
Jacob H. Beuscher (1907–1967)

EMERITUS PROFESSOR ARLEN CHRISTENSON

Editors Note: Recently long-time UW Law School Professor Jake Beuscher was nominated for the Wisconsin Conservation Hall of Fame. Emeritus Prof. Arlen Christenson prepared the following material for the nomination.

Introduction

For 32 years, from 1935 until his untimely death in 1967, Jacob H. (Jake) Beuscher was a leading member of the University of Wisconsin law faculty where he personified the “Wisconsin Idea” that the boundaries of the campus are the boundaries of the state. Governor Gaylord Nelson called him “one of the most important resource experts on whom I relied.” Governor Warren Knowles, within a week of Beuscher’s death, paid tribute to him as he signed one of that sessions most important conservation bills. Former Speaker of the Assembly and leading conservation legislator Norman Anderson called Beuscher “a well-spring of creative ideas about how things could get done [who] made a great contribution to the environmental laws of this state.” The Wisconsin legislature, in a joint resolution, pointed out that he “donated countless hours to serving as a consultant and member of committees advising the Wisconsin legislature and state government generally” and that “he played a major role in . . . drafting a water pollution control law and the comprehensive law which was enacted in 1966 was a reflection of his efforts.”



Professor Jacob H. Beuscher

Jake Beuscher was a scholar, a teacher and a participant in public policy. His eminent colleague Professor Willard Hurst, said of him: “To law teaching and research . . . he brought the hardheaded insistence on relevance, the pragmatic skills in problem solution, and the disciplined work habits of the capable lawyer. It was natural to his qualities of mind that he steadily developed his work beyond concern with familiar questions of market transactions in land titles, to inquiries into the relations between the general economy and legal controls on the uses of land, an then into questions of the proper public policy to guide the use of all natural

resources, and especially of water as well as of soil and land surface.” Highly respected, indeed beloved, as a teacher Beuscher considered himself first and foremost a scholar and researcher. But he was not just a library researcher. He was one of the inventors of what has been called the study of “law in action.” He wanted to know how the law really worked and how it interacted with the economy and the community. This interest, as well as his love of the out of doors, led him inevitably to his deep involvement with the state legislature, state agencies and with natural resource conservation policy.

Education and Academic History

Born April 4, 1907, in Cudahy, Wisconsin, Jacob H. Beuscher was the son of a practicing lawyer and a member of a family of Judges and lawyers. He graduated first in

his class from the University of Wisconsin Law School in 1930 and went on to earn an SJD as a Sterling Fellow at Yale Law School 1932. After a stint in private practice in the family firm he began a 32-year career as a law professor in 1935, taking time out only for service in the OPA and the U.S. Navy during World War II. As a professor at the University of Wisconsin Law School he pioneered in the field that later came to be known as environmental law. He created the first course at the law school in Land Use Regulation, taught a River Basin Planning Seminar and a variety of other seminars and courses that

combined study of traditional legal principles with other disciplines concerned with issue of land and water protection. He was instrumental in creating an inter-disciplinary approach to the problems of land and water conservation and was one of the founders of the university's successful Water Resources Management Program. That program was the first of the many programs now under the auspices of the Institute for Environmental Studies. Professor Beuscher was one of the most respected members of the University Faculty at the time of his sudden death in 1967. But he was much more. He was lover of the out of doors, an activist and a leader in formulating and implementing natural resource conservation policy.

Conservation Contributions

Professor Beuscher's contributions to resource conservation policy are well summarized by Fran Thomas in her monograph entitled *Law in Action: Legal Frontiers for Natural Resource Planning. The Work of Professor Jacob H. Beuscher* (Land Economics Monograph No. 4, UW-Madison 1972):

For thirty years "Jake" as he was known to his associates, *wrote*, and *reviewed*, and *proposed* legislation. His primary continuing affiliations were with various committees of the Natural Resources Committee of State Agencies (NRCSA), the Department of Resource Development (DRD), the Wisconsin Legislative Council, and the state Soil and Water Conservation Committee.

Under NRCSA, from 1951 to 1967, he prepared reports and worked on legislation relating to a possible water use code, underground water, water pollution, flood plain zoning and shore land regulations. As a member of the Wisconsin Development Commission, Professor Beuscher was in 1958 requested by the Governor to write a proposal [which led to] legislation creating the

Department of Resource Development Within the DRD he was asked to supervise a study regarding the place of land use controls in the State Plan. He was on the Water Resources Advisory Board of the DRD and assisted in a shore land study.

He was a vice-chairman of the Governor's Advisory Committee on State Resource Planning, a group charged with creating a "plan for planning;" a member of the Governor's Committee on Wisconsin Water Resources, a group called upon to review and recommend water legislation; and he worked with the Governor's Committee on Eminent Domain.

As a member of the Wisconsin Legislative Council's Water Resources Committee he and others wrote legislation regarding water use, watershed control, and drainage laws. On the Urban Problems Committee of the Council he was involved in drafting incorporation standards, regional planning and counting planning and zoning. He worked with others on a revision of Chapter 236, Wisconsin's Subdivision and Platting Code.

His concern for planning for the future and his interest in the conservation of natural resources combine in some of his region-wide memberships, such as that on the Fox River Valley Regional Planning Commission, on which he and others wrote legislation to create multiple -purpose conservancy districts, and on various committees relating to the Wolf River basin. The Wolf River Basin Study which he provided to the Wisconsin Legislature served as a beginning subject matter for a River Basin Planning Seminar to train young planners, engineers,, political scientists, economists and lawyers in a real-life setting. He was in charge of preparing two reports—one on water law in southeastern Wisconsin and one on land use controls—as a

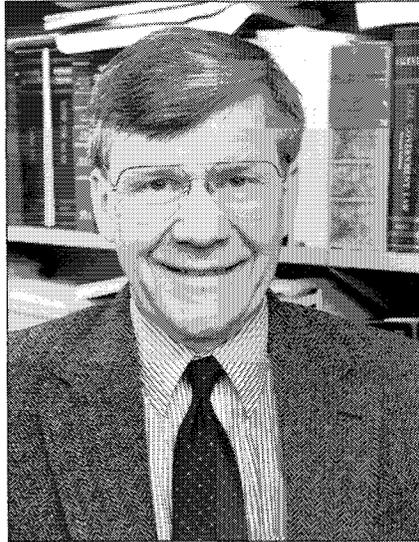
member of the Southeastern Wisconsin Regional Planning Commission, a seven-county regional planning commission which he helped "propagandize . . . into existence" and which exemplified his belief that decompartmentalized planning would yield valuable results. (Emphasis in original)

There was little, if any, conservation legislation adopted by the Wisconsin legislature between the late fifties and Professor Beuscher's death in 1967 that did not bear his stamp. Among the laws with which he was intimately involved were the following:

- ▶ Chapter 442, Laws of 1959 creating the Department of Resource Development
- ▶ Chapter 427, Laws of 1961; the *Outdoor Recreation Act* (ORAP) using funds from cigarette taxes to acquire and develop for public use lands for sport recreation, access and scenic and other easements.
- ▶ Chapter 253, Laws of 1963: barring future dams from the Wolf River north of the south boundary of Shawano County.
- ▶ Chapter 263, Laws of 1965; providing for the purchase of easements over shore land along the Wolf River.
- ▶ Chapters 274 and 573, Laws of 1965: authorizing participation by Wisconsin in interstate boundary waters commissions with Minnesota and Michigan respectively.
- ▶ Chapter 445, Laws of 1965: requiring for the first time state permission before an industry could discharge new or additional wastes into the surface waters of the state.
- ▶ Chapter 502, Laws of 1965: providing for water studies, data collection and research. The University of Wisconsin Water Resource Center which Professor Beuscher helped establish, was to oversee the studies.
- ▶ Chapter 614, Laws of 1966, the monumental water resource protection law, enacted to "organize a comprehensive program under a single state agency for the enhancement of the quality,

management and protection of all the waters of the state, ground and surface, public and private" was, no doubt, Professor Beuscher's crowning achievement. This landmark law included the fundamental water protection provisions that continue to be law today and formed the foundation for the impressive water clean up that has occurred in Wisconsin in the last thirty years. In addition it included the precedent setting provisions still in place for flood plain and shore land zoning. Governor Gaylord Nelson said about this legislation, "It was a new beginning for Wisconsin's fight to protect water resources and Jake Beuscher played a crucial role."

Jake Beuscher's final contribution to Wisconsin's natural resource protection laws came in the last year of his life during the legislative battles surrounding the enactment of the *Kellett Bill* and its massive reorganization of the executive branch of state government. When the bill was stalled due to the opposition of conservationist to the elimination of the Conservation Department as a voice on behalf of protecting natural resources, Beuscher's idea for a state Public Intervenor to play that role was critical to making the bill law. It was also a visionary idea that produced great benefit to the cause of resource conservation. For almost thirty years, until its powers were taken away in last year's budget bill the Public Intervenor led the fight for public rights in natural resources. Without the Public Intervenor in the bill, Governor Knowles government reorganization plans would have failed. With Jake Beuscher's idea the bill was saved and the public's voice in natural resource protection continued to be heard for thirty more years.



Emeritus Professor Arlen Christenson

Conclusion

Professor Beuscher was indeed a "fountain of ideas." He publicized those ideas in more than 150 books, papers and articles published over almost 40 years. Characteristically many of those publications were not in the usual academic journals but in places like *Hoard's Dairyman*, the *Highway Research Board Bulletin*, *Local Planning Administration* and the *Municipal Law Service Letter* where his ideas were accessible to the people who could put them into practice. A true scholar and a widely admired academic, Jake Beuscher wanted to make things happen. He cared deeply about the environment and about natural resources and he saw it as his duty to do something about the growing threats he saw much earlier than most people.

Jake Beuscher's ideas were innumerable and they were also prophetic in the true sense of that word. Here is what he told us more than thirty years ago when, in the words of his biographer "he listed the three most serious problems facing us both at present and in the future, all three springing from our affluence, mobility and expanding population:"

- (1) An increasing demand that open spaces, outdoor amenities, and esthetically pleasing surroundings be preserved. To these ends there must be orderly growth, prepared for through planning, in part by the use of regulatory tools used singly and in combination.
- (2) "Staggering demand"—and demands that will continue to increase—for open, clean water for every legitimate use. . . .
- (3) A "growing a deep-rooted concern about the quality of our environment and the threats to this quality from residues and wastes of our onrushing technology"

This prophecy was pronounced before Earth Day, before Rachel Carson's book, before the National Environmental Policy Act and before there were more than a handful of people who thought about these things. To say that Jake Beuscher was a man ahead of his time is to state the obvious. He was one of a kind. No one in the history of the University of Wisconsin has matched his contributions to the state in which he was born and to which he devoted a life time of accomplishment. A truly gifted teacher he introduced a generations of students, in law, agriculture, planning and environmental studies to his disciplined and scholarly approach to problems—legal, policy and political, and to his love of the natural world around him. Professor Jacob H. Beuscher personified conservation leadership. His leadership produced concrete results in legislation, administrative policy and education. His memory lives on in the lives and works of those he influenced so much and it is fitting that he be recognized by being enshrined with other leaders, so many of whom he knew, worked with and inspired.