

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 January 29th, 2013 By Ann Marie Holland

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1 THE ABOVE-MENTIONED PUBLIC HEARING was held on this
2 29th day of January, 2013, at the Ramada Hotel &
3 Conference Room, 1517 16th Street SW, Rochester,
4 Minnesota, commencing at approximately 6:00 p.m.

5

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 January

1 29th, 2013 and we have convened in the Ramada Hotel &
2 Conference Room at 1517 16th Street SW, Rochester,
3 Minnesota 55902 for a public hearing in the matter
4 entitled, "In the Matter of the Proposed Amendment
5 to and Repeel of Rules Governing Minnesota's List of
6 Endangered, Threatened and Special Concern Species
7 in, Minnesota Rules Chapter 6134, OAH Docket No.
8 60-2002-30171, and for those of you that might be
9 interested, it is Government Tracking No. 323.

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

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

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

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

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

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

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

22 A rule hearing like this one is similar to
23 a legislative hearing or the meetings of a local board.
24 You will have the opportunity to talk and to ask
25 questions of other participants. It is not like a court

1 trial.

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

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

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

25 I may interrupt a speaker from time to time

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

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

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

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

22 That second period is not an opportunity to
23 submit additional comments or evidence. As Minnesota
24 Statute Section 14.15 states: "Additional evidence may
25 not be submitted during the five-day rebuttal period.

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

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

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

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

25 Are there any questions about the hearing

1 process? If not, we will continue with the agency's
2 presentation.

3 MR. BAKER: There was one.

4 HEARING OFFICER: I'm sorry.

5 DR. HACKETT: Did you want some
6 electronic files that say that we have documents or do
7 you prefer paper?

8 HEARING OFFICER: Whatever is
9 convenient for you. We are able to handle both and
10 either way is fine.

11 DR. HACKETT: Thank you.

12 HEARING OFFICER: Whatever is most
13 convenient to you.

14 DR. HACKETT: I guess I hadn't
15 noticed, is there an e-mail address?

16 HEARING OFFICER: Yes, there is an
17 e-mail address and an e-mail address posted to the
18 comment board.

19 Any other questions about the procedure?

20 Here today with us from the DNR is Rich
21 Baker and Jamie Edwards. Mr. Baker.

22 MR. BAKER: Thank you. My name is
23 Rich Baker, Endangered Species Coordinator for the
24 Department of Natural Resources (DNR), Division of
25 Ecological and Water Resources. The DNR is directed

1 by Subdivision 3 of the state's Endangered Species
2 Statute, and it is Minnesota Statute 84.0895, to adopt
3 rules to designate species of wild animals or plants as
4 Endangered, Threatened or of Special Concern according
5 to the definitions as provided in that statute. The
6 resulting list of Endangered, Threatened and Special
7 Concern Species was first created in 1984, amended in
8 1996, and has remained unchanged since. The list draws
9 attention to species that are at greatest risk of
10 extinction within the state and applies special
11 regulations to those species that are designated as
12 endangered or threatened. By alerting resource managers
13 and the public to species in jeopardy, resource use and
14 management activities can be reviewed and prioritized
15 to help preserve the diversity and abundance of
16 Minnesota's flora and fauna.

17 Because of the importance of this list in
18 influencing resource use and management activities in
19 Minnesota, the DNR seeks to ensure that the list
20 reflects the most current information regarding the
21 distribution, abundance and security of species within
22 the state. Development of the proposed amendments was
23 initiated in 2000 with the publication of a Request for
24 Comments in the State Register. Between 2000 and 2006,
25 DNR staff reviewed, evaluated and assimilated a vast

1 amount of data on the distribution and abundance of the
2 state's plant and animal species. This review resulted
3 in development of a set of draft amendments to the
4 status of 273 species. In early 2007 those draft
5 amendments were provided to the public for comment and
6 a second Request for Comments was published in the State
7 Register. Following the receipt of 423 comments, the
8 DNR carefully evaluated each comment received and made
9 many adjustments to the draft amendments.

10 Development of the proposed amendments on
11 which you are commenting today has relied upon the DNR
12 staff's professional judgment to evaluate whether or not
13 a species' status meets the statutory definitions of
14 "endangered," "threatened," or "of special concern."
15 Consideration has been limited to species that are known
16 to reproduce within the state at present, regardless
17 of where within the state the species occurs.

18 The proposed rule amendments identify 302
19 species of mammals, birds, reptiles, amphibians, fish,
20 mollusks, jumping spiders, butterflies, moths,
21 caddisflies, tiger beetles, leafhoppers, dragonflies,
22 vascular plants, lichens, mosses, liverworts and fungi,
23 for which a change in designation is proposed. The
24 proposed amendments include reclassification from one
25 designation to another, as well as the designation of

1 previously unlisted species and the removal of
2 previously listed species. Because species taxonomy is
3 a dynamic science that regularly applies new insights
4 into the relationships among species, the proposed rules
5 also update the scientific names of 64 species for which
6 there is no proposed change in status. The DNR has
7 sought to reflect the most recent and accurate science
8 regarding these relationships in the scientific names
9 used.

10 The DNR has prepared a Statement of Need
11 and Reasonableness that explains the basis for the
12 proposed change in status for each species. As the
13 judge pointed out, copies of the SONAR and proposed
14 rules are available for your review on the table at
15 the back of the hearing room. Also on that table is
16 a sheet on which you may place your name to request
17 that copies of either or both documents be emailed or
18 mailed to you. Alternatively, you can download both
19 copies from the DNR website.

20 The purpose of today's hearing is to
21 receive comments on the DNR's proposed rules and to
22 answer questions as we are able. We will do our best
23 to answer questions that are factual or clarifying
24 in nature. However, we may choose to respond to some
25 questions in our written response instead of responding

1 to them this evening.

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

20 That concludes the DNR's opening statement.
21 Again, I would like to introduce the DNR staff who are
22 accompanying me here today to hear your comments and
23 answer your questions on the proposed rules. And I am
24 accompanied by Regional Non-Game Wildlife Specialist
25 Jaime Edwards.

1 Thank you.

2 HEARING OFFICER: Thank you. We will
3 give folks a five-minute break to review the copies of
4 the exhibits and then we will proceed with public
5 comments.

6 (Off the record.)

7 (Whereupon, a short recess was taken.)

8 HEARING OFFICER: Please, I will remind
9 you that when you come up to the podium to state your
10 name and address, spelling your name.

11 (Off the record.)

12 HEARING OFFICER: Okay. We will begin.
13 Konrad Schmidt.

14 MR. SCHMIDT: (Handing.)

15 HEARING OFFICER: This document is
16 entitled "Comments to Proposed Amendments to Rules
17 Relating to Endangered, Threatened, and Special Concern
18 Species," being submitted by Mr. Konrad Schmidt. It
19 will be submitted into the record as Exhibit 1-A.

20 (HEARING Exhibit 1-A marked
21 for identification.)

22 HEARING OFFICER: Mr. Schmidt. Please
23 state and spell your name.

24 MR. SCHMIDT: My name is Konrad
25 Schmidt. It is Konrad, with a "K," K-O-N-R-A-D

1 S-C-H-M-I-D-T. My address is 1663 Iowa Avenue East,
2 St. Paul, Minnesota 55106.

3 Do you need the telephone number on
4 that?

5 HEARING OFFICER: No.

6 MR. SCHMIDT: Okay. I was formerly
7 the DNR non-game fish specialist from 1990 until 2010,
8 so I was in part of this original review process.
9 I am currently an author on the fishes of Minnesota
10 and an editor for the North American Native Fishes
11 Association.

12 I have concerns about three proposed status
13 categories on the fish.

14 The first one is the Black Buffalo.
15 That is black, as the color, Buffalo, B-U-F-F-A-L-O.
16 The scientific name is Ictiobus niger. That is
17 I-C-T-I-O-B-U-S, niger is N-I-G-E-R. The proposed
18 status now is threatened. I am recommending that it
19 stays a Special Concern. The reason for this is even
20 though this species is rarely found in commercial
21 catches, there is no exemption for incidental take
22 under "threatened" status. The problem happens with the
23 two other abundant species of Buffalo, the Bigmouth and
24 Smallmouth, are two of the highest valued commercial
25 species in the state and identification is extremely

1 difficult, especially with the small and mid-size
2 species.

3 Furthermore, we do not have current DNA
4 techniques to separate the species, so this is going to
5 create a nightmare for enforcement. There is, from what
6 we have on our data, my responsibility on the fishes in
7 Minnesota is developing the range maps, which I have
8 submitted as part of that article there. They appear to
9 be doing better than they have historically, including,
10 which I do say on there, I did not -- I was not able to
11 get the 2012 records from fisheries on that map, but we
12 have got our first confirmed Black Buffalo ever out of
13 the St. Croix River last year.

14 The second species is a Bluntnose Darter.
15 That is B-L-U-N-T-N-O-S-E, Darter, D-A-R-T-E-R. The
16 scientific name is Etheostoma chlorosoma. That is
17 E-T-H-E-O-S-T-O-M-A, chlorosoma C-H-L-O-R-O-S-O-M-A.
18 The current status is or what is being proposed is for
19 Special Concern. I feel the species should be listed as
20 endangered.

21 This species, I was also here during the
22 1996 review and the committee at that time, the Fish
23 Committee, presumed it was extirpated because it hadn't
24 been seen in the state for 50 years. And then in 1997
25 I discovered it at a historical locality. And then

1 there was one more record after that. But basically
2 there was only four records ever in the entire state.
3 And this is actually, of all of our native fishes in
4 Minnesota, its long-term survival is probably the most
5 precarious of all of them.

6 The third species is the Pugnose Shiner.
7 The spelling of that is Pugnose, P-U-G-N-O-S-E, Shiner,
8 S-H-I-N-E-R. The scientific name is Notropis anogenus.

9 HEARING OFFICER: I'm sorry, could you
10 say that again, please? I fell a little behind in my
11 note taking.

12 MR. SCHMIDT: Sorry. Which? Pugnose?

13 HEARING OFFICER: The last part.

14 MR. SCHMIDT: Shiner.

15 HEARING OFFICER: Shiner, yes.

16 MR. SCHMIDT: Ok, Shiner, S-H-I-N-E-R.

17 The scientific name is Notropis anogenus. That is
18 N-O-T-R-O-P-I-S, anogenus, A-N-O-G-E-N-U-S. It is
19 proposed for threatened status. I feel it should also
20 remain a Special Concern.

21 I suspect that a large volume of recent
22 DNR surveys were overlooked in reviewing this species.
23 Again, I have submitted a range map in that packet with
24 the article there.

25 There are only 78 records prior to

1 1990, but 199 records since 1990. Pugnose Shiners we
2 now know have a much wider distribution than previously
3 believed, with extant populations occurring in seven
4 of ten major drainages in the state. It does not
5 warrant threatened status. Contrast this species to
6 the very restricted ranges of the Gravel Chub and Plains
7 Topminnow, which only occur in one major drainage.
8 Both of these are proposed as threatened species, but
9 in these instances do appropriately warrant the elevated
10 status because of their rarity.

11 The last species is not currently
12 proposed for status. It is the Hornyhead Chub.
13 H-O-N-Y -- oh, sorry. H-O-R-N-Y-H-E-A-D, Chub, C-H-U-B.
14 The scientific name is Nocomis biguttatus.
15 N-O-C-O-M-I-S, biguttatus is B-I-G-U-T-T-A-T-U-S.

16 I recommend a status of Special
17 Concern. We have had over -- well over a decade now of
18 anglers who would harvest these fish for their own use
19 for fishing, that, you know, they would use the same
20 streams for their entire lifetime, and now they cannot
21 find them in these streams. Mostly in central
22 Minnesota. Brainerd Lakes area. Probably a 100-mile
23 radius of the Brainerd Lakes area.

24 This has become a commercially
25 harvested and highly valued bait species.

1 In 2008, one of the last things I
2 did with the DNR, I was assigned to try to assess the
3 populations in the state. We attempted to do it on a
4 watershed scale basis. Again, I have included that
5 report, which has been modified since I published it
6 after I left the DNR. And we identified 17 watersheds
7 in the state where the populations we felt were in poor
8 condition. We also noted that it is a keystone species,
9 where several other species are highly dependant on the
10 nests that these -- these large nests that these
11 Hornyhead Chubbs make, for also spawning, and some of
12 them actually -- they are actually feeding there as the
13 other fish spawn. But there is -- there is close to
14 twenty species of fish that are dependent on this. And
15 being a keystone species, if you remove this from the
16 community, it could be catastrophic for other species
17 involved.

18 We also noted that, and again, the data
19 that the DNR compiles from the commercial bait dealers
20 was unusable to determine any type of status obviously.
21 We had to go to the Pollution Control Area, which
22 surveys streams for water quality assessment, and they
23 sampled the entire stream community. But still, even
24 there, over half of the watersheds in the state, we
25 could not assess because of insufficient data.

1 Those are all of the comments that I
2 have.

3 HEARING OFFICER: Thank you very much.

4 MR. SCHMIDT: Okay.

5 HEARING OFFICER: Rochelle Nygaard.

6 MS. NYGAARD: Good evening.

7 R-O-C-H-E-L-L-E, Nygaard, N-Y-G-A-A-R-D. I am from
8 Goodhue County, Minnesota. And I heard about your
9 meeting, Judge LaFave. I contacted you through e-mail
10 to find out a little bit more about it, and Rich Baker
11 as well. I decided to come because I live in Goodhue
12 County and we have a proposed wind development that has
13 been one of the most contentious, I think, in history.

14 Anyway, we did notice that several
15 species of birds on the -- on your list were also birds
16 that were noted in our location where this wind turbine
17 farm is possibly to be built. And we kind of considered
18 the bald eagle, we knew you were thinking about
19 delisting it before, which would have been fine, but
20 with the possible proliferation of wind farms, we have a
21 concern about that and we are considering that maybe you
22 should not delist it at this time until we see where
23 that goes in the future. Because from some of the
24 material we have read, up to 47 percent of raptors are
25 lost at some of these wind farms that have already been

1 built and we are concerned that there won't be any
2 recourse if you take them off the list now, should this
3 type of thing continue to move forward. And we do
4 understand that there is even a proposal for an
5 eight-state habitat plan, where they are talking about
6 25 percent of renewable energy coming from wind, being
7 placed in the upper midwest, and you are taking comments
8 through the Fish & Wildlife Service on that now. There
9 is a concern of what is going to happen to the eagles if
10 you delist them.

11 So, we are kind of suggesting that
12 maybe you should not at this time. Thank you.

13 HEARING OFFICER: Thank you very much.

14 MR. BAKER: Thank you.

15 HEARING OFFICER: Michael Pappas.

16 MR. PAPPAS: My name is Michael Pappas.

17 M-I-C-H-A-E-L P-A-P-P-A-S. And I guess I'm here --
18 well, let's see. The address is 15 South Broadway,
19 Rochester, Minnesota. And I'm here to discuss the
20 current change in the status of the snapping turtle
21 to -- to -- from a Special Concern to basically nothing.
22 And to also ask about why the listing wasn't changed on
23 Blanding's turtles and wood turtles, which has been put
24 forth by the U.S. Fish & Wildlife Service, and also the
25 International Union for the Conservation of Nature, to

1 change both of them to endangered.

2 HEARING OFFICER: I'm sorry, could you
3 give me those last two, please.

4 MR. PAPPAS: Okay. The Blanding's
5 turtle, spelled B-L-A-N-D-I-N-G-S, and then the wood
6 turtle, W-O-O-D. And the U.S. Fish & Wildlife Service
7 and the International Union for the Conservation of
8 Nature have both determined that these should be
9 endangered animals. And it was not addressed by the
10 Minnesota DNR and I'm just curious as to why not. I
11 think I have that right. And, also, I am a member of
12 the Turtle and Fresh Water Group of the International
13 Union for the Conservation of Nature. And I spoke
14 before in this group, you know, on what I'm concerned
15 is the sustainable harvest of turtles, which we contend
16 is not possible in the northern latitudes. There is
17 numerous literature out there and papers. And I will
18 drop off a document that talks about one of the papers,
19 that essentially it said these turtles take too long to
20 mature for unsustainable harvest, which means you can go
21 in and take as many as you want, and then they take too
22 long to get to a reproductive size to bring the young
23 ones up through the population to make it a stable
24 population. And the argument was, you know, whenever
25 it was, like seven or eight years ago, when this was

1 presented, well, it was the commercial trappers of
2 turtles in Minnesota have been sunsetted. They are not
3 going to issue any more permits to these people. So,
4 therefore, just by attrition, the turtles will be
5 alright down the road.

6 Well, I disagree with that. They are
7 not going to be all right down the road if these people
8 decide to start harvesting again, and there is enough
9 of them out there to do it. I also noticed that the
10 harvest of turtles has dropped off in recent years.

11 As an aside, I had somebody in my
12 restaurant last night, he lives in Iowa, and he has
13 got a system of ponds in Iowa, where he has snapping
14 turtles. He raises snapping turtles. He has got a lot
15 of females in the ponds, which he catches in the wild,
16 and he puts them in this pond. And he produced 30,000
17 baby snapping turtles last fall and he sold them to
18 China at \$8 to \$10 a piece.

19 This same gentleman last summer went
20 into North Carolina, legally, four of them, with
21 trapping permits for snapping turtles, and took out 400
22 adult snapping turtles out of that population to put
23 into his pond. I don't believe there is anything that
24 talks about turtle farming in Minnesota and how to
25 restrict that, how to restrict them from coming out of

1 the wild and to be used in this manner. But the biggest
2 contention is that it is an unsustainable thing with
3 snapping turtles in Minnesota. And I will also present
4 this document which was put together by the DNR, with
5 the help of Jaime Edwards. Here we looked at the turtle
6 populations in the Weaver Bottoms area. And there we
7 were able to show that the snapping turtle population
8 there had been reduced to about 17 percent of what it
9 used to be, as far as the female adults because of over
10 harvest and compared that to other areas.

11 They did change the laws a little bit
12 to say that at one point in time, let's say a ten-inch
13 turtle or an eight-inch turtle could be harvested, well,
14 they increased that a little bit. But it still does
15 not prevent turtle harvesters from taking out the most
16 reproductive members of the population.

17 So my argument is, the basic argument
18 is, we still haven't done any science to show that we
19 can sustain the harvest of snapping turtles. All we've
20 shown is that we don't have as many trappers out there.
21 And I said this before, I would love to see the DNR do
22 some studies or do, like I said, if it had feathers or
23 if it had fur, then they would look into it. But it
24 still has not been proven that they can harvest these
25 animals and sustain it. And that's why I would go back

1 to that.

2 And then also the question on the
3 Blanding's turtle and the wood turtle, that other groups
4 have said they should be elevated and they are much more
5 rarer than we think.

6 HEARING OFFICER: Would you like to
7 introduce your document or would you care to? Or would
8 you want to submit it later? What is your preference?

9 MR. PAPPAS: I will submit it. There
10 is no problem. I will submit it later.

11 HEARING OFFICER: Okay.

12 MR. PAPPAS: But to me, I will just
13 mark the pages there that are really relative.

14 HEARING OFFICER: Whatever you think
15 would be the most helpful to me.

16 MR. PAPPAS: Alright. I will do that.
17 I will just put a cover note.

18 (HEARING Exhibit 2-A marked
19 for identification.)

20 HEARING OFFICER: Mr. Baker, there were
21 a couple of questions in there for you.

22 I believe you can, as I have them, the
23 questions to the DNR were why weren't the Blanding's
24 turtle and the wood turtle listed at all in the
25 department's proposal?

1 MR. BAKER: Because -- the question is
2 why did the status change from threatened to endangered?

3 MR. PAPPAS: Uh-huh.

4 MR. BAKER: With your permission, I
5 would like to respond to that in writing.

6 HEARING OFFICER: Okay.

7 MR. PAPPAS: Okay.

8 HEARING OFFICER: Anything else?

9 MR. PAPPAS: If indeed it is the fact
10 that we are sunseting trappers and that's why we are
11 changing the status of the snapping turtle?

12 MR. BAKER: Yes. And we have a new
13 report that is coming out that is being worked on right
14 now, and I just proofed it, it does -- you know, your
15 point is well taken, that harvest is not sustainable.
16 I think the strategy that we took when we sunsetted
17 the licensing of trappers is slowly taking effect.
18 You know, we could argue over whether it is rapidly
19 enough, but we are seeing a pretty quick decline in
20 the harvest at this point. And I'm hoping that report
21 might -- might convince you that we are moving rapidly
22 enough.

23 MR. PAPPAS: I would still like to see
24 some science, more science in the state itself. But
25 anyway, Thank you.

1 MR. BAKER: Thank you.

2 HEARING OFFICER: Thank you very much.

3 Thank you, Mike. Mary -- I apologize, I'm having
4 trouble.

5 MS. BRICKZIN-GALE: Brickzin-Gale.

6 HEARING OFFICER: Thank you.

7 MS. BRICKZIN-GALE: Thank you. My name
8 is Mary Brickzin-Gale, B-R-I-C-K-Z-I-N, hyphen, capital
9 "G," G-A-L-E. 13970 352nd Street, Goodhue, Minnesota
10 55027

11 I have concerns about some of the
12 changes of some of the species, primarily the birds.

13 I'm looking at the Henslow's sparrow,
14 where you are downgrading it from endangered to
15 threatened.

16 HEARING OFFICER: Could you please
17 spell that.

18 MS. BRICKZIN-GALE: Henslow's,
19 H-E-N-S-L-O-W, apostrophe S, sparrow, S-P-A-R-R-O-W.

20 HEARING OFFICER: Thank you.

21 MS. BRICKZIN-GALE: And one of your
22 reasons, you are just claiming that there is a revival
23 of their population. And one of their major habitats
24 are the CRP lands, which are coming to an end in many
25 places. And if you have been out in the countryside,

1 with the price of farmland, you have seen a lot of
2 farmers tear down trees, they might be scrubby trees,
3 but they are also a habitat for birds. So, I would
4 recommend leaving the Henslow's sparrow on the
5 endangered species status.

6 Then we are going to move down to the
7 Trumpeter swan. Where is the data on the recovery of
8 the Trumpeter swan to warrant a threatened to a Special
9 Concern? Usually when a bird makes a great recovery,
10 you hear it in the news; I've heard nothing.

11 The Loggerhead Shrike, I live in
12 northern Goodhue County. I have a lot of prickly trees,
13 scrubby trees that people don't put in the yard, farmers
14 don't leave in their landscape, and that is a perfect
15 habitat for the Loggerhead Shrike. So, I applaud you
16 for keeping them on the list and upgrading them to
17 endangered.

18 And we are going to look at the bald
19 eagle. The bald eagles are an American symbol. I think
20 by taking it off the classification of the Special
21 Concern to nothing really lowers its value as our
22 national image.

23 I also live on the proposed wind
24 turbine farm and people probably don't realize how large
25 this is. It is probably over ten miles wide and

1 probably 15 to 20 miles long; many, many acres.
2 Probably about 50 turbines. We are in the Minnesota
3 Highway Migratory Flight. I don't think it is a good
4 idea to turn your back on the eagle. When the Federal
5 U.S. Fish & Wildlife delisted them, they had a plan to
6 study the eagles every five years. And I don't know if
7 the DNR worked with the Fish & Wildlife on these
8 studies. And one of the reasons they determined that
9 the species have recovered was the present or threatened
10 destruction, modification or curtailment of the species
11 habitat or range has changed or any other natural or
12 man-made factors affecting the continued existence of
13 the species. I would have to say a 500-foot turbine is
14 a modification of the habitat of the bald eagle.

15 So, my question is what kind of
16 precautions is the DNR taking to protect the eagles in
17 these areas? And I don't know why you would consider
18 delisting them when you don't have a -- you don't have
19 anything to work with yet. You don't have a series
20 here. You are taking them off and then you are going to
21 try to recover them, instead of protecting them before
22 they are destroyed again.

23 Precautions, are you going to ban lead
24 shot and lead lures from the State of Minnesota?

25 HEARING OFFICER: Mr. Baker, I believe

1 that was a question.

2 MS. BRICKZIN-GALE: Those are
3 questions. And what kind of enforcement is there in
4 these wind turbine farms? I don't think you can rely
5 on a developer and hired help to come up to you and say,
6 "Hey, guess what, I killed a bald eagle today." And we
7 are supposed to just treat them like pigeons or crows?
8 Or house sparrows or some common bird?

9 One other thing you talked about
10 earlier, in your introduction, Mr. Baker, was the
11 process of this whole hearing and how back in 2007 you
12 had a comment period of time. And the only way you
13 could find that was through the Minnesota Register.
14 I don't think that's really -- how many people in the
15 public are looking at that? I think you have a perfect
16 opportunity every summer, for ten days in the City of
17 St. Paul, during the State Fair, you have a facility
18 there, you could -- you could have had all kinds of
19 programs on species, the whole line up, the species and
20 what you want to do. You could have had feedback from
21 hundreds of people. Right there; education. And I
22 don't think everybody is perusing the websites.

23 And look at the crowd tonight. Why are
24 these being held in the middle of winter? I don't think
25 this is very conducive to getting public comments.

1 Thank you.

2 HEARING OFFICER: Thank you very much.

3 MR. BAKER: Ms. Brickzin-Gale, in
4 response to your questions and comments, I think once
5 we have the transcript, I will be able to respond in
6 more detail. The one thing I would say about the bald
7 eagle is to keep in mind that the law directs us to
8 consider the state-wide status of the species. And so,
9 bear in mind that the bulk of bald eagle nesting in the
10 state is in the northern part of the state, where the
11 population continues to expand. And so our decision to
12 delist the bald eagle reflects the statewide status of
13 the species. And changes in any portion of the state
14 are -- are not what we are reflecting on when we
15 determine the statewide status of the species.

16 But I will respond to your comments in
17 more detail in writing.

18 Oh, you asked about banning lead shot
19 and lures. We are, actually, at a recent meeting we had
20 lengthy discussions about lead shot and we are
21 continuing to work on that issue. Where that will
22 eventually go, time will tell. But that is a priority
23 for us.

24 The way the wind farms are managed, the
25 way that fatalities of wind farms are dealt with is

1 really out of my area of responsibility. As you
2 know, that has been supplied by the Public Utilities
3 Commission and the Department of Commerce, and so,
4 as I know you have, I will recommend that you continue
5 to work with them on that issue.

6 HEARING OFFICER: Thank you again.

7 MR. BAKER: Thank you.

8 HEARING OFFICER: Carol Overload
9 (phonetic)?

10 MS. OVERLAND: Close.

11 (Laughter.)

12 HEARING OFFICER: Carol?

13 MS. OVERLAND: I will take it.

14 HEARING OFFICER: My apologies.

15 MS. OVERLAND: No problem. My
16 reputation precedes me. Overload is in a truck. It is
17 Carol Overland, as in underwater. 1110 West -- no, no,
18 1110 West Avenue in Red Wing. And I'm here as an
19 individual, but I also do represent Goodhue Wind Truth
20 (phonetic) in their struggle against the wind project
21 that is being improperly sited in Goodhue County.

22 I am glad to see the DNR reviewing
23 this, at long last, but I don't want to see any downward
24 classifications.

25 First of all, where will this be listed

1 on the website? On a web page?

2 HEARING OFFICER: There is a link on
3 the Office of Administrative Hearings' website.

4 MR. BAKER: And on the DNR website.

5 HEARING OFFICER: And on the DNR
6 website, where you can review comments that have been
7 submitted.

8 MS. OVERLAND: And you are talking
9 about a five-day reply time? That is the shortest I
10 have ever seen.

11 HEARING OFFICER: Well, there is a --
12 the public comments is statutory,

13 MS. OVERLAND: You are saying the
14 five-day period is statutory?

15 HEARING OFFICER: Yes.

16 MS. OVERLAND: And you are saying that
17 it cannot be extended?

18 HEARING OFFICER: Yes.

19 MR. BAKER: The rebuttal.

20 HEARING OFFICER: The rebuttal period.

21 The rule is that typically there is a five
22 day, actually, comment period, which can be extended for
23 up to 20 days.

24 MR. OVERLAND: Okay. And the citation?

25 HEARING OFFICER: The department has

1 requested and I have granted that extension.

2 MS. OVERLAND: Okay. And what is the
3 citation of that?

4 HEARING OFFICER: I don't have the
5 citation off the top of my head, but we can certainly
6 provide that for you.

7 MS. OVERLAND: You are saying that this
8 is in the DNR rules?

9 HEARING OFFICER: No, the Minnesota OAH
10 statutes.

11 MS. OVERLAND: Statutes for the OAH or
12 DNR?

13 HEARING OFFICER: For OAH. The rule
14 making statutes that cover the Office of Administrative
15 Hearings.

16 MS. OVERLAND: And you are saying that
17 that can't be extended? The statute prohibits extending
18 that to 30 days?

19 HEARING OFFICER: The comment periods
20 were set by the Minnesota legislature.

21 MS. OVERLAND: But there is then no
22 prohibition to extend it further than that time period?

23 HEARING OFFICER: The statute set out
24 the comment period and I'm bound to abide by the comment
25 period set forth in the statutes.

1 MS. OVERLAND: Okay. We may be arguing
2 about that later.

3 HEARING OFFICER: Okay.

4 MS. OVERLAND: And then the
5 transcripts, someone referred to transcripts. Where
6 will they be available? Will that be available online
7 at OAH and DNR prior to the reply comment time or
8 deadline?

9 HEARING OFFICER: I'm not sure where
10 the -- if the transcripts -- I will find that out. The
11 transcript is -- obviously it is being prepared. I will
12 see if we can get it posted to the website.

13 MS. OVERLAND: Okay. As far as
14 specifics, I will have more detailed comments later.
15 I am also rather new to this. Animals aren't exactly,
16 other than dogs, my area.

17 But the moose, I mean it is common
18 knowledge that they are moving north, and they are
19 moving north for a reason. So, they are leaving large
20 parts of Minnesota and going north, towards Canada. It
21 seems like they are going to be immigrating shortly, and
22 so I think that there is no reason to be changing their
23 status here. They are not moving because they are
24 thriving here. You know, they are moving because they
25 are -- they are having trouble in survival and their

1 habitat is changing. And so, I think that makes them
2 more at risk.

3 Regarding eagles, Trumpeter swans and
4 Loggerhead Shrikes, these are at issue in the Goodhue
5 Wind docket. The eagles, I take issue with the bulk of
6 the eagles are in northern Minnesota. But maybe there
7 is a lot more of them than I think. But the U.S. Fish &
8 Wildlife in their latest comment in the Goodhue Wind
9 Project, which if you don't have that, I will include
10 that in my comments, they said like there is some 418
11 in this area. Now, they don't have a good definition of
12 what "this area" is, but within or near the Goodhue Wind
13 footprint, and that is a lot of eagles. And if you go
14 down to Coldwell (phonetic) Park tomorrow morning, you
15 can see at least 100, if not a whole more. Now, I
16 realize a lot of that is because of the garbage burner
17 right there and the open water and the nuclear plant and
18 the open water, but there are a lot of eagles. And they
19 might not be full-time residents, some of them might not
20 be, but a lot of them are.

21 Trumpeter swan and Loggerhead Shrike,
22 I just don't see any reason for lowering their
23 classification.

24 And then the wolves, they are already
25 delisted. And then there is a hunting season. That is

1 absurd. That is not protecting them in any way and
2 there is no excuse, and no, they should not be decreased
3 in their status.

4 And also, in the Goodhue Project there
5 is an issue regarding golden eagles. And they have been
6 present; not immature bald eagles, but golden eagles.
7 And the DNR needs to take a look at that and make sure
8 that there are nesting and reproducing golden eagles
9 in the area. That's really important. And even more
10 important, here we are in January, and it is raining.
11 A couple of weeks ago, it was raining again. This is
12 not normal.

13 So I also, Your Honor, urge the DNR to
14 be looking at humans as endangered species; too.

15 Thank you.

16 HEARING OFFICER: Thank you very much.

17 MR. BAKER: Thank you.

18 HEARING OFFICER: Alan Muller.

19 MR. MULLER: Good evening, Your Honor
20 and DNR representatives. I am not fully familiar with
21 this --

22 HEARING OFFICER: Excuse me. Please
23 state and spell your name for the record.

24 MR MULLER: Yes. My name is Alan
25 Muller, A-L-A-N M-U-L-L-E-R, and I live at 1110 West

1 Avenue, Red Wing, Minnesota 55066.

2 HEARING OFFICER: Thank you.

3 MR. MULLER: I would like to emphasize
4 that for myself, in order to participate in this
5 proceeding any further, should I choose to do so, having
6 a transcript available is a key thing. And I know that
7 not everyone agrees on the availability of transcripts
8 to the public, as opposed to them being the intellectual
9 property of someone who would want to sell copies, but
10 as a practical matter, without the transcript, it is
11 difficult to proceed. So I would urge you to follow
12 through on that and ensure that the transcript is
13 posted.

14 My understanding is that the statute
15 calls for review on the species lists and status every
16 three years. But it appears from the history of the
17 implementation of this law in Minnesota that that hasn't
18 happened. It has been more like every 15 years. And I
19 bring this up not to criticize, I'm sure that people in
20 the DNR have done as much as their resources have
21 allowed them to do, but when we look at a proposed
22 change in status for a species, something that might
23 make sense if it was going to be reviewed in three years
24 might not make sense if it was going to be 15 years
25 before the review would happen.

1 So I would like to propose the question
2 to you of what is anticipated to happen in the future
3 regarding review of the status of the species that you
4 are keeping an eye on?

5 MR. BAKER: We are working on setting
6 up a system so that we can review it more frequently
7 than it has in the past. This -- this last period
8 we -- the information that we have gathered over the
9 last 15 years is a lot of information that we will never
10 gather again. Our own Minnesota Surrogate County
11 Biological Survey (phonetic) work has done the vast
12 majority of its work over the past 15 years, so we have
13 had to assimilate a huge amount of information that has
14 been a big challenge for us and taken a lot more time
15 than we would like. I think we would be able to cut
16 back, way back on the time that it takes to review, nor
17 will we have the volume of changes in the future that
18 we are making right now. At least that would be my
19 expectation.

20 MR. MULLER: I think this should be in
21 the record. Is it reasonable then to anticipate that
22 the changes that you are proposing now in this rule
23 making will be reviewed in three years?

24 MR. BAKER: The statute requires that
25 we consider changes, consider changes to the -- to read

1 the statute: "The Commissioner shall reevaluate the
2 designated species list every three years after it is
3 first adopted." We are -- and then it says, "and make
4 appropriate changes." So we are constantly in the
5 process of reevaluating the species.

6 The rule making, the administrative
7 rule making process is a very time consuming process,
8 and this is a small piece of it, but you get an idea of
9 how much is involved. We don't have the staff to make
10 changes every three years. And so I am not promising
11 that we will make changes again in three years. I am
12 promising that we will make changes much more rapidly
13 than we have in the past.

14 MR. MULLER: Okay. Thank you.

15 Now, I think we all know that the
16 climate change is on the horizon and almost all
17 discussions of the likely consequences of climate change
18 suggest that there will be changes in the populations
19 of, you know, aquatic populations and terrestrial
20 populations, and so on. And so that suggests to me the
21 possibility of the enormous increase in the workload of
22 your organization to keep track of what is happening.
23 Now, I don't mean to be cross-examining you, but I am
24 wondering if that is a reasonable speculation, and if
25 it is, is there anything in the pipeline to enable that

1 additional workload to be handled?

2 MR. BAKER: You know, that's not
3 something that I'm prepared to respond to right here,
4 but I can respond to that in writing.

5 MR. MULLER: Okay. It will be very
6 helpful for me to know what the department sees in that
7 regard, looking ahead.

8 Could you explain to me a little bit
9 about the relationship between federal and state
10 listings? I'm thinking, for example, of a controversy
11 a couple of years ago involving Sandhill cranes, where
12 it appeared that they went from being a federally
13 protected species to being a hunted species in
14 Minnesota, which was disturbing to some people. It
15 was disturbing to me. And we see now something similar
16 perhaps going on with *Canis lupus*, the gray wolf.

17 You know, I received many e-mails from
18 an organization called Howling for Wolves and they are
19 very unhappy with the fact that wolves are being
20 harvested rather than being protected. So I'm
21 wondering, to the extent that you delist, for example,
22 the bald eagle, or several other species that you are
23 proposing essentially to remove state protections from,
24 do you consider the extent to which they are also
25 subject to federal protection and what their

1 interactions there might be?

2 I don't notice in the listings any
3 column that tells me whether they are federally
4 identified or protected.

5 MR. BAKER: The -- the two listing
6 processes are entirely independent of each other.
7 It's to the extent that the criteria that we use is
8 quite different from the criteria that the U.S. Fish
9 and Wildlife Service uses to determine whether or not to
10 list species federally. I think it is fair to say that
11 the Fish & Wildlife Service takes into consideration
12 state status as a small consideration of their decision
13 of whether or not to list species. You would have to
14 address the question to the U.S. Fish & Wildlife Service
15 to get more information on that.

16 I can say as far as the state listing
17 of species, the state listing of species is entirely
18 independent of the federal status of species principally
19 because the geographic area that is considered in that
20 listing is so different.

21 The state listing of species is an
22 evaluation of the status of species within the
23 jurisdictional boundaries of the state.

24 MR. MULLER: Okay.

25 MR. BAKER: The federal listing of

1 species is either globally or range wide within the U.S.
2 or within a distinct population segment, depending on
3 how they -- how they choose to do their work.

4 So, we have examples of species. Well,
5 currently the Redfin shiner (phonetic) is a fish that is
6 federally endangered, but only a state special concern,
7 because we have -- we still have a pretty widely
8 distributed population within its range. The wolf was
9 special, was moved to special concern status while it
10 was still federally threatened. We have other examples
11 similarly. Because the status of those species globally
12 or throughout the country or throughout a distinct
13 population segment is different than the status of the
14 species solely within the State of Minnesota.

15 MR. MULLER: Would it be possible for
16 you to provide a slightly revised list of the species
17 that you are proposing to make status changes to and
18 indicating whether they are also federally protected
19 in Minnesota and in what way?

20 MR. BAKER: In the Statement of Need
21 and Reasonableness that is discussed in each case for
22 a species that is -- that is federally listed. There
23 should be mention of the federal status of any species
24 that has federal status in the page on those species.

25 So, and then in our -- in our current

1 list of Endangered, Threatened and Special Concern
2 Species we also -- although this doesn't, I'm not sure,
3 you know, I think you are asking about the changes that
4 we are proposing to make, I will just add that our list,
5 our current list of Endangered, Threatened and Special
6 Concern Species does establish a list of every species
7 listed.

8 MR. MULLER: Well, I'm looking at every
9 species that are listed in the SONAR and I see the
10 current and proposed Minnesota status is identified.

11 MR. BAKER: That's true.

12 MR. MULLER: But I don't see where
13 there is the federal.

14 MR. BAKER: Sure. It would be on the
15 page, the full page discussion of each species.

16 MR. MULLER: Okay. Alright. Well, I
17 probably used up more than my fair share of time. But
18 I will just end by saying that I share the concerns of
19 some people that were expressed regarding the delisting
20 of, let's say for example, the bald eagle, because of
21 anticipated climate change and, as the lady behind me
22 said, anticipated growth of the wind industry, which in
23 a significant way constitutes a change in the structure
24 of the habitat, certainly of the raptors. And I think
25 it has been demonstrated elsewhere that wind turbines

1 can have significant impacts on populations of bats and
2 raptors. And although that has been argued about in the
3 context of particular projects, it is not clear that
4 there has been this sort of comprehensive evaluation of
5 that that would be needed to justify the status of the
6 changes.

7 So that if you could provide any
8 information on the kind of, you know, comprehensive
9 evaluation of that that might be occurring, that would
10 be very helpful. I'm somehow doubtful that the Public
11 Utilities Commission or the Energy Commission or
12 Department of Commerce have substantial expertise in
13 raptor populations. Maybe I'm mistaken, but I suspect
14 that they do not, and we need to rely on the DNR and the
15 U.S. Fish & Wildlife Service for that expertise. And if
16 you have done sufficient homework to clearly indicate
17 that there won't be impacts on populations, perhaps the
18 status change that you are proposing is appropriate, but
19 it seems to me to be inadequately justified at this
20 point.

21 Thank you. I'm done.

22 HEARING OFFICER: Thank you.

23 MR. BAKER: Thank you.

24 HEARING OFFICER: And thank you to
25 whoever had the foresight to close the door.

1 Ms. Overland, you did ask about the
2 authority for regarding the comment period. I would
3 direct you to Minnesota Rule 1400.2230.

4 MS. OVERLAND: Minnesota Rule?

5 HEARING OFFICER: Minnesota Rule
6 1400.2230. I believe that is the regulation regarding
7 my ability to extend the comment period.

8 MR. BAKER: The rebuttal period.

9 HEARING OFFICER: Well, the comment
10 period and then it will also address the rebuttal
11 period.

12 HEARING OFFICER: Maureen Hackett.

13 MS. HACKETT: Good evening. I am
14 Maureen Hackett and I represent --

15 HEARING OFFICER: Please state and
16 spell your name.

17 DR. HACKETT: Spell my name. Sorry.

18 HEARING OFFICER: No problem.

19 DR. HACKETT: It is M-A-U-R-E-E-N
20 H-A-C-K-E-T-T. I do have an M.D. I am basically
21 representing a group that is headquartered out of
22 Hopkins, Minnesota at P.O. Box -- it is called Howling
23 For Wolves, P.O. Box 4099, Hopkins, Minnesota 55343.
24 And I think I'm going to focus most of my comments on
25 the wolf and the proposal to remove the Wolf from a

1 species of special concern.

2 I think while I was listening to everyone
3 it really becomes clear to me that one of the most
4 important parts that we need to think about with the
5 wolf is that it is a keystone species. The wolf is
6 basically a very necessary species, a top apex predator,
7 and the wolf maintains a biological diverse ecosystem.

8 So, while you mentioned that the eagle
9 is very much up north and doing very well, the wolf is
10 part of why that is. Most people would agree, what a
11 wolf kills, the eagles eat, and it means a lot to our
12 raptors and birds of prey and other additional animals.

13 So, our keystone species of the wolf,
14 in addition, maintains a little more vegetation, because
15 it keeps our undulate (phonetic), our deer moving out
16 of fear that they are going to get caught, and so they
17 don't stay in places like stream banks and rivers and
18 places where they can't move around. So, the wolf is
19 key to keeping our vegetation lush, and so we have more
20 songbirds, more amphibians and more fish, better
21 streams. And lots of research has been done on this,
22 on reintroducing the wolf population in Yellowstone,
23 and in other places where wolves are top predators on
24 existing farms. Unfortunately, there aren't too many
25 other places. There is Zion National Park, there is

1 some research out of that, and there is Yellowstone.

2 So, we want to be concerned about that
3 because when the wolf is not functioning ecologically,
4 a lot of other species will definitely suffer, including
5 songbirds, even bugs, certainly turtles and amphibians
6 or wetlands. Because what is really interesting is that
7 the wolf tends to bring about more beaver, as seen in
8 Yellowstone. And while some people up north find them
9 a hassle, they do provide good wetland habitat.

10 The wolf population was monitored by
11 the DNR. I think it is important that people understand
12 that these are just very basic estimates and well done,
13 in terms of using limited resources, but the last time
14 that we estimated the wolf population it was in 2008,
15 and it was with mail-in surveys over six months. And
16 in those surveys people were asked if they had any
17 observations of wolves. And those observations that
18 were mostly reported in that six-month period of time
19 were footprints or paw tracks, 74% of the observations,
20 so it was a very loose estimate.

21 Before the hunt, we did not do another
22 baseline. We now have a hunt on a population that was
23 considered stable since 1998. And the last time we
24 measured them was in 2008, and the range was anywhere
25 from 2921 to 3500 wolves. So everyone just says we have

1 3,000 wolves. We don't really know how many wolves we
2 had before the hunt started.

3 During the 2012 -- only 16 percent, by
4 the way, of the estimates of wolves in 2008 were visual
5 wolves. The rest were carcasses, scat, and again, the
6 raw foot tracks.

7 In 2012 we killed through the hunting
8 and tracking season for recreational purposes, which was
9 a recreational hunt, 413 wolves, and then outside of the
10 hunt we killed 298 wolves for conflicts with livestock
11 degradation.

12 It needs to be said that that is about
13 a 24 to 25 percent death to the wolves or increased
14 death. It possibly is above and beyond the way all
15 wolves normally die here in Minnesota. I mean we
16 understand that there may be some wolf that may not have
17 been hit by cars because they were killed by a hunt.
18 There is that -- certainly that possibility. But I
19 think anybody would say you might at least get ten
20 percent more, maybe fifteen, dying through poaching,
21 car collisions and illnesses because the population was
22 stable without a hunt. So, now that the wolf is out
23 from federal protection, as of January 27th, 2012,
24 we have lightened state laws which allows wolves to
25 be killed, you know, if people consider them to be

1 threatening to pets, livestock, property. So part of
2 the 298 deaths, killings of the wolves outside of the
3 hunt in this past year was property owners who killed
4 wolves. And they are allowed to do that or private
5 trappers that were hired to kill wolves.

6 The problem now is we have many
7 changes happening at once to the wolf. We have the
8 U.S. Department of Agriculture no longer doing the
9 verifications as to whether a livestock kill was a wolf.
10 We still have the reimbursement situation in place,
11 so there was a lot of incentive to prove it was a wolf.
12 So now we have a lot of new people doing that, And
13 suddenly we have an extra 100 wolves killed. And
14 actually, there is probably an extra 150 to 170 killed
15 from the usual amount.

16 In the last three years, 2012 -- 2011,
17 you had 203 wolves were killed, and that was the highest
18 rate. Before that it was about 198 to 196, and then it
19 dropped, it was different numbers, back to as low as
20 105 in 2007. So, we have more potential for wolf kills
21 outside of a hunt, just with having different people
22 determining whether we are going to put traps out for
23 a mile out from a farm, where we think wolves did a
24 killing. Because that's what they can do, they can bait
25 the wolves, and whether those wolves were guilty of the

1 killing, they can be killed because they are baited very
2 effectively.

3 So, we have lightened state laws on a
4 species that was historically persecuted into near
5 extinction. And we have many examples of species still
6 being persecuted. Just last week, I think it was on
7 CNN, there were two snowmobilers in Finland, of course
8 this wasn't Minnesota, but other things have happened
9 here, but they basically ran over three wolves in a
10 pack. But in addition to that, in addition to the
11 persecution of a pack of wolves or just, you know,
12 killing wolves for pleasure outside of the hunt, we
13 also have illnesses. And wolves basically die or get
14 exposed to different illnesses, and they also die of
15 mange, separate from that.

16 We have asked the DNR for information,
17 and formally we have asked now, but we did ask for
18 information on all of the different ways that wolves die
19 besides the hunt and besides livestock degradation, and
20 we were told that that information will not be available
21 until this fall.

22 I'm not sure, Mr. Baker, if you want
23 to just make a note of that and ask them about that.
24 But we had to -- we know that we had done our best and
25 we contacted many people on that. And the specific,

1 you know, carnivore specialist, Dan Stark (phonetic).

2 In addition to the ways that wolves
3 die, we also know that there is mange, but we don't know
4 anything about mange. We don't know the incidence of it
5 or we don't know anything about it; nobody ever talks
6 about it. But just this past January 13th, on a very
7 cold Sunday morning, at least twenty cars stopped by the
8 road on Highway 61 to see four wolves who had lost their
9 fur from mange. They were emaciated; two young ones and
10 two old ones. The DNR was called. We believe those
11 wolves are dead now. It was extremely cold and they
12 looked extremely close to death.

13 So, in addition to all of these sources
14 of illnesses, we are developing a wolf pelt market.
15 Basically what I mean by that is the DNR Commissioner
16 and members of the public have stated openly that they
17 are selling their pelts. We know that people have
18 walked into shops in Duluth trying to sell pelts to the
19 shop owners to sell the pelts. They get anywhere from
20 \$250 to \$500 a pelt. And I think that, too, will
21 increase at least the incentive for poaching. And I
22 am told that the DNR really can't enforce hunting and
23 poaching violations more than approximately one percent
24 of the violations. That's what the Commissioner has
25 stated, Commissioner Lang (phonetic).

1 So, in addition to all of that, we
2 just lost one-fourth of our wolf population. And some
3 development shows or some research shows that when you
4 lose a breeding female, and really there's a very high
5 chance of disrupting a pack anyway, and a high chance in
6 Minnesota with the small packs, which in 2008 the
7 average pack size was 4.9 wolves, so when you lose one
8 out of four wolves, you have a twenty-five percent
9 chance that one of those wolves would be female, a
10 breeding female, and the pack will be disbursed over
11 half the time. Only 47, at least according to the study
12 that I was looking at, only 47 percent of the packs go
13 on to stay intact.

14 So, the recovery time of the wolves
15 from a hunt does not go from breaking up, you know,
16 the high wolf kill rate and then go to breeding in
17 February, and then successfully parenting all summer,
18 because the pack size is going to be smaller.

19 A wolf pack basically requires a pack
20 to raise the pups. There is a breeding pair and then
21 the rest of the pack raises the pups. So, the
22 possibility is that the human effect, the off-take
23 effect of hunting and livestock degradation may actually
24 be higher than we know, called additive, rather than
25 compensated by the wolves, because wolves are a social

1 animal that require a pack to survive, require a very
2 special habitat, and they take two to three years to be
3 able to reproduce, and possibly four or five to become
4 good parents.

5 The Wolf Management Plan of 2001
6 published by the DNR indicated that the mortality of an
7 adult wolf, year upon year, was 35 percent; estimated.
8 The poaching, the poaching count was estimated, and it
9 was just an estimate, anywhere from 250 to 300 wolves a
10 year. So we really don't know, you know, what the wolf
11 loss was, and this is just in 2012, this is in addition
12 to the hunt. The change in state laws which allow for
13 more killing and less penalties for poaching, and it
14 is not a federal crime anymore, it is not a felony
15 rather, and you don't have a \$2,000 fine anymore, it is
16 500. So, we don't know what that effect is. And also,
17 all of the illnesses and the stress on the pack just
18 from losing pack members who would normally hunt and
19 bring back food to a pack member or to be able to help
20 young members to be able to get food.

21 And then finally, if you break up the
22 packs, you make them more likely to go towards human
23 dwellings, even though they are afraid of humans, and
24 possibly more towards livestock and more livestock
25 problems, which almost always result in a wolf death.

1 So, we may have just started to
2 accelerate the decline in our wolves, but we don't know.
3 Now is not the time to look to decreasing them out of a
4 species of special concern. They are just one year out
5 from an endangered species.

6 So that kind of summarizes it.

7 HEARING OFFICER: Thank you very much.

8 MR. BAKER: Thank you.

9 HEARING OFFICER: Erin Logan.

10 MS. LOGAN: Thank you. I am Erin
11 Logan. E-R-I-N L-O-G-A-N. My address is 17004 420th
12 Street, Zumbrota, Minnesota 55992.

13 I am just here as a concerned citizen.
14 I just found out about this meeting today, so I'm going
15 to be reading a lot of notes off of my own chicken
16 scratch that I have been pulling together. And I have a
17 few questions and then just a few comments or requests
18 of the DNR.

19 So, I have been made aware that bald
20 eagles are impacted by both transmission lines and
21 industrial wind development. Both types of projects
22 currently require incidental take (phonetic) permits.
23 And I'm curious of how the differences between state
24 and federal listings impact the need for incidental
25 take (phonetic) permits.

1 So, if the bald eagle is listed under
2 one policy and not under the other, how does that impact
3 the need for incidental take permits?

4 MR. BAKER: So, for an eagle, because
5 the eagle is currently a species of special concern,
6 the only state permit that would be required would be a
7 Protected Wild Animal permit, to take eagles under the
8 state law. The incidental take (phonetic) permit that
9 you referred to is a federal permit. And it is managed
10 by the U.S. Fish & Wildlife Service.

11 Now, with the delisting of the bald
12 eagle, that permit is issued under the Bald Eagle
13 Protection Act.

14 MS. LOGAN: By whom?

15 MR. BAKER: By the Bald Eagle and
16 Golden Eagle Protection Act, not the Endangered Species
17 Act.

18 MS. LOGAN: But the permit is granted
19 by the U.S. Fish & Wildlife Service?

20 MR. BAKER: Yes, by the U.S. Fish &
21 Wildlife.

22 MS. LOGAN: Okay. Thank you. I would
23 just like to ask that species, particularly with regards
24 to large raptors and the Trumpeter swan, which are
25 proposed to be changed to a lower status, remain on the

1 list in light of the fact that the industrial wind
2 development is encroaching on their nesting habitat and
3 their migratory pathways.

4 I understand that the DNR has a
5 substantial task in monitoring all of the populations
6 within the state of all of these creatures, so I
7 understand that the review of a project or an issue
8 such as this is infrequent. So, you guys have a huge
9 task, so I appreciate everything that you do, and I
10 understand, but I just have a couple of requests.

11 If we were to allow the large raptors
12 and Trumpeter swans to remain listed as they were
13 previously, it would allow for protections to be ramped
14 up more quickly if our bird populations were to begin to
15 fail as a result of the impacts of industrial wind
16 farms.

17 I don't believe that we have adequate
18 data to identify the true impact of these substantial
19 changes to our landscape and ecosystem.

20 I have another question. I would like
21 to know what is or what qualifies as a "keystone
22 species"?

23 Do you have a qualification for that?

24 MR. BAKER: Is that a term that I have
25 used? I -- I --

1 MS. LOGAN: I haven't heard it from
2 you, but I've heard it, so I'm just curious what it
3 means.

4 MR. BAKER: Well, I could provide that
5 out of an ecology textbook, but I'm not prepared to do
6 that right now. I can provide that.

7 MS. LOGAN: Okay. So the DNR, do you
8 have a classification?

9 MR. BAKER: Called "keystone species"?

10 MS. LOGAN: Called "keystone species"?

11 MR. BAKER: No. I think it is an
12 ecological concept that we may use. I don't think I
13 used it in the Statement of Need and Reasonableness,
14 but it is possible. It is a species that plays a key
15 or critical role in an ecosystem. But I'm just speaking
16 off the top of my head here.

17 MS. LOGAN: Okay. That's fine. So,
18 I appreciate the fact that the DNR has categorized the
19 big brown bat as a species of concern. I would ask if
20 the DNR has any ecological impact data that we may have
21 as a result of the loss of the bat population throughout
22 the state? Particularly in regards to industrial wind
23 development, but really in regards to any bat
24 population?

25 MR. BAKER: I do not have any estimate

1 on that.

2 MS. LOGAN: Are there any plans to
3 conduct some type of study that would evaluate the
4 impact?

5 MR. BAKER: In fact, we are right now
6 working on developing a large study of -- to estimate
7 fatalities caused by wind, existing wind farms on bats
8 in Minnesota. And there is an -- you could find a
9 Request for Proposals describing that study on the
10 Department of Commerce website.

11 MS. LOGAN: Perfect. Thank you.

12 So I guess I would just like to ask,
13 I appreciate the fact that there are RFPs out to study
14 the impact of industrial wind development on the bat
15 population, but I would really like to ask that we look
16 at bats overall and consider proactively what impact
17 this booming industry might have on bat population as
18 well as agriculture and our ecosystem as a whole.

19 Lastly, I would like to thank the
20 DNR for working to preserve our invaluable wildlife
21 resources that we have throughout Minnesota. I think
22 we are all appreciative of what we all have and that's
23 part of our reason that we all decide to live in this
24 state. But my belief is that throwing money at an
25 issue, such as a decrease in our avian or bat

1 population, is a reactive solution and I would pitch
2 or propose that obtaining baseline information,
3 particularly in regards to avian use of the Mississippi
4 flyway, and to have a clear understanding and full
5 documentation of the true impact of this rapidly growing
6 industry, including industrial wind farms and the
7 expansion of transmission throughout the State of
8 Minnesota be considered so that we can find ways to
9 balance the site development with the impact to our
10 habitat, which would be a more strategic initiative
11 or planning in regards to the impact to our ecosystem.

12 I think that clear, quantitative
13 baseline information should be gathered prior to the
14 delisting or the reduction in the listing of any avian
15 species in the State of Minnesota.

16 MR. BAKER: Thank you.

17 HEARING OFFICER: Thank you very much.
18 That was the last name that I had on the list of folks
19 who signed up before the break. There might have been
20 one or two other people who snuck in.

21 Was there anyone else who would like to
22 speak?

23 MS. ROHLFING: I would.

24 HEARING OFFICER: Okay. Please. I
25 would also request that at some point you -- I don't

1 know if you have already signed in on the log up there,
2 but at some point, for our records, it would be great
3 if you would sign in. Thank you.

4 MS. ROHLFING: Thank you. I have to
5 confess that I signed up on the log, but I wasn't sure.

6 HEARING OFFICER: Okay. No, that's
7 fine.

8 MS. ROHLFING: I will now. I am
9 Suzanne Rohlfing. S-U-Z-A-N-N-E R-O-H-L-F-I-N-G.
10 I live at 2310 15th Avenue Northwest, Rochester,
11 Minnesota.

12 Do you need a break?

13 (Off the record.)

14 MS. ROHLFING: Your Honor, Mr. Baker
15 and Ms. Edwards, thanks for the opportunity to speak
16 and ask questions this evening.

17 I have one kind of housekeeping
18 question. When I was looking at the SONAR, I could not
19 find Minnesota Rule Part 6134.1070. What is that?
20 Did I --

21 MR. BAKER: Let me look at my copy of
22 the rule.

23 HEARING OFFICER: I'm sorry, could you
24 give me that cite again?

25 MS. ROHLFING: 6134.1070.

1 MR. BAKER: Yes, let me -- I will
2 answer that as soon as I find it. (Reviewing.)

3 MR. BAKER: Oh. No, we have two rules
4 that apply to the Endangered Species Statute and I was
5 looking for the wrong one.

6 MS. EDWARDS: This one (indicating).

7 MR. BAKER: Tell me one more time.
8 6134.

9 MS. ROHLFING: 1070.

10 MR. BAKER: 1070. You know, 6134 is
11 not just endangered species. So 1070?

12 AUDIENCE MEMBER: No, that is wrong.

13 MR. BAKER: So the last section that
14 applies to endangered species is the fungi.

15 MS. ROHLFING: 0170. 0170, that's my
16 number dyslexia.

17 MR. BAKER: Oh, 0170.

18 MS. ROHLFING: Now we need a break,
19 right? I'm sorry.

20 MR. BAKER: 0170 is a section that we
21 are adding to explain why we are providing common names
22 to all species. This was as a recommendation on the
23 part of my senior management. And that section simply
24 explains that where the species are identified by
25 scientific name, we are providing common names, just

1 for the convenience of the reader.

2 MS. ROHLFING: I understand.

3 MR. BAKER: But they are not
4 definitive.

5 MS. ROHLFING: Thank you for that
6 clarification.

7 MR. BAKER: Sure.

8 MS. ROHLFING: I have already had the
9 question answered that I had of the every three years
10 and the evaluation. I was glad to hear that you are
11 addressing it more frequently than it was alluded to
12 in SONAR.

13 But I have to ask a question about the
14 2000 hiatus. What was that that happened?

15 MR. BAKER: We published the initial
16 Request for Comments in 2000. And then we looked at the
17 work that we had ahead of us and the staff that we had
18 to do that work, and it was not sufficient to get the
19 work done. We just had -- we had too much work and not
20 enough people. And so it, the Revision of the
21 Endangered, Threatened and of Special Concern dropped
22 off for a couple of years there and then we got back
23 into it and began developing the list that we presented
24 in 2007.

25 But there is no -- there is no easy way

1 to say it, but that it was just too much work and too
2 little staff.

3 MS. ROHLFING: Understood. And in lieu
4 of that, I was seeing when I was reading the SONAR, that
5 the funding seems to be quite the issue. If I could
6 respectfully suggest or disagree, I'm concerned also, as
7 the previous speakers have suggested, that the workload
8 is going to increase for you. And so I think about the
9 Legacy Amendment, I think about the Minnesota
10 Environmental Policy 116D, and how really the agencies
11 need to be able to do the work.

12 And so I would ask for a robust
13 reconsideration of adequate funding, so that this is not
14 the reason that Minnesotans are not seeing what they
15 have asked for and then you are not able to do the work
16 that is needed. So I would suggest that. I don't know
17 who would hear that, but.

18 I would also like to -- it is, again,
19 in SONAR and it speaks of the -- let's see if I can find
20 it. It is on Page 5. You are talking about Subdivision
21 3, designation, and it's No 2, the use of the word
22 "range." And the significant portion of the range
23 referring to the species, the geographic distribution
24 within the state. (Reading.) And, again, with
25 constraints financially, I can understand that we are

1 looking at the state. But in lieu of what we know and
2 what we have heard before, ranges are going to change,
3 and probably change more rapidly. And we are seeing
4 a trend with climate change of extrication of some
5 species and the migration of some species in a
6 northeasterly direction. So I'm wondering when some
7 of these rules are addressed, are we looking at other
8 states and what is coming and their listing species
9 and how that might impact our listing of species?

10 MR. BAKER: Certainly when we -- when
11 we evaluate a species as to whether or not it fits the
12 definition of Endangered, Threatened or of Special
13 Concern, we look at how those species are considered
14 in other states. But as I say in this section here
15 (indicating), it is -- what is happening because our --
16 our authority is limited to the jurisdiction of the
17 state. How we chose -- how we choose to designate
18 species is, for the most part, what is going on, based
19 on what is going on in the state. What is going on
20 outside of the state is certainly a minor consideration.

21 MS. ROHLFING: I have read that.

22 MR. BAKER: But it is minor. You know,
23 I think some really legitimate and good points have been
24 made tonight about the future effects of climate change.

25 MS. ROHLFING: Uh-huh.

1 MR. BAKER: And that's something that
2 we are all going to be grappling with, we, in the DNR,
3 and you, in the public. Each of us is going to be
4 affected by that. And I agree that it will impact the
5 distribution of species in the state. And we will have
6 to learn to be more nimble and quicker in our response
7 to those kind of changes.

8 MS. ROHLFING: Excellent. Thank you
9 for that. I believe I would like to move to Page 13,
10 the "Summary of species." And most of these have been
11 addressed already.

12 I am in agreement as well, that I would
13 not like to see the delisting of some species at this
14 time. I will start with our moose.

15 I am wondering if, actually, these
16 going to special concerns, I'm wondering if it needs
17 to be accelerated, knowing that the population in
18 the Northwest is significantly less, and we have a
19 significant decrease or decline in the northeast, are
20 we sure that "special concern" is strong enough?

21 I would like to move to the gray wolf.
22 Actually, my concern was addressed also before. I don't
23 understand how we can lose, I thought -- I was going
24 to estimate 15 percent or 25 percent of our wolf
25 population, and then I learned more about how they

1 regenerate. It doesn't make sense to me to have a hunt
2 such as this and then automatically remove them. So
3 perhaps that could be another three years. So let's
4 wait and see what happens. So I would like to not see
5 the gray wolf delisted.

6 I have a particular concern about our
7 bats. I see that both species, the brown bat and the
8 Little Brown Myotis are a special concern. I would
9 like to suggest that they be increased to threatened.

10 I know that it addressed in the SONAR
11 the white cloud (phonetic) syndrome and the white cloud
12 is coming our way. So, when I think about the bats and
13 how they roost in the winter, and there's a lot of them
14 in a little bit of space, and then you add to that we
15 know it is coming, we know we have got the transmission
16 lines, and we know we have got the wind turbines, it
17 appears to me that there will be or we are looking at
18 an accelerated loss of these species.

19 So I would like to see them both moved
20 up to threatened.

21 Trumpeter swan. I would like to see
22 that species stay threatened. If I'm not mistaken,
23 Wisconsin has either proposed or passed, I think it is
24 just in the proposal state, the hunting of the Sandhill
25 cranes. And my understanding is that the juvenile

1 Trumpeter swans look very much like Sandhill cranes.
2 So, my thought is that that might impact the population
3 more than anticipated. So I would like to suggest that
4 that species stay as threatened.

5 I won't reiterate all of the concerns
6 about the bald eagle; however, that is a concern of
7 mine.

8 Multiple insults seems to be what we
9 are seeing in this species. And this state has the
10 privilege of high-voltage transmission lines and the
11 wind turbines, and we are forgetting about the frack
12 mining. And it is about to explode, actually, along the
13 wetlands and the Mississippi flyway. And then there is
14 the Zumbro River in Wabasha County, and southwest of
15 the cities. So, when we take into that cumulative
16 effect, I do not believe that the bald eagle should be
17 delisted.

18 I also have understood that the golden
19 eagle has been seen year-round in the -- in the river
20 areas. I forget which county it is. Wabasha? Anyway,
21 so if we are seeing a bird year-round, my guess is that
22 there is a nest or a potential nesting somewhere. So,
23 would the DNR look at the golden eagle and perhaps
24 addressing them and adding them to the status and
25 listing them?

1 MR. BAKER: Is that a question?

2 MS. ROHLFING: Oh, yes, it is a
3 question.

4 MR. BAKER: You know, the discovery
5 of the wintering population is a relative recent event.
6 We have no evidence of golden eagles in this area in
7 the summer or nesting. And in cooperation with the
8 Minnesota Audubon, we have placed satellite transmitters
9 on now four wintering golden eagles in Minnesota.
10 And each of those nests are in the Arctic, in either
11 Labrador or around Hudson Bay, and so our best
12 information right now is that we do not have a
13 reproductive population of golden eagles. So until
14 we have evidence of that, we would not consider listing
15 the species.

16 MS. ROHLFING: Understood. Thank you.

17 I would like to mention one other
18 multitude of species. Our little invertebrates. They
19 are a little hard to keep track of and find, but they
20 are here.

21 If I could suggest, the most endangered
22 and the least protected habitat we have is the prairie.
23 And so much of this state was tall grass prairie. And
24 so I guess perhaps I'm coming to you indirectly, in
25 the hope that we seriously address a promotion and a

1 restoration of that habitat for these invertebrates.
2 There are so many species that we haven't even
3 identified yet, so we can't even address where they
4 are going. We don't even know they are here.

5 The other thing, it is sort of a
6 side step as well, but some practice management of what
7 prairies. We do have to continue to utilize substantial
8 burnings. And there is more evidence that is suggesting
9 that these species can be protected with a less frequent
10 and in some ways a more mechanical means of prairie
11 maintenance. So, indirectly I am asking the DNR to just
12 peak at those thoughts.

13 I am also wondering if, and this is
14 probably not exactly what you are wanting to hear, but
15 a lot of the -- the energy industry, again, is hitting
16 us pretty hard. And I know for power plant siting, we
17 have certain criteria that we go by in an Environmental
18 Assessment. However, for other things, we don't
19 mandate, like the mining. Sand mining, we don't mandate
20 an environmental review. It is pretty much whatever
21 governmental entity is around, do they want to review it
22 or do they not want to review it. And so my suggestion
23 is that we really look at, for some of these species
24 mentioned and for some of the species not mentioned,
25 that we seriously look at the habitat that will be

1 affected by some of these projects. And perhaps the
2 state can step forward and help, and all of us can take
3 a closer look before we start each of these projects.
4 And that if the state, if I could suggest, that if the
5 state does an environmental assessment, that perhaps
6 we can catch some of these species before they become
7 endangered.

8 I think I am finished. Thank you very
9 kindly.

10 HEARING OFFICER: Thank you. How many
11 other folks would like to speak tonight? Just one.

12 (Off the record.)

13 HEARING OFFICER: Alright. Please,
14 sir.

15 MR. OLIYNYK: I will be short. I won't
16 take that much time. My name is Roman, R-O-M-A-N, last
17 name Oliynyk, O-L-I-Y-N-Y-K, Minnetonka.

18 I mostly talk for myself. I just want
19 to add a little bit of a question for the DNR on this
20 gray wolf.

21 Essentially, I would say if there
22 wasn't a wolf hunt, it would be totally appropriate to
23 delist the wolf or change the status of the wolf from
24 "special concern" to "none." The problem becomes that
25 with the wolf hunt, as Maureen mentioned earlier, a lot

1 of wolves were killed, on top of the number of wolves
2 that would typically die every year.

3 And I also have a question to the
4 DNR, whether there was a count of wolves that were
5 essentially wounded or escaped? Hunters may shoot from
6 a shorter distance for more opportunity, that they may
7 get a wolf or they may wound a wolf to a smaller extent,
8 and the wolf would die later. Obviously, that wouldn't
9 be reported.

10 So, are there any counts on that
11 estimate?

12 MR. BAKER: Now you are asking a
13 question way outside of my expertise here or knowledge.
14 So I will try to get an answer in a written response.
15 I will go to the, you know, to the section of wildlife,
16 the people who manage hunting animals. And so I will do
17 my best to find that out.

18 MR. OLIYNYK: That will be interesting
19 to find that out definitely.

20 And so the question is when there was
21 an original plan for a five-year period after the wolf
22 was delisted, obviously it dropped, it seems like it
23 would be appropriate, instead of listing the wolf status
24 as none, to keep it a special concern, and maybe go to a
25 study to see what was the impact of this hunt for five

1 years. And maybe it proves that the wolf survived just
2 fine, but probably that would be the correct way of
3 moving forward.

4 But at this point it looks like there
5 is a lot of false conclusions about how smart the wolf
6 is and how easily it can avoid hunters, and that was
7 all disproven. I remember just from -- I don't remember
8 personally what the DNR was saying, but that it was the
9 wolves are going to be hard to reach the quota. And it
10 didn't take that long of a period to allocate for that.

11 And I will just say from the
12 perspective of a wolf, obviously, why would we worry
13 about a wolf or other species, but a wolf brings a lot
14 into the ecosystem. I grew up in the Ukraine, so I was
15 hiking the mountains a lot, even though the Ukraine has
16 a lot more populated area, less than other areas, but
17 certainly more populated than northern Minnesota, and
18 the ecosystems are probably not doing as well as they
19 should be there. But because of the wolf population,
20 I couldn't see, the creek that was in between the
21 mountain didn't have trees or brushes growing around it,
22 and obviously there were all kinds of animals that were
23 protected from the list and there was a lot of grazing
24 going on around there as well. A lot of cows and goats
25 and sheep herding. And that was part of normal life in

1 the mountains. But, again, the wolves and boars,
2 obviously, there was a hunting season for boars, but
3 obviously, wolves and bears were a protected species and
4 I believe they added to a lot, insofar as keeping what
5 ecosystem was going on there on that level. That was
6 it.

7 HEARING OFFICER: Okay. Thank you very
8 much. Anyone else that would like to speak?

9 DR. HACKETT: Just one. I forgot one.

10 HEARING OFFICER: Ms. Hackett, sure.

11 DR. HACKETT: This is Maureen Hackett.

12 I just wanted to add to my comments.

13 With regard to all of the different
14 changes happening to the wolf, we are, in our state we
15 have much more proposal and ongoing public grazing. I
16 did show the map of the current public grazing plan to
17 a wolf specialist and they are looking at a wolf range,
18 and at least six percent of public grazing is going to
19 occur within a wolf range, and to be honest with you,
20 even though I said I think the wolf population is
21 stable, I think one of the other points is that it is
22 not expanding. Even though we have plenty of food for
23 the wolf in terms of deer, it is not expanding for a lot
24 of reasons. And in terms of public grazing, now we
25 are looking at taking the agriculture into more wolf

1 territory. And we know that whenever a wolf gets into
2 any conflict, even though it is because the agriculture
3 moves into its place that they had a den, they may have
4 pups that they can't move. Pups are born deaf and
5 blind. That the wolf will lose. We have nothing in the
6 law that says anything about not killing a wolf that is
7 that situation.

8 So it is another way that the wolf is
9 definitely at risk. And all of the climate change,
10 things we talked about with other animals, certainly it
11 could pertain to the wolves in particular, tick related
12 diseases, like ehrlichiosis, and some of these other
13 illnesses that may even be affecting the moose, the wolf
14 certainly gets a lot of ticks and certainly they can
15 have problems with that, too, so.

16 HEARING OFFICER: Okay. Thank you.

17 Is there anyone else that would like to
18 speak?

19 MS. KRUCKENBERG: Yes, I would.

20 HEARING OFFICER: Please.

21 MS. KRUCKENBERG: I am Jenny
22 Kruckenberg. J-E-N-N-Y K-R-U-C-K-E-N-B-E-R-G. And I
23 guess I would just like to direct my comments to Rich
24 Baker and compliment the DNR for the work that has been
25 done concerning mussels. And there is a relationship

1 that I would like to bring to your attention. There is
2 a relationship between non-game fish and mussels. And
3 some of these mussels, when I was at St. Bernards
4 (phonetic), I went out and surveyed on the St. Croix
5 River, and there is a relationship between the fish and
6 the mussels. Because very small mussels are released
7 from the mature muscle. They attach to the gills of
8 the fish and get carried to a new location, and several
9 months later they fall off, and they turn into mature
10 mussels. And I guess my comment would be just to
11 compliment the work that the DNR does for these little
12 known creatures. Because in my experience, when I went
13 out and did a survey, a few surveys with Bernard
14 (phonetic), I realized just how rare some of them are.

15 So, I just want to compliment the work
16 that you are doing and to recognize that this is
17 important. And especially in regard to the Stillwater
18 bridge that is being built. I -- I think it is very
19 important that they move the mussels, if they can,
20 relocate them, do what they need to do, and to spend
21 some money on doing that.

22 That's my comment.

23 HEARING OFFICER: Thank you.

24 MS. KRUCKENBERG: You are welcome.

25 HEARING OFFICER: Thank you very much.

1 Is there anyone else who would like to speak this
2 evening?

3 Well, I would like to thank you all for
4 your time and for participating today.

5 MR. BAKER: As would I.

6 HEARING OFFICER: And I would, again,
7 if you would like to obtain a copy of my report, please
8 fill out an envelope at the back and we will let you
9 know when the report comes out and how you are able to
10 obtain it. And this hearing is adjourned.

11

12 (Whereupon, the hearing was adjourned at
13 8:02 p.m.

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1 REPORTER'S CERTIFICATE

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3 I, Ann Marie Holland, do hereby certify that
4 I recorded in stenotype the hearing on the foregoing
5 matter on the following day, January 29th, 2013, held
6 at the Ramada Hotel & Conference Room, Rochester,
7 Minnesota, in front of Administrative Law Judge James
8 E. LaFave;

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

11 I further certify that thereafter and on that
12 same date I transcribed into typewriting under my
13 direction the foregoing transcript of said recorded
14 hearing, which transcript consists of the typewritten
15 pages 1 - 79;

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

18

19

20 WITNESS MY HAND AND SEAL THIS 14th DAY OF
21 February, 2013.

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Ann Marie Holland

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