

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 6th, 2013 By Ann Marie Holland

1 APPEARANCES:

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3 AS THE HEARING OFFICER:

4 JAMES E. LaFAVE
Administrative Law Judge
5 OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
6 PO Box 64620
St. Paul, Minnesota 55164
7 Phone: 651.361.7848
Fax: 651.361.7936
8 Email: James.Lafave@state.mn.us

9

10 MINNESOTA DEPARTMENT OF NATURAL RESOURCES
Box 25
11 500 Lafayette Road
St. Paul, Minnesota 55155
12 Phone: 651.259.5073
Fax: 651.296.1811
13 Email: richard.baker@state.mn.us

14 By: RICHARD J. BAKER, ESQ.
Minnesota Endangered Species Coordinator
15 Division of Ecological and Water Resources

16

17 MINNESOTA DEPARTMENT OF NATURAL RESOURCES
Box 25
18 500 Lafayette Road
St. Paul, Minnesota 55155
19 Phone: 651.259.5073

20

By: BRUCE CARLSON
21 DNR NE Regional Ecologist

22

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- 2) Tim O'Hara
- 3) Gary Erickson
- 4) David Holmbeck
- 5) Mike Houser
- 6) James Marshal
- 7) Terry Worthman
- 8) Reyna Crow
- 9) Lisa Herthal
- 10) Gerald Sayers

I N D E X O F E X H I B I T S

NUMBER	DESCRIPTION	NUMBER	DESCRIPTION
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*Exhibits 15 through 31 marked

1 THE ABOVE-MENTIONED PUBLIC HEARING was held on this
2 6th day of February, 2013, at the GitcheeGumee
3 Conference Center, US Environmental Protection Agency,
4 Mid-Continent Ecology Division, 6201 Congdon Boulevard,
5 Duluth, Minnesota, commencing at approximately 6:04 p.m.

6

7 HEARING OFFICER: Good evening.
8 Thank you all for coming. It is a little after 6:00, so
9 we will begin.

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

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

25 It is approximately 6:00 p.m. on February
6th, 2013 and we have convened at the GitcheeGumee
Conference Center, US Environmental Protection Agency

1 Mid-Continent Ecology Division, 6201 Congdon Boulevard,
2 Duluth, Minnesota 55804, for a public hearing in the
3 matter entitled, "In the Matter of the Proposed
4 Amendment to and Repeel of Rules Governing Minnesota's
5 List of Endangered, Threatened and Special Concern
6 Species in, Minnesota Rules Chapter 6134, OAH Docket
7 No. 60-2002-30171, and for those of you that might
8 be interested, it is Government Tracking No. 323.

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

17 This hearing is part of the process by
18 which agency rules are adopted under the Minnesota
19 Administrative Procedure Act. The purpose of this
20 hearing is to develop and receive information on three
21 key issues under the act; namely, whether the Department
22 of Natural Resources has: 1), the legal authority to
23 adopt the proposed rules; 2), whether the department has
24 fulfilled all of the relevant legal and procedural
25 requirements in order to promulgate rules; and 3,

1 whether the department has demonstrated that, among
2 the possible alternatives for rule making that were
3 available to the agency, the rules that the agency
4 has proposed are needed and reasonable.

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

16 In order to make sure that we have an
17 accurate record of the number of people attending this
18 hearing, everyone is requested to sign the Hearing
19 Register located on the registration table. And if you
20 wish to speak or submit a written statement today, you
21 must sign the Register. If you do wish to speak, please
22 place a check mark in the appropriate column on the
23 Hearing Register. When you are called upon to speak,
24 please come up and speak from the podium so that I can
25 hear you and ensure that your testimony is recorded.

1 When you begin speaking, please state and spell your
2 name. Then give your address and identify the group or
3 interest you represent, if any.

4 A rule hearing like this one is similar to
5 a legislative hearing or the meetings of a local board.
6 You will have the opportunity to talk and to ask
7 questions of other participants. It is not like a
8 court trial.

9 Any speaker may ask questions of the agency
10 panel and may also be questioned by the agency panel,
11 the Administrative Law Judge, or other persons present
12 at the hearing.

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

22 This hearing is being transcribed by a
23 Court Reporter and it is very important that we obtain
24 an accurate record of this hearing. Therefore, I will
25 ask all speakers to remember the following: It is

1 important that you speak clearly and slowly and loud
2 enough so that we can hear you. All statements must be
3 clearly spoken. For example, the Court Reporter cannot
4 record nods of the head. Please spell all proper names
5 and technical terms the first time they are used. Also,
6 I would ask that only one person speak at a time.

7 I may interrupt a speaker from time to time
8 to ask for a spelling or to remind you of these other
9 points. I hope that you will not take offense. I want
10 to be sure that we have an accurate record of what you
11 are saying.

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

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

22 There will be five public hearings in this
23 matter. After the close of the last hearing on February
24 7th, 2013 you will have twenty calendar days, until
25 Wednesday, February 27th, at 4:30 p.m., and then there

1 will be a five working day rebuttal period on all
2 previously submitted comments, which, again, will be
3 until the close of business on March 6, 2013.

4 That second period is not an opportunity to
5 submit additional comments or evidence. As Minnesota
6 Statute Section 14.15 states: "Additional evidence may
7 not be submitted during the five-day rebuttal period."
8 Additional evidence may not be submitted after the
9 close of the initial comment period. Instead, it is an
10 opportunity for you to review and to respond to comments
11 submitted by the agency or others during the first
12 comment period.

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

22 If you want to obtain a copy of my report,
23 please put your name and address on one of the envelopes
24 at the respective sign-in tables, and we will see that
25 you get notice of when my report is available and you

1 will be informed about how to obtain a copy of the
2 report.

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

7 Are there any questions about the hearing
8 process? If not, we will continue with the agency's
9 presentation.

10 Here tonight with us from the DNR is Rich
11 Baker and Bruce Carlson. Mr. Baker.

12 MR. BAKER: Thank you. My name is
13 Rich Baker, Endangered Species Coordinator for the
14 Department of Natural Resources (DNR), Division of
15 Ecological and Water Resources. The DNR is directed
16 by Subdivision 3 of the state's Endangered Species
17 Statute, and it is Minnesota Statute 84.0895, to adopt
18 rules to designate species of wild animals or plants as
19 Endangered, Threatened or of Special Concern according
20 to the definitions as provided in that statute. The
21 resulting list of Endangered, Threatened and Special
22 Concern Species was first created in 1984, amended in
23 1996, and has remained unchanged since. The list draws
24 attention to species that are at greatest risk of
25 extinction within the state and applies special

1 regulations to those species that are designated as
2 endangered or threatened. By alerting resource managers
3 and the public to species in jeopardy, resource use and
4 management activities can be reviewed and prioritized
5 to help preserve the diversity and abundance of
6 Minnesota's flora and fauna.

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

25 Development of the proposed amendments on

1 which you are commenting today has relied upon the DNR
2 staff's professional judgment to evaluate whether or not
3 a species' status meets the statutory definitions of
4 "endangered," "threatened," or "of special concern."
5 Consideration has been limited to species that are known
6 to reproduce within the state at present, regardless
7 of where within the state the species occurs.

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

25 The DNR has prepared a Statement of Need

1 and Reasonableness that explains the basis for the
2 proposed change in status for each species. As the
3 judge pointed out, copies of the SONAR and proposed
4 rules are available for your review on the table at
5 the back of the hearing room. Also on that table is
6 a sheet on which you may place your name to request
7 that copies of either or both documents be emailed or
8 mailed to you. Alternatively, you can download both
9 copies from the DNR website.

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

17 To review the remaining rule making
18 process, the DNR is holding five hearings throughout
19 the state on these proposed rules. Following these
20 hearings, the public comment period will remain open
21 for 20 days, with the deadline for submission of new
22 information at 4:30 p.m. on Wednesday, February 27th.
23 That will be followed by a five-day rebuttal period,
24 during which the DNR and others can respond in writing
25 to comments and information submitted during the comment

1 period, but during which no new information may be
2 submitted. The rebuttal period will end at 4:30 p.m.
3 on Wednesday, March 6th. After the close of the
4 comment and rebuttal periods, the Administrative Law
5 Judge will have 30 days to complete the hearing report,
6 unless an extension is granted. Following the DNR's
7 receipt of the hearing report, the DNR and the
8 Governor's Office will determine how to proceed with
9 the proposed rules.

10 That concludes the DNR's opening statement.

11 Again, I would like to introduce the DNR staff who are
12 accompanying me here today to hear your comments and
13 answer your questions on the proposed rules. And I am
14 accompanied by NE Regional Plant Ecologist Bruce
15 Carlson.

16 Thank you.

17 HEARING OFFICER: Thank you.

18 MR. BAKER: Judge, I would like to
19 review the exhibits that I have introduced into the
20 hearing record.

21 Exhibit 1 is the Request for Comments
22 as published in the State Register on January 2nd, 2007
23 and the Request for Comments as published in the State
24 Register on January 18th, 2000.

25 Exhibit 2 is the proposed rules,

1 including the Revisor's approval, dated November 16th,
2 2012.

3 Exhibit 3 is the Statement of Need and
4 Reasonableness.

5 Exhibit 4 is a Certificate of mailing
6 the Statement of Need and Reasonableness to the state
7 Legislative Reference Library.

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

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

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

21 Exhibit 8 is the Office of
22 Administrative Hearings' approval of notice plan for
23 Notice of Hearing. It is signed and dated November
24 27th, 2012, and the Department of Natural Resources'
25 request for prior approval of notice plan, signed and

1 dated November 16th, 2012.

2 Exhibit 9 is a certificate showing
3 that the department sent the Notice of Hearing and the
4 Statement of Need and Reasonableness to legislators
5 as required by Minnesota Statutes Section 14.116.

6 Exhibit 10 is a copy of the transmittal
7 letter showing the department sent a copy of the
8 proposed rule changes to the Commissioner of
9 Agricultural in accordance with Minnesota Statutes
10 Section 14.111.

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

13 And Exhibit 12 will be all of the
14 written comments and submissions on the proposed rules
15 received by the agency during the comment period.

16 Thank you.

17 HEARING OFFICER: Thank you. Those
18 exhibits have already been received into the record.

19 The remaining portion of this hearing
20 is for public comment. We will take a short break so
21 that folks have a chance to review the proposed rules
22 and SONAR and to make sure that anyone who wishes to
23 speak has had an opportunity to sign the Register. I
24 will collect the Register and then we will begin the
25 public comments. We will take a short break and then

1 we will proceed with the public comments. Thank you all
2 for coming.

3 (Off the record.)

4 (Whereupon, a short recess was taken.)

5 HEARING OFFICER: Any questions before
6 we begin with the public comments?

7 AUDIENCE MEMBER: (Indicating.)

8 HEARING OFFICER: One. Yes, sir.

9 AUDIENCE MEMBER: Do you want to be
10 addressed by "Judge" or "Your Honor"? How do you want
11 to be addressed, sir?

12 HEARING OFFICER: Either is fine.

13 AUDIENCE MEMBER: Alright. Thank you.

14 HEARING OFFICER: Thank you. Any
15 other questions? If not, we will proceed with the
16 public coments. Alright. It looks like everyone has
17 had a chance to sign the Register and we will proceed
18 with public comments. Again, when you come to the
19 podium, please state and spell your name and give your
20 address and identify any group that you might be
21 representing.

22 Wayne Brandt.

23 MR. BRANDT: Thank you, Your Honor.

24 I am pleased to be here tonight. W-A-Y-N-E

25 B-R-A-N-D-T, 903 Medical Arts Building, Duluth,

1 Minnesota 55802.

2 I am the executive vice-president of
3 the Minnesota Timber Producers Association and the
4 Minnesota Forest Industries. The Minnesota Timber
5 Producers Association members are loggers throughout the
6 state of Minnesota, truckers, small saw mills and allied
7 businesses. We have members engaged in logging and
8 those activities from the Iowa border to the Canadian
9 border, and anyplace in between where those activities
10 occur. We just recently finished our 75th year in
11 existence in 2012.

12 The Minnesota Forest Industry members
13 are primary manufacturers of forest products, so paper
14 mills, engineered wood products manufacturers, larger
15 saw mills, large forest land owners, producers of
16 electricity, from it would be biomass and utility pole
17 manufacturers. So it is kind of a soup to nuts for all
18 things related to forestry and forest products.

19 I think -- I know Tim O'Hara, who is on
20 our staff, will be speaking here shortly. He will cover
21 things in some level of detail and then we will have
22 fairly extensive written comments. We have had a lot
23 of discussions with the DNR and with others over the
24 pendency of this matter over the last 14 years. We
25 would thank you for your extension of the timeline on

1 submitting comments. We appreciate that.

2 It is a little daunting to look at 300
3 species in 30 days and to try and boil them down to
4 what is important. We are obviously most focused on
5 the species in the native forested areas of the state.

6 We take this rule making very
7 seriously. Rules have the force of law in our state
8 and the decisions that are arrived at here have the
9 potential to have significant implications for the
10 species involved for the use and management and our
11 interests of forests and the economic activities that
12 they sustain.

13 Again, the DNR, as Mr. Baker has
14 indicated, has been working on this specific rule making
15 since 1999. When we first looked at, received and
16 looked at the SONAR, I was, frankly, shocked at the
17 brevity of the SONAR. I had expected not a 300-page
18 SONAR, but something on the order of five, ten, fifteen
19 pages, twenty pages a species. So, I was anticipating
20 that we would see a SONAR that would be running some
21 3,000 to 10,000 pages, not some 300 pages. And the
22 reason that I was expecting that was, you know, the
23 requirements in the law to demonstrate distribution in
24 the abundance of species, and the other requirements to
25 do it.

1 It is difficult for us to form an
2 informed opinion about whether or not the proposed rule
3 is appropriate or not appropriate based on what is in
4 the record in the SONAR. And, you know, I don't want to
5 be bashing the agency because they have a very difficult
6 job to do and have been been working for many years with
7 insufficient resources to do the job. But, to have a
8 new listing or a change in the listing status where the
9 SONAR, absent the footnotes, is, you know, a quarter of
10 a page, a paragraph, two paragraphs, makes it difficult
11 for us, well, it makes it impossible for us to say,
12 "Alright, they have arrived at the appropriate decision
13 on this listing for all of these species." So, that's a
14 very importantly thing.

15 We feel that the SONAR fails to meet
16 the Standard for Need and Reasonableness in this
17 instance.

18 We also think that there is some
19 obvious issues, Mr. O'Hara will speak about this, in our
20 written comments we will go into this in a little more
21 length, that probably developed because of the time, the
22 amount of time that the agency worked on this. There
23 are a number of the forested species who are either
24 listed for the first time or their listing status has
25 changed, where there are references to concerns about

1 older forest habitats.

2 The fact of the matter is, as we will
3 introduce into the record, we have more older forests
4 in this state, no matter how you look at that issue,
5 whether it is by species, by acres, by diameter class,
6 by cover type, than we had 30 years ago, 35 years ago,
7 when you compare the 1977 forest inventory data with the
8 2010 forest inventory data. So, you know, we think
9 that's probably an artifact of the length of time that
10 the agency worked on it and changes that have occurred
11 in the amount of forest harvesting over that time.

12 Where there has been a fairly dramatic decrease in
13 timber harvesting in our state, from some 4.2 million
14 cords per year statewide down to 2.6 million cords per
15 year. And there will be documentation on that in our
16 written comments.

17 The final thing that I guess I would
18 like to draw your attention to is that the ramifications
19 of this rule go beyond just this rule. There are the
20 legal requirements regarding management that has to be
21 done for the different statuses of listings or not done.
22 But the state of Minnesota has been a leader in forest
23 certification. The state forest lands are certified
24 under two different programs. And as part of that,
25 some of the certification requirements are that if there

1 is a species that is on one of these lists, that the
2 land owner, the state in this case, will have to survey
3 each site where logging or timber harvesting is going to
4 occur, if there is a potential for one of those listed
5 species to be there.

6 We all know what the state's budget
7 condition is and, quite frankly, in our view, if the
8 SONAR doesn't eventually demonstrate that the proper
9 decision has been arrived at with listings, the state
10 will have to go out and survey each individual site
11 before ground disturbing activities. This will have
12 a very significant impact on the amount of timber
13 harvesting and forest management that can be done in
14 the state, which then, in turn, can have a significant
15 impact on the economic activities that we are engaged
16 in, which are, you know, vitally important for many
17 regions of the state.

18 So, we appreciate you being here, being
19 out around the state, and thank you for your time.

20 HEARING OFFICER: Thank you very much.

21 MR. BAKER: Thank you.

22 AUDIENCE MEMBER: Can you make it a
23 little louder; that microphone?

24 MR. BAKER: Please, in the back, if you
25 can't hear, kind of maybe do one of these (indicating),

1 and I will respond.

2 HEARING OFFICER: Tim O'Hara.

3 MR. O'HARA: Thank you, Your Honor. I
4 would like to thank you, Your Honor, as Wayne said, for
5 traveling up here and visiting with us in Duluth,
6 Minnesota today.

7 I am Tim O'Hara. That is spelled
8 O, apostrophe, H-A-R-A. I am the vice-president of
9 forest policy with Minnesota Forest Industries,
10 324 West Superior Street, Suite 903, Duluth, Minnesota
11 55802.

12 Your Honor, I have written comments as
13 well as my testimony to submit today.

14 HEARING OFFICER: Very good.

15 MR. O'HARA: Would you like me to hand
16 them to you now or later? Would you like me to hand
17 them to you now?

18 (Off the record.)

19 HEARING OFFICER: They will be marked
20 as Exhibit 15 and submitted into the record. If you
21 would just kindly hand them to the Court Reporter when
22 you are done.

23 MR. O'HARA: Alright. Thank you.

24 (Hearing Exhibit 15 marked for
25 identification.)

1 MR. O'HARA: They will support some
2 of the statements that I am going to be making in my
3 testimony. Speaking of, as Wayne said --

4 HEARING OFFICER: Excuse me, is there a
5 title to that document?

6 MR. O'HARA: Yes. It is a long title,
7 but it is "Minnesota Forest Industries Prepared
8 Testimony and Technical Comments Statement of Need and
9 Reasonableness in the Matter of Proposed Amendment to
10 and Repeal of Rules Governing Minnesota's List of
11 Endangered, Threatened and Special Concern Species of
12 Minnesota."

13 HEARING OFFICER: Serves me right for
14 asking. (Laughter from audience.)

15 MR. O'HARA: Can't make that stuff up.

16 HEARING OFFICER: Alright. Please
17 proceed.

18 MR. O'HARA: Thank you. As Wayne had
19 mentioned, Minnesota Forest Industries is a trade
20 association that represents forest companies here in
21 Minnesota. We have members down in New Brighton, all
22 of the way up to Grand Marais, Minnesota, across
23 International Falls and many cities in between. The
24 forest products industry is a nine million dollar
25 economy and we employ 30,000 people, and if you look

1 at the induced and indirect spending of the forest
2 products industry, it's another 30,000 jobs, and the
3 total economic impact is 16 million dollars.

4 Obviously, we make products from trees,
5 and we harvest the trees from the forest and we want our
6 forests to be well managed. Loggers in Minnesota, land
7 managers, the forest product industry has shown this
8 commitment to managing the forest. We are leaders in
9 developing comprehensive forest management guidelines
10 and many of these guidelines address many wildlife
11 species during the timber harvest.

12 MFI members are participants in one or
13 more of the forest certification programs, and simply, a
14 forest certification program just shows your commitment
15 to managing the forest family. If you are a participant
16 in these programs, you are audited by a third-party,
17 and those audits show the public and the customers of
18 the forest product industry that the forests are being
19 well managed and the products that you get from the
20 forest products and paper and wood you buy are coming
21 from forests that are being managed in a sustainable
22 manner.

23 The forest products industry in the
24 United States and in Minnesota has experienced one of
25 the most significant economic downturns in history.

1 In Minnesota alone we have lost wood product facilities
2 in Cook, Grand Rapids, Bemidji, Duluth, Deerwood and
3 Sartell. Thousands of jobs were lost or negatively
4 impacted through these mill closures. We have seen the
5 impacts of -- the negative impact that the listing of
6 a species can have on the forest products industry.
7 Probably the most recognizable of these is the spotted
8 owl up in the pacific northwest. The listing of the
9 spotted owl resulted in the loss of tens of thousands
10 of jobs and that it forced many forest product companies
11 out of business in the pacific northwest.

12 We are finding out now that other
13 factors, such as competition from the Boreal (phonetic)
14 owl, have contributed to the spotted owl's decline.
15 And that some forest guidelines (phonetic) and active
16 forest management can help ensure that the spotted owl
17 habitat remains. Unfortunately, this research is too
18 late to save the thousands of jobs that were lost.

19 I bring this point up simply because
20 the state must have -- must be certain that a species
21 requires protection and the DNR must provide sufficient
22 scientific data and information to support a listing of
23 the species. The DNR has proposed 302 changes to the
24 Minnesota Endangered, Threatened and Special Concerns
25 Species list. So information supporting these changes,

1 individual changes is less than one page per species.

2 One page per species for a listing.

3 Although the SONAR provides background
4 information for these species, it identifies some issues
5 of management interests and lists potential threats,
6 the SONAR does not adequately describe the magnitude
7 of threats and uncertainties associated with them.

8 As I mentioned previously, the forest
9 products industry has experienced some tough economic
10 times. Along with that, we are harvesting 40 percent
11 less volume in this state, and as a general term, we
12 are harvesting 40 percent less acres in this state.

13 The SONAR identifies for listing many
14 species due to the loss of mature forest habitat,
15 including the Goshawk, Boreal owl, Goblin fern, and
16 numerous plant species. The DNR failed to update
17 the SONAR to take into account the impact of forest
18 conditions due to significantly less timber harvesting
19 occurring in the state. The premise for listing several
20 species is the claim, that the SONAR -- that the SONAR
21 states, was losing mature forest lands. In fact, the
22 opposite is true. Recent changes in the old forest
23 policy direction by the Minnesota DNR and data derived
24 from Minnesota's Forced Inventory Assessment simply does
25 not support the claim that Minnesota is losing older

1 forest. On December 12th, 2012, the DNR eliminated
2 a policy designed to create old forest habitat. This
3 was because the DNR recognized that at current harvest
4 levels, Minnesota's forests will continue to become
5 older at a rapid pace. Minnesota's harvest rate has
6 declined by more than 40 percent in the last five years.
7 Current harvest rate is 25 percent of annual forest
8 growth. At this rate Minnesota's harvest of timberlands
9 will continue to get older. It also estimates that the
10 current harvest levels of old forest acres will double
11 in 15 years and young forest habitats will decrease by
12 25 percent in 20 years. All forest types continue to
13 get older, including upland forest types. The SONAR
14 claims that we are losing old forest land and these
15 upland forest types is justification for listing the
16 Goshawk and the Goblin fern. The loss of old Aspen
17 trees was cited in the SONAR for reasons to list the
18 Boreal owl and the Goshawk. And yet Minnesota's forest
19 inventory data confirms that we are accumulating larger
20 older Aspen trees on Minnesota's timberland. The data
21 shows the amount of old Aspen trees in Minnesota has
22 quadrupled since 1977.

23 Isolation of mature lowline conifers
24 (phonetic) is stated in the SONAR as justification to
25 list the Boreal owl. Analysis of lowline conifers

1 administered by the Minnesota Department of Natural
2 Resources and the Forest Service show that 75 percent of
3 the lowline connivers (phonetic) within the Boreal owl
4 breeding range are greater than 60 years of age.
5 Statewide forest inventory also shows that mature
6 lowline black spruce, preferred roosting habitat for
7 Boreal owl, has tripled since 1977, and preferred
8 nesting areas has doubled since 1977.

9 Again, the data simply does not support
10 the claims made in the SONAR.

11 The SONAR also proposed that numerous
12 forest associated plant species be added to the list of
13 protection. MFI consulted the Nature Serve database to
14 determine the status of these species. Nature Serve is
15 a leading source of information about rare and
16 endangered species in the U.S. and globally.

17 MFI had time to review eleven of these
18 species. Eight of those species were ranked by Nature
19 Serve as a G-5 rating, which means they are very low
20 risk of extinction; two species have a G-4 rating, which
21 means secure and a fairly low risk of extinction; and
22 one species was not even ranked by Nature Serve.

23 The SONAR has several species or
24 several species lacked any data to show population
25 trends or justification for listing. At current harvest

1 levels the amount of young forest land in Minnesota will
2 be reduced by 25 percent in the next 20 years. Young
3 forests provide a critical habitat for economic
4 important species, like the rough grouse, white-tail
5 deer and the moose. Young forests also provide critical
6 habitat for the golden wing warbler. This species,
7 which requires young forest habitat, is currently being
8 reviewed by the Fish & Wildlife Service to include on
9 the federal listing. We proposed that the Golden Wing
10 warbler be added to the Endangered Species list back in
11 2008. Of the 302 changes recommended in the SONAR, the
12 Golden Wing warbler is not one of them.

13 I ask that you consider our comments
14 presented here and the written comments that we will be
15 submitting.

16 In summary, we don't believe the data
17 presented by the DNR justifies listing the many forest
18 species, including the Goshawk, Boreal owl, Goblin fern
19 and numerous plant species. Again, thank you for your
20 time.

21 HEARING OFFICER: Thank you for your
22 time.

23 MR. BAKER: Thank you.

24 MR. O'HARA: Thanks.

25 HEARING OFFICER: Gary Erickson.

1 MR. ERICKSON: Good evening. My name
2 is Gary Erickson, E-R-I-C-K-S-O-N. I am the head
3 forester for Satin Pine Paper (phonetic) located in
4 Cloquet, Minnesota. My address is 20 North 22nd Street,
5 Cloquet, Minnesota 55720.

6 I happen to be a graduate of the
7 University of Minnesota College of Forestry and have got
8 about 30 years of experience in the woods. Spent a lot
9 of time out west, but have been back in Minnesota now
10 for six or seven years. And I kind of get a sense of
11 deja vu all over again, coming back to Minnesota.

12 I experienced some of the endangered
13 species issues out west, personally out in Washington,
14 Colorado and Wyoming, and so I see some of these same
15 types of concerns from my perspective with these
16 proposed listings.

17 Just for your information, Satin Fine
18 Paper (phonetic) is a potent paper mill. We are
19 probably the second or third largest customer for the
20 Minnesota DNR, timber here in the state. We are
21 probably some of the best and lowest cost tools that
22 land managers have to manage their forests and
23 ecosystems.

24 I would say that I believe that we are
25 one of the class of persons affected by the proposed

1 rule making as noted on the SONAR, Page 5. I believe we
2 clearly meet that definition. And as members of MFI,
3 we have participated in commenting earlier in the
4 process on the proposed listings.

5 As Mr. O'Hara and Mr. Brandt noted
6 earlier, the SONAR generally provides really limited
7 background information to support the proposed listings
8 of each species. And, you know, there is the SONAR
9 implies that, you know, some species are in decline, but
10 it really does fail to provide any specific data that we
11 can take a look at. You know, looking through some of
12 these citations, for the research papers that they
13 worked with, a lot of those counter what the claims are,
14 as far as old age class Aspen.

15 My experience out on the ground, my
16 forester experience is we are getting more and more old
17 age Aspen all of the time. All of the inventory data
18 shows that. And so that when the basis for suggesting
19 that the Goshawk or the Boreal owl or the Goblin fern
20 should be added to the list based on less old age class
21 Aspen, I think there is plenty of firm evidence counter
22 to that, both out in the woods and in the data that
23 Mr. O'Hara presented.

24 Since the inventory and the harvest
25 data in the Minnesota DNR policy that Mr. O'Hara noted,

1 all show an increase in amounts of older, bigger Aspen,
2 and the justification used in the species data sheets
3 told us that the northern Goshawk and Boreal owl are
4 just not credible and the proposed listing of those
5 species should be rejected.

6 As part of the public input process MFI
7 did recommend for consideration the Golden Wing warbler.
8 I know we had an opportunity to meet with Mr. Baker and
9 asked him why that wasn't listed. There really wasn't
10 any public data or other specific information given.
11 And based on the fact that that species is proposed for
12 listing at the federal level, there is concern about it
13 as being a viable species in North America, that it
14 ought to be strongly considered for inclusion on the
15 listing of species, at least as a species of or a
16 special concern species.

17 I appreciate the opportunity to provide
18 comments. Thank you very much.

19 HEARING OFFICER: Thank you.

20 MR. BAKER: Thank you.

21 HEARING OFFICER: David Holmbeck.

22 MR. HOLMBECK: Thank, Your Honor.

23 My name is David Holmbeck. Last name is spelled

24 H-O-L-M-B-E-C-K. I am here representing myself.

25 And, Your Honor, I have some exhibits to share with you.

1 I will walk through them as quickly as possible.

2 I have highlighted those parts of the
3 exhibit that need attention by you at a later time, but
4 I would like to walk through them.

5 Can I approach your bench, please, sir?

6 HEARING OFFICER: Please.

7 MR. HOLMBECK: In addition, sir, I
8 saved this sample of mare's tail; not horse tail. It is
9 starting to melt, but you get an idea of what it looks
10 like.

11 HEARING OFFICER: Very good.

12 MR. HOLMBECK: Thank you.

13 HEARING OFFICER: Thank you. There
14 will be 13 exhibits, so we will do them sequentially,
15 starting with 16.

16 (Hearing Exhibits 16 through 28 marked
17 for identification.)

18 MR. HOLMBECK: All of those exhibits
19 are individually marked, sir, as I go through my
20 outline.

21 HEARING OFFICER: Very good.

22 MR. HOLMBECK: My name is a David
23 Holmbeck. I am a retired DNR employee and I worked 37
24 years for the Minnesota DNR, primarily out of Grand
25 Rapids. The first 13 years of my career I was an

1 assistant area fishery manager at Grand Rapids, which
2 included parts of Cass, St. Louis and Itasca Counties.
3 Part of my job included doing lake surveys. Besides
4 fish assessments and water chemistry, I also did aquatic
5 plant surveys on those lakes, and once in a while we
6 would come across what I called at the time rare plants.
7 I worked in the seventies at that time. I made note of
8 that. But that was a major part of my job to do surveys
9 of aquatic plants on lakes.

10 I was promoted to area fishery
11 supervisor at Grand Rapids for ten years. And what I
12 want to highlight at that point is that I literally
13 issued permits to kill or mechanically control or kill
14 aquatic plants, provided they were not protected. And
15 it was not unusual to apply chemicals, in particular
16 copper sulfate, which I have here. Especially for the
17 treatment of snails, leeches and kera (phonetic), which
18 is an algae. It grows on the bottom of a lake like a
19 carpet, but it is an algae. It doesn't have roots.
20 So, basically it grows overnight. And it takes up the
21 nutrients on the water and can lay a carpet on the
22 beach. And the property owners have, sir, by statutory
23 authority, with permission of the DNR, to apply
24 chemicals to control it, if it is leeches, snails or
25 swimmers itch, or in that case, kera (phonetic).

1 Prior to retiring in 2008, I worked 14
2 years as a regional environmental ecologist. And that
3 job concluded writing comment letters, collaboratively
4 with other DNR staff, and working with the Natural
5 Heritage staff, primarily in St. Paul. And always
6 basically what that would entail at the ENAW, when a
7 project starts, the first contact person was the Natural
8 Heritage people in St. Paul. The location of the
9 projects, and those people have a print out of what
10 plants are listed as either threatened, endangered or of
11 Special Concern. That letter goes to the applicant, to
12 the project's proposer, so they are given a list of
13 those rare features. A copy of that letter always went
14 to me at the Grand Rapids headquarters. So I knew that
15 the project proposer knew what plants or animals or
16 spiders or mollusks were at risk or rare, and so I would
17 work not only with the project proposer, but also with
18 the Natural Heritage staff.

19 So that's how it is supposed to work.
20 And I worked with Rick and Bruce and others. They are
21 very fine people. And I think that this is a good
22 process. I know there is diverse opinion, but overall
23 we live in a democracy and we are going to have these
24 diverse opinions. But my story tonight, sir, is not
25 about the normal protocol, it is about doing an end run

1 on this process. And that is -- that's my story. And I
2 will try to go through this as quickly as I can, sir.

3 The project is a Living Word Bible Camp
4 on Deer Lake, Itasca County. The applicant bought some
5 land in 2000 on Deer Lake. Since that time there has
6 been 15 lawsuits. He has not had any permits because of
7 opposition primarily on the lake. They have taken the
8 applicant to court. There was originally there was no
9 requirement of the EAW (phonetic), but by petition and
10 through the court process, the EAW (phonetic) was done.
11 However, that resulted in an EIS, and that went back to
12 court just this year. I referenced that in my outline,
13 sir. I won't spend a whole lot of time with it. But
14 they still don't have their permits. They still need to
15 do another EAW (phonetic). So it has been about twelve
16 years. A long and lengthy litigation process.

17 The Exhibit A, sir, and I have
18 highlighted that here, is a letter sent from the Natural
19 Heritage staff to the applicant. Originally the
20 applicant was told that they needed to do an EAW, so
21 they began to do that process. So step one was to
22 contact the staff in St. Paul. This is our project.
23 Look for rare features that are within a one-mile radius
24 of that, and this is the printout that they got. It was
25 essentially there was no direct impact of those rare

1 features by this project. The copy of the letter was
2 sent to the regional ecologist. Now, I had retired, so
3 this is my replacement here. And he is referenced here
4 in this letter. He was aware of those rare features
5 near that project site.

6 Exhibit B is the EAW that was prepared
7 by the applicant in 2008. The county, however, a year
8 later, decided that we are not going to let the
9 applicant do their EAW. We are going to hire our own
10 consultant and we will do the EAW. So Exhibit B was the
11 work that was done by the applicant. Exhibit C was a
12 draft EAW by the consulting firm, sent faxed to the
13 applicant. And it also highlights in there, what I
14 tried to highlight is reference to the rare plant
15 features.

16 Exhibit D, I got to remember my outline
17 here. Exhibit D is a final EAW prepared by the
18 consulting firm, sent to EQB, and then distributed to
19 the various interested parties, the BCA (phonetic) and
20 the DNR. In that letter, in that EAW is a letter
21 written from the Natural Heritage group to the
22 consultant. And so what the consultant did, and this
23 is alright, he contacted the Natural Heritage and said
24 "Well, I've taken over and I want a new printout of
25 those rare features at that project site."

1 In addition, a copy of the DNR, that
2 Natural Heritage group letter, went to the regional
3 ecologist in Grand Rapids. So he got two letters within
4 a year's period indicating what plants and animals were
5 at risk potentially with that project.

6 Exhibit E, it is a letter written from
7 a University of Minnesota professor who is a plant
8 ecologist. She is an extension, University of Minnesota
9 extension professor. And basically she says this, I am
10 only highlighting, she said two things that I want to
11 point out to you, sir": "Mare's tail," she indicates
12 that it is not listed. However, she goes on to say, "it
13 is only when a 15 -- 51 known mare's tail populations in
14 Minnesota," she cites O&B in Morley, 1991, "therefore,
15 very rare." Now she is a respected professor. Also,
16 people that review the EAWs are lay people. They are
17 county commissioners, they are not biologists. And, so,
18 in my opinion this is a red flag. She calls mare's tail
19 rare. Is it rare? It is not listed. It is not even
20 on the 114 species of plants that are to be listed. In
21 addition, she mentions kera (phonetic). Kera, extremely
22 sensitive to disturbance by canoe paddles. Now, this,
23 the camp, there is going to be a lot of canoes,
24 kayakers, no more ice vehicles, except for
25 administrative use, sir, but she points out this, shown

1 here, is very sensitive to canoe paddles. Well, it
2 doesn't have a root system. It is an algae. It can't
3 be swept up by a paddle. But because it is an algae,
4 it reproduces asexually, and it is vegetated by red
5 spores or broken pieces, and it's there the next day or
6 days later. It doesn't really die. It is a nuisance.
7 And when I issued permits for the control of kera
8 (phonetic), I issued those liberally, like most fishery
9 managers did. People would come in and, "My kids can't
10 swim", or "They don't like to walk on this material."
11 They are getting leeches,"or "swimmers itch." So, I
12 liberally issued permits for copper sulfate, which kills
13 all three; snails, leeches, and kera (phonetic).

14 Exhibit F is a letter from the regional
15 environmental ecologist, the same person who got the two
16 letters from the Natural Heritage group in St. Paul.

17 On Page 9, and I have highlighted that,
18 sir, "An aquatic plant survey was conducted on Deer Lake
19 in 2008. The shallow base surrounding Ash Island, which
20 I will have a map later, which incidentally is almost a
21 stone's throw from this Bible Camp proposed, has a rich
22 diversity of aquatic plants. The biggest home to an
23 unusual native plant, aquatic plant species, mare's
24 tail, found nowhere else in the lake."

25 Sir, when I did lake surveys, 30 years ago,

1 and I think Bruce would attest to that, when you find
2 one plant, there is probably going to be another plant
3 somewhere else. So I, being a biologist, very curious,
4 I am going to find out about that.

5 Before I get into my actual search,
6 Exhibit G I have is the location of Ash Island,
7 referenced in the DNR comments letters, on this map, and
8 you will have a copy of that, including this one here,
9 it is probably the most important one, it includes Ash
10 Island (indicating), which is outlined in yellow. Those
11 are publicly owned islands, and AMA, Aquatic Management
12 area, WMA, Wildlife Management Area, and then the land
13 parcels outlined in white. Those are The Living Word
14 Bible Camp properties proposed for the building of this
15 camp, in very close proximity.

16 Exhibit H is the findings of fact
17 prepared by the consultant, who knew, he, himself, got a
18 letter from the state indicating what plants were rare.
19 In his exhibit prepared for the county commissioners to
20 vote on, as there are going to be significant impacts
21 here -- and by the way, they did. I don't know if I
22 told you that, but they did vote, yes, there is
23 significant impacts here. This camp needs to be on
24 the list.

25 References the plant ecologist, "The

1 same bay where this project is contains algae beds
2 extremely sensitive to disturbance even by a single
3 paddle stroke." And it is also referenced here again.
4 In addition, however, I included my 19-page comment
5 letter, which was 180 degrees opposite of much of what
6 the DNR said and this plant ecologist. I cited my
7 experience issuing permits for chemicals, mechanical
8 control of aquatic plants. None of that was recognized
9 by this consultant, sir.

10 Exhibit I, so after reading the DNR
11 comment letters, it's found nowhere else in the lake, I
12 put on a pair of shorts and some beach shoes and I went
13 looking for this plant. For two days, a couple hours
14 each day, and I found it, sir. I found it not just
15 where the DNR said it was only found, near this island,
16 but I found it, and this was not an extensive search,
17 sir, all I have to prove is that it was not near that
18 project site. Because that's what the DNR said. I
19 found two locations indicated by GPS point. One was
20 about a half mile away from the site and the other one
21 was about a quarter of a mile away. And that was, I
22 would say, a very cursory anecdotal survey. It was not
23 exhaustive. I'm not saying it was. But clearly, it is
24 not rare, and it is not just near that Ash Island, which
25 is closer to the project site. Well, it's insensitive.

1 I've probably run across mare's tail, honestly, maybe
2 three or four times in my career. It is not abundant,
3 but I've seen it. It has to have very clear water. But
4 you came from Bemidji this morning, sir, I think you
5 did. That was your last meeting. And you pass on
6 Highway 2, just coming in to Deer River, before Deer
7 River, remember Ball Club Lake, that Big Lake on your
8 left? Well, 30 years ago I ran into mare's tail. And
9 you remember these things. And I said, "Well, where was
10 it?" It was on the south side of the lake. So I went,
11 sir, right to where the public landing is. There is a
12 picture of the public landing. And I had my GPS points
13 indicated here (indicating). Right in front of the
14 public landing is a lush growth of mare's tail. And it
15 is still there. The access isn't used a lot, but it
16 is still used and it is not, in my opinion, it is not
17 sensitive to all of this disturbance that is alleged by
18 the DNR and the plant ecologists. I am not saying any
19 kind of plant isn't affected by some disturbance, but I
20 think that they exaggerated, No. 1, the risk of that
21 plant to some disturbance, especially as they reference
22 it close to the project site. And here is a close-up
23 picture in that there (indicating).

24 I have got three more exhibits and then
25 we will close this.

1 Exhibit K is public notice of Dixon
2 Lake, AMA, and also a conservation volunteer publication
3 about an AMA next to a YMCA camp, which is a secular
4 camp. Living near a Bible Camp, which is a Christian
5 camp. Still the same thing. Where kids canoe, they
6 swim, and those kinds of things. And the article says,
7 in my opinion, that these two things co-exist very well.
8 The existence of the camp, the outdoor program, and this
9 AMA, aquatic management area.

10 And yet, when you read the DNR comment
11 letter, and it is there in the comments by this plant
12 ecologist, and the comments in the findings of fact
13 prepared by the consultant hired by the county to
14 evaluate, present these facts to the county so the board
15 can make a rational decision, it is clearly scewed
16 against that Bible Camp I allege.

17 HEARING OFFICER: Mr. Holmbeck --

18 MR. HOLMBECK: Yes.

19 HEARING OFFICER: You are obviously
20 passionate about this.

21 MR. HOLMBECK: Yes. Thank you, sir.

22 HEARING OFFICER: But it sounds like
23 you are talking about a very specific piece of
24 litigation, and I know that there are impacts, but it
25 will be more helpful for me if you tied it into what I

1 need to decide.

2 MR. HOLMBECK: Right. I got two
3 eExhibits and I'm going to do that, Your Honor.

4 HEARING OFFICER: Thank you.

5 MR. HOLMBECK: I am going to try to do
6 that. Yes, I am.

7 Exhibit L, the Isaac Walton League
8 has their annual Board of Directors Meeting at the
9 Deportage (phonetic) Conservation Reserve. And for
10 nighttime activity they have canoeing. And, of course,
11 kids are shown there. But yet this was an area of
12 concern by the DNR staff out of Grand Rapids. And
13 again, these people I think are professionals. They are
14 the ones that are passionate. I appreciate what Bruce
15 and Richard do, and others, Welby Smith, Darin Myric
16 (phonetic), good people, but yet, there is some DNR
17 staff that I feel have fallen out of rank, sir, and they
18 shouldn't have done that. That's what I'm alleging.

19 Anyways, these exhibits, the Isaac
20 Walton League exhibits, are they promoting canoeing or
21 kayaking at an executive camp? Here in fact is a
22 picture of several water skiers on this large
23 water-skiing boat on Deer Lake. And you can imagine
24 the wake from this boat alone. But that's.

25 Finally, Exhibit M. And it is guidance

1 set by the DNR for the application of chemicals to
2 control aquatic herbicides. And I have highlighted
3 copper sulfate for kera, snails and leeches, which is
4 swimmers itch; the snails are. And on the guidance, it
5 says that if a plant is listed as rare, endangered or
6 threatened, then we, as managers, we cannot issue a
7 permit. We ask the person that had come in, "What do
8 you got there?" "Well, it looks like this." We try to
9 guide them through and find out what kind of plant it
10 was and prescribe the correct kind of chemical or
11 mechanical control.

12 But, anyway, the guidance by the DNR
13 allows for riparian control of vegetation, when it
14 becomes a nuisance to the land owner. But if it is a
15 protected plant, no, you can't do that. A picture of
16 kera. Here is a fact sheet by the University of
17 Minnesota Extension Service, the same organization
18 that is -- where the professor worked. And it talks
19 about swimmer's itch control, which is the snail, the
20 life cycle of a snail gets into the skin when kids are
21 swimming and it starts to itch. And in the fact sheet
22 it talks about how do you control that. It says, "Well,
23 copper sulphate works, but it will kill fish, so get a
24 permit from the DNR."

25 So I'm a little -- I think there are

1 some inconsistencies, sir, between what this professor
2 said her concern was, I would say an inordinate concern
3 for kera algae control over by a canoe paddle, and the
4 University of Minnesota Extension Service is at least
5 informing people, "Hey, you can use copper sulfate and
6 that same chemical will kill kera, a paddle will not."
7 Okay. I think I'm almost doesn't here.

8 I think I will just close that.
9 So what's the take home message, sir, that I want you to
10 know about? I think one of the three points, and I wish
11 I had written that down, was is this needful; this
12 process? It is very needful. Because I think people
13 like Richard and Bruce and Welby and Lethanial, or the
14 people that have worked on this for years, they are
15 passionate, but yet they are fair. They want to make
16 this a fair process. And the process shouldn't allow
17 for an end run.

18 Now, I mentioned the lawsuits, and only
19 that if you take the time, some of the -- some of the
20 delay has been environmental review. They can't get the
21 permits because they either can't get the CUP permit or
22 the EAW. Of course you need a permit, you have to have
23 a completed EAW if you ask for the permit. So there has
24 been a lot of what I would call delayed tactics.

25 So, I think my presentation, I have

1 gone in about a rabbit trail, but I think it is very
2 germane to this process, sir. That in order to respect
3 the process, keep it valid, legitimate, we need to
4 follow it. And when DNR staff knowingly, they had a
5 list of rare plants there, so that should have been
6 clear. Furthermore, the consultant who himself got two
7 letters, was made aware of those plants, if they were
8 rare, should have right away nixed this.

9 Thank you, sir. Unless you have any
10 more questions?

11 HEARING OFFICER: No. Thank you very
12 much. The exhibits will be received and marked as
13 Exhibits 16 to 28.

14 MR. HOLMBECK: Would you like to keep
15 that, sir?

16 HEARING OFFICER: No. If you would be
17 kind enough to take that back.

18 MR. HOLMBECK: Thank you. I will put it
19 back in my freezer. Thank you. Thank you, Your Honor.

20 HEARING OFFICER: There you go. Our
21 Court Reporter needs a break. We will break for five
22 minutes.

23 (Off the record.)

24 (Whereupon, a short recess was taken.)

25 HEARING OFFICER: Okay. Let's resume

1 with Mr. Mike Houser.

2 MR. HOUSER: Good evening.

3 HEARING OFFICER: Good evening.

4 MR. HOUSER: Thank you for the

5 opportunity to comment. Mike Houser, M-I-K-E

6 H-O-U-S-E-R. 105 Arch Street, Cloquet, 55720.

7 Again, good evening. Thank you for

8 making a safe trip up here in this kind of weather.

9 Again. My name is Mike Houser and I

10 manage the Wildlife and Environmental Certification

11 Programs for Potlatch. The Potlatch corporation owns

12 about 200,000 acres in Minnesota, about 1 1/2 million

13 acres nationwide. We are also FSC certified;

14 third-party certified. Tim O'Hara mentioned what the

15 certification is earlier.

16 And FSC specifically is an

17 internationally recognized forest certification

18 organization. And being certified simply means that we

19 have voluntarily committed to sustainably managing our

20 forest land to ethics and principles, and by doing so,

21 we willingly invite auditors to come onto our property

22 to ensure that we actually do what we say we are going

23 to do.

24 So in addition to following the

25 Minnesota state regulations of the Endangered Species

1 Act, we also have to manage rare and sensitive species
2 for certification. However, unlike the law where
3 threatened and endangered species have legal
4 jurisdiction, the certification, special concern species
5 are also important, and we also have to show due
6 diligence that we are taking them into consideration in
7 our land management.

8 Therefore, Potlatch is very interested
9 in ensuring that the basis and evidence for listing
10 Endangered, Threatened and Special Concern species is
11 based on quantitative data and that the Minnesota DNR
12 has indeed exercised due diligence in that process.

13 Now, I would also like to mention that
14 I'm a certified wildlife biologist through (inaudible),
15 which is a professional organization of wildlife
16 biologists in the world.

17 Last summer, August 10th, the SONAR
18 document was produced by the DNR. And in that document
19 they proposed the changes to the regulatory status of
20 302 species. And for each of those species the document
21 provided at most one page, perhaps less in many cases.
22 A summary of its current status of the species, the
23 proposed status, the basis for the proposed change, and
24 Minnesota status and references. Now, tonight I would
25 like to highlight two main points.

1 First of all, recognizing the very
2 large task and responsibility of the DNR in developing
3 this document, I don't believe they have fulfilled their
4 responsibility in providing justifiable and quantitative
5 evidence to support many of the species in the SONAR
6 document. And I will use a couple of examples to
7 illustrate my concern.

8 And No. 2, it is often assumed that
9 listing species, even those of which we have very little
10 data, is the safest way to ensure their protection and
11 ongoing population viability. I submit that that might
12 be true on government owned land, but even in Minnesota,
13 a state with a significant amount of county, state and
14 federal ownership, approximately 75 percent of land
15 ownership is in the hands of private individuals and
16 corporations. That being the case, one of the surest
17 ways to create animosity and frustration by land owners
18 towards species is to load that legal list with species
19 that of which we have very little data or no data that
20 we will put on the list just to be safe. That does not
21 benefit the species, and in fact, in the long term it
22 might actually cause more harm than good. This is
23 obviously an unintended consequence of the listing
24 process, but one that has been clearly demonstrated
25 throughout the United States and it should be considered

1 in the context of my previous concern about quantitative
2 data, as well as under the need and reasonableness
3 requirement.

4 Now regarding the SONAR document. It
5 does provide some background information for those
6 species, but it generally does not sufficiently describe
7 the magnitude of threats or uncertainties associated
8 with them. Now for illustrative purposes, I would like
9 to cite a couple of examples.

10 The loss of mature forests is provided
11 for the basis of concern for a number of species,
12 particularly the Goshawk and Boreal owl, as well as a
13 number of plants species. On Page 31 of the SONAR, for
14 the Goshawk, it states, "The availability of large
15 patches of mature forest preferred by the species is in
16 decline regionally due to fragmented land ownership, as
17 well as fragmentation of historically large contiguous
18 land resulting from past and current forest management
19 practices. Harvest plants for public lands in Minnesota
20 would suggest a decrease in the old Aspens utilized by
21 (inaudible)." And one page later for the Boreal owl,
22 Page 32 of the SONAR, it states that, "Cavity nesting
23 birds, like the Boreal owl, require trees old enough to
24 support the development of heart rod (phonetic) and the
25 subsequent creation of a suitably sized cabin

1 (phonetic). However, the Aspen on most forest lands in
2 Minnesota are currently being managed at a rotation of
3 less than 60 years. The continued demand for Aspen
4 fiber indicates that a gap in availability of trees
5 sufficiently large for cavity development will occur in
6 the coming decades and will limit the availability of
7 nest sites for the Boreal owl." And it goes on to end
8 by stating, "Lowline conniver stands that are used by
9 this species for roosting and foraging are also being
10 reduced in size and are increasingly isolated from each
11 other."

12 Now, these are just two examples, but
13 they are used, the idea of the lack of older forest is
14 used a number of times throughout for many other
15 species. However, in July of 2012, the DNR published a
16 report based on their own review of forests in
17 Minnesota. And all of these references I am going to
18 save, because I will provide you with that in the
19 written comments, and I will have figures and citations
20 and everything. That report, entitled CRF, Center
21 Rotation Forest Policy, a policy review and
22 recommendations, which is also available on the DNR
23 website, clearly indicates that Minnesota forests are
24 growing older, not younger. This report was a
25 collaborative effort on the part of DNR, Ecological and

1 Water Services, Wildlife and Forestry. The original
2 policy was implemented in 1994 due to concern at that
3 time of increasing harvest and expanding mills. With --
4 with those increasing harvests and expanding mills, an
5 expected decline in forest age structure.

6 However, due to significantly declining
7 harvest, forest harvests and mill closures, the 2012
8 report accurately recognizes that the average age in
9 Minnesota actually is increasing. And in addition, the
10 report noted that the Minnesota DNR, and I will submit
11 that arguably all of the agencies in Minnesota and the
12 larger forest timberland owners, are implementing site
13 level guidelines for wildlife and other biodiversity
14 concerns that provide for older forest structure.

15 The report also concluded that no
16 foreseeable increase in the timber harvest is expected.
17 The DNR then followed up that July publication with a
18 December 12, 2012 letter to DNR staff involved in course
19 management, as well as a December 17th, 2012 to
20 interested stakeholders explaining that the old forest
21 policy was changing due to the above reasons. It is
22 very clear from these examples that within the DNR it
23 was understood that Minnesota's forests are not getting
24 younger, but rather getting older.

25 Now, as a wildlife biologist, I fully

1 understand that in addition to the age of the forest,
2 patch size, location and forest regulation (phonetic)
3 are important factors to consider in population and
4 decreased viability.

5 However, using one of those examples,
6 the Goshawk, Potlatch was a very active partner in the
7 Goshawk research that was completed in the state of
8 Minnesota and was referenced in this SONAR document,
9 pull that out (phonetic) 2005. Now, prior to the
10 research in the late 1990's and early 2000's very little
11 was known about the Goshawks in the State of Minnesota.
12 In fact, that's was the very reason why all of these
13 partners got together to find some more information, so
14 that they could quantitatively answer these tough
15 questions. Now, once we started looking for Goshawks,
16 we found them. We also concluded that although they are
17 found throughout the forests of the State of Minnesota,
18 they are not necessarily common. That does not mean,
19 however, that there is a threat to their continued
20 population viability. And the fact that the Goshawk
21 does indeed nest in the older forest, does not mean that
22 the entirety of the range needs to be in that older age
23 class. In fact, a separate Goshawk study in Minnesota,
24 Smithers (phonetic), et al., 2005, demonstrated that
25 three of the top four food items utilized by Goshawk,

1 snowshoe hares, American crows and rough grouse, are
2 found most abundantly in younger forests. This doesn't
3 mean that the Goshawks nest or even hunt in younger
4 forest, but simply that important prey species are
5 produced in young forests, and these young forests are
6 an important part of the Goshawk range. The implied
7 assumption in the SONAR that the Goshawk home ranges
8 must be vast areas of mature forests is not valid.

9 Further, forests are constantly
10 changing throughout the landscapes, so it would not be
11 expected that Goshawk territory stays the same. Since
12 Minnesota's forests are actually growing older and no
13 other documented concern has been shown, I see no need
14 to be concerned about the Goshawk population viability.
15 The SONAR for the Boreal owl also has similar fallacies.
16 The document alleges that suitable cavity trees may be
17 limited because, "trembling Aspens on most forest lands
18 in Minnesota are currently being managed at a rotation
19 age of less than 60 years." However, the document
20 presents no evidence that the Aspen (phonetic) trees are
21 limited. And, again, using the DNR's own old forest
22 policy document and data, we know that all forest types
23 are growing older, and a number of large trees in
24 Minnesota timberlands in general, and in (inaudible),
25 both over 60 years old, has increased. Thus, the

1 contention that cavity trees are limiting seems very
2 unlikely.

3 The SONAR document also alleges that
4 (inaudible) used by the species for roosting and
5 foresting are also being reduced in size and are
6 increasingly isolated from each other. However, again,
7 the document does not provide data to support this
8 conclusion and the MFI data shows the amount of
9 (inaudible), again, has actually increased.

10 I have highlighted these two species
11 just for the limited time. But the same argument can be
12 made for other species, specifically the Goblin fern and
13 other plant species found in older forests. And the
14 purpose of the SONAR document is to present the
15 Statement of Need and Reasonableness to the proposed
16 additions to the Minnesota list of Endangered,
17 Threatened and Special Concern Species. I contend
18 that that has not occurred for all species.

19 The SONAR document itself, the current
20 process of revising Minnesota's list began in 1999.
21 Understanding that agency priorities can change, can and
22 have occurred over that time, I fully recognize that
23 there has not been a full 14-year effort to get to this
24 point.

25 On the other hand, given that time

1 frame, to get to that one paragraph or a three-quarters
2 page description, with often very little, if any,
3 quantitative justification for adding a species is not
4 sufficient, given the very real consequences of listing
5 a species, whether they be Endangered, Threatened or
6 Special Concern.

7 Further, using justifications that
8 appear outdated at best and perhaps even misleading
9 at worst, does not meet the test of need and
10 reasonableness.

11 In conclusion, I would like to
12 summarize my main concerns again. One, compiling the
13 SONAR document and the data requirements to support it
14 is a very significant task. I have worked with Rich and
15 all of those folks numerous times and they are doing a
16 bang up job. There is a lot to do. However, I don't
17 believe that the DNR has fulfilled their responsibility
18 in providing justified quantitative evidence in support
19 of many of the proposed species. In fact, there is
20 evidence to suggest just the opposite, in terms of
21 updating the data.

22 I used the Goshawk and Boreal owls as
23 examples, but there are numerous others. If better data
24 does exist to support those contentions, it should be
25 provided.

1 No. 2, creating a long Endangered,
2 Threatened and Special Concerns List in no way
3 guarantees the protection of the species on the list
4 and can have unintended consequence of causing more
5 problems than it solves. And the consideration of need
6 and reasonableness and the consequences of listing a
7 very large number of species being proposed, with
8 limited data to support that, should be seriously
9 considered. Thank you for your thoughtful consideration
10 on these topics.

11 MR. BAKER: Thank you.

12 HEARING OFFICER: Jim Marshall.

13 MR. MARSHALL: Your Honor, my name
14 is James Marshall. That is M-A-R-S-H-A-L-L. The
15 address is 115 Southwest First Street, Grand Rapids,
16 Minnesota. I am representing UPM Blandin Paper Company.

17 I am the Forest Resources Manager at
18 UPM's Blandin Paper Company, Forestry Office, in Grand
19 Rapids. I thank you for the opportunity to come and
20 comment on these proposed changes to the state's
21 Threatened, Endangered and Special Concern Species list.

22 We at Blandin and UPM Forestry Office
23 have a long history of working with Rich and others in
24 the DNR and we have a two-way data sharing arrangement
25 with these folks who maintain the National Heritage

1 Database of special sites and research points.
2 UPM takes its corporate responsibility
3 very seriously and has mandated that all of its
4 operating units around the world, including Blandin, to
5 adopt the ISO 14001 Environmental Management System.

6 And in our case, along with the Sustainable Forestry
7 Initiative, Forest Management Standard. All of this,
8 plus our own personal individual ethics, drive us to
9 embrace forestry best practices on our own land. The
10 company owns 188,000 acres in northern Minnesota.

11 For us at Blandin Forestry, this means
12 applying ecological principles, research and Minnesota's
13 Forest Management Guidelines in our daily forest
14 management work on the company's land. Since 2010, our
15 lands have also been subject to a conservation easement,
16 and must be managed perpetually according to the
17 principles of what we call Blandin Smart Forestry, which
18 is using native plant communities, or as we call them,
19 habitat types, as a basis for our silvicultural
20 decisions and operations. This includes knowing the
21 locations of especially sensitive and vulnerable species
22 on archeological sites and other special sites.

23 We have, since 1997, employed a forest
24 ecologist named Cheryl Adams. And I have discussed the
25 DNR's species list proposal with her, just today in

1 fact, and I offer a few insights that she would like to
2 share through me. Here they are. And I will be very
3 brief.

4 First, Minnesota is the geographical
5 meeting point of three major biomes; and therefore, we
6 have many species which occur on the edges of their
7 ranges. It is normal to have fairly low numbers of
8 some of these species at the edges of their ranges in
9 our forests.

10 Secondly, environmental factors, such
11 as moisture, for one example, in other words, a dry year
12 versus a wet year, have a lot to do with the appearance
13 of certain plant species or their various parts. In
14 other words, for an example, fern species or certain
15 fungi will not be seen, even by a keen observer, but
16 may, quote/unquote, "suddenly" appear when conditions
17 change.

18 Similarly, some species which may
19 appear to be rare, when searched out in a random
20 sampling scheme, such as the Minnesota Biological
21 Survey, may in fact not be so scarce after all.
22 On our own company lands, we did some extensive field
23 work some years ago to establish our habitat types,
24 as we call them, in quotes, or native plant
25 communities, as the DNR calls them, and found that

1 there are many examples of plants previously thought
2 to be rare and we found them to be not so rare on our
3 lands.

4 Another point is that responsible forest
5 management practices have not been found to adversely
6 affect species dependent on any number of forest
7 habitats. Rather, it is other land use activities,
8 such as housing developments with attendant pets, lawn
9 mowers, soil compaction, et cetera, hunting, vehicle
10 collisions, and so forth, that account for most
11 human-caused animal and plant deaths.

12 The act of listing species as
13 Threatened, Endangered and of Special Concern cannot
14 prevent things like climate change; and therefore, are
15 of little use in preventing adverse effects on sensitive
16 species.

17 And finally, I will say that the DNR's
18 Statment of Need and Reasonableness (SONAR), often
19 does mention a reduction in older forest age classes
20 as a justification for concern for species dependent
21 on the conditions found in old forests as mentioned.
22 But the state and federal FIA inventory shows that
23 old forest is in fact increasing in age, while
24 younger forest conditions are projected to become
25 under-represented as industry use of trees declines

1 rapidly.

2 Therefore, we are opposed to many of
3 the DNR's proposed additions to this list. The problem
4 is, again, the phrase has been used before, unintended
5 consequences, particularly the tendency of agency staff
6 to unduly restrict forest management activity without
7 adequate cause.

8 I will leave a copy of my comments
9 right here. Thank you.

10 MR. BAKER: Thank you.

11 HEARING OFFICER: Thank you. Please
12 mark it as whatever our next number is.

13 (Hearing Exhibit 29 marked
14 for identification.)

15 HEARING OFFICER: Thank you very much.
16 Terry Worthman.

17 MR. WORTHMAN: Thank you, Your Honor.
18 My name is Terry Worthman. I am Terry Worthman,
19 W-O-R-T-H-M-A-N. I am a forester for Boise White Paper,
20 LLC, in International Falls, Minnesota. My address is
21 400 Third Avenue East, International Falls 56649.

22 I will be very brief because a lot of the
23 things have already been stated earlier this evening.

24 But Boise is very concerned that careful
25 due diligence be used in adding any new listings of

1 species. And the reason is that Boise has operations in
2 the western United States, southern United States, as
3 well as in Minnesota. And in the west, we have seen
4 dramatic impacts on communities by listings, when later
5 data, new scientific data came out and actually showed
6 that by listing some of those species, some of the
7 management things that were not proven yet that were
8 used actually were detrimental to some of the species
9 and did not necessarily help them. So that, we were
10 very concerned about that.

11 We also have reviewed, as many others
12 here, the data presented by the DNR. And, again, it is
13 a recurring theme, but the age of the forest is given
14 as a reason for many of the listings and we believe
15 that the new data just simply does not support that.

16 So thank you very much, Your Honor.

17 HEARING OFFICER: Thank you.

18 MR. BAKER: Thank you.

19 HEARING OFFICER: Reyna Crow.

20 MS. CROW: Good evening. My name is
21 Reyna Crow, which is R-E-Y-N-A C-R-O-W. And, wow,
22 I can't read this without my glasses. I thought perhaps
23 I could get away with that, but I can't.

24 I am recommending -- I am one of the
25 co-chairs or co-founders in fact of the Northwoods Wolf

1 Alliance. We are a Duluth based group and our group has
2 an Anishinaabe focus. Our immediate concern and goal is
3 to end the wolf hunt here in Minnesota, but then we also
4 have a longer term, more permanent goal, and that is to
5 engage in education about Anishinaabe environmental
6 ethics in particular.

7 So, I think you will find that while we
8 share the concerns that many of the previous speakers
9 alluded to with respect to not having the kind of
10 science, the kind of data, the kinds of numbers that we
11 like to see in terms of responding to these proposals
12 to change the status of species, we do come at it from a
13 little bit of a different perspective in terms of why
14 we want to see that research there.

15 I will be brief, also. I would very
16 much like to comment on the proposed status changes to
17 many of the individual species here in Minnesota, but
18 due to the way that the DNR has handled the wolves,
19 subsequent to delisting them as a federal endangered
20 species, I feel that this necessitates comments on the
21 process by which the DNR is managing wildlife first.

22 I would like to quote here, "We owe it
23 to our primary clients, hunters and trappers, and to
24 livestock producers as secondary clients, to do what we
25 can to establish a legitimate harvest opportunity now

1 that the wolf is under our management authority."

2 That is from an e-mail from DNR staff
3 Dennis Simon to Kathy DonCarlos. The comment I have to
4 make to that is that the primary and secondary clients
5 of the state DNR are, of course, the citizens of
6 Minnesota. And as a primary client of the DNR, I, along
7 with the other 316 members of the Northwoods Wolf
8 Alliance, oppose the proposed change in the status of
9 the gray wolf from Special Concern to none.

10 We are not satisfied that the DNR has
11 applied due diligence in meeting its duty to survey wolf
12 numbers and distribution in Minnesota, as should have
13 been done, even before merely considering a hunt. It
14 would seem that about a third of the very roughly
15 estimated population was just wiped out, mostly for fun.
16 The DNR has no idea how this hunt has affected the
17 future of the species. We do not want narrow interests
18 to continue to dictate the fate of ma'iingan or any
19 other species in Minnesota. The disregard shown by the
20 DNR for a management plan that was exhaustively
21 negotiated by a cross-section of the public that the
22 agency is supposed to represent, which included sport
23 hunters, as well as other hunters and livestock owners,
24 demonstrates that we cannot expect neither science nor
25 the public interest to strongly inform DNR policy.

1 For this reason, we strongly oppose any
2 reduction in the protection afforded to not only the
3 gray wolf, but even a single other species in this state
4 until such time as whatever changes are necessary and
5 sufficient to recapture the agency from the narrow
6 special interests it is clearly representing have taken
7 place. Only when good faith in the form of adequate
8 science and regard for the public interest on the part
9 of the DNR has returned to the management process, at
10 that time we should discuss lessening protection for
11 other species. Thanks very much.

12 MR. BAKER: Thank you.

13 HEARING OFFICER: Thank you. Lisa
14 Isaac -- I'm sorry. Lisa Herthal (phonetic).

15 MS. HERTHAL: Hello. My name is Lisa
16 Herthal. I am a student of sociology at UWS. I am here
17 to speak up for the wolves, for the gray wolf, and for
18 79 to 80 percent of the people of Minnesota that do not
19 approve of this wolf hunt.

20 I have come to see that this wolf hunt
21 was done for the sake of the sport hunt and that it is
22 recreational, and also for trophies. I -- I have heard
23 and read lots of disinformation that has been -- that
24 goes toward a very -- a very anxious public. People are
25 afraid. And I think that you -- that you prey on that

1 fear, and I think it is wrong.

2 There should be no wolf hunt for

3 recreation, sport or trophy. Thank you.

4 HEARING OFFICER: Thank you very much.

5 MR. BAKER: Thank you.

6 HEARING OFFICER: Gerald Sayers.

7 MR. SAYERS: Hello. My name is Gerald

8 Sayers, G-E-R-A-L-D S-A-Y-E-R-S. I am a White Earth

9 Anishinaabe living in Duluth. I will read Ron Cobenais'

10 statement, "Stop Wolf Killing."

11 HEARING OFFICER: Excuse me, could you

12 spell the last name, please.

13 MR. SAYERS: Sayers?

14 HEARING OFFICER: No, no, the

15 gentleman.

16 MR. SAYERS: C-O-B-E-N-A-I-S.

17 HEARING OFFICER: C-O-B-E-N-A-I-S?

18 MR. SAYERS: Yes.

19 HEARING OFFICER: Thank you.

20 MR. SAYERS: Yes, sir. So, "Stop Wolf

21 Killing-Native American Spirituality."

22 How could the American public realize

23 the importance of the wolf as a very real and

24 significant part of native spirituality. The wolf is

25 a Manidoo (spirit entity), that helps them at ceremonies

1 and is essentially a grandfather.

2 To the people who live traditionally,
3 their first family is the Creator (Mishoomis or
4 grandpa), the Grandmother Earth (everything in the earth
5 is in us to the same degree), Grandfather Sun and the
6 Grandmother Moon.

7 Also, all of the elements, plants,
8 animals, and minerals, are part of our First Family.
9 Tobacco/kinikinik is our direct telephone line to the
10 Creator and the Manidog (spirits). I, myself, have the
11 black wolf, (mukaday ma eng gun) as a spiritual helper.
12 I feed him with a spirit dish and invite him to come and
13 pray with me in all of my ceremonies. The wolf is a
14 physical and real manifestation of the spirit world
15 here and now.

16 "Ogimaginew nindigo makwa n dodaim,
17 Misquagamiwezagaehganing indoonjiba Bosseagle." As I am
18 known by the spirits, the bear is my clan. I come from
19 Red Lake.

20 The wolf walked with original man and
21 named everything on the world. When they were finished
22 with this, grandpa, Creator said, "Now you will separate
23 paths. What happens to one will also happen to the
24 other. The wolf has been hunted for his hair. He is
25 feared and misunderstood, as the Anishinaabe has been.

1 This abomination and misuse of nature
2 and total lack of respect for life and the natural world
3 should be addressed. As it is, a political and legal
4 matter, if our governor needs to have a way to save face
5 and keep his dignity and honor intact, then Mr. Dayton
6 has to be made aware of the significance of the wolf to
7 the constituents of the Dayton administration. Both
8 native and non-native people understand the importance
9 of the wolf to the healthy ecosystem and how everything
10 will be affected, from the vegetation, to the insects
11 that thrive on the vegetation, to the health and
12 well-being of the big-game animals, moose, deer, elk,
13 bear, and others, that the hunting people seek.

14 How many hunters do you know have
15 enjoyed a meal of wolf meat with their family and
16 children?

17 Thank you.

18 HEARING OFFICER: Thank you very much.

19 MR. BAKER: Thank you.

20 HEARING OFFICER: Heidi Nelson.

21 MS. NELSON: Hello, I'm Heidi Nelson.

22 H-E-I-D-I N-E-L-S-O-N. I am not representing where
23 I work. I just have a question.

24 I was under the impression that when a
25 species was put or taken off the endangered species

1 list, that there was supposed to be a five-year period
2 where there is no hunting or trapping season on them.
3 I'm assuming that's to see how the species maintains
4 their recovery. Is that correct?

5 MR. BAKER: That rule that you
6 described is a part of the Federal Endangered Species
7 Act.

8 MS. NELSON: Okay.

9 MR. BAKER: Bear in mind that there are
10 two endangered species laws; the federal law and the
11 state law. Today we are talking about the state law.

12 You are correct, that the federal law
13 does require a five-year monitoring period after the
14 species is delisted.

15 MS. NELSON: Okay. And then how does
16 the state -- why was the state able to overturn that or
17 ignore it? Why doesn't the state have to follow that?

18 MR. BAKER: I can't answer that. That
19 is really outside of my work area and not something that
20 I was involved with.

21 MS. NELSON: Okay. Well, I think
22 that's a question that we all should ask. Because it
23 makes perfect sense that once a species is removed, that
24 there should be a monitoring period so to see if they
25 really truly have recovered. Obviously, in northern

1 Minnesota, it has probably got to be pretty hard to take
2 a census of wildlife population, so I think it is only
3 fair that we give some time to that to make sure that
4 they are recovering. And I encourage you all, that you
5 e-mail, write and support that, because it makes sense
6 to me to stop the hunt now and to go forward with that,
7 so that we have some time to see how they are truly
8 recovering.

9 Thank you.

10 HEARING OFFICER: Thank you.

11 MR. BAKER: Thank you very much.

12 HEARING OFFICER: Ann Katoff

13 (phonetic)? I don't think I missed it that bad. Are
14 there any more names?

15 I think there was some people signing
16 in the back. Are there any more names in the back
17 there, sir?

18 AUDIENCE MEMBER: Yes, but I don't have
19 my cheaters on, so I can't say "yes" or "no."

20 HEARING OFFICER: Thank you. I have
21 that problem, too. Sandra Skinoway (phonetic).

22 MS. SKINOWAY: Good evening. My name
23 is Sandra Skinoway. I am the other co-founder of the
24 Northwoods Wolf Alliance here in Duluth. And I got
25 involved with the "Stop the Wolf Hunt" campaign last

1 year, when I first heard about it. But I also wanted
2 to place on the record that there should absolutely be
3 no wolf hunt. And because of that, I want to state why.

4 The wolf is a very cultural and
5 spiritual animal to the Anishinaabe people of the Great
6 Lakes Region, that even goes into Canada. The Ojibwe
7 people have, and continue to have, respect for the land,
8 which is our mother, Mother Earth. Now, this mother has
9 many children and they are all different; some run, some
10 fly, some crawl. Some swim and some walk.

11 Now, on this list of endangered --
12 this list of animals that you want to consider to
13 reclassifying, there is so many animals on there that,
14 you know, are related to the Ojibwe culture, like say,
15 for instance, the gray wolf, which we consider
16 ma'iingan, you know, as our brother. There is also
17 the snapping turtle, which a turtle is also part of our
18 family. And they are our relatives and we respect them.
19 And they are in this life with us. And like I said
20 before, in our culture the wolf is a brother and he is
21 wise and a teacher. And the Ojibwe have lived with the
22 wolf for thousands of years in brotherhood.

23 And I see here, too, that they want to
24 reclassify the bald eagle, which, of course, to us is
25 very spiritual. We call them Mageesee (phonetic). And

1 I believe all of these animals and plants and fish on
2 this list is endangered. Because the record of the
3 European on this land is not good. And the future
4 doesn't look good either, you know, considering a lot of
5 them are, you know, being endangered or threatened.

6 And that's all basically I wanted to
7 say is that I am just totally against the wolf hunt.
8 It is not just spiritual or anything. It is our
9 culture. It is a part of our lives. And to see people
10 trying to just reclassify them, just like they are
11 nothing, is very upsetting to me personally, and
12 spiritually and culturally.

13 Okay. Thank you.

14 HEARING OFFICER: Thank you very much.
15 Is there anyone else who would like to speak this
16 evening?

17 MS. YORK: Yes.

18 HEARING OFFICER: Please.

19 MS. YORK: I just want to speak
20 quickly. My name is Sue York, Susan York, and I live
21 in Duluth, Minnesota, and I am speaking on behalf of
22 the wolf as well.

23 We just removed the wolf from the
24 Federally Protected Endangered Species list a year ago
25 and we slaughtered a third of their numbers here in

1 Minnesota this year. And everywhere that that animal
2 was taken off the list last year, they have been an
3 open brutally targeted animal. And it breaks my heart.
4 And we -- and we are using traps on these animals.

5 I would like you to know that I have
6 adopted Joseph, my German Shepherd, from Siren,
7 Wisconsin, and he is missing his front limb and he
8 has severe arthritis already in the others. He is a
9 survivor from one of these traps. And he is a long
10 relative of the wolf and he protects my family. And
11 he loves us. And wolves are very familiar, family
12 orientated creatures, and they care for one another.
13 And they are very important to the environment as well.
14 The Yellowstone wolves have done a great service for the
15 Yellowstone community, the whole biosphere of that
16 community, and we have now taken out their numbers.
17 That main wolfpack has been severely jeopardized, if
18 they survive at all, through this season, after losing
19 the main members.

20 And I just feel that it is so true that
21 we have -- we have hurt this earth so badly and we have
22 done such dangerous things to the water, the air, the
23 animals and the earth, and we must -- we have no time
24 to wait and to learn how to protect anymore. It is
25 the DNR's obligation to protect these animals; not have

1 an open hunting season the moment that they are off the
2 federal protection. If the DNR needs money, if that's
3 what they need, that's why they had the lottery ticket,
4 and then \$100 if you won the ticket and then you get an
5 opportunity to shoot the wolf, if they need money, I
6 will pay to protect the wolf. Okay? I will pay a fee.
7 And I will pay that for whatever we need.

8 Anyway, I just want to voice my opinion
9 and I hope and pray that we please stop this hunting.

10 HEARING OFFICER: Thank you.

11 MR. BAKER: Thank you.

12 HEARING OFFICER: Is there anyone else
13 who would like to speak this evening? Going once, going
14 twice.

15 Thank you all very much for attending.
16 Your comments have been very helpful. Again, if you
17 would like to be notified when my report is available
18 and how to get a copy, please put your name on one of
19 the envelopes in the back.

20 This hearing is adjourned. Thank you.

21 (Hearing Exhibits 30 and 31 were marked
22 for identification.)

23

24 (Whereupon, the public hearing was
25 adjourned at 8:00 p.m.)

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REPORTER'S CERTIFICATE

I, Ann Marie Holland, do hereby certify that I recorded in stenotype the public hearing on the foregoing matter on the following day, February 6th, 2013, held at the GitcheeGumee Conference Center, U.S. Environmental Protection Agency Mid-Continent Ecology Division, Duluth, Minnesota, before the Administrative Law Judge James E. LaFave;

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

I further certify that thereafter and on that same date I transcribed into typewriting under my direction the foregoing transcript of said recorded hearing, which transcript consists of the typewritten pages 1 - 76;

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

WITNESS MY HAND AND SEAL THIS 20th DAY OF February, 2013.

Ann Marie Holland