery trade fed by an estimated 200 million North American birds killed each year.

Woman wearing a complete stuffed Bird of Paradise and Snowy Egret to display her fashion sense.  
Quote: Kirk Wallace Johnson in *The Feather Thief*





## Blue Books and Tea Parties

“It [is] a common thing for a rookery of several hundred birds to be attacked by the plume hunters, and in two or three days utterly destroyed.”

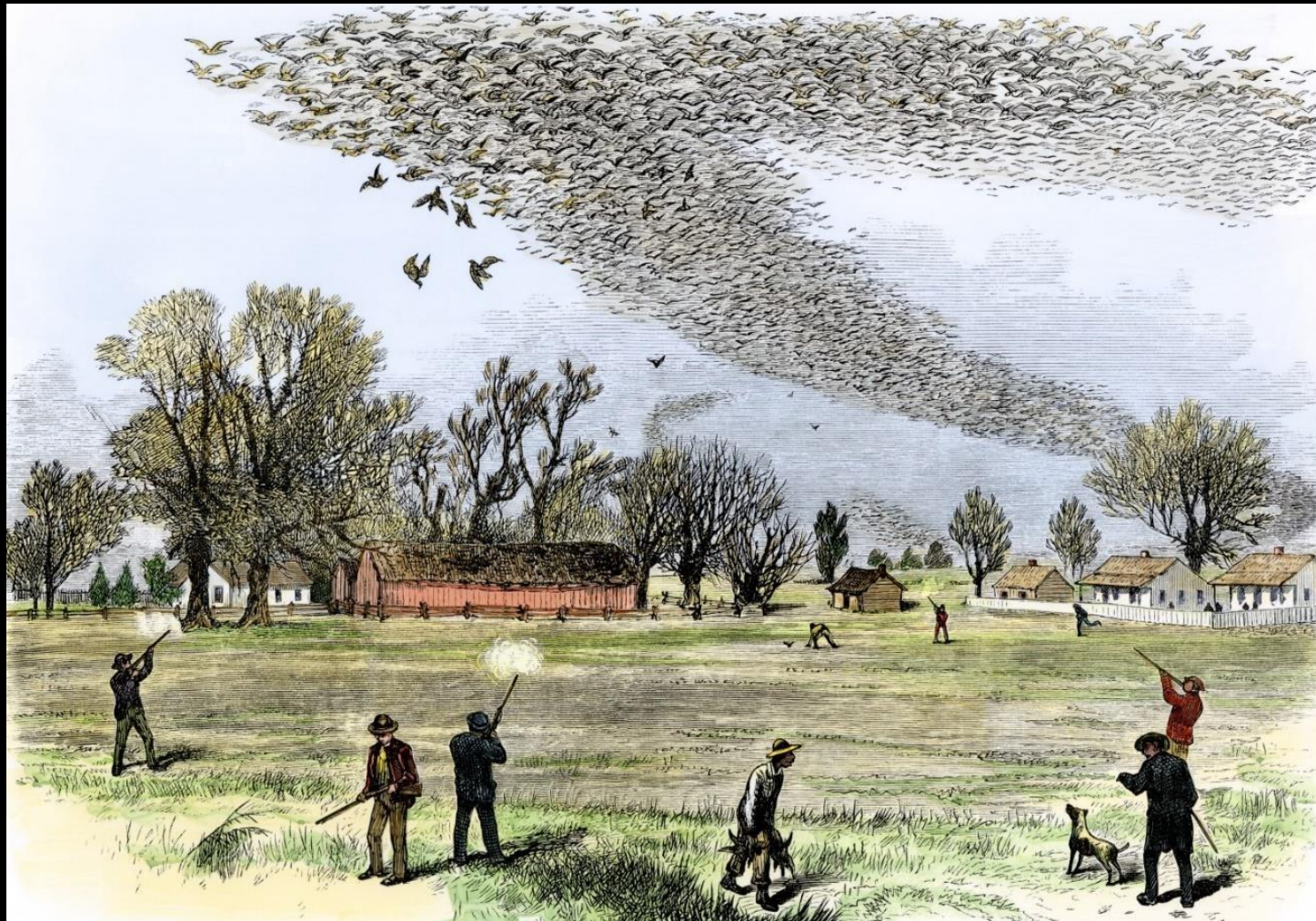
- In 1896, Boston socialites **Harriet Lawrence Hemenway** and cousin **Minna Hall** used their social position and tea to build a movement to end the feather trade
- From a family of abolitionists, Hemenway was a person of commitment and perseverance in an era when women were not encouraged to have such traits.
- Major force behind founding of the Massachusetts Audubon Society—by 1897 there were 111 Audubon chapters in the state; 105 of them founded and led by women.
- The “Bird Hat” campaign and boycott of the trade would culminate in the passage of the Lacey Act and Weeks–McLean Law, also known as the Migratory Bird Act in 1913.





**War on Bison.** Between 1871-1872, an estimated 8.5 million bison were shot. By 1886, there were only some 540 bison remaining, mostly in the Yellowstone region.





**Flocks of Passenger Pigeon** filled the skies for days during their migrations up and down the Appalachians, numbered over 2 billion. One record in 1806 speaks to a flock one mile wide, 40 miles long. The last passenger pigeon, Martha, died 1914 in the Cincinnati Zoo.

## Emergence of the Public Trust Doctrine

Waddell claimed the **right of a riparian landowner to exclude** all others from taking oysters from parts of New Jersey's Raritan River **claiming to own both the riparian and submerged lands**. He traced his title to a grant in 1664 from King Charles II.

In *Martin v. Waddell* (1842) Chief Justice Roger Taney finds “when the people of New Jersey took possession of the reins of government and took into their own hands the powers of sovereignty, the **prerogatives and regalities which before belonged either to the crown or the parliament, became immediately and rightfully vested in the state.**”



The decision placed the states in the role of successors to the crown and English Parliament and laid the foundation for later development of the **doctrine of state ownership of wildlife**.

**Public Trust Doctrine** provides common law base for state and federal wildlife laws

1. Wildlife cannot be privately owned
2. Held in trust by government for beneficiaries
3. Government is trustee
4. Public as the shareholders of the resource



## Geer v. Connecticut (1896)

Concerning ownership of wildlife, Supreme Court holds that **wildlife is held in trust for the people and no person or group can claim any special or prior rights to the use of wildlife.**

States have the right “to **control and regulate the common property in game,**” exercised for the benefit of the people.

As part of its trust responsibilities, **states could establish laws regulating the taking of game and those conditions remained with the animal even after being killed...**

providing not incompatible with, or restrained by, the rights conveyed to the federal government by the Constitution).

## REVIEW: European Origins & Early America:

- Kings Wildlife
- American Revolution
- Fish and Wildlife decline
- Emerging power of sportsmen

### Public Trust Doctrine (*Martin v. Waddell*)

1. Wildlife held in trust by government for the public
2. Cannot be privately owned

### State “Ownership” of Wildlife (*Geer v. Connecticut*)

1. Public Trust Doctrine #1 and #2
2. States had the right to control and regulate the common property in game exercised for the benefit of the people (provided its exercise is not incompatible with/restrained by the rights conveyed to the federal government by the Constitution).



1861-1865



## America after the Civil War:

- Eager to get back to the business of commerce.
- Opening of the West (Homestead Acts)
- Increased exploitation of fish, wildlife and other resources.

## Conservation efforts:

- Led by “sportsmen” -- upper classes who hunted and fished primarily for recreation, not commerce or necessity.
- “Gentlemen” versus “Market” (commercial) or “Pot” (meat) hunters

## Sportsmen:

- Condemned wanton waste and avarice
- Extolled the aesthetic of hunting and fishing
- Believed that the concepts and practices already developed in Europe, especially Great Britain, needed to be adopted in America if fish and wildlife was to be conserved.

## The 1800's and early 1900's

- Unfettered access to public lands
- Damage to forest, range and water resources
- Hard lessons of the need for an individual's right of access to be tempered by the privilege of access.



Michigan loggers, c 1868



A man wearing a dark cap with a circular logo, a patterned t-shirt, and brown waders is sitting on a boat. He is holding a dark-colored bird, possibly a crow or raven, in his hands. The boat is on a body of water with reeds in the background. A white and orange seaplane is visible in the background. An orange horizontal bar is located in the top left corner of the image.

### 3. Beginning of Comprehensive Laws & Management

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## Game Laws & Reserves

- 1852. Maine hires paid game wardens.
- 1864. New York establishes state hunting license requirements.
- 1872. Maryland requires residents hunting waterfowl to buy a license.
- 1873. New Jersey issues first non-resident hunting license in U.S. – non-residents required to buy a \$5 “membership” to hunt.
- 1875. Arkansas bans all commercial hunting of waterfowl.
- 1878. Iowa establishes limits on game birds -- 25 prairie chicken per day.
- 1895 Michigan establishes a general hunting license system for deer- \$0.50 for residents and \$25 for non-residents.
- 1903. Florida, Pelican Island designated a federal bird reserve (first national wildlife refuge).

## MONTANA

**1854.** Territorial legislature limits fishing methods to pole, hook, and line as the only legal means of catching trout.

**1889.** Montana's first game warden hired in 1889, the year Montana achieved statehood

**1901.** The Montana Fish and Game Department established by law with one state game warden as its first and only employee.

**1905.** Hunting and fishing licenses for in-state residents required with license fees and fines helping fund the state's court system.

Montana's first resident hunting license for deer and elk cost \$1.00

## POP QUIZ

First grant of land for creation of a national park?

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**1832.** The United States establishes **Hot Springs Reservation**, Arkansas. Established before the concept of a national park existed, it was the first time that land is set aside by the federal government to preserve its use as an area for recreation.

**1864.** The U.S. Senate grants a tract of federal land to the State of California “**known as Yosemite Valley...** with stipulation that the premises shall be held for **public use, resort, and recreation...** for all time.”

Up until that point, Congress and the federal government had viewed the federal estate, amassed by purchase, treaty or conquest, as land to be **conveyed or sold** to individuals for their own economic use (Madson 2018).

**1872.** Yellowstone National Park established.



**1885.** Adirondack Park “forever kept as wild forest lands,” the largest publicly-protected area in the contiguous United States (some six million acres).

## POP QUIZ

Who established first national forest?  
Where?

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**1891.** Present Benjamin Harrison establishes America's first national forest, the **Yellowstone National Park Timberland Reserve** (portions of today's Shoshone/Custer Gallatin National Forest

Harrison would establish an additional 14 forest reserves totaling 13 million acres.

“It seems as if all the killable game of North America, except rabbits, is now being crushed to death between the upper millstone of industries and trade, and the conglomerate lower millstone made up by the killers of wildlife.”

William T. Hornaday, *Our Vanishing Wildlife*, 1913

The federal agency charged with fish and wildlife matters was the Bureau of Biological Survey, within the Department of Agriculture, and primarily concerned with wildlife in terms of their impacts to agriculture.

**1900- Lacey Act.** Federal offense to transport wild animals or birds killed from one state to another in violation of state or territorial law. While the Lacey Act stated “wild animals or birds” without limitation, in practice its protections extended only to gamebirds and fur-bearing animals.

**1926- Black Bass Act.** Expressly extends Lacey Act protection to black bass (Smallmouth and Largemouth).



## 1901-1909. President Theodore Roosevelt:

- Creates or enlarges 150 national forests (1<sup>st</sup> Luquillo, Puerto Rico)
- Designates 16 national monuments (including Devils Tower in Wyoming and Grand Canyon, Arizona)
- Establishes 51 wildlife refuges in 17 states and three territories across the map, beginning with Pelican Island Federal Bird Reservation in Florida

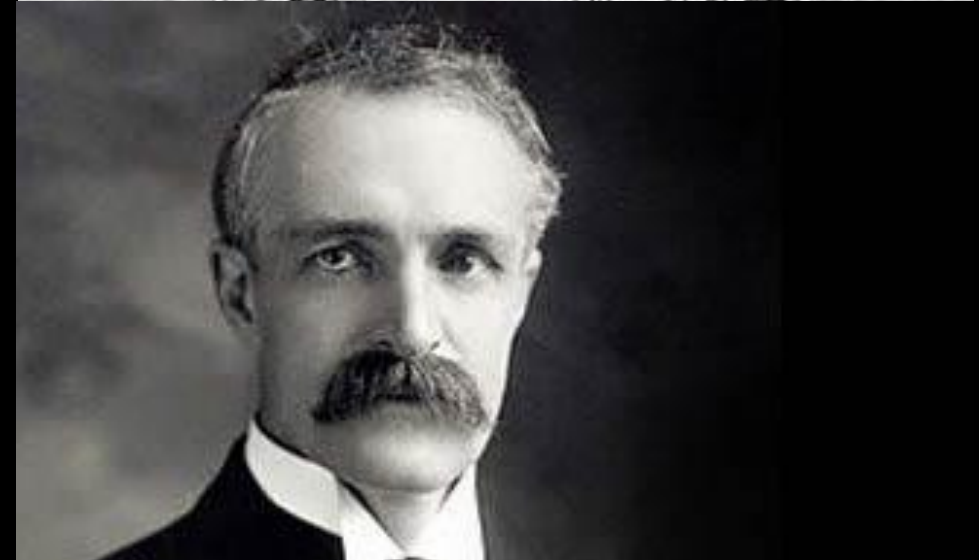
A total of 148 million acres.



Theodore Roosevelt and Gifford Pinchot, steamer Mississippi, 1907

## George Bird Grinnell (1849-1938)

- Editor, hunter, and conservationist, Grinnell made it his life's work to save the American bison.
- Story of how one person can truly make a difference, Grinnell was a driving force in wildlife conservation.
- Grinnell lived a life of high adventure, was an avid big-game hunter, and shared campfires with some of the most famous characters of the Old West.



## Convention for the Protection of Migratory Birds (1916) and Migratory Bird Treaty Act (1918) with Great Britain (acting on behalf of Canada)

- Established Constitutional foundation for federal regulation of migratory birds and initiated a cross-boundary effort with Canada to halt the decline of migratory bird species.

## Migratory Bird Conservation Act (1929)

- Enacted authority for acquisition of migratory bird habitat and creation of the National Wildlife Refuge System.





## The Dirty Thirties.

- Drought, panic and poverty that spread across much of America.
- Dust storms and economic depression broke families, businesses, and the land.
- Hungry and broke, families turned to wildlife for the pot and conservation gains eroded like the soil itself.



Fortunately for wildlife, the ranks of hunters and anglers included leaders of business, industry and science.

The conservation mantle is picked up the likes of a cartoonist (J.N. "Ding" Darling, lawyer (Carl Shoemaker), and professor (Aldo Leopold).

"They were good at their work, but also, they arrived on the scene when the Federal Government was in the most innovative mood and devising programs to beat the Depression... they took advantage of the situation and helped foster the most fruitful decade of wildlife conservation ever.



Cartoonist Ding Darling illustrated the need for scientific game management. © Ding Darling Foundation.



## Aldo Leopold's Land Ethic

- Land ethic is about how we manage and conserve resources
  - Tools of wildlife management were “the ax, the plow, the cow, fire, and the gun”
- 



In 1930, Aldo Leopold and a distinguished group of wildlife conservationists draft the **American Game Policy**.

- acknowledges that existing conservation programs are inadequate to stem the declines in wildlife.
- calls for a program of restoration implemented by scientifically-trained professionals with a stable funding source and declares it is time for wildlife management to “be recognized as a distinct profession and developed accordingly.”
- In 1973, the policy is expanded into the North American Wildlife Policy

## TRAINING FISH AND WILDLIFE PROFESSIONALS

**Cooperative Wildlife Research Unit program** initiated in 1935.

- First unit at Iowa State College and plans for 9 more at land-grant colleges and universities around the country, financed jointly by the federal government, state wildlife agency, and the school.

**Cooperative Fishery Research Unit**

- Initiated in 1961. Today, 40 units in 38 states.
- Montana Cooperative Wildlife Research Unit at the University of Montana, Missoula. Montana Cooperative Fisheries Research Unit at Montana State University, Bozeman.





The ranks of conservation were also increasingly influenced by women like Rosalie Edge, Mardy Murie and Marjory Stoneman Douglas, among others.



Pre-Civil War, the idea of white women engaged in wildland travel, hunting, fishing, and the like was “**simply not done.**”

Upper- and middle-class white women did not enjoy the same leeway to gad about in the wilds forsaking spouses and children as their male counterparts.

However, upper- and middle-class white women enjoyed a great deal more privilege **as compared with working-class white men and women and people of color.**

Something of an exception were **Native American women** who were out on the land, fully interacting among their tribes and occasionally with European Americans.

## Women in Conservation – Under-Appreciated and Under-Reported

The traditional view of fish and wildlife conservation is heavily influenced by the “sportsman” – **white, male, and elite.**

But women have long influenced conservation through **societal and spousal relations**, and that influence would become more visible in the late 18th Century and beyond, with strong parallels to the **women’s suffrage** movement.





## Rosalie Barrow Edge (1877-1962).

Born into the upper crust of New York society, Edge defied any delicate notions of femininity to use her position to campaign for national parks and become the “hawk of mercy” to save raptors.

Edge applied her earlier experience in the women's suffrage movement to become one of the most effective conservationists, man or woman, during her decades-long advocacy.



“Unrecognized godmother of the environmental movement”

Edge was ahead of her time as an outspoken, early 20th Century activist in an era that idealized her opposite: the demure, genteel woman.

*“The most honest, unselfish, indomitable hellcat  
in the history of conservation”*

Her Emergency Conservation Committee became a counterweight to established organizations such as the American Museum of Natural History and the Audubon Society who she found to be hidebound, male-dominated, and ineffective at protecting wildlife.

She is best remembered today for founding Hawk Mountain Sanctuary in 1930, the world's first preserve for birds of prey near Kempton, Pennsylvania.

## Hunters Pay for Ducks

**1934.** President Franklin D. Roosevelt signs the Migratory Bird Hunting Stamp Act.

Ding Darling buys his own stamp





# Federal Duck Stamp Program

Created	What	Funds Raised	Conservation Impact
1934	A stamp required to hunt waterfowl and other migratory birds	\$1 Billion to date	> 6 million acres of wetland and wildlife habitat protected.



1934



2017



## HUNTERS PAY FOR WILDLIFE

**1937.** Federal Aid in Wildlife Restoration Act  
(Pittman-Robertson Act)

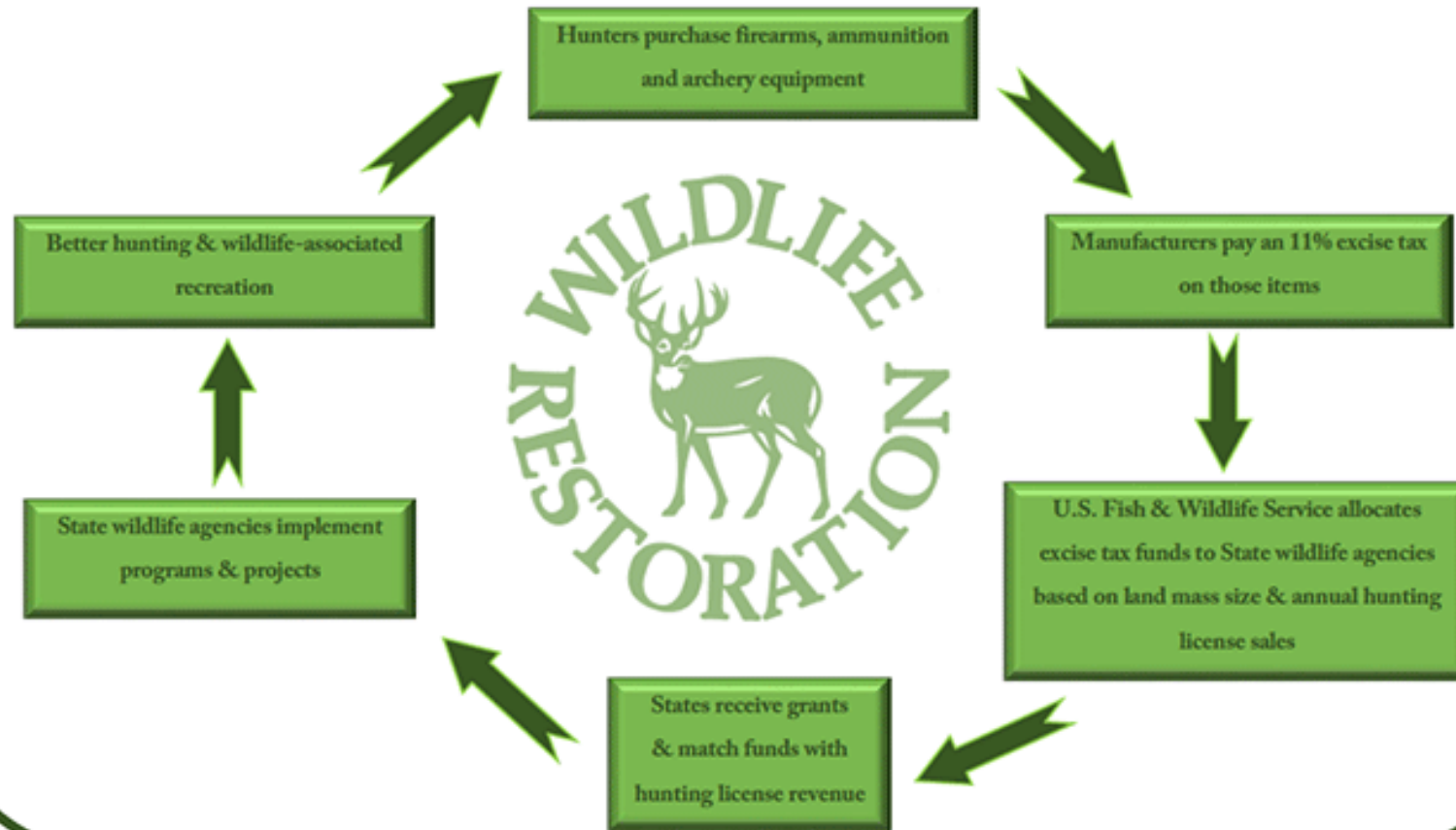
Funds collected from an excise tax on sporting arms and ammunition dispersed to the states and territories

- acquisition and improvement of wildlife habitat, introduction of wildlife into suitable habitat, surveys and inventories of wildlife, hunter education, and acquisition and development of public access.

P-R has been amended several times to extend the excise tax to pistols and revolvers, bows, arrows, and their parts and accessories.

# Cycle of Success

For Wildlife Restoration Programs





## **P-R's Impact**

For the period 1939-2017:

\$10.7 billion collected from manufacturers and distributed to states, including over \$289 million to Montana.

Apportioned by:

- 50% to land area (including inland waters)
- 50% paid license holders (in proportion to total all states)
- States receive minimum of 0.5%, and maximum of 5%

## Thou Shalt Not...

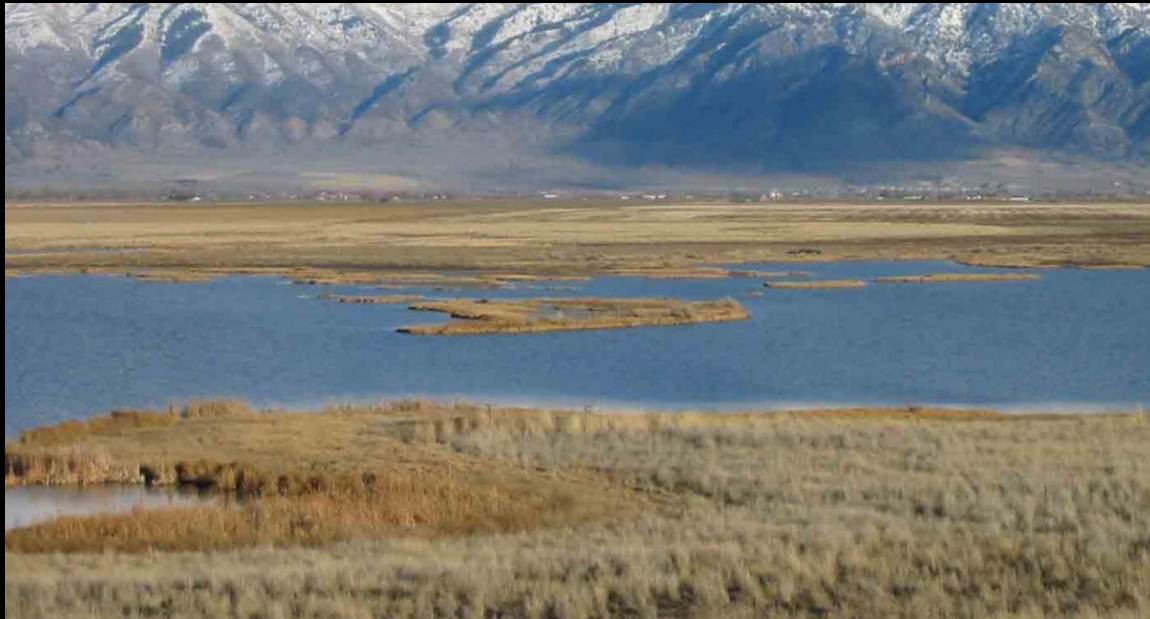
On reading the bill for the first time over lunch, the Congressman A. Willis Robertson of Virginia asked for a pencil, added a short clause, and readily agreed to introduce the amended bill in the House of Representatives. The clause read:

“... and which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said State fish and game department.”

Why have Robertson's 29 words so important to wildlife conservation?

## The first P-R funded project (1935)

- Weber River Delta in Utah
- Botulism outbreaks were killing large numbers of waterfowl.
- 5-mile long dike constructed, using \$7,500 in P-R funding matched with \$2,500 in state funds, to impound freshwater and prevent intrusions of highly saline water from the Great Salt Lake.





## FISH GET SOME RESPECT

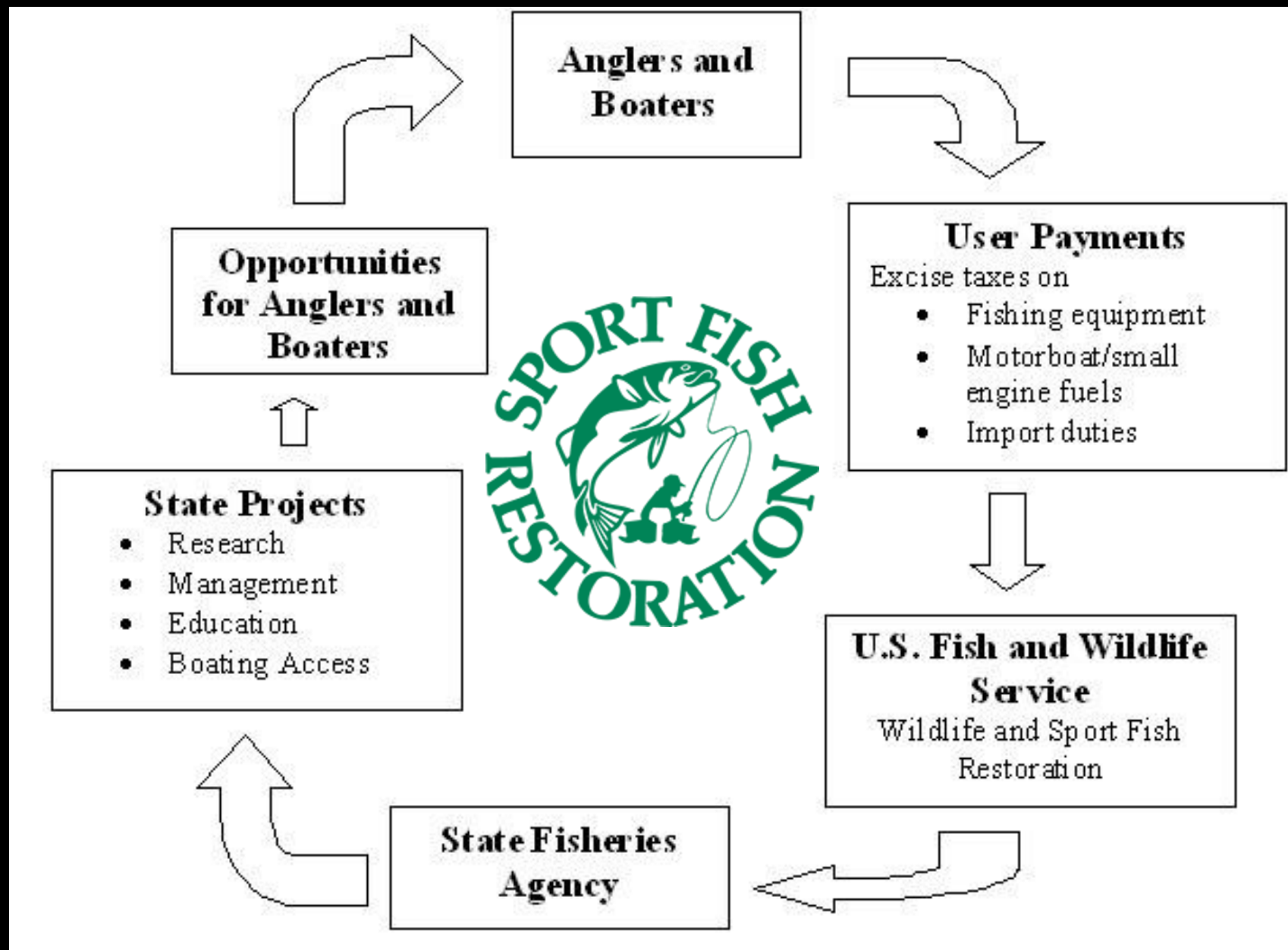
**1950.** After several failed attempts, President Truman Signs the Federal Aid in Sport Fish Restoration Act (aka Dingell-Johnson) into law.



Program applies a **10% manufacturers' excise tax on fishing rods, reels, creels, and artificial baits, lures, and flies**, with the revenue earmarked for the states and territories for projects that would **enhance sport fish restoration.**

Since 1950, D-J has funded a wide array of state projects from **fishing access and the removal of invasive species to improved fish ladders and fish disease studies.**

Prohibition against diversion language present.



## D-J's Impact

For the period 1952-2017, over \$8.3 billion have been collected from manufacturers and has been made available to states, including over \$212 million to Montana.

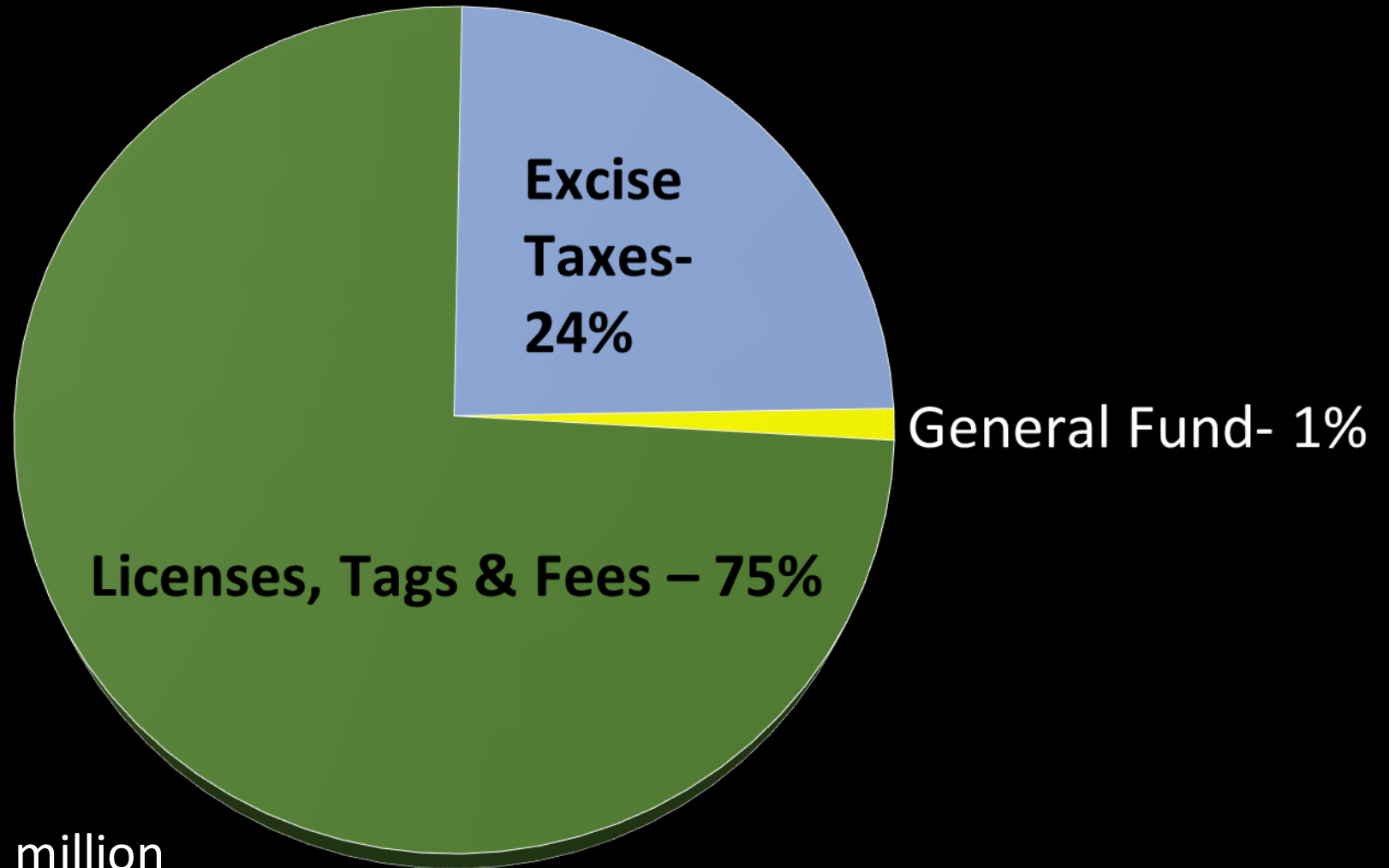
### Apportioned by:



- 40% to land area (including inland and coastal waters)
- 60% paid license holders (in proportion to total all states)
- States receive minimum of 1%, and maximum of 5%

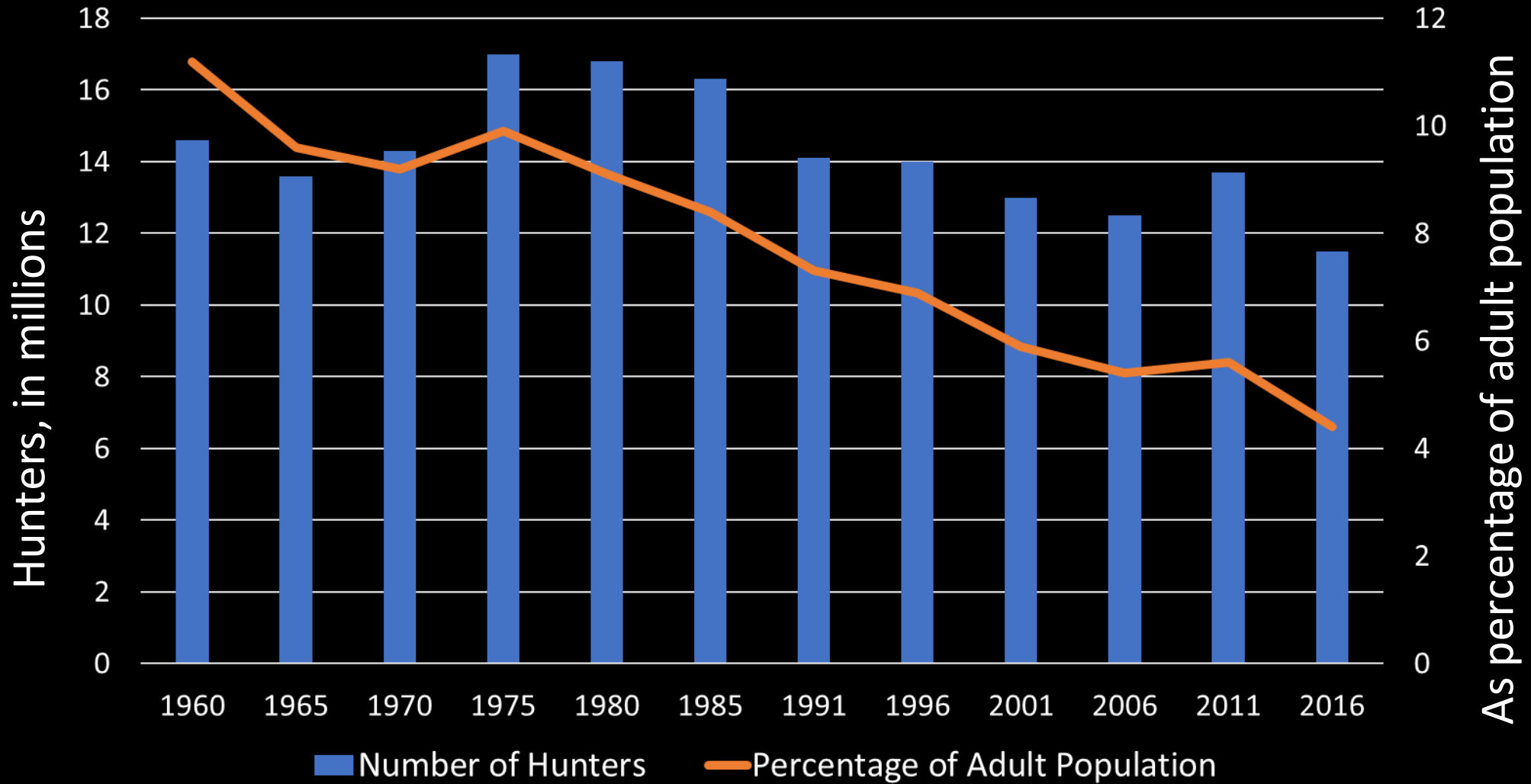


# Montana Fish, Wildlife & Parks, FY 2017



Total Revenue = \$81.48 million

# Hunter Participation, 1960-2016



Source: U.S. Fish and Wildlife Service, U.S. Census Bureau

# WARNING: ELECTRIC FENCE! HABITAT RESTORATION PROJECT



*We are working with the landowner to improve fish and wildlife habitats and water quality.*

15328-34902

VOSS SIGNS, MANLIUS, NY 13104-0553 1-800-473-0698

Hunters and anglers, conservation groups, and state/federal agencies can take pride and credit for many successes rooted in habitat conservation initiatives, partnerships with private landowners, inter-jurisdictional law enforcement, education and research, and the concept of user-based funding.



## NORTH AMERICAN MODEL OF WILDLIFE CONSERVATION

Historic foundation of fish and wildlife conservation based on the following seven principles:

1. Wildlife as public trust resources
2. Elimination of commercial markets for wildlife
3. Allocation of wildlife by law (democratic rule of law)
4. Hunting opportunity for all (democracy of hunting)
5. Wildlife can only be killed for a legitimate purpose (non-frivolous use)
6. Wildlife are considered an international resource
7. Science is the proper tool for discharge of wildlife policy

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6. Wildlife are considered an international resource
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## NORTH AMERICAN MODEL OF WILDLIFE CONSERVATION

Historic foundation of fish and wildlife conservation based on the following seven principles:

1. Wildlife as public trust resources
- 2. Elimination of commercial markets for wildlife**
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8. Identify and maintain public funding mechanisms for wildlife conservation.

## CONSERVATION LEARNINGS

1. Protect the habitat
2. Maintain an abundant and diverse wildlife resource
3. Regulate harvest and hunter behavior to maintain the resource
4. Maintain the traditions and values of hunting and fishing
5. Identify and maintain public funding mechanisms for wildlife conservation



# Tribal Nations



Yakima Indians fishing at Celilo Falls on the Columbia River near The Dalles, Oregon, c. 1940.

Theologian Francisco de Vitoria (1493-1546), suggested that Indians were the **true owners of the land**, and that the Europeans could only claim title to lands with a **“just” war or voluntary consent**.

By 1776, American colonial and European political and economic interests had little such worries.

Today, the tribal/state/federal relationship imposes duties of good faith and fair dealings on all parties and requires state and federal agencies to interact directly with Tribal Nations on a **government-to-government basis, not merely as a segment of the general public**.

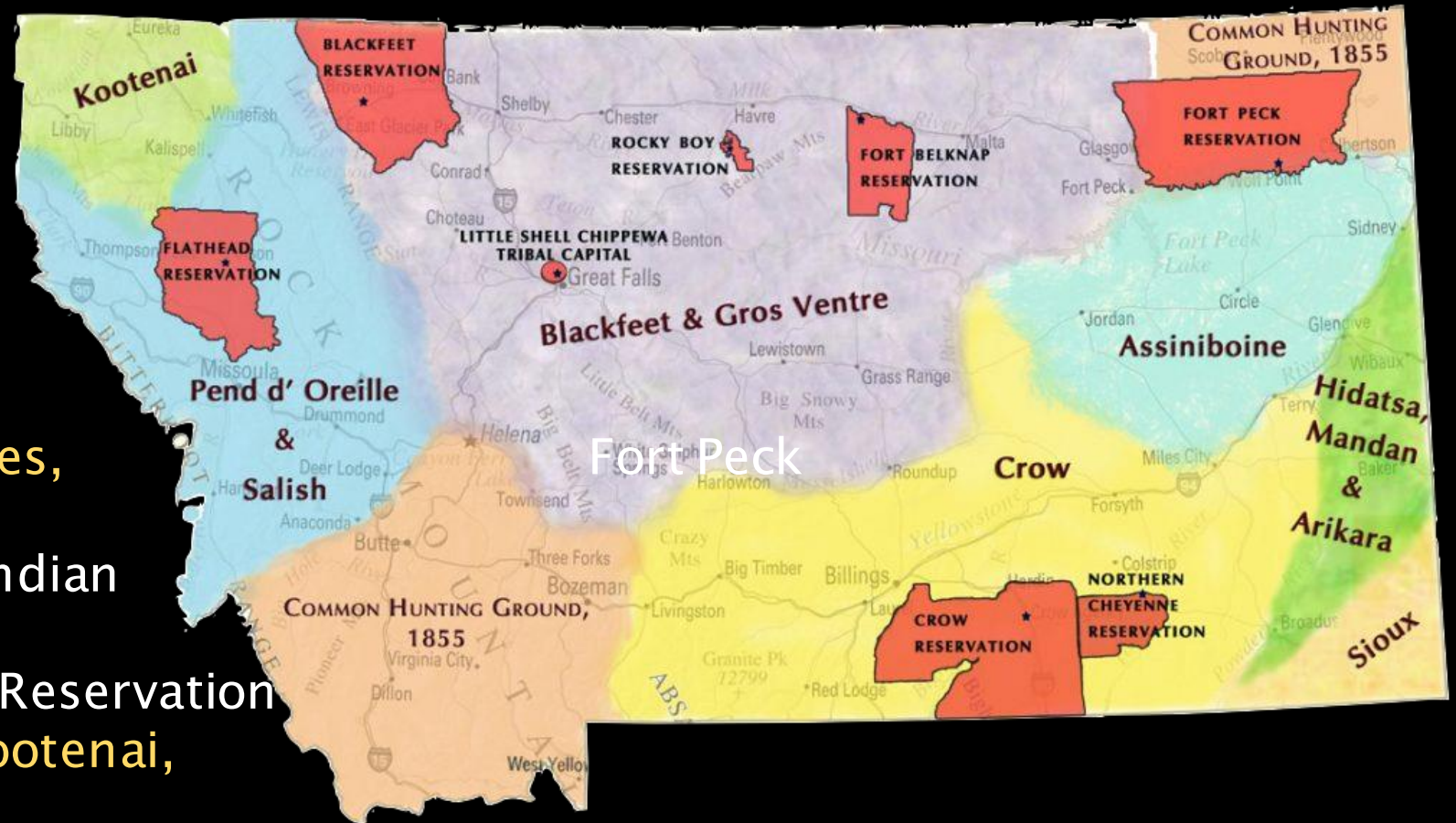
- 573 federally-recognized tribes possess distinct governance powers of their own, separate and apart from federal or state governments.
- Possess extensive property rights in land and natural resources, both on-reservation and off-reservation.
  - Tribes retain own **56 million acres** of tribal trust lands, **44 million acres** of Alaska Native lands, and **large areas outside** of reservations where tribal hunting, fishing and gathering rights are guaranteed





# Federally Recognized Tribes in Montana

- Assiniboine and Sioux Tribes, Indian Reservation
- Blackfeet Tribe, Blackfeet Indian Reservation
- Chippewa-Cree, Rocky Boy Reservation
- Confederated Salish and Kootenai, Flathead Reservation
- Crow Tribe of Montana
- Fort Belknap Indian Community, Fort Belknap Reservation
- Little Shell of the Chippewa Indians
- Northern Cheyenne Tribe, Northern Cheyenne Indian Reservation







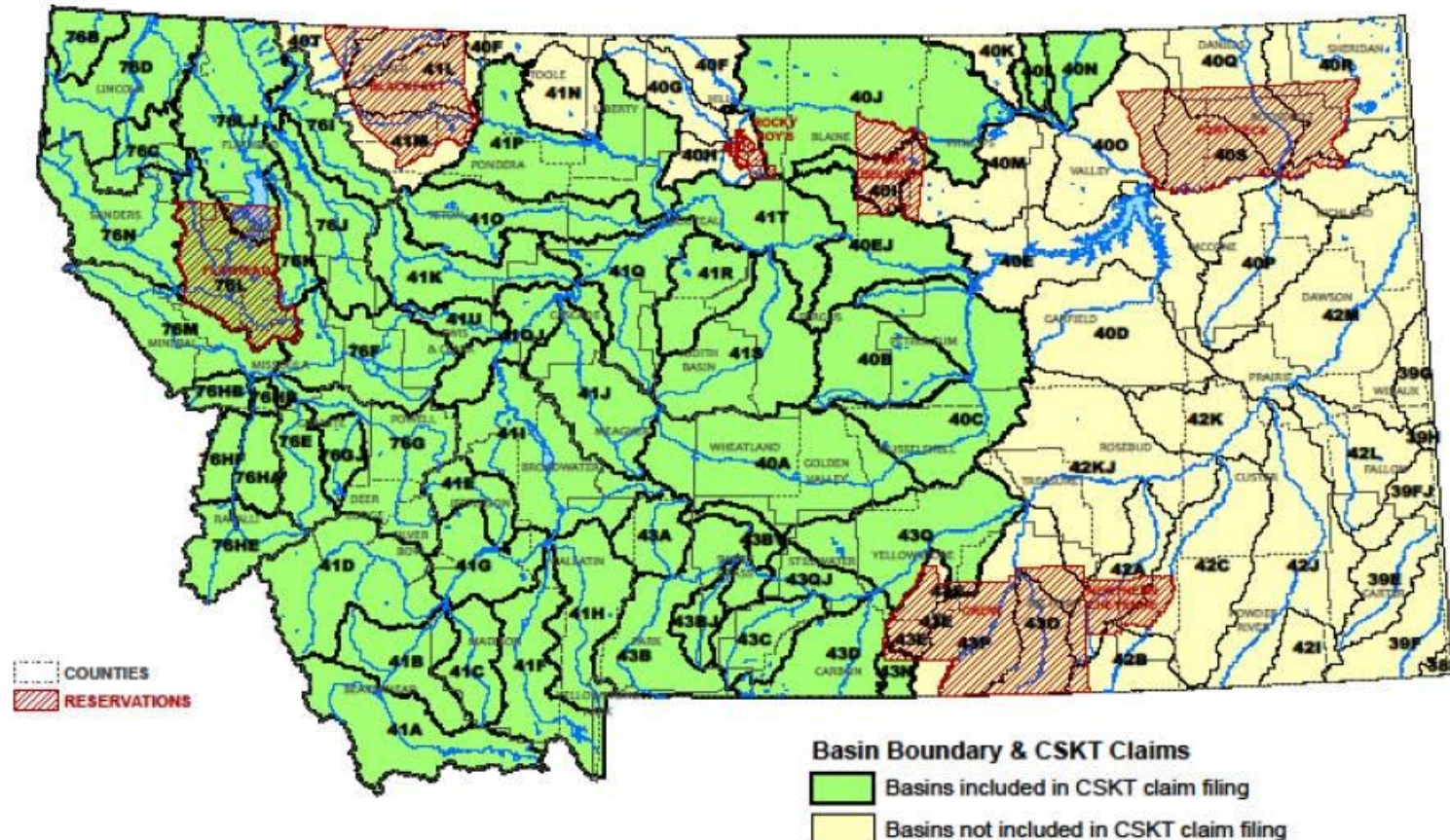
## Confederated Salish and Kootenai (CSKT) Water Compact

- Allocate water for commercial and irrigation use on the Flathead Reservation;
- Allow for economic development under conditions of legal certainty on and off the Reservation; and
- Facilitate the completion of the statewide general stream adjudication for all water rights holders.

### Clock is ticking.....

- Failing ratification, the Compact will be dissolved opening up Tribal water right claims to adjudication of thousands of new claims and much of Montana.

## Basins in which the Confederated Salish and Kootenai Tribes have filed water rights claims

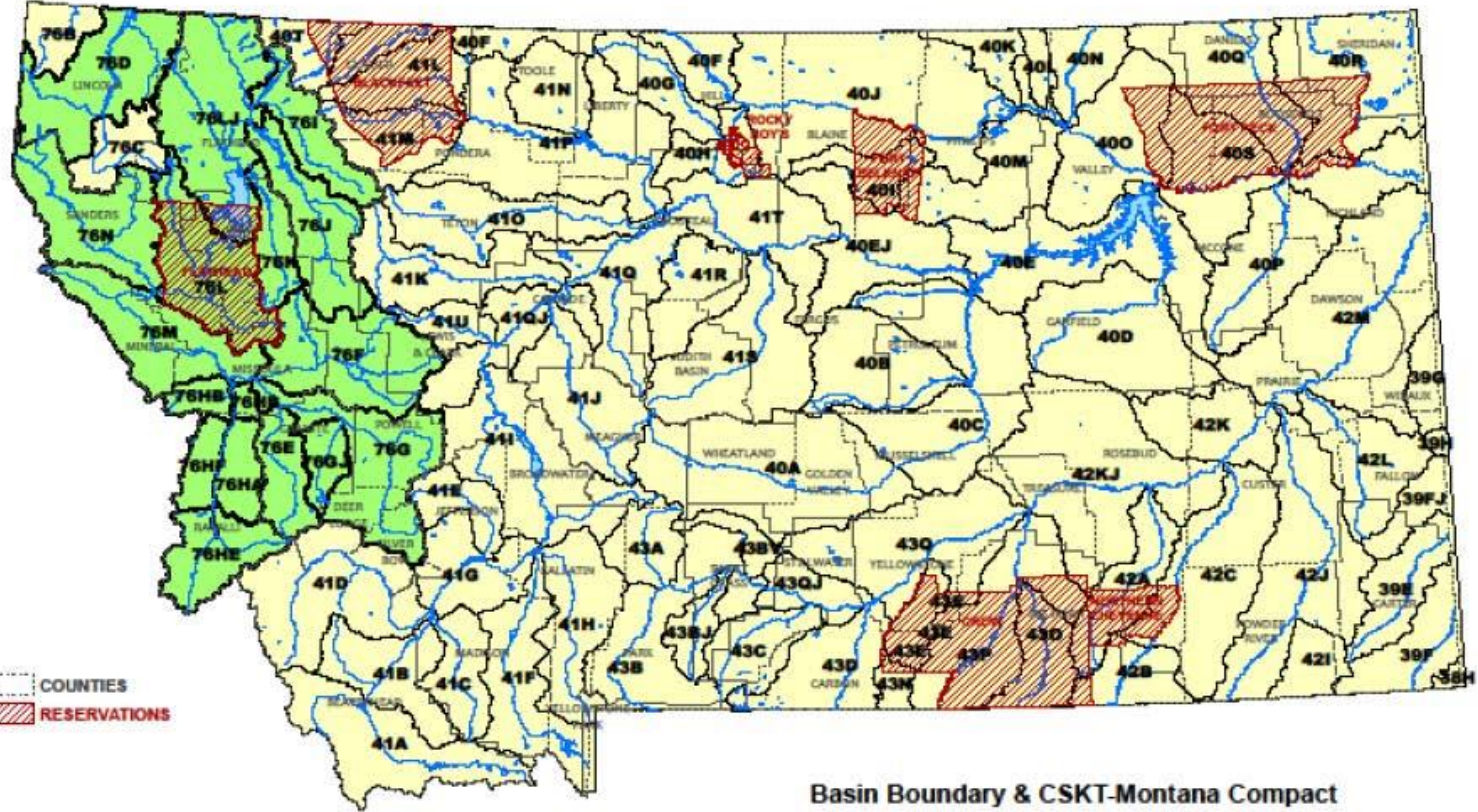


CSKT Legal Department  
 Updated August 13, 2015  
 NAD 1983 StatePlane Montana FIPS 2000  
 created by DORL  
 URL: F:\GISL\project\292083-08660\GIS\Legal\Work\Claim\Final\OverView\Map\Basin\WTRClaims.mxd

Pursuant to Article VII D 2 of the CSKT Water Rights Compact the Tribes filed a Motion to stay all proceedings to adjudicate these claims with the Montana Water Court.



## Basins in the Confederated Salish and Kootenai Tribes - Montana Compact



--- COUNTIES  
 [Red Hatched Box] RESERVATIONS

### Basin Boundary & CSKT-Montana Compact

[Green Box] Basins included in CSKT-Montana Compact  
 [Yellow Box] Basins not included in CSKT-Montana Compact



CSKT Legal Department  
 Updated August 2015  
 NAD 1983 StatePlane Montana FIPS 2000  
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 URL: F:\GISL\project\2010083-08600\CSKT\Basins\Compact.mxd





4. Conservation  
Comes of Age

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The  
Environmental Era

# The New York Times

NEW YORK, THURSDAY, APRIL 23, 1970

Millions Join Earth Day Observances Across the Nation



Throngs jamming Fifth Avenue yesterday in response to a call for the regeneration of a polluted environment. View is north from 43d Street, with Central Park in background.



# Principle Legislation

Airborne Hunting Act  
Anadromous Fish Conservation Act  
Comprehensive Environmental Response  
Compensation and Liability Act  
Department of Transportation Act  
Endangered Species Act of 1973  
Estuarine Protection Act  
Exclusive Economic Zone of the USA  
Federal Aid in Sport Fish Restoration Act  
Federal Power Act  
Federal Water Pollution Control Act  
Federal Water Project Recreation Act  
Fish and Wildlife Act of 1956  
Fish and Wildlife Coordination Act  
Fish and Wildlife Conservation Act of 1980  
Fish and Wildlife Improvement Act of 1978  
Fisheries Joint Resolution, 1871  
Fisheries Restoration & Irrigation Mitigation Act  
of 2000  
Indian Self-Determination & Education  
Assistance Act of 1976

Invasive Species (Executive Order 13112)  
Lacey Act  
Magnuson/Stevens Fishery Conservation and  
Management Act of 1976  
Marine Mammal Protection Act  
National Aquaculture Act of 1980  
National Environmental Policy Act of 1969  
National Fish Hatchery System Volunteer Act of 2006  
National Wildlife Refuge System Administration Act of  
1966  
Nonindigenous Aquatic Nuisance Prevention and  
Control Act of 1990  
Pacific Salmon Treaty Act of 1985  
Reorganization Plan No.4 of 1970  
Rivers and Harbors Act of 1899  
Recreation Use of Conservation Areas Act  
Recreational Fishing (Executive Order 12962)  
Reorganization Plan No.4 of 1970  
Sikes Act  
Sport Fishing and Boating Safety Act  
Watershed Protection and Flood Prevention Act

# Principle Legislation and Other Authorities (fisheries-related)

Alaska National Interest Lands Conservation Act  
Atlantic Coastal Fisheries Cooperative Mngt. Act  
Atlantic Salmon Convention Act of 1982  
Atlantic Striped Bass Conservation Act  
Belloni Decision (US v. Oregon)  
Boldt Decision (US v. Washington)  
Central Valley Project Improvement Act  
Chehalis River Fishery Resources Study  
Colorado River Storage Project Act  
Connecticut River Basin Atlantic Salmon Compact Act  
Elwha River Ecosystem and Fisheries Restoration Act  
Emergency Striped Bass Study Act  
Fish-Rice Rotation Farming Program of 1958  
Fox Decision & US v. Michigan Consent Decree  
Great Lakes Fish and Wildlife Restoration Act

Great Lakes Fishery Act of 1956  
Klamath River Basin Fishery Res. Restoration Act  
Mississippi Interstate Cooperative Resource Agreement  
Mitchell Act  
New England Fishery Res. Restoration Act of 1990  
Pacific Northwest Electric Power Planning and Conservation Act  
Pere Marquette River Amendment  
Salmon & Steelhead Conservation & Enhancement Act  
State of Alaska v. Babbitt (Katie John I)  
Trinity River Basin and Wildlife Restoration  
Trinity River Fishery Restoration  
Voight Decision (Lac Courte Oreilles v. Wisconsin)  
Water Resources Development Act of 1976  
Yakima Fishery Enhancement Project  
Yukon River Salmon Act of 1995



## Illustrative events and legislation 1960-1970:

1. *Silent Spring* (1962)
2. Land and Water Conservation Fund (1965)
3. Endangered Species Act (1966, 1969, 1973)
4. Federal “Invasion” of State Rights (1968)
5. National Environmental Protection Act (1970)
6. Clean Water Act (1972)
7. Marine Mammal Protection Act (1972)
8. National Forest Management Act (1976)

# 1. Silent Spring (1962)



## 2. Outdoor Recreation & Land and Water Conservation Fund (1964)



President Johnson signs LWCA into law, 1964



### 3. Endangered Species Act (1966, 1969, 1973)

The Endangered Species Act (1973) is the strongest law for protecting biodiversity passed by any nation in the world.



Its purpose is to **prevent the extinction** of the most at-risk **plants and animals** (vertebrate and non-vertebrate)  
- to increase their numbers and **effect their full recovery** and their removal from the ESA list.



# Plant & Animal Species listed as Endangered or Threatened World-wide\*

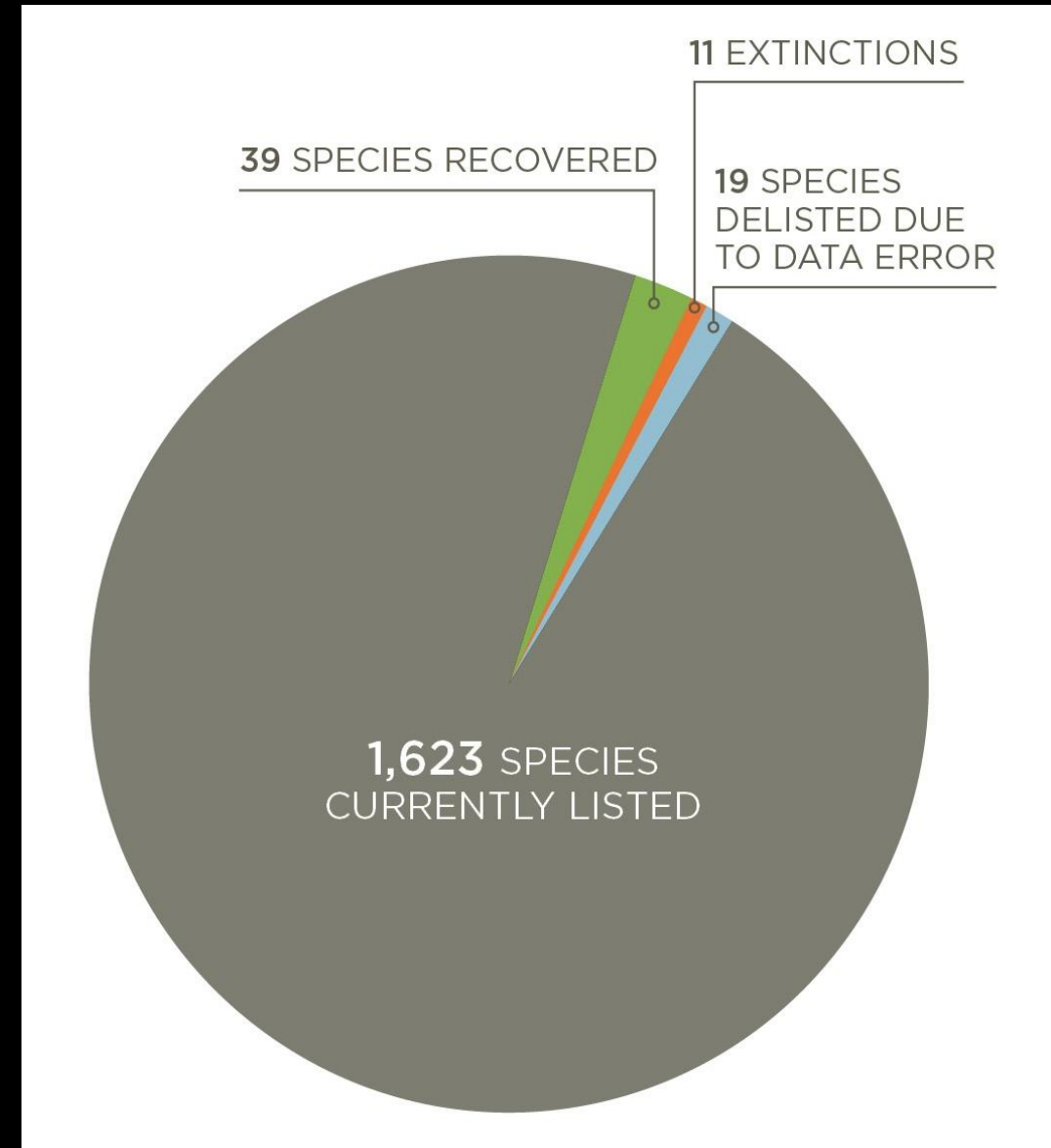
<b><u>Animals</u></b>	
Amphibians: 44	
Arachnids: 12	
Birds: 335	
Clams: 90	
Corals: 22	
Crustaceans: 26	
Fishes: 184	
Insects: 79	
	<b>Mammals: 387</b>
	<b>Reptiles: 137</b>
	<b>Snails: 51</b>
	<b><u>Plants</u></b>
	<b>Conifers and Cycads: 6</b>
	<b>Ferns and Allies: 31</b>
	<b>Flowering Plants: 862</b>
	<b>Lichens: 2</b>
	<b><u>Total: 2,268 species</u></b>

\* As of May 2016

## Status of Domestic Species listed as Endangered or Threatened

“As a doctor, if I admit 100 patients to the hospital and only three recover enough under my treatment to be discharged, I would deserve to lose my medical license.”

Senator John Barrasso (R-WY) 2/15/2017



## 4. Carlsbad Caverns & the Federal “Invasion” of State Rights (1968)

The ever simmering **pot of contention** between the state and federal government on jurisdiction over resident wildlife boiled over once again in the 1960s.

1968 decision of the National Park Service to **remove deer** from Carlsbad Caverns **without requesting appropriate permits** from New Mexico.

NPS officials claimed **deer residing on federal lands belonged to the federal government**. New Mexico sued. District court ruled for NM. The U.S. Court of Appeals reversed arguing that the property clause of the Constitution gave the Secretary of the Interior authority to take “reasonable steps” to protect national park lands without “state interference.”

## 5. National Environmental Protection Act (1970)

NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions.

For fish and wildlife, **NEPA and its environmental impact statement process** is commonly a tool used by conservation interests to pressure agencies to pay more attention to wildlife and habitat protection

For example, a group of environmental organizations brings suit against the U.S. Forest Service for **violating NEPA by failing to evaluate the overall effects of its proposed actions** on endangered species.



## 6. Clean Water Act



Achievement of water quality which provides for protection and propagation of fish, shellfish, and wildlife by:

- regulating pollutant discharges
- Implementing pollution control programs
- funding construction of sewage treatment plants

An oil slick on the Cuyahoga River, polluted from decades of industrial waste, caught fire on a Sunday morning in June 1969. While not the first time the river had caught fire, the event came to crystallize the need for clean water and controls on pollution.

## 7. Marine Mammal Protection Act

Previous conservation efforts useless. Under the International Whaling Commission world's whale stocks declined - eight species of whales were among the first species added to the ESA list.



Illegal to "take" marine mammals without a permit. This means people may not harass, feed, hunt, capture, collect, or kill any marine mammal or part of a marine mammal.

The Act also formalized the marine mammal health and stranding response program to improve the response of stranding and unusual mortality events.



## 8. National Forest Management Act



No such thing as a good-looking clearcut

*“The days have ended when the forest may be viewed only as trees and trees viewed only as timber. The soil and the water, the grasses and the shrubs, the fish and the wildlife, and the beauty of the forest must become integral parts of the resource manager's thinking and actions.”* Senator Hubert Humphrey, 1976

Fundamental reshaping of wildlife policy on national forests and elevated the role of science in national forest management. NFMA's provisions for protecting wildlife, that lead to the controversial efforts to conserve the Spotted Owl in the Pacific Northwest.

## History of Conservation-Recap

- **Royal forests** of England in 1200 AD to the enactment of the **Environmental Era** of latter 20<sup>th</sup> Century.
- At the beginning of this timeline fish and wildlife were the **property of the crown** who reserved all rights of access for themselves and their nobles.
- America in the late 1700s **fought a revolution** and wanted nothing that smacked of the royal privilege.
- Fish and wildlife were viewed as **endlessly abundant** and a common **resource for all**.



## History of Conservation -Recap

- Facing **unrestrained access**, populations of game and food fish, begin to decline.
- Alongside with this increasing harvest of fish and game for food and commerce came the **growing industrialization** of the United States.
- Towns and then states began **imposing limits** to protect select species – often ineffective due to lack of enforcement.
- Small but vocal, influential, and **growing band of self-styled sportsmen** pressed for proper conduct and game laws.
- Not popular with the **populace**.

## History of Conservation -Recap

- *Martin v. Waddell* (1842) established a **legal foundation** for regulating and conserving fish and wildlife. *Geer v. Connecticut* (1896) cemented the concept of **state “ownership”** of wildlife
- First half of the 20th Century: development of state-level **professional natural resource management**, degree programs, user-pays, user-benefits revenue streams.
- Second half of the 20th Century: growing interest in the rest of the **environment**, i.e., Endangered Species Act of 1973.
- The North American Model of Conservation outlines the principles of conservation, including wildlife is a public trust resource to be **allocated fairly, humanly, and thoughtfully**.

## History of Conservation -Recap

“Never doubt that a small group of thoughtful, committed citizens can change the world: indeed, it’s the only thing that ever has.”

– attributed to Margaret Mead, cultural anthropologist (c1928)

- A History of Conservation is a history of **individual citizens** advocating for change whose **collective actions** created a system of laws, protected lands, and concepts (like fair chase) that today **define conservation in America** – the success of which is unmatched in the world.