



## WI Environmental and Conservation Organizations Support Legal Action to End NRB Chair's Holdover Past the Expiration of His Term

For immediate release: July 22, 2021

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**Madison, WI**—On Tuesday, attorneys for the law firm Pines Bach, LLC directed a complaint to Attorney General Josh Kaul that outlines the reasons why Frederick Prehn is unlawfully occupying a seat on the Natural Resources Board (NRB) and requests the Attorney General take action to obtain a writ of quo warranto under Chapter 784 of the Wisconsin Statutes.

Midwest Environmental Advocates, Wisconsin's Green Fire, League of Women Voters of Wisconsin, Clean Wisconsin, River Alliance of Wisconsin, and Sierra Club - Wisconsin Chapter jointly make the following statement:

*Our organizations hold a variety of interests and positions on matters that come before the NRB. Our own positions as organizations are not always fully aligned with the groups that filed the complaint, Humane Society of the United States and the Center for Biological Diversity. On many issues, we in fact hold opposing viewpoints. However, on this issue our organizations agree strongly: Frederick Prehn's continued presence on the NRB undermines the "sound, responsible, and accountable management of natural resources held in the public trust."<sup>1</sup>*

*The NRB is part of Wisconsin's tradition of limiting the influence of politics in natural resources and conservation decision-making. Frederick Prehn's continued refusal to vacate a seat on the NRB after the expiration of his term is doing great damage to that tradition.*

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<sup>1</sup> Westerberg, Christa. Request for Quo Warranto Action, Wis. Stat. s. 784.04(1)(a), Regarding Dr. Frederick Prehn, July 20, 2021. Letter.

*The NRB was created by the Kellet Reorganization Bill in 1967, which merged the then Department of Conservation with the then Department of Resource Development.<sup>2</sup> At that time, many in the conservation community were concerned that development and business interests would hold disproportionate power over the resulting agency, the Department of Natural Resources (DNR).<sup>3</sup> The structure and composition of the NRB was the result of a critical compromise: it preserved for Wisconsinites a direct role in setting natural resource and conservation policy and was meant to insulate DNR decisions from undue political influence. Critically, NRB members are to act as citizen-representatives for their six-year term. During that time period, they are stewards of the public interest. The notion that any former NRB member may attempt to maintain power after the expiration of their term, when a duly nominated and qualified member is able to serve, is inconsistent with legislative intent and is anathema to both the role of an NRB member and the long tradition of the NRB.*

*These unique aspects of the NRB's history and function provide context for the legal points made in the complaint. At the time of the NRB's creation, the Legislature chose not to include a holdover clause in statute creating the NRB,<sup>4</sup> even though the statutory model for giving appointees the ability to holdover had been established by previous legislatures.<sup>5</sup> This decision by the Legislature, reflected in the text of Wis. Stat. § 15.34(2)(a), is consistent with the intent and spirit that motivated the creation of the NRB. The drafters of the Kellet Bill did not permit what Frederick Prehn continues to do because the NRB was created not as a body comprised of political actors seeking to maximize their power but as citizen-representatives who serve in the public interest for a set period of time.*

*We emphasize that our support for the complaint is neither about a particular policy issue before the NRB nor the particular political party of the governor who made the most recent appointments. George Meyer is a former DNR Secretary who served in Republican Governor Tommy Thompson's administration. Mr. Meyer was recently quoted as saying that Frederick Prehn staying in his seat, "overturns the will of the people that was voiced through the election of the new governor, and I would say this regardless of the parties here. It makes no difference whether the Democrats are in charge or the Republicans....Either way, this would be contrary to the way the system is set up...."<sup>6</sup>*

*Over the next months, the NRB will be setting policy for the people of Wisconsin on a wide range of issues, including wildlife management, PFAS water quality standards, addressing nitrate contamination in drinking water, land acquisition, among many others. Our respective organizations may have differing views on these issues, but we agree that the people of Wisconsin have a right that these matters be addressed by an NRB that is accountable and comprised of members who are lawfully acting in the people's interest.*

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<sup>2</sup> Sinykin, Jodi Habush. "At a Loss: The State of Wisconsin After Eight Years Without the Public Intervenor's Office." *Marquette Law Review*. 88 (2004): 648.

<sup>3</sup> Thomas, Christine L. "One hundred twenty years of citizen involvement with the Wisconsin Natural Resources Board." *Environmental History Review* 15, no. 1 (1991): 75.

<sup>4</sup> Wis. Stat. § 15.34(2)(a)

<sup>5</sup> See, e.g., 1961 Wis. Act 507, § 8 ("All appointed trustees [of the Wisconsin Investment Board] shall serve until their successors have been appointed and have qualified.")

<sup>6</sup> Kaeding, Danielle. "Evers Seeks Fresh Faces On Natural Resources Board, But Current Chair Isn't Stepping Down Yet." Wisconsin Public Radio, May 25, 2021. <https://www.wpr.org/evers-seeks-fresh-faces-natural-resources-board-current-chair-isnt-stepping-down-yet>.

**Midwest Environmental Advocates** is a public interest law center that works to defend public rights, protect natural resources, and ensure transparency and accountability in government. Learn more at [www.midwestadvocates.org](http://www.midwestadvocates.org).

**The League of Women Voters of Wisconsin** is a nonpartisan political organization that advocates for informed and active participation in government. There are 20 local Leagues throughout Wisconsin. More information at [lwvwi.org](http://lwvwi.org).

**Wisconsin's Green Fire** is a non-partisan organization of conservation professionals bringing sound science and deep knowledge of policy and practice to natural resource and environmental issues in Wisconsin. [www.wigreenfire.org](http://www.wigreenfire.org).

On behalf of its more than 30,000 members, supporters and its coalition partners, **Clean Wisconsin** protects and preserves Wisconsin's clean air, water and natural heritage. <https://www.cleanwisconsin.org/>.

Founded in 1892, the Sierra Club is America's oldest, largest, and most influential grassroots environmental organization. The Sierra Club's mission is to explore, enjoy, and protect the wild places of the earth. **The Sierra Club – Wisconsin** is made up of 18,000 members and supporters from throughout Wisconsin working to promote clean energy and protect land and water resources. <https://www.sierraclub.org/wisconsin>.

Formed in 1993, **River Alliance of Wisconsin** is a statewide nonprofit, nonpartisan advocacy organization that empowers people to protect and restore Wisconsin's waters. The organization's membership includes more than 1,500 individuals, businesses, and local watershed groups. For more information, visit [www.wisconsinrivers.org](http://www.wisconsinrivers.org).