

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB 72  
OF  
SUBJECT \_\_\_\_\_

Karen Etter Hale  
(NAME)  
222 So Hamilton St #1  
(Street Address or Route Number)  
Madison WI 53703  
(City and Zip Code)  
Madison Audubon Society  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB 72  
OF  
SUBJECT \_\_\_\_\_

Don Hildebrandt  
(NAME)  
2310 N 6th St  
(Street Address or Route Number)  
Wausau WI 54403  
(City and Zip Code)  
Wisconsin B.A.S. State Federation  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
Statement Attached  
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. 72  
OF  
SUBJECT PUBLIC INTERVENOR

PAUL NOERDNER  
(NAME)  
136 KEUENSTON  
(Street Address or Route Number)  
MADISON BLUFF, WI 53704  
(City and Zip Code)  
MADISON AUDUBON SOCIETY  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3-17-99  
BILL NO. Senate Bill 72  
OR  
SUBJECT Public Intervention

Randy Romanick  
(NAME)  
WI Department of Justice  
(Street Address or Route Number)  
Madison WI  
(City and Zip Code)

(Representing) \_\_\_\_\_  
Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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State Capitol - B35 South  
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Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: March 17, 1999  
BILL NO. SB 72  
OR  
SUBJECT \_\_\_\_\_

Rich Bogovich  
(NAME)  
122 State St #200  
(Street Address or Route Number)  
Madison 53703  
(City and Zip Code)  
Wisconsin's Environmental Decade

(Representing)   
Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB 72  
OR  
SUBJECT Restore Public  
Intervention

Mark Reich  
(NAME)  
115 W. Main St.  
(Street Address or Route Number)  
Madison WI 53703  
(City and Zip Code)  
Wis. State Council - Carpenters

(Representing) \_\_\_\_\_  
Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB72  
OR  
SUBJECT Office of  
Intervenor

Sabrina Gentile  
(NAME)  
1212 Deming Way  
(Street Address or Route Number)  
Madison 53717  
(City and Zip Code)  
WI Farm Bureau  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:  
but not speaking:   
Registering Against:  
but not speaking:   
Speaking for information  
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. Senate Bill 72  
OR  
SUBJECT \_\_\_\_\_

Senator Fred Risser  
(NAME)  
220 South Capitol  
(Street Address or Route Number)  
\_\_\_\_\_  
(City and Zip Code)

(Representing) \_\_\_\_\_  
Speaking in Favor:   
Speaking Against:   
Registering in Favor:  
but not speaking:   
Registering Against:  
but not speaking:   
Speaking for information  
only; Neither for nor against:

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Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB72  
OR  
SUBJECT \_\_\_\_\_

SEN. AUCE CLAUSING  
(NAME)  
1314 WILSON AVE  
(Street Address or Route Number)  
MENOMONIE 54751  
(City and Zip Code)

(Representing) \_\_\_\_\_  
Speaking in Favor:   
Speaking Against:   
Registering in Favor:  
but not speaking:   
Registering Against:  
but not speaking:   
Speaking for information  
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: March 17, 1999  
BILL NO. SB 72  
OR  
SUBJECT \_\_\_\_\_

Todd Amb  
(NAME)  
122 State St #202  
(Street Address or Route Number)  
Madison 53703  
(City and Zip Code)  
River Alliance of Wisconsin  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3-17-99  
BILL NO. SB 72  
OR  
SUBJECT \_\_\_\_\_

Sarah Diedrick-Kasdorf  
(NAME)  
100 River Place, Suite 101  
(Street Address or Route Number)  
Monona 53716  
(City and Zip Code)  
Wisconsin Counties Association  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.  
Senate Sergeant-At-Arms  
Room 109-LL One East Main  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3-17-99  
BILL NO. SB 72  
OR  
SUBJECT Public Intervention

Ann Winters  
(NAME)  
2820 Walton Commons  
(Street Address or Route Number)  
Madison, WI 53718  
(City and Zip Code)  
WI Agribusiness Council  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB 72-  
OF  
SUBJECT Public Meetings

Patrick Stevens  
(NAME)  
501 E Washington Ave  
(Street Address or Route Number)  
Madison 53501  
(City and Zip Code)  
WI. Manufacturers & Commerce  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB 72-  
OF  
SUBJECT \_\_\_\_\_

Rebecca Katers  
(NAME)  
1270 Main St Suite 120  
(Street Address or Route Number)  
Green Bay WI 54302  
(City and Zip Code)  
Clem Water Action Council of Northeast WI  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor: Statement Attached  
but not speaking:   
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB 72-  
OF  
SUBJECT \_\_\_\_\_

Charles Leathin  
(NAME)  
222 S Hamilton St #1  
(Street Address or Route Number)  
Madison WI 53703  
(City and Zip Code)  
Wisconsin Wetland's Association  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor: Statement Attached  
but not speaking:   
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB72  
OR  
SUBJECT \_\_\_\_\_

Bob Olsgard  
(NAME)  
PO Box 31  
(Street Address or Route Number)  
Springbrook WI 54875  
(City and Zip Code)  
Citizens for an Independent DNR  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor: Statement Attached   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. \_\_\_\_\_  
OR  
SUBJECT SB72

Spencer Black capitol  
(NAME) 6-1521  
State Capitol  
(Street Address or Route Number)  
(City and Zip Code)  
77 AD  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/17/99  
BILL NO. SB72  
OR  
SUBJECT \_\_\_\_\_

Caryl Ferrell  
(NAME)  
222 So Hamilton St #1  
(Street Address or Route Number)  
Madison WI 53703  
(City and Zip Code)  
Sierra Club - John Muir Chapter  
(Representing)

Speaking in Favor:   
Speaking Against:   
Registering in Favor:   
but not speaking:  
Registering Against:   
but not speaking:  
Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.  
Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

# Vote Record

## Senate Committee on Judiciary and Consumer Affairs

Date: 4/30/99  
 Moved by: Risser      Seconded by: Clausing  
 AB: \_\_\_\_\_  
 AB: \_\_\_\_\_ SB: 72      Clearinghouse Rule: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_      Appointment: \_\_\_\_\_  
 A: \_\_\_\_\_ SR: \_\_\_\_\_      Other: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

- Be recommended for:
- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction       | <input type="checkbox"/> Tabling                 |
| <input type="checkbox"/> Adoption           | <input type="checkbox"/> Concurrence             |
| <input type="checkbox"/> Rejection          | <input type="checkbox"/> Nonconcurrence          |
|   | <input type="checkbox"/> Confirmation            |

Committee Member

Sen. Gary George, Chair  
 Sen. Fred Risser  
 Sen. Alice Clausing  
 Sen. Joanne Huelsman  
 Sen. Alberta Darling \*

Aye	No	Absent	Not Voting
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 4      1      \_\_\_\_\_      \_\_\_\_\_

(\* by polling)

Motion Carried

Motion Failed

SB72



# Madison Audubon Society Inc.

222 S. Hamilton Street, Suite #1 ■ Madison, WI 53703-3201 ■ 608-255-BIRD (2473) ■ Fax 608-255-2489

Hearing on Restoration of Public Intervenor Office  
17 March 1999  
Senate Committee on Judiciary and Consumer Affairs

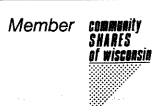
Dear Senators,

One of Madison Audubon's highest priorities for the current legislative session is to restore the office of Public Intervenor.

The Public Intervenors' office was instrumental in keeping serious environmental concerns of our citizens from being lost between the cracks. These citizen concerns, which are also high on our list of priorities, include land use, shoreland preservation, habitat protection, transportation issues, and threatened and endangered species. Wisconsin, the only state which ever had a Public Intervenors' office, was looked on nationally as a leader in the protection of our natural resources because of the critical role that the office played.

We urge you to vote in favor of restoring Wisconsin's position as leader in protection of our natural resources, as well as its reputation nationally, by reestablishing the office of Public Intervenor.

Sincerely,  
*Karen Etter Hale*  
Karen Etter Hale  
Executive Secretary



The mission of the Madison Audubon Society is to educate our members and the public about the natural world and the threats that natural systems are facing, to engage in advocacy to preserve and protect these systems, and to develop and maintain sanctuaries to save and restore natural habitat.





WISCONSIN WETLANDS ASSOCIATION

222 South Hamilton Street · Suite #1 · Madison, Wisconsin 53703 · (608) 250-9971

March 16, 1999

SENATE JUDICIARY AND CONSUMER AFFAIRS COMMITTEE

REINSTATING THE PUBLIC INTERVENOR OFFICE

To the Committee:

The sign of a healthy democracy is when there is a check-and-balance system in place within different levels of government. A critical element of our state's democracy is an institution that provides objective oversight of state agency actions on behalf of the citizens of Wisconsin. The Office of Public Intervenor served this important role until 1995, when this office was dismantled. It has become obvious that we NEED this office to be reinstated, for the well-being of our state's natural resources—and our democracy.

Historically, the Public Intervenor has played a crucial role in protecting our state's natural resources, including the wetlands. Among other accomplishments, this office helped negotiate important wetland shoreland zoning and water quality protection rules.

It is very important to maintain objective oversight of the natural resources of Wisconsin -it's air, waters, soils and ecosystems. It would be disastrous if natural resource policy were to be influenced solely by political persuasion without the common good of the people in mind. If the check-and-balance system is not in place to safeguard our state's natural resources, we all lose. We have seen considerable erosion of our rights to a healthy environment through the loss of the Public Intervenor's office. It is time to reinstate this institution to the level we had prior to 1995.

I hope you will agree to reinstate the Office of Public Intervenor within the Department of Justice. It makes no sense in having the fox guarding the henhouse (ie., were the Office placed in the Department of Natural Resources, for example). Wisdom and foresight will guide your decision on this matter.

Thank you for your thoughtful consideration of this important issue.

Yours sincerely,

*Charles S. Luthin*

Charles S. Luthin  
Executive Director

Do  
no  
dishonor  
to  
the  
earth.  
lest  
you  
dishonor  
the  
spirit  
of  
its  
people.  
For  
the  
gifts  
of  
life  
are  
the  
earth's.  
and  
they  
are  
given  
to  
all.

SB72



122 STATE STREET, SUITE 202  
MADISON, WISCONSIN 53703  
608-257-2424 FAX 608-251-1655  
wisrivers@igc.org  
www.igc.org/wisrivers

**THE RIVER ALLIANCE OF WISCONSIN  
FIRMLY BELIEVES THAT THE  
OFFICE OF THE PUBLIC INTERVENOR SHOULD BE REESTABLISHED**

Please contact Todd Ambs, executive director of the River Alliance, for additional comments at 608-257-2424 or [tambs@igc.org](mailto:tambs@igc.org).

The River Alliance is a statewide non-partisan, non-profit organization. We work on behalf of over 800 individuals, groups and businesses to protect and restore the rivers and streams of Wisconsin. Like our membership, our board is made up of a cross-section of anglers, hunters, paddlers, scientists and environmentalists.

March 16, 1999



122 State Street, Suite 200, Madison, Wisconsin 53703-2500

tel: 608/251-7020 • fax: 608/251-1655 • decade@itis.com • www.wsn.org

---

TO: The Senate Judiciary and Consumer Affairs Committee  
FROM: Rich Bogovich, Policy Specialist  
DATE: March 17, 1999  
RE: Support for Senate Bill 72, the Public Intervenor legislation

Wisconsin's Environmental Decade strongly supports Senate Bill 72. Reinstating the office of the Public Intervenor is one of our highest policy priorities for the current biennium.

Public Intervenors are necessary and vital in part because of the unique nature of environmental law. The Public Intervenors represent "public rights" in the waters and natural resources of the state--a function unique in state government. The Department of Justice environmental unit represents the Department of Natural Resources, not "public rights" protected by the Wisconsin Constitution or the Wisconsin statutes. Often, citizens are turned away by the DNR, other state agencies, and the Governor's office because it is often the government itself that is the problem. Only the Public Intervenor is able to represent public rights of citizens in the environment.

In addition, environmental law is an area of the law known for great complexity, as reflected in the fact that the state's Department of Justice has one entire unit devoted solely to the environment whereas another unit of similar size handles many issue areas, such as health and family services, revenue, public instruction, insurance, and financial institutions. Also, in many other areas of the law, the wrong for which a person or a prosecutor is seeking relief is a distinct act causing a distinct harm. Within environmental law, however, the nature of aggrieved parties varies greatly, and the purpose of seeking relief is often to stop or remedy an ongoing activity which may prove harmful years down the road. As a result of the unique nature of environmental law, the interests of individuals, groups of citizens, and the public at large simply aren't met consistently. The DNR and other agencies obviously have some significant duties in this regard, but enforcement programs have long been understaffed and too much effort is devoted to slapping the wrists of "small fry."

What's more, citizens are either barred from suing the government for many environmental wrongs or are financially unable to pursue legal action, which is often true of nonprofit groups as well. Because of all of these factors, the office of the Public Intervenor should be reinstated.

# Wisconsin State AFL-CIO



CHARTERED 1958

6333 W. BLUEMOUND RD., MILWAUKEE, WISCONSIN 53213    PHONE (414) 771-0700    FAX (414) 771-1715

David Newby, President • Sara J. Rogers, Exec. Vice President • Phillip L. Neuenfeldt, Secretary-Treasurer

TO:        Senate Judiciary and Consumer Affairs Committee

FROM:     Phil Neuenfeldt, Secretary-Treasurer  
           Joanne Ricca, Legislative Staff

DATE:     March 15, 1999

RE:        **SUPPORT FOR SENATE BILL 72**  
           **Recreate Office of Public Intervenor in Department of Justice**

We will be unable to attend the March 17 hearing on SB 72 but want to register our strong support for this legislation.

The Office of Public Intervenor in the Department of Justice should never have been eliminated. The Public Intervenor had supported the pathbreaking Worker Right-to-Know Law and Community Right-to-Know Law in the early 1980s. These laws made Wisconsin one of the earliest states to address the potential threat of toxic hazards in the workplace and in our neighborhoods. Even earlier, in the 1970s, the Public Intervenor persuaded the Legislature to ban DDT — two years before it was banned nationally.

The public needs to have an independent advocate who will serve as an environmental watchdog to protect Wisconsin's air quality, ground and surface water quality, wetlands and other public resources. The Office of Public Intervenor in the Department of Justice should be restored.

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

**FISCAL ESTIMATE**  
DOA-2048 N(R10/94)

Subject  
Creating an office of public intervenor in the department of justice and making an appropriation

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No  
 Decrease Costs

Increase Existing Appropriation  Increase Existing Revenues  
 Decrease Existing Appropriation  Decrease Existing Revenues  
 Create New Appropriation

Local:  No local government costs

1.  Increase Costs  
 Permissive  Mandatory  
2.  Decrease Costs  
 Permissive  Mandatory

3.  Increase Revenues  
 Permissive  Mandatory  
4.  Decrease Revenues  
 Permissive  Mandatory

5. Types of Local Government Units Affected:  
 Towns  Villages  Cities  
 Counties  WTCS Districts  
 School Districts  Others

Fund Sources Affected  
 GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

SUMMARY OF BILL

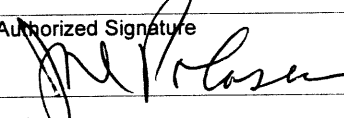
The bill creates an office of public intervenor attached to the Department of Justice (DOJ), with the same duties and authority that existed prior to 1995 Wisconsin Act 27. The Department of Natural Resources (DNR) will notify the public intervenor of all administrative proceedings under the environmental protection chapters and will make such investigations, studies and reports to assist the public intervenor either before or during such formal intervention. The bill requires DNR to transfer to DOJ all assets, liabilities and tangible personal property, including records, of the public interenor that were transferred from DOJ to DNR by 1995 Wisconsin Act 27.

FISCAL IMPACT

There is no fiscal impact on the Department of Natural Resources. Any additional workload related to notification of all administrative proceedings will be absorbed using current staff and resources.

There are also no records, tangible assets, personal property or funds to be transferred to DOJ. The Department of Natural Resources did not receive any records, assets or personal property from DOJ at the time the public intervenor was originally transferred from DOJ to DNR.

Long-Range Fiscal Implications  
None

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794		(608) 266-2794	02/26/1999

**ANNUAL ESTIMATE WORKSHEET**

**1999 Session**

Unfiled Estimate of Annual Fiscal Effect  
 HOA-2047 (R10/94)

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. SB 72, 99-2211/1	Amendment No.
---	---------------

Subject

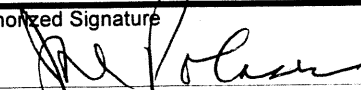
Creating an office of public intervenor in the department of justice and making an appropriation

**I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal affect):**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes		
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
<b>TOTAL State Costs by Category</b>	\$0	\$0
<b>B. State Costs by Source of Funds</b>	<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR		
FED		
PRO/PRS		
SEG/SEG-S		
<b>III. State Revenues:</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes		
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
<b>TOTAL State Revenues</b>	\$0	\$0

**NET ANNUALIZED IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
<b>NET CHANGE IN COSTS</b>	\$0	\$0
<b>NET CHANGE IN REVENUES</b>	\$0	\$0

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794		(608) 266-2794	02/26/1999

# Citizens for an Independent DNR

SB72

PO Box 31, Springbrook, WI 54875

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Date: 3/16/99

TO: Sen. Gary George

RE: Reinstate the Public Intervenor's Office

Senator George,

I understand that your committee is meeting to determine the course of legislation regarding the reinstatement of Wisconsin's public watch-dog, the public intervenor. As a founding member of Citizens for an Independent DNR I cannot overemphasize the importance of this issue for us.

In the last ten months we have collected over 1,000 signatures on petitions which demand that our Department of Natural Resources be returned to the control of a citizen board. Our respondents have consistently asked if this petition will extend to the issue which you have before you; the reinstatement of the Public Intervenor.

My response to them is that the two cannot be separated. Sadly, a Governor's DNR may make the Public Intervenor more necessary. Who now except private citizens with scant financial and legal resources will call the DNR's permitting activities into question even under circumstances which suggest impropriety?

Restoration of the Public Intervenor's office as a watch-dog for protection of Wisconsin's natural wealth will be of paramount importance to our group. Please support this legislation and urge your colleagues to do likewise.

Sincerely,



Bob Olsgard, Founding member  
Citizens for an Independent DNR

SB72



**Wisconsin B.A.S.S. State Federation**  
AFFILIATE NATIONAL B.A.S.S. FEDERATION



TO FAX # 608-256-4562

FROM : 715-842-3397

SUBJECT : PIO

DON HILDEBRANDT  
WBSF CONSERVATION DIR  
2310 N 6th ST  
WAUSAU WI 54403

AS CONSERVATION DIRECTOR FOR THE WISCONSIN STATE BASS FEDERATION  
OUR ORGANIZATIONS NUMBER ONE PRIORITY IS TO REINSTATE THE PUBLIC  
INTERVENOR OFFICE.

SINCERELY :

A handwritten signature in cursive script, appearing to read "Don".





# Wisconsin Agribusiness Council, Inc.

2820 Walton Commons West, Suite 100 • Madison, WI 53718-6797 • Phone (608) 224-1450 • Fax (608) 224-1452 • www.wisagri.com

April 28, 1999

Post-it® Fax Note 7671

To	Sen Gary George
Co./Dept.	11815d

TO: The Senate Judiciary & Consumer Affairs Committee

RE: **Our opposition to SB 72 to re-establish the office of Public Intervenor**

The Wisconsin Agribusiness Council includes in our membership private and cooperative agribusinesses, farmers, educators including university and extension professionals, and approximately 50 agricultural and trade associations.

Our position on this issue was re-confirmed when the following policy statement was adopted at our February 19, 1999 annual meeting:

*" Wisconsin Public Intervenor - We strongly support the state's action to abolish the office of Public Intervenor and oppose any effort to reinstate it."*

The office of Public Intervenor has had a history of presenting a very narrow viewpoint. Here in Madison for example that office loudly proclaimed the South Beltline should not be built. Had the PI prevailed, over 90,000 vehicles would now be traveling on East Broadway through Monona each workday!

In a letter to the Assembly Environmental Resources Committee (Feb. 1984) the Wisconsin County Forests Association wrote:

*"...in recent years, our counties have found it necessary to involve their representatives in expensive and time-consuming hearings around the state to defend forest management policies against the precipitous and ill-conceived proposals advanced by the Public Intervenor's office on behalf of a few individuals..."*

In that letter they recommended abolishing the office of Public Intervenor.

We concur and ask that you not recommend SB 72 for passage.

Sincerely,

Russel R. Weisensel  
Senior Vice-President  
Government Relations

## Tentative Hearing Appearance Schedule

### Appointees

Maura McMahon

Spryo Condos

AB 62 (Relating to changing the name of a minor)

SB 72 (Relating to reestablishing the office of the public intervenor)

AB 76 (Relating to statements in connection with the ability of an electronic computing device... Y2K)

SB 6 (Trigger Locks)

SB 83 (Relating to sexual exploitation of a child.)



**SIERRA  
CLUB**  
FOUNDED 1892

**John Muir Chapter**

**Testimony in Support of SB 72  
Restoring the Office of the Public Intervenor in the Department of Justice  
Before the Senate Judiciary and Consumer Affairs Committee  
March 17, 1999  
Caryl Terrell, Legislative Coordinator**

On behalf of over 9,000 statewide members of the Sierra Club, thank you for holding this hearing on SB 72 early in the legislative session.

Crucial to the formation of the Department of Natural Resources by Governor Warren Knowles in the late 1960's was an agreement to establish an independent environmental watchdog, the Office of the Public Intervenor in the Department of Justice. In the 1995-96 State Budget this agreement with the citizens of the state was broken. SB 72 will restore public confidence that government decisions to manage Wisconsin's natural resources and control environmental pollution are made for the longterm benefit of the state and its residents.

The elimination of the Office of the Public Intervenor removed a much needed advocate for the public's interest in the waters and other natural resources of the state. Wisconsin faces many increasingly complex, technically challenging resource and land use decisions. The Public Intervenor was able to provide decision-makers such as yourself and the average concerned citizen with objective information and to act as a non-partisan facilitator seeking win-win solutions for our communities and our environment.

Attached are several summaries of the valuable contributions of the Public Intervenor Office. The Sierra Club urges you to vote to recommend adoption of SB 72 to the full Senate.

Thank you.

# Accomplishments of the Public Intervenor's Office

## Citizen Advocacy and Empowerment

Worked to reach consensus on regulations and cases to avoid conflict, prevent lawsuits, and adopt laws that all interested parties can live with.

Responded to numerous legislative requests to help their constituents.

Continually went to bat each year for hundreds of citizens suffering property devaluation and risks from well water contamination, leaking landfills and underground storage tanks, nuisances, highway construction, pollution, and irresponsible land development.

Advised and helped citizens use existing local and state government processes to advocate protection of their public rights in lakes and rivers, and to protect their families and property from environmental threats.

Intervened in major permit cases --- including the Kennecott copper mine and the Exxon/Rio Algom zinc mine --- to bring scientific review and input into the process.

## State Law and Consensus

### **Advised Legislative Branch ---**

- Responded to numerous requests by legislators and committee chairs to review and identify issues in regulations being adopted by state agencies and to provide testimony and comments.

### **Underground Drinking Water Supplies ---**

- Negotiated with industry the 1984 landmark Wisconsin Groundwater Law (Act 410) requiring pollution activities meet groundwater enforcement standards, setting up environmental repair clean-up program and polluted well victim compensation program.
- Held the line in protecting groundwater from approval of on-site sewage systems (septic tanks and mound systems) in inappropriate lands.
- Turned back a DNR rule that would have allowed drinking water to be degraded with solvents (toluene and xylene) to the point of being smelly and undrinkable. New standards are now being developed.
- Turned back a rule that would have prevented the DNR from replacing contaminated wells of poor families.

### **Metallic Mining ---**

- Negotiated consensus metallic mining laws and regulations.
- Prioritized recent mining proposals to protect surface and groundwater resources. Recently hired 3 world-class technical experts to evaluate and comment on impacts of the Exxon/Rio Algom metallic sulfide mine near Crandon.

### **Solid Waste and Hazardous Chemicals ---**

- Negotiated passage of state community right-to-know law so communities and workers are prepared to deal with chemical spills and emergencies.
- Reached consensus on strengthening amendments to recent DNR rules for the clean-up of hazardous pollutant spill sites.
- Worked with legislators to change DNR rules in order to uphold legislative prohibition on dumping of waste oil in landfills.

### **Sand and Gravel Mining ---**

- Negotiated consensus non-metallic mining (gravel and rock) reclamation bill.

### **Wetlands ---**

- Petitioned for and negotiated major state wetland shoreland zoning and water quality protection rules.

### **Mixed Resource Uses ---**

- Petitioned for and negotiated DNR policies on wetlands, scenic beauty and forest multiple use.
- Advised lake property associations and local governments on regulations of nuisance watercraft.

### **Pesticides ---**

- Successfully pushed for restrictions on use of the pesticides aldicarb and atrazine in groundwater contaminated areas.

- Turned back a Dept. of Ag rule that would have restricted local authority to adopt ordinances prescribing pesticide use lawn signs.
- Negotiated consensus on strengthened Dept. of Ag rules governing pesticide use, including aerial spraying, lawn care pesticides, pesticides in irrigation systems, and groundwater protection.
- Worked with farm organizations to fund research into sustainable agricultural practices and policies.

#### **Public Access ---**

- Reached consensus on DNR and legislative standards for providing public access to navigable waters.

#### **Water Supplies ---**

- Convinced DNR to review Wisconsin groundwater supplies and policies to assure adequate quantities of water for future business, domestic and ecological use. Review is underway.

#### **Forests ---**

- Worked with DNR, county officials, and county foresters in developing adequately protective state standards for the withdrawal of county forest lands for other purposes.

#### **Environmental Review ---**

- Successfully petitioned for regulations requiring state agencies to review environmental impacts of their decisions.

### **Court Cases**

**Sewage and Public Notice ---** Won court decision forced the Department of Industry, Labor and Human Relations to follow rule making procedures, preventing them from weakening already inadequate private sewage regulations. (Working now to strengthen rules.)

**Solid Waste ---** Prevented a solid waste landfill from being sited in the middle of the Machickanee Forest in Oconto County because lower cost alternatives existed, preserving this area for wildlife, recreation and forestry purposes. Defended local government authority in landfill siting matters, allowing more stringent local controls.

**Wetlands ---** prevented wetland destruction at the Tank Farm Marsh for an unnecessary railroad spur track in Green Bay. Promoted alternatives and prevented fill of ecologically valuable wetlands at Lily Lake, Kenosha County. Prevented unnecessary dredging of pristine area of Partridge Lake, Waupaca County. Protected several wetland and aquatic resources over the years, in favor of non- or less-damaging alternatives. Exposed and reversed improper Department of Transportation sponsorship of local wetland filling projects to avoid wetland protection standards.

**Public Access ---** Fought for and retained popular public access points to Lake Michigan for fishing and other enjoyment.

**Local Shoreland and Floodplain Zoning ---** Won court decision striking down a provision exempting lake property owners from complying with shoreland zoning regulations that protect public waters. Won court decision striking down provision that prevented county enforcement of floodplain zoning regulations in the Mississippi River to protect public safety, prevent costly property damage and taxpayer liabilities from floods.

**Pesticides and Local Rights ---** Won U.S. Supreme Court decision establishing right of local governments to set stronger standards than federal law to protect public health and the environment.

**Tourism ---** Defended right of local governments to regulate forest clear-cutting near town roads to protect the local tourist economy. Promoted an alternative and prevented unnecessary private bridge on Pelican River, to protect navigation and scenic beauty.

**Transportation and Environmental Impact Statements ---** Won landmark court decision requiring the Department of Transportation to disclose environmental consequences of their multi-million dollar highway building plan.

**Lakebed and Creekbed Protection ---** Won court decision striking down an exemption to a DNR order requiring restoration of Oak Creek to its former natural value, after it was illegally lined with concrete. Required Eau Claire to protect a major trout stream from development runoff and erosion. Won court decision preventing construction of private condominiums on public lake bed, and other illegal structures in the water, helping to preserve the waterfront for public uses.

**Contaminated Sediments and Water Quality ---** Won decision denying permits for building a dredge spoil lake-fill in Green Bay because environmental standards were not met.

## Responses to Claims for Abolishing the Public Intervenor's Office

### Claim:

#### Saves Taxpayers' Money

It has been claimed that eliminating the office saved taxpayers \$232,000 per year.

### Response:

For less than a nickel per person per year, citizens of Wisconsin get an entire office with two full-time attorneys, 1.5 clerical staff and 8 non-paid legal interns to represent their public rights in the environment and respond to their calls. The "saving" from eliminating the office amounts to only .00001166% (one one thousandth of one percent) of the \$ 15 billion budget.

Compare the Public Intervenor's Office budget with the \$ 1.6 billion budget of DOT, \$ 437.5 million budget of DNR, \$ 288.6 million budget of DILHR and \$ 57 million budget of DATCP --- four state agencies the public intervenors are charged with watchdogging.

The Intervenor's Office is already streamlined --- one of few agencies which have grown little over the past 20 years.

### Claim:

#### Intervenor Represents Environmental Groups

It has been claimed the Public Intervenor's Office has filed lawsuits on many occasions against the state on behalf of well-funded environmental groups.

### Response:

The Public Intervenor's Office did not represent environmental groups or their interests in courts. The intervenor represented "public rights in the water and other natural resources of the state." Wisconsin's natural resources are not the special interest of environmental groups --- public rights are shared by all. Everyone has a stake in clean water, clean air, abundant wildlife, and a healthy environment.

Wisconsin environmental groups collectively have few staff. Further, environmental groups represent their members in lawsuits, not necessarily "public rights" in our natural resources. In fact, the intervenors have differed with environmental groups on issues. Often, intervenors worked on public rights issues unaddressed by any other agency or private group.

Opponents of public rights in the environment frequently have lawyers to protect their interests.

### Claim:

#### Duplicates Services

It has been claimed there are plenty of lawyers in the Department of Justice or private attorneys who can do what the intervenors do.

### Response:

Department of Justice (DOJ) lawyers and private lawyers don't do what the Public Intervenor's Office did, and cannot challenge unconstitutional laws. In court, DOJ lawyers represent the agencies the public intervenor occasionally sues. Private attorneys represent the interests of their private clients and do not represent "public rights." The public intervenor represented "public rights" in the state's natural resources. Many public rights will not be represented if the office is abolished.

### Claim:

#### Why Should the State Sue Itself?

It has been claimed it doesn't make sense for the state to pay lawyers to sue the state.

### Response:

Sure it makes sense --- if you believe government can make mistakes, exceed its powers, or violate public rights.

The Legislature created the Public Intervenor's Office in 1967 to watchdog state government and intervene when government action or inaction threatened public rights in natural resources. Conservationists demanded this outside advocate be created precisely to ensure advocacy for resource issues. This checks and balance system will be lost if the public intervenor is abolished.

Further, lawsuits are only a small part of the picture. The intervenor's authority to sue was often enough to bring people to the negotiating table to avoid lawsuits. The intervenors were able to negotiate reasonable compromises and out-of-court settlements. In addition, the intervenors often provided valuable information to agencies and legislators in non-confrontational forums, and provided advice to hundreds of citizens who contact the office each year.

### Claim:

#### Costs Industry and the State

It has been claimed that the Public Intervenor's Office cost industry and the state millions of dollars.

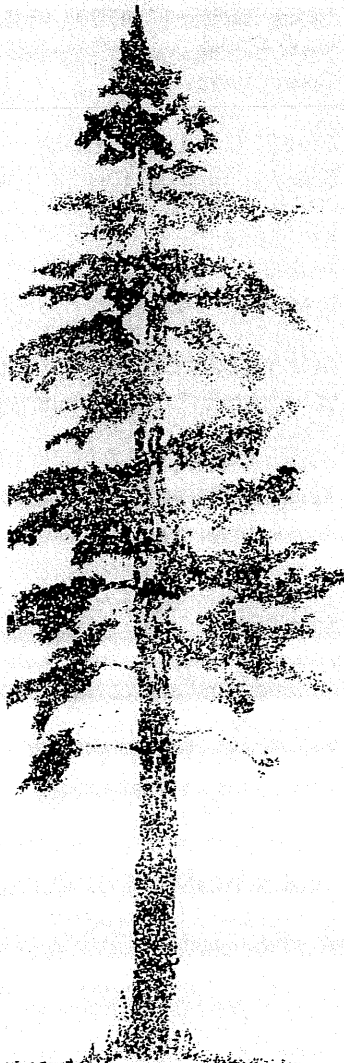
### Response:

The office saved the state money over the years. It is cost-effective to have an intervenor question the decisions of state agencies before they go too far in implementing them. If agencies had been allowed to proceed with decisions prevented by the intervenor, taxpayers and industries often could have faced more costly lawsuits and clean-up actions. The intervenors worked reach consensus on regulations so that problems can't grow into major liabilities for the state and the business community.



SIERRA CLUB  
FACT SHEET

## ORGANIZATION SUMMARY



### ORGANIZATION:

The oldest and largest environmental group in the world - over 550,000 members, 63 chapters and 399 local groups.

The Sierra Club is a non-profit (Internal Revenue Code 501(c)(4)), member-supported, public interest organization that promotes conservation of the natural environment by influencing public policy decisions through grassroots activism, public education, lobbying and litigation.

### STATEMENT OF PURPOSE:

*To explore, enjoy, and protect the wild places of the earth;  
to practice and promote the responsible use of the Earth's ecosystems and resources;  
to educate and enlist humanity to protect and restore the quality of the natural and human environment; and  
to use all lawful means to carry out these objectives.*

### ESTABLISHED:

1892 in San Francisco, California. Founder John Muir elected first president. Muir grew up in Wisconsin.

### CENTENNIAL CELEBRATION:

As part of celebrating over 100 years of service, the Sierra Club redirected its efforts on Five Global Challenges:

- Preserving global wild places
- Protecting the global commons
- Ending the toxic threat
- Stabilizing world population
- Building an environmentally sustainable economy

**ANNUAL BUDGET:** \$45 million

### MEMBERSHIP:

\$35 per year--regular  
\$15 per year--senior/student/  
limited income

### NATIONAL HEADQUARTERS:

Sierra Club  
85 Second Street, 2nd flr  
San Francisco, CA 94105-3441  
(415) 977-5500  
WEBSITE: [www.sierraclub.org](http://www.sierraclub.org)

### BOARD OF DIRECTORS:

15 unpaid directors elected by the membership-at-large:

Chuck McGrady (2001) *president*  
Lois Snedden (1999) *vice-president*  
Susan Holmes (1999) *secretary*  
Roy C. Hengerson (1999) *treasurer*  
Michael Dorsey (2000) *5th officer*  
Phil Berry (2000)  
David Brower (2001)  
J. Robert Cox (1999)  
Veronica Eady (2001)  
Anne Ehrlich (1999)  
Betsy Gaines (2000)  
Chad Hanson (2000)  
Michele Perrault (2001)  
Adam Werbach (2000)  
Jennifer Ferenstein (2001)

**Executive Director:** Carl Pope

### Conservation Campaigns 1999-2000

#### Major Campaigns:

- End Commercial Logging on federal lands
- Sprawl Hurts Us All
- Water Quality
- Wildlands Protection and Restoration

#### International Campaigns:

- Stabilize Global Population thru international family planning
- Curb Global Warming
- Fair Trade Agreements and Multilateral Bank Lending programs
- Human Rights and the Environment

Commitment to recruit and elect pro-environmental candidates and influence environmental ballot measures at local, state, national levels.

#### Wisconsin State Campaigns:

- Transportation and Land Use
- Metallic Mining Reform
- Water Quality and Animal Waste Mgt
- Restore DNR integrity and Public Intervenor's powers at DOJ Justice
- Clean Up Lower Fox River PCB contaminated sediment
- Reauthorize State Stewardship Fund
- Recycling
- Utility Public Benefits (conservation, renewables)

*Protect America's Environment  
For our families, for our future*

## PROGRAMS:

### CONSERVATION:

Lobbying, expert testimony, grassroots activism, and public education on major conservation campaigns. Contact the Activist Desk: (415) 977-5674, [activist.desk@sierraclub.org](mailto:activist.desk@sierraclub.org)

### SIERRA CLUB BOOKS:

Award-winning adult and children's books and calendars. Catalogs from: 85 Second St, 2nd Floor  
San Francisco, CA 94105-3441  
(415) 977-5718, fax (415) 977-5793

### OUTINGS:

National program of more than 275 outings annually. State chapters and local groups offer more than 8,000 outings annually. Inner City Outings provide outdoor experience for urban youth, disabled, and seniors. (415) 977-5630, [national.outings@sierraclub.org](mailto:national.outings@sierraclub.org)

## PUBLICATIONS:

### SIERRA

Published since 1893, the Club's official magazine, an award-winning, four-color publication filled with environmental articles, commentary and photography, published six times a year.

### PLANET

A monthly newspaper to help activists fight for environmental protection at the local, state, national and international levels. Read about the victories and the lessons learned.

## MEMBER SERVICES:

[membership.services@sierraclub.org](mailto:membership.services@sierraclub.org)  
or (415) 977-5653

[address.changes@sierraclub.org](mailto:address.changes@sierraclub.org)  
or (415) 977-5649

Sierra Club's national conservation policies, publications, and much more are on the website at [www.sierraclub.org](http://www.sierraclub.org)

## NEWSLETTERS:

All chapters and many groups regularly publish newsletters reporting state and local environmental laws, legislation and Club events. In Wisconsin, the chapter newsletter is *The Muir View*, published six times a year.

## WISCONSIN OFFICES:

### MIDWEST REGIONAL

(IA, IL, IN, KY, MI, MN, MO, OH, WI; National & EcoRegions Issues)  
Carl Zichella, Reg'l Staff Director  
Judy Hofrichter, Office Manager  
Brett Hulsey, Sprawl, Transp., Flooding  
Emily Green, Great Lakes  
Bill Redding, Mississippi River Basin  
Eric Uram, Media, Great Lakes Toxics  
214 N. Henry Street, #203  
Madison, WI 53703  
TEL: (608) 257-4994  
FAX: (608) 257-3513; E-mail:  
[midwest.field-office@sierraclub.org](mailto:midwest.field-office@sierraclub.org)

### JOHN MUIR CHAPTER (WI)

John Berge, Chapter Chair  
Caryl Terrell, Legislative Coord.  
222 S. Hamilton Street, Suite #1  
Madison, WI 53703-3201  
TEL: (608) 256-0565  
FAX: (608) 256-4562; E-mail:  
[john.muir.chapter@sierraclub.org](mailto:john.muir.chapter@sierraclub.org)  
[cterrell@execpc.com](mailto:cterrell@execpc.com)  
[bergejw@wi.net](mailto:bergejw@wi.net)

## WISCONSIN LOCAL GROUPS:

### ALGONQUIN SHORES GROUP

(Sheboygan, Calumet & Manitowoc co. & west to City of Fond du Lac)  
Hans Kuhn, Vice Chair  
N8894 Snake Rd  
Elkhart Lake, WI 53020  
h: (920) 876-3184

### CHIPPEWA VALLEY GROUP

(Barron, no. Buffalo, Chippewa, Dunn, Eau Claire, no. Jackson, Pepin Rusk & no. Trempeleau counties)  
Don Smith, Chair  
623 Jefferson Street  
Mondovi, WI 54755  
h: (715) 926-5107

### COULEE REGION GROUP

(La Crosse & surrounding counties)  
Steve Ryan, Chair  
h: (608) 784-8030 or  
Pat Wilson, Treasurer  
2222 Hoeschler Dr  
La Crosse, WI 54601-6814  
h: (608) 788-8831  
[pbwilson@aol.com](mailto:pbwilson@aol.com)

3/1/99

### FOUR LAKES GROUP

(Dane & south central counties)  
Beverly Speer, Chair  
604 Rogers St.  
Madison, WI 53703  
h: (608) 257-3452  
E-mail: [bjspeer@mailbag.com](mailto:bjspeer@mailbag.com)  
Group Hotline: (608) 829-1502

### FOX VALLEY GROUP

(NE Wisconsin)  
Nancy Brown, Chair  
653 Wilson  
Neenah, WI 54956-3129  
(920) 722-2648  
E-mail: [ngbrown@execpc.com](mailto:ngbrown@execpc.com)  
[www.FOCOL.ORG/~FVSG/](http://www.FOCOL.ORG/~FVSG/)

### GREAT WATERS GROUP

(Milwaukee, Ozaukee, Washington & Waukesha counties)  
Steve Schutz, Chair  
4240 S Sunnyslope Rd  
New Berlin WI 53151  
h: (414) 786-9584  
Group Hotline (414) 297-9846  
[www.execpc.com/~rlkugler/SC-Great\\_Waters/](http://www.execpc.com/~rlkugler/SC-Great_Waters/)

### ROCK VALLEY GROUP

(Green, Jefferson, Rock & Walworth)  
Clarence Trinkner, Chair  
633 Sunset Dr.  
Janesville, WI 53545-2751  
h: (608) 756-5260

### SOUTHEAST GATEWAY GROUP

(Kenosha & Racine counties)  
Nita Larson, Chair  
1512 Chatham St  
Racine, WI 53402  
h: (414) 638-8632

### ST. CROIX VALLEY INTER-STATE

(Burnett, Polk, St. Croix & Pierce counties, and part of Minnesota)  
Peter Muto, Co-Chair  
530 County Trunk M #34  
River Falls, WI 54022  
h: (715) 425-6086

### WISCONSIN RIVER COUNTRY

(Clark, Lincoln, Marathon, Portage, w. Shawano & Wood counties)  
Richard Wentzel, Chair  
1531 Cedar Hedge Road  
Edgar WI 54426-9372  
h: (715) 687-4391



SB72



**Clean Water Action Council of Northeast Wisconsin, Inc.**

East Port Center, 1270 Main Street, Suite 120

Green Bay, Wisconsin 54302

Phone: 920-437-7304 Fax: 920-437-7326 E-mail: CleanWater@cwac.net Web: www.cwac.net

**Board of Directors**

- Curt Andersen  
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Vice President
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- Alice McCombs
- George Rock
- Robert Schmitz
- Kyle Strauss

**Staff**

- Rebecca Leighton Kozers  
Executive Director
- Kyle Strauss  
Organizing Director

**Testimony for the  
Judiciary and Consumer Affairs Committee**

March 17, 1999

Thank you for holding a public hearing on SB <sup>72</sup>~~27~~, the proposal to restore the Wisconsin Public Intervenor Office. Unfortunately, our staff had a schedule conflict and could not attend. We hope you'll accept these written comments in our place.

Clean Water Action Council is a non-profit citizen group with more than 20,000 members and contributors in Northeast Wisconsin. We were founded 14 years ago to work on preventing and cleaning-up serious pollution problems in our area, such as the Fox River PCB contamination.

Through the years, we observed the activities of the Public Intervenor Office, and were shocked and dismayed when the office was dismantled and disempowered in the 1995 budget. This was by far the most damaging environmental decision by the Governor and Legislature in our memory.

Now, ordinary isolated citizens have no one to turn to for basic information and assistance with serious environmental problems in their area.

We're not talking about "environmentalists." We're talking about ordinary, law-abiding, taxpaying citizens who suddenly find that the DNR or other agencies aren't protecting them from obvious problems --- leaving them to solve the problems alone, without any experience and with their own money. Often, these citizens are expected to protect PUBLIC RESOURCES with their own limited private abilities. Meanwhile, their opponents are often wealthier or even corporate entities with seemingly bot-

tomless financial resources with their lawyers, technical consultants, lobbyists, secretaries and public relations staff.

It's unrealistic to expect that groups like ours would replace the kind of service once provided by the Intervenors. All the groups we know try to focus their limited dollars on a few issues and simply don't have the resources to serve the hundreds of people each year who were assisted with information and referrals by the Intervenors. Our group is the largest in Northeast Wisconsin, but we are staffed primarily with volunteers and we do not have an attorney on staff. We have had to hire attorneys for a few special cases over our 14 year life, but we can't keep an attorney on hand to advise the desperate people who call us regularly for help. The rest of us aren't qualified to offer legal advice.

In addition, we are seeing a proliferation of dozens of new technical rule proposals from several agencies at once, which are very difficult for private citizens to decipher. Again, most environmental groups don't have staff able to devote time to carefully analyze the impacts of all these rules, so they pass without public comment, for better or worse.

Even legislators have no one to turn to when constituents have a serious problem with agency decisions. Even legislators are forced to investigate, study and understand technical issues or simply trust that the agencies are telling them the whole truth all the time. Wouldn't it be helpful to again have an Intervenor Office for legislators to consult?

As taxpayers, we are outraged that entire agencies, such as the Dept. of Commerce with its \$200,000,000 budget, are set up to use our taxdollars to promote and assist business in Wisconsin --- while these same entities often create environmental problems with this financial assistance. And DNR has been turned into a "Service Agency" for its industrial "clients."

We simply ask that the Legislature provide some balance for this situation and restore the Intervenors to represent PUBLIC RIGHTS in natural resources. Now that the Dept. of Natural Resources has been politicized under the direct control of the Governor, it's more important than ever to have the Intervenor Office as a check and balance to ensure that public rights are fully represented.

In the last few years, our group has been unfairly burdened with two major lawsuits to protect PUBLIC RESOURCES that belong to everyone.

**KIDNEY ISLAND** --- Two weeks after the Intervenor Office closed in 1993, the DNR reissued the same permit that the Public Intervenor Office had successfully opposed in court in 1988 --- to allow the tripling of the size of a

toxic PCB sediment dump in the waters of Green Bay.

Private citizens in Green Bay had to destroy a year of their lives and raise \$20,000 to fight the same case in court, and successfully proved in court again that the Dept. of Natural Resources, the Army Corps of Engineers, and the Brown County Harbor Commission were dead wrong.

The government agencies had refused to hold public hearings on the issue and ignored hundreds of letters, hundreds of yard signs and thousands of signatures on petitions, and clear public opposition to the project.

They wouldn't have dared try this if the Public Intervenor Office existed, because they would have known the permit would be challenged.

The whole situation was outrageous. Private citizens should not have to hold multiple rummage sales, bakesales and other pathetic fundraisers as we did to fight for a public resource while arrogant agency staff use taxpayer-provided attorneys against us.

**MINERY INCINERATOR** --- The City of Neenah allowed a private industry to build a private operation on land which the state legislature had been promised would be used only for public purposes forever. This was Lakebed Grant land which belongs to all the citizens of Wisconsin. By allowing the incinerator to be built there, the DNR allowed a precedent-setting violation of Wisconsin's Public Trust Doctrine.

Again, private citizens had to spend more than \$50,000 over more than 2 years to attempt a legal challenge of this facility. Unfortunately, we couldn't ask for an injunction to stop the initial construction, because our personal lives could have been destroyed if we lost our legal case and had to pay damages to the company. So we were put in the weak position of asking for the removal of an already-constructed \$45 million facility.

The Public Intervenor Office had been a leading advocate for the Public Trust Doctrine in Wisconsin, and would surely have gotten involved early in this case, and possibly prevented the entire fiasco --- but the Intervenors were eliminated right before the permit was granted.

Now, terrible damage has been done, because a judge has dismissed our case (on very weak grounds). It's possible that private citizens may appeal his decision, but who has another \$50,000 to keep up the fight? And why should we be forced to take on this burden? This is a PUBLIC RESOURCE.

### **CONCLUSION**

It's time to restore balance to Wisconsin government. The public needs a watchdog agency to help keep the system honest. No government bureaucracy is flawless or mistake-proof.

These are not just concerns of "environmentalists." These are basic human needs linked to air quality, water quality, food quality, wildlife health, and access to recreation. These are also economic necessities for our future.

Please give the Intervenors back to citizens of Wisconsin.