How should a wildlife trustee act?

Adrian Treves, PhD
Nelson Institute for Environmental Studies
University of Wisconsin–Madison
Imagine Juliana v U.S. 2016 is decided in favor of the youths

• Futurity would have more say in preservation and use of nature.

• Trustees would be held to fiduciary standards or even higher standards.

• Courts would not defer to agency experts.

1936-2014
Joseph Sax

http://senate.universityofcalifornia.edu/JosephL.Sax.html

Joseph Lawrence Sax, renowned as one of the founders of the field of environmental law, passed away in March after a series of strokes. Joe was the consummate scholar and teacher; a visionary and influential environmental advocate; and a loving husband, father, and grandfather. He will be sorely missed and dearly remembered. His influence on environmental and natural resources law will continue for many decades to come, both through his writings and the many students and colleagues he inspired to follow in his footsteps.

Joe graduated from Harvard College in 1957 and the University of Chicago Law School. He began his law teaching career at the University of Colorado in 1962, moved to the University of Michigan in 1966, and came to Berkeley in 1986. It would be impossible to overstate Joe's influence on the field of environmental law. He entered academia before anyone had imagined such a specialty. Over the next ten years, Joe and a handful of others literally invented environmental law. According to Professor Barton (“Buzz”) Thompson of Stanford Law School, “Joe, more than anybody else, is responsible for the very existence of the field called environmental law. Joe came up with some of the central concepts that are still key to environmental law.”

Joe's scholarship was original and typically broke new ground. A unifying...
Predators are a litmus test.
Wisconsin

- **Two Constitutional provisions**
  Navigable waters and right to hunt and fish

- **Supreme Court common law**
  Wisconsin Supreme Court cases have interpreted state ownership of wildlife to be in trust (Krenz v. Nichols, 222 N.W. 300, 303 WI Supreme Court 1928)

- **Statute**
  WDNR should preserve forests “to benefit the present and future generations.” (WI STAT. ANN. § 28.04.2)

“legal title to, and the custody and protection of, all wild animals within this state is vested in the state for the purposes of regulating the enjoyment, use, disposition, and conservation of these wild animals.” (WI STAT. ANN. § 29.011).