

Transcript of
Maryland Boat Act

Date: Thursday, December 11, 2014

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1 MEETING OF THE
2 MARYLAND BOAT ACT ADVISORY COMMITTEE

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4 The above-entitled matter came on for
5 meeting on Thursday, December 11, 2014, commencing at
6 10:00 a.m., at the Kent Island Yacht Club, 117 Yacht
7 Club Drive, Chester, Maryland, 21619, with Ramona
8 Trovato, Committee Chairperson, presiding.

9 COMMITTEE MEMBERS:

10	Jon Sheller	Debbie Henninger	Amy Craig
	Thornell Jones	Coles Marsh	Reed Ellis
11	Al Simon	Bob Lunsford	John Bush
	Russ Dwyer	Steve Kling	John Pepe
12	Tom Masters	Fred Levitan	Bog Nickel
	Edric McSween	Chris Parlin	
13	Marty Wyner	Joe Hellner	

14
15 DEPT. of NATURAL RESOURCES:

16 Mike Grant, Liaison
17 Mark Talty, Assistant Atty. General
18 Rachel Eisenhauer, Assistant Atty. General
19 Jeannine Moaney, Staff Consultant
20 Ann Williams
21 Louis Wright
Sara Dawes

21 Reported by: Ann D. Agee, RPR

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

2 THE CHAIRPERSON: Let's call the meeting
3 to order.

4 I want to thank you all for coming today
5 and to tell you how glad I am to see everyone.

6 As you know we are governed by the Open
7 Meetings Act, so we are going to try to avoid
8 multiple conversations because Ann can't keep track
9 of them, and it doesn't help out with the
10 transparency in government that we are trying to get
11 by the Open Meetings Act.

12 So if you have something to say, raise
13 your hand or put your card on end which might be
14 easier for me to keep track of.

15 What we are going to do today is the DNR
16 staff will brief us on the topic. If anybody else
17 has any comments, citizens if we have any today,
18 they can raise their hand and let us know and then
19 we will have a conversation during a deliberative
20 session and make a motion and come up with a
21 recommendation if there is any actions to be taken

1 today.

2 So I ask you to stick with that so we can
3 make sure she gets what she needs from us and that
4 we all have the benefit of one another's
5 conversations. And please use the microphones so
6 it's easier for us to record the meeting.

7 I want to just take a moment to
8 acknowledge and welcome our new member, Joe Hellner.
9 Welcome aboard. He will be introducing himself
10 when we go around with the introductions for our
11 group, and we are very glad to have you here today.

12 I would like to take a moment of silence.
13 One of the long-time boating members, Bill
14 Weintraub, passed away in November, and I'm sure
15 many of you remember him. So just for a moment
16 maybe we can reflect on his contributions to us and
17 send the wishes that we want to his family and for
18 him.

19 (Pause in the proceedings.)

20 THE CHAIRPERSON: Thank you all.

21 So now let's do introductions and let's

1 start with Captain Chris.

2 MR. PARLIN: Good morning. Chris Parlin.
3 Resident of Centreville, representing boaters at
4 large.

5 TOM MASTERS: Tom Masters. Coast Guard,
6 hunter, and a fire boat captain.

7 MR. LEVITAN: Fred Levitan. Past
8 commodore, Chesapeake Bay Yacht Club Association.
9 Twenty-eight year member here representing boaters
10 at large.

11 MR. HELLNER: Hi. I'm Joe Hellner. I'm
12 your new guy so a little bit of background on me.
13 Been a recreational boater in the Chesapeake North
14 Bay area in particular for the last nearly 30 years
15 and very active in the yacht club yachting
16 community.

17 Fred mentioned he was a past commodore of
18 CVYCA. So am I. I'm also past commodore of the
19 Yacht Clubs of Maryland, and twice past commodore of
20 the Belvedere Yacht Club.

21 I am a member of the Baltimore Yacht Club.

1 I am a sailor and a power boater. I like them all,
2 so some people might call me a bi-boater but that's
3 okay.

4 I love boats from kayaks all the way on up
5 to big cruisers, cruise ships, whatever. Like many
6 of you all here I am sure, I share a deep passion
7 about the Chesapeake Bay and recreational boating
8 and doing whatever I can to ensure we have the most
9 enjoyment of our precious resource, our Chesapeake
10 Bay, and from the recreational boating standpoint as
11 we possibly can balancing the needs of the citizens
12 of the state of Maryland.

13 So it is absolutely my pleasure to be here
14 with you all, and I look forward to working with
15 you.

16 MR. PEPE: John Pepe. Lifelong resident of
17 the Eastern Shore. I hold a 200-ton master's
18 license, and I'm a full-time marine surveyor.

19 MR. SHELLER: Jon Sheller, Rock Hall Creek
20 Marina, Deale, Maryland. Famous Deale, Maryland.
21 Retired Navy captain, jack-of-all trades and master

1 of none.

2 MR. JONES: Thornell Jones. Coast Guard
3 Auxillary. I have been teaching advanced coastal
4 navigation for over 20 years. I'm a sailor and
5 belong to the Eastport Yacht Club and have been on
6 the committee for a long time.

7 MR. SIMON: Al Simon. Member at large.
8 Past commodore, CBYCA, and also Selby Bay Yacht Club
9 still. One of the originals from the Coast Guard's
10 boat safety advisory counsel and I'm here.

11 MR. DWYER: Russ Dwyer. I own a waterfront
12 farm outside of St. Michaels. I'm a licensed master
13 plumber. I'm a licensed waterman. I'm a licensed
14 guide; hunting guide.

15 MR. NICKEL: Bob Nickel from Garrett
16 County, Maryland, up there in the great white north
17 on Deep Creek Lake. I do say great white north
18 because I woke up to snow again this morning.

19 General manager of a dealership that has
20 been on the lake up there for 56 years, Bill's Marine
21 Service. Obviously boaters at large and I am an avid

1 boater myself.

2 MR. BUSH: John Bush and as usual I'm glad
3 to be anyplace. I am a past chairman of the board
4 here and also a past captain with the Coast Guard
5 auxillary.

6 MR. McSWEEN: Edric McSween. I am a
7 recreational power boater, and I live in Annapolis
8 right off the South River.

9 MR. KLING: Steve Kling and I have been on
10 this committee for a while, and I'm the one who owns
11 and races a sail boat.

12 MR. LUNSFORD: I'm Bob Lunsford and I'm the
13 resident trailer boater. If there is a place with a
14 launch ramp you are likely to find me there.

15 MR. MARSH: I'm Coles Marsh and am past
16 chairman of the committee, and we have a lot of CBYCA
17 folks around here. I past commodore of the CBYCA so
18 the yacht club community is certainly well
19 represented on this committee. I enjoy my
20 association with the committee.

21 MS. CRAIG: Amy Craig from Upper Marlboro

1 and I evidently represent the water skiers and the
2 families with kids learning to water ski and taking
3 up all the space on the quiet spots. My son is a
4 white boarder.

5 MS. TROVATO: I am Ramona Trovato,
6 boater-at-large. I live on the Severn River and have
7 a waterfront home there.

8 I have a lot of little sail boats, kayaks,
9 all the little stuff, and grew up here in Maryland
10 and just love it. I am honored to be a part of this
11 committee and to serve with all of you.

12 MR. GRANT: Hi. Mike Grant. Boat Act
13 Advisory Committee to the Department of National
14 Resources secretary. I'm here because I love it
15 here.

16 THE CHAIRPERSON: Jeannine, do you want to
17 say hi and introduce yourself.

18 MS. MOANEY: Hi. Jeannine Moaney.

19 MR. WYNER: Morning. Marty Wyner. Past
20 commodore, Maryland Yacht Club in 1988 and a past
21 commodore of the Yacht Clubs Association in 1995.

1 MS. EISENHAUER: Hello. Rachel
2 Eisenhower. I'm an assistant attorney general with
3 the Department of Natural Resources.

4 MR. TALTY: Good morning. Mark Talty. I
5 am also an assistant attorney general with the
6 Department of Natural Resources.

7 MR. ELLIS: I'm Reed Ellis and I am
8 Ramona's director of maintenance. I'm sorry.
9 Commodore Ramona because we do have multiple boats
10 it is commodore.

11 MS. WILLIAMS: Ann Williams. Maryland
12 Department of Natural Resources, boating services.

13 MS. DAWES: Sara Dawes. Maryland
14 Department of Natural Resources, boating services.

15 MR. WRIGHT: Louis Wright, boating
16 services.

17 THE CHAIRPERSON: Once again, welcome
18 everybody. I think we are ready to turn it over to
19 you, Mike.

20 MR. GRANT: In order of the agenda, we
21 have nothing for 2015. No regulations yet. If any

1 came in after discussions, it turned out to be
2 either a current regulatory issue or an enforcement
3 issue, I meant to say, or people did not understand
4 the unintended consequences of their request and
5 decided not to go forward with the request.

6 For 2014, starting right off with JetPack
7 regulations, currently on hold until January at the
8 earliest. The emergency regulation expires on
9 December 23, but because we have some other issues
10 popping in, one actually was just solved yesterday.

11 The Coast Guard was reviewing its
12 definition of a vessel and whether its JetPack
13 actually fit in there. As of yesterday they
14 determined it is a vessel. It's basically a jet ski
15 and it will never ever change. It will be a vessel.

16 So if they had decided otherwise, we would
17 have had a heck of a time reviewing their regulations
18 adjusting for that.

19 In June the U.S. Coast Guard sent the five
20 livery operators a letter stating the operators of a
21 transport vessel must obtain a Six Pack license.

1 I think we all kind of knew that. What we
2 didn't know was there were two more livery operators
3 both on the South River.

4 Other employees must enroll in the chemical
5 treatment program on a regular basis. Everybody but
6 the person answering the phone. Anybody that is
7 involved in the water or use of the product has to
8 take the test.

9 This includes, which I thought was kind of
10 interesting, the person who stands on a dock with the
11 remote control and handles it. That person has to
12 have a Six Pack license. So that is new.

13 But there is something else that came up.
14 Ann?

15 MS. WILLIAMS: The actual Coast Guard
16 letter doesn't clearly state the guy -- the rusters
17 as we call them in our definition -- have to have a
18 Six Pack, and that was because when they wrote the
19 letter to them the decision whether or not a JetPack
20 was a vessel had not been fully formed.

21 So they sent out this letter to the five

1 known companies, and they're going to -- Julie was
2 just telling us -- recap and revisit that because of
3 our regulation requiring all renters to be run by a
4 business owner person in the organization that owns
5 the company, that that person must have a Six Pack
6 also because they're now running a vessel, which is
7 the JetPack.

8 But if it had not been called a vessel,
9 that person would not have had to have a Six Pack, so
10 there would be another letter going, but this letter
11 right now only the person that transports, so
12 remember the people that put them on a barge to an
13 actual site and then fled, that guy who ran the
14 pontoon boat would have had to have a Six Pack.

15 Everybody else would just have to have the
16 drug test by the letter that was already sent. So
17 they're going to modify that. That's the key point
18 that came out yesterday and they're going to fix
19 that.

20 MR. GRANT: The next issue was the
21 exception section. This is currently in the

1 regulation. This is also elsewhere in COMAR, but
2 this, Mark, our attorney general, took a look at this
3 section.

4 We had some concerns over whether or not
5 this would be the person who got the exception would
6 think that everything was an exception -- speed
7 limits, all that kind of stuff -- so we are going to
8 look into that kind of stuff and maybe Mark could
9 expand on this a little bit.

10 MR. TALTY: Sure. As Mike had said, going
11 through revisiting the emergency regulations, we came
12 back and kind of combed over this language, which as
13 Mike mentioned, is in PWC regulation and also in the
14 general boating regulation.

15 The issue that we had with it is under
16 section B there. It says if approved by the
17 Department of Natural Resources or the U.S. Coast
18 Guard JetPack also engaged in any one of these
19 things.

20 So the way it is written now currently
21 there is no mechanism or process by which someone

1 could seek one of these through the Department. The
2 way that it has been going on to our understanding is
3 that people engage in these things go to the Coast
4 Guard to get a marine event permit. The Coast Guard
5 issues a marine event permit.

6 In the way that this is written currently
7 once they receive that permit, they are then excepted
8 from every regulation that we have in that entire
9 chapter.

10 There's nothing that we would be able to
11 enforce based on the way that this is written. And
12 even discussing this, Ann's discussions with the
13 Coast Guard is that when the Coast Guard issues the
14 permits, they don't even necessarily know that they
15 have issued a permit for an event that goes through
16 one of our speed zones.

17 So they're not even aware of the state
18 regulations that would be applicable. But in our own
19 regulation we've excepted ourselves out of enforcing
20 those based on the Coast Guard granting that permit.

21 We are in the process of trying to rework

1 the exceptions and each of the exceptions included in
2 the PWC and the general boating to make it more
3 clear, to make a process if there is going to be a
4 process, much more clear and give the Department much
5 more control over what is and what is not being
6 excepted out. That is generally what would be.

7 MR. GRANT: There are two handouts -- go
8 ahead, Ann. I'm sorry.

9 MS. WILLIAMS: I wanted to add to that when
10 the Coast Guard gives two types of permits.

11 MR. GRANT: You have a handout pertaining
12 to that.

13 MS. WILLIAMS: The two permits are
14 permitted activity, and lets them do something, and
15 one is a no-permit-necessary letter.

16 In both of those letters they make a caveat
17 saying that they don't exempt you from any state,
18 local laws. So they're only saying you didn't get
19 any exemption, yet we gave them full exemption.

20 But the problem with their permit system
21 was when they got a no-permit needed, it was treated

1 through enforcement as the same as a permit. So, for
2 example, something that we didn't know until we were
3 looking at this that Armour All had a request to do a
4 JetPack show, and the Coast Guard up in Baltimore
5 inside of a six knot zone, inside of a closed area,
6 gave them permission by a non-permit required permit
7 to do that show.

8 So everything we were talking about in
9 Ocean City happened in Baltimore, but nobody knew it
10 because they got a non-permit required form which
11 they thought gave them permission to do just this.

12 So that is why this is going into this
13 cycle of what does it mean, what are we going to give
14 them to do, and what is the process we are going to
15 go through to do that.

16 MR. GRANT: The single page with the
17 Maryland emblem at the top is a brief explanation of
18 the Coast Guard permit, non-permit letters. The
19 second two pages stapled together is just one page of
20 a long spreadsheet that the Coast Guard sends out
21 monthly to myself and NRP stating what has been

1 requested, what is needed, what kind of coverage the
2 Coast Guard is going to offer for this.

3 The second page of that gives you the codes
4 pertaining to what kind of coverage they're going to
5 get. They're going to get a cutter, they're going to
6 get just a chase boat. Are they going to shut the
7 harbor down. What are they going to do. This is
8 what they get.

9 And NRP also gets this. This is NRP asked
10 to get for reviewing any kind of a permit request.
11 They didn't want to see the permit, they didn't want
12 to know who it was necessarily. They just wanted to
13 see this spreadsheet, and they would make their
14 determination as to whether they were going to
15 support it from this.

16 So if you have to get a little more
17 clearance on that and I think what is going to
18 happen -- well, I'm sure what is going to happen is
19 after the first of the year, after the dust settles
20 from the transition, we are going to try to get
21 together the OAG, and secretary NRP, and possibly the

1 Coast Guard and decide how we are going to handle the
2 permit process, how much review is going to be
3 involved, who's going to cover what, and specifically
4 for JetPacks so we don't have Under Armour, is who it
5 was, doing all this stuff in the six knot zone.

6 THE CHAIRPERSON: John had a question.

7 MR. PEPE: Just for my own clarification, I
8 think I understand what you just went through. If
9 the Coast Guard issues a permit, DNR has no input
10 into it?

11 MR. GRANT: No, that is not true. The
12 Coast Guard says we will issue you this permit.
13 However, if you are going to do it here, you have to
14 realize there are local ordinances and you have to
15 observe them.

16 NRP will be notified by this form, this
17 permit, that this is happening. They have to look at
18 it and find it, and then they have to decide if they
19 are going to deal with it or not. Again, it doesn't
20 mean that you can have a poker run in a six knot
21 zone.

1 MR. PEPE: So all local regulations apply?

2 MR. GRANT: Absolutely. They do not
3 supercede -- the Coast Guard permits do not supercede
4 any local regulation. Any questions?

5 MR. TALTY: Just one point for
6 clarification. What Mike said is true. The way it
7 is done now is they will issue a permit, and in that
8 permit thing it will specifically state this permit
9 that we are issuing you does not except you from any
10 local law or ordinance.

11 But the problem is the way in which the
12 regulation is currently written, it is written if
13 approved by the Department Natural Resources or the
14 U.S. Coast Guard.

15 So once they get the approval of U.S. Coast
16 Guard, they fall into this exception which under this
17 it says, this chapter does not apply to. So any one
18 of those things, a permit issued by the Coast Guard
19 for any one of those things, under the current
20 regulation the way in which it is written would
21 automatically take them out of that chapter.

1 The restrictions that would apply within
2 that chapter no longer apply as a technical matter.
3 So that would mean that if NRP went into enforce a
4 particular provision and wrote a ticket, that
5 technically they could come back to us and say, well,
6 we got this permit from the Coast Guard, and under
7 your regulation it says if I get approved either from
8 DNR or the Coast Guard, I got it from the Coast
9 Guard, that doesn't put me in this chapter and,
10 therefore, I am not subject to these restrictions.

11 That is the issue that we are working on
12 revisiting and tightening up so that doesn't happen.

13 MR. GRANT: The last thing is Deep Creek
14 Lake Policy and Review Board had been notified of
15 this proposed regulation a while back. Bob advised,
16 because Bob Nickel is also on the review board.

17 MR. NICKEL: No, I'm not. I would say
18 liaison. No. I attend the meetings and give my
19 input, et cetera, but, no, I am not.

20 MR. GRANT: I stand corrected. I
21 apologize.

1 They have some concerns over whether these
2 vessels would be a good idea at Deep Creek Lake.
3 Mark Talty is also their attorney as they are a
4 volunteer group for the state as well.

5 They're not sure whether it is going to
6 work up there. We have had some e-mails going back
7 and forth in the last 24 hours, which ultimately
8 means I am going to be going out there January 15 to
9 meet with them at their January meeting obviously,
10 and just kind of share what we know, where it's
11 going.

12 Ultimately, it's not going to happen this
13 year or at the earliest probably mid summer, but they
14 just need to be advised a little bit better. We'll
15 take care of that and hopefully that will settle
16 things.

17 They can do what they want pretty much out
18 there. They can recommend what they want, but if the
19 secretary accepts it or not is another story.

20 Anything else on JetPack? These are just
21 some housekeeping.

1 The Caledon State Park change of name is
2 going through. That should be effective in February.

3 Sandy Point State Park this is what they
4 are going to get. This is the request that they
5 made. Basically the park and survey staff have
6 worked together on the specifics. The preliminary
7 surveys are complete, but they haven't tied all the
8 points to land yet. The final regulation will be
9 submitted in February.

10 THE CHAIRPERSON: Wait a minute. Go ahead,
11 Steve.

12 MR. KLING: Could you -- boat prohibited
13 area?

14 MR. GRANT: It hasn't been updated so I
15 apologize. What it means is you are going to have in
16 this area here no motorized vessels boating season.
17 Same up here. Six knot zone here.

18 MR. KLING: So we are going forward with
19 what we recommended?

20 MR. GRANT: Yes.

21 Finally, the speed limit updates, thanks to

1 the hard work of Ann and Louis, 32 of the 40 zones
2 have been updated, and the online map will be up and
3 running after all have been completed.

4 If you have any questions for that they are
5 over there.

6 MR. PEPE: Mike, just a question to clarify
7 looking at that. That is going to be prohibited
8 boating season only, which is?

9 MR. GRANT: April 15 to October 15.

10 MR. HELLNER: What is the distance off the
11 shoreline?

12 MR. GRANT: Louis?

13 MR. WRIGHT: It is approximately 500 feet
14 offshore in that area.

15 THE SPEAKER: It's the length of the jetty.

16 THE SPEAKER: I am not familiar with the
17 jetty length, and being new I just wanted to get a
18 sense of what the distance was. About 500 feet.

19 THE CHAIRPERSON: So the maps are live.
20 Are going to go live shortly. Ann?

21 MS. WILLIAMS: The regulations have to be

1 all completed, and once they get up-posted, the maps
2 will go live, because right now some of the
3 enhancements we are doing in the regulations are not
4 in reg but they are in map.

5 So we want to make sure that both of them
6 are in the same space and time when they're released,
7 but it will be before the boating season starts.

8 THE CHAIRPERSON: So you are thinking
9 before April?

10 MS. WILLIAMS: Oh, yes.

11 THE CHAIRPERSON: Thanks.

12 MR. GRANT: That's all I have.

13 THE CHAIRPERSON: So why don't we move on.
14 Is there any old business we want to address,
15 members? Anything? Steve?

16 MR. KLING: I apologize that the ad hoc
17 committee hasn't done anything. I've had an
18 annoying schedule for the last couple of months, but
19 we are going to have an ad hoc meeting of the ad hoc
20 committee in Lewes after this meeting to pin down
21 some times we can start to get to work.

1 THE CHAIRPERSON: Thank you. Any other
2 old business? Any new business?

3 There is something I would like to do, and
4 I need your agreement to do this, so I would like to
5 actually send a letter to Secretary Gill thanking
6 him and Ann and everyone else who worked on these
7 maps for their really good work on the maps.

8 So I can read you the draft memo or a
9 letter or I can send it. I have copies and you all
10 can take a look at it. Since I am doing this on
11 behalf of the committee, I thought I should check
12 with the committee to make sure everybody is okay
13 with that. So let me pass it out.

14 I have to thank Bob for drafting this.

15 MR. PARLIN: I see most everybody has read
16 through the letter. As somebody who asked for this
17 about five years ago or so, I would like to make a
18 motion that we approve the letter be sent to the
19 secretary.

20 THE CHAIRPERSON: All those opposed? Oh,
21 it was seconded by Amy Craig. Any opposed? All

1 those in favor?

2 It was passed unanimously. I will
3 finalize this and get it off on behalf of the
4 committee to express our thanks for this innovative
5 and important work that is being done by the DNR and
6 Ann and by other folks on the staff. So thank you
7 for that.

8 Is there any other new business? Okay.
9 So do I have a motion to adjourn?

10 MR. DWYER: I make a motion we adjourn.

11 THE CHAIRPERSON: Seconded by Bob
12 Lunsford.

13 All those in favor?

14 (Members responded affirmatively.)

15 THE CHAIRPERSON: We stand adjourned.

16 Oh, I do that every time. The next
17 meeting -- sorry, folks. What time frame do we
18 normally have it, Jeannine?

19 MS. MOANEY: May.

20 MR. LUNSFORD: I think we are supposed to
21 have one in March.

1 THE CHAIRPERSON: So everybody take a look
2 at your calendars and let me know.

3 MR. LUNSFORD: I have to turn my phone
4 back on.

5 THE CHAIRPERSON: Yes, please turn your
6 phones on, folks.

7 MR. LUNSFORD: March?

8 THE CHAIRPERSON: Yes, March. So the 19th
9 or 26th, folks? Does that work for everybody,
10 either of those dates? The 19th is better?

11 MR. MARSH: March 26th is better for me.
12 I am out of town --

13 THE CHAIRPERSON: So the 19th and 26th
14 have people unavailable. Is there some other date
15 in that month that would work?

16 How about other than a Thursday then since
17 people are out of town? Sometime the week of the
18 16th or the week of the 23rd?

19 MR. LEVITAN: Later in the month.

20 THE CHAIRPERSON: How about 23rd or 24th?

21 We can't have Captain Chris not here. How about the

1 23rd? Yes? Yes? Yes? March 23rd, Al? Does that
2 work for you, Fred?

3 MR. LEVITAN: Yes.

4 THE CHAIRPERSON: All right, let's make it
5 the March 23rd, folks. Thank you for reminding me.
6 I will get it right probably at my last meeting as
7 Chair. Sorry.

8 It is a Monday. Monday, March 23rd.
9 Okay. Now I guess we really are adjourned.

10 MS. HENNINGER: Do you want to go ahead
11 and set the next one up, too, because it gets busy
12 for those guys, I know, in boating season.

13 THE CHAIRPERSON: I think the next meeting
14 is not going to be until August, so there is plenty
15 of time after the March meeting. I think we can
16 wait. So what we are going to do is schedule the
17 August meeting at the March meeting.

18 So we are adjourned. Thanks everybody.

19 (The meeting concluded at 10:38 a.m.)

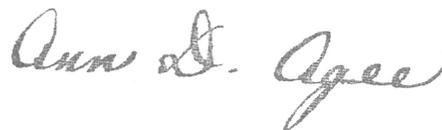
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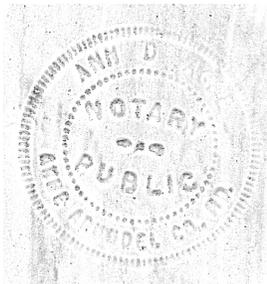
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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings in this matter on Thursday, December 11, 2014, taken by me and transcribed from my stenographic notes.



Ann D. Agee, RPR



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