

ADMINISTRATIVE LAW JUDGE

August 26, 2019

THE HONORABLE GEORGE J. JORDAN

Docket No. 19-NMFS-0001

PENINSULA CITIZENS for the PROTECTION of WHALES (PCPW)

Response to NMFS's Motion to Limit Rebuttal Issues and Testimony

Margaret Owens for PCPW

“Ms. Owens' Proffered Expert Testimony Should be Excluded” - Chris McNulty

- (1) None of the members of PCPW, including myself, have ever claimed “expert” status. What we do claim is the ability to research and read, and the will to understand this deadly serious predicament that the gray whales are in. Chris McNulty should know the long, persistent, and sincere relationship that PCPW has had with this issue and with NMFS. We have never missed a comment opportunity, and have always sought updated research papers over the last 20 years of evolving gray whale science to inform our substantive comments. (And we would like to add that several at NMFS have shown us a patience and fairness over a long span of years, that has been greatly appreciated.)
- (2) Chris McNulty: “Ms. Owens has not established qualifications to testify about gray whale biology or science. The testimony of Ms. Owens should therefore be limited to those matters within her personal knowledge. Those portions of her rebuttal testimony comprised of scientific opinions, commentary and purported analysis should be excluded.”
- (3) This is just non-sensical. NMFS does not point to specific factual errors , and at least 12 different authors are cited as references, including the 2015 DEIS. What does Chris McNulty consider “matters within her personal knowledge”? Can only one who has walked on the moon have an understanding of the surface characteristics? I understand that NMFS does not “like” what I write, but NMFS has been wrong about a great many things throughout this ordeal. That is why it has taken so long to get to this

point in the process, and why this effort should also fail.

- (4) No one ever mentioned to us that “parties” to this process must qualify as “experts” by some NMFS criteria . We know of no rule requiring such qualification be “established” before commenting.
- (5) We have hoped to be dealt with in a forgiving manner to some tiny degree. We have no legal counsel. We are barely in control of basic computer functions. But we do believe that we have a unique local history and perspective that need to be represented. **And thanks to the many actual scientists who write of their findings so that any interested lay person can learn , I feel confident to stand by my “scientific opinions, commentary and purported analysis”, and believe they should not be excluded.**

Thank you for considering these thoughts,

Margaret Owens