

In The Matter Of:

v.

U.S. Fish and Wildlife Service

Vol. 2

July 7, 2011

Liberty Court Reporting
107 Dr. Martin Luther King Jr. Ave.
Inverness, FL 34450

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KINGS BAY MANATEE REFUGE PROPOSED RULE -- PUBLIC HEARING

July 7, 2011
U.S. Fish and Wildlife Service
College of Central Florida - Citrus Campus
CF Conference Center
3800 S. Lecanto Highway
Lecanto, Florida 34461-9026
7 p.m. to 9:45 p.m.

MODERATOR: Kahlman Fallon, Esquire
Deputy Regional
Solicitor's Office
Department of the Interior

PANEL: Dave Hankla
U.S. Fish and Wildlife Service
Field Supervisor
Jacksonville, FL

Stephanie Barrett, Biologist
U.S. Fish and Wildlife Service
Chief of Recovery and Listing
Ecological Services Field Office
Jacksonville, FL

Jeff Weller
Fish and Wildlife Service
Ecological Services Supervisor
for Florida
Atlanta, GA

COURT REPORTER: Sherry A. Belliveau
Liberty Court Reporting
107 Dr. Martin Luther King, Jr.
Avenue
Inverness, Florida 34450
(352) 637-0019

1 H E A R I N G P R O C E E D I N G S

2 MR. FALLON: Good evening, ladies and gentlemen.
3 Can you hear me? Good evening.

4 GENERAL PUBLIC: Can't hear you.

5 MR. FALLON: Good evening, ladies and gentlemen.
6 Can you hear me now?

7 GENERAL PUBLIC: Yes.

8 MR. FALLON: The appointed hour has come and that
9 the public hearing will come to order, please. I would like
10 to welcome you to this public hearing, on behalf of the Fish
11 and Wildlife Service.

12 This is a United State Fish and Wildlife Service
13 formal public hearing, on the proposal to establish a manatee
14 refuge in Kings Bay, located in Crystal River, Citrus County,
15 Florida.

16 My name is Kahlman Fallon. I'm an attorney with the
17 Department of the Interior, in the Regional Solicitor's
18 Office, of the U.S. Department of the Interior. I was asked
19 by the Fish and Wildlife Service to conduct this public
20 hearing. While I am a Federal employee and an employee of the
21 Department of the Interior, I am not an employee of the Fish
22 and Wildlife Service. I am not involved in the
23 decision-making process on this proposal, and once this
24 hearing is completed, my duties in this area will be done.

25 I am here, solely, to conduct the public hearing and

1 to provide an independent and impartial presence. My
2 obligation to the Fish and Wildlife Service and to you, the
3 public, is really, fourfold;

4 That is, we want to maintain an orderly public
5 hearing;

6 Maintain a friendly and nonhostile environment;

7 Keep the speakers to their allotted time limits
8 because, right now, we have over 45 people who have requested
9 speaking time;

10 And, finally, I want to ensure that each of you has
11 a fair and equal opportunity to be heard.

12 I'd like to introduce the people up here in the
13 podium with me this evening. To my immediate right is
14 Mr. David Hankla. He's a field supervisor in Jacksonville.

15 To his right is Ms. Stephanie Barrett. She is the
16 Chief of Recovery and Listing at the Jacksonville field
17 office. She is a Fish and Wildlife biologist.

18 And to my left is Mr. Jeff Weller. Mr. Weller is a
19 Fish and Wildlife Service Ecological Services Supervisor for
20 Florida, and he's located in the regional office in Atlanta.

21 The proceedings tonight will be recorded by a court
22 stenographer. She's down here to my left, and her name is
23 Sherry Belliveau of Liberty Court Reporting. If any of you
24 would like a copy of the transcript, you'd have to make
25 arrangements with her, and you'll have to pay for your copy,

1 should you request one. In the event you have an interest,
2 her telephone number is (352) 637-0019. That is correct?

3 MADAM COURT REPORT: Yes, it is.

4 MR. FALLON: This evening is going to be divided
5 into three parts. The first part is mine, and what I'm going
6 to do is tell you how the evening will proceed.

7 The second part, Ms. Barrett will give you a short
8 presentation and tell you about the proposal.

9 And then the third part, which is the major part,
10 will be a time for which we'll receive public comments.

11 All right. I have a few ground rules that I'd like
12 to go over. The speakers, if you would like to speak, and you
13 have not completed a registration card, there are some Fish
14 and Wildlife Service employees around the room, who will give
15 you one and you can submit it, and they will give it to me.

16 I will call each speaker to the podium and receive
17 his or her comments. And the way I'm going to do this, this
18 evening, is to start with our public officials, our State
19 officials, our local officials, and then we'll go to the
20 general public.

21 When you come to the microphone, which will be at
22 the podium, right in front of me, I ask that you state your
23 name, clearly, and spell your last name for the stenographer;
24 that way she can get it down, correctly. And I'll tell you,
25 you don't have to shout, because the microphone should amplify

1 your voice more than enough.

2 There are quite a few speakers this evening, so in
3 an effort to -- in an attempt to hear everyone, we've decided
4 to limit the amount of time that each of you will have to
5 speak, and that limit will be four minutes. My experience, in
6 conducting these hearings over the years, is that while four
7 minutes might seem like a short period of time, it's a really
8 long time to speak. And I think that you will find that, too.
9 Most people do not exhaust the time.

10 To facilitate your keeping track of the time, in
11 front of me we have a timer with three lights. The green
12 light indicates the beginning. When you get within 45
13 seconds, that is, at 3 minutes and 15 seconds, then the yellow
14 light will go on. And then once it reaches four minutes,
15 should you do so, the red light will go on.

16 When you speak and the red light goes -- should you
17 reach the red light, you don't have to stop in mid-sentence.
18 Complete your thought, and then move on to the next speaker.

19 There are a few things about the hearing tonight,
20 that I would like to tell you about. First of all, it is not
21 a court proceeding, but we'd like to keep the demeanor as in a
22 court, but there will be no testimony under oath. There will
23 be no cross-examination.

24 Also, it is not a debate here tonight. It is not a
25 debate between the audience and the Fish and Wildlife Service.

1 It is not a debate between members of the audience. There is
2 no rebuttal. There is no second chance to get up and speak
3 this evening.

4 It's not a question-and-answer session. You, the
5 audience, don't ask questions, and the people from the Fish
6 and Wildlife don't answer them tonight.

7 What tonight is scheduled for is to receive your
8 comments on the proposal. And we'd like to have you direct
9 your comments about the proposal and the factors you believe
10 that the Fish and Wildlife Service should consider and
11 interpret for the decision, when they decide -- when they do
12 make the decision.

13 I do caution you about the idea of being civil this
14 evening, that this is not an opportunity to vilify or
15 castigate individual scientists or employees from the Fish and
16 Wildlife Service. These type of comments, really, won't
17 assist in the decision-making process. And if you should go
18 down this line of comment, I will interrupt you and ask you to
19 stop.

20 Now, let me tell you about the questions. You can
21 ask questions. The questions won't be answered tonight, but
22 what will happen is the Fish and Wildlife Service will
23 consider all the comments and the information that it has. It
24 will consider your question, and very well they could respond
25 to it in -- when they do their final decision. That is quite

1 frequently done.

2 If you have registered and you think that you've
3 heard what you're going to say enough times, then you don't
4 have to get up and speak. You do not have to get up and
5 speak. You just let me know that you don't wish to speak.

6 Now, if you don't complete your oral comments or you
7 decide not to speak this evening, let me remind you, then,
8 that you can supplement your oral comments in writing, or you
9 can just submit your comments in writing.

10 If you have them with you this evening, you can give
11 them to one of the -- give them to me or another Fish and
12 Wildlife employee, and they will be happy to receive them.

13 And, finally, if you think about something after the
14 hearing, you can submit those written comments to the Fish and
15 Wildlife Service at any time, up through August 22nd. There's
16 a web-based portal with mailing addresses, and, I believe, out
17 front, there's a paper with different ways to contact the Fish
18 and Wildlife Service and commenting on the proposal. If you
19 don't have it, we can get you a copy of that.

20 I have a few requests for the audience. I ask that
21 you show courtesy for each speaker, whether or not you agree
22 with what he or she is saying. I ask that you refrain from
23 applauding or making loud noises. And not because it's
24 particularly disruptive, but in determining the tone of it
25 being a civil hearing, tonight, and having a courteous

1 hearing, which I believe are the watch-words for tonight's
2 hearing, I'd ask that you refrain from doing that.

3 We recognize there are emotional aspects to the
4 proposed regulation, but we remind you that not all speakers
5 are experienced. Some are nervous, some are timid, some
6 possibly would not come forward in a hostile atmosphere. And
7 for this reason, to prevent stopping anyone from speaking
8 tonight, giving their comments, we ask that you don't
9 intimidate anybody. We want every single person to be able to
10 come, comfortably, to the microphone and give us their
11 comments.

12 Finally, I have one last request, before we start
13 with the description of what the proposal is. I have my cell
14 phone. I'm going to take my cell phone and hit off, turn it
15 off, and I request that each of you do that, also, so that we
16 don't have interruptions during tonight. Thank you.

17 Stephanie.

18 MS. BARRETT: Good evening. Can you hear me?

19 GENERAL PUBLIC: No.

20 MS. BARRETT: Sorry. Okay. Is that better?

21 Okay. Good evening. Thank you all for coming out
22 for this public hearing, regarding the proposal to establish a
23 manatee refuge in Kings Bay. My name is Stephanie Barrett. I
24 am Chief of Recovery and Listing, with the U.S. Fish and
25 Wildlife Services, Jacksonville, Florida, ecological services

1 field office.

2 Before we begin to hear your comments, I will
3 present an overview of the proposed rule. My objectives are
4 to describe:

- 5 • what the proposed rule includes, and
- 6 • how the proposed rule differs from the emergency
7 rule.

8 The Federal authority to establish protection areas
9 for manatees is provided by the Endangered Species Act (ESA)
10 and the Marine Mammal Protection Act (MMP) and is codified in
11 the Code of Federal Regulations at 50 CFR Part 17, Subpart J.

12 The Service has discretion to establish a manatee
13 protection area, whenever there is substantial evidence
14 showing such establishment is necessary to prevent the taking
15 of one or more manatees.

16 "Taking" is prohibited by both the Endangered
17 Species Act and the Marine Mammal Protection Act. However,
18 there are some differences in how the two laws define what is
19 considered "take."

20 Under the Endangered Species Act, take means to
21 harass, harm, pursue, hunt, shoot, wound, kill, trap, capture,
22 collect, or attempt to engage in any such conduct. "Harm" is
23 further defined by regulation to mean an act which actually
24 kills or injures wildlife. "Harass" is defined by regulation
25 to mean intentional or negligent act or omission which creates

1 the likelihood of injury to wildlife, by annoying it to such
2 an extent, as to significantly disrupt normal behavioral
3 patterns, which include, but are not limited to breeding,
4 feeding and sheltering.

5 Under the Marine Mammal Protection Act, "take" means
6 to harass, hunt, capture, or kill, or attempt any such conduct
7 against a marine mammal. "Take" is further defined by
8 regulation to include without limitation any of the following:

- 9 • the collection of dead animals or parts thereof;
10 • the restraint or detention of a marine mammal,
11 regardless of how temporary;
12 • tagging a marine mammal; or
13 • the negligent or intentional operation of an
14 aircraft of vessel, or the doing of any other negligent or
15 intentional act, which results in the disturbing or molesting
16 of a marine mammal.

17 "Harassment" is defined to include any act of
18 pursuit, torment, or annoyance, which (i) has the potential to
19 injure a marine mammal; or (ii) has the potential to disturb a
20 marine mammal by causing disruption of behavioral patterns,
21 including, but not limited to, migration, breathing, nursing,
22 breeding, feeding or sheltering.

23 The proposed rule refers to manatee "refuges" and
24 sanctuaries, which have specific legal meaning, defined in
25 regulations at Subpart J.

1 A "manatee refuge" is an area in which the Director
2 of the Service has determined that certain waterborne
3 activities would result in the take of one or more manatees,
4 or that certain waterborne activities must be restricted to
5 prevent the take of one or more manatees, including, but not
6 limited to taking by harassment.

7 A "manatee sanctuary" is an area in which the
8 Director has determined that any waterborne activity would
9 result in taking of one or more manatees, included, but not
10 limited to a taking by harassment.

11 The proposed rule builds on the emergency rule that
12 was put into place from November 9th, 2010 to March 15th,
13 2011. The proposed rule covers the same geographical area, as
14 defined by the emergency rule, but includes additional
15 measures. These additional measures will be indicated in the
16 blue text in the next series of slides.

17 As with the emergency rule, the proposed rule
18 identifies a number of prohibited activities.

19 The following activities would be prohibited while
20 in the water, in boats, or on-shore, within the proposed
21 refuge at any time of the year:

- 22 1. Chasing or pursuing a manatee(s).
- 23 2. Disturbing or touching a resting or feeding
24 manatee(s).
- 25 3. Diving from the surface onto a resting or

1 feeding manatee(s) .

2 4. Cornering or surrounding or attempting to corner
3 or surround a manatee(s) .

4 5. Riding, holding, grabbing, or pinching or
5 attempting to ride, hold, grab, or pinch a manatee(s) .

6 6. Poking, prodding, or stabbing, or attempting to
7 poke, prod or stab a manatee(s) with anything including hands
8 and feet .

9 7. Standing on or attempting to stand on a
10 manatee(s) .

11 8. Separating a mother and calf or attempting to
12 separate a mother and calf .

13 9. Separating a manatee from a group or attempting
14 to separate a manatee from a group .

15 10. Giving a manatee(s) anything to eat or drink or
16 attempting to give a manatee(s) anything to eat or drink .

17 11. Actively initiating contact with a belted
18 and/or tagging manatee(s) and associated gear .

19 12. Interfering with rescue and research
20 activities .

21 13. Or using mooring and float lines that can
22 entangle manatee(s)

23 And the Numbers 12 and 13 are not included in the
24 emergency rule .

25 As with the emergency rule, the proposed rule

1 prohibits scuba diving and fishing, including hook and line,
2 and cast net and spear, within Three Sisters Springs, from
3 November 15th to March 31st. Additionally, the proposed rule
4 prohibits entry into Three Sisters Spring between 6 p.m. and
5 7 a.m.

6 The proposed rule does not change the boundaries of
7 the seven existing seasonal manatee sanctuaries, indicated on
8 this map in blue, in which all waterborne activities are
9 prohibited between November 15 and March 31st. Instead, the
10 proposed rule allows for temporary expansion of the
11 sanctuaries in space and time.

12 When manatees exceed capacity of or shift usage
13 around any of the existing manatee sanctuaries, due to water
14 or weather conditions, the proposed rule allows for the
15 expansion of the sanctuary. The expanded area is not to
16 exceed 100 feet from the existing boundaries, except at the
17 Three Sisters sanctuary, where it is not to exceed 400 feet.

18 Any temporary expansion at Three Sisters would be
19 configured so that the channel would not be completely marked
20 off. And on this map, the bold, black outlines are the
21 existing sanctuaries, and the green arrow indicates the
22 location of Three Sisters sanctuary.

23 The proposed rule allows for temporary creation of
24 no-entry areas at House, Jurassic, Idiot's Delight #2 springs.
25 These springs were not included in the emergency rule.

1 The additional area of Three Sisters spring was
2 included in the emergency rule and is in the proposed rule,
3 through the ability to expand the existing sanctuary boundary
4 by 400 feet.

5 The House and Jurassic no-entry areas would not
6 exceed 100 feet from the spring vent. Idiot's Delight
7 no-entry area would not exceed 25 feet from the spring vent
8 and would be configured so as not to block entry into Three
9 Sisters or block the channel.

10 In addition to temporary expansion of space around
11 existing sanctuaries and at the additional springs identified,
12 no-entry areas may be temporarily expanded in time.

13 If there's a cold front, prior to November 15 or
14 after March 31st, and manatees are present, the no-entry area
15 may be put into place for no longer than 14 days. This
16 measure was not included in the emergency rule.

17 The proposed rule restricts boat speeds within the
18 boundaries of the Kings Bay manatee refuge to slow speed
19 throughout the year, except in those areas where more
20 restrictive speeds are in place. This measure was not
21 included in the emergency rule.

22 And this map shows the current State-designated
23 speed zones overlaying the proposed manatee refuge boundary.
24 The area of darker green, around and north of Buzzard Island
25 would become "slow speed" year round.

1 And the lighter green triangular area, south of
2 Buzzard Island, would continue to be "idle speed" between
3 September 1st and April 30th, and would become "slow speed"
4 between May 1st and August 31st. Areas currently designated
5 as "idle speed" would remain as they are.

6 As with the emergency rule, the adjoining property
7 owners, their guests and designees, may engage in watercraft
8 access and property maintenance in manatee sanctuary and
9 no-entry areas.

10 Authorized individuals will be identified by sticker
11 or letter of authorization, that must be obtained from the
12 Service through the Crystal River National Wildlife Refuge
13 office.

14 To ensure that any final action, resulting from this
15 proposed rule will be as accurate and effective as possible,
16 we are requesting information from the public, government
17 agencies, the scientific community, and any other interested
18 parties.

19 We welcome all relevant, substantive comments on the
20 proposed rule and, in particular, we're seeking comments and
21 information concerning the following:

22 • Reasons why this area should or should not be
23 designated as a manatee refuge, including information that
24 supports the need for any changes to the proposed manatee
25 refuge.

1 • Current or planned activities in the subject area
2 and their possible effects on manatees.

3 • Any foreseeable economic or other impacts,
4 resulting from the proposed designation.

5 • Any substantive information on real or potential
6 effects of the proposed manatee refuge on manatees.

7 • Any actions that could be considered in lieu of,
8 or in conjunction with, the proposed designation, that would
9 provide equivalent protection to the manatees against the
10 threat of take.

11 For more information about the proposed rule,
12 including the Federal register notice and draft environmental
13 assessment, please, visit the website shown on the screen.
14 And this information is also available here as handouts.

15 Please, see the Federal register notice for more
16 information regarding the options for submitting your written
17 comments. Public comment period closes August 22nd, 2011.

18 And, once again, we thank you for coming out tonight
19 and appreciate your participation in the rulemaking process.

20 MR. FALLON: Thank you, Ms. Barrett.

21 Okay. Ladies and gentlemen, we're going to start
22 the oral comments portion of the public hearing in just a
23 moment. As I said before, you must be registered to speak, if
24 you wish to speak, and you may supplement your oral comments
25 with written comments. If you're registered to speak and

1 change your mind, you do not have to speak.

2 And to repeat, each of you will have, approximately,
3 four minutes to speak. I have three lights in front of me
4 here. The green light will go on when you commence. When you
5 have 45 seconds remaining, you'll have the yellow light, and
6 then at four minutes, the red light will go on. And I think
7 you might even hear a series of beeps, too.

8 The way I'm going to do this, I'm going to call two
9 people at a time. We found this expedites the procedure a
10 little bit and causes a little less commotion in the room. So
11 the first person I'm going to call is the speaker, and the
12 second person, we'd ask that you come up, also. And there's a
13 seat right in the middle, behind the speaker podium, that you
14 can sit and then take the -- you become the second person in.

15 All right. With that, I would like to tell you that
16 I have someone from Congressman Rich Nugent's office, and that
17 is Shirley Anderson, District Director. She asked that we
18 acknowledge that she's here, but she said she's not going to
19 speak.

20 And my first speaker will be Senator Charlie Dean,
21 the Florida Senator; and the second will be Jimmy Smith --
22 Jimmy G. Smith, from the Florida House of Representatives.

23 SENATOR DEAN: Good afternoon. My name is Charles
24 Dean, Senator District 3, State of Florida. Citizen of Citrus
25 County all my life. I'm here, first, as a citizen of Citrus

1 County, and a recent member of the Water Quality of Crystal
2 River that's organized for the fixing of our water quality in
3 Kings Bay.

4 I would like to encourage this committee of folks
5 from the Federal level to, please, join us in the water
6 quality. I was involved in the Three Sisters purchase,
7 getting some funding from the State of Florida. Little did I
8 ever think that this joint public, Federal public, State of
9 Florida, Citrus County Commission, City of Crystal River and
10 private public funds would ever end up in what appears to be,
11 now, an extension of overrestriction of regulations in Kings
12 Bay.

13 The cooperative venture, instead of more
14 regulations, take over public waterways at taxpayers'
15 expense -- and then they fund everything in this thing, and I
16 remind you of that -- what do they get in return? They get
17 more regulations, more restrictions, less privilege for
18 property ownership and usage.

19 And then we have more rules and regulations to
20 protect -- and less and less, what do we do for property
21 rights and property owners or watercraft owners and those
22 guarantees to those people that come to Citrus County and help
23 us support our community.

24 I was looking at the take issue we have. Are we
25 really at a point that a take issue is so bad, as we need to

1 overrestrict or either shut down public waterways, and, in
2 particular, the public waterway of Kings Bay, that we're all
3 familiar with and used all of our life.

4 And we're not saying there's not a reasonable
5 solution to protect manatees. I've heard no one say that yet,
6 and I don't know of anyone in our community or our County that
7 is not trying to protect the manatees. I think your reports
8 show that.

9 But at the same time, I'll ask another question, of
10 anything such as State rights that are being considered now,
11 or is it all Federal rights? And if that be the case, I want
12 to know what State agencies -- and you don't have to do it
13 now, but later -- provide the information and the input that
14 they had or solicited for these rules and regulations.

15 We have a way to getting to an issue here. We have
16 a way to resolve it, but it takes common sense. And it takes
17 a lot of giving instead of a lot of getting. And I would hope
18 that in your pursuant of what you're trying to do here, in the
19 regulation and rule process, that you give consideration,
20 again, to everybody that has a right to use the water. And we
21 do respect the use of the water for the manatee. At the same
22 time, the citizens have a right, too. Thank you very much.

23 MR. FALLON: Thank you, Senator Dean.

24 Congressman Smith.

25 REPRESENTATIVE SMITH: Representative.

1 MR. FALLON: Excuse me. Representative.

2 MR. SMITH: Hello. I'm State Representative Jimmy
3 T. Smith, District 43. I've lived in Citrus County for a very
4 long time, and I hope to raise my daughter in Citrus County.
5 One of the reasons for that is because our county, in this
6 great state, does a wonderful job of balancing, properly, our
7 environment and our economy.

8 If you look at Citrus County, specifically, look at
9 what we did with the Three Sisters. It was us that lead the
10 way. It was not the Federal government.

11 We understand the need to protect our manatees. We
12 also understand the balance that's required to make sure our
13 community can benefit from ecotourism. This ecotourism gives
14 us the dollars we need, once again, to handle protecting the
15 manatee.

16 If you take and implement more Federal intrusion
17 into this, what you're doing is taking our local government,
18 that has been, absolutely, leading the way on this issue, out
19 of it.

20 Why stop success? What is it about success that the
21 Federal government thinks they're going to improve upon? We
22 don't have the tax dollars, locally, how are we going to
23 implement law enforcement to protect the manatees? How are we
24 going to do the things needed?

25 So we're asking that you hold off on implementation

1 of this. Do more studies; go back and review the facts. Come
2 up with hard specific numbers. Work with, specifically, the
3 leaders of the community, our agencies within the state and
4 make sure that balance that we here, in Citrus County, have
5 implemented, continues. This could possibly be your example
6 for the entire state of Florida on how to, properly, ensure
7 the growth of manatees and the growth of our own economy.

8 If you do that, what you'll end up, long term, is a
9 populace that is happy, and a manatee population that is
10 protected. Thank you very much.

11 MR. FALLON: Thank you.

12 Mr. Dennis Demato, Chairman of Citrus County Board
13 of County Commissioners and Wynn Webb, also from the Board of
14 County Commissioners.

15 MR. DAMATO: My name is Dennis Demato. Last name,
16 capital D, small a-m-a-t-o. As chairman of the Citrus County
17 Board of County Commissioners, and the Commissioner
18 representing District 1, which includes Kings Bay and Crystal
19 River, I would like to thank you for hosting this public
20 meeting, to allow our citizens to comment on this proposed
21 rule.

22 First, I would like to point out that Citrus County
23 has been at the forefront for manatee protection, and that
24 position has not changed. We have made many sacrifices in the
25 interest of manatee protection and these are clearly

1 documented within our manatee protection plan; the first
2 adopted, in the state of Florida, and still use as a template
3 for other plans.

4 Our manatee protection plan was a thoroughly
5 negotiated process, including local stakeholders, Federal and
6 State agencies, representatives, and environmental interests.
7 The final product went through an extended public hearing
8 process, and, concurrently, the State utilized a similar
9 process to adopt manatee speed zone regulations for all of our
10 coastal waters.

11 This included the establishment of the summer sports
12 zone in Kings Bay. To, unilaterally, eliminate it by Federal
13 mandate is counter to the cooperative efforts that led to our
14 manatee protection plan and speed zones.

15 On June 28th, the Board of County Commissioners,
16 unanimously, adopted a resolution, regarding your proposed
17 rule. It has a single focus, and I wish to read it into the
18 record. "The Board formally requests the USFWS reconsider and
19 postpone establishment of the Kings Bay as a manatee refuge,
20 by Federal rule, and work in a cooperative partnership with
21 local governments and the State, in seeking long-term solution
22 to manatee protection, utilizing mobile data, sound science
23 and increased enforcement of the existing regulations in
24 place."

25 That concludes my comments tonight. Citrus County

1 will file a more comprehensive written white paper position on
2 this issue by your August 22nd deadline. It is my
3 understanding that my fellow commissioners will also provide
4 comments for tonight's record, specific to focussed issues
5 regarding the proposed rule. Thank you, again, for allowing
6 me the opportunity to speak.

7 MR. FALLON: Thank you, Chairman Demato.

8 Can everybody in the back hear me okay?

9 GENERAL PUBLIC: No.

10 MR. FALLON: No? Are you having trouble hearing the
11 speaker?

12 GENERAL PUBLIC: Yes.

13 MR. FALLON: I think they're trying to get that
14 taken care of.

15 Commission Webb.

16 COMMISSIONER WEBB: Thank you. Can everybody hear
17 me?

18 GENERAL PUBLIC: No.

19 MR. FALLON: Can I ask you to get a little closer to
20 the microphone, closer to your mouth.

21 COMMISSIONER WEBB: Is that better?

22 MR. FALLON: Is that better for people in the back?

23 GENERAL PUBLIC: (Unintelligible.)

24 COMMISSIONER WEBB: First, I want to thank the Board
25 for allowing us to speak this evening. It is with

1 disappointment that I'm here to speak to Federal officials
2 that have chosen to propose to establishing new rules, in one
3 of the most popular water bodies in our county. And,
4 apparently, it was done with minimal discussion relating to
5 the rule crafting.

6 I wish to speak to the public safety portion of
7 this. The elimination of the summer sports zone in Kings Bay,
8 if adopted as proposed, those desiring to recreate in
9 high-speed water sports, such as water skiing or personal
10 water craft, will need to leave the area or shift to the
11 Crystal River main channel. Those are unacceptable and unsafe
12 conditions.

13 The extensive boating and recreational activities
14 that take place in the main river present significant risk to
15 high-speed recreation use. The main channel of Crystal River
16 sees extensive boat traffic, to and from the Gulf and the Bay.
17 Major marine and boat ramps, directly access the channel. It
18 attracts fishermen, travelers, ecotourism, and many
19 residential properties, line its shore.

20 If you spoke with our local marine enforcement
21 staff, Coast Guard, and our local Sheriff's office, water
22 based staff, they will tell you that they discourage those
23 activities in the main river.

24 I would, also, like to point out that the manatees
25 which feed on our coastal grass, must navigate the same

1 waterway to reach Kings Bay, further complicating an already
2 congested waterway. I would show or say that your own
3 documentation on the graphs around the room, indicate that in
4 1979 there were only slightly more than 6,000 registered
5 watercraft in Citrus County, and the population of the manatee
6 was slightly less than a hundred -- now, in this year, we have
7 over 17,000 registered watercraft and between five and 600
8 manatees.

9 Obviously, we have been doing something right. And
10 so this is why I predict that a shift of high-speed activity
11 from Kings Bay sports zone to the main channel will not result
12 in reduction on manatee watercraft mortality and may result in
13 human injury or death, which concerns us, greatly.

14 Based on the unprecedented success of manatee
15 survival in our county, we think we have been going a good
16 job. This proposed change we think is unnecessary and needs
17 to be abandoned. We appreciate your time and consideration,
18 and thank you, again, for allowing us to speak.

19 MR. FALLON: Thank you, Commissioner Webb.

20 Commissioner Ken Frink. (Laughter.)

21 UNIDENTIFIED SPEAKER: Ken, are you running for
22 office, and we don't know about it?

23 MR. FRINK: I will formally announce my candidacy
24 for -- just kidding, kidding. No.

25 I think we're a little out of order here, as far

1 as -- I think my bosses are supposed to speak first, but since
2 you called me up, sir, my name is Ken Frink. I am the
3 Director of Public Works for Citrus County. I'm not a
4 Commissioner, for the record, but, currently, I'm also serving
5 as the enacting County Administrator as Brad Thorpe, our
6 administrator, is taking a long overdue vacation. He's down
7 south, enjoying himself. This is his first vacation in a
8 while.

9 As originally noted by my chairman, Citrus County
10 will file formal comments complete with supporting backup
11 regarding the proposed rule, prior to your August 22nd
12 deadline. It will expand on many of the issues already raised
13 here tonight by our Chairman, and one of our Commissioners and
14 several other Commissioners that will speak.

15 What I would like to do tonight is to formally
16 extend an invite to the Service to meet with County staff and
17 City staff, and whoever else we deem appropriate, to see if we
18 can work through the concerns that are going to be raised here
19 tonight, to see if we can achieve a majority support within
20 our community.

21 This is something, I think, would be a lot better
22 off if we could do it in an informal setting, sitting around a
23 table and get all the stakeholders together and work with it.

24 If desired, we can facilitate attendance by the City
25 staff, Chamber, representatives, local environmental groups,

1 and whoever we deem it necessary, or any other stakeholders
2 who wish to attend.

3 Many of your staff are very familiar with my staff
4 and County staff. We have a very good working relationship,
5 and we would extend that for this process. We have a sound
6 working relationship. Please, call on us and take advantage
7 of the offer. Thank you very much, and here's my Public Works
8 Director card.

9 MR. FALLON: Thank you very much, Mr. Frink.

10 Okay. Mr. Meek.

11 COMMISSION MEEK: Thank you, sir. Good evening. My
12 name is Joe Meek, and I'm a Citrus County Commissioner and
13 president of the economic development council in this
14 community. First and foremost, I want to thank you all for
15 allowing us to come this evening, and thank you for being
16 here.

17 I am a life-long resident of Citrus County, born and
18 raised, literally, on the Crystal River. And as was
19 mentioned, earlier, by the other Commissioners, we will be
20 submitting a formal white paper, with regards to factual data
21 and points that counter to the proposed new rule, by the
22 deadline, but I'd like to speak this evening from a personal
23 standpoint.

24 As I mentioned I was born and raised here. I was
25 raised on the Crystal River and, actually, lived on a place

1 called Christmas Island, the only island on the Crystal River
2 with a full house on it. Lived there for seven years of my
3 life. I'm extremely familiar with the river, I'm familiar
4 with the issues that are before the river and, unfortunately,
5 the shape the river is in, right now.

6 And it's my opinion that it is vitally important
7 that a recreational component be maintained in Crystal River,
8 for a whole host of different reasons. Number one, from a
9 youth and family standpoint, in a society where family, good
10 wholesome family fun is declining. Water sports and water
11 sports activities are an excellent way for families to join
12 together.

13 And a recreational component on the Kings Bay has
14 enabled families to do that for years and years. And so for
15 families and young children and for people that enjoy the bay,
16 it's important that they're able to do that.

17 Secondly, and more important than that, and
18 Commissioner Webb hit on that, is the safety issue. What this
19 proposed rule does is endanger the lives of the children and
20 the families and the individuals that are using the Bay for
21 recreational activities. And it does that by concentrating
22 those activities in a narrowed channel with marked channels.

23 You don't need a feasibility study to tell you. All
24 you need to do is go out there and look at it. We're putting
25 children on water -- that are water skiing, that are tubing,

1 that are on watercraft, in a small, narrow channel, with large
2 fishing and shrimp boats, and other activities at a high rate
3 of speed. And it's going to cause a problem, and it's going
4 to be dangerous. And so it's important that a balance is
5 struck between the two.

6 Like I said, I've had my fondest memories involving
7 the unique recreational component that has been available in
8 Kings Bay. I'm now raising two small boys, a two- and a
9 four-year-old, and I've begun to introduce them to the same
10 wonders that I have had as a child. The quality of life is
11 why I choose to raise my family here, and why a lot of people
12 choose to live here.

13 And a vision statement was adopted by Citrus County
14 in 1995 by a group of citizens that came together. And it
15 said that "Citrus County will become a place where nature and
16 man live in harmony, where man and manatee play." That's our
17 motto here, and we've done a good job sticking to that, as
18 evidenced, again, by the fact that we've gone from less than
19 100 manatees years ago to close to 600 manatees.

20 We've worked very closely with you all as a Federal
21 and a State government to make sure that manatees are
22 protected. There's no bigger advocate than County government
23 and City government. And so balance is vital. This rule does
24 not provide balance, and balance is achieved through open
25 communication between all stakeholders.

1 I commend you all for hosting this event, but I must
2 note that we are here addressing a proposed rule that was
3 drafted in Jacksonville, reviewed in Atlanta, authorized for
4 publishing in Washington, D.C., and now we are here to seek --
5 or you are here to seek our input. It would have been more
6 efficient and effective if you had worked with us from the
7 beginning, and that's what we're going to ask for you to do.

8 Let me close with this final observation. I firmly
9 believe that you will be able to achieve the goal of reducing
10 manatee mortality providing the resources and personnel
11 necessary to enforce the rules in place, right now. Expanding
12 rules without the means to back them up is an exercise in
13 futility. Thank you very much and have a good evening.

14 (Applause.)

15 MR. FALLON: Thank you very much.

16 Next two are Commissioner J.J. Kenney and Mike --
17 Bays, I believe it is, Commissioner Bays. And while they're
18 making their way up, I'd like to recognize that from Senator
19 Bill Nelson's office, we have Digna C. Alvarez, and from
20 Senator Marco Rubio's office, we have Matt Mucci.

21 J.J. Kenney.

22 MR. KENNEY: Good evening. My name is J.J. Kenney.
23 I'm a proud Veteran of the United States Marine Corps, and I
24 also had the pleasure to serve the people in Citrus County as
25 Commissioner in District 2.

1 Both of these positions are going to be my excuse
2 for anything I may say tonight to offend you. I am aware that
3 I'm supposed to focus on facts and not let emotions into this
4 hearing. Sorry, but I'm going to disappoint you.

5 Our country was built upon a foundation of democracy
6 and the retention and protection of our personal freedoms.
7 Grant it, in any modern civil society, there must be rules to
8 advance the greater good of the community. Gentlemen, this is
9 not one of them. Your rule proposes to change a negotiated
10 plan that has successfully served its intentional purpose for
11 over 20 years.

12 There are more manatees in Citrus County waters now
13 than there ever have been. Despite the increase in numbers,
14 the mortality rate for manatees, from watercraft impact, has
15 been kept in single digits since 1990. This community has
16 adopted the manatee as a favorite child from the beginning and
17 we have made significant concessions to advance its recovery.

18 Your own agency points to us when you reach out to
19 other Florida counties to do more to protect the manatee.
20 But, apparently, you still want more, and the sad thing is we
21 are probably perilous to do anything. That's not what I wore
22 the uniform for, and that's not what I'm serving my community
23 for now.

24 I ask that you do the right thing. Table this rule.
25 Invite us, City officials; let's get over a cup of coffee.

1 I'll bring the doughnuts. Let's work together to find an
2 acceptable solution. We're on the same side. This isn't
3 about manatees. This is about public service to our
4 constituents. Let's take the time, and let's do it right.

5 MR. FALLON: Thank you, Commissioner.

6 (Applause.)

7 Mr. Bays.

8 MR. BAYS: First of all, my name is Mike Bays, and
9 I'm the husband of a County Commissioner, Rebecca Bays, who is
10 in Tampa on her way back, and she says she can't be here
11 because she's driving, and would I speak. So I'm here to try
12 give up her four or five points. Most of them, you've already
13 heard.

14 Number one, I had to start with our Senator and say
15 in agreement, we were big constituents of the push to Three
16 Sisters, to try to do everything we can to not only protect
17 the Bay, but protect the manatee. And in the process of that,
18 there's a part in your mind that can't help but get in the
19 position thinking, Did we open up a door that (unintelligible)
20 warned us against?

21 How far do we go in agreement? How far do we join
22 hands with the Federal people, before the Federal people
23 actually become the ones that are against us. As people that
24 have grown up on the Bay, I have been here since 1975. Taught
25 diving here and watched one of the things that used to happen

1 back in 1975, six, seven, eight, nine. People would ask us,
2 "Can you show us a manatee?" And, literally, we couldn't find
3 them, and they would say, "Well, I thought they lived here?"
4 Well, we have some, and we would go around and then once in a
5 while one would come up and take a breathe and we'd go
6 "There's one."

7 Now, you can't help but be careful where they're at
8 and know where they're at. And the difference I see is
9 education. It amazes me to watch. I think the partnership
10 should be in education. We are already here. We do
11 understand that.

12 I have watched over the years, it amazes me, in
13 fact, how much that the locals, dive shops, businesses, the
14 advertisement, everything we are, economically, is based
15 around the survival and that of the manatees. And we've done
16 such a good job, that now we have so many.

17 But I also went to some other areas, and I checked
18 on them. I found out that part of the manatee reserve areas
19 were, basically, we said we could hold up to 10,000 in our
20 existing areas. So the question becomes, What is enough?
21 That's one.

22 Two, why here? Is the problem here larger than
23 other areas, and without bringing those up, I would ask you to
24 go ahead and define the rest and say, How do we compare to
25 some other areas, that I've got some numbers on?

1 And the third part, I guess, I'd look at and say, Is
2 it because of our population base isn't that great, you can
3 push in areas and do things? And, again, like Joe Meek just
4 said, you know, why would it start in Jacksonville and move
5 out of this area, without ever sitting down with some of the
6 locals and talking about what we can and can't do, because how
7 do you measure success?

8 I think when government cannot be measured and
9 discussed with the locals -- I'm talking to people who pay
10 their taxes and people who live here. I look online, and they
11 have -- you have a questionnaire that says "How does that
12 questionnaire go, to say, Should we shut the Bay down? And 95
13 percent say "yes."

14 But if you read that questionnaire, I'd like to
15 question this: How many of those people have been on this
16 Bay? How many have ever seen a manatee? If I ask a question,
17 Does everyone want to save the manatee? I'm sure over here it
18 would be 100 percent, because we do -- but that's not really
19 the point.

20 The point is, how do you let man and the natural
21 levels of where we live coexist, so that as we do that, it
22 truly is a success. So as a spokesman for Commissioner Bays,
23 I would say this: That is the question. Please put common
24 sense into this, and, please, measure to the level, that when
25 you ask these questions and you can give us answers, that

1 everyone, constituents from all sides, can come in agreement
2 and understand what you're saying. Thank you.

3 MR. FALLON: Thank you, Mr. Bays.

4 Mr. Ron Kitchen, from the City of Crystal River, and
5 Councilman Mike Gudis, from the City of Crystal River.

6 MR. HANKLA: (Adjusting the microphone.) I'm going
7 to test my mechanical skills.

8 VICE-MAYOR KITCHEN: How is that? Can you hear me?

9 GENERAL PUBLIC: Perfectly.

10 VICE-MAYOR KITCHEN: Thank you. My name is Ron
11 Kitchen. That's K-i-t-c-h-e-n. I'm vice-mayor and member of
12 the City Council of the City of Crystal River. I appreciate
13 the opportunity to be here tonight, and on June 27th, the City
14 of Crystal River held a special council meeting. One of the
15 main issues was to discuss the topic of the proposed plan.
16 We, at that meeting, passed unanimously, a resolution,
17 11-R-22, that I will give to you tonight. I'm not going to
18 read it.

19 (Tenders to Dave Hankla.)

20 VICE-MAYOR KITCHEN: Basically, it covers some of
21 the points that have been discussed tonight. What I'd like to
22 say into the record, though, is the City believes this plan is
23 arbitrary and capricious, that there is no need for this that
24 you -- there has been no demonstrated need for this. I think
25 the evidence that will be presented do, as well as the other

1 agencies have said, the City of Crystal River will be
2 presenting additional documentation to you in the future, to
3 support our position.

4 Much of it mirrors what you've heard, that is, that
5 it seems in our community this has come down to an issue of,
6 are you for the manatees, or are you against the manatees? I
7 find that totally false. Everyone in our community, that I
8 know of, is for the manatees. It has become when is enough?
9 What is the level of being a good steward?

10 It's interesting that the same people who were
11 called -- by the way, the elected officials of Crystal River
12 are unanimous in their position on this, that we're
13 presenting, the basic concept is what you heard from the
14 County. We felt we've worked together in the past, very
15 successfully. We felt a great program has been created, and
16 there's evidence to support that. And we'd like to see that
17 continue. We don't like the arbitrary approach that's been
18 taken to say, This is what's going to happen.

19 We think some of that has been presented,
20 unfortunately, perhaps, under misinformation. At our council
21 meeting, we had a representative from Fish and wildlife say
22 that one of the reasons you were looking at this, is Council
23 asked you to do this, that the City of Crystal River asked you
24 to do this. That is not correct.

25 In 2007 a subcommittee of waterfronts board

1 presented to council a recommendation that they would like to
2 have passed on to Fish and Wildlife. At that time Council
3 said that -- agreed to send it to Fish and Wildlife for your
4 review and recommendation. At no time did we ask this action
5 to take place.

6 Furthermore, in 2008 a motion was made by the City
7 Council by the then council member to reduce the speed limit
8 in Kings Bay, to slow speed year round, and not only did that
9 not pass, but it did not even receive a second to have a vote
10 taken on it. So any evidence that you have in the record to
11 say that the City requested this is incorrect.

12 Also, at the June 27th meeting, the statement was
13 made that this has been cleared by the Coast Guard, that the
14 Coast Guard had signed off on this and had no problem with it.
15 When we asked, further, there was no evidence put into the
16 record.

17 So I would ask, because we all believe that there
18 will be an accident occurring, if you force all this travel
19 into a navigable boat channel, it should be on the record who
20 approved that, because somebody said tonight, I have firsthand
21 information where the Coast Guard stops people and tells them
22 they shouldn't be water skiing in the boat channel.

23 So on one hand we have something that says it's
24 okay; and on the other hand, it's not. So if we're going to
25 base this on facts and science, I think it should be on the

1 record.

2 Also, just again, just to leave with you that we
3 look forward to what's been said tonight, to work with you, to
4 find something that's mutually acceptable for everyone, and
5 that we are good stewards of Crystal River. We live here.
6 This is our home. We don't want to destroy it. Thank you
7 very much.

8 MR. FALLON: Thank you, Mr. Kitchen.

9 COUNCILMAN GUDIS: Good evening. My name is Mike
10 Gudis, G-u-d-i-s. I'm a City Councilman for Crystal River.
11 I'm also a past County Commissioner in Maryland, which had the
12 largest county in Maryland. The reason I mention that is that
13 I've been involved with government and citizens for 20 years,
14 both Federal government, County and now City.

15 And I have found, after many years of service and
16 maybe the hard way, that the best way to get things done, when
17 you're talking about putting in something that affects
18 citizens in a negative way, is to work together.

19 Compromise to me is not a dirty word. It is
20 something that we really, in this day and age, we should be
21 living with. We should be working together, because we all
22 want to protect the manatees and our citizens and provide
23 recreational activities for our citizens.

24 But to do it in this way presents a problem, and the
25 problem is, is that we were not able to have any kind of

1 input, preliminarily, to you coming out with this proposed
2 resolution. I have found in the past, that when you get
3 citizens involved and there's give and take and compromise is
4 being made and people understanding better what is involved
5 and what problems there are, there's a much better chance of
6 working out a sensible and realistic conclusion.

7 I, therefore, propose that you consider having a
8 citizen's advisory -- a citizen's advisory committee to deal
9 with this issue, now and for the future, so that we, as
10 elected officials and citizens alike, have a chance to have
11 input into your process.

12 By doing this, I think you will find that everybody
13 will come out ahead. Maybe not everybody agreeing on every
14 issue, but at least having some input and feeling they're part
15 of the solution and not the problem. Thank you for having us
16 here tonight.

17 MR. FALLON: Thank you, Mr. Gudis.

18 Mr. Jim Farley, from the Crystal River City Council
19 and Ms. Maureen McNiff, from the City Council.

20 MAYOR FARLEY: Good evening. My name is Jim Farley,
21 F-a-r-l-e-y. I'm the Mayor of Crystal River. The new rules
22 proposed by the U.S. Fish and Wildlife Service has the
23 potential for significant economic damage to the City of
24 Crystal River. It's a glaring example of staff work that's
25 lacking in detail.

1 As Mayor and former Police Chief, I can tell you I
2 would never accept a proposal so lacking in important data.
3 For example, in the pages dealing with the supposed economic
4 impact, the terms "unknown" and "not enough data" are used
5 repeatedly.

6 A few examples, Page 36502 is speaking of fishing
7 recreationists. It says, "A number of these recreationists
8 and the number of trips they make is unknown. As a result,
9 the economic cost of this rulemaking on these individuals is
10 unknown."

11 Page 36503, speaking of commercial fishing and
12 crabbing. "The number of fishing boats operating, in the
13 amount of blue crab and mullet landings occurring in the
14 areas, that would be newly designated speed zones under this
15 proposed rule are unknown. Given this, the impact on the
16 commercial fishing industry cannot be quantified."

17 It goes on and on. The State is referring to the
18 (unintelligible) lack of information, yet, also on Page 36503,
19 they hasten to assure us "Given available information, the
20 economic impact of designating this manatee refuge is not
21 expected to be significant; that is, it would not exceed
22 \$100 million a year."

23 In the bloated Federal budget, \$100 million a year
24 might not be significant, but in Crystal River, it could be
25 economic collapse.

1 (Applause.)

2 MAYOR FARLEY: Crystal River does not have
3 \$100 million. Even more disturbing, on Page 36500, it states,
4 "We are proposing the taking of one or more manatees by
5 managing human activities in this area. The refuge would
6 incorporate an existing network of manatee sanctuaries.
7 Affected waterborne activities would include swimming, diving,
8 including skin and scuba diving, snorkeling, water skiing,
9 surfing, including wind surfing, fishing, and the use of
10 watercraft other vessels." This language could be construed
11 and used to shut down, at some point, all of human activities
12 on our waterways.

13 This document is so sweeping in scope in
14 micromanagement of people, that it can't truly be called a
15 rule. It would be more properly described as legislation. In
16 Article 1, Section 1, of the United States Constitution states
17 that "all legislative powers are vested in Congress, which
18 consists of a Senate and a House of representatives." There
19 is no mention of an agency.

20 (Applause.)

21 MAYOR FARLEY: This document -- this document is
22 flawed on so many levels, that I urge you to scrap it and
23 start over. And this time, get the critical data and make all
24 the unknowns known. Thank you.

25 (Applause.)

1 MR. FALLON: Thank you.

2 COUNCILWOMAN McNIFF: Good evening. My name is
3 Maureen McNiff, that's M-c-N-i-f-f. And I'm a Crystal River
4 City Council person. I'm going to apologize in advance if I'm
5 repetitive of some of my predecessors, but I have to tell you
6 that I feel obligated to come and represent my constituents in
7 Crystal River, because I got a lot of input on this topic.
8 And by and large, the large majority of input from Crystal
9 River residents was against this proposed rulemaking. With
10 that said, I want to suggest to you that perhaps it's the
11 wrong time for this. It's the wrong time for a couple of
12 reasons.

13 Number one, two years ago there was a review of the
14 manatee, in terms of its endangered species status. That
15 review was being conducted, because it had recovered to a good
16 point. Again, that didn't happen, but my understanding at
17 this point in time, is that next year, that review is coming
18 up again. One can only assume it's coming up, again, because
19 the manatee population has recovered.

20 I also want to suggest to you that it's the wrong
21 time, in terms of impact to the economy. You've heard several
22 people, before me, talk about the impact to the economy, which
23 to date has not been quantified by the study done by your
24 agency. However, as several of my predecessors mentioned,
25 both Crystal River and the County, will be providing you some

1 data, prior to the August 22nd deadline.

2 In addition, I think it's the wrong time, because I
3 didn't see any evidence that there were alternatives
4 researched. I believe that there are alternatives to a
5 sweeping closure of Kings Bay for recreational activities.

6 As Mr. Smith and Mr. Meek mentioned, I believe that
7 there is a balance that can be achieved, and what I see in
8 this proposed rule, does not suggest any balance whatsoever.

9 Lastly, I just want to mention that some of the data
10 that was provided, as a basis for the rulemaking, I don't
11 believe that there was any evidence that those manatees that
12 were recovered dead, in and around the Bay and Crystal River,
13 that there was any evidence that they were, actually, injured
14 and their death caused within the confines of Kings Bay and
15 Crystal River.

16 So I have to urge you, as my predecessors and my
17 colleagues in Crystal River and Citrus County did, to come to
18 the table in a collaborative effort, and let's work on
19 something that's workable and achieves balance. Thank you.

20 MR. FALLON: That you, Ms. McNiff.

21 Gary Maidhof, from Citrus County, and Mr. Andy
22 Houston, from the City of Crystal River.

23 MR. MAIDHOF: Gary Maidhof. I'm Citrus County's
24 operational project -- my last name is spelled M-a-i-d-h-o-f.

25 I'll be running point on, preparing the County's

1 white paper, and there's a lot of data that I will not go into
2 tonight. But I do think it's important to share some of the
3 specific manatee numbers, to put this in perspective for some
4 of the people that are attending.

5 Aerial survey, which is a major component of
6 determining the manatee population in Florida, it's done in
7 the winter typically when they come to warm-water refuge.
8 Started in 1991, the aerial survey on that date for the entire
9 state was 1,470 animals. The aerial data for the west coast
10 was 650. Let's jump to 2011, this year.

11 4,834 total in the state of Florida; 2,432 on the
12 west coast; 646 of those animals were in Citrus County waters.
13 566 of them occurred in Kings Bay. That means the number of
14 manatees occurring in Kings Bay is just slightly below the
15 number of animals that were counted, total, on the west coast
16 in 1991, a 10-year period.

17 Now, let's speak to watercraft mortality data, that
18 goes back. Florida Fish and Wildlife maintains and break
19 things out. In 1990 in the state, there were 206 manatees
20 killed. 47 of them were by watercraft; one of them occurred
21 in Citrus County. The highest County that year was Brevard,
22 at seven.

23 Now, jumping up ahead, admittedly, 2008 was a bad
24 year for Citrus County, eight. That's the most we've ever
25 had. There were 90 total in the state, 337 total manatees

1 died. Lee County led, once again, 14. I would point out over
2 that 20-year period, the two counties that consistently come
3 up with the most manatee deaths is Lee County and Brevard
4 County. At no time has Citrus County ever had any
5 watercraft-related deaths that exceed eight, and the typical
6 number has been three or less.

7 The question becomes, At what point does
8 overregulation come into play? And we're going to try to make
9 that argument. There needs to be a balance here, and I think
10 we've made many sacrifices that provide long-term assurance.
11 Our manatee protection plan says we will not be building any
12 more marinas, putting in any more boat ramps on any of our
13 coastal rivers. That's established in our Manatee Protection
14 Plan. The number of vessels that we can get on our water
15 bodies is limited by the number of homes, and what we can
16 accommodate in our existing boat ramps.

17 I think we're doing a good job, and I do think that
18 component of this rule needs to be revisited. I'll
19 re-emphasize what my commissioners said, what you heard from
20 the City Council folks, and what my administrator has said.
21 We would like to work with you, in revising this rule and
22 taking the input you hear tonight, in crafting something that
23 this community can support. Thank you.

24 MR. FALLON: Thank you, Mr. Maidhof.

25 CITY MANAGER HOUSTON: Good evening. My name is

1 Andy Houston. I'm the City Manager in the City of Crystal
2 River. I'd like to direct my comments to the points that are
3 in your notes: Why this area should not be designated as a
4 manatee refuge.

5 The manatee population is thriving, under the
6 current regulations. The take rate is not significantly
7 different than in other areas within the state, and these type
8 of regulations, there's no evidence they're being routinely
9 applied throughout the state. There is some concern they're
10 being arbitrarily applied in this area, because we have a
11 refuge office within Crystal River.

12 The proposed regulation will unduly restrict
13 recreational use of the only open water body that is readily
14 accessible to the residents of Crystal River. You're going to
15 force people to either trailer to long distances, or you're
16 going to put them in a river that's going to be unsafe.
17 That's unfair. It's capricious.

18 Is there any foreseeable economic impact? Yes, we
19 think there will be. The Service quotes 1997 study that says
20 "Values may affect increase." That same study shows there is
21 a negative correlation between location of property and
22 distance to open water.

23 This is not Fort Lauderdale, where there are other
24 opportunities for open water. You would be taking that access
25 away, by this proposed regulation. Contrary to there being

1 increase in property values, I expect the documentation is
2 going to be provided, by respected and long-established
3 Realtors in this area, that are going to say there's been a
4 significant reduction in property values, given the reasons
5 that people move to this area.

6 And I would trust that the Service would put great
7 weight on people who are experienced with this market at this
8 time, versus, what the market was in Fort Lauderdale in 1997.
9 The economic impact, with the ad valorem values on waterfront
10 properties are, in fact, reduced, would be significant.

11 Ad valorem values for the City of Crystal River are
12 40 percent comprised of ad valorem for our total general fund
13 revenue. It would be a very significant impact to a small
14 government, and I think you will need to take that into
15 account.

16 The \$100 million figure item that is standard is set
17 by Federal regulation. You need to understand that you're in
18 a community, where then general fund budget for the local
19 government is barely \$4 million. You cannot, in good faith,
20 apply a \$100 million figure in this community and use that as
21 a basis to promulgate rules of this nature.

22 Is there any action that could be considered, in
23 lieu of the proposed regulations? Yes. Let's enforce what
24 we've got. Let's give that a couple years. Let's see if that
25 doesn't do what the intent is.

1 The documentation that was submitted, supporting the
2 proposed rule, speaks about the States' statutory
3 responsibility, to balance the needs of manatees with the
4 needs of the boating community. Where is the Service's desire
5 to show that same balance?

6 Is the Service overriding the State's statutory
7 responsibilities by imposing more stringent regulations on
8 Kings Bay, because there's a Federal refuge office located
9 here?

10 I was proud to be a part of the effort to acquire
11 Three Sisters Spring. There are provisions in that management
12 plan, that I think are violated by these rules, and we reserve
13 the right to take exception to those on that basis.

14 I do not think that the spirit or the intent of the
15 Three Sisters agreement is, in any way, reflected in any of
16 the rules that we're seeing proposed here tonight. Thank you
17 for the opportunity to speak.

18 (Applause.)

19 MR. FALLON: Thank you, Mr. Houston.

20 Mr. Josh Wooten, from the Citrus County Chamber of
21 Commerce and Mike Dunn.

22 MR. WOOTEN: Thank you. I'm Josh Wooten,
23 W-o-o-t-e-n. President and CEO of the Citrus County Chamber
24 of Commerce, and I'd like to start out -- as we, the Chamber,
25 does to everybody -- and welcome you here to our beautiful

1 county. We're the gem of the Nature Coast, and I hope since
2 this meeting is running late, you'll enjoy one of our fine
3 hotels and restaurant establishments.

4 (Laughter.)

5 MR. WOOTEN: And I hope you have a big, fat Federal
6 expense account.

7 (Applause and laughter.)

8 MR. WOOTEN: The signs that you've put up -- I'm
9 sitting here, as the leader of the largest business advocacy
10 group in Citrus County, and I was thinking to myself, If I was
11 a CEO or you were the board of directors for a company, and
12 you said, Citrus County was your employers, and your job was
13 to protect the manatees and you look at these statistics, I
14 would think that you would say that we've done a tremendous
15 job.

16 In fact, you said they -- at the Crystal River City
17 Council meeting, that this is not a result of Citrus County
18 doing anything wrong. It's been touched on that we were the
19 first county, in the state of Florida, that adopted the
20 manatee protection plan. And Mr. Maidhof rightly pointed out
21 that that came with some sacrifices; installation of new boat
22 ramps, marinas, and boat slips. That had an economic impact,
23 but we wrote the plan, we adopted it, and it's a way of life
24 here.

25 We have a very good working relationship with your

1 local office of U.S. Fish and Wildlife; not so much with you
2 guys, yet, but we'll see how that turns out.

3 (Laughter.)

4 MR. WOOTEN: Some of the things that -- you've asked
5 for non-emotional fact base stuff, and the Chamber will get
6 you some stuff, before October 22nd (sic), but there's one
7 group that is for this rule, that is sending out something
8 that says "Needed protections from high-speed killing field
9 hanging in the balance." And they're sending this, I guess,
10 to all of their members all over the country. And that's an
11 insult to those of us in Citrus County, who take protection of
12 manatees so seriously.

13 In fact, using the term "killing fields," that term
14 is used about the extinction -- extinct -- I'm not getting
15 that word out -- extermination of 1.4 million Cambodians. So
16 I don't believe that that's a rationale argument. I think
17 that's an emotional argument that you would equate losing a
18 couple of manatees, over a several-year period, to the killing
19 fields.

20 And so that just tells me that they don't give a
21 damn about Citrus County's economy, they don't give a damn
22 about the citizens that live here, and they don't give a damn,
23 if we have a right to utilize that waterway.

24 So here are some facts: It's easy to say that it's
25 not your business that it's being impacted or your home, or

1 your recreational pastimes, regardless, you wanted the facts
2 and here are some.

3 Under the Regulatory Flexibility Act, you as the
4 USFWS must prepare and make available an analysis that
5 describes the effect of the rule in small businesses,
6 organizations, and government. Your response has been
7 lacking, and I think you've heard that over and over, again,
8 today.

9 We're hearing from many of our members that the
10 impact is unknown, if you're a jetski dealer or you're a tour
11 operator, or as Commissioner Meek said, you want to just do
12 something, as good as teach your young sons how to water ski
13 on the Bay, that you were raised on.

14 So I would hope that you-all would not adopt this
15 rule, that you would look at our stellar record for manatee
16 protection, and trust us, as a community, to continue in a
17 fashion that we are now. Thank you very much.

18 (Applause.)

19 MR. FALLON: Thank you, Mr. Wooten.

20 CAPTAIN MIKE DUNN: Good evening. I'm Captain Mike
21 Dunn. I'm not running for politics, but I did stay at the
22 Holiday Inn.

23 (Laughter.)

24 CAPTAIN MIKE DUNN: All right. Since I got
25 everybody laughing, now, let's go.

1 All right. The big counts of the manatees in the
2 winter, when we have slow speed, one of the reasons we've got
3 such a big, big count in Citrus County, our nuclear facility
4 has been down. Our water temperature has been 68 degrees.
5 Manatees do not stay there. Normally, we have 50 to 90
6 manatees, maybe some more. Chassahowitzka in the summertime
7 is slow speed, coming out of Yankeetown. Hasn't hurt the
8 fishing industry at all.

9 Unfortunately, I don't want to see the kids going in
10 the river and skiing. I also own a tow boat company. I'm
11 also a tow boat captain. The last thing I want to do is see a
12 couple jets, couple tubers come at me, when I'm trying to tow
13 a boat. There's just not enough room for all of us.

14 But there is a problem with Kings Bay. It's called
15 Buzzard Island. It's called the "Speed Zone" or "sports
16 zone." I really believe we need to keep the winter
17 sanctuaries up all year round, to make summer sanctuaries.
18 Summer manatees do need protection. We have 39 with calves.
19 They won't have any protection at all, not just from boaters,
20 including the tour guides. Summertime we have 39. We are a
21 lot of groups. Some of the manatees have no protection at all
22 from getting rest, so. We're not just going to hit the
23 boaters for safety. We're also going to try to protect the
24 manatees. Put the summer zone sanctuaries up around Buzzard
25 Island, maybe on the north side of Banana Island.

1 Every plan has a Part 2. I think Part 2 plan would
2 be we don't slow the Bay down. For safety, we need to shut
3 the west side of Buzzard Island down. It's shallow water.
4 That will take away the racetrack. And everybody that wants
5 to enjoy the sports zone, maybe we need to get ahold of Citrus
6 County and the City of Crystal River and (unintelligible) that
7 is uninsured boats out there.

8 There are 19 boats, they're uninsured, half of them
9 don't have a license. And the Sheriff does a great job out
10 there, but it's taking away the sports zone. It brings the
11 skier closer to Buzzard Island, where the manatees do eat and
12 feed.

13 For one thing, I am one of the ones that recovers
14 the manatees, when they've been cut up, in the sports zone and
15 the west side of Buzzard. Buzzard Island is where we do most
16 of the recovery, and it's not a pretty sight when you see a
17 momma get split in half, when there's a calf beside it.

18 So if we get rid of the sports zone, just only on
19 the west side of Buzzard Island, not the whole bay, maybe we
20 can compromise. We'll still have an area to ski. Maybe move
21 the (unintelligible) that's taken 40 percent of the sports
22 zone area, which if the jetskis and the tubers have to go
23 around all these boats, that are injured, that will give them
24 that whole side back.

25 Keep the sanctuaries to protect the manatees. It

1 will be a lot safer along the west side, because now that's
2 just going to be a slow zone, which it's winding, when you
3 come around. There's a fish camp. It's two and a half feet.
4 I can't even take my tow boat, medium to low tide. That's how
5 shallow it gets. So it's not just about manatees. It's about
6 safety and the people using the waters. But I don't want to
7 take -- I don't have kids, but I don't want to see other's
8 kids go in the river, myself. I think it's unsafe. Thank
9 you.

10 MR. FALLON: Thank you, Mr. Dunn.

11 UNIDENTIFIED SPEAKER: Mr. Fallon, now that it's
12 time for the public to speak, I was hoping one of our public
13 officials would address this, but, typically, here in Citrus
14 County, before a public meeting, we say the Pledge of
15 Allegiance and prayer to God. And before the public starts
16 speaking, I wondered if we could do that now, if the Federal
17 agency has no objection.

18 MR. FALLON: Well, in public hearings that we
19 conduct, that's not done. It's not normally done. So --

20 UNIDENTIFIED SPEAKER: The Pledge of Allegiance is
21 not done?

22 MR. FALLON: We don't normally pledge allegiance to
23 the flag before a public hearing. I recognize it's important
24 down here, but we'll continue --

25 (General public pledges allegiance to the flag.

1 UNIDENTIFIED SPEAKER: "I pledge allegiance to the
2 flag, of the United States of America, and to the republic for
3 which is stands, one nation, under God, indivisible, with
4 liberty and justice for all." God Bless America.

5 (Applause.)

6 MADAM COURT REPORT: Mr. Fallon, could I get that
7 speaker's name, please?

8 MR. FALLON: Can I get your name, please, sir?

9 MR. KEVIN DURST: Kevin Durst --

10 MR. FALLON: Thank you, Mr. Durst.

11 MR. KEVIN DURST: -- spelled P-a-t-r-i-o-t.

12 MR. FALLON: Thank you.

13 Deanna Rodrick and Captain Stacy Dunn.

14 UNIDENTIFIED SPEAKER: I just have three points:
15 One --

16 MR. FALLON: Your name is?

17 MS. RODRICK: My name is Deanna Rodrick. Sorry.
18 The last name is R-o-d-r-i-c-k.

19 Chart number one, this first front chart, using the
20 same statistics, pulled it up today, where it states for 2007,
21 that there were four manatee deaths, there was actually only
22 three, using the same website. Whoever put that chart
23 together, has made a mistake, and I would hope you-all would
24 double check that, as it is factual and make sure your facts
25 are correct.

1 The other two things I have to say is, one, how many
2 manatees do you expect to thrive in Kings Bay, and have you
3 done any studies and research on how many manatees the Bay can
4 support, without spreading disease, and how much grass is left
5 in the Bay, that can support them.

6 The other is, I would ask that you not shove this
7 regulation down everybody's throat, because you've got a
8 community here that has done nothing but support the manatees
9 and done great things. And I would hate to see this community
10 turn its back on the manatees because of this.

11 And I have, since this come out, heard more people
12 talking, negatively, about the manatees, and it's not bringing
13 about a good community. So I would say your best asset in
14 this area is the community and the people that live here
15 full-time, that have done a wonderful job protecting, making
16 sure the manatees are take care of. Don't ruin your best
17 asset in this area. Thank you.

18 MR. FALLON: Thank you, Ms. Rodrick.

19 (Applause.)

20 CAPTAIN STACY DUNN: Thank you for letting me speak.
21 My name is Captain Stacy Dunn, D-u-n-n. I wish we'd be
22 getting this many people out for a Bay cleanup.

23 (Laughter.)

24 CAPTAIN STACY DUNN: According to the proposal that
25 you're making by your refuges so that it can be the

1 controlling agency of the water, keep it safe for everyone and
2 everything. Back when the current guidelines were written,
3 there were a lot less people, less boats, smaller boats,
4 smaller engines. The Bay is just so big. It's quite tiny,
5 actually.

6 We still have major issues of safety on the Bay.
7 For one, I had to collect on an accident, where a youngster's
8 wake, he came carelessly too close to me, throwing everything
9 on my floor, breaking all my video equipment. The young man's
10 father had no idea his son was using his boat and using it in
11 this manner. He apologized and made good to the damages.

12 Many people allow the young children out to run
13 wildly on the Bay, unsupervised, and when law enforcement
14 tries to write them a citation, because of their age, it can't
15 be done.

16 Another important and unsafe practice is the many
17 tourists come into our area, with renting pontoons, and all,
18 the signage out there is just very confusing, even for veteran
19 boaters out there. So I'd like to suggest -- you know, I
20 would like the kiss method; keep it simple stupid. Just make
21 the whole Bay slow and the safety issues would be eliminated,
22 and you can get on with the other issues, like water quality
23 and trash. Thank you.

24 MR. FALLON: Thank you, Ms. Dunn.

25 Captain Michael Birns and Tracy Colson.

1 CAPTAIN MICHAEL BIRNS: Good evening. My name is
2 Captain Michael Birns, and I'm president of the local Manatee
3 Ecotourism Association. Our membership represents about half
4 the swim tour operators on the Bay. And fair enough to say
5 that I'm out there on the Bay five, six, lately seven days a
6 week, so we get to see quite a bit.

7 A few things, the safety issues, at least a couple
8 times a week goes by that snorkelers are in jeopardy from
9 boats and their collisions and things of that nature. It's
10 just gotten too congested and too crowded out there for
11 humans, as well as manatees. Slowing down the majority of the
12 Bay is going to be a good rationale answer.

13 On behalf of the membership, a lot of the members
14 support Councilman Gudis' recommendation of a citizen's
15 advisory group. I think that's a good idea. There's some
16 good ideas that we've heard here.

17 But some of the safety concerns and issues, I think,
18 might be a little bit overinflated, and talking a little bit,
19 because we are -- we represent half the swim tour operators,
20 the economics of this proposal. I'd like to say we do support
21 this rule.

22 I think it, ultimately, is good for the economy of
23 this area. Swim tours and manatee interactions are unique to
24 this area, and we are very blessed to have -- as Dr. Jim
25 Boulay (phonetic) from your office, says -- one of the highest

1 and healthiest concentrations of manatees anywhere in the
2 state and people come from all over the world to see it.

3 And so from that standpoint, the type of tourist
4 that you want to attract here -- or that we want to attract
5 here, in Crystal River, in Citrus County in general --
6 actually, would stay, and stay in the hotels and support a bed
7 tax. They're actually a higher volume, or -- you know, higher
8 margin tourist than the folks that trailer their boats in from
9 other areas, load up their coolers. May or may not purchase
10 something in a store, than somebody who comes and stays in a
11 restaurant -- or stays in a hotel and eats in a restaurant,
12 comes out on a tour boat, and that's actually a higher margin
13 tourist for this area.

14 My wife and I moved here from Key Largo, Florida, a
15 little bit under five years ago, and I can say, without a
16 scientific study, I've been in areas where speed zones have
17 been enacted. Housing resale values have, generally,
18 increased and not decreased. It's seems that people would
19 rather live in a quiet neighborhood than a rowdy one. That's
20 just from personal observation.

21 Obviously, as a swim tour captain, as president of
22 the Manatee Ecotourist Association, we want to see the best
23 and most stable environment for the manatees and the tourists
24 as well. I know these animals intimately. They have
25 personalities. I love them as much as my own pets. So I

1 don't doubt anybody's passion or sincerety in this room. And
2 I think that Captain Mike Dunn has, actually, proposed a few
3 decent compromises, but, in general, I'm here to represent our
4 organization. And by overwhelming majority, our organization
5 does endorse the rules, as they're currently written. Thank
6 you.

7 MR. FALLON: Thank you, Mr. Birns.

8 MS. COLSON: Good evening. My name is Tracy Colson,
9 C-o-l-s-o-n. I am a life-long resident of Crystal River. I
10 grew up spending a lot of time on Kings Bay. I ski on Kings
11 Bay. There were very few boats in the Bay, very few manatees.

12 I hear people say they want their children and
13 grandchildren to be able to learn to ski on the Bay just like
14 did. Obviously, times have changed since then; a lot more
15 boats, a lot more manatees. I agree, fully, that decreased
16 speed zone should be accepted for Kings Bay year round.

17 I have watched the quality of the Kings Bay, the
18 water quality, decline over the decades. I understand that
19 turbidity caused by high-speed watercraft are one of the
20 factors. Yes, there are increased numbers of manatees in the
21 Bay. There are also increased numbers in boats. To me, that
22 should mean that we should have increase protections, not
23 lessen protections.

24 We speak -- you have the chart there of the
25 watercraft mortalities. I don't see any record of the boat

1 strikes, when manatees are injured and maimed. And you are
2 hard pressed to find a manatee, anywhere, and especially in
3 Kings Bay, that don't have scars from being struck at least
4 once.

5 If what were going on, out in the Bay, that were
6 above water, where people can see the boats hitting the
7 manatees, the near misses, the terrible condition a lot of
8 manatees are in, I don't think the public would stand for
9 that, but because it's under water and out of sight, I don't
10 think a lot of people realize just how bad it is out there for
11 the animals.

12 Protection for people: I kayak. I don't feel safe
13 out in the Bay during the summer. I also conduct guided kayak
14 tours, and I discontinue my manatee tours on Kings Bay, during
15 the summer. I feel it's unsafe. It's unpleasant for my
16 clients. The last thing I want them to see is the manatees
17 getting run over by boats.

18 I purposely have gone out on the Bay in my kayak to
19 observe and document manatees in the speed zones, the manatees
20 and the near hits, the near misses from boats. Also, I've
21 seen manatees run over by boats. I've documented this.

22 I notice a lot of people out there don't even have a
23 clue that there's manatees in the Bay. The water is so murky,
24 they -- most people don't even see them. When they go that
25 close, they go right over them. I have to check my notes

1 here. Bear with me.

2 I'd like for everybody to understand that no one is
3 losing access to the Bay. It's just proposed to be in a more
4 controlled manner. As far as economics, I think the economy
5 will grow with increased use by paddlers, that are avoiding
6 the area now. Also, the tour operators that offer swim
7 encounters would have a safer time out in the Bay with their
8 clients, if there were slow speed zones.

9 So I believe the economy would improve. In the
10 past, we've had 30 to 40,000 visitors a year. Now, we're up
11 to 100,000. Okay? I have been documenting the harassment of
12 the manatees during the winter, for the past six winters. And
13 also the sport zone for the past five summers. I have picture
14 and video documentation of all of that. It shows the need for
15 a slow-speed zone in the Bay, and that will be in my package
16 that will get to you before August 22nd.

17 MR. FALLON: Thank you very much, Ms. Colson.

18 Dr. Burt Eno and Byron Costley, I believe. I
19 apologize if I mispronounce your names.

20 MR. ENO: I'm going to pass.

21 MR. FALLON: And you are, sir?

22 MR. ENO: Burt Eno.

23 MR. FALLON: Thank you.

24 Byron Costley and Eric Eldred.

25 MR. COSTLEY: I'm Byron Costley, spelled

1 C-o-s-t-l-e-y. I represent myself and only myself. And I'm
2 only speaking to one issue, and that's the speed zone.

3 GENERAL PUBLIC: Louder. Cant' hear you.

4 MR. COSTLEY: Does this help?

5 GENERAL PUBLIC: Yes.

6 MR. COSTLEY: The one thing that kind of bothers me,
7 when I walked into this meeting, is looking at that chart over
8 there. The information on that chart has been relayed through
9 press releases and several editorial billboard meetings, etc.
10 And it was given a false impression.

11 It's almost prejudicial, because the information
12 that is presented and, especially, the information that isn't
13 on it. Let's bring yourselves up to date. It goes to 2008.
14 Well, in 2009, we had two watercraft takings on Kings Bay.
15 2009, no, we did not. We had zero.

16 We had one in 2010 and one in 2011, and these are
17 statistics that came right from the same place that those
18 statistics came from.

19 Now, those two takings in that two-and-a-half year
20 period, both were in the slow speed time period. The summer
21 speed time period had zero, zero, and zero. So whatever is
22 happening out there, it's been effective, and certainly
23 doesn't justify the taking away of that summer speed zone.
24 Thank you.

25 (Applause.)

1 MR. ELDRED: My name is Eric Eldred, E-l-d-r-e-d.

2 GENERAL PUBLIC: Can't hear you.

3 MR. ELDRED: My name is Eric Eldred. May I pull
4 this down? Can you hear me now?

5 GENERAL PUBLIC: Yes.

6 MR. ELDRED: Eric Eldred, E-r-i-c, E-l-d-r-e-d.

7 I lived at the south end of Kings Bay for three
8 years, before last year, and I want to speak about the report
9 in the plan, treatment of what are called "riparian rights."
10 Riparian rights are the right of property owners to access the
11 waterways, and in our case, it would be to take a boat on our
12 property to the Gulf, through Kings Bay and Crystal River.

13 This cannot be taken as an environmental taking,
14 without due process of law, and I see this plan as doing so.
15 So there's a taking of the manatees on the one hand under law,
16 and there's a taking of human rights, individual property
17 rights, on the other hand.

18 And there used to be a balance. I see that there's
19 no balance here. Let me be specific about these riparian
20 rights. The plan provides for expansion of no-entry zones at
21 the south end of the Bay, near where I live. These boundaries
22 of the zones can be flexible, depending on where the manatees
23 are or not.

24 They are around marshy islands at the south end of
25 the Bay, Warden Key, and so on. These islands have expanded

1 in recent years, if you look at the aerial photographs. In
2 fact, the channels between the islands are so narrow that in
3 many cases at low tide, it's impassible. These channels need
4 to be dredged, in order to maintain the waterways, for the
5 property owners.

6 If the refuge is established year round, my question
7 is, will there be dredging allowed in this area, which is next
8 to the sanctuaries, or will the Corps of Engineers refer to
9 the Fish and Wildlife Service, who will say, "We really don't
10 have any studies about this, but there's a possibility that
11 there could be a taking of manatees."

12 So in that case, they may simply do nothing and not
13 dredge the channels and then not allow any boat traffic
14 through that area. That's the first case.

15 The second is, that the plan provides for entry of
16 property owners to adjacent zones, no-entry zones, on
17 condition they have to obtain a permit from the Fish and
18 Wildlife office, locally. This permit is only available,
19 according to the plan, to property owners. And my daughter
20 owns a house, which is being rented out to vacation renters,
21 and they like to have a boat there so they can go out to fish
22 in the Gulf.

23 So this would then decrease the value of the
24 property in two ways; one, by prolonging the journey from the
25 dock, in the back of the house, to the Gulf, by perhaps an

1 hour and make it impractical. And, secondly, the permit would
2 not be available to other than property owners and local
3 residents, not from someone out of state, or it would be
4 impractical for them to obtain it.

5 So I don't think that this plan is very well thought
6 out. I think it's an environmental taking and it's an
7 invasion of property rights, and there needs to be a balance
8 here. And there needs to be more coordination between the
9 Fish and Wildlife Service and other agencies.

10 For instance, if the speed is to be enacted, then
11 who is to enforce this? If it's another agency, and they may
12 not cooperate in passing the laws and enforcing them. So I
13 think the plan is impractical and needs to be re-thought and
14 (unintelligible) a scientific and cost benefit economic study
15 done, which there hasn't been. Thank you.

16 MR. FALLON: Thank you, Mr. Eldred.

17 Robert Holmes, Kevin Durst.

18 MR. HOLMES: I'm going to pass at this time.

19 MR. FALLON: Thank you, sir.

20 Mary Seader. Okay. Mr. Durst.

21 MR. DURST: Thank you. Kevin Durst, actually
22 spelled D-u-r-s-t. I will neither thank you for the
23 opportunity to speak, which is my right, or thank you for
24 being here, for I wish you were not. I do thank you for
25 providing me with the documents when I came in, of the

1 proposed rule, which, judging by weight, is 13 pages. I was
2 pretty accurate there.

3 I'll repeat some of the comments I've heard before,
4 that the rule is full of fallacy and misleading comments, and
5 although I know you're not taking questions, I will put my
6 comments in the form of a question to be acknowledged for the
7 record.

8 Your summary of why you propose the rule simply
9 says, "We considered the biological needs of the manatee from
10 level of take at these sites and the likelihood of additional
11 take of manatees, due to human activities at these sites and
12 proposing this manatee refuge."

13 That's it. No consideration for the humans that
14 were here, descendants of European settlers or indigenous.
15 The economic impact, simply, that's it; simply, the manatees.

16 I take exception of the word "take," which by
17 Ms. Barrett's own definition also includes harassment, which
18 definition could be, Is my canoe grazing too close to a cow
19 and a calf, meaning, I'm harassing it? But that word is
20 deliberately used so that the lay person that reads this
21 document, takes it as kill. It's a taking.

22 You also have a paragraph that says, "We also
23 announce the availability of the draft and environmental
24 assessment for this action." I assume that's there because
25 that's required as additional data, more pages to back this

1 up. How many pages is that? Can the average person read
2 through this and see what it is that you're proposing?

3 You say that your regulations directed decision be
4 made solely on the basis of best scientific and commercial
5 data available. As Byron stated, who comes up with that data?
6 Who decides what the best commercial data available is? And
7 peer review, says "three or more appropriate and independent
8 specialists, in order to solicit comments." Who will be given
9 the comments to decide if they're valid? Well, who decides
10 who are appropriate? Who determines their independency?

11 Again, I come back to the word "taken," taken.
12 Public reports of acts of manatee harassment. What is that
13 definition? And in the section identifying several dubious
14 authors, O'Shea, 1995; Abernathy.

15 And, also, probably the most disturbing thing, "In
16 1994, citing a doubling of the number of manatees in the area
17 since 1980, a large increase in the number of visitors" --
18 blah, blah, blah. You propose because there are more manatees
19 in Kings Bay, you propose more regulations. So the more
20 successful we are, at protecting the manatee, the more our
21 rights are taken away.

22 You all -- you admit the number -- the level of
23 protection of the manatee in Kings Bay went up because it
24 doubled, since 1998, from 250 to 556. And because the number
25 doubled, the level of regulation went up. So the more

1 successful we are at protecting this resource, the more our
2 rights are destroyed. Thank you.

3 (Applause.)

4 MS. SEADER: My name is Mary Seader. I was going to
5 bring a poster tonight, and it was going to have a picture of
6 manatees saying "Save the Humans." I thought we had a 10th
7 Amendment to the Constitution of the United States, which
8 simply reflects to state sovereignty rights, individual,
9 sovereignty rights, community sovereignty rights.

10 My concern is why is the Federal government here,
11 and what purpose do you really have? And you say you're here
12 to protect the manatees, but I just have to question, is this
13 really an attempt for another power of land grab, to take away
14 the right of those citizens here who swim at Kings Bay,
15 ultimately, and also to -- to -- in some cases, people won't
16 be able to own their own boats anymore. If they want to own a
17 boat or travel in the waterways, they'd have to pay a fee to
18 get their little tag. And what is the purpose of the fee, to
19 give to you so you can go restrict more people's property
20 rights? And for those who say that the property rights --
21 that the value will be increased, how? Who in their right
22 mind is going to want to buy a home with all these
23 restrictions on their property? And another thing that wasn't
24 mentioned, which I have been reading about in the paper, is
25 the septic tanks. Homeowners being forced to pay anywhere

1 from six to \$15,000 to hook up to a central sewage system. So
2 I just think it's a restriction of private property rights,
3 and, also, I want to say at this time, that if Congress really
4 was interested in cutting the budget, they should cut the EPA,
5 Environmental Protection Agency, because this is one reason
6 why you should be cut.

7 Your salaries are a 100,00 and more per year. And I
8 think if you want to have the waterways cleaned up and
9 restrict the taxpayers from having access to the waterways,
10 instead of taxation without representation, the taxpayers
11 shouldn't have to put one single penny to clean up the
12 waterways. Maybe your salaries should pay for it.

13 (Applause.)

14 MR. FALLON: Jeff Miller and Barry Sauls.

15 MR. MILLER: I'll raise this up a little.

16 Thank you. Name is Jeff Miller, M-i-l-l-e-r,
17 representing Miller's Boating Center, and the boat dealership
18 in Ocala and the vast majority of our customers. Also, let it
19 be known, our family is property owners here in Citrus County.
20 We have two parcels on the water, pay taxes and spend money
21 with the local businesses.

22 First thing I'd like to do, is to come in and thank
23 the County Commissioners and the City government for showing
24 up, in such large support of their resolution and against this
25 proposal. I am, again, and all of our customers or most of

1 our customers are against this.

2 We are concerned about boater's access, and I don't
3 want anybody to think that I'm against manatees but I am
4 against what manatees are doing to many of our freedoms and
5 rights.

6 From the economic impact basis, I can tell you that
7 I am part of three different, individual, fishing tournaments
8 that are held out of Kings Bay. Each of those tournaments
9 brings people that stay at hotels, motels, they buy gas, they
10 buy food, they buy drinks in the evening, eat in restaurants,
11 buy bait. They spend a lot of money in the community, over
12 those weekends.

13 If the speed limit is put on the Bay, I can
14 guarantee you that none of these three will be held. What
15 seems like a very small period of time, the 30-minute
16 additional idle, when you take into consideration that they
17 last from 7:00 in the morning till 4:00 in the after, you're
18 cutting one hour of that period out for idle, those events
19 will move to other places, and those business will lose that
20 income.

21 We hold an owner's tournament there that we bring
22 our customers into the Plantation. That event, on its own,
23 has to bring \$20,000, for that weekend, into that area. And
24 again, I can tell you that's gone, and others with it. So I
25 can justify there's an economic impact.

1 I can also tell you that if you survey any event and
2 ask them if last weekend was a good weekend for their
3 economics, due to scallop season opening, they will tell you
4 that they were very busy. You add a half hour, each way, onto
5 those customers that stayed in the various places, they will
6 find another place to stay and they're not going to spend
7 their money.

8 We all deal with it, during the winter times. We
9 can understand it during the winter when the manatees are
10 there in force, and nobody will understand it during the
11 summer months.

12 I do not, also, like the idea of trading safety of
13 human lives for manatee safety. I can tell you that over the
14 weekend I saw several kids on tubes in the river channel, and
15 it scared the hell out of me, for their safety. And you're
16 thinking about doing that on a daily basis? The channel is no
17 place to have boats going both ways, at 25 or 30 miles an
18 hour, with the bows up in the air, churning large waves, while
19 we're trying to have kids enjoy any type of water. It's not
20 going to work out.

21 I ask all of you to, please, make your decision and
22 end result on this, using common sense and facts and throw the
23 emotions out. We ought to be celebrating the fact the manatee
24 has had such a resurgence, that it is up in population. It
25 ought to be off the list of endangered species, and all of

1 this shouldn't be going on. Thank you.

2 (Applause.)

3 MR. SAULS: Good evening, folks. My name is Barry
4 Sauls, S-a-u-l-s.

5 MR. FALLON: Please, step closer to the microphone.

6 MR. SAULS: I apologize. My name is Barry Sauls,
7 S-a-u-l-s. I am a disabled electrical engineer, with a
8 background in mechanical engineering and an extensive interest
9 in all things biology, particularly cell biology.

10 I love Crystal River. I've been coming here since I
11 was a child, and I've now been living here as an adult, for a
12 decade. And I know what it used to look like. I know it has
13 problems.

14 At this stage of the game, I do not believe that
15 manatees are the problem with the Bay. The comeback that they
16 have made is huge, and just individual courtesies from the
17 local population has done such an extensive amount of help for
18 the manatee population and the courtesy to them, that
19 there's -- there's not much else to be done for them.

20 If you want to be more aggressive about protecting
21 what's there, there are far superior technology methods that
22 involve no people at all, that will allow variable protective
23 zones, allow high-speed areas that manatees won't go into,
24 because they wouldn't want to. Many of these areas that we
25 block off at some parts of the year aren't really necessary.

1 Now, personally, I am, actually, in favor of a huge
2 majority of the Bay being a no-wake zone. I know it takes a
3 long time to go to the river. I don't like it, either, but,
4 once again, technology can do something for this. And there's
5 no shortage of answers there, not, least of all, with jetskis,
6 which are designed, inherently, to be streamlined all the way,
7 front to back, including their propulsion.

8 I've, personally, been run over by one at 50 miles
9 an hour, while floating in the water, face down, and got a
10 tiny scratch from the speedometer. It's rare that something
11 like a jetski could seriously injure a manatee, an adult
12 manatee. On the other hand, a deep V-hulled boat, with a
13 propeller sitting 16 inches below the transom and dragging
14 heavy weight and speed and building a heavy speed, does such
15 incredible damage.

16 The first thing it will do is absolutely stun a
17 manatee in place and then the propellers hit it. And we see
18 this evidenced every day, because we live on Kings Bay, have
19 two mothers in our canal. The mothers are in terrible
20 condition. The babies are perfect. They've stayed this year,
21 instead of going out, because our canal is relatively safe,
22 and it's also very wide.

23 But I don't think there would be anything wrong with
24 making the Bay a no-wake zone, or a slow-speed zone year
25 round, except for a few areas that the manatees wouldn't go,

1 anyway.

2 I'm running out of time, and there were so many
3 other things I wanted to address. And I know I won't get that
4 opportunity to, but there are so many other problems with the
5 Bay, that seriously need addressing, but the manatees are not
6 one of them. Just simply the quality of our water needs to be
7 brought back to where it was about 15 years ago.

8 MR. FALLON: Thank you, Mr. Sauls. I will remind
9 you, you can submit written comments up to August 22nd.

10 MR. SAULS: Thank you.

11 (Applause.)

12 MR. FALLON: Nancy Kost and Robert Mercer. Nancy
13 Kost, K-o-s-t, or pronounced Kost. Okay. Robert Mercer and
14 Steve Sapienza.

15 MR. MERCER: My name is Robert Mercer, M-e-r-c-e-r.
16 I have prepared comments, but I am going to put in one, which
17 came from a conversation tonight with one of the
18 representatives of Fish and Wildlife. I want everybody to
19 understand in the audience that no matter what the intent of
20 the author of this rule had, when he wrote it, when it is
21 codified and signed into law by Ken Salizar, who is Secretary
22 of the Interior, the words written are the law, not the
23 intent.

24 This man may have had good intentions, but it's
25 going to be the words that are in that documentation that the

1 judge is going to look at.

2 And, now, my prepared comments. We have many
3 traffic laws enforced to a much larger extent than the laws
4 enforced on the waters. We still have traffic deaths, truly
5 accidental, and others by improper behavior. Have you ever
6 heard the mantra of zero tolerance to any highway deaths?

7 In addition to using this mantra, the proposed rules
8 are based on nontransparency and nontransparent process,
9 including questionable science and data. The proposed rules,
10 unquestionably, impinge on the property and water rights of
11 both waterfront property owners and other citizens that use
12 our waters.

13 The process used by U.S. Fish and Wildlife and the
14 supporting organizations, whose view is total protection of
15 the manatee, is a slow and insidious process. Even though the
16 manatee could be removed from the endangered species list, the
17 rules are permanent when they are put in place.

18 The proposed rules are not in the best interest of
19 the City of Crystal River or its citizens, and, in fact, can
20 and will, substantially, change the economic and culture of
21 this community. I, for one, will fight for free and
22 unencumbered use of my property and waterway by any legal
23 means available.

24 I will turn this over to you.

25 (Tenders to Mr. Hankla.)

1 MR. MERCER: Also, there are three signed petitions
2 by people who live in my neighborhood, which is directly
3 adjacent to the Three Sisters. There will be many more.

4 MR. SAPIENZA: Hello. My name is Steve Sapienza,
5 spelled S-a-p-i-e-n-z-a. I am not a long-time resident of
6 Crystal River, or in the state of Florida. I'm from the
7 Midwest. I had a traveling job in the winter that brought me
8 down here as a kayak sales rep. I can't speak about charts,
9 although, I can speak military government language, and it is
10 confusing, which is why I got out of the military, proudly.

11 Traveling down here for the winter, I'm going to be
12 the first one to admit how stupid I was. I didn't know what a
13 manatee was until I saw one. I was later told by one of the
14 kayak shops that I represented where to find them, how to
15 paddle with them, and what it is they do.

16 Only through meeting some of the other people in the
17 area related to the kayaking community, did I learn more about
18 the issues. And, of course, now, today, I'm on the Manatee
19 Rescue team, with some of the other members here and very much
20 involved. The kayaking job ended, and I met a beautiful lady.
21 So now I am a resident of Florida.

22 I can't talk about all this. I can't talk about the
23 history of what it was like to grow up here. All I can talk
24 about is the knowledge from a kayaker. Believe it or not, I
25 was considered a professional and still am a professional

1 kayaker. I get paid to be a kayaker.

2 I, today, am a part-time kayak instructor and a
3 kayak tour guide. So I can really just touch base on the
4 economic effects that some people fear could be taken away, if
5 they can't go fast in the Bay. Those effects could be
6 replaced by the kayaking community.

7 There are kayaking websites that we share where to
8 go and where not to go. Kings Bay is a definite not to go in
9 summertime, just based on, it's no fun for a kayaker. We
10 don't want to go fast. We enjoy big waves, when we go out to
11 big water. Coming from the Great Lakes, there are no manatees
12 to see, so the joy of paddling is perhaps big, in big water.

13 Just one (unintelligible) of how the -- our kayaking
14 tourism works. We get a phone call. Phone call comes from
15 Iowa, Kansas, New England, Midwest, or even Europe and Canada,
16 and people are coming down to see the manatees. If it's
17 summertime, we won't book a tour on Kings Bay, just because of
18 the conditions and what the water is like. It's unsafe, and
19 it's just really no fun.

20 So we'll pick Chassahowitzka, Weeki Wachee, maybe
21 Lake Rousseau or Ozello, somewhere else where we can take
22 people out to show them what is Florida. Obviously, in the
23 winter time, we show the manatees in Kings Bay during the slow
24 speed.

25 Based on that, if we meet someone in Chassahowitzka

1 for the day, we send them somewhere for lunch, in
2 Chassahowitzka or nearby. If we meet them in Homossassa, over
3 the phone we help them book their hotel, where they're going
4 to eat, where they're going to stay. And it's, unfortunately,
5 not in Kings Bay, Crystal River.

6 So from an economic standpoint, if things were slow,
7 there's birding, there's nature photography, there's a lot to
8 be done that would support the hotels and restaurants.

9 So I am in favor of the slow speed. As a kayaker, I
10 don't wish to be out on it, and when I am on it, you know, I'm
11 usually fearful for the manatees. Thank you for your time.

12 (Applause.)

13 MR. FALLON: Thank you.

14 Dr. D.E. Fulford and Gail Jannarone. I apologize
15 for mispronouncing your names.

16 UNIDENTIFIED SPEAKER: Wait till you get to mine.

17 DR. FULFORD: My name is Don Fulford. I'm a
18 taxpayer here, in Citrus County and Marion County, Florida,
19 and a life-long resident.

20 One thing I learned in biochemistry, the first word
21 was homeostasis, and that means balance. And when I was
22 raised up, I was raised up on a farm, for the first few years
23 of my life, and we could not put ten cows on one acre. It did
24 not work. So I'm -- I'm appealing to you to look at balance.

25 Also, I'd like to see a scientific study, based on

1 biological methods, on how much fecal material and urine, in
2 the winter months especially, are produced in a 24-hour period
3 from manatees and judge that, also -- also, with the quality
4 of the water, during the winter months. I don't know if
5 there's been any scientific study, but that would -- I would
6 like to see that.

7 At the -- we do have to have a balance, and it's --
8 you're not going to -- unfortunately, I even tried to get some
9 of my neighbors, who are homeowners here, and they said, "The
10 Feds are going to be there, aren't they."

11 And I said, "Yes."

12 And they said, "We're not interested." They said,
13 "We'll contact our Congressman and Senator," which this is
14 sad. This is very sad. And, you know, I'm not going to hold
15 up any more of your time, but I do want you to keep the term
16 "balance" in everything. And my opinion is this: If you want
17 to keep your jobs, and I want to keep my social security, and
18 all my bonds and mutual funds, but if you want to really do
19 something, go back and have the administration regulate Wall
20 Street, before they wreck our country, again. And you may not
21 have jobs. Thank you.

22 (Applause.)

23 MS. JANNARONE: I'm Gail Jannarone,
24 J-a-n-n-a-r-o-n-e. I'll be brief, because everything I wanted
25 to stay has been said. One thing, when talking -- listening

1 to the kayakers, I can't feel too bad, because they have that
2 use of that full Bay for like at least eight, nine months a
3 year. Where's the people that want to do a little recreation?
4 They only have about two months, two and a half months.

5 I think we've done such a good job at protecting
6 these manatee, though, that, now, we're being punished for
7 doing a good job. It's ludicrous that the manatee welfare --
8 and we all care about manatees here. I don't think there's a
9 person here that doesn't care about the manatees. That's why
10 we have protected them.

11 But I also care about human lives. I do not want to
12 see my grandchildren out in that river. If you've ever been
13 on that river on a busy day and then you say, Okay. Let the
14 kids go play there. Sorry. That's just -- it's not putting a
15 balance on it. We love our manatees. We also love our
16 children. Thank you.

17 (Applause.)

18 MR. FALLON: Helen Spivey and Michael Millsap.

19 MS. SPIVEY: Good evening. Helen Spivey,
20 S-p-i-v-e-y. I've changed my speech a little bit, because of
21 some things that have been said tonight. I've been coming to
22 Crystal River, recreationally, from the early '60s. I used to
23 fish in Kings Bay, great mass fishing. When the sports -- we
24 bought a lot, built a home and continued to fish until the
25 sports zone came along. I couldn't afford a chiropractor

1 every week, and so I quit fishing.

2 A little bit of background, when I lived in Crystal
3 River -- I now live in Yankeetown -- I was on the Crystal
4 River City Council. I was also elected to the Florida House
5 of Representatives, and I got many phone calls from the
6 people, who lived on Kings Bay, begging me to -- for the
7 safety of manatees, get the speed zone stopped.

8 And I said, "Well, I'm all for saving the manatees,
9 and is it a manatee safety concern. But," I said, "you all
10 will have to come up to City Council and support me."

11 Can't do that. You know, they just wouldn't show.
12 So it never really came up until now. I'm, also -- because of
13 my interest and knowledge of manatees and people know that I
14 really care about them, I have received phone calls, when I
15 lived in Crystal River, from people from foreign countries and
16 people from Canada, absolutely horrified that you even allow a
17 boat with a motor on it in Kings Bay. And it took a lot of
18 talking, because I know a lot of people who own boats that
19 wouldn't want to give them up.

20 It just it's a difficult situation, and Fish and
21 Wildlife is charged with protecting manatees. And the City
22 Council is charged with protecting people and taxes and income
23 and everything. And I remember back when they were going to
24 do the first idle speed on Kings Bay. There was an uproar
25 similar to this. Everything was -- the fishing guides, in

1 particular, were going out of business. Everybody who had to
2 go pick a customer up and get out to the Gulf and take them
3 fishing, they would be ruined. The consequence of that idle
4 speed, we had doubled the number of fishing guides, in about a
5 year and a half. So it never -- their fears were not
6 realized.

7 I really came here tonight to speak to you, as
8 president of the Florida League of Conservation Voters
9 Education Fund. The Educational Fund goal is to educate the
10 public about conservation, environmental protection, and
11 political process. And we researched this, we looked at it,
12 and in that light, we approve the rule. And we support the
13 rule, and I support manatees and manatees support Crystal
14 River.

15 I think one of the thing that's left out of the rule
16 is education. And as the Florida League of Conservation
17 Voters Ed Fund, education needs to be considered. Your rule
18 says don't separate a mother and a calf, but you don't tell
19 them why. You don't say that a calf needs a while to bond
20 with its mother, and I'll write the rest to you. Thank you.

21 MS. SPIVEY: Thank you, Ms. Spivey.

22 (Applause.)

23 MR. MILLSAP: My name is Mike Millsap, owner of
24 Sunshine River Tours. I support the slow speed zone, as does
25 (unintelligible.) I've taken about 60,000 people over the

1 past ten years out to swim. We prefer to say "float with the
2 manatees" now. I had a lady call me about three days ago, and
3 she says, "Do you rent jetskis?"

4 And I said, "No, we do not rent jetskis. I think
5 they maim and kill manatees."

6 And she responded, "Oh, my God, what kind of awful
7 people are you there, that lets that happen?" And hung up.
8 So my point is, and one other thing I'd like to say, nobody
9 cares about drunk drivers until one maims or kills someone in
10 their family. The manatees, they're our family in this area.
11 Speeding boats and jetskis kill and maim manatees, who cannot
12 speak for themselves. Thank you.

13 MR. FALLON: Gail Kostelnick and Karen Musselman.

14 MS. KOSTELNICK: Good evening. Thank you for the
15 opportunity to speak. I was the chairperson of a --

16 MR. FALLON: Your name, please?

17 MS. KOSTELNICK: I'm sorry. Gail Kostelnick,
18 K-o-s-t-e-l-n-i-c-k. I was the chairperson of the committee
19 that was mentioned, prior, for the subcommittee for the
20 protection of manatee waterfront flora, Crystal River. And I
21 invited participation from many, many groups and anyone who
22 wanted to join in, including the County Commission and the
23 Cities. So I know that this has been regarded and looked at
24 before, and there was a lot of participation from the public.
25 So we've been down that road.

1 So if this action by U.S. Fish and Wildlife does,
2 indeed, produce, now, interest to collaborate and come up with
3 a plan that will be beneficial, I am all for that, if that can
4 happen.

5 Sitting here listening to the comments, I would love
6 to find a way to be able to have a joint effort, so that there
7 could still be a fast zone, if manatee protection could be
8 guaranteed by technology. I don't know if that exists or not.
9 If it does, I'm all for it, if there's a way to keep the
10 manatee and the boat separated.

11 However, if you do go out there, especially, on a
12 weekend, it's very shallow in many parts, and to say that the
13 channel is unsafe at 25 miles an hour, with boats speeding
14 back and forth, it's a 35 zone in the sports zone. And it's
15 35 miles an hour, and they're going all in different
16 directions, and you're seeing jetskis, tubers, people trying
17 to swim and paddlers. And I've likened it to a game of
18 Frogger before, because that's really what it is.

19 I had the occasion to be in D.C. a few years ago,
20 and I was in the Museum of Natural History in Washington,
21 D.C., and I had no idea this exhibit was going on, until I saw
22 it in the paper. And it was the Windland Smith Rice
23 International Awards Photography, and, huge, on the wall was
24 the winner of the environmental issue. And it was,
25 unmistakably, a Florida manatee. And if I could -- I'll show

1 it to you, but if I could read real quick the description.
2 This is taken by someone from Honolulu. "It was incredible to
3 see Florida manatees face to face, as the large gentle giants
4 slipped quietly out into the river to feed. I couldn't help
5 notice that almost every one that I saw had scarring from what
6 could only be boat propeller strikes. I was stunned. I had
7 heard that human impact is was one of the greatest threats to
8 manatees. This experience reinforced the point. Scar after
9 scar, the lesson was driven home. In looking back, the only
10 manatee I recall not having scarring was a juvenile manatee.
11 I wonder if he, too, will have scars when he returns to the
12 warmer waters of Crystal River next year." And this is the
13 picture.

14 (Publishes to panel members.)

15 MS. KOSTELNICK: And as you can see, the tail has
16 been filleted several times. So and my husband asked -- he
17 cannot come tonight -- he asked that I extend his support for
18 this action as well. And like said, I would really like to
19 see a collaboration, come up with a positive impact rather
20 than a broad across the board, if that can be done, to protect
21 the manatees and humans. Thank you, again.

22 MR. FALLON: Michael Czerwinski and Marylin Samaha.

23 MR. CZERWINSKI: You got it right, and I want to
24 thank you, Hearing Officer Fallon, for not pressing the green
25 light until after someone spells their name, because it may

1 take me four minutes to spell Michael G. Czerwinski. That's
2 C-z-e-r-w-i-n-s-k-i.

3 I'm a marine biologist. I've been recognized as an
4 expert witness on manatee issues in Chapter 120, Florida
5 Statute hearings. I'm a participant in the Buckingham Study
6 on Manatees' behavior in Kings Bay. And I was one of the
7 original members with Helen Spivy and others, including Cam
8 Shaw, the refuge manager, on the Citrus Manatee advisory
9 committee.

10 You've heard a lot of eloquent speakers today, and I
11 want to commend our government officials and both sides of the
12 issues for extending a hand and saying create a stakeholders
13 committee. Don't regulate us by writing rules without our
14 involvement. That's what we've been doing from the start, and
15 that's why we have the speed zones we do. That's why we have
16 the manatee protection enforce that we have.

17 Gary Maidhof presented some data to you that shows
18 that, basically, watercraft incidents of manatees are one
19 every two years in the Bay. I want to -- the speed zone is a
20 fairly debatable issue, but some of the things that I may cite
21 here is Executive Order 12996, 16 U.S.C. Chapter -- Section
22 668, and the National Wildlife Refuge Act -- Refuge System
23 Improvement Act of 1997.

24 I'm going to concentrate on the issues that I don't
25 think have been widely debated here. Law enforcement is one

1 of them. We have been doing our part from the Sheriff's
2 department, City of Crystal River, Citrus County, and Florida
3 Fish and Wildlife Service to enforce rules of harassment on
4 the Bay. You have not kept statistics, valid statistics on
5 that. (Unintelligible) I would like to request that you
6 present a table on citations and inferences that you have on
7 those data.

8 I think we need to start collecting that data. I
9 also think it's been mentioned for years that we need more law
10 enforcement, Federal law enforcement officers on the Bay,
11 rather than establish a refuge. We need probably, at least,
12 three full-time Federal officers to enforce those laws and
13 observe harassment.

14 Finally -- well, another issue is care and capacity.
15 It's kind of been alluded to, whereas, we do not have a care
16 and capacity study on Kings Bay. I want to mention some
17 regulatory responsibilities of the refuge, and, ultimately,
18 talk about habitat degradation and restoration of the Bay.
19 That's really what we need here.

20 We need a partnership with Federal government,
21 rather than establish a refuge. Sit down with us and find out
22 what our needs are and the manatees' needs are. We have a
23 record number of manatees here. Without us -- there have been
24 studies that show that some manatees, in the winter, if you're
25 not provided with an adequate food source will travel outside

1 to the Gulf on short visits to get food. That would put them
2 in danger in the winter by placing them in jeopardy in the
3 high speed channels. Ultimately, what we need to do is remove
4 the toxic sediments in the Bay and restore the beneficial
5 submerged aquatic vegetaion.

6 I would ask that you delay implementation of the
7 rule. Create a stakeholders committee. Meet with us, and we
8 become partners in habitat restoration. Only through
9 restoration of the Bay and increased water quality, will we
10 have more opportunities for both recreational users and the
11 manatee.

12 We will have more spring flow out of some of the
13 minor springs that are closed because of the sediment. We'll
14 spread out the opportunities over the wide portion of the Bay
15 where divers and snorkelers can interact, instead of one or
16 two small areas in the whole Bay. Thank you very much.

17 (Applause.)

18 MS. SAMAHA: My name is Marylin Samaha, S-a-m-a-h-a.
19 I am a property owner in Hillsborough County in Tampa,
20 Florida, as well as in the County here in Crystal River. The
21 gentleman that was just in front of me, pretty -- I've been
22 waiting all night to say exactly what he said, but I picked up
23 this picture of the poster, because the water doesn't look
24 like this, anymore. It may look like this a week out of the
25 winter, and we're up here all the time. I mean, this is a

1 great day for Crystal River.

2 And so when the kayakers talk about not wanting to
3 be here in the summer and the tour boats, etc., etc., the
4 water quality is terrible now. It's terrible. And I'm a
5 life-long Floridian, and I grew up in Gainesville. And I've
6 been coming here for years and years, and you -- you can't see
7 the manatees, anymore, even in the winter. Even in shallow
8 water.

9 And so just as the gentleman said before me, I know
10 the Federal government deems Kings Bay as a valuable resource,
11 as everybody here does; the County government, the City
12 government, tour guides, kayakers, owners of property. So
13 it's -- but what is severely restricting people for the use
14 going to do? It's going to be a big empty green Bay. So what
15 good is that to anybody? I mean, it's not just, you know, a
16 valuable option to restrict people. We can't restrict people
17 from coming to Florida. They come every day by droves. It's
18 a balancing act between an environment and people.

19 So I would like to be on a citizen's committee. So
20 if you would please take my name, Marilyn Samaha, and I will
21 send you my name, because I would like to be on that advisory
22 citizen board, so that we can really find solutions, because I
23 do not support the proposal as it is now. I think that there
24 are a lot of viable options, and one of them is, like I said,
25 is to clean the Bay up. And we just need to really look at

1 everybody's positions and try to find a really good solution.

2 Thank you very much. I appreciate it.

3 Bill C. Young and Kenneth Cross. Bill C. Young.

4 Kenneth Cross.

5 Pat Rose.

6 MR. ROSE: (Tenders to Dave Hankla.) Good evening.

7 My name is Pat Rose, spelled just like the flower, and it

8 makes it fairly easy. The package I just gave you are a

9 series of photographs. Most of which were taken this last

10 holiday weekend and shows you hundreds and hundreds of boaters

11 who have come and did come to Crystal River, Kings Bay, to

12 enjoy the waterway, enjoyed under similar circumstances, as

13 are being proposed for eliminating the water sports zone.

14 I don't know why it would be vastly different

15 with -- they would come over the July 4th holiday weekend

16 versus another time, if the laws of their boat operation were

17 similarly in place. I think you have a lot of people coming

18 to Citrus County, Crystal River, Kings Bay, for a lot of

19 different reasons. And there are those, clearly, that would

20 like to operate at high speed.

21 I, personally, was one of those that tried my

22 darndest, when administrating the State of Florida's programs

23 for balancing protections for manatees and the rights of

24 boaters and skiers and water sports activities. I was the

25 administrator responsible for putting the high-speed water

1 sports zone in place.

2 Things have changed, radically, since then, and I
3 think it is time for it to be gone, not because we want it to
4 be gone but because the circumstances that exist there today
5 are unsafe for people, boaters and manatees.

6 And I think that's mostly what I want to talk about.
7 I spent time in the air, observing what goes on in the
8 high-speed zone, over the last several years. I spent time on
9 the water. I have three children that I've raised. They're
10 all adults now, thank goodness, and healthy, but I've had near
11 misses with them, with situations in pulling them behind with
12 tubes and knee boards and so forth, when people are jammed too
13 close together or people operate irresponsibly.

14 You've heard a lot tonight about fear of what's
15 going to happen to those children, if they're forced into the
16 channel. I would be concerned for them, if they're operating
17 in unsafe conditions, but, honestly, when you go and you see
18 what's happening in the choke points around Buzzard Island and
19 the main land and spend the time that I have, you would be
20 appalled at the near misses and the near -- it -- I don't
21 really have words to describe it, as a parent, to see the
22 activity of the personal watercraft, the kids being pulled
23 behind on skis, a bunch of them in the boat, having a great
24 time. I grant you, they're laughing it up, and it's funny.
25 And falling off and within a half an hour, I saw six

1 encounters where one watercraft and a person came within two
2 feet of one another, at that point. If you don't believe
3 anything else I say, go out there, because this rule is not
4 going to take place immediately and observe that area. And
5 you cannot tell me you that aren't concerned for those kids
6 and those folks that are operating there.

7 Now, during the same time, there are actually seven
8 or eight manatees there. I saw the boats go right over the
9 top of the manatees at the same time. We've got a problem.
10 It's got to be fixed. I think your proposal is a good
11 solution to that.

12 As to the economics involved with it, from this
13 community, I'm absolutely convinced you'll see greater growth
14 and expansion of passive activities. You'll have the boaters
15 come, towing their boats. They'll have fun, just like in
16 these pictures of the hundreds of boats and the hundreds of
17 folks having a good time here. You'll have lots of kayakers,
18 lots of tours being operated in the summertime as well, and
19 they'll all be deemed unsafely (sic).

20 As to the water quality -- I'm an aquatic biologist.
21 Been that for my entire adult life -- I am absolutely
22 committed to seeing this Bay cleaned up. I started coming
23 here in the late '60s. It's appalling what's happened to the
24 Bay. And it's happened for a lot of different reasons. No
25 one reason. And you guys won't fix it by yourselves; the

1 people in this room won't fix it. We have to all work
2 together to fix it, and we'll send the rest of the comments in
3 writing. Thank you.

4 (Applause.)

5 Art Jones and Lisa VanDeboe.

6 MR. JONES: Yeah, Art Jones, J-o-n-e-s. Yeah, I
7 live right in Bunts Point, which is just outside of the refuge
8 that you've got designated there. So if you put in the
9 restrictions on the sports zone, it's just going to push the
10 kids right out into the mouth of the river, and that's a very
11 shallow area there. So I don't think that's a very good idea.

12 Some of my neighbors that live in the neighborhood
13 asked me to come in and ask you to, please, not to get rid of
14 the sports zone. I think where the sports zone is now, yes,
15 there's some room for improvements, and I think a lot of the
16 speakers here tonight pointed out a couple different things.
17 Maybe tweaking it to one side or the another, getting rid of
18 the boats that are moored in the middle of it. There's a lot
19 of ways to improve it and improve the safety, without getting
20 rid of it.

21 So I think that compromise is needed here. I think
22 there are some good things in this plan, and I think there are
23 some things in the plan that are not so good at all. So I'd
24 ask that, please, listen to what everybody said tonight.
25 Please, tweak this plan before you make any final decision.

1 And I also want to second what Michael Czerwinski
2 said about the Bay, being real problems in the Bay are the
3 toxic mud on the bottom. We need some diver vacuuming the
4 Bay. We need to clean up the Bay. We need to reintroduce
5 aquatic vegetation in the Bay. I think some of the deaths of
6 the manatees happen during the winter months, because there's
7 no food in the Bay. The Lyngbya has come in and taken over
8 and the water Hyacinths are gone. Hydrilla are gone. The
9 fish are gone and the manatees are coming in here. They're
10 malnourished, and they're under a lot of stress so they're
11 having to go into the river channel, and out there, and
12 they're in more danger out there.

13 So I think improving the Bay, in general, is a very
14 positive effect for the refuge to look at, and I think we can
15 all work together on that. So I just want to say, again, that
16 I hope you listen to everything that was said tonight. There
17 were some really good things.

18 And I also want to thank some of our public
19 officials for speaking out. A lot of good things were said by
20 them. And we work so hard to get Three Sisters Springs, and
21 so we have really accomplished a lot. Three Sisters is saved,
22 and it's going to be protected now. So let's move forward
23 into a very positive direction for everybody.

24 People love swimming in that water. One of the
25 things that upset me a little bit here on this is entering

1 Three Sisters Springs between 6 p.m. and 7 a.m. is going to be
2 eliminated. Maybe that's not really the best time to
3 eliminate it. Sometimes that's the only time you go in there
4 and it's peaceful and the scuba divers are gone. So there's a
5 couple of things in this plan, I think you should get together
6 with some of the stakeholders and some of the other people
7 that want to get involved and tweak this and just improve upon
8 it, that you can do a better job of that. Thank you.

9 MS. VANDEBOE: Hi. I'm Lisa VanDeBoe, V-a-n
10 D-e-B-o-e.

11 I'm nervous. I'm not used to this, but I've lived
12 here in Citrus County about 25 years, now, and in that time
13 I've live at Gator Hole, behind Three Sisters for many, many
14 years. And then I turned around and moved, and I'm right by
15 Three Sisters. And I see a lot. When you're there and
16 watching, it's amazing what you see. But one thing I don't
17 see -- and I do feel like we're going a good job, but I don't
18 see you guys.

19 And I fell like the Fish and Wildlife guys here are
20 fantastic. We like them. They've got a great rapport with
21 our community, but they need more help, because there's many,
22 many times over the last 18 years, that we've called Fish and
23 Wildlife. They're not there. I never see them in my
24 backyard, very, very seldom. That's what we need to work on.
25 We need to work on our water quality, and how are these

1 manatees going to eat, you know?

2 The one thing that concerns me -- I also want to
3 tell you, I also -- I own a real estate company. And I'm
4 surviving -- thank the Lord -- this economy. And it's been
5 really hard, because I'm an independent Realtor, broker, for
6 32 years, and I started my company 11 years ago. And I'm
7 still here.

8 And this is really going to hurt us. I talked to
9 all the real estate friends of mine, outside of my office, and
10 they all agree that it's definitely not an increase. It's
11 going to decrease our values and hurt our economy.

12 That's pretty scary for me, and a lot of people.
13 And then I hear that, you know, you don't really care. I
14 don't know if that's true, so. One thing, that scares me is
15 this, in this thing here. It says, "We, U.S. Fish and
16 Wildlife propose to establish a manatee refuge in Citrus
17 County, Florida, in the waters of Kings Bay, including its
18 tributaries and connected waters."

19 That's kind of open. I mean, does that mean,
20 eventually, you could take the whole river? You know, we do
21 love the manatees. We really do, but I wish that we could
22 find a balance. I'm not sure if you guys have any control on
23 this. I really don't know, the way this government is these
24 days. I don't know if you can help us or not.

25 Let me see what else I wanted to say. And,

1 basically, I see -- I'm worried about the kids going down
2 river and getting hurt. So let's find a balance here, if we
3 can. Thank you.

4 MR. FALLON: Patti Thompson and Mac Williams.

5 MS. THOMPSON: Good evening. My name is Patti
6 Thompson. That's Patti with an i, and Thompson,
7 T-h-o-m-p-s-o-n.

8 I'm here tonight as a consultant representing
9 Defenders of Wildlife, the national organization that has a
10 fairly common presence here in Florida. I just want to say,
11 because we're going to provide a comment letter, that's
12 flushed out better, but we do, very much, "we" being the
13 Defenders, support the proposed alternative, the preferred
14 alternative very much so. And are happy to see it and happy
15 to see that that water sports area would be eliminated at some
16 point. So thank you for doing that.

17 But we would also like to know why -- and I know
18 you're not taking questions, so we'll just put these comments
19 in the letter -- why Alternative D in the draft E.A. -- I
20 believe that's the alternative that speaks to not touching,
21 you know, changing some of the harassment regulations to
22 include not touching. We'd like to know why that was left
23 out.

24 And, also, for the people who are concerned about
25 law enforcement, there's an Alternative E, that spoke to law

1 enforcement. And I think you guys are bright and capable and
2 can multitask, and I don't see any reason why these things
3 have to be mutually exclusive. I think you could do all
4 three. You could prepare all three of those alternatives,
5 within the same preparations.

6 And, also, I'm surprised, like Helen, I'm surprised
7 that she didn't speak about her buoyancy compensator vest
8 idea, because we have thought, for the longest time, that that
9 was a great idea at Three Sisters. It doesn't necessarily
10 mean throughout Kings Bay, but during manatee season at Three
11 Sisters Spring, if people were required to wear something that
12 kept them on the surface of the water, so they couldn't
13 disturb and harass feeding manatees and nursing calves and
14 resting manatees, and the like, that it would probably be very
15 beneficial for the manatees that use Three Sisters Spring.

16 And I think that could be very neatly folded into
17 Alternative D. So, like I said, there will be a follow-up
18 comment letter, that will be a little more flushed out, but we
19 do support the preferred alternative, as well as the other two
20 alternatives. It probably wouldn't take that much more work,
21 knowing, of course, that you have financial issues about
22 adding law enforcement. So we'd be willing to work with you
23 on those issues, and see what we can come up with. Thank you.
24 Have a good night.

25 Mac Williams. Steven Redrick.

1 GENERAL PUBLIC: He left.

2 MR. FALLON: Al Grubman.

3 GENERAL PUBLIC: He left.

4 MR. FALLON: Mark Ovard.

5 MR. OVARD: My name is Mark Ovard, O-v-a-r-d.

6 Contrary to what seems to be convenient presumption, the only
7 environmental and jurisdictional issue at topic is not just
8 manatees. I can find that there's been no environmental
9 impact study, that's been submitted to the Environmental
10 Protection Agency. Nor that the EPA has approved of any of
11 these changes, which obviously increased the amount of water
12 pollution from boats, because you're increasing the amount of
13 boat time in the water, by slowing the boats.

14 I cannot find that there's been any approval of this
15 by the United States Corps of Engineers nor the United States
16 Coast Guard. And the EPA and Corps of Engineers and then
17 there's United States Coast Guard, all have specific
18 jurisdictional over these subject waters, which, also, are
19 protected waters. While the Department of the Interior might
20 like to encompass the entire (unintelligible), it does not.

21 Looking at the studies, I don't actually find a
22 study on manatees, in any matter that addresses any other
23 environmental issues other than manatees. And of manatees, it
24 makes this bizarre assertion. There's no documentation on it,
25 there's no statistical basis, there's no protocol study, that

1 if you, dramatically, increase the number of boats in the
2 water, and dramatically increase the amount on pollution in
3 the (unintelligible) and dramatically increase the amount of
4 noise that they make, that if they move slower, it just does
5 not harm manatees. The manatees are safer.

6 Actually, there's no rationale in that, but, more
7 importantly, there's statistics that show opposite. The
8 statistics show that as you slow the boats down in water that
9 has no visibility, with the nature of manatees, which I
10 actually live right at Three Sisters, and I view those
11 manatees closely almost every day.

12 Manatees are actually attracted to people in boats.
13 And so if you dramatically increase the number of boats in the
14 water going slower, what happens? Well, as you see, you kill
15 a lot of manatees.

16 I don't believe these regulations, in any manner,
17 protect manatees, because I like to protect manatees. Going
18 slow protects pedestrians in a school zone. There's nothing
19 that shows it increases manatees. I believe, actually, what
20 this results in is creating Crystal -- Kings Bay as a manatee
21 kill zone. If they're hit by propellers, they hit 500 percent
22 longer than boats that are running much deeper. You no longer
23 can see them through the water.

24 I also will comment on intention, though, my guess
25 is a little bit (unintelligible). I do live at Three Sisters,

1 but I am shocked at what's being done at Three Sisters. It's
2 being turned into a commercial park. What I fear is
3 happening, is that there's going to be created, a manatee
4 crisis, because one killed every two years is not a crisis.
5 For the purpose of turning Three Sisters into a trapped
6 injured manatee zoo, like we have in Homossassa. You don't
7 want go to Homosassa for manatees. It's not known for
8 manatees.

9 I would like to see you do two things: One, I would
10 like to see what I believe is necessary, which is to actually
11 consult with the EPA and other relevant Federal agencies that
12 have jurisdiction over these waters.

13 And, two, to actually fight to find some statistics
14 anywhere, that shows that by slowing boats, which increases
15 the number of boats in the water, actually protects manatees.
16 Your charts and your statistics cannot show it. I hope your
17 intentions are good. Thank you.

18 (Applause.)

19 MR. FALLON: That's the end of people who have
20 submitted a request to speak. Is there anyone else here that
21 would like to speak?

22 Yes, sir. What's your name, please?

23 MR. RODRICK: My name is Greg Rodrick,
24 R-o-d-r-i-c-k.

25 And I'm very disappointed in all four of you sitting

1 there, for not standing up for the Pledge of Allegiance.

2 That's Communistic.

3 UNIDENTIFIED SPEAKER: I had passed when you first
4 called my name. Robert Holmes.

5 MR. FALLON: Yes, Sir.

6 MR. HOLMES: Robert Holmes, H-o-l-m-e-s. So much
7 has been spoken and not -- for one, I'd like to back off from
8 this and start looking at compromise. The one thing that I've
9 looked in here and Senator Dean touched on it, is the
10 Regulatory Flexibility Act. That as far as I know, no elected
11 officials in the State of Florida, Citrus County, Crystal
12 River, were really consulted in looking at this rule draft.

13 In the one section it says "Regulatory flexibility
14 analysis that describes the effect of the rule on the small
15 entities" -- is says, "i.e., small businesses, small
16 organizations, and small government jurisdictions." It says,
17 "However, no regulatory flexibility analysis is required if
18 the head of the agency certifies that the rule would not have
19 significant economic impact." That's one man making the call.
20 Does he live here? Has he ever been here? Does he know what
21 a manatee is?

22 I'm just overwhelmed that this rule can go into
23 effect, from the recommendation of Jacksonville, like I said,
24 to Atlanta, to Washington, and one man, that is not an elected
25 official, signs off this and then it is a law.

1 I have no problem with laws, if they're passed by
2 elected officials. If the rules -- you can look at my report
3 cards. I didn't play well with others. So I'd like to see
4 actual lawmakers looking at this, and I'd like to see there
5 can be some compromise. But as far as this goes in the Bay,
6 I'm -- I have a boat that I like to pull my children around on
7 a tube, and I want to be able to do that with my
8 grandchildren. No big rush on that, but I would like to have
9 that option, as a citizen of Crystal River.

10 I mean, I grew up on this. I was -- I'm glad I
11 didn't get the name "Oke," because I borrowed a boat from
12 County Commissioner Joe Meek's father. That's how I learned
13 how beautiful this river is, and I care for it. I have
14 nothing against the manatees. I go slow, but I would like to
15 be able to do it in the summertime, with my family, if I so
16 desire. Thank you very much.

17 (Applause.)

18 MR. FALLON: Well, it is now 9:43 in the evening,
19 and I've heard from -- presentations by everyone who
20 requested. So on behalf of the Fish and Wildlife Service, I'd
21 like to thank everyone for coming tonight. And they will take
22 your comments that you gave us tonight and comments submitted
23 in writing and consider the priority of the rule. Thank you
24 very much. At this time, no further public comments. We will
25 be adjourned.

(At 9:45 p.m., the public hearing was concluded.)

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REPORTER'S CERTIFICATE

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STATE OF FLORIDA
COUNTY OF CITRUS

I, Sherry A. Belliveau, Court Reporter, certify that I was authorized to and did stenographically report the Public Hearing, U.S. Fish and Wildlife Service, Proposed Rule Establishing a Kings Bay Manatee Refuge and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 11th day of July, 2011.

_____/s/_____

Sherry A. Belliveau, Court Reporter

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