

# Nature's Angel

One of Wisconsin's official environmental watchdogs speaks out



Intervening for the environment: Kathleen Falk.

**K**athleen Falk, a public intervenor for the State of Wisconsin, fights for the environment because she grew up in Big Bend "when it was all fields and the whole outside was our playground." Her immediate neighbors were Milwaukee Journal outdoor writer Mel Ellis and his family, who lived on the legendary 15-acre chunk of Eden called "Little Lakes."

"Mel Ellis's philosophy was a real big factor in my life," Falk says. "His daughter, Debbie, was my best friend. I spent much of my youth over there."

Falk was born in Milwaukee in 1951, and then the family moved to Big Bend, where she attended St. Joseph's grade school and graduated from Waukesha Catholic Memorial High School.

"Debbie and I started a conservation club in grade school," she recalls. "We weren't Girl Scouts or Brownies or anything, but we had badges for saving a bird or doing something in that fashion. That was pretty unusual in those days."

After trying the University of Wisconsin — Waukesha for 18 months and UW-Madison for six months more, she received "a full ride" — probably because of her 4.0 grade point average — to Stanford University. There she majored in math and philosophy and took "a lot of logic courses."

After graduating in 1973, Falk was confronted with the dilemma faced by a generation of young people who felt the Vietnam War left them only two choices: "Either leave the system or try to change it."

"I asked myself," she admits, "should I go to Alaska and be a pioneer with some friends, or do I go to law school and try to change it?"

She went to UW-Madison Law School, graduated in 1976, and has been trying "to change it" ever since. She spent eight years with the Wisconsin Environmental Decade prior to joining the Public Intervenor's Office in May of 1983.

Falk married Steve Phillips, an attorney in the public defender's office, 10 years ago. They met as classmates in law school. They have one child, Eric, who is four and a half.

She apologizes for not having any hobbies. "My work is my avocation as well as my profession," she says.

"Mel Ellis was my mentor. My first mentor.

"There were a few others. Professor Hung-Mao Tien for one. He taught at the UW. Here I was in Waukesha and not really having a whole lot of direction, not really knowing what I was going to do. He suggested that I go to Harvard or Stanford or something like that. I didn't think I would fit in on the East Coast and I didn't know

where the West Coast was. Here I was, a little Midwest farm girl, having never been anywhere.

"So I applied to Stanford and they wrote back saying, 'Sure, we'll take you.' I wrote back saying, 'I can't afford it,' and they wrote back saying, 'Well, we'll pay everything.' And that's how I got there, because of Professor Hung-Mao Tien.

"In California, I lucked out by living in a Newman Center off campus. There wasn't any housing for transfer students — just for incoming freshmen — so I lived with 14 seminarians and ex-seminarians at the center.

"I was the first woman to live there and they were all just an incredible influence, particularly the person who ran the place, the Reverend Father Duryea.

"Father Duryea is mythic; he's a legend in California, similar to John Muir. He's a Catholic priest who is regarded as a maverick as far as the traditional church is concerned, but he's known statewide for his trips into the mountains and for his 'environmental ethic,' in which he's trying to merge church kind of values with the environment. He was an inspiring role model.

"Then, when I went to law school in Madison, I met Professor Frank Tuerkheimer. He had started a Natural Resources Defense Counsel clinical program in the law school. I was able to actually

litigate cases and appear in court while I was a law student. I think it helped prepare me — as much as anything — for this job.

"The Legislature created the public intervenor's office in 1969 — to be a watchdog. The public intervenor's job is to intervene where state government — an agency or an industry or somebody else — is doing something that will harm natural resources.

"The public intervenors are hired by the attorney general not only to be watchdogs, but to save the rest of his staff, who are supposed to represent the state agencies 100 percent of their time, and who do just that.

"You couldn't have the same people representing state agencies on the one hand and then taking time out of their day to sue those agencies, to oppose them. That's asking for an impossibility.

"The beauty of the system is that it works. The checks and balances, the opposing viewpoints is what ultimately makes the system stay honest.

"The thing that industry respects about our office is not that they agree with us in what we do. They respect us because we know how the system works.

"They also know that we play fair, and that's very important to industry. They know how we will act because they know we will be fair and not go underhanded.

They know that we will try to resolve public policy disputes and then once that's resolved, we will leave. We are not loose cannons out there. We are guided missiles, and we're guided by a Citizen Advisory Committee, nine people appointed by the attorney general who sit at his pleasure and who have a variety of geographical and professional backgrounds.

"They meet regularly on a monthly or bi-monthly basis to set the priorities that we in the public intervenor's office work on.

"So it's not Tom Dawson or Wally Arts or Kathy Falk deciding on a Monday morning what they're going to do that day or who they're going to go after.

"It's a much more carefully thought out annual review of what our office should be prioritizing: Should we be making air and acid rain a major issue or should mining be a major part of the office's work? Should we be working on urban sprawl or should toxics and ground water be the major priority?

"Those kinds of decisions are made at the Citizens' Advisory Committee level — with public input. Then, as we get calls and crises and cases in from citizens, we devote the appropriate amount of responses and resources, commensurate with what the committee has told us to prioritize.

"As a practical matter, our office does very little on air pollution because that is one of the issues the committee has not, in



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the general picture of things, decided to make a priority.

"Instead, we spend lots of time on ground water concerns for citizens. And a lot of time on urban sprawl fights. And a lot of time on wetlands and mining and public access cases because the committee, over the years, has chosen to prioritize those items.

"One of the beauties of the Citizens' Advisory Committee is that it removes personality as an issue in the public intervenor's office. That's very important because the issues, too, then become depersonalized.

"Anyone can be subject to personal attack once a conflict arises, so if you have a conflict between Tom Dawson and the use of Aldicarb, industry could reason that their problem would be gone if Tom Dawson was gone.

"Now that isn't a good way to set public policy.

"Industry has to know that somebody will be there to replace Tom Dawson and will be saying the same things over the years that Tom has been saying.

"The other advantage of the committee — the most important advantage — is that if the opposition knows that you will go away, all they do is outwait you.

"If they know that you are going to litigate on a highway project, they can simply wait for

you to win or lose — it doesn't make much difference — and then they will go to the next body, which is either an agency or the Legislature, to try to undo that court decision or vice versa. If they have lost in the arena of the agency, they will simply wait, bide their

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*"The politics of the environment are changing. The environment has real good friends in both the Republican and Democratic parties."*

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time and take it to the courts or the Legislature.

"So the importance of our office is that, institutionally, we will not go away. We will be there on that issue forever — and in every arena.

"The system responds to political pressure at any level, and now there are active citizen groups and they are the ones that make or

break, ultimately, the big picture.

"Ten years ago, there were very few environmental groups that had the resources or the staff to do lobbying or intervening in many 'agency-kind' of proceedings that require a consistent daily presence. That's very different now. Today, there are a variety of groups. There's Sierra Club. There's Audubon Society. There's Friends of the Earth. There's Citizens for a Better Environment. There's Environmental Decade.

"There's a whole number of groups focusing on specific issues — whether it's the nuclear freeze or citizens trying to protect ground water from pesticide overspray — and that kind of presence not only makes a difference in the Legislature, it also makes a difference with the agencies.

"People in the agencies react like everybody else reacts. The first time they see somebody coming in the door, it's, 'Who cares?' When you come back the second time, it's, 'Hmmm. I'm going to have to listen to this person, I guess.' And when you're back the third time, it's, 'Oh, my goodness. I'm going to have to deal with this person for the rest of my life.' That's when you get the credibility and the respect.

"The politics of the environment are changing. The environment has real good friends in both the Republican and Democratic parties. People care about the envi-

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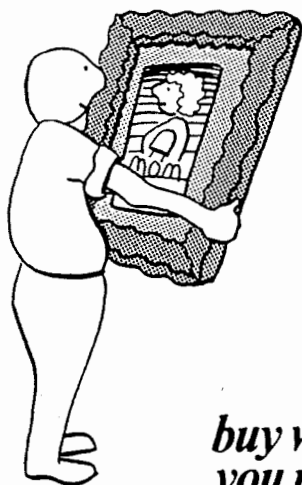
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ronment. You see it in the polls and the legislators see those polls, too.

"It used to be traditionally that much of the environmental awareness and problems came through urban areas because of the density of people and industry concentrated there. That's no longer true in Wisconsin.

"Now the majority of our environmental problems, citizens' complaints and concerns, are in rural Wisconsin. It's very, very different than it used to be. So the old coalitions of

*"Now the majority of our environmental problems, citizens' complaints and concerns, are in rural Wisconsin. The old coalitions of urban versus rural legislators have shifted."*

urban versus rural legislators — regardless of political party — have shifted.

"Now it's rural legislators coming to our office asking that public policy be set on Aldi-carb levels, on highway construction, on landfills, et cetera. You can go right down the list of environmental concerns.

"They're being generated by rural legislators on both sides of the political aisle, and that shift has been what's significant.

"Rural is where the environmental problems are and these relatively conservative people — in both parties — are now leading the fight and asking that environmental legislation be passed.

"You know, if you sat back on a Monday morning and looked at the magnitude of problems that we face globally — let alone nationally — there's not much incentive to go to work.

"You will not, from Madison, Wisconsin, in the office of the public intervenor, be able to stop the deforestation of our forests in Brazil. You will probably not be able to affect national acid rain policy. But you can have an enormous effect on how the state makes decisions on whether to put money into major new highways or into repairing old ones.

"When you can define the problems and reach the problems and work on the problems, then after a lot of struggle and effort — years and years and years of it, when the problems are large — you can make a difference.

"And when you know you can make a difference, then you're very motivated to come to work on Monday." ■