One of many Earth Day events, this one on the University of Michigan's campus, 1970.

The 56th Earth Day may also be the bleakest. Wave upon wave is crashing upon our system of ecological protections. But having spent years studying the full sweep of American environmental legal history, we can say with confidence: the bigger the wave, the stronger the undercurrent.

First, at a time when advocates for the environment feel outnumbered and isolated, let's remember that most Americans care deeply about the environment and want their government to do more to protect it. As tracked by Gallup, this has been the case for decades. Indeed, in 1970, 1 in 10 Americans, approximately 20 million people, took to the streets for the first Earth Day (for reference, the most recent No Kings event impressively drew an estimated 8 million).

The demonstrators in 1970 were responding to a river that had caught fire in Cleveland, an oil spill fouling the California coast, and air so choked with smog that cities regularly issued health warnings. The political system responded with remarkable speed: within a few years, Congress had enacted the Clean Air Act, the Clean Water Act, the Endangered Species Act, and created the EPA. It was the most concentrated burst of transformative environmental legislation in American — and

arguably world — history.

The Trump administration today is engaged in the most aggressive rollback of environmental protections in the nation's history — dismantling climate regulations, gutting agency budgets, and attempting to hollow out the very administrative infrastructure that makes environmental governance possible.

I understand the despair. But having studied all of our environmental legal history — including the centuries before the 1970s that most analyses skip entirely — we have found that the invisible undercurrents of today become the dominant waves of tomorrow. This is the focus of my new book "Lessons for a Warming Planet" written with Brigham Daniels, which is out today.

Consider what the landscape looked like in the decades before 1970. Despite the innovative public health and land protections of the Progressive Era, the mainstream legal framework developed during the 19th Century was made to exploit, not protect. From the 1920s through even the 1960s, federal law subsidized sprawl, highways, dams, and fossil fuel extraction. Conservation was a minority pursuit.

And yet, beneath the surface, ideas were germinating: Rachel Carson was documenting the quiet devastation of chemical pesticides; a handful of states were experimenting with rudimentary air and water regulations; legal theorists were reimagining the standing of citizens — and even natural objects — to seek protection in court. None of these undercurrents looked like a winning hand. Together, catalyzed by a series of environmental disasters and a polarized political moment, they crested into a legislative triumph.

The pattern recurs throughout American environmental legal history. What we call "legal imagination" — the creative development and testing of new legal tools, doctrines, and governance arrangements — rarely announces its victories in advance. The first national park (Yellowstone, 1872) seemed like an eccentric outlier; within decades it had become the template for a global movement. The acid rain cap-and-trade program of 1990 was derided as a dangerous experiment with market forces; it ultimately reduced sulfur dioxide emissions faster and cheaper than anyone had predicted and reshaped thinking about environmental policy worldwide. Citizen suit provisions, environmental impact assessments, collaborative governance arrangements — each was a legal experiment before it was a legal norm.

This is not a counsel of complacency. The current moment is genuinely dangerous, and the damage being done to environmental agencies and the rule of law may take decades to repair. Climate change — the defining environmental challenge of the era — continues to accelerate while federal policy retreats.

But the critical work of building those countercurrents happens precisely in moments like this one. When dominant institutions close, the experiments at the margins matter more. When federal law retreats, state and local innovation becomes the seedbed of national reform. When the political weather is hostile, the unglamorous work of developing ideas, building coalitions, and testing legal theories prepares the ground for the next opening.

That work requires investment. Policymakers, private funders, and environmental advocacy organizations must make a specific and urgent commitment: build the learning infrastructure that legal imagination requires. This means funding serious historical and comparative research on what has worked, what has failed, and why — not as an academic luxury, but as the practical foundation for reform strategies. It means supporting state and local legal experiments that can serve as laboratories for the next generation of national policy. It means investing in the training of lawyers, advocates, and public servants who understand the full history of the legal system they are working to change. And it means creating the institutional memory and cross-sector networks that allow insights from one era, one jurisdiction, or one movement to inform the next.

The first Earth Day succeeded not because of spontaneous outrage alone, but because a decade of preparatory work — scientific, legal, organizational — had positioned the movement to act when the political moment arrived. This Earth Day, that is the work: not just to resist what is being dismantled, but to imagine — rigorously, historically, creatively — what must be built.

Today’s undercurrent will fuel tomorrow’s wave. To be ready when it builds, we need to do the work now.