

TRIBUTE TO WALLACE STEGNER
Geography of Hope Conference
Point Reyes, California
9 March 2008

My copy of *Angle of Repose* is inscribed, “In honor of the fifty mile run and public trust doctrine.” Permit me to explain in the next few minutes how that came about.

The year 1976 in retrospect turned out to be one of the most momentous in my life. I left the employ of Philip Fradkin and his fellow Energy Commissioners, as their public advisor, and opened my two-room law office in Sacramento. One month later I received a phone call from the Inyo County District Attorney, who said, “They said we should call you about Los Angeles.” A few months later, several grad students accompanied by David Brower walked in, to report that “we have just spent the summer at Mono Lake and think we see a few problems.”

But that was not all. In November of that year I saw Wally Stegner for the first time -- on the stage of the San Francisco Opera House, at the world premiere of *Angle of Repose*. In preparation for the opera, I read the book. Thus it was my love of opera, not western literature, that brought Wally into my life.

How daring it was that eight years later I had invited Wally to teach my water law class at Hastings. By then Genny Smith, who also worked in the Eastern Sierra, had introduced me to him. Up to that point the only non-judicial and non-legislative authority assigned to my students was the single chapter, “Blueprint for a Dryland Democracy,” from *Beyond the Hundredth Meridian*. That chapter is essential, in my view, for students to understand the governance and mis-governance of water in the west. But why not, I asked myself, have the man himself be the teacher?

Quite by coincidence, the Conference of Western States Legislators were having their annual meeting in San Francisco that week. The organizers, friends who knew Wally was coming to Hastings, asked if they could bring the chairs of the western legislatures’ water committees. Wally consented, and after the students had concluded their dialogue, I opened it up to the lawmakers.

The chair of the Utah Assembly’s water committee stood up, and basically asserted that Wally had it all wrong on western water; the resource was too important not to serve as the engine of further growth in the west, to remove the last vestiges of the Great American Desert. For the next half hour the two volleyed as if Powell and Gilpin themselves were debating the future of our

region. It was compelling – indeed the most enchanting two hours in my long part-time academic career. At commencement that year a student came up to me and identified his class with Wally as the most meaningful in his three years at Hastings – “the only time I heard the word ‘moral’ uttered in a law school class.”

A year before, shortly after the Mono Lake case was decided, I mailed Wally a copy of an op-ed I had written in the Los Angeles Times, citing Wally’s description of the Gold Rush as “universal mass trespass that shortly created laws to legitimate itself.” In response, Wally sent a hand-written note that included this sentence: You’re doing the essential work – in the courts – that will settle the water raid business if it ever is to be settled.”

Few words have meant so much to me. Indeed, I used them to open my 25th anniversary law school class report, then going on to explain that my career had resembled that of Susan Ward in *Angle of Repose*. Indeed, even now, every time I reread that book, I am in renewed appreciation of how Wally created the exemplar of my own life, an Easterner who somehow wound up living here and working within the resources of the west, but never failing to look back.

But our class secretary made one editorial revision; he entitled Wally’s book *Angel of Repose*. Thus let me say to Page and Philip here that the New York Times does not have a monopoly on Eastern institutions that failed to get Wally right. The Harvard Law School was quite capable on its own.

Now let me return to that inscribed copy. Wally signed it on May 10, 1987 at lunch at his Los Altos Hills home to which he and Mary had invited Joe Sax and me. The day before, a group of trail runners had completed the first iteration of the Quicksilver 50 Mile, run through the remnants of the New Almaden Mine. In subsequently describing that race in a report to *Ultrarunning* magazine, I referred to it as “a rather strenuous outdoor excursion” – exactly the words Wally gave Susan Ward to describe her cross country rail trip to the same place a century before.

As I became more involved in trail running, I realized something most of you probably do not know, that among Wally’s strongest fans are the trail runners; he is seen almost as a cult figure among them. And it is not hard to see why; so many places that are today’s trail races are Wally’s settings, Leadville being perhaps the prime example. Wally is not listed as an official finisher in the Leadville Trail 100, and as far as I know never even hiked that trail; but if you want to experience running in that thin air without doing it, read from Wally Susan Ward’s ascent of 13,000-ft Mosquito Pass.

Thus, when Wally left us in 1993, the Western States Run held a memorial service for him at Emigrant Pass above Squaw Valley, the highest point on the Western States Trail. (Philip, there is one more memorial to add to your second edition.) We invoked these words from his essay, *The American West as Living Space*, based on his lectures at the University of Michigan Law School: “Western writing, it turns out, not surprisingly, to be largely about things that happen outdoors. It often involved characters who show a family resemblance of energetic individualism, great physical competence, stoicism, determination, recklessness, endurance, toughness, rebelliousness, resistance to control.” Does this not sound like the trail runner in your life? “It has, that is, residual qualities of the heroic, as the country in which it takes place has residual qualities of the wilderness frontier.”

We have one piece of unfinished business at Western States, the Congressional designation of the Western States National Historic Trail. In this endeavor too we are guided by Wally’s inspiration. Nearly 20 years in the waiting, Senator Boxer will introduce the designation bill this week. Just as the trail runner endures by visualizing the finish line, in my mind I have already written the dedication ceremony. Its concluding words will be these, Wally’s words: “Now and then nature produces a combination of land, water, sky, space, trees, animals, flowers, distances, and weather so perfect it looks like the hatching of a romantic fantasy. Every time we go out into the wilderness, we are looking for that perfect, primitive Eden. This time, we have found it.”

TONY ROSSMANN