



DIGGINGS

PUBLISHED BY THE BADGER INSTITUTE

Sonag owner to plead guilty to fraud

Scheme cost government \$250 million

Bruce Vielmetti
Milwaukee Journal Sentinel
USA TODAY NETWORK - WISCONSIN

The owner of a construction firm who secretly controlled comparable government contracts been paired to be run by mem- berranted groups has aggr- ally to federal fraud char- Brian Ganos and his co-

of some of Milwaukee's largest construction projects, including Northwestern Mutual Life Insurance Co.'s downtown business tower and Fiserv Forum.



Ganos

\$250,000 fine. According to prosecutors, Ganos' fraud cost the government more than \$250 million. They will recommend a maximum prison term of 6 years and a fine of \$250,000.

erty at 5500 W. Florist Ave., a condo in Winter Park, Colorado, and nearly \$2 million from bank accounts.

In addition, Ganos agreed to a \$500,000 judgment against him and to the potential forfeiture of two Disney World timeshares and four more cars — a 1967 Shelby Mustang, 1969 Camaro, 2009 Shelby Mustang GT500 and 2016 Cadillac Escalade — to pay it off.

In March, prosecutors persuaded Pepper to order that weekly payments

Major Fraud in Minority Program

New York Daily News
WASHINGTON — The federal government's minority set-aside program

minority company that can win at least part of the business without any bids at all.

it or whatever. If this contracts are going to g who are married to co- friends of contrac-

FBI arrests 6 in minority contract probe

By Kevin Diaz, Margaret Zack and Joe Rigert
Staff Writers

Five executives from three Minnesota construction firms and a former

The indicted official, Donald Showalter, administered minority contract programs in Minnesota for the SBA and was dismissed in 1985 when an FBI investigation began.

alter, 48, of Fridley, was taken U.S. Magistrate Floyd Bolin day, along with the former of Kathy's Kranes, Kathryn son, 46, of Hudson, Wis.; her 11-old son and company comp-; Colin Anderson, and three codefendants: Richard Lundin, resident of the Lundin Con- Co. in Mankato; Larry , 37, Lundin Construction vice ent, and Robert Park, 53, owd- president of Paragon Con- ers Inc. of St. Paul.

resent at the hearing was the b defendant, Frank Johnston, of Wayzata, who was the vice ent of Kathy's Kranes. FBI

ments continued on page 9A.

Minority plan has spawned a sham system

By Lucinda Flesher
Senior Staff Writer

Robert Charter was bid to rest in ease

Genovese in Collingdale on Ma But a year after the death of a black man, the City of Philadelphia KeyStone Street, the company bid white partner, for a \$20,000 minority-owned firm.

The firm's minority status was dead man's name. It may be out of the ordinary minority status to be depicted was, but the fact that the bid contract is a sham system that was supposed to go to a minority

The city routinely approves such contracts without questioning whether a company's ownership is legitimately minority.

included on each job That's the way it was supposed to work for an inquirer investigation has found

Page 8A • Friday, April 28, 2000

Minority contracts abused

San Francisco official indicted over \$55M deal with white contractor instead of a minority

jury. The indictments did not indicate how many of the contracts were allegedly obtained by fraud.

James, the white contractor, was indicted in the San Francisco County Superior Court.

full and fair opportunity to do public work," U.S. Attorney Robert Mueller said in court. "Those who utter obtain fraudulent contracts under this program do to be prosecuted."

The FBI has been in getting city contracting across for more than a Federal agents sealed 1 offices of the Human E Commission one week ago to look for records

State set-aside rules invitation for fraud

Some interesting things are happening in government programs designed to help minority businesses get a fair share of government business. Women, or more particularly firms owned by women, may be the biggest beneficiaries.

Whether this is good or bad depends, of course, on your point of view. Either way, I think it is an invitation to fraud.

It also opens up another chapter in the old debate: Do "goals" become quotas? Is it fair to prohibit mainstream firms from bidding on some contracts? And exactly how widespread should such preferences be?

Harmful History

Government set-aside programs undermine the truly disadvantaged

BY KEN WYSOCKY

Feds: At least \$45 million stolen from minority set-aside program

By MICHAEL RUBINMAN
Associated Press Writer

SELENIUM (AP) — A federal judge has indicted a minority set-aside program for stealing at least \$45 million from the program.

without its intent. Justice money is part of a long one- and eleven million to be

ment in Connecticut on a. Gap, a major and highest bid is bid against by a competition firm owned by

ing is the largest beneficiary of the federal set-aside program in Pennsylvania, according to court records. The U.S. Attorney in Ohio declined to

whether the amount that heeded the other owner. This program is 12 billion dollars' worth of the set-aside program.

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COVID-19:

A reasoned response to the health and economic crisis — 2 pages of coverage inside



Balancing risks with freedom

I've been breaking the rules and going to work.

There, I admitted it.

Everyone else at the Badger Institute, our staff as well as the freelancers and contractors we use, has been working from home or back in their hometown. One of our policy analysts has been with her family in Ohio. Our development associate has been in Virginia. Most others are scattered about southeastern Wisconsin.

I go into the office because my wife and I live in a small apartment in Milwaukee and one of our kids, who normally goes to school in California, is now attending class online here as well. I go in because I don't think it endangers anyone, because I think what we do is pretty important, because — how do I put this? — it's good for tranquility.

I have spent a lot of time praying for a friend who spent two weeks on a ventilator. I don't think anyone should be cavalier about the danger of COVID-19. But — as with many of the things you'll read about in this edition — there has to be a balance, an acknowledgment that ***the free market and productive work are at the core of what this country is.*** There are a lot of risks out there; losing that is one of them.

Ken Wysocky's cover story is one of good government intentions time and time and time again gone bad. The Great Lakes package of stories illustrates how we can be responsible environmental stewards but still acknowledge that not every natural disaster — or change in water level — is the result of human-caused

degradation. If people in state government want to reduce fossil fuel consumption, by the way, how about letting Tesla sell its cars directly to Wisconsin consumers? I'm hearing that this is a hoary old canard, but we at the Institute still know it to be true: ***Government, we see again, is rarely the solution.***

I am very proud of our work, and this is just a fraction of it. This edition is slimmer than most because, frankly, given the crisis, I am not sure what the rest of the year will bring with our normal fundraising. Longer versions of some of these pieces and additional stories — not to mention all of the policy analysis we produce — can be found at badgerinstitute.org.

Please check it all out, both in print and on your laptop. Please also return the survey you received with this edition. If we don't have your email, send it to us on the survey. Or just email me. If you're not getting our emails or seeing our social media posts, you're missing nine-tenths of what we do.

I hope you and your families are healthy. I hope the crisis doesn't cost you a job or a business. I hope when things return to normal, all of us can gather in a big room someplace, maybe at the Badger Institute's Annual Dinner in October, and shake hands or exchange hugs and share stories from a little closer than six feet away.

Mike@BadgerInstitute.org

MISSION STATEMENT/

Badger Institute

Founded in 1987, the Badger Institute is a nonprofit, nonpartisan 501(c)(3) guided by the belief that free markets, individual initiative, limited and efficient government and educational opportunity are the keys to economic prosperity and human dignity.

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DETROYE FAMILY PHOTO

Cover illustration / Robert Helf

Badger Briefing: Here's what we're hearing ...

Numbers and nuggets from trends we've observed on an array of topics — from 30 years of school choice in Wisconsin to occupational licensing to Badger State crime rates.5

Great Lakes' natural fluctuation

"Those who are today blaming climate change for high water levels often made the same frightening diagnoses and predictions in 2013, when water levels were at record lows," says Jason Hayes of the Mackinac Center for Public Policy. The fact is water levels in the Great Lakes have been rising and falling naturally for more than 100 years.

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Environmentalism is a conservative value

Protecting the environment is a goal of true conservatives, as it should be for individuals of every political and economic stripe.

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A reasoned response to the COVID-19 crisis

Badger Institute analysts and visiting fellows have weighed in on the COVID-19 health and economic crisis from a variety of perspectives over the past several weeks.

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The harmful history of government set-asides

Decades of court cases across the country show that the race- and gender-preferential government contract programs are often prone to fraud, which in turn hurts legitimate minority and disadvantaged business owners. There are better ways to combat discrimination, critics of the programs say.

BY KEN WYSOCKY 14

Paving the way for Tesla

Under Wisconsin dealer franchise statutes, Tesla and other auto manufacturers aren't allowed to sell directly to consumers here. Some state legislators say it's time to adjust the antiquated law and eliminate the mandated middleman.

BY PAUL GORES20

Socialist dream failed in Ripon

Young supporters of Bernie Sanders' socialist ideology likely don't know the long history of failed socialist experiments across the globe — and here in Wisconsin. In the mid-1800s, in the same town where the Republican Party later was founded, a utopian commune called Ceresco was established and eventually collapsed.

BY LAMONT COLUCCI22

Frontlines: Building something that lasts

The story of a young Milwaukee woodworker illustrates how people — and finely crafted, handmade furniture — leave an indelible imprint on our lives.

BY MIKE NICHOLS25



GARY PORTER PHOTO

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At least 27 of Wisconsin's 63 occupational licensing boards & advisory councils are in violation (as of summer 2019) of the state law mandating public representation on the boards.

Source: Badger Institute's "Absence and Violation" report

JOHN MANIACI PHOTO



6.2% of Wisconsin prison inmates are eligible for compassionate release based on age.

See article by Patrick Hughes at badgerinstitute.org



2009-2018
Property Crime Rate*
-40% Statewide **-48%** Milwaukee

**Includes burglary, larceny and motor vehicle theft*

Source: Badger Institute analysis of latest Wisconsin Department of Justice numbers

"I feel powerless. You invest so much time, money and energy into a profession, and not being able to work in it is very frustrating."



— **Meggan Thompson**, social worker from California who was sidelined for over a year while she waited to become licensed in Wisconsin

DARREN HAUCK PHOTO

"We need more of these trained providers (dental therapists) because we all pay the price for the crisis in oral health."

— **Sarah Wovcha** of Children's Dental Services in Minnesota, referring to ER costs if dental issues are not addressed preventively

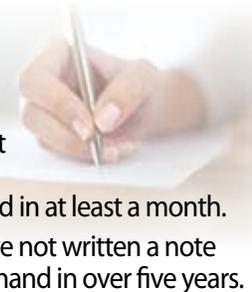
School choice

By the Numbers

The Milwaukee Parental Choice Program began 30 years ago. Today, in addition to the MPCP, Wisconsin offers the Racine Parental Choice Program, the Wisconsin Parental Choice Program and the Special Needs Scholarship Program.

| | MILWAUKEE | | STATE |
|----------|-----------|----------|----------|
| | 1990 | 2019-'20 | 2019-'20 |
| Schools | 7 | 130 | 350 |
| Students | 337 | 28,978 | 43,450 |

Source: School Choice Wisconsin



75% of Americans say they have not written a note to someone by hand in at least a month.
15% have not written a note by hand in over five years.

Source: Survey of 2,000 people by Bond, a handwritten note service, as reported in the New York Post

See pro-con package of stories on cursive writing and coding at badgerinstitute.org



Climate change has been blamed over the years for the rise ... and fall ... and rise again of lake levels

Great Lakes' natural fluctuation

A homeowner's shed in Somers in Kenosha County teeters on a bluff eroded by high water levels in Lake Michigan in April 2019. By October, the shed had toppled off the bluff.

By Bruce Edward Walker

John Swart says the lakefront property he has owned for 50 years on Windmill Beach in Oostburg, south of Sheboygan, has lost about 125 feet of beach over the past three years.

His neighbors — Ron DeTroye, his wife, Pamela, and their youngest son — have a waterfront home currently situated 15 feet from Lake Michigan. When the DeTroyes bought the property five years ago, they had about 200 feet of sandy beach, which is now mostly gone.

Across the lake, Michigan resident Dan Fleckenstein purchased a home with beachfront property on the Mission Peninsula in Grand Traverse County five years ago.

“When I bought this home, I was told its real value was the beach,” he says. “In fact, I was told the beach came with a house, which is lucky because my wife and I haven’t seen any sand in a couple of years.”

The same holds true on the eastern side of Michigan, where for more than 100 years Eric Tubbs’ family has owned property north of Port Sanilac on Lake Huron. Tubbs say he has witnessed wide fluctuations in Port Huron’s water levels throughout his lifetime.

“I’m pretty fortunate my house is built on a high bank,” he says, noting the current lake level is as high as he remembers it in 1986.

Climate change as culprit

The relatively recent rise in Great Lakes’ water levels has caused some homeowners, environmentalists and even journalists to sound the alarm that something terrible, unprecedented and potentially catastrophic is occurring.

In March 2019, for example, the *Milwaukee Journal Sentinel* ominously reported that winter and spring precipitation will continue to increase until 2100, after which summer rains “should decrease by 5 percent to 15 percent for most of the Great Lakes states” because

of climate change.

In January 2020, the newspaper reported that the past six years have been the “wettest on record,” causing rising lakes to “gobble up” the state’s beaches.

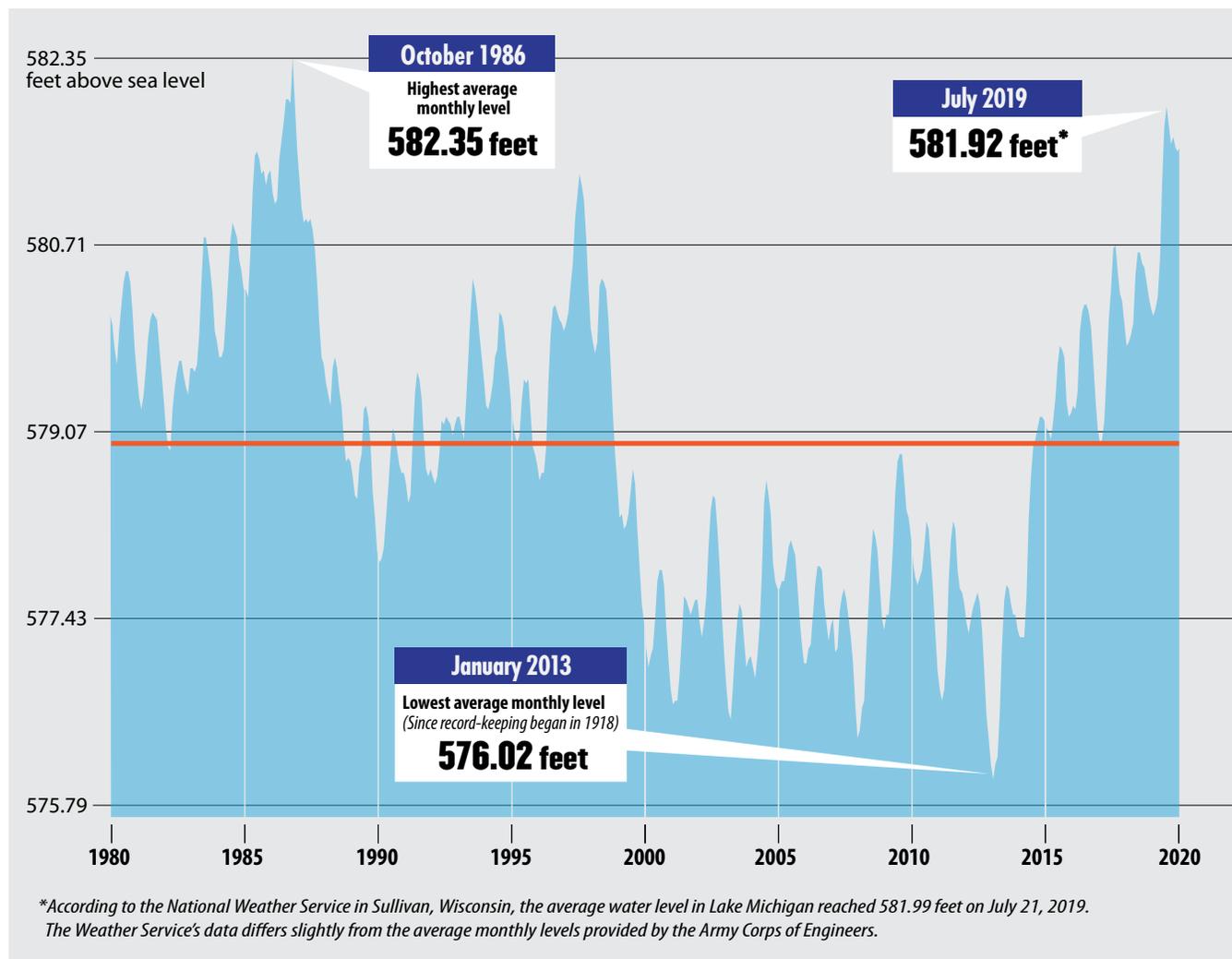
Contrast those reports with a two-part investigation the same newspaper published in July 2013, in which a 37-year-old member of Milwaukee’s South Shore Yacht Club claimed he had never seen water levels on Lake Michigan so low. The article’s author portentously added, “Nobody has.”

Later, the writer rhetorically asked, “So where did all the water go?”

His response? “This is not a story about climate →

Lake Michigan-Huron monthly water levels 1980-2020 — Mean long-term average level

Since the mid-1980s, monthly water levels for Lake Michigan-Huron have hit record highs and lows.



Source: Army Corps of Engineers

Environmentalism is a conservative value

A principle often missing in the climate change debate is the presumption of goodwill when it comes to ideological opponents.

One needn't be a full-fledged Green New Deal activist to identify as an environmentalist. Likewise, writing off environmentalists' concerns as a hoax does little more than give license to those who would exploit natural resources to the point of destruction.

Somewhere in the middle of the ideological spectrum are true conservatives.

Conservatives worthy of the designation are also diligent environmental stewards occupying common ground with their left-of-center colleagues.

Russell Kirk (1918-1994), one of modern conservatism's architects, for example, wrote often of his disdain for the wreckage of the rural landscapes surrounding his ancestral home in Mecosta, Michigan, wrought by the lumber industry. "Stump country," he called it, with more than a hint of contempt.

Kirk was a discerning critic of unfettered capitalism and an unwavering champion of ordered liberty.

More recently, the British conservative philosopher Roger Scruton (1944-2020) wrote in 2013: "Oikophilia, the love of home, lends itself to the environmental cause, and it is astonishing that the Conservative Party has not seized hold of that cause as its own."

He continued: ***"The solution is not automatically to call on the state to intervene but first to look for the social mechanisms that cause people to bear the costs of what they do."***

In a March guest article in *National Review*, U.S. Rep. Dan Crenshaw (R-Texas) wrote: "Good intentions and dogmatic obsessions with eliminating fossil fuels have utterly failed the environmental cause, yet activists continue to faithfully cling to them. The notion of 'focusing on what works' has been lost in the conversation."

He cited the abundance of natural gas recognized by the U.S. shale revolution as contributing to a 15% reduction in carbon emissions since 2005. By comparison, Crenshaw wrote, Germany invested \$580 billion in renewable energy yet failed to meet its goals.

Instead of lowering carbon emissions, Germany's per-capita discharge increased after it added Russian gas to its fuel portfolio to compensate. The replacement fuel source, noted Crenshaw, has "a 40% higher carbon footprint than American natural gas."

Helping the poor

One key aspect of any public policy position should reflect a concern for both the environment and the world's most vulnerable. Keeping energy affordable and plentiful helps those least likely to afford it by raising their standard of living.

According to the Cornwall Alliance, a group adhering to Judeo-Christian based scholarship to assist the world's economically disadvantaged, "Fossil fuels, because of their lower costs and higher efficiency, account for over 85% of total global energy use, and nuclear energy for about 6%. Wind and solar energy, because of their higher costs and lower efficiency, account for only a few percent."

The world's poorest would be the most significantly disadvantaged by fossil fuel restrictions, the alliance says. Affordable and plentiful energy sources are necessary to transition the poor out of poverty, it adds.

In his 2014 book, "The Moral Case for Fossil Fuels," Alex Epstein concurred: "It is an undeniable truth that, in providing the fuel that makes modern, industrialized, globalized, fertilized agriculture possible, the oil industry has sustained and improved billions of lives. ... If we rate achievements by their contribution to human well-being, surely this must rank as one of the great achievements of our time, and when we consider the problems with that industry, shouldn't we take into account that it fed and feeds the world?"

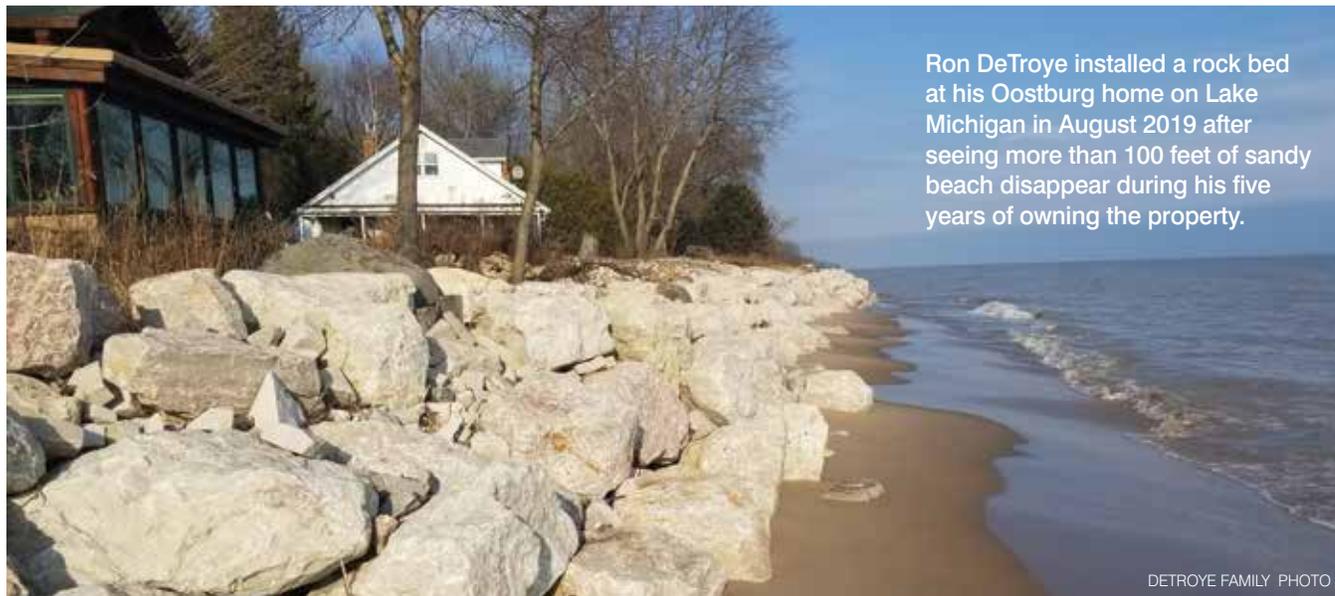
Do problems continue to exist? Most certainly, and it's incumbent upon legislators and public policy professionals in conjunction with industry and manufacturing executives to acknowledge those problems and work together to solve them.

Protecting the environment is a conservative goal, yet one that should engage individuals of every political and economic stripe.

We can reduce our environmental footprint even further than in the past 50 years without simultaneously wreaking economic havoc.

To say we cannot is to present the world with the false choice between the economic nightmare of the Green New Deal and complete environmental collapse. There's a wide berth in between those extremes filled with millions, if not billions, of humans teeming with mutual goodwill.

— Bruce Edward Walker



Ron DeTroye installed a rock bed at his Oostburg home on Lake Michigan in August 2019 after seeing more than 100 feet of sandy beach disappear during his five years of owning the property.

DETROYE FAMILY PHOTO

change. It is a story about climate changed.”

And this: “An alarming piece of research in 2002 predicted a drop of about 4.5 feet in Michigan and Huron’s long-term average in the coming decades. ... (but a 2010) study concluded Michigan and Huron’s average level in the coming decades is most likely to remain somewhere around a foot below the historic average.”

Instead, 18 years later, Great Lakes water levels are near record highs. And this past January, in a story about rising levels, a *Journal Sentinel* reporter wrote, “no one knows if this is the peak of Lake Michigan’s water levels, whether it will recede any time soon or rise even higher. Or if this is a new normal.”

No one? New normal? Not so fast.

‘Ignores science and history’

“The idea that the current high water levels in the Great Lakes must be directly and primarily attributable to human-caused climate change is presently popular, but it ignores science and history,” Jason Hayes, environmental director at the Michigan-based Mackinac Center for Public Policy, writes in an email.

“In the same sense, reporting that the current water levels are a new climate change-imposed ‘norm’ also ignores science and reality,” he asserts. “Let’s not forget that those who are today blaming climate change for high

water levels often made the same frightening diagnoses and predictions in 2013, when water levels were at record lows.”

Even as early as 2008, researchers examining a century of water level data for lakes Michigan and Huron were concluding that the decline could signal climate change.

“Researchers in Michigan report new evidence that water levels in the Great Lakes, which are near record low levels, may be shrinking due to global warming,” Science Daily reported in January of that year.

“In the new study, Craig Stow and colleagues point out that water levels in the Great Lakes ... have fluctuated over thousands of years. But recent declines in water levels have raised concern because the declines are consistent with many climate change projections, they say,” according to the report.

And in a floor speech in June 2013, U.S. Sen. Dick Durbin (D-Ill.) cited the then-low level of Lake Michigan and proclaimed, “What we are seeing in global warming is the evaporation of our Great Lakes.”

The Wisconsin Department of Natural Resources website, meanwhile, sticks to the facts: “Lake water levels can fluctuate naturally due to rain and snowfall, which varies widely from season to season and year to year.”

Although somewhat reassuring, it doesn’t take into account the very real threat of property damage and erosion wrought by high lake levels. —>

“It is natural for lakes to go up and down in cycles that are decades.”

— Wisconsin Department of Natural Resources website

Water levels

The natural cycles

According to the Michigan Department of the Environment, Great Lakes and Energy, water levels in that state are the highest since 1986. Wave activity and heavy precipitation are causing erosion of properties that threatens houses and other buildings along the shorelines.

However, there's plenty of evidence both anecdotal as well as historically and scientifically based suggesting that *the Midwest isn't transforming into a post-apocalyptic Waterworld.*

"Although changes in water levels may be perceived as a problem for property owners, it is natural for lakes to go up and down in cycles that are decades," the Wisconsin DNR says.

Ample historical data available from the U.S. Army Corps of Engineers, National Oceanic and Atmospheric Administration (NOAA) and the U.S. Geological Survey

display routine water level fluctuations, Hayes says.

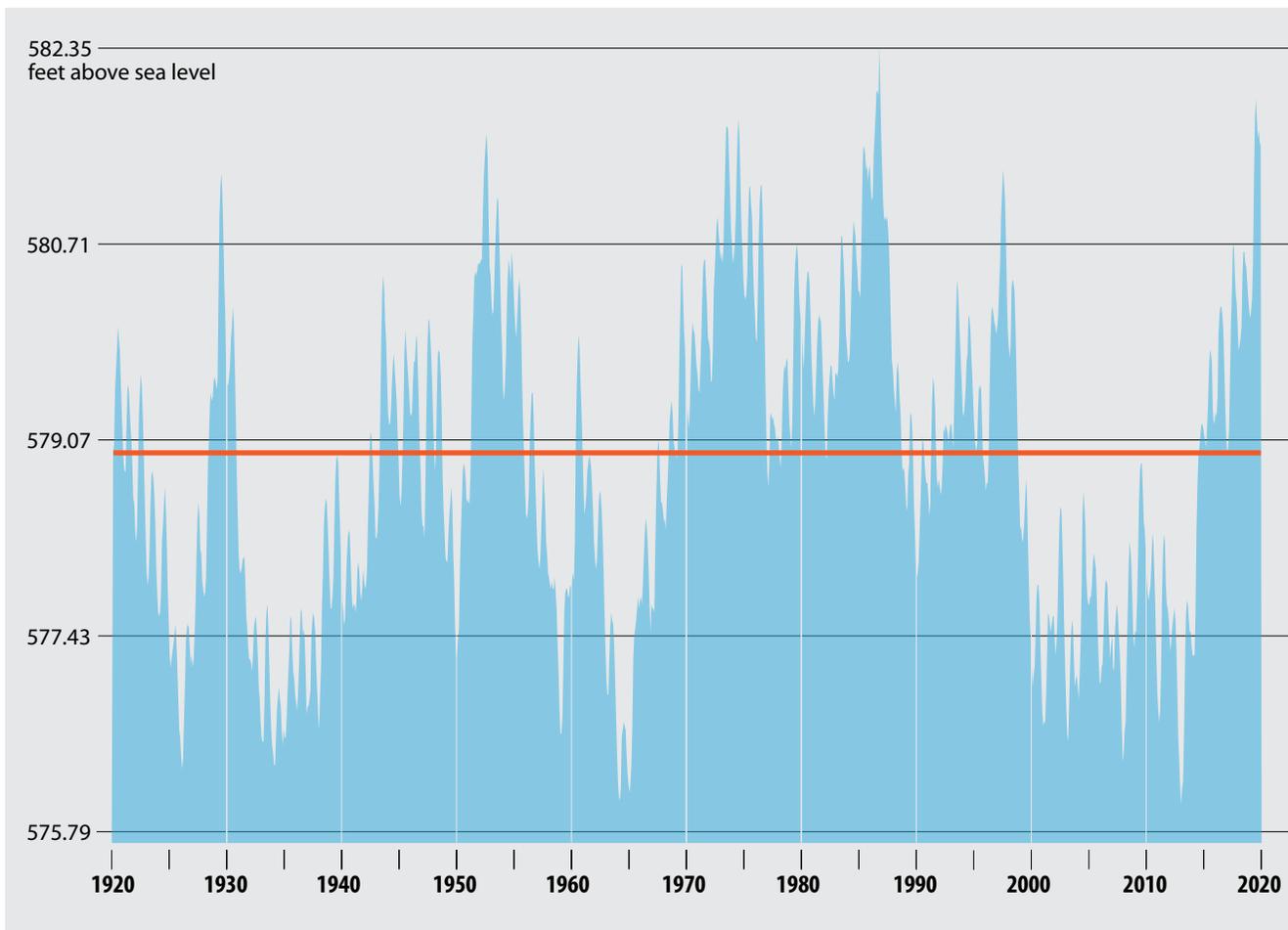
For example, NOAA data from January 2020 shows the water level for lakes Michigan and Huron was 581.56 feet. "While very high, these levels were similar to the levels previously recorded," he says, referring specifically to January 1860, November 1876, June 1886, July 1952, July 1973, June 1974 and July 1986.

Sediment core studies conducted by the Geological Survey in 2007 concluded the Great Lakes have experienced comparable fluctuation patterns from as early as 2600 B.C., Hayes notes.

Data shows pattern

The accompanying charts compiled from Army Corps data for the Badger Institute reveal a consistent pattern of fluctuations in Great Lakes water levels. In the past century, water levels on Lake Superior and lakes Michigan and Huron (hydrologically the same lake because

Lake Michigan-Huron monthly water levels 1920-2020 — Mean long-term average level



Source: Army Corps of Engineers

they are linked by the Straits of Mackinac) correspond with anecdotal data from individuals possessing long family histories of life on the lakes.

In short: What goes up eventually comes down — and sometimes drastically so.

The long-term average monthly water level for Lake Superior ticks north of 601 feet above sea level. That, however, fluctuated from 599 feet above sea level in the 1920s to over 603 feet in the 1950s.

At an average of 579 feet above sea level, Lake Michigan’s level plummeted in the 1920s, 1930s, the mid-1960s and again in 2013; it rebounded each time. The record high was 582.35 feet in October 1986, while the level in July 2019 was slightly lower at 581.92 feet.

In January 2020, the Army Corps noted Great Lakes water levels were “above their long-term monthly averages” but predicted that Lake Superior would experience a 2-inch decline and water would rise an inch by

mid-March.

Swart, who with his wife, Jackie, has lived full time at their lakefront home in Oostburg for 20 years, notes the historical record of Lake Michigan water level fluctuations.

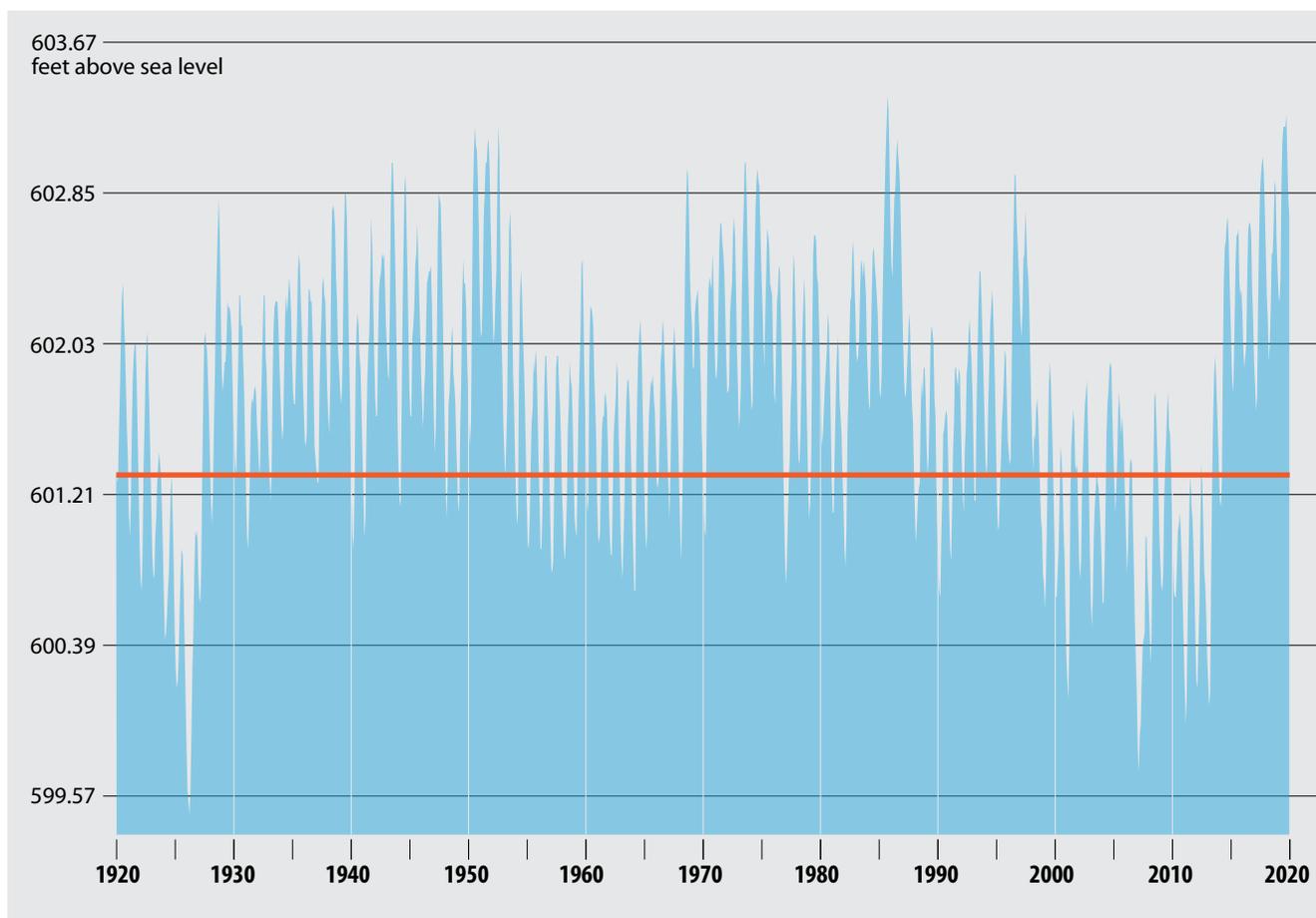
“There’s a drawing from the Town of Holland from 1941 that has the lake levels from the 1850s, 1860s and 1870s, and if the climate scenario is such that it goes back to those levels, we’ll be in trouble,” he says. “It was then two feet higher than it currently is.”

Tubbs concurs: “The water is absolutely higher, but if you live long enough, you’ll witness a lot of highs and lows. It wasn’t that long ago that Michigan was worried about low water levels.”

Bruce Edward Walker is Midwest regional editor for The Center Square. He has edited and written extensively on the environment and technology for more than 20 years. Wisconsin freelance writer Dave Lubach contributed to this story.

Lake Superior monthly water levels 1920-2020

— Mean long-term average level



Source: Army Corps of Engineers

A reasoned response to the COVID-19 crisis

Badger Institute analysts and visiting fellows have weighed in on the COVID-19 health and economic crisis from a number of perspectives over the past several weeks. Some of the articles and commentaries are summarized here. To read the full articles and to access all of our related crisis coverage, go to badgerinstitute.org/COVID-19

State guidelines for addressing an emergency

In the battle against COVID-19, Wisconsin lawmakers should make sure the cure isn't worse than the disease. The following principles provide a free-market framework for confronting this public health and economic crisis.

Lawmakers must resist actions that grow the size and scope of government permanently. Avoid ongoing appropriations, permanent full-time equivalent positions and new layers of red tape.

Be careful not to create a long-lasting, one-size-fits-all solution for future health emergencies. Each challenge brings its own unanticipated difficulties, requiring unique approaches and tools.

Don't plunge the state into a sea of debt that will make matters worse over the long term. Responsible policies contributed to a state budget surplus that helped soften the blow of this economic crisis. Maintain fiscal prudence while supporting those who lost their jobs.

Wisconsin's economy will recover, but before we know the true cost and recovery curve, legislators must be cautious about signing a check that they can't cash.

— David Fladeboe



Licensing barriers hinder health care workers

Even before the onset of this new coronavirus crisis, Wisconsin was experiencing a worker shortage in health care professions. Policymakers should streamline the

regulations that make it difficult for health care workers to get licensed here.

Take certified nursing aides (CNAs), who serve on the frontlines at nursing homes and long-term care facilities. In Wisconsin, CNAs are required to complete 120 hours of training to secure a license. Neighboring states of Minnesota, Michigan and Iowa, as well as federal rules, require only 75 hours. Mounting evidence shows the connection between occupational regulations and worker shortages.

One out of four direct caregiver positions in Wisconsin's nursing homes and assisted living facilities are vacant, according to a statewide survey of providers. One-third of respondents said they were unable to admit new residents because of unfilled jobs.

Wisconsin lawmakers also should look at expanding the scope of practice for physician assistants to address a growing shortage of primary care physicians. The state will face a shortage of 745 primary care physicians by 2035, according to one source.

— Julie Grace

Markup law inflates cost of prescriptions

Given that the COVID-19 crisis has significantly reduced many people's income and is increasing the demand for prescription drugs, now would be a good time to reverse an antiquated law that artificially inflates prices in Wisconsin.

The Unfair Sales Act, commonly known as the minimum markup law, precludes retailers from selling items below cost. In 2006, Walmart began selling generic prescription drugs used to treat everything from high cholesterol to diabetes to heart ailments — for just \$4 for a 30-day supply and \$10 for a 90-day supply.

The retailer surmised that charging a uniform low price

across a wide array of drugs would encourage shoppers to get all of their prescriptions at Walmart — and make other purchases at the same time. It was a great deal for consumers, and other large pharmacies followed suit.

Wisconsin blocked the deal — in the name of protecting consumers — forcing Walmart to charge a higher price here than in other states.

— *Ike Brannon*



Alternative to gas tax needed as fuel sales dive

Gasoline sales are projected to drop by more than half during the first few months of the pandemic. That means revenue from per-gallon gas taxes also will plummet, likely leading to a \$100 million deficit in Wisconsin's transportation budget. If the slowdown continues into summer, it could be disastrous.

Long-term prospects aren't much better. As fuel-stingy new cars and affordable electric cars replace gas-guzzling vehicles, the amount of gas sold will be in a long-term decline.

Wisconsin needs a transportation funding alternative to the gas tax. Research shows that the best option is charging per mile driven rather than per gallon consumed.

The transition could begin on interstates that are being widened or rebuilt. Transponders or license-plate reading could determine the number of miles traveled. The new charge would replace the gas tax, not add to it.

— *Robert W. Poole Jr.*

Loosened telemedicine rules should remain

Health care providers are utilizing telemedicine, which connects doctors and patients remotely. Telemedicine allows patients to discuss symptoms with a physician, learn treatment options and even get prescriptions. Doctors can go as far as monitoring readings from remote medical devices.

Telemedicine is highly regulated. Gov. Tony Evers

recently signed an emergency order allowing licensed doctors from other states to practice telemedicine in Wisconsin during the crisis. The state also expanded telehealth for mental health services and temporarily lifted other regulations.

Telemedicine can reduce the need for in-person visits for most patients and improve efficiency in the health care system, even when there's not a pandemic. Policymakers should permanently remove barriers to these services.

— *Martha Njolomole and Julie Grace*

Civil society: Compassion and innovation

In Wisconsin, thousands have come forward to help their neighbors — from Wausau to Madison, La Crosse to Green Bay and virtually every community in between. Volunteer Wisconsin, a project begun by United Way of Wisconsin, can match virtually anyone who wants to help with a neighbor in need.

Volunteerism has surged since the outbreak, says Charlene Mouille, United Way of Wisconsin's executive director.

In addition to making protective masks, many are providing online tutoring for homebound students or distributing food to the needy.

"COVID-19 is creating economic havoc, and the long-term negative impact is hard to predict," says Michael M. Miller, research fellow at the Acton Institute. "There is a possible positive outcome, however.

If businesses, voluntary organizations, churches and families make decisions to self-regulate within their circle of influence, if they find creative ways to help others and find new ways to integrate and solve problems, it is possible that the citizens of the United States could come out of this crisis with a deep confidence in our ability to self-govern.

"It would show Americans and the world that, despite serious problems, America's civil fabric is actually thicker and richer than we thought. And this could have a profoundly positive impact on the economy."

— *Marie Rohde*



Local firms lose out on \$82M con



Wright-Patt work goes to Alaska through fraud-plagued set-aside

By Josh Sweigart
Staff Writer

...the company that won one of the largest local contracts at Wright-Patterson Air Force Base last year did so under a program

Who profits from contract set-aside

Under federal rules, the Centennial Contract can get the biggest share from the Wright-Patterson set-aside contract.

Harmful History

Minority Contract Fraud Widespread

IRWIN, Pa. (AP) — Four white-owned contracting firms allegedly obtained millions of dollars by illegally funneling highway contracts through bogus minority-owned businesses, authorities say.

Attorney General Leroy S. Zimmerman said Tuesday the practice may be a "pervasive statewide

contract price for allow use its name.

The grand jury also charges against:

—Four of Pennsylvania President Robert Williams' aides: Henry G. Gall, Paul Mongell, and Arthur James Wishart. —Lafayette Road C

Government set-aside programs undermine the truth

By Ken Wysocky

The merits of preferential set-aside programs are once again under scrutiny after the conviction last year of Brian Ganos, a successful Latino businessman in the Milwaukee area who illegally obtained more than \$260 million in government contracts.

The Ganos case underscores what critics have said — and what decades of headlines about court cases across the country have proved — about the controversial federal, state and local programs: They're often prone to fraud, which in turn hurts legitimate minority and disadvantaged business owners.

But the criticism doesn't stop there. Some argue that the programs discriminate against minorities, drive up project costs through non-competitive bidding and can even stunt the development of smaller, disadvantaged companies.

In addition, some contracting agencies designate overly broad

groups — women, for instance — as disadvantaged, even though it's unlikely that *all* women are disadvantaged. As another example, the City of Chicago is considering taking set-asides a step further by designating businesses owned by gays and transgender people as disadvantaged.

Looming over all of this is the landmark U.S. Supreme Court ruling in 1989 that, in effect, said set-aside programs were unconstitutional except under certain circumstances where discriminatory practices could be proven via so-called disparity tests.

But some observers doubt that municipalities and other agencies even bother to conduct such studies, which are time-consuming, expensive and prone to inherent thumb-on-the-scale bias.

"Set-aside programs tend to be cosmetic as well as almost an alliance between politically powerful and not particularly disad-

s to be a minority business owner test shows he's 4% African

Preferential contracts

By Lia Eustachewich

September 25, 2018 | 2:22pm

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vantaged minorities on one hand and a guilty white liberal class on the other," says Richard Esenberg, president of the Wisconsin Institute for Law & Liberty.

"At the end of the day, they tend to benefit a relatively small group of favored market participants — benefits are not very diffuse," he adds. "No one stops and asks if they really are effective."

Case in point

Time and again over the years, headlines have chronicled concerns, questions about fraud and misrepresentation, and criminal charges and convictions. In Wisconsin alone, there have been multiple allegations — including the most recent case involving Ganos, the former owner of the now-defunct Sonag Company Inc.

The 59-year-old Muskego resident started out as a set-aside success story who legitimately used such contracts to build

Sonag's Ganos sentenced to 6½ years in prison

Fraud affected millions in government contracts

Cary Spivak

Milwaukee Journal Sentinel
USA TODAY NETWORK - WISCONSIN

Brian Ganos, once a prosperous and respected construction company owner, was sentenced to 6½ years in prison



Ganos

Monday for masterminding a scheme that captured more than \$260 million in government contracts earmarked for minority and disadvantaged businesses.

What is a preferential set-aside?

Preferential set-asides are a form of affirmative action used by governments to award contracts and give small businesses a better chance to succeed. Generally speaking, these programs designate a certain percentage of contracts for which only small businesses owned by minorities or disadvantaged people can compete.

Sonag into a major player among local construction firms. Among other projects, the company worked on the Fiserv Forum and the Northwestern Mutual Life Insurance Co. office tower in downtown Milwaukee.

Over the years, Sonag also reportedly earned federal and military contracts worth hundreds of millions of dollars. The company was so successful that it eventually graduated from the set-aside program.

But Ganos — a former chairman of the local Hispanic Chamber of Commerce who in 2005 was named a regional Hispanic businessman of the year by the United States Hispanic Chamber of Commerce — apparently wasn't ready to give up his seat on the set-aside train. Instead, he formed several shell companies with fake straw owners, thus allowing him to illegally keep benefiting from set-aside contracts. →

In all, federal prosecutors estimate that Ganos netted \$10 million to \$15 million in profits — money that otherwise could've poured into the coffers of truly disadvantaged businesses.

Ganos was indicted by a federal grand jury in April 2018 on 22 counts related to fraud, conspiracy and money laundering. He pleaded guilty to one count of wire fraud and another count of mail fraud in June 2019. Last December, a federal judge sentenced him to six and a half years in prison. Stephen Hurley, Ganos' defense attorney, did not respond to an emailed request for comment.

Inevitable fraud?

Set-aside programs are ripe for this kind of fraud, mainly because some verification processes allow businesses to self-certify as eligible, critics say. A good example is the federal Women-Owned Small Business (WOSB) programs.

In 2019, the Government Accountability Office (GAO) reported that about 40% of the WOSB-certified businesses included in an audit sample were ineligible. The GAO also expressed concern about the reliability of third-party certification companies that some businesses hire.

Even worse, an audit of the program conducted in June 2018 by the U.S. Small Business Administration (SBA), found 50 of 56 sole-source contracts — those issued without competitive bidding — did not meet the program's criteria. (The SBA, which oversees most federal set-aside programs, has since proposed beefing up the certification process.)

In another instance, a 2019 GAO study found that 20 of 32 companies reviewed had used "opaque corporate structures" to conceal ownership and obtain set-aside contracts. The study was spurred by congressional concerns about companies that use complicated business structures to blur ownership lines when trying to obtain set-aside defense contracts.

"An inevitable byproduct (of set-aside programs) is corruption and fraud," says Roger Clegg, general counsel for the Center for Equal Opportunity, based in Falls Church, Virginia. The conservative think tank studies issues of race and ethnicity and is devoted to opposing race-based decision-



“An inevitable byproduct (of set-aside programs) is corruption and fraud.”

— Roger Clegg, general counsel for the Center for Equal Opportunity

State says 5 firms misused minority-owned

By Lucinda Fleming

Updated last month

A state grand jury yesterday re-

mandated criminal charges against

five corporations that allegedly

illegitimately obtained millions of

in millions, perpetrated by white

contractors listed on pilaging Penn-

sylvania's minority-contracting pro-

gram.

He said the charges against con-

tractors from western and northern

terprise program is a pervasive state-

wide problem.

Zimmerman said in a news confer-

ence held in Westmoreland, Pa. that

the grand jury was "open-minded and

impartial" and could extend to Phila-

delphia firms.

A source familiar with the grand jury

process said the charges could affect

contracts worth to

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making at all levels of government.

"In programs that use racial preferences, I believe it's very common on every level — federal, state and municipal — for companies to pretend to be black- or female-owned," Clegg continues. "Furthermore, such programs increase project expenses because contracts aren't awarded to the lowest bidders. For all those reasons, this kind of thing should stop."

"The left thinks it's racist to oppose racial preferences," he adds, when asked if the organization ever gets accused of being racist for its opposition to set-aside programs. "It's quite astonishing."

Landmark court case

Set-aside programs have been controversial through the decades, uneasily rubbing elbows with the principles of equal protection under the law. That controversy culminated in 1984 when J.A. Croson Co., a plumbing firm, sued the

City of Richmond, Virginia, arguing that its set-aside program was unconstitutional.

The case started innocently enough when Croson bid on a contract to provide urinals for the city jail.

At the time, Richmond had an ordinance that required non-minority-owned contractors to subcontract at least 30% of a project to minority-owned businesses.

When Croson couldn't find a suitable minority-owned subcontractor, the city threw out its bid. The company then sued. And in 1989, the U.S. Supreme Court issued a landmark ruling that essentially guides the structure of set-aside programs today.

Written by now-retired Associate Justice Sandra Day O'Connor, the ruling essentially said set-asides are constitutional only if they pass a "strict scrutiny" test — provide compelling proof that ongoing discrimination exists and that a set-aside program is the only remedy. That remedy must be "narrowly tailored" to cover only the specific group suffering from the discriminatory practices.

minority contracts



\$300 million in minority contracts for dubious claims

Contractors say they're Cherokee, but records show no such ancestry

'Sketchy' disparity studies

To prove there's a compelling need to use set-aside programs, government bodies that issue contracts must perform what's called a disparity study. The Center for Equal Opportunity opposes such studies. In fact, Clegg says he does a daily internet search to find municipalities that are considering using them and then sends a form letter encouraging them to stop.

"Disparity studies sometimes can be kind of sketchy," he says. Sometimes cities approach the companies hired to perform the studies and say they want to find disparity so they can use certain preferences to fulfill political agendas.

"So, these companies put their thumb on the scale to find disparities because that's what their clients want," Clegg says.

Furthermore, disparity studies — usually performed by only a handful of companies nationwide — often are hundreds of pages long and include a plethora of tables and charts, says George La Noue, an outspoken critic of set-aside programs. La Noue is a research professor of political science and of public policy in the School of Public Policy at the University of Maryland Baltimore County.

"I just read one study that had 107 tables and about 13

charts," he says. "As you can imagine, it's extremely difficult for a typical city councilperson or state legislator to know how to analyze one of these studies. It takes a considerable amount of work to determine whether even the mathematics of the study are correct, not to mention other conclusions."

Disparity doesn't mean discrimination

La Noue also points out that just because a disparity exists, it doesn't mean there's discrimination that requires a set-aside remedy. As an example, he cites highly specialized work that perhaps only a few companies can perform. As such, awarding contracts to those companies might appear to be a disparity but wouldn't qualify as discrimination against other businesses.

"And once a disparity is found, you have to find what causes it," he explains. "But it's very uncommon to identify the reason for the discrimination ... the consulting firms will not go farther and identify the cause of the disparity. And without that, it's hard to tailor a narrow remedy for it."

La Noue also contends that many set-aside programs used nationwide aren't narrowly tailored. But suing cities and other government agencies is a lengthy and extremely costly proposition that many contractors aren't financially equipped to pursue. And there's a reluctance to bite the hand that feeds, he notes.

"It takes real determination to actually sue a government agency that's also a potential client," he says. "You might win the lawsuit, but then it might perhaps be very difficult to get future contracts with that government body."

"As such, finding plaintiffs with both the resources and the determination to begin a lawsuit is rare. And that's why many of these programs continue to exist today."

Lawsuits brought against municipalities and the like often are settled out of court. The upshot: There's no additional legal precedence set or judicial opinions issued, La Noue says.

No competition, no growth

Set-aside programs also can stunt the development of disadvantaged companies. By creating an environment where these companies aren't held to the same standards as everyone else, they may not progress and grow in the same way they would if forced to compete, Clegg says.

"Take a minority-owned company that's not required to submit competitive bids to get contracts, for example," he says. "There's no incentive for the company to improve to the point where it can submit competitive bids" without set-asides. →

Observers also point out that preferential contracts can set up businesses for failure, in much the same way that affirmative action quotas at colleges and universities sometimes sent academically ill-equipped students to schools where they couldn't keep up. In fact, some studies show that the failure rate of companies that graduate from set-aside programs is higher than the normal failure rate for small businesses.

Furthermore, as was the case with the Croson lawsuit, sometimes there just aren't enough qualified companies to fulfill set-aside requirements. And because a set-aside program can't magically conjure up eligible participants to compete, it instead creates a vacuum.

"And someone inevitably will try to fill that vacuum dishonestly," Esenberg says.

Broad classifications

Another point to consider: Not all minorities are disadvantaged, La Noue observes, which raises the question of

whether ethnicity, race or gender are appropriate categories to identify who is disadvantaged and who is not.

Even if people classified as, say, a racial minority truly are disadvantaged, they eventually can reach a point where they're not. In some instances, that's when companies graduate from set-aside programs, like Sonag did.

Graduation requirements vary widely on state and local levels; some impose time limits or income thresholds as criteria, while others have no graduation standards. Generally speaking, companies in federal set-aside programs graduate either after nine years in the program or when their average annual revenues in a three-year period exceed the small-business size standards developed by the North American Industry Classification System code.

"But in most programs, there is no graduation provision," La Noue explains. "So, if a prominent professional athlete buys a construction firm and that athlete is African American, that business would qualify as a disadvantaged

The history of government set-aside programs

Set-aside programs are designed to help small businesses owned by minorities and other disadvantaged groups gain footholds in markets where it's difficult to effectively compete against larger competitors with more resources. This is accomplished by setting aside a certain portion of contracts that are awarded only to companies owned by minorities or disadvantaged people.

Set-aside programs for federally funded projects generally operate under the auspices of the Small Business Administration (SBA). In broad terms, eligible companies must be at least 51% owned and controlled by one or more socially and economically disadvantaged individuals, including African Americans, Hispanic Americans, Native Americans and other disadvantaged groups, such as women and service-disabled military veterans.

Almost all preferential contracting programs require business owners to seek certification as a Disadvantaged Business Enterprise (DBE) for federal procurement or Minority and Women-Owned Business Enterprise (MWBE) for state and local procurement.

The seeds for set-aside programs were sown decades ago. As far back as 1941, President Franklin Roosevelt signed an executive order that prohibited discrimination on the basis of race, creed, color or country of origin

when awarding defense-related contracts. While not specifically a set-aside program, the policy marked one of the federal government's first forays into boosting opportunities for various racial and ethnic groups.

That effort continued in 1953 with the creation of the SBA, which was tasked with helping small business grow. That mission evolved more toward helping disadvantaged business owners under the administrations of Presidents Lyndon Johnson and Richard Nixon.

In 1977, Congress approved a law that allowed the federal government, under the auspices of the SBA, to set aside a percentage of contracts for which just small businesses could compete. A year later, the SBA's set-aside authority was expanded to include the now-familiar racial and ethnic preferences, based on the 51% ownership criteria.

In fiscal 2018, the latest year for which figures are available, small and disadvantaged businesses were awarded \$29.5 billion in federal contracts, according to a report from the Congressional Research Service released in September 2019. That included \$9.2 billion in set-aside awards and \$8.6 billion in sole-source awards, in which contracts are awarded without competition.

— Ken Wysocky



firm even though there's no evidence it ever suffered from discrimination. Eligibility turns on the owner — doesn't seem right, does it?"

Esenberg echoes La Noue's sentiments, noting that it would be difficult to make a case that all women, for instance, are a disadvantaged class. "That one surely seems susceptible to challenge," he says.

Classifying all gay business owners as disadvantaged — as the City of Chicago is proposing, led by Mayor Lori Lightfoot, the city's first openly gay mayor — poses a similar problem. For such a proposal to pass constitutional muster, it would require evidence that discrimination is stunting the creation of gay- or lesbian-owned businesses.

"And I don't really see any evidence of disadvantaged gay- and lesbian-owned businesses," Esenberg says. "You wouldn't be able to win that argument by saying there's cultural prejudice against gays and lesbians."

La Noue agrees, noting there's no compelling reason to include those groups as disadvantaged even if there's political interest in doing so.

Where's the proof?

A similar proposal in Chicago 16 years ago to set aside city contracts for gays never gained traction. And interestingly enough, pushback came from both inside and outside the gay community, with critics arguing that all gay white men could hardly be considered disadvantaged.

Moreover, critics noted that it's difficult to stop fraud stemming from people who pose as gays or lesbians. ***And if city contracts get set aside for gay white men, for example, that results in fewer contracts for truly disadvantaged business owners.***

In a recent article in the *Chicago Sun-Times*, Chicago Ald. Walter Burnett emphasized that concern during a January meeting of the City Council's Committee on Contract Oversight and Equity. "They (African Americans) are concerned this is another way for white males to get more contracts ... that was the same concern that some African Americans had about white women being considered a minority," he said. "And after that, we started getting fraud where white women

were fronting for white males. We found a lot of corruption."

Clegg concurs, noting that some set-aside programs end up discriminating against some groups — Asian Americans, for example — by giving preferential treatment to other groups. "All kinds of ironies result from this approach," he says.

A possible remedy

So, what's the alternative to set-aside contracts? Total transparency in contract bidding would reveal discrimination, Clegg says.

"It is very unlikely that in 2020, the only way to end race discrimination in contracting is through race discrimination in contracting," he says. "When you think about it, awarding contracts is peculiarly amenable to correcting any problems through more transparency."

This could be achieved by publicly announcing bid opportunities and then publishing all bids after a contract is awarded. If an African American-owned firm submitted the lowest bid but didn't get the contract, for example, the discrimination would be obvious, he says.

"Either you submit the lowest bid or you don't,"

Clegg says. "This is a more narrowly tailored way to remedy discrimination than using racial preferences."

Furthermore, if companies are discriminated against during the bidding process, the guilty parties should be punished, Clegg explains in the form letter that the Center for Equal Opportunity sends to government bodies considering set-aside programs.

In the end, Esenberg says, even though case law may continue to evolve, one thing is certain: Set-asides just aren't the answer to ending discrimination.

"In my view, if you're going to get past race, you just have to get past race," he says. "But when you double-down on making race a category on which the government can act, you just wind up promoting backlashes and identity politics.

"My general thinking is that government just should not play a role in this," he adds. "The most likely way to achieve that objective is by letting the market work." ❖

“So, if a prominent professional athlete buys a construction firm and that athlete is African American, that business would qualify as a disadvantaged firm.”

— George La Noue, research professor at the University of Maryland Baltimore County



Ken Wysocky of Whitefish Bay is a freelance journalist and editor.

Vehicle sales

Behind-the-times state law hampers electric automaker's direct-sales business model



Tesla is planning a showroom and service center at 12011 W. Silver Spring Drive in Milwaukee. The facility will be the automaker's first physical presence in Wisconsin.

Paving the way for

TESLA

By Paul Gores

Chris Lundh loves his Tesla Model 3. The all-electric car will never need an oil change or spew air-polluting exhaust. Its battery pack can be reenergized at home or at thousands of Tesla charging stations across the state and nation. If there are minor issues like a broken part or a strange squeak, Tesla will send a mobile service technician to his driveway for repairs.

"It's awesome," says Lundh, of Waukesha.

Still, he says, it seems silly that he had to drive to Illinois to pick up the car that he ordered.

Under Wisconsin dealer franchise statutes, Tesla and other auto manufacturers aren't allowed to sell directly to consumers here. Other than a few exceptions for specialty trucks, all vehicles must be sold through dealerships that are not owned by the manufacturer — a mode of doing business that Lundh says is outdated.

"I think it's a bit ridiculous the way this is set up," he says.

State law prohibits Tesla from opening company-owned locations — Tesla calls them stores — where Wisconsin residents could see and purchase the cars. In states that allow them, Tesla locations typically carry only a small inventory, and most customers order the car from Tesla.com and pick it up at the Tesla store.

But some state legislators agree with Lundh that it's

time for Wisconsin to adjust the law and scrap the mandated middleman.

Chief among those proponents is state Sen. Chris Kapenga (R-Delafield), who is a Tesla owner but, moreover, is a free-market advocate.

"We've got people who want to buy their vehicles, want to get their vehicles serviced here, and because of an archaic protectionist law that's in place on the books, Tesla is not able to sell into the marketplace directly," he says.

The Wisconsin Automobile & Truck Dealers Association doesn't see it that way and has been successful in holding off direct sales of Tesla cars in the Badger State. For now, at least, the dealers have state law on their side.

Nearly 100-year-old law

The law mandating that vehicles be sold through dealerships dates to the 1930s, when dealers were concerned that their heavy investments in lots, showrooms, service centers, employees and inventory could be undermined if an automaker were to open its own lots and sell directly to consumers.

In today's environment of technology that constantly disrupts industries, the law may seem anti-competitive to some. But Bill Sepic, president of the Wisconsin Automobile & Truck Dealers Association, says there is plenty of competition among dealers, which benefits consumers.

"Pick two Chevy dealers, and go to them and pit one

against the other. Who’s going to be the winner? You are — you as the consumer,” Sepic says. “Pit three against each other, might get pretty close to cost. So, there is certainly a consumer benefit to the dealer network.”

The law exists to “protect the relationship between manufacturer, dealer and consumer,” he says.

But the only group being protected is the auto dealers, Kapenga argues. He has sponsored legislation to allow direct sales of electric vehicles in Wisconsin, but it has gone nowhere in Madison.

A provision in the 2019-’21 state budget that would have given the OK for such sales was vetoed last summer by Gov. Tony Evers. The veto came in the wake of accusations by opponents that Kapenga sought the provision because he has a side business that sells extra parts of Tesla vehicles that he has salvaged and restored.

Kapenga rejects the claim that he would benefit financially from the provision, saying that he has a “gear head” devotion to restoring vehicles and that his hobby is not profitable.

Support of direct sales

In a legislative committee hearing on Kapenga’s bill and a similar measure in the Assembly in 2017, a proposal to allow direct sales by electric vehicle makers was supported by groups such as the Metropolitan Milwaukee Association of Commerce and the Wisconsin Technology Council.

“Why not direct sales, especially when it’s a new technology that is being more widely embraced and will require a different kind of infrastructure?” Tom Still, president of the council, tells the Badger Institute.

Another group opposing the legislation is the Alliance of Automobile Manufacturers, which contends a change “would unfairly create two different sets of rules within state law for competitors in the same marketplace” and would open the door for electric car makers other than Tesla to take advantage of it.

Almost half of U.S. states prohibit direct auto sales, according to Sepic, so Wisconsin isn’t the only place where Tesla’s business model has created a stir.

Michigan deal could be model

This past winter, Tesla settled its 2016 lawsuit against Michigan officials over a law that banned direct sales. Under the deal, Tesla will be allowed to sell cars to Michigan customers and

establish Tesla locations as long as the sales contract indicates the purchase took place and the title was issued in a state other than Michigan — a technicality that the Tesla locations can help customers navigate.

The Palo Alto, California-based automaker declined to comment on the settlement, but the deal in Michigan could end up being a model for settling disputes over the direct-sales model elsewhere.

In January, the *Milwaukee Journal Sentinel* reported that Tesla plans to open an auto service center and showroom on Milwaukee’s northwest side, giving the automaker its first physical presence in Wisconsin. A similar facility might be on the drawing board for Madison, Kapenga says. **Those moves could set the stage for a court challenge over Wisconsin’s law.**

While the auto dealers group is ready for a skirmish, the Michigan settlement and the

combination of the Tesla’s environmentally friendly nature and expected long operating life could make it difficult to resist the company’s business model in Wisconsin and elsewhere over the long run.

The company told securities regulators in its 2019 year-end report that it intends to “actively fight any such efforts to limit our ability to sell and service our own vehicles.”

Kapenga is ready to join the fight. “I’m not going to give up on this because I believe the free market is the only answer we have,” he says.

“We can’t have government control and protectionism for a few groups that pay enough money to legislators and elected officials to keep their protection in place,” he adds. ❏

Paul Gores is a retired business reporter for the Milwaukee Journal Sentinel. A longer version of this article can be found at badgerinstitute.org



Chris Lundh, of Waukesha, had to travel to Highland Park, Illinois, to pick up the Tesla Model 3 he ordered.

ALLEN FREDRICKSON PHOTO

“Why not direct sales, especially when it’s a new technology that ... will require a different kind of infrastructure?”

— Tom Still, president of the Wisconsin Technology Council

Socialist dream failed in Ripon

1800s utopian commune was established — and collapsed — just blocks from where the GOP was later founded

By Lamont Colucci

Bernie Sanders is out of the presidential race, but support for the Vermont senator and his socialist ideology runs deep in the Democratic Party, particularly among young voters who don't know the long history of failed socialist experiments across the globe.

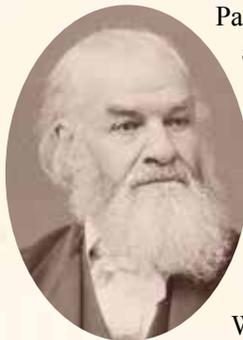
And right here in Wisconsin.

Most Wisconsinites likely know that in 1854, the Badger State birthed the Republican Party in Ripon's Little White Schoolhouse. The party was

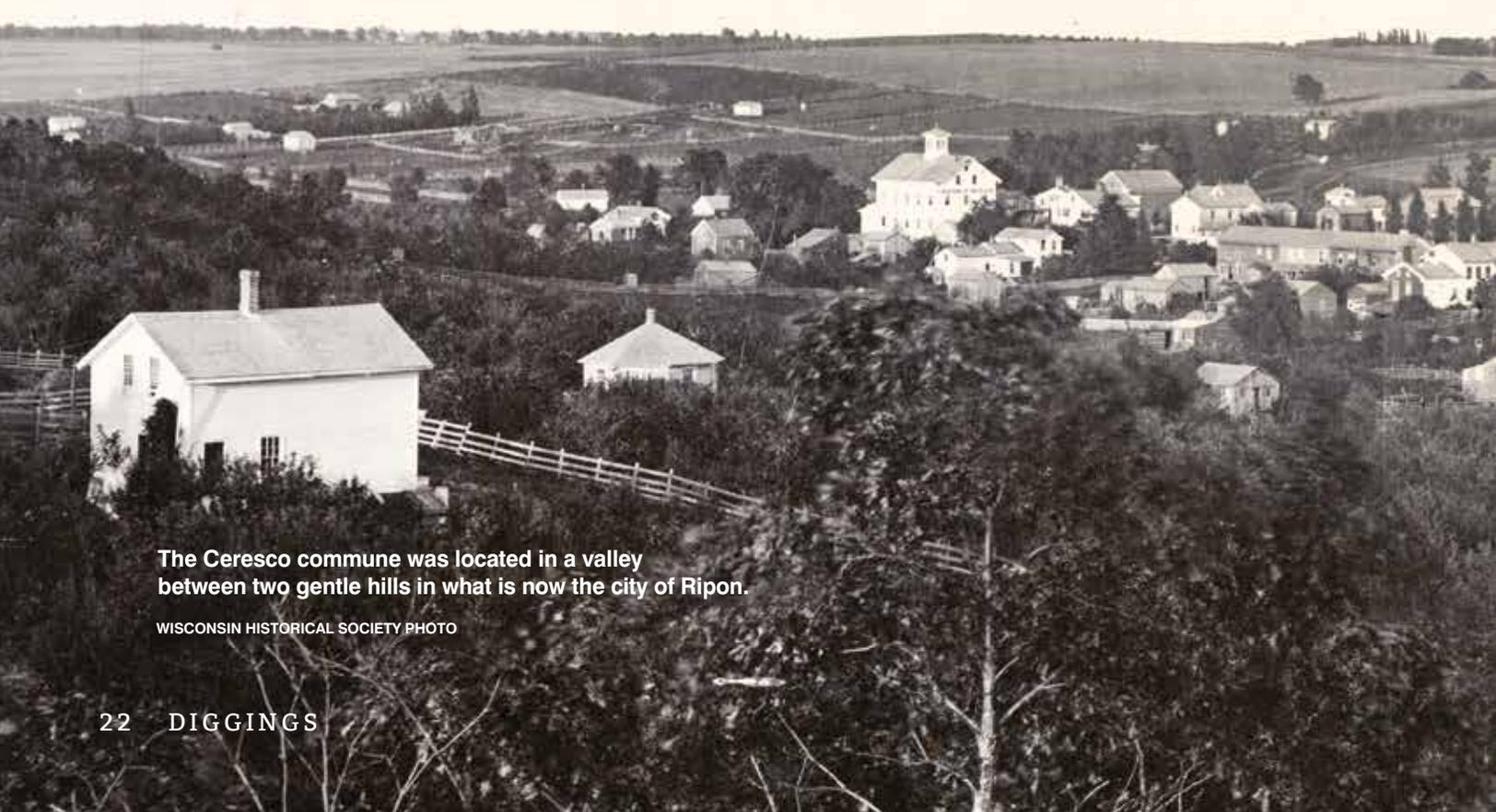
originally a mix of Whigs, Free Soilers and the Liberty Party, glued together by their opposition to slavery and a belief in the principles of individual liberty, life and property.

Thus, it may be surprising for many to learn that one of the most famous socialist experiments began — and failed — in the same town where the Grand Old Party was founded.

There, a decade earlier, Warren Chase established a utopian commune known as the Wisconsin Phalanx. It was based on the ideology of Charles Fourier, a wealthy French philosopher whose fortune was created by his free-market



Warren Chase



The Ceresco commune was located in a valley between two gentle hills in what is now the city of Ripon.

WISCONSIN HISTORICAL SOCIETY PHOTO



WISCONSIN HISTORICAL SOCIETY PHOTO

Ceresco members lived and dined in a long house, which could hold 20 to 30 families.

businessman father.

An extreme anti-Semite, anti-Christian and anti-free marketer, Fourier envisioned a society dotted with communes he called phalanxes. People lived in a phalanstery, a large multi-story building where they would work, play and meet.

Fourier was a proponent of sexual freedom and free love. He thought that by creating a holistic lifestyle, where people could change jobs and partners at will, cooperation would rule and everyone would reap the communal benefits.

Property and economic activity were owned by the community, and shares in the phalanstery, in place of cash, were used to distribute goods to members of the commune. Members were compensated based on their contribution. Children could begin work at age 2, and families were discouraged from having too many of them.

The Ceresco commune

To establish the Wisconsin Phalanx in 1844, Chase, of Southport (today's Kenosha), acquired 600 acres in what is now Ripon and later acquired another 1,000 acres.

Incorporated in 1845 under his presidency, the village was named Ceresco after the Roman god of the harvest, Ceres. Wheat agriculture was the primary activity, and membership in the commune was based on investment, similar to a modern cooperative.

Members constructed a collective dwelling called a long house; it was designed to hold 20 to 30 families →

Ceresco's hierarchy

Commune members were divided into three classes.

"Necessity"

- hard labor

"Usefulness"

- trade, agriculture and teaching

"Attractiveness"

- domestic work



and included a common dining hall. A school for children was established in Ceresco, against the Fourier philosophy.

Alcohol was prohibited, while gambling and profanity were discouraged. The lifestyle was primarily collectivist, membership was controlled by a board of managers and people could be expelled.

People were divided into three hierarchical classes. The first was “necessity,” whose members performed hard labor and received the largest share of resources. Next was “usefulness,” whose members engaged in trade, agriculture and teaching. Last was “attractiveness,” or domestic work, which, against Fourier’s thinking, was almost exclusively women.

So, why did Ceresco fail?

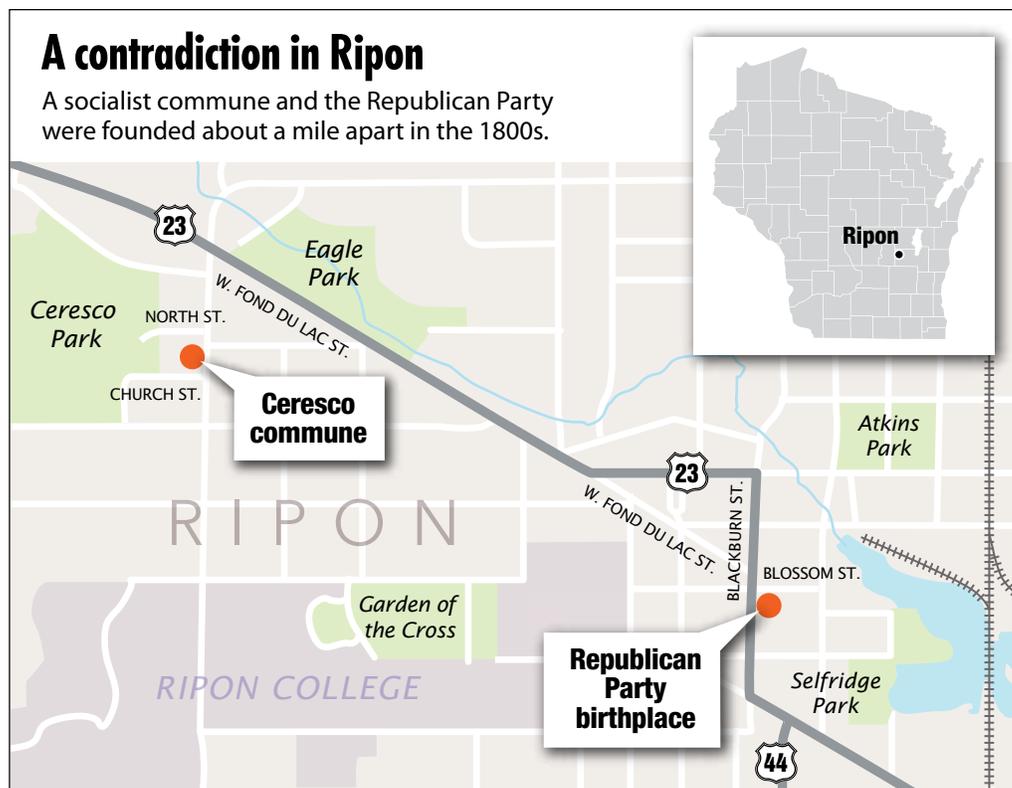
The rigid hierarchy was repressive and lacked social mobility. Also, the collective nature of the lifestyle alienated individual nuclear families, who desired some degree of privacy.

At its peak in 1846, the commune had about three dozen families and 200 total residents. By 1848 (when Chase served a term in the state Senate), only 29 families remained.

The commune’s limited revenue could not pay everyone for their work, which led many to seek jobs elsewhere. In addition, women were disenchanted by the failed promises of equality.

Charlotte Mason, in an 1848 letter to her sister, described some residents as lazy and disgruntled. Strife arose between the irreligious and the multiple religious denominations.

But the greatest issues were the lack of economic advancement and the monotony imposed by the eco-



nomic system.

By 1850, the socialist experiment was over. It took an act of the Wisconsin Legislature to allow the sale of the commune’s property to individuals, and in 1853 the villages of Ceresco and Ripon were merged and renamed Morena. That name didn’t stick, and the City of Ripon was established in 1858.

In the end, Ceresco — as did its counterparts in Brook Farm, Massachusetts, and New Harmony, Indiana — failed because the human spirit does not desire to be crushed into hierarchies, enforced systems, infantilized equality and bizarre ideologies.

Left-wing ideologies are fundamentally sad and unhappy with humanity and wish to engineer mankind to fit some archetypal mold.

History has shown that the human spirit will always rebel against this and that the only way for any type of socialism to succeed is through violence, coercion and intimidation. ❖

Dr. Lamont Colucci is an associate professor of politics and government at Ripon College. He is coordinator of the college’s National Security Studies program.

Ian Sustar is developing a national reputation for producing beautiful, heirloom-quality furniture at Sustar Woodworks in Milwaukee.

Building something that lasts

How people — and finely crafted furniture — leave an indelible imprint on our lives

Many years ago, in the mid-1990s, my wife and I owned an old bungalow with an expansive, screened-in front porch in Milwaukee's Story Hill neighborhood — only the screens were old and rotting.

You can't just run to Home Depot to buy screens for a 100-year-old home with a porch like no other. So, we had to find a woodworker, who turned out to be a guy in his 30s named Peter with a business called

Sylvan Studios.

We went to Peter's shop in Wauwatosa, and he agreed to fix and rebuild the oddly shaped screens for an amount that I remember only as being fair. He dropped off the screens one day, and we put them in place. And Jane and I went on to spend many hours sitting on that porch with our babies and toddlers and — on particularly mosquito-laden days — thanking God for well-built screens. →

**ON THE
FRONTLINES**

By Mike Nichols

Photos by Gary Porter

It's funny how and where people leave an imprint and — even though we sold that house over 20 years ago — how long it can last.

About 18 months ago, John Stollenwerk — you might recognize him as former owner of Allen Edmonds shoes — introduced me almost in passing to another woodworker, a guy named Ian, and told me I had to visit his shop.

I had only that one other time been in a woodworking shop and wasn't sure why John wanted me to visit Ian's. But I took Ian's card, shoved it in my pocket and put it out of my mind for a month or two until I found it one day and decided to give the guy a call.

From engineer to woodworker

Ian's studio, Sustar Woodworks, is on East Nash Street in an old machine shop in a reemerging pocket of Milwaukee known as Riverwest. Barely in his 30s, Ian is working an age-old endeavor — building fine, handmade furniture that the aficionados would say fits in the Shaker style with a nod to Arts and Crafts.



SUSTAR FAMILY PHOTO

Ian often spent time at the Wauwatosa shop of his dad, Peter.

was 10 at the time.

"Ian," I said, that old imprint only then returning to me, "if you don't mind my asking, how did your dad die?"

"He drowned."

I don't know why I hadn't made the connection until just then. Maybe it was the passage of years, maybe the fact I'd never dwelt much on Peter's — or Ian's — last name.

Sustar.

"Ian," I said, "I knew your dad."

Although I'd never talked to Peter after he made the screens, Jane and I occasionally saw him from a distance at

He was working on a 9- or 10-foot-long table, teasing out the patterns in what looked like walnut, when I entered. I knew that he had graduated from Marquette University and worked as an engineer for a while in Chicago before he got into woodworking, and I asked how that came about.

His dad, he said, was a woodworker before he died. Ian



Ian works on a handmade piece at his shop.

Church of the Gesu on the Marquette campus with his wife and five kids. I knew he had a bunch of children — a fact that made it all the more tragic and stunning when I opened the newspaper one morning in August 1999 and saw the story.

"Lake Michigan swimmer's body found — 32-year-old father was pulled by undertow while swimming with family."

Peter and some of his kids had waded into the lake at McKinley Beach on a warm Monday evening after a game of Frisbee, the story said. They were all excellent swimmers, and most of them made it out of the water without trouble. Peter managed to help one of the kids back to safety but was pulled back out. He was about 60 feet from shore when last seen.



Peter Sustar

"He was like my sixth son," Stollenwerk was quoted as saying in that story. "He was just a kind, gentle man. He didn't have a four-letter word in his vocabulary no matter how tough things were."

Following dad's footsteps

Ian has a vivid recollection of the shop his dad had on River Parkway in Wauwatosa.

"I had my own workbench at that shop," he says. "I had a scroll saw that I could use. ***I was using power tools when I was probably 3.***"

Jane Sustar, Ian's mom, says she "pretty much knew one way or the other that he'd follow in his dad's footsteps.

"I didn't know if it would be a hobby or something else," says Jane, who was pregnant with her sixth when Peter died. "But ever since he could walk, I had to sew his pants because he had to have a hammer loop on them, and he had to have work boots, too."

Ian recognizes his dad's indelible imprint on his life. But, he says, over 20 years after his father died, there has been another

enormous influence as well.

“The other part,” he says, “was John Stollenwerk. My dad died when I was 10, and **John immediately became a mentor and almost a father figure, and this was at the peak of Allen Edmonds,**” when John was a very busy man.

Jane Sustar says John has been an enormous influence on all of her boys.

“All three of my sons have benefited so much from John’s example. He is just a good man and is not overbearing or demanding of my children but does expect an uprightness from them.” She says John has influenced everything from their politics to their business savvy.

“I think that one of the greatest things that they got from John is this willingness to take risks, calculated risks.”

But not foolish ones.

Ian remembers calling John one day when he was still at Marquette to tell him he was dropping out to do his own thing.

“Fifteen minutes later, John was on campus,” says Ian, chuckling at the memory, imitating John: “You don’t know a damn thing about anything! You don’t even have a shop! What do you mean you’re going to drop out?” Ian needed a degree, and he needed a plan. Drop out?

Ian stayed in school and got the degree.

A few years later, it was John, though, who helped put that plan in place.

It was John who eventually found the old machine shop that Ian bought at age 23. It was John, suspects Ian, who helped convince a bank in Cedarburg to give him the loan. It was John who flew to Maine with him to establish a connection with a legendary woodworker, Thomas Moser. John happened to be on Moser’s board of directors because Allen Edmonds had a factory in the same area of Maine.

‘Vessels of meaning’

Moser — who says he wanted to hire Ian — believes good woodworkers don’t just make furniture. They make “vessels of meaning that have some psychological connection.”

Through the course of a family’s lives, he says, a table might be used as a workbench and then a place to dine together, maybe eventually an area to study. The children who grow up using it come to “see that table as the hearth around which their lives developed.”

John talks almost as passionately about fine, handcrafted furniture as he does about quality shoes and speaks in an almost reverent tone of the “patina” that develops over time, the “bumps” and “character,” “the beauty of age.”

He has filled a house with Ian’s work, and so have his children. So, too, increasingly have others across the country who appreciate customized craftsmanship that melds tradition and sylvan simplicity with newly distinct style.

The day I spoke to John, he said he happened to know that Ian had just sent some stools off to Canada. On one recent day that I was in the shop, a seamlessly jointed bed fashioned from a warmly burnished cherry wood sat near the front door, part of a set of custom-crafted furniture for a buyer in Pennsylvania.

I asked Ian how much he charged for something like that, and he said about \$5,000. His customers aren’t necessarily wealthy, though, he says.

He uses another word: conservative.

They tend “to be a little older and probably conservative —

not necessarily the political affiliation but people who worked hard and saved and appreciate the quality of something that is going to last. I think that conservatism goes hand in hand with my designs. I am not chasing trends.”

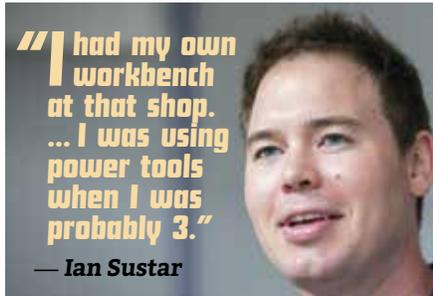
“People come in all the time and say, ‘Can you do a gray stain?’ ‘Well, no.’ I believe in the beauty of the wood.”

Along with his reputation, Ian’s business is growing, as is the neighborhood around it that he has helped resurrect. When he bought the building seven years ago, he rented out the front to a startup that makes home brewing equipment, Spike Brewing. Spike now has moved into a nearby building and has close to 30 employees, he says.

“The neighborhood has completely changed,” says Ian, “and it’s all driven by small business.”

Things are growing at home as well. Last November, Ian’s wife, Amber, gave birth to twin boys, James and William Sustar — traditional names, says Ian. Quality names with long histories, I think.

When you get older and more conservative, and see how life starts and ends and grows, you realize the need for the tangible and memorable that a careful craftsman provides. For physical objects of beauty that serve a simple purpose in life: eating or sleeping or sitting and chatting, maybe around a literal hearth, maybe on a screened-in porch, maybe on chairs at a wooden table where children learn and histories develop that are instantly recorded into vessels that will outlast all of us. ❏



More photos of Sustar Woodworks can be found at badgerinstitute.org. Mike Nichols is president of the Badger Institute and editor of Digging.

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