How We Use Our Land (and Water) Has Consequences: Ten Issues to Consider

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Our Water Our Land
LIBERTY IS ABOUT OUR RIGHTS TO QUESTION EVERYTHING AI WEIWEI
This was my parents era in Adams County in SW Iowa
We Don’t Farm like my Parents did on our Iowa farm
We all go through changes in life
Agricultural Law from DC in 1975 – to March for Science in 2017
Our land and values remain – for the most part
Ding’s drawings captured these values and the bounty of our land.
Ding Also Captured Our Challenges

Bank Robbers, Little And Big

WHAT THAT MUD IN OUR RIVERS ADDS UP TO EACH YEAR
1. Where is Our Legacy of Conservation Leadership Now

Individuals like Aldo Leopold, Henry Wallace, John Lacey and Ada Hayden. And of course Ding Darling, pictured here.
Political leaders in Conservation – John Lacey and Henry A. Wallace
The social lesson of soil waste is no man has the right to destroy soil even if he does own it in fee simple. The soil requires a duty of man we have been slow to recognize.

Henry A. Wallace, Secretary of Agriculture, writing in the forward to Soils and Men, the 1938 Yearbook of Agriculture

80 years later a duty still not recognized!

Would they be appalled to see how we treat our land and water today?
Are we mining our soil to grow more corn?
2. Reflecting on a lifetime – how little our issues change

My recent retirement after 38 years teaching agricultural law – much of it focused on land and water conservation issues has given me the opportunity to review materials and reflect on what has happened. My conclusion: many of the issues we confront today are the same as 30 years ago – and the obstacles and arguments against progress are often the same.

The question is how can we find a new way forward? We have missed many opportunities for progress over the last 30 years and our time is wasting.
Have we come to tolerate soil loss and deteriorating water quality and made them partisan issues?
3. We Need More Honesty about Our Lack of Progress

We are short on honesty about what we are doing and where we are – the truth is our progress on many elements of conservation, wildlife protection, and public lands is limited - especially for water quality the problems are getting worse.

Ineffective policies and our desire to maximize production on every acre possible combine to create this reality. While there are many enlightened farmers doing great things on their land – you will hear from several tomorrow – the truth is they are too few and too far between.
Some of the soil we love so much?
Iowa’s Legacy of Conservation Laws

Section 161A.43 of the Iowa Code on soil conservation reads:

To conserve the fertility, general usefulness, and value of the soil and soil resources of this state, and to prevent the injurious effects of soil erosion, it is hereby made the duty of owners of real property in this state to establish and maintain soil and water conservation practices or erosion control practices, as required by the regulations of the commissioners of the respective soil conservation districts.
Has our conservation legacy become an ephemeral gully of inaction?
4. Des Moines Waterworks suit: a landmark in the water quality debate

The Des Moines Waterworks lawsuit against drainage districts in three upstream counties was controversial – but was also a landmark event that changed the trajectory of the water quality debate – in Iowa and even nationally.

We lost Bill Stowe this April – he was a courageous champion for clean water and wise public policy - but his legacy lives on and his work continues to inspire efforts to protect water quality and public health.
5. Dismissing the Lawsuit did not Resolve the Clean Water Act Claims

The DMWW litigation was unusual because it sought to hold someone responsible for polluting the water. It raised CWA issues some felt were unfair or settled. Most significant is whether the water flowing from tile outlets and in drainage ditches might be point sources? The case was dismissed so the issues were not answered - but the case made clear how ineffective the Clean Water Act is in addressing water pollution from agriculture.
Is this a point source?
The case grew out of frustration those upstream were unwilling to accept responsibility for polluting the rivers and imposing health risks and costs on those downstream. The case also illustrates the reality Iowa—like other states—has no water quality laws for most farming practices. Instead we have a so-called Nutrient Reduction Strategy—a plan long on science but devoid of policy, with little funding and no priorities—essentially an exercise in magical thinking premised on the unrealistic belief voluntary actions will be enough to clean up the rivers and streams.
7. Why Do We Expect Rivers and Lakes to be Cleaner?

If we are honest – there is no reason to expect the rivers – or lakes will get cleaner – or that we will significantly change how we raise corn and soybeans – or handle the wastes from our 20+ million head of swine – that is unless there is support for more effective public policy.

Our Current policies provide all the incentives to increase production and very few for conservation. But there are forces underway which may lead us to find better approaches.
Do we lack the Political Leadership to protect
- Our soil
- Our water
- Our land
- Our wildlife?
The Key is we have the tools to help protect our water, improve our soil, and support more profitable sustainable farming – if we choose to use them. Examples include: harnessing our HUC 12 watersheds to organize farmers and landowners at the local level to implement water quality protection at scale; field based activities like constructing wetlands, planting buffer strips and growing cover crops; and enforcing nutrient management plans and guidelines for disposing of livestock wastes.
Watershed Citizenship takes the power of citizenship and applies it to the scale of the watershed to inform our actions. Watershed Citizenship helps us consider the moral hazard of Water Quality being a “downstream” issue – or someone else’s worry. In a watershed we are upstream from some and downstream from others.

Watershed Citizenship Reflects Leopold’s Land Ethic which focuses on the individual’s role in stewardship – but broadens the focus from the individual to the community.

Watershed Citizenship is another way to think about stewardship – it is for a collective resource – the water we are stewarding as members of a community.
Leopold wrote about our relation to land – and how the idea of obligations is largely missing from our discussion of conservation. He said our education “makes no mention of obligations to land over and above those dictated by self-interest.” He noted “we have been too timid and too anxious for quick success, to tell the farmer the true magnitude of his obligations. Obligations have no meaning without conscience, and the problem we face is the extension of the social conscience from people to the land.”
An ethical obligation on the part of the private owner is the only visible remedy for these situations. I believe our goal should be to make what is arguably legal morally unacceptable.
HUC 12 watersheds are a perfect size and scale to address water quality

HUC 12 watersheds share these common traits:
- objective measurability - we can measure them
- identifiable impacts - we can change how they perform
- personal relations - we know the people who live there, and
- human dimensions - our actions influence them.

We have over 1600 HUC 12 watersheds in Iowa, averaging around 22,000 acres with approximately 16 per county.
I am an optimist and believe our situation can and will change. A number of forces at work illustrate how and why we must change: the impacts of climate change and the increasing prevalence of flooding; the attention to soil health and the opportunities for farmers to address climate by managing carbon; and states taking more aggressive and effective actions to protect water – such as Minnesota’s new laws relating to buffer strips, to drainage assessments and regulation of nitrogen use are examples.
The Ikes Can Play an Important Role

We need new creative thinking about Conservation. The 1985 Conservation Title needs an overhaul, especially conservation compliance. The 1972 CWA has never adequately addressed agriculture. We need new conservation laws to integrate water quality with farm programs, and to reflect our understanding of climate change, to improve how we manage soils and to increase resilience to flooding. The Ikes can be proud of the valuable leadership you provided on conservation in the 2018 farm bill. Looking forward there is an important role all of us can play to support progressive state laws and programs.