

1 OAH Docket No: 60-2002-30171

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4 In The Matter Of:

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6 The Proposed Amendment To And Repeal Of Rules

7 Governing Minnesota's List of Endangered, Threatened,

8 And Special Concerns Species In Minnesota Rules

9 Chapter 6134: Endangered And Threatened Species

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17 PUBLIC HEARING

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25 Taken February 5th, 2013 By Ann Marie Holland

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1 THE ABOVE-MENTIONED PUBLIC HEARING was held on Tuesday,
2 the 5th day of February, 2013, at The Sanford Center,
3 Bemidji Regional Event Center, 1111 Event Center Drive
4 NE, Bemidji, Minnesota, commencing at approximately
5 6:04 p.m.

6

7

8 HEARING OFFICER: Good evening.

9 Thank you all for coming. It is a little after 6:00,
10 so we will begin.

11 My name is Jim LaFave. I am an
12 Administrative Law Judge with the State Office of
13 Administrative Hearings. The office is independent of
14 the Minnesota Department of Natural Resources that is
15 proposing to adopt rules today and of any of the groups
16 that are participating in this hearing. The role of our
17 office is to provide hearings that are required by law
18 in a way that is fair for all of the participants.

19 Among the other directions from the
20 legislature (specifically in Minnesota Statutes 14.14
21 and 14.15), rule making hearings are to be conducted so
22 that members of the public are being treated fairly and
23 impartially. I am here as a part of a larger set of
24 regulatory controls to see to ensure this procedural
25 fairness.

1 It is approximately 6:00 p.m. on
2 February 5th, 2013 and we have convened at the Sanford
3 Center, the Bemidji Regional Event Center, 1111 Event
4 Center Drive NE, Bemidji, Minnesota 56601, for a public
5 hearing in the matter entitled, "In the Matter of the
6 Proposed Amendment to and Repeal of Rules Governing
7 Minnesota's List of Endangered, Threatened and Special
8 Concern Species, in Minnesota Rules Chapter 6134, OAH
9 Docket No. 60-2002-30171, and for those of you that
10 might be interested, it is Government Tracking No. 323.

11 There is a handout on the table in
12 the back entitled, "State of Minnesota, Office of
13 Administrative Hearings, Rule Hearing Procedures." If
14 you don't have a copy, please take a moment to pick one
15 up from the table. It describes the procedures set up
16 by the legislature for hearings like this. While I will
17 touch upon the highlights, more detailed information
18 is included in that handout.

19 This hearing is part of the process
20 by which agency rules are adopted under the Minnesota
21 Administrative Procedure Act. The purpose of this
22 hearing is to develop and receive information on three
23 key issues under the act; namely, whether the Department
24 of Natural Resources has: 1), the legal authority to
25 adopt the proposed rules; 2), whether the department has

1 fulfilled all of the relevant legal and procedural
2 requirements in order to promulgate rules; and 3,
3 whether the department has demonstrated that, among
4 the possible alternatives for rule making that were
5 available to the agency, the rules that the agency
6 has proposed are needed and reasonable.

7 While we are glad to give anyone who
8 will share comments today a little leeway in developing
9 the context for their presentations and arguments, I
10 will simply say that it would be most helpful to me, and
11 the best use of our time, if both agency panel members
12 and the members of the public could focus on the three
13 key issues that I will need to report on; namely, the
14 authority to adopt the proposed rules; whether the
15 department has fulfilled the procedural requirements;
16 and that the rules that the agency has proposed are
17 needed and reasonable.

18 The agenda for today's hearing will be:
19 I will complete my explanation of the hearing procedure
20 and then I will introduce the panel that is here from
21 the agency. Next, the agency will discuss the exhibits
22 that it wishes to include in the hearing record. I have
23 asked the agency representatives to summarize the
24 exhibits so that everyone will have an idea of what we
25 will be talking about. You may look at the exhibits

1 during the break, but please leave them on the table.

2 Back on the table, there are two copies
3 of what we will be discussing. And you will be free to
4 look at them during the break, but again, please leave
5 them at the table. After that, a representative from
6 the agency will make a brief oral presentation about the
7 rules and the reasons for it. Finally, most of the
8 public -- most of the hearing time has been allocated
9 for questions and statements from members of the public.

10 In order to make sure that we have an
11 accurate record of the number of people attending this
12 hearing, everyone is requested to sign the Hearing
13 Register located on the registration table. And if you
14 wish to speak or submit a written statement today, you
15 must sign the Register. If you wish to speak, please
16 place a check mark in the appropriate column on the
17 Hearing Register. When you are called to speak, please
18 come up and speak from the podium so that I can hear
19 you and ensure that your testimony is recorded. When
20 you begin speaking, please state and spell your name.
21 Then give your address and identify the group or
22 interest you represent, if any.

23 A rule hearing like this one is similar
24 to a legislative hearing or the meetings of a local
25 board. You will have the opportunity to talk and to

1 ask questions of other participants. It is not like a
2 court trial.

3 Any speaker may ask questions of the
4 agency panel and may also be questioned by the agency
5 panel, the Administrative Law Judge, or other persons
6 present at the hearing.

7 Because this is not like a court
8 hearing, you don't need to make the points you want to
9 make by asking questions. You can just state what your
10 own views are or go directly to the point. It is also
11 helpful that if you have specific points as to specific
12 sections of the rule, that you identify those sections.
13 The record we make today may be reviewed by others later
14 and we want to be sure that it is clear about the matter
15 that you are addressing and is likewise clear to them.

16 This hearing is being transcribed by a
17 Court Reporter and it is very important that we obtain
18 an accurate record of this hearing. Therefore, I will
19 ask all speakers to remember the following: It is
20 important that you speak clearly and slowly and loud
21 enough so that we can hear you. All statements must be
22 clearly spoken. For example, the Court Reporter cannot
23 record a nod of the head. Please spell all proper names
24 and technical terms the first time they are used. And
25 I would ask that only one person speak at a time.

1 I may interrupt a speaker from time
2 to time to ask for a spelling or to remind you of these
3 other points. I hope that you will not take offense.
4 I want to be sure that we have an accurate record of
5 what you are saying.

6 If you have a written copy of your
7 remarks, you can leave them here as an exhibit. If you
8 wish to leave them here as an exhibit, please do so.
9 That would also be very helpful. You can also submit
10 your comments in writing after the hearing. The
11 comments should be submitted to my office at the address
12 indicated on the back of the handout.

13 It is also helpful if folks submitting
14 comments to our office reference the Docket Number in
15 that matter. That Docket Number again is 60-2002-30171.

16 There will be five public hearings in
17 this matter. After the close of the last hearing on
18 February 7th, 2013 you will have twenty calendar days,
19 until Wednesday, February 27th, at 4:30 p.m., and then
20 there will be a five working day rebuttal period on all
21 previously submitted comments, which, again, will be
22 until the close of business on March 6, 2013.

23 That second period is not an
24 opportunity to submit additional comments or evidence.
25 As Minnesota Statute Section 14.15 states: "Additional

1 evidence may not be submitted during the five-day
2 rebuttal period. Additional evidence may not be
3 submitted after the close of the initial comment period.
4 Instead, it is an opportunity for you to review and to
5 respond to comments submitted by the agency or others
6 during the first comment period."

7 After the second deadline passes, I
8 will prepare a report and that report will contain my
9 decisions about whether or not the agency has met the
10 burdens that I discussed earlier; namely, whether the
11 agency has: Documented its statutory authority, whether
12 it has demonstrated that it has fulfilled all of the
13 necessary legal and procedural requirements, and
14 demonstrated the need for and reasonableness of each
15 portion of the proposed rules.

16 If you want to obtain a copy of my
17 report, please put your name and address on one of the
18 envelopes at the respective sign-in tables, and we will
19 see that you get notice of when my report is available
20 and you will be informed about how to obtain a copy of
21 the report.

22 The handout goes into other details
23 about the hearing process that occurs after my report
24 is issued. I am not going to discuss that part of the
25 process. You can read about it at your leisure.

1 Are there any questions about the
2 hearing process? If not, we will continue with the
3 agency's presentation.

4 Here today with us from the DNR is
5 Rich Baker and Becky Martin. Mr. Baker.

6 MR. BAKER: Thank you. My name is
7 Rich Baker, Endangered Species Coordinator for the
8 Department of Natural Resources (DNR), Division of
9 Ecological and Water Resources. The DNR is directed
10 by Subdivision 3 of the state's Endangered Species
11 Statute, and it is Minnesota Statute 84.0895, to adopt
12 rules to designate species of wild animals or plants as
13 Endangered, Threatened or of special concern according
14 to the definitions as provided in that statute. The
15 resulting list of Endangered, Threatened and Special
16 Concern Species was first created in 1984, amended in
17 1996, and has remained unchanged since. The list
18 draws attention to species that are at greatest risk
19 of extinction within the state and applies special
20 regulations to those species that are designated as
21 endangered or threatened. By alerting resource managers
22 and the public to species in jeopardy, resource use and
23 management activities can be reviewed and prioritized
24 to help preserve the diversity and abundance of
25 Minnesota's flora and fauna.

1 Because of the importance of this list in
2 influencing resource use and management activities in
3 Minnesota, the DNR seeks to ensure that the list
4 reflects the most current information regarding the
5 distribution, abundance and security of species within
6 the state. Development of the proposed amendments was
7 initiated in 2000 with the publication of a Request for
8 Comments in the State Register. Between 2000 and 2006,
9 DNR staff reviewed, evaluated and assimilated a vast
10 amount of data on the distribution and abundance of the
11 state's plant and animal species. This review resulted
12 in development of a set of draft amendments to the
13 status of 273 species. In early 2007 those draft
14 amendments were provided to the public for comment and
15 a second Request for Comments was published in the State
16 Register. Following the receipt of 423 comments, the
17 DNR carefully evaluated each comment received and made
18 many adjustments to the draft amendments.

19 Development of the proposed amendments
20 on which you are commenting today has relied upon the
21 DNR staff's professional judgment to evaluate whether or
22 not a species' status meets the statutory definitions
23 of "endangered," "threatened," or "of special concern."
24 Consideration has been limited to species that are known
25 to reproduce within the state at present, regardless

1 of where within the state the species occurs.

2 The proposed rule amendments identify
3 302 species of mammals, birds, reptiles, amphibians,
4 fish, mollusks, jumping spiders, butterflies, moths,
5 caddisflies, tiger beetles, leafhoppers, dragonflies,
6 vascular plants, lichens, mosses, liverworts and fungi,
7 for which a change in designation is proposed. The
8 proposed amendments include reclassification from one
9 designation to another, as well as the designation of
10 previously unlisted species and the removal of
11 previously listed species. Because species taxonomy is
12 a dynamic science that regularly applies new insights
13 into the relationships among species, the proposed rules
14 also update the scientific names of 64 species for which
15 there is no proposed change in status. The DNR has
16 sought to reflect the most recent and accurate science
17 regarding these relationships in the scientific names
18 used.

19 The DNR has prepared a Statement of
20 Need and Reasonableness that explains the basis for the
21 proposed change in status for each species. As the
22 judge pointed out, copies of the SONAR and proposed
23 rules are available for your review on the table at
24 the back of the hearing room. Also on that table is
25 a sheet on which you may place your name to request

1 that copies of either or both documents be emailed or
2 mailed to you. Alternatively, you can download both
3 copies from the DNR website.

4 The purpose of today's hearing is to
5 receive comments on the DNR's proposed rules and to
6 answer questions as we are able. We will do our best
7 to answer questions that are factual or clarifying
8 in nature. However, we may choose to respond to some
9 questions in our written response instead of responding
10 to them this evening.

11 To review the remaining rule making
12 process, the DNR is holding five hearings throughout
13 the state on these proposed rules. Following these
14 hearings, the public comment period will remain open
15 for 20 days, with the deadline for submission of new
16 information at 4:30 p.m. on Wednesday, February 27th.
17 That will be followed by a five-day rebuttal period,
18 during which the DNR and others can respond in writing
19 to comments and information submitted during the comment
20 period, but during which no new information may be
21 submitted. The rebuttal period will end at 4:30 p.m.
22 on Wednesday, March 6th. After the close of the
23 comment and rebuttal periods, the Administrative Law
24 Judge will have 30 days to complete the hearing report,
25 unless an extension is granted. Following the DNR's

1 receipt of the hearing report, the DNR and the
2 Governor's Office will determine how to proceed with
3 the proposed rules.

4 That concludes the DNR's opening
5 statement. Again, I would like to introduce the DNR
6 staff who are accompanying me here today to hear your
7 comments and answer your questions on the proposed
8 rules. And I am accompanied by Regional Ecologist Becky
9 Martin.

10 Thank you.

11 HEARING OFFICER: Thank you.

12 MR. BAKER: (Handing.) Judge, I would
13 also like to review the exhibits that I have just
14 introduced into the hearing record.

15 HEARING OFFICER: Okay.

16 (Off the record.)

17 MR. BAKER: Exhibit 1 is the Request
18 for Comments as published in the State Register on
19 January 2nd, 2007 and the Request for Comments as
20 published in the State Register on January 18th, 2000.

21 Exhibit 2 is the proposed rules,
22 including the Revisor's approval, dated November 16th,
23 2012.

24 Exhibit 3 is the Statement of Need and
25 Reasonableness.

1 Exhibit 4 is a Certificate of mailing
2 the Statement of Need and Reasonableness to the state
3 Legislative Reference Library.

4 Exhibit 5 is the Notice of Hearing as
5 mailed, signed and dated November 27th, 2012, and as
6 published in the State Register on December 10th, 2012.

7 Exhibit 6 is the Certificate of Mailing
8 the Notice of Hearing to the Rule Making Mailing List
9 and Giving Additional Notice under the Additional Notice
10 Plan. Copies of the department's statewide news release
11 and the department's informational web page and the
12 Certificate of Accuracy of the Mailing List.

13 Exhibit 7 is a copy of the transmittal
14 letter showing the department consulted with the
15 Minnesota Management and Budget (MMB) and MMB's memo
16 dated September 4th, 2012 in response.

17 Exhibit 8 is the Office of
18 Administrative Hearings' approval of notice plan for
19 Notice of Hearing. It is signed and dated November
20 27th, 2012, and the Department of Natural Resources'
21 request for prior approval of notice plan, signed and
22 dated November 16th, 2012.

23 Exhibit 9 is a certificate showing
24 that the department sent the Notice of Hearing and the
25 Statement of Need and Reasonableness to legislators

1 as required by Minnesota Statutes Section 14.116.

2 Exhibit 10 is a copy of the
3 transmittal letter showing the department sent a copy
4 of the proposed rule changes to the Commissioner of
5 Agricultural in accordance with Minnesota Statutes
6 Section 14.111.

7 Exhibit 11 is this Opening Statement
8 by the Department of Natural Resources.

9 And Exhibit 12 will be all of the
10 written comments and submissions on the proposed rules
11 received by the agency during the comment period.

12 Thank you.

13 HEARING OFFICER: Thank you. We will
14 give folks a five-minute break to review the copies
15 of the exhibits and then we will proceed with public
16 comments.

17 HEARING OFFICER: Exhibits 1 through 12
18 are received.

19 (Hearing Exhibits 1 through 12 marked
20 for identification.)

21 HEARING OFFICER: We will now take
22 just a short break to give folks an opportunity to look
23 at the Statement of Need and Reasonableness and the
24 proposed rules and to make sure that anyone who wants
25 to speak has signed the register, and for me to get a

1 chance to get all of the documents organized so that
2 we can start the public comment portion of the hearing.
3 Thank you.

4 (Whereupon, a short break was taken.)

5 HEARING OFFICER: Let's begin the
6 public comment portion of the meeting. First, I would
7 call on Audrey Thayer.

8 MS. THAYER: Good evening.

9 HEARING OFFICER: Good evening.
10 Welcome.

11 MS. THAYER: My name is Audrey Thayer,
12 T-H-A-Y-E-R. And the mailing address is Post Office Box
13 133, Bemidji, Minnesota.

14 Do I have to give a physical address?

15 HEARING OFFICER: That's fine.

16 MS. THAYER: Thank you.

17 (Spoken in native language.)

18 My name is Audrey Thayer and I am from
19 the eagle clan. I am not from the wolf clan. But I am
20 Anishinaabe. I am a citizen of this country and I have
21 a right to say how I feel. And I know that we are
22 supposed to follow in those three areas and I am not
23 used to administrative hearings, and nor am I used to
24 coming to something, where I would rather put it in
25 spiritual prayer about this issue, but it is so deer

1 to my heart that the wolf is, you know, moved off the
2 endangered.

3 The wolf is placed in an endangered
4 species in 1978 and over the course it changed. And the
5 five-year plan failed last year and then we had the wolf
6 hunt. Close to 800, if you look at the different
7 categories of how we lost wolves this year.

8 Personally, as an Anishinaabe clan,
9 I am devastated that we even are here talking about
10 a brother to me. And Anishinaabe believes spiritually
11 that --

12 HEARING OFFICER: Sorry, could you
13 spell Anishinaabe?

14 MS. THAYER: A-N-I-S-H-I-N-A-A-B-E.

15 HEARING OFFICER: Thank you very much.

16 MS. THAYER: So, when you look at the
17 legal authority, whether the DNR can even question the
18 purpose of what the decisions are on the wolf, I often
19 wonder about that. Because the Anishinaabe have been
20 here a very long time, here in this area, and I
21 understand progress, I understand that we are moving
22 and encroaching upon their property and their lands that
23 is shared with many people, but it is very difficult for
24 me to have seen how many wolves were killed this year.

25 That the wolf hunt, I would like it not

1 to continue. I would like us to keep it on the Special
2 Concern list. I didn't quite understand it. Maybe
3 someone can clarify it. The "N", the "N" after the
4 "proposed," which means the location records maintained
5 by the DNR in most cases, what does that mean? I need
6 some clarifications from that.

7 HEARING OFFICER: The "N" means that
8 it would be removed from Special Concerns status, but in
9 most cases, we would continue to keep track of where the
10 species occurs in the state.

11 MS. THAYER: Thank you. So my -- I
12 plead upon the DNR to think about keeping it on the
13 Special Concern list until we have more time to take a
14 look at their patterns and their lifestyles. We are
15 right in the middle of global change. We have a number
16 of things that are a lot different for Minnesota than
17 they have been before. But it is very, very emotionally
18 difficult for me to be up here. We have spent years of
19 preserving our wolves in this state. We worked very
20 hard. It is my tax dollars, as a citizen, to see that
21 and to maintain them. Now, within a year, we just lost
22 hundreds. We do that again and we will lose a hundred
23 more.

24 So, I would like the DNR to just keep
25 it on a Special Concern for a little while longer and

1 let's take a look at it. So that we are not -- so
2 that we are endangered -- we are the ones that are
3 endangering them. The human race is endangering them;
4 not the animals. We need to take a look at how we are
5 dealing with that. We have made huge mistakes by the
6 way we are approaching this. To me, it is just
7 senseless.

8 So, that was just my short and sweet
9 little comments. I just don't believe we should be
10 doing this. I am very opposed to the wolf hunt that
11 happened and I don't want it to continue. And I do want
12 to keep this on a Special Concerns Species list because
13 I do consider the wolves vulnerable at this point.

14 Thank you.

15 HEARING OFFICER: Thank you very much..
16 Jack Wallingport (phonetic).

17 MR. WALLINGFORD: Wallingford.

18 HEARING OFFICER: Wallingford, thank
19 you.

20 MR. WALLINGFORD: I am just flipping
21 papers back, so this may not be real smooth.

22 HEARING OFFICER: What is your name?

23 MR. WALLINGFORD: My name is Jack
24 Wallingford. Address?

25 HEARING OFFICER: Please.

1 MR. WALLINGFORD: 11755 Nature Road NW,
2 Bemidji.

3 HEARING OFFICER: Thank you. Could we
4 get your last name spelled, please.

5 MR. WALLINGFORD: Wallingford,
6 W-A-L-L-I-N-G-F-O-R-D. It is on the logbook, too.

7 HEARING OFFICER: Thank you.

8 MR. WALLINGFORD: I've got a bunch
9 of points. Some of them may lack clarity, but the
10 principle that I would like to address is the need and
11 reasonableness, I guess would be my question on the
12 information being presented tonight.

13 And I would acknowledge that you have
14 a tough job understanding what it all is and how it
15 thrives and declines and increases in the state of
16 Minnesota.

17 When I looked at the list of 322
18 species, in general terms I have some concerns of how
19 accurate is our information. And I am very much a
20 facts, data and numbers guy, and when I read through
21 those elements, there is not a lot of numbers. There
22 is generalities. There is concerns listed. And in some
23 cases there may be emotional facts, but not a lot of
24 hard numbers on some of those species -- excuse me --
25 on some of those species.

1 I will get to a few of the points and I
2 did have one question, too.

3 Do you have a percentage change by
4 category that the new revisions would add?

5 HEARING OFFICER: I do. If I could
6 find it. If all of the changes were adopted, there
7 would be a 35 percent net increase to number of listed
8 species. That is all categories.

9 MR. WALLINGFORD: Okay. Alright.

10 So a couple of points. One is I
11 would challenge the data in that the data provided is
12 insufficient enough to have an accurate base to make
13 changes in the future. So, once we move it to one
14 category, I don't know that we have accurate enough
15 information to say is it better or worse five or ten
16 years from now.

17 I don't see -- I mean I see inferences
18 to whether that is plants or mammals or birds but,
19 again, generalities, but not a lot of the specifics.
20 So, if we do another revision in five to ten years,
21 what is the basis for making changes, either
22 declassifying or increasing the classification?

23 I raise that question.

24 When I look at the SONARs that are
25 involved for all of the species, in some cases, again,

1 they are relatively short. I do have some information
2 to present as evidence or whatever. "Evidence" is the
3 wrong word. Never mind.

4 HEARING OFFICER: Exhibit?

5 MR. WALLINGFORD: Exhibits. Thank you.

6 HEARING OFFICER: You are doing just
7 fine.

8 MR. WALLINGFORD: Thank you. And I
9 have access to some information referenced, you will see
10 some later at the other hearings I am sure, in Minnesota
11 Forest Industries. I am not here on their behalf.

12 When I look at some of the elements
13 that are in there that I raised questions about, some
14 are -- I think I see information in there that, and I
15 know it has taken a long time to put all of this
16 together, but just recently the state has reclassified
17 the ERF policy on forest lands. And I think that
18 impacts some of this. Because I think some of the
19 information in here indicates that we are losing our
20 older forest and some very specific points on some of
21 the species, when in fact, the ERFs and the latest
22 studies are just showing that our older forests are
23 actually increasing. And that document is called the
24 ERF. That's done by the Division of Forestry, the
25 Extended Forestry Rotation. And with the harvest levels

1 in the state of Minnesota and the changes we have seen,
2 which is about a 40 percent increase (phonetic) in the
3 last seven or so years, we are going to get nothing but
4 an older forest. So, in some cases some of these
5 species relate to needing more older forests, and some
6 of them relate to other types of disturbances or lack
7 thereof. In some of the specific elements, the concern
8 of some of them, lack of older forest, when in fact it
9 will add to our forest land significantly over the next
10 10 to 20 years on the older forest.

11 Do I have a time limit?

12 HEARING OFFICER: Um --

13 MR. WALLINGFORD: You are going to
14 reserve answering that, aren't you? I don't blame you.
15 I will try -- I will try to move along.

16 As we preserve -- and most of my
17 elements will be on the forest side. When we preserve
18 some of our forests and protect them, some species are
19 long life species and some are very short. So as we
20 preserve things, and this is the point in case in a lot
21 of elements, not just specific to this list, we preserve
22 things, and are we preserving things for the next
23 generation or the generation after that? And with
24 forests, you can only preserve Aspen forests for so
25 long, and then you will lose Aspen forests.

1 So you have to have some element of
2 regenerating that somehow.

3 I see a number of inferences to climate
4 change. Global -- I don't know if global warming is
5 the right word, but climate change, which we assume all
6 things are going to impact that based off of our current
7 view. The other point that I want to make is that at a
8 35 percent increase in species, increase in that mix, is
9 I can guaranty you that we will make changes to preserve
10 things, and find out that we have just taken away from
11 things that are not in here. So we look at a species
12 or plant, or whatever that might be, on a small-scale
13 and make adaptations in the way we manage, quote,
14 "manage the world." And we don't know what generations
15 down the road that is going to -- what -- what impact
16 that is going to have on generations of other species,
17 other plants, other animals, other birds. And I raised
18 that because I think as a country, we have made mistakes
19 in the past on that with some elements, where we
20 protected -- we take a management course and a
21 direction, and 20 years later, found out that there are
22 peripheral impacts there that are fairly significant
23 on other species and on other elements. And, again,
24 I know I don't have a lot of time.

25 HEARING OFFICER: I just want to

1 clarify, so my notes are clear when I have to go back
2 and look at this later.

3 MR. WALLINGFORD: Yeah.

4 HEARING OFFICER: It seemed that your
5 main -- one of your main points is that the DNR hasn't
6 provided basically baseline data for a lot of these
7 species?

8 MR. WALLINGFORD: Yeah. Yep.

9 HEARING OFFICER: So that when the
10 issue is revisited five years from now --

11 MR. WALLINGFORD: We won't know it has
12 changed.

13 HEARING OFFICER: We won't have an
14 accurate way to measure the change?

15 MR. WALLINGFORD: Correct.

16 HEARING OFFICER: Is that a fair
17 summary?

18 MR. WALLINGFORD: Yep. Yes.

19 HEARING OFFICER: Is there a specific
20 species or two that you could point me to that or -- I
21 don't want to put you on the spot, but if you have got
22 one or two that you could direct me to,

23 MR. WALLINGFORD: What I will do is go
24 back to the list. Off the top of my head, no.

25 HEARING OFFICER: OKAY.

1 MR. WALLINGFORD: I don't want to take
2 the time to do that.

3 HEARING OFFICER: No, I realize that.

4 MR. WALLINGFORD: But I will -- we do
5 have 20 days after that time period? I will go back
6 through the list and make comments on them.

7 HEARING JUDGE: I would appreciate
8 that. Thank you.

9 MR. WALLINGFORD: Yeah.

10 HEARING OFFICER: Okay.

11 MR. WALLINGFORD: I think I just have
12 a couple of more notes on here. I just have to get to
13 them. It would appear I'm winding down. I think I have
14 one more section. I apologize.

15 (Reviewing.)

16 I think that wraps it up for me again.
17 I don't know if I have seen the information. And I
18 think there is some contradictory information that
19 exists. And there are some studies on these species,
20 especially in forest land areas, that would point to
21 we need to manage things differently to protect the
22 declining timber harvest in the state, and I think that
23 is unlikely to change. And we need policy changes by
24 the DNR itself for the extended rotation forestry
25 because we are getting an older forest and will continue

1 to get an older forest. And I believe that applies
2 today and I believe that change was made in 2012.

3 HEARING OFFICER: The change in the ERF
4 (phonetic) policy?

5 MR. WALLINGFORD: Yeah.

6 HEARING OFFICER: A matter of weeks
7 ago.

8 MR. WALLINGFORD: A matter of weeks ago
9 officially signed? I believe the DNR has been working
10 on that for quite awhile. I believe that does introduce
11 a change or some proposed changes. Thank you.

12 HEARING OFFICER: Thank you, Mr.
13 Wallingford. Quintin Legler.

14 MR. LEGLER: Thank you, Your Honor.
15 Q-U-I-N-T-I-N L-E-G-L-E-R. I work for Blandin Paper
16 Company, UPN Blandin Paper Company, Grand Rapids. And
17 that is B-L-A-N-D-I-N.

18 I am representing the people that work
19 in Grand Rapids and one of our concerns for the change
20 is how it would affect our business. We make paper,
21 coated paper, and we need high-quality timber to do that
22 with or wood products. We manage over 180,000 acres
23 ourselves, and we think, you know, as far as that goes,
24 we are leaders in that aspect of the state and we feel
25 that we do a good job in the management of that land to

1 take into account things that are of special interest.
2 But if changes in the law impact how we are able to
3 approach the timber and do timber management, that could
4 certainly affect the jobs, you know, of the people I
5 work with and many others in this state.

6 And so in towns like Grand Rapids,
7 you know, our mill is one of the top three employers in
8 the city, and if something were to happen that would
9 affect, you know, the future of the wood supply because
10 of listing some species, that could have a major impact.

11 And so we just want to make sure that
12 the scientific evidence is there to make sure any of
13 these rule changes would be warranted. You know, I am
14 going to repeat some of the stuff that Jack may have
15 stated. And I am not going to present anything written
16 tonight because most of what I'm going to say has
17 already been presented by the Minnesota Forestry
18 Industries in written form, but I just want to make a
19 couple of points. But before I do that, I do have one
20 question, and maybe I missed this, but my question is
21 for you, Judge. How -- as you review this, I guess it
22 depends on whether it is, you know, one, two or three
23 on what the DNR has to provide, assuming that you,
24 you know, the statutory information is there, when you
25 go through this do you look at each species individually

1 to say whether that change is warranted or not? That
2 was a question I have.

3 HEARING OFFICER: I will be reviewing
4 each of the changes that the department has been
5 proposing.

6 MR. LEGLER: Okay, yeah, that wasn't
7 clear to me.

8 HEARING OFFICER: The report may not
9 specifically address each one of those changes, but I
10 will absolutely be reviewing every change that the DNR
11 is proposing.

12 MR. LEGLER: Okay. So then the rule
13 could be, if it could be some or, you know --

14 HEARING OFFICER: Well, my
15 recommendation, when I prepare my report, it will be in
16 the -- it is a recommendation.

17 MR. LEGLER: Okay.

18 HEARING OFFICER: I cannot substitute
19 my judgment for the DNR. So if it is within the scope
20 of reasonableness, I may have made a different choice
21 if it were up to me, but if it is within the bounds of
22 reasonable, I give it my approval. Once the DNR gets
23 my report, then they can choose to do with it what they
24 want to. They are not required to choose my report, but
25 if they choose not to do my report, though, then they

1 will have to come up with a written explanation as to
2 why.

3 MR. LEGLER: Okay. Thank you.

4 HEARING OFFICER: Sure.

5 MR. LEGLER: That was all unclear to
6 me. Again, with the talking, I wasn't sure I understood
7 that.

8 Also, I just wanted to bring up the
9 Boreal owl and the Goshawk, a couple of species that
10 were brought up.

11 HEARING OFFICER: I am sorry, what was
12 the first one?

13 MR. LEGLER: The Boreal owl.

14 HEARING OFFICER: Okay.

15 MR. LEGLER: You know, in the SONAR,
16 the comments made about needing a mature forest and
17 older forest, and as Jack pointed out, where the harvest
18 levels are in the state now, there is a lot of -- right
19 now we are harvesting about 25 percent of the annual
20 growth of our forests. And that if we go to the federal
21 FIA data, which is what they call forest and trade
22 analysis data, from 1977 until 2011 our old forest has
23 more than doubled in the state, the number of old Aspen
24 trees has more than doubled in the state, and so the
25 species that benefitted from those are affected, and

1 those were a couple that I mentioned.

2 And then another is the Goblin fern.

3 HEARING OFFICER: I'm sorry, could you
4 spell that?

5 MR. LEGLER: You bet. G-OB-L-I-N.

6 And, you know, one of the things in the
7 SONAR is the timber management activities and land
8 clearing, that have a negative effect on that and that
9 they need an intact forest canopy. But some other
10 research, you know, that we have been made aware of,
11 shows that the Goblin fern has been found in and
12 associated with areas that have been Aspen clear cuts,
13 you know, years before. So that they seem to have
14 recovered. And also there are reports of in Wisconsin
15 of Goblin fern being found in thin areas. And another
16 thing with the Goblin fern, it is really difficult to
17 actually know what is there because they don't always
18 grow above ground every year. You know, so I have
19 read that two to fifteen percent of Goblin ferns
20 actually grow below ground.

21 So that concludes my comments. Thank
22 you very much.

23 HEARING OFFICER: Thank you.

24 MR. BAKER: Thank you very much.

25 HEARING OFFICER: Thank you. Jean

1 Skinway Lawrence.

2 A. Jean Skinway, S-K-I-N-W-A-Y, Lawrence,
3 L-A-W-R-E-N-C-E, and Jean is, J-E-A-N. My address is
4 905 20th Street NW, Bemidji, Minnesota 56601.

5 I am here basically to state my
6 opposition to the declassifying of the wolf and the bald
7 eagle and also to talk a little bit about the moose.

8 My concern basically is that the
9 Anishinaabe, also, is that these are clan -- these are
10 members of our clan system as Anishinaabe people.

11 If I could go a little bit into the
12 wolf. There are a couple of talking points I have in
13 regards to what I published on the Howling for Wolves
14 segment, if I can. I'm not sure if you guys have that
15 information on that site, that group, Howling for
16 Wolves. I am here on my own accord, so. But basically
17 the talking points they list is the state law previously
18 required a five-year waiting period after federal
19 declassification from the endangered species list.
20 The five-year waiting period was never -- was never
21 never instituted.

22 The wolf population has been stable
23 without a hunt since 1988. No baseline data was
24 obtained before this started in the 2012/2013 season.
25 Lacking baseline data, the DNR (phonetic) made a basic

1 determination about the health of our gray wolf
2 population and it will take years to assess the damage
3 done by this year's wolf hunt. The Minnesota state law
4 has allowed wolves to be killed when pets, people and
5 livestock are perceived to be threatened. One hundred
6 more wolves were killed as a result of the new law in
7 2012 than in all previous years. We need additional
8 time to evaluate the impacts of these lightened
9 restrictions for wolves, restrictions for wolves and
10 their destruction.

11 One in four wolves was killed by
12 hunting and traffic in 2012 based on an estimated
13 population of 3,000 wolves when the population was last
14 surveyed in 2007/2008. The significant destruction
15 doesn't account for the impacts of disease and illnesses
16 and also other wolves that may impact this population.
17 Cursory attitudes and behaviors that drove the gray
18 wolf to the brink of extinction continue today.
19 The DNR has not released information to the public about
20 sources of wolf dens that continue to be threatened, or
21 are claimed to threaten the population, or information
22 including poaching and car collisions. The wolf keeps
23 our deer and other wildlife population in balance so
24 that our Northwoods have a diverse ecology that attracts
25 the tourism to our state, including hunting and fishing.

1 Ecotourism is a sustainable 531 million dollar industry
2 and as such provides approximately a million jobs
3 (phonetic).

4 In regards to the bald eagle on the species
5 status sheets that were on the DNR website, there were
6 a couple of things that were basically, you know, that
7 didn't -- didn't make sense to me and why you are moving
8 them from Special Concern to none. I just was a little
9 confused by that.

10 It says, "Moreover, there is increased
11 evidence that some bald eagles are relatively tolerant
12 of human disturbances and they are willing to nest in
13 areas where there are higher levels of human activity."
14 I don't see that as much because they are able to do,
15 you know, live among the humans, that they should be
16 declassified and that we should have no concern
17 whatsoever.

18 And then it states -- I guess I lost my
19 track on that part. Apparently, that there is still
20 some federal protection under the -- under the Migratory
21 Bird Act and the Protection Act.

22 HEARING OFFICER: There is protection
23 actually under two federal laws: The Migratory Bird Act
24 and the Bald Eagle Protection Act.

25 MS. SKINWAY LAWRENCE: Okay. So I

1 don't see the need to have to declassify from Special
2 Concern to none, as long as they are still under federal
3 protection there.

4 But if I may, a concern, too, for me is
5 that I live and work here in Bemidji, but I'm originally
6 from the Center Lake area down by Grand Rapids. I am
7 from the Center Lake Indian Reservation down there.
8 Currently our area, well, actually all of Minnesota,
9 we have upcoming sulfide mining issues that are coming
10 about and my concern is that declassifying or delisting
11 these endangered and threatened species might have an
12 impact on that with the Environmental Impact Statements
13 that these companies are needing to file for mining.
14 But the sulfide mining I think can and will have a
15 devastating effect on these animals, especially on the
16 Mageesi (phonetic), bald eagle, which basically in turn,
17 you know, take the fish from the lake and get the
18 mercury and stuff like that from the sulfide mining.

19 And then reading the Need and
20 Reasonableness Statement, apparently it says that in
21 1996 (phonetic) was the initial list, list of the
22 species list.

23 HEARING OFFICER: Are we talking about
24 the eagle?

25 MS. SKINWAY LAWRENCE: Oh, no, I'm

1 going back. I'm going to the statement of the Need and
2 Reasonableness.

3 HEARING OFFICER: The Need and
4 Reasonableness of species was first created in 1984 and
5 first revised in 1996. It was 1996 we originally
6 removed both the bald eagle and the wolf from Threatened
7 status to Special Concern status.

8 MS. SKINWAY LAWRENCE: Okay. So,
9 1996, you know, this was done and then updated. In the
10 statement it says that there was an update, an e-mailed
11 updated list in 1999. In the statements?

12 HEARING OFFICER: There was -- there
13 was a published request for comments in 1999 without any
14 recommendations at that time. The first time we put out
15 a draft set of recommendations was in 2007.

16 MS. SKINWAY LAWRENCE: Oh, okay.
17 Because the way I read it, it said that there was an
18 e-mailed updated list in 1999 and the request for
19 comment was in 2000.

20 HEARING OFFICER: There was a request
21 for comment both in -- it was actually published in 2000
22 and submitted for publication in 1999, right at the end
23 of the year, calendar year, so that was the first
24 period. Two requests for comments; one in 1999 and
25 one in 2007.

1 MS. SKINWAY LAWRENCE: Yeah, and then
2 the request for comments, there was a four- to six-year
3 hiatus as it was stated in the e-mail -- in the
4 statement. And I don't think that is a reasonable time.

5 I mean six years without any -- without
6 any further -- any further statement or anything like
7 that, I don't -- I mean a lot happens in six years.

8 So, that's all I have for now.

9 HEARING OFFICER: Thank you very much
10 for your comments.

11 MR. BAKER: Thank you.

12 HEARING OFFICER: Cassie Novak.

13 MS. NOVACK: The name is Cassie Novak,
14 C-A-S-S-I-E, N-O-V-A-K. My address is 2103 Foothill
15 Trail, Aikley, Minnesota. This is actually my first
16 hearing ever that I have gone to, so I'm a little bit
17 nervous.

18 But in 2011 I found or I stumbled upon
19 a new population of the caddisfly chilostigma itascae.
20 It is a big word. C-H-I-L-O-S-T-I-G-M-A.

21 Q. Please.

22 A. I can't remember how to spell it.
23 Chilostigma Itascae, I-T-A-S-C-A-E. I couldn't have
24 picked a more difficult thing, but.

25 HEARING OFFICER: You are doing fine.

1 MS. NOVAK: I am a Minnesota Master
2 Naturalist member and I have been volunteering with the
3 DNR for years and doing a monitoring program. And I
4 discovered this caddisfly, which turns out to be nesting
5 in open areas along shorelines of lake shores and ponds,
6 where the snow doesn't melt all year. And I just wanted
7 to make a point that you don't have to be a Ph.D.
8 scientist to find these new species and unheard of
9 species. I wandered into it on a walk in February.

10 And I just wanted to make a point that
11 citizen science is going to be what is leading this
12 nation. With, you know, with budget cuts and our
13 resources that we have, and the authorities and
14 everything is stretched thin, it is going to take us,
15 as citizens of Minnesota and citizens of the United
16 States, to recognize the importance of even the smallest
17 thing and do what you can to add to the data that is out
18 there.

19 This is the fifth population known
20 in the world of this species that I found and it is
21 endemic to Minnesota. I think there is a relative of
22 it in Sweden, which kind of makes sense. But this
23 species has been switched from Endangered to Threatened
24 because the possibility that this can exist in many more
25 populations. I mean practically any lake out there

1 could have it, as long as there is these pockets of
2 water that come out of marshes that never freeze over.
3 That makes it a little more dangerous to study them
4 and they only emerge from February to April. I guess it
5 is kind of a call for people to kind of keep your eye
6 out for a small bug that looks like a moth crawling
7 around in the snow when everybody else is freezing; so
8 35 and up. Just keep your eyes open. You never know.
9 You just never know when you can be a part of natural
10 history in the state of Minnesota. Anybody can do that.

11 I think that is it. I am just honored
12 to be chosen for some reason.

13 HEARING OFFICER: Thank you very much.

14 MS. NOVAK: Thank you.

15 MR. BAKER: Thank you.

16 HEARING OFFICER: Sohen Sorensen.

17 MR. SORENSEN: Hello. My name is
18 Sohen Sorensen. And the spelling for the first name
19 is S-O-H-E-N and the last name is S-O-R-E-N-S-E-N.
20 And I am not here to speak on behalf of any group today.
21 But I have been involved in promulgating native plants
22 and trying to establish on my own family's private
23 population plants that I can harvest seeds of and
24 supply to the DNR and to contractors to restore
25 habitats.

1 So one of the first things that I would
2 question about whether or not it is reasonable are the
3 penalties and the costs for mitigation. Because it is
4 not clear that when we lose whole species of organisms,
5 when we lose significant chunks of habitat, that it is
6 ever possible to mitigate or do remediation for that
7 loss. So, I -- some of the -- some of the statements
8 from the previous speaker I would like to reinforce.
9 And one of those is the need to rely on citizen
10 scientists. And I would ask whether or not it is
11 completely reasonable that the DNR is now restricting
12 its assessment of the abundance or vulnerability and
13 endangeredness of the very species restricted to the
14 taxa that are listed, the taxa groups that are listed
15 in the -- how do you abbreviate this? The SONAR.
16 Right? That there are taxa in here that just by the
17 frequent availability of experts on DNR staff, or there
18 is taxa on this where there were experts in specific
19 groups, that some of these groups became listed and are
20 now being considered or surveyed only because of the
21 presence of those specific experts and probably not
22 because of a rigorous search of the scientific
23 literature about the rarity of other groups of
24 organisms.
25 So I would encourage the DNR to reach

1 out to citizen scientists, to expert groups outside the
2 DNR, reach out to a larger base of people than just
3 those experts that they know or work with or have worked
4 with on the past on these at the University of Minnesota
5 and at other research institutes here. Specifically,
6 with invertebrates, I would encourage them to reach out
7 to groups like the Xerces Society.

8 One of the groups that I think it is
9 unreasonable that it does not show up in the list is the
10 hymenoptera.

11 HEARING OFFICER: Please spell that for
12 me.

13 MR. SORENSEN: H-Y-M-E-N-O-P-T-E-R-A.

14 And hymenoptera are ants, wasps and bees. Like the
15 beetles, like flies. This is one of the most diverse
16 groups, diverse orders of insect taxonomy out there.
17 So it is not reasonable that there would be no
18 hymenoptera in the state of Minnesota that would be
19 Endangered, Threatened or Species of Special Concern
20 when there are so many less diverse groups that are
21 present on that list, and present on that list only
22 because of experts who were on staff before.

23 Also, with the large number of vascular
24 plants, flowers and plants that are on that list that
25 are endangered, it is not reasonable that there aren't

1 pollenators, you know, a large number of plants have
2 very tight relationships with bees or other bees that
3 are not like, you know, honeybees, alright, that would
4 also be decline if the plants that they have obligate
5 relationships with are also in decline.

6 So, I would encourage the DNR to survey
7 for these lesser known groups of bees that are not
8 related to honeybees and see if their habitat has been
9 lost and due to that loss that these populations have
10 been lost permanently. We shouldn't just be disturbed
11 by the loss of a species as defined by the type specimen
12 of a plant that is glued to a specimen sheet at the
13 University of Minnesota, but of an interaction between
14 our community of insects and pollinators, and by others
15 that might disburse between the routes (phonetic) of
16 those plants.

17 So, we are obviously missing a lot of
18 related species when you look at that large list of
19 vascular plants that are disappearing from our
20 landscape. And that is a real loss that we can't ever
21 mitigate or remediate by finding something or purposely
22 destroying this rare population of plants.

23 So I would specifically encourage the
24 DNR to also look at a group of native bees that are
25 related to the honeybees that have become threatened in

1 part because of the diseases of commercially kept bees,
2 both bumblebees and honeybees. The diseases of
3 commercially kept bumblebees are linked to the decline
4 of bumblebees in other states and the Xerces Society
5 will just -- I will just provide a specific copy of the
6 Xerces Society Report on three bumblebee species that
7 they are concerned about across the United States. Two
8 species in the eastern U.S.

9 HEARING JUDGE: Okay. We will mark
10 that as Exhibit 13.

11 (HEARING Exhibit 13 marked
12 for identification.)

13 MR. SORENSEN: Now, back to more local
14 issues that might be more passionate, biologically based
15 and less wonky than my diversion on the bumblebee.

16 This is the edge of civilization facing
17 northwards towards this like vast wilderness area. And
18 there are real enemies of wilderness in industry that
19 want access for resource extraction or want to open up
20 wilderness for recreation with motorized vehicles. But
21 there are a greater number of people who appreciate
22 wilderness and are dependent on the ecosystem services
23 of these vast undeveloped areas of our northern forests
24 and bogs and forested swamps. And I believe that it is
25 important that we have species of Special Concern remain

1 on the list, like the wolf, that are really flagship
2 species that are indicators and symbols of the value of
3 these vast tracts. We will not, however, be able to
4 take one of those bumblebee species and argue that it
5 should be protected in the same way. That it is easier
6 to protect the wolf. And it is clear that other
7 species, status sheets for other large vertebrates that
8 are also in decline in Minnesota, and I would contend
9 that the wolf is in decline at this point because we
10 have just lost a fifth or a fourth of its population in
11 this last calendar year due to a factor that when you
12 look at the lynx, the lynx species sheet, specifically
13 they, the DNR, has called "human caused mortality of
14 Minnesota small lynx population as the primary threat
15 to the species." Obviously, a major threat to the
16 stability and the presence of the wolf on our landscape
17 is human caused mortality. Whether that is licensed
18 killing of the wolf or unlicensed killing of the wolf
19 or damage to -- to population or damage to the landscape
20 that intact population here in Minnesota is dependent
21 on. And Minnesota is rare in having in the lower 48 an
22 intact large population of wolves.

23 As I understand, you know, they have
24 been delisted federally, except for places where they
25 are no longer exigent, like Iowa and Missouri. But like

1 what we had when the wolf was listed was rare, we had
2 a population of wolves. It wasn't an experimental
3 production. The wolves in the western part of the
4 United States, when hunting first occurred in recent
5 times, was an area where the wolf population was
6 experimental. It was a reproduction. So, it therefore
7 had less protection under the Endangered Species Act.

8 So, I think it was particularly
9 destructive that the wolf hunt was introduced here
10 through political pressure, without consulting the
11 tribes, the DNR agencies, that are kind of the pure
12 agencies of the Minnesota DNR, on that state basis,
13 based on treaty. I think that that was harmful and
14 destructive and it is not something that was forecast.

15 If you look at the species status sheet
16 for the wolf, there are -- there are very few recent
17 documents that are presented as part of these
18 refereneces. Alright? The selected references.

19 The most recent reference is five
20 years old. Elsewhere, there is an annual update of
21 statistics, the last of which is quoted in there is for
22 the year 1999, in the list of selected references.

23 So, there is very little current data that the DNR is
24 referring to here.

25 There is very little peer-reviewed

1 published scientific evidence of their estimate of what
2 the wolf population is in the state of Minnesota. But
3 things that they do refer to include the Minnesota Wolf
4 Management Plan. And obviously the DNR was forced, due
5 to political pressure, to chuck that out the window and
6 make an emergency decision to allow the taking of the
7 wolf for sport purposes instead. That they are breaking
8 the agreements that were made, whether they were
9 statutory or whether they were just common sense
10 agreements. But what has come about in the last year
11 is by no means reasonable nor fair, and it is possibly
12 illegal.

13 So in the case of the wolf, it is not
14 reasonable that the wolf is delisted at this time and it
15 is very important that the DNR begin to find ways to
16 justify the protection of these vast habitats in
17 northern Minnesota, like our pattern peat lands, which
18 are globally rare, you know. Peat lands bind a huge
19 amount of carbon. You talk about climate change being a
20 threat to these other species, but I noticed that there
21 was no mention of climate changes being a threat to the
22 wolf. I think it is clear.

23 There is a political agenda where
24 the DNR must claim a success with regards to wolves to
25 justify its past action, but if we consider climate

1 change to be a hazard, even to the moose or the lynx, or
2 other species, it is not reasonable that there isn't
3 some mechanism in place, whether it is a use of some
4 flagship species to use or bogs, that the DNR would ever
5 allow. Like mining peat, like in the state forest,
6 that can never be replaced. It can never be mitigated.
7 Releasing tons and tons and tons of carbon into the air.
8 You know, more than a square mile of peat dug, 15, 16
9 feet deep. It is probably worse than coal mining.

10 So, you know, elsewhere they do talk to
11 the threat to those habitats due to biofuel, you know,
12 a growing reliance on biofuel. So I think that is
13 specifically listed with the lynx.

14 And it looks like the fourth paragraph
15 there, the last sentence is, and the basis for composing
16 Minnesota status, the last sentence is, "The current
17 interest in biofuels harvest may exacerbate this
18 threat."

19 So we do need to find ways to
20 preserve our northern forests and wetlands and bogs
21 and we might need to include groups of vertebrates that
22 we were not considering, whether they were sponges that
23 we discovered that are out there that are obligate or
24 endemic and found only in these sources of wetland
25 habitats, which we only have in our patterned peat

1 lands. But the DNR doesn't have the resources right
2 now. Alright? Another justification for relying only
3 on for the purpose of or only listing the taxa that is
4 because of the presence of experts on the DNR staff or
5 this limited list of people that they had relied on in
6 the past. I definitely encourage the DNR to draw upon a
7 larger group or pool of scientists and other groups that
8 are concerned with the rarity or danger of other groups,
9 like the various ICN groups that list the worldwide
10 databases of the species that are considered to be in
11 danger. But draw from a larger pool of data and of
12 experts so that we can have a more realistic sense or
13 a more reasonable sense of what is endangered on our
14 landscape before we lose more. Thank you.

15 HEARING OFFICER: Thank you very much.
16 Sarah Nordlund.

17 MS. NORLAND: Public speaking is not
18 something that I'm excited to do here, but my name is
19 Sarah Nordljund. S-A-R-A-H N-O-R-D-L-U-N-D. I reside
20 at 12032 Layman Road NE, Bemidji, Minnesota.

21 The one issue that is a particular
22 concern to me is the wolf and I would like that to go
23 back on the list of Special Concern.

24 I don't think there has been nearly
25 enough evidence to take it off. I think that, you know,

1 we really jumped the gun here with this wolf hunt.
2 You know, not to mention the way in which they were
3 taken out. That really concerns me, that we had the
4 public trophy hunting. And, you know, then you have
5 the other part that feels genuine, you know, they care
6 about the wolf, they are very passionate about the wolf.
7 And then you have the one side making excuses and, in
8 turn, demonizing the wolf. And I have seen so much
9 of that it just makes me want to cry.

10 So that I guess to make a long story
11 short, I know that there has not been enough evidence
12 to take it off that list. There has not been enough
13 to support it. I would just like to let it go at least
14 back on the Special Concern list at this point. That's
15 it. Thank you.

16 MR. BAKER: Thank you.

17 HEARING OFFICER: Thank you very much.
18 Courtney Kleven.

19 MR. KLEVIN: Yes, sir. Good evening,
20 Judge. My name is Courtney Klevin. It is K-L-E-V-E-N.
21 First name is Cortney. I am a professional engineer
22 registered for 35 years. I am here representing the
23 counties and County Highway Departments of Kittson
24 County, Marshall County, Pennington County, Polk County,
25 Red Lake County, Norman County and Clay County and

1 their highway departments.

2 As highway engineers, most of us also
3 are responsible for public infrastructure and drainage
4 issues. I certainly share the concern overall of the
5 species that are listed and all that are being
6 protected. This is one of five locations in which the
7 hearings are being conducted. This is the only one
8 that is up and near our section of the state.

9 The impact of the northern pocketed
10 gopher is stipulated to be in the Red River Valley
11 soils, which stop 70 miles west of here. They are
12 listed only in Kittson County and potentially in
13 Marshall county. But the northern pocket gopher in
14 the fact sheet exists south of British Columbia, all
15 of the way from Montana, across the Dakotas, and barely
16 touches into Minnesota. The reason I say that is that
17 the pocket gopher is not a friend of agriculture.

18 There are two types of pocket gophers
19 that are listed. The northern, which is the one that is
20 of concern, and has been of some concern, and the plains
21 pocket gopher. Listing the pocket gopher in either the
22 common plains or northern as a state threatened species
23 is going to affect the 87 counties in the state. It is
24 going to impact the drainage, it is going to impact
25 agricultural programs, it is going to impact roadways,

1 and it is going to impact public infrastructure, and I
2 don't think it is necessary.

3 HEARING OFFICER: Excuse me, sir. In
4 your view how would it affect those -- those issues or
5 those topics?

6 MR. KLEVEN: Every time we intend to
7 put in a drainage ditch, expand a roadway, put in a new
8 crossing, build a bridge, or touch anything else across
9 the state, specifically also as general funding, is
10 we have to do the threatened and endangered species
11 clearing. That requires the DNR and others to do a
12 number of environmental studies, including structures
13 that may be eligible for the National Historic Register.
14 So it adds another step to all of the statewide
15 infrastructure projects, specifically because of a
16 gopher that lives south of British Columbia, across the
17 three states, at least to our west, in Red River Valley
18 lands, which is why it has a Minnesota impact, and the
19 Red River Valley stops 70 miles west of here. So
20 thereby, there are seven of us as Red River Valley
21 counties that have that type of soil, only one of which
22 has a documented population evidently of that gopher.
23 The rest of them are standard plains gophers, and quite
24 frankly, we have been chasing them for two bits ever
25 since I was about twelve years old. And I don't know

1 the difference between the two, but I do know that
2 those gopher mountains are a hazard from everything to
3 snowmobiles to drainage, to everything else.

4 So I think it is inappropriate. I
5 don't think there is any shortage of pocket gophers
6 in the Northwest corner of the state. There are 87
7 counties and there is only one that has a population
8 that is listed, and it has an adverse impact on public
9 infrastructure, roads, drainage and infrastructure.

10 It is my opinion that the rules are
11 neither required nor reasonable. I understand the
12 concept of the Special Concern, and I think it makes
13 sense, but not statewide and not being listed as
14 proposed. Beyond that, I think I like the term of
15 "citizen scientist." And I would suggest that perhaps
16 one of the endangered species is the agricultural farm
17 family of Minnesota. Thank you.

18 HEARING OFFICER: Thank you.

19 MR. KLEVEN: Here are my notes.

20 HEARING OFFICER: Rochelle Quick.

21 (Off the record.)

22 HEARING OFFICER: Please proceed.

23 MS. QUICK: My name is Rochelle,
24 R-O-C-H-E-L-L-E, last name is like fast, Q-U-I-C-K.
25 I am at 6401 Irvin Avenue NW in Bemidji, Minnesota.

1 And I am here today just for myself, my kids, and maybe
2 future grandkids.

3 I want to talk about the wolf a little
4 bit. I had my first experience with the wolf when I was
5 about twelve years old. I won a scholarship to Long
6 Lake Conservation Camp. And in the middle of the
7 winter, I had to use the outhouse, and I walked out
8 in the dark to the outhouse and I came out to see a wolf
9 about maybe 20 yards away from me. And ever since then,
10 I have just been fascinated with them. Because, you
11 know, it wasn't scary. It didn't growl at me. It just
12 was he just looked at me and walked away. Of course I
13 didn't sleep the rest of the night.

14 But I wanted to talk a little bit
15 about them, not just of a human concern, but the wolf
16 biologically. Just with the environmental change
17 that's going around right now, I think there needs to
18 be a little more research on Lyme's Disease and anaphy
19 (phonetic) mycosis, (phonetic) mycosis, and other
20 diseases that are affecting mammals in northern
21 Minnesota right now, including ourselves.

22 I think that in a combination where
23 you have a population of maybe 3,000 and you take,
24 you know, maybe a third of that away, then your genetic
25 pool is shrinking so much that you are reducing your

1 diversity, and that's what keeps a population strong.

2 Also, the eagles I would like to see
3 stay on the Special Concern list, as they are an apex,
4 well, scavenger I guess, but with the mercury levels
5 and the dioxins and they are a fish eating, dead deer
6 eating, you know, kind of bird, whatever is affecting
7 those prey animals will be affecting them, too. And
8 maybe we just don't know enough information to say.
9 Yeah, they might be fine now but, you know, if we were
10 looking at 2006 for our original data collection, and
11 now it is 2013, what happens to get them back on the
12 Special Concerns list if something does come up in that
13 short time?

14 Also, Avian (phonetic) microbacterium,
15 there has been some really odd outbursts of that this
16 year throughout the state. I don't know if you are
17 familiar with microbacterium but they are kind of
18 everywhere. But there are a few that create actually a
19 toxic reaction, especially in water fowl and in birds.
20 People can also contract it. It is not frequent, but
21 I know over in Lake Winnibigosh (phonetic) this year
22 they had a really big die off. It just happened, from
23 what I understand, in the wrong area of the lake, and
24 it can happen all the time, just due to bacteria. So
25 things like that can happen.

1 So, maybe a little more research in
2 things like that that are increasing in our area.

3 As for just to touch base with the
4 fellow that was up here earlier, he was talking about
5 old forest. And it is kind of like saying the American
6 version of an antique versus the European version of an
7 antique. An old forest here, you know, is not what the
8 original old forest was. So there are so many things.
9 Yes, an Aspen forest which comes up, but it replenishes
10 itself naturally. We don't need to cut it all down
11 and in that effect, you know, affect so many of the
12 plant species and the animal species, and even the
13 invertebrates that are living in that area.

14 So I'm very glad that there are things
15 like fungi on there this year, but I just think it has
16 never been evaluated before and I think that maybe more
17 things, specific things need to be looked at, too.

18 And, of course, turtles are one of my
19 favorite things. And also I'm thinking about the water
20 quality, the bacteria, the pollution affecting the
21 turtles, because especially the snapping turtles are a
22 scavenger, an apex scavenger. So whatever is affecting
23 and killing off the fish or whatever it is eating, can
24 also be collecting in it.

25 I just know, you know, I'm only 40

1 years old, but in my time that I have watched things,
2 I have always lived up north or by water and lakes and I
3 can see the changes happening and I can see the species
4 less and less frequently. So I would just really like
5 you guys to consider keeping them on the special
6 concerns and maybe, you know, exploring that "citizen
7 scientists" to help more on things, if you need more
8 information. Thank you very much.

9 MR. BAKER: Thank you.

10 HEARING OFFICER: Thank you very much.
11 Lisa Boulay.

12 MS. BOULAY: L-I-S-A B-O-U-L-A-Y.
13 6214 Lavinia, L-A-V-I-N-I-A, Road, Bemidji. And I am
14 here on behalf of the animals and other growing things.

15 I have one question. If a species is
16 delisted, is it possible to get them listed as a Species
17 of Concern or Endangered or Threatened without going
18 through this, doing all of them? Or can you just go
19 back and change the classification on one species?

20 MR. BAKER: We can change -- any time
21 that we change a species, we have to go through this
22 process that we are going through right now.

23 MS. BOULAY: Okay.

24 MR. BAKER: How many species we
25 affect or change or propose a change to depends on the

1 information that we have at the time that we do that.
2 So it happens that we are proposing to change from 273
3 (phonetic) species right now. The next time we do this,
4 I suspect it will be far fewer because, more than
5 anything else, it is a function of new information that
6 we have. And we have a huge amount of new information
7 right now and I don't know that we will have again such
8 a vast number.

9 MS. BOULAY: Because that's where
10 I have a concern, where I think we should always be
11 listing on the side of caution, especially now, when
12 we are having climate change. It seems that things
13 are changing, escalating very fast. I think we all
14 noticed how the planet is getting warmer. I don't
15 need scientific proof to give me that. I think we
16 have all, you know, noticed that we are not getting
17 as much snow. It is getting hotter. It is getting
18 dryer.

19 So, my two main species I have a big
20 concern about are the wolf. It is like let's not remove
21 it. Let's leave it as a Special Concern. There is no
22 benefit -- or there would be no harm to leave it on as
23 a species of Special Concern. I also think there should
24 be a moratorium on hunting, but that's a different
25 thing. But even if it is a species of Special Concern,

1 farmers or people who feel their livestock or pets are
2 being threatened still do have the right to protect
3 themselves, protect their pets or livestock.

4 I am somebody who has been very
5 blessed to see wolves in the wild. Two days after
6 Christmas this year I was hiking up in Grand Marais and
7 saw the wolf. And he or she was a magnificent creature.
8 It crossed the trail in front of me, saw me, and just
9 walked off, and I saw the remains of a deer that it had
10 been eating. So, you know, we can -- the animals can
11 survive with us.

12 If all of the humans just kind of
13 died off tomorrow, the animals would be fine. They
14 would be just fine. We cannot survive without these
15 animals. I don't think anybody understands how things
16 are all interconnected.

17 And another species is the moose.
18 The other question I have is they are one of my favorite
19 creatures. I remember back in the early eighties, when
20 I spent more time in the Northwest part of this state,
21 I would go driving with a friend and we would see moose,
22 you know, all of the time. Saw tons of them. The last
23 few times I have been into the Northwoods part of the
24 state, I haven't noticed any. I have also noticed the
25 population greatly going down in the Arrowhead region.

1 And from what I am reading, that's true in both
2 Arrowhead and the northwest. But the population does
3 not seem as Threatened or Special Concern by like
4 Lake Vermillion and stuff.

5 When you are taking into account,
6 you know, the populations and how to classify it,
7 can you classify one part of the state, saying it is
8 threatened and another part of the state saying it is
9 not?

10 MR. BAKER: Good question. The law
11 does not give us any way to really do that. But when
12 we -- when we look at the status of a species, we have
13 to look at its status statewide. And if or when we
14 decide to assign it a status or propose a designation
15 for it, we propose that designation statewide.

16 MS. BOULAY: Okay. And it is my
17 concern is with the moose, it just seems that people
18 need to realize that the moose is there for other
19 reasons. It is there just because it is a moose and
20 it just wants to be there, but it was not put on this
21 earth for us to shoot. So, to me, if we can get it
22 even listed something more, I do appreciate the Special
23 Concern, but we do need a moratorium on moose hunting
24 while we look at this more. Because it just seems the
25 moose population, you know, you don't see them like you

1 used to. And, you know, this is another thing, I don't
2 need scientific proof to notice that I'm seeing less of
3 them. And I'm sure 200 years ago, when the Anishinaabe
4 people were here, I'm sure they went, they were taking
5 animals for food or whatever they needed. They never
6 took more than they needed. They honored it. And I'm
7 sure they could tell if their species populations were
8 changed.

9 So, please do not do, you know, I would
10 like to see more of a Threatened list for the moose,
11 while we -- and also a moratorium also on hunting, which
12 I don't think you have any say in. But with the climate
13 change, their population could plummet and get to the
14 point where it is not even sustainable.

15 Where also we are going to have,
16 hopefully it won't happen, but if we do have the sulfide
17 drainage mining take place, that's going to go affect
18 them. It will affect them. But so, but please honor,
19 you know, brother wolf. Keep him and his brethren as
20 species of Special Concern.

21 The eagle we still need to have of
22 Special Concern. And let's see the moose now as
23 Threatened. That species, don't let something happen
24 to it. And those animals are great to look at.

25 I look at these lists of vascular

1 plants and lichen and reptiles and birds, and all of
2 these other cool things, sometimes they don't, you know,
3 they are not as lovable, but I mean I'm somebody when I
4 find bees and hornets in the house, I capture them and
5 take them outside because they are pollinators. If I
6 find a bat in the house, I rescue it and take it out.
7 I'm not going to kill it. We need to realize, let's
8 protect all of these. I don't think we even know how
9 things are intertwined here.

10 Now, remember, we can survive -- all
11 of these creatures and all of these can survive without
12 us, we can survive with them. There is no harm. It
13 doesn't harm anybody listing a plant of Special Concern,
14 Threatened or Endangered. It is not going to do any
15 harm to go on the side of caution. And who knows?
16 With some of these plants that we want to list and
17 that you want to delist, those could be the next cure
18 for some sort of cancer.

19 And I would have brought a moose or a
20 wolf with me here so they could speak, but I don't think
21 anybody would have let them in.

22 MR. BAKER: Thank you.

23 HEARING OFFICER: Thank you very much.

24 Ray Newman.

25 MR. NEWMAN: Good evening. My name is

1 Ray Newman, R-A-Y N-E-W-M-A-N, and my comments are
2 going to be of two areas. One is philosophical and the
3 other is ecological. And I'm well versed and able to
4 address both of these issues.

5 The philosophical part stems from the
6 fact that I was there at the inception, the inception of
7 the rules for Endangered, Threatened and Special Concern
8 Species in Minnesota. I was working for the state parks
9 system at that time as an ecologist and I took part in
10 that process, so I know it well.

11 I have done hundreds of rare species
12 surveys. And later I went to the forest service and I
13 was -- I was kicked upstairs and I wrote contracts for
14 species surveys instead of actually going out and doing
15 them.

16 The philosophical part is that we are
17 currently in a state in the world where there are so
18 many clammering factors that need to be addressed or
19 appear to need to be addressed, that it -- that one
20 almost throws his hands up and says, you know, "This
21 is impossible. It is too political," or whatever.
22 So, I'm retired and I have been looking at the
23 philosophical basis of how to solve this. And mostly
24 I have come up with just clarifying the problem, but
25 I've found some incredibly intelligent people that are

1 models that had ideas that I thought were worthwhile.

2 The first was an individual named Ivan
3 Eaglewich (phonetic). And he had an idea that our
4 societies are, our organizations, our hierarchal
5 structures are the problem. And he brought it back to
6 the Catholic Church, from the Fourth Century and the
7 fact that the Catholic Church then set up these
8 hierarchies and that creates the stress. Because you
9 have got all of these positions and everybody is vying
10 for power.

11 So my suggestion is that we find
12 another way forward in a different type of structure
13 other than a capitalistic, hierarchal structure. And
14 I'm suggesting the possibility of a wisdom counsel that
15 would direct it, made of citizens.

16 We heard tonight a lot of wonderful
17 visions, but these people, the voice, their voices are
18 drowned out by the hierarchal structures of that
19 government, and then the money that directs the
20 government. So it is the rich folks and the government
21 conspireing to have their say. And so what we need to
22 do is we need to get common people that have the ability
23 to look at these issues, that love the organisms that
24 you are dealing with, and somehow find a way forward.
25 And so it seems to me that a natural marriage would be

1 the agencies themselves, where there are lots of people,
2 and then the ability to tie that to this citizen league
3 of people that would go out and actually accomplish it.

4 And we never hear about that because
5 everything is so political and so money oriented right
6 now.

7 Okay. Now I am going to get off my
8 high horse here and now I am going to go into a subject
9 that I know quite well, and that's ecology.

10 And shortly after the endangered
11 species work in the DNR, I was involved with a
12 group that suggested that we start an ecological
13 classification, and that was accomplished. And we
14 had some really good people and we found out a lot
15 about the ecology of Minnesota. And, you know, that
16 was driven back within the agencies by this heirarchal
17 structure that I talk about. And the idea that this
18 hierarchal structure is the problem is what we need to
19 really look at. That's the truth.

20 And so there has to be a way forward,
21 maybe looking at relationships of citizens with the
22 agencies to solve problems, teams. But the problem is
23 you never get to funding that way because the funding
24 is directed by the bureaucrat. And so I believe that it
25 is hopeless to go forward with the system the way it is

1 and that it needs to be largely deconstructed and
2 rehabilitated. So this is serious stuff folks.

3 Back to the ecology. There are -- I
4 believe three things, other than the fact of physically
5 killing -- now I'm going to talk about vascular plants
6 primarily; that's my field.

7 When you build a parking lot and you
8 pave it over, that vascular plant that was in that area
9 is gone. But there are other, more subtle ecological
10 problems that are threatening the vascular plants, and
11 I'm going to name three of them.

12 It must be one is the white-tail deer.
13 Hyperpopulations of white-tail deer. This is well
14 documented by Fowler & Rooney in Wisconsin,
15 scientifically verified and bona fide, no doubt about
16 it. What happens is there is a homogenization of the
17 plant communities within the ecological sphere, and so
18 you have less rare species and more common species.
19 So the very act of management is a perverse incentive
20 to make this occur. And so that is No. 1.

21 No. 2 is invasive earthworm.

22 HEARING OFFICER: I'm sorry, could you
23 say that again?

24 MR. NEWMAN: Invasive earthworm.

25 HEARING OFFICER: Oh, thank you.

1 MR. NEWMAN: In Minnesota there were no
2 native earthworms prior to the white man settling. They
3 had been killed by the glaciers. And so all earthworms
4 are brought into Minnesota as invasive species.

5 Our road building efforts and our
6 society has had the perverse unintended consequence of
7 putting roads in every square inch of the landscape, in
8 the forested landscape, and those roads were associated
9 with bringing material in from gravel pits that
10 contained earthworms, the the earthworms then headed
11 for the back 40.

12 For example, I am a moreller, and this
13 last spring I had been looking at an area that was about
14 a mile back from the road. Okay? And I was trying to
15 deduce whether I knew that road had been constructed in
16 the 1930's, and the earthworms moved six feet per year
17 on the average, so I figured I would have to go 500 feet
18 out before I could get to a point where I would find
19 morels. And it was perfectly true. That model is
20 absolutely the truth.

21 You get beyond where the earthworms
22 have gotten in there and suddenly you have got morels.
23 So, it is my belief that the morel fungi that are in
24 those natural ecosystems have been decimated by the
25 strategies implemented by the agencies.

1 I have a lot of sympathy for the DNR
2 because I worked for the DNR. Okay? So I understand
3 it. But it is the hierarchy and it is all of these
4 political things that are the problem. Okay.

5 The third thing is -- okay, the
6 invasive species, earthworms, and -- oh, the third thing
7 is this mychorrizal fungi. By mismanagement --

8 HEARING OFFICER: I'm sorry, could you
9 spell that, please.

10 MR. NEWMAN: M-Y-C-H-O-R-R-I-Z-A-L.

11 The mychorrizal are fungus threads that
12 are key to all of the processes in forests.

13 Mychorrizal arose millions of years
14 ago because the plants needed to find a way to get
15 through the tough times, and so the fungi set up
16 relationships where they entered these plants and they
17 provided water, nutrients and different chemicals that
18 plants needed. And if those mychorrizal fungi are not
19 there, then they are not going to work. And that's
20 why we have lost a lot of the plants because we, the
21 vascular plants, because we have interfered with
22 those mychorrizal relationships by bringing in deer,
23 earthworms, and by just habitat destruction. And so
24 there is my point.

25 You know, these are tough. These

1 are -- this is hardball, dealing with this, these
2 issues. And you can hear the love of some of these
3 people. They really love the relationship, the
4 organisms. But as soon as we get out of this hearing,
5 it is going to revert back to politics. So what we need
6 to do is we need to address that political conundrum and
7 find another way forward and a structure that begins to
8 work better for us.

9 HEARING OFFICER: Thank you very much.

10 MR. NEWMAN: Thank you.

11 MR. BAKER: Thank you.

12 MR. NEWMAN: You are welcome.

13 HEARING OFFICER: Amy Workman
14 (phonetic).

15 AUDIENCE MEMBER: She left.

16 HEARING OFFICER: Alright. I'm sorry.
17 Is there anyone else who hasn't had a chance to speak
18 who would like to speak?

19 AUDIENCE MEMBER: (Indicating.)

20 HEARING OFFICER: Yes, sir.

21 MR. BABCOCK: Yes. I thought I checked
22 my name and I haven't had a chance. I thought I had it
23 checked on the very first sheet.

24 HEARING OFFICER: Oh, I'm sorry.

25 Mr. Babcock, please.

1 MR. BABCOCK: Barry W. Babcock,
2 B-A-B-C-O-C-K. And my address is 38998 315th Avenue,
3 Laporte 56461.

4 I will try to keep this as brief as
5 possible. I'm here to speak about the gray wolf,
6 hanus lupus (phonetic), ma'iingan. I probably will
7 take a little bit off of what I was going to say after
8 listening to the last talker because I think this was
9 it. This has been more about politics and economics
10 than it has about science.

11 I would just like to make one
12 statement, too, here. First of all, the wolf, it has
13 never been -- I know you know this, sir, but I want to
14 go on the record of saying this. We are the only one
15 in the 48 states where the wolf was never exterminated.
16 It was down to 700 or 750 until the Endangered and
17 Threatened Species came about. I think we in Minnesota
18 feel differently than they do about the wolf in
19 Wisconsin, Wyoming, Michigan or Idaho. I think the wolf
20 has a lot of different meanings to a lot of us here.

21 I think there's a lot of us that have
22 seen this, and I'm 64, so I go back to the Endangered
23 and Threatened Species Act. And I think there's a lot
24 of us that have seen this over the broad range of the
25 hunt. And I say this as a deer hunter for almost over

1 a half a century, and I think that science is always
2 something that I try to use when I am talking about
3 sulfide mining or climate change or peat mining, or any
4 other subject. Science is something that I probably
5 wear the science badge on my sleeve. And I'm not green
6 on this. I am very active in environmental issues up
7 here for almost two decades now. My name was mostly
8 associated with the off-highway vehicles in our state
9 forest trails planning. And I was involved in the
10 legislature. I testified twelve times down here in
11 2002, 2003, 2004 and 2005 on off-highway vehicles. And
12 I am intimately involved in the DNR on planning and I
13 sat in on two of the nineteen off-highway vehicle
14 planning teams. But anyway, enough of that.

15 The science issues, I have taken my
16 name off the badge and thrown it away. It is all over.
17 Any issue you can argue about the wolf and you can cite
18 some scientific study and there is another one that
19 refuses what you are using.

20 So, I think that the DNR is as culpable
21 of manipulating the science on this as any other agency
22 or any other public agency that I have ever had any
23 business with. They say routinely that the hunt will
24 have no effect on the deer population. It will have no
25 effect on degradation of livestock. They are saying it

1 is being held for social reasons. This is not just the
2 DNR that has misused language to create this hunt, but
3 it is also the legislator, the five-year moratorium that
4 came out of that long, what was that, over two years it
5 took to put together that moratorium from the wolf
6 roundtable. Where we would have a five-year moratorium
7 before the hunt would come about.

8 And I have a good friend, Bob Shimmick
9 (phonetic), was in it and he was telling me how
10 everybody was displeased with it. Not just the DNR,
11 but the legislator I see as a really bad guy this year.
12 That goes along with a deer hunter. I am one. I, being
13 a deer hunter myself, but in particular, the Minnesota
14 Deer Hunter Association, it has just been so political.
15 When we were holding these public hearings last year at
16 this time at the Horance (phonetic) based school, just
17 south of town, I got a letter saying that or an email
18 saying that then Senator John Carlson was holding the
19 meetings. And it was Dan Stark was going to talk. And
20 also Senator Ron Stoy was there. None of the senators
21 said a thing. It was all moderated by Dan -- by Mark
22 Johnson, Executive Director of the Minnesota Deer
23 Hunters Association. And at the time, the DNR, if
24 people remember, the proposal was the hunt, it was just
25 going to be during the months of December and January,

1 when the pelts were prime. We thought that was bad
2 enough. But then we heard these deer hunters and hook
3 to bullet writers, like Dennis Anderson at the Star
4 Tribune, talking about how we are going to have this
5 hunt and it is not going to have an effect on the deer
6 population and it won't have an effect on the
7 degradation of livestock. It was just, quote, "less
8 brazenly chewing on the bones of our deer but we won't
9 like it anyhow." It was just all of this stuff coming
10 out from the Minnesota Deer Hunters Association and our
11 legislators.

12 I know the microphone was taken away
13 from me when I said, "Well, I don't like what the DNR is
14 doing with the season in December and January, but what
15 I don't like is the legislators coming up with the
16 regulations coinciding with the rifle season." Rob Stoy
17 took the microphone away from me and told me not to
18 worry about that. Just blowing me off. But sure
19 enough, the next week there was a bill in the
20 legislature offered by Senator Saxhoff (phonetic) in
21 Grand Rapids and Representative Dill in the house
22 from Crane Lake. That they were going to have a hunt
23 coinciding with a sixteen-day rifle season.

24 Then, you know, 212 wolves were killed
25 during the regular season. What is it? Was it 288 now

1 that have been taken by, so-called problem wolves, by
2 trapping. And I think 18 have been shot for coming after
3 dogs or something like that. We are talking over 700
4 wolves. And I know even DNR staff, wildlife have told
5 me off the record, and this was back in 2005, and this
6 was a person that worked for research, they said that
7 they estimate that there is a minimum of 200 wolves that
8 are killed illegally by just people that are outlaws and
9 hate wolves. Now, track that down to even those
10 numbers. And to the fact that you would be facing a
11 heavy fine and jail term if you shot a wolf. And you
12 don't anymore. It is no longer Threatened or
13 Endangered. It has got to be down to 1400 or something
14 before the U.S. Fish & Wildlife Service comes back in.
15 And so anyhow, with over 700 wolves that were killed
16 that we know and those that have been killed that we
17 don't know of, we could easily be talking about a
18 thousand wolves. So it is not just one out of four or
19 one out of five for the wolves, we are talking it is
20 probably one out of three wolves killed right now in
21 the state of Minnesota. And we are talking about an
22 endangered species that just came off the list a few
23 years ago.

24 Now, in 2011 reclassified the wolf as
25 a small game animal. The same as a rabbit or squirrel.

1 It is just wrong. It seems to me what the DNR and the
2 legislature has done reminds me of what Lincoln said
3 after the Douglas debates, when they were bandering
4 about the slavery in Illinois, Lincoln accused Douglas
5 of manipulating language to make slavery look like a
6 great thing. He said, his quote was, I think verbatim
7 was that, "It was a specious and fantastic arrangement
8 of words by which a man can make a horse chestnut a
9 chestnut horse." And I think that was basically what
10 just happened here. With the science the way it is and
11 with what the DNR call dead science, with this lawsuit
12 that failed, there was a Data Privacy Act that was
13 failed. These internal memos that were going up to
14 Dennis Simon from the DNR, head of wildlife, saying,
15 "Well, I thought about it in bed the other night. Maybe
16 we made a mistake by moving too fast on this wolf hunt.
17 But then I got to thinking about it, that we owe it to
18 our primary clients, the deer hunters and the trappers,
19 and our secondary client, the cattlemen, to have this
20 hunt." So, I really don't think this hunt has anything
21 to do with science. If you look at the words, well, it
22 really is changing a horse chestnut into a chestnut
23 horse.

24 It's all about politics. It's all
25 about, you know. A friend of mine, Bob Shimmick

1 (phonetic), sat in on this roundtable. He made a good
2 point here Saturday in Bemidji at this rally that we had
3 that a hundred people turned out for, and that was that
4 wolves and Indians have always been political in this
5 country. The statement he gives, and Bob is very
6 histrionics, and he says that when the pilgrims got here
7 in North America, Turtle Island, they looked up and they
8 saw all of these howling wolves and indians, and they
9 were in the way. You know, for a lot of us, there is
10 so little wilderness left, and that was talked about
11 earlier, what is it, two percent or less in the lower
12 48? And our public lands and everything on, below or
13 above our public lands is being taken control of by
14 corporations. These public lands aren't corporate
15 lands; they are public lands. And I don't think there
16 is anybody here that is against extractive industry per
17 se. I wouldn't be here. I need gas in my car. Yes,
18 and we need to build our homes and we need minerals, but
19 to just turn over our public lands to corporations?

20 And the Endangered Species List was
21 under assault in Congress, before the democrats took
22 control. And I am not saying -- I'm not a democrat
23 anymore. It is hard to tell the difference between them
24 to me. But the House of Representatives, Representative
25 McCarthy in California, every year he tries to rescind

1 the Endangered and Threatened Species Act. He doesn't
2 care about these animals, the wolves or eagles or the
3 ma'ingan or the mageesi (phonetic). He wants them out
4 because they get in the way for access.

5 I saw on a bumper sticker about a year
6 ago when me and my wife went out to a steakhouse out by
7 Walker (phonetic). I looked at it and it said, "Oppose
8 Wilderness and Support Access." And I go, "What the
9 heck?" And I get down a little closer and I look and
10 it said at the bottom, "MNUSA," The Minnesota
11 Snowmobilers Association. Well, the lights just started
12 going off in my head. Now, now I'm thinking they get
13 ten million dollars out of my gas money every year.
14 ATVers, dirt bike motorcyclists, off-road vehicles,
15 and other trucks, they get almost another ten millions.
16 Between both of them out of our dedicated gas funds.
17 Plus, they make a big stink all of the time about
18 endangered species because it closed down their trails.
19 It limited access to them. It is not limiting access,
20 it is limiting how you access.

21 We have so little of this land left,
22 even our state forests around here, the Minnesota Center
23 for Environmental Advocacy did a GIS on Foothill State
24 Forest in 2003. 82 percent, and they said this is
25 typical, even the DNR forester told us this is typical

1 for all of the state forests in north central Minnesota,
2 82 percent of Foothill State Forest is within a quarter
3 of a mile of a road or a trail.

4 I mean our -- there is places where our
5 state forester has heavily grown and it's Minneapolis
6 and St. Paul. When they say 82 percent within a quarter
7 of a mile of a trail, they don't mean a quarter mile,
8 they mean within a quarter of a mile. If they dropped
9 you randomly in a state forest, you have got an 82
10 percent to be within a quarter of a mile of some kind
11 of a road or a trail. And these are just all things
12 that are going to hurt these endangered major predators
13 and stuff.

14 The hunting stories that I hear are
15 sickening. I don't even want to hear or see them
16 anymore. I don't even like talking about them. This
17 public process is different than what we usually go
18 through because this is through the Minnesota
19 Environmental Protection Act, right, and this is
20 something else. With the Minnesota Environmental
21 Protection Act we have to go through a lot of public
22 hearings and comments and stuff. I am not trying to
23 bad mouth the administration or anything, but the point
24 I'm trying to make here is that we have gone through
25 these public processes and this is talking about the

1 politics. Just as a sample, Mississippi state forest
2 off-highway thing there, this is the first 40 miles
3 once you leave from Itasca up to Beltrami, the first 47
4 miles of the Mississippi, the longest river or greatest
5 river in North America, which is arguably the last
6 remaining wilderness on the Mississippi, we thought this
7 would be a good piece of river to keep ATVs off, just to
8 preserve it. We have swans and all kinds of species,
9 mollusk plants that you have listed on here, they are
10 found in the state forest. There is 1,620 public
11 comments to the DNR. Only 115 of them were pro trail.
12 The rest of the them were against trails in Mississippi
13 headwaters. They wanted them to be set aside. Three of
14 the five work team members that put together the plan
15 recommended closing the forest. What happened? The
16 original supervisor threw it out the window. And right
17 now we have got 100 miles of trails in the Mississippi
18 headwaters.

19 The public process has failed us so
20 many times, when we tried to stand up and protect a
21 special place or some special animal that really has
22 symbolic meaning to Minnesota, like the timberwolves.
23 I just hope somebody at one of these meetings would come
24 up, I haven't heard anybody here stand up and was for
25 wanting to kill wolves. Maybe there is someone here

1 that is, but I don't think so. If I sound strident,
2 I'm sorry. Please think hard about it on wolves, with
3 everybody saying we want them relisted.

4 I think the moose is a Special Concern.

5 You have to go to hunting season, right? That's what I
6 read in the paper. We have got to do more than just
7 classify the wolf as a species of Special Concern.

8 Stop the hunt. They are not hurting anybody. The
9 livestock degradation of 2011 was only 1.7 of all farms
10 in Minnesota had confirmed livestock degradation; 1.7.
11 And they were compensated for it, and they should be.

12 A former should have the right to protect their
13 livestock and a person should have the right to protect
14 their dog or themselves, but we don't need to be killing
15 400 plus a year. I mean the wolf is -- we are not in
16 Montana here. This is Minnesota. This is our
17 neighbors, first nation people live here. The DNR
18 and the governor were extremely arrogant. All of the
19 reservations, except Red Lake, who never see the land,
20 the other tribes sent a letter to the governor and the
21 DNR commissioner asking them to close the hunt within
22 the boundaries of their reservations, and they said no,
23 it wouldn't be fair to the white people that live within
24 those boundaries. Obviously, they know nothing about
25 how that land was taken away from the Native Americans

1 by the Dawes Act of 1887 and the Nelson Act of 1889.
2 How the land was allotted up into 80-acre lots and
3 allotted up so that over half of that, whatever the
4 number of band members there were, there were twice
5 as many 80-acre plots, and it was opened up for White's
6 homesteading. And much of that land the Native
7 Americans did get swindled out of them. Even was used
8 for grocery stores in Cass Lake. It is well documented.
9 For them to do that it is just terrible.

10 Also, ma'iingan is the animal of
11 extreme spiritual importance the Native Americans
12 believe. And I think, when I look at dogs, I don't
13 believe it is some silly myth, I believe it is reality,
14 that they walked the earth together with the wolf. That
15 they were brothers. That they lived alone. They didn't
16 have a companion, like all of the other animals did, so
17 they asked for a partner, and they gave them, so they
18 wouldn't be alone. Then they named all of the plants
19 and animals. Once they were named, Creator told them,
20 "You are going to go separately. You will have similar
21 fates. If one suffers, then you will have a similar
22 fate." I think we are all a part of that northern
23 Minnesota. This leaves a bad taste in my mouth that
24 the Commissioner and the governor just carte blanchely
25 rejected that.

1 Anyway, that sums up my strident anger
2 tonight about that issue.

3 HEARING OFFICER: Thank you, sir.

4 (Clapping.)

5 Is there anyone else who would like to
6 speak tonight?

7 (Off the record.)

8 MS. LIBERTY: My name is Tammy Liberty,
9 L-I-B-E-R-T-Y. The first name is T-A-M-M-Y. Post
10 Office Box 1696, Bemidji. I feel like I want to come
11 up here and be all emotional, and this is an emotional
12 issue, but it really is political. It is a budget, it
13 is an economic issue. The everything -- I want to come
14 and say everything that they said just so that they can
15 record that I said it, too. Especially what you had to
16 say (indicating). Because I really want to confirm what
17 they said.

18 I was going to get up and say what he
19 was going to say or what he said. I was going to tell
20 you the story about ma'iingan and I was going to tell
21 you about the different things and that the Anishinaabe
22 people have a connection with the wolf. I was going to
23 talk to you about the different things about the pocket
24 gopher and the turtle, which is kind of funny. And I
25 want to sit here, and I say, "Oh, well, I don't like the

1 pocket gopher and I don't like mice and I really like
2 ma'ingan and I really love bald eagles and I really
3 love the snapping turtle, but I don't want them and I
4 want them," and these kind of issues. I don't want to
5 be like that because they are all important.

6 And I'm really grateful that the
7 dragonfly and caddisfly have been put on the list.
8 As a teacher, as a teacher in the Mississippi River,
9 I have studied the dragonfly and caddisfly, so we study
10 them so that we can teach our kids how to become citizen
11 scientists. So I studied them.

12 But the three really strange things,
13 the three most important animals in my personal belief
14 system, the eagle, wolf and the turtle are all put on
15 this list to be removed. Not that the world revolves
16 around me, but my mother would probably say, "Yeah, she
17 thinks it does." I find it interesting that those
18 three; one reptile, one bird and one mammal on that list
19 are on that list to be removed. I don't believe in a
20 hunt. All of that that they said is so important.

21 I do disagree that the Anishinaabe
22 people have been this awesome group of economical
23 environmentalists because we have not. We have stories
24 going back to our beginnings that we made mistakes.
25 We over fixed something, we overkilled something, we

1 over took fish, and as a result of that, there were
2 consequences. As a result of that, we had to live
3 without something for a period of time as a consequence.
4 And we were told, "This is a consequence for you doing
5 that. This is what you did, so this is what you are
6 going to get." And so those kinds of things in my mind,
7 I think about that, when I go out and gather
8 blueberries, I don't take more than I need, because if
9 I did, I may not have any blueberries next year.

10 We go on a hunt, 400 some wolves, 198
11 just in our little area of where I live, just this year
12 do that again, we are not going to be at the place we
13 were. There is no need for a wolf hunt.

14 I am really concerned about the eagle
15 and I shouldn't be as concerned because it is on the
16 federal list and can't, you know, you can't go hunt it,
17 you know, as you want to. But at the same time, there
18 are people around here hunting them. There is -- there
19 was 18 found somewhere east, in the national forest over
20 here, the Ojibwe National Forest, 13 found over here.
21 There is still people doing that still illegally and
22 they are doing that illegally with wolves as well.

23 There used to be a pack of six wolves
24 that came through there. You would think with
25 kindergarten kids out there that we would all be

1 concerned, but no, we went out and we said, "Thank you
2 for coming here and saying hello." We said, "Keep an
3 eye on our children for us." We didn't go out and say,
4 "Oh, my God, get the DNR out here. We need to kill them
5 all." We spoke to them and said, "Thank you for being
6 here. Keep an eye on our children." They don't have a
7 voice. One of the women here said, "I want to get up
8 here and speak for them," and that's what I had to do.
9 I was going to write it, so I then figured I probably
10 have more to say than I could put in writing. I am a
11 better speaker than I am a writer.

12 I commend you for some of the things
13 you put on here; for dragonfly and caddisfly. I am also
14 concerned about, "the gopher is not a friend of the
15 agricultural farmer."

16 Thank you very much for listening.

17 HEARING OFFICER: Thank you very much.
18 Please. Thank you.

19 MS. WIDNER: My name is Tara Widner,
20 T-A-R-A, W-I-D-N-E-R. I will keep this short because I
21 know we are kind of running over. We were supposed to
22 end at 8:00.

23 HEARING OFFICER: There is no time
24 limit. We are here as long as you want. I will stay
25 here as long as people want to talk.

1 MS. WIDNER: Well, I will keep it kind
2 of short anyway because I think a lot of the people kind
3 of already made the points I want to make.

4 I am with the band of Ojibwe from White
5 Earth Nation. And my relatives and my family and my
6 ancestors I can trace back to before Minnesota was a
7 state and we have special relationships with these
8 animals. We -- the land doesn't belong to us, we belong
9 to that land, and the animals are in that same situation
10 as well. They belong to the land.

11 I am standing out in opposition to the
12 delisting of the wolves, and I am also against removing
13 the moose, lynx and eagles and the turtles. I don't
14 believe that there was science behind these hunts that
15 happened this past season. And we have heard up to a
16 quarter to a third of the Minnesota wolf population
17 could have potentially been killed off, and the reason
18 we don't know these numbers is the science is also
19 lacking. But beyond that, and here is where my concern
20 comes for the moose, the lynx and the turtles, is that
21 the wolf was delisted about the science and it even came
22 up on a hunt that next season, and then that fall, as
23 soon as it was delisted, so I got a lot of concern that
24 a hunt will come up this next fall for these other
25 animals that get delisted, and I don't want to see that

1 happen. These animals have a right to exist. These
2 species are necessary for healthy ecosystems. Wolves,
3 turtles, eagles are sacred animals to the Anishinaabe.
4 No one eats wolves, eagles or lynx, so I don't see a
5 need to go out there and hunt them or kill them.

6 I think our society is too focused on
7 violence and killing to begin with. And when I think of
8 the wolf hunt, they are just killing to kill. They are
9 not eating it, and so to me that's pretty disturbing.
10 And I think we need to refocus ourselves as a society,
11 and we can certainly do that on a state level, with
12 things like protecting the animals here.

13 And I do want to say that, you know,
14 when you talk to people, and not just here but around
15 the state, when somebody says, "Oh, I saw a wolf this
16 time or a saw a pack," people get so excited about that.
17 And it is one of the things that makes our state so
18 special, especially up here in the Northwoods. That's
19 why we live here. These animals make the state special
20 and make the Northwoods special.

21 So I am asking you to keep the
22 Northwoods wild and to protect these species. Thank you
23 very much.

24 Thank you.

25 HEARING OFFICER: Thank you very much.

1 MR. BAKER: Thank you.

2 HEARING OFFICER: Is there anyone else
3 who would like to speak this evening? Going once, going
4 twice?

5 Thank you all very much for your time
6 and your comments. They have been very helpful. This
7 hearing is adjourned.

8

9 (HEARING Exhibit 14 marked
10 for identification.)

11

12 (Whereupon, the public hearing was
13 concluded at 8:32 p.m.)

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1 REPORTER'S CERTIFICATE

2

3 I, Ann Marie Holland, do hereby certify that
4 I recorded in stenotype the public hearing on the
5 foregoing matter on the following day, February 5th,
6 2013, held at the Sanford Center, Bemidji Regional Event
7 Center, 1111 Event Center Drive NE, Bemidji, Minnesota,
8 before the Administrative Law Judge James E. LaFave;

9 That I was then and there a Notary Public in
10 and for the County of Washington, State of Minnesota;

11 I further certify that thereafter and on that
12 same date I transcribed into typewriting under my
13 direction the foregoing transcript of said recorded
14 hearing, which transcript consists of the typewritten
15 pages 1 - 88;

16 I further certify that said hearing transcript
17 is true and correct to the best of my ability.

18 WITNESS MY HAND AND SEAL THIS 21st DAY OF
19 February, 2013.

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24 Ann Marie Holland

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