

# NMFS West Coast Region's Draft Responses to Comments on the 2015 Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales

*November 2019*

## Introduction

On March 13, 2015, we – the West Coast Region of the National Marine Fisheries Service (NMFS) – released a Draft Environmental Impact Statement (DEIS), pursuant to the National Environmental Policy Act (NEPA), concerning the Makah Indian Tribe's February 2005 request to resume limited hunting of eastern North Pacific (ENP) gray whales for ceremonial and subsistence purposes. We made the DEIS available for public review for 90 days (80 FR 13373, March 13 2015) and, in response to several stakeholder requests, later extended that initial public comment period by an additional 50 days (80 FR 30676, May 29, 2015). We also held two public meetings on the DEIS on April 27 (Seattle, WA) and April 29 (Port Angeles, WA) (80 FR 14912, March 20, 2015).

We received more than 57,000 comments on the 2015 DEIS, by mail, fax, email, and submissions to [www.regulations.gov](http://www.regulations.gov) (Docket ID: NOAA-NMFS-2012-0104). Over 99% of comments were submitted as form letters. Individual commenters included state and federal entities, tribal governments, and both nonprofit organizations and interested individuals from the United States and around the world.

The NMFS West Coast Region has prepared two documents providing the Region's initial responses to the comments we received. Final responses to these comments will be prepared by NMFS when a final EIS regarding this proposed action is issued. In this document we provide responses to all of the comments raised (excluding duplicate form-letter comments as practicable). A separate document includes our draft responses to 17 topics frequently raised by commenters; where appropriate we cite to that separate document in our responses below. Also, in the table below we have parsed the content of comment letters (see Commenter Code) into multiple rows (see Sort #) when a separate response was warranted. All of the comments contained in this table are available for viewing in their original form at the [regulations.gov](http://www.regulations.gov) docket noted above.

Sort #	Commenter Code	Comment	Response
1	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>July 31, 2015 Dear Mr. Stone:</p> <p>On behalf of the Animal Welfare Institute, Cetacean Society International, International Marine Mammal Project of Earth Island Institute, Origami Whales Project, Whale and Dolphin Conservation, and the Whaleman Foundation (hereafter “Coalition”), I submit the following comments on the Draft Environmental Impact Statement (DEIS) on the Makah Tribe Request to Hunt Gray Whales (80 Federal Register 14,912 (March 20, 2015)). The Coalition notes with appreciation the decision by the National Marine Fisheries Service (“NMFS”) to extend the deadline for public comments on this important issue (80 Federal Register 30,676 (May 29, 2015)). However, the Coalition concludes that NMFS cannot issue the requested MMPA waiver to the Makah Tribe, for reasons detailed below.</p> <p>The Animal Welfare Institute (AWI) is one of the nation’s oldest animal advocacy organizations. Since its founding in 1951, AWI has sought to alleviate the suffering inflicted on animals by people. AWI and the Society for Animal Protection Legislation (AWI’s legislative companion organization until a 2004 merger), played a role in the passage of the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), among other key environmental and animal protection statutes. AWI staff members attend meetings of the International Whaling Commission (IWC) to preserve the ban on commercial whaling, and we work to protect all marine life against the proliferation of human-generated ocean noise, including that from active sonar and seismic air guns. For decades, AWI has been opposed to the Makah Tribe resuming its hunt of gray whales, and for the reasons stated herein, we remain strongly opposed to this day. Other Coalition organizations have also been engaged in campaigns to protect marine mammals, many regularly attend IWC meetings, and all strongly oppose any resumption of whaling by the Makah Tribe.</p> <p>It is troubling that, after two lawsuits, several environmental analyses, and decades of controversy that NMFS continues to endeavor to permit the Makah Tribe to resume the hunting of gray whales after a nearly 90-year hiatus in whaling. Indeed, with the exception of a single whale killed “legally” in 1999 and a second illegal kill in 2007, the Makah Tribe has not engaged in whaling since the 1920s. Even that date may not accurately reflect when the Makah largely ceased whaling which, based on evidence provided in past Makah needs statements, started to wane in the middle of the 19th century.</p>	We note the issues raised in this introduction and provide responses to the points as they are raised in detail in the body of the comment letter.

Sort #	Commenter Code	Comment	Response
		<p>Despite this significant gap in whaling and without any apparent concern for international whaling standards or federal law, NMFS continues to commit valuable time and financial resources to this issue, seemingly because of a treaty right that may have been abrogated and its federal trust responsibility to the Makah Tribe.</p> <p>Furthermore, other overarching concerns with the proposed hunt include the potential conservation implications to Eastern North Pacific (ENP), including Pacific Coast Feeding Group (PCFG), and Western North Pacific (WNP) gray whales by adding intentional take to the litany of threats to these animals. This is especially true for PCFG and WNP gray whales that, at present, number only a total of approximately 209 and 140 animals, respectively, with even smaller numbers in the PCFG regions considered in the DEIS (e.g., the Oregon-Southern Vancouver Island (OR-SVI) and Makah Usual and Accustomed hunting grounds (Makah U&amp;A)). For the larger ENP population of gray whales, considering the significant changes occurring in the Arctic due to climate change and the unknown consequences of such ecosystem-wide alterations on gray whales, now is not the time to allow the Makah to hunt whales.</p> <p>Such threats, of course, are not limited to the Arctic, as the gray whale has one of the longest migrations of any species on the globe and, throughout that journey, they face an increasing barrage of both anthropogenic and natural threats. Adding to such threats by authorizing a hunt is biologically reckless and unwise. Combine these threats with the hunt's risk to public safety and the basic fact that the chances of an instantaneous death of a swimming gray whale hunted from a moving boat on a rolling ocean are nil, particularly with the cold harpoon proposed by the Makah Tribe, and the evidence against granting the MMPA waiver and authorizing a hunt is insurmountable.</p> <p>Based on these and other facts and as explained in detail throughout this comment letter, such efforts, including the current National Environmental Policy Act (NEPA) decision-making process, must end, the Tribe's MMPA waiver application must be denied, the United States must advise the International Whaling Commission (IWC) that its 2012 Aboriginal Subsistence Whaling (ASW) quota for gray whales is no longer valid, and it must cease attempting to secure the IWC's allocation of ASW quotas for the Makah Tribe.</p> <p>For these and other reasons articulated in this letter, the Coalition strongly supports Alternative 1: the No Action Alternative. This is the only alternative that would comply with both international convention standards and US law. It also represents the most precautionary approach available which, in</p>	

Sort #	Commenter Code	Comment	Response
		<p>this case, is mandatory considering the critically endangered status of WNP gray whales, the small numbers of PCFG gray whales, and the myriad (and increasing) threats to ENP gray whales (and to the WNP and PCFG whales) throughout their range. This is not to suggest that the Makah Tribe cannot “use” gray whales, but such use must not involve the intentional lethal take of a single whale. Indeed, as described in this comment letter, there are alternatives NMFS failed to adequately consider in the DEIS that would substantially benefit all Makah tribal members while also facilitating the “use” of gray whales in a humane, non-lethal manner that would create jobs, generate revenue, attract tourists to Neah Bay, and provide a platform for the Makah to promote and celebrate their history, culture, and traditions.</p> <p>While the Coalition strongly opposes whaling by the Makah Tribe, it does respect the Makah’s whaling culture, traditions, and history. Contrary to claims made by the Tribe, however, no compelling evidence has been offered in the DEIS or elsewhere to prove that the Makah Tribe needs to kill whales to sustain its culture, to enhance its efforts at cultural revitalization, or to continue to engage in the ceremonies, rituals, dances, or songs celebrating its whaling heritage. For that matter, the DEIS contains evidence to suggest that such traditions have not been continually practiced as the Makah Tribe or its representatives have consistently claimed. Nevertheless, to the extent the tribe, including individual tribal families, need to engage in such traditions, even if they have only recently been resurrected, the annual Makah Days celebration provides the perfect venue for the Makah Tribe to embrace its cultural and historical links to whaling through dance, song, and ceremonies without any need to kill a whale. Similarly, throughout the year, whether whaling traditions are family-specific, secret, or available to celebrate with the entire tribe and/or non-tribal members, there is no reason why these traditions cannot be practiced at family or community events without requiring the resumption of whaling.</p> <p>Ultimately, however, the Coalition’s overarching concern is for the welfare of the whales – as well as the humans – who would or could be adversely impacted as a result of the proposed hunt. More specifically, it is concerned about: the impact of the hunt on gray whales, including WNP and PCFG gray whales; the hunt’s legality; the cruelty inherent to whaling; public safety; the precedent that would be set if the hunt proceeds; and cumulative (and increasing) anthropogenic impacts to gray whales and their habitat.</p> <p>While the Coalition commends NMFS for its 2008 decision to terminate a previous NEPA decision-making process based on new scientific information</p>	

Sort #	Commenter Code	Comment	Response
		<p>relevant to PCFG and WNP whales that became available, the present DEIS is replete with deficiencies. In general, those deficiencies include the failure to:</p> <ul style="list-style-type: none"> <li>• Demonstrate how allowing the Makah to hunt whales is consistent with US law and international convention standards relevant to ASW;</li> <li>• Consider a reasonable and feasible range of alternatives;</li> <li>• Fully disclose all relevant information and provide a clear, consistent, and accurate analysis of the environmental consequences of the no action alternative and action alternatives on, among other variables, gray whales, tourism, economics, the social environment, and public health;</li> <li>• Accurately assess the precedential effects of granting an MMPA waiver to the Tribe;</li> <li>• Define or provide meaningful, quantifiable, and measurable impact thresholds to permit the public to distinguish between the direct and indirect impacts of the no action and action alternatives;</li> <li>• Adequately evaluate the cumulative impacts of the analyzed alternatives in regard to other past, present, and reasonably foreseeable actions undertaken by federal, state/provincial, municipal, or private parties.</li> </ul> <p>Furthermore, before proceeding with this decision-making process, it is imperative that NMFS render a determination as to whether PCFG whales constitute a population stock under the MMPA. Given the implications of such a determination to gray whales and the Makah Tribe’s hunt proposal, continuing to delay this determination is improper. Even if making this determination requires additional scientific study of PCFG whales, this should be undertaken expeditiously so that a stock determination can be made as a prerequisite for the continuation of the present planning process.</p>	
2	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>There are two fundamental legal arguments that demonstrate why the MMPA waiver cannot be granted. These arguments are addressed below.</p> <p><b><u>NMFS cannot issue a MMPA waiver to the Makah Tribe:</u></b></p> <p>The MMPA sets forth general criteria to use in determining if a waiver to the MMPA’s take prohibitions should be granted. Specifically, the Secretary, in consideration of the “distribution, abundance, breeding habits, and times and lines of migratory movements of such marine mammals” is authorized to determine “when, to what extent, if at all, and by what means it is compatible with this chapter to” issue a waiver to allow the taking of a marine mammal. 16 U.S.C. § 1371(a)(3)(A). In addition, the Secretary “must be assured that the taking of such marine mammals is in accord with sound principles of resource</p>	<p>Please see the response to frequent comment # 6 regarding the need for waiver of the take moratorium for WNP and/or PCFG whales.</p> <p>The purpose of the DEIS is to analyze potential impacts of alternatives to inform decision-making regarding authorization of a hunt pursuant to criteria under the MMPA and WCA, not to explore or resolve legal debates.</p>

Sort #	Commenter Code	Comment	Response
		<p>protection and conservation as provided in the purposes and policies of this chapter.” Id. To be compatible with the MMPA and in accord with sound principles of resource protection and conservation, such a finding must ensure, at a minimum, that the marine mammals in question are not “permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population.”<sup>1</sup> Id. at § 1361(2).</p> <p>If NMFS grants an MMPA waiver, it also must promulgate regulations to govern the number, location, and manner of the permitted take as well as permits to formally authorize the take. In promulgating such regulations, the Secretary is allowed to consider all factors that may affect the extent to which such animals may be taken. This includes existing and future levels of marine mammal species and population stocks, international treaty and agreement obligations, and marine ecosystem and related environmental considerations, 16 U.S.C. § 103(b)(1-3), but does not require it to consider any treaty obligations with Native American tribes.</p> <p>Based on the best available scientific evidence, including the myriad studies cited in the DEIS, it is not possible for NMFS to make the required determination for ENP gray whales. In this case, however, the decision to be made is not limited to ENP gray whales, despite the fact that the Makah’s waiver application covers that particular population of gray whales. Because the MMPA’s waiver language is applicable to “marine mammals” and is not limited to species or population stocks, since ENP, PCFG, and WNP gray whales can all share a common range (both geographically and temporally), and given that it is impossible to distinguish between ENP, PCFG, and WNP gray whales by observation alone, any MMPA waiver determination for ENP gray whales also must be made for WNP and PCFG whales. Indeed, it would be illogical and illegal for NMFS to issue an MMPA waiver to the Makah Tribe to allow the take, including lethal take, of ENP gray whales if by doing so it would cause WNP or PCFG gray whales to “cease to be a significant functioning element in the ecosystem of which they are a part” or if it could diminish WNP or PCFG gray whales below their “optimum sustainable population.” This dilemma is similar to that addressed in <i>Kokechik Fishermen’s Ass’n v. Secretary of Commerce</i> (839 F.2d 795 (D.C. Cir. 1988)), where the court ruled the issuance of an incidental take permit by NMFS was deemed to be “contrary to the requirements of the MMPA in that it allowed incidental taking of various species of protected marine</p>	

Sort #	Commenter Code	Comment	Response
		<p>mammals without first ascertaining as to each such species whether or not the population of that species was at the OSP level.”</p> <p>For the WNP gray whales, the current population estimate is 140 animals. Although the International Union for Conservation of Nature (IUCN) designates this subpopulation’s demographic trend as increasing (Reilly et al. 2008), it remains classified as critically endangered. While our knowledge of this population of gray whales is increasing, much remains unknown, including a complete understanding of migratory patterns. Based on tagging data, DNA analysis from biopsy samples, and photographic identification, 27 WNP gray whales (19 percent of the entire known population) have migrated from Russia, across the Bering Sea, and to the west coast of the United States and Mexico over the past several years. While all 27 WNP gray whales returned to Russia in the spring/summer, it is not known whether they bred with any ENP gray whales, whether any ENP gray whales have migrated to Russia, the total number of WNP gray whales that have emigrated to the ENP range, and whether any WNP whales have remained with the ENP gray whales in the Arctic or within the PCFG. More importantly, in regard to the MMPA waiver criteria, the carrying capacity of the WNP habitat has not been determined and, consequently, the population’s OSP is unknown.</p> <p>According to Punt (2015) the WNP population (which he separates into an Asian and Sakhalin stocks) is approximately 10 percent of their carrying capacities. Consequently, notwithstanding the ongoing need for more information about the migratory patterns and reproductive habits of WNP gray whales, without knowledge of carrying capacity or OSP, the Secretary cannot ensure that the issuance of a waiver to the Makah Tribe to permit the take of ENP gray whales will not diminish WNP gray whales below their OSP. Indeed, as mentioned repeatedly in the DEIS, while Moore and Weller (2013) report that there is only a seven percent chance for a single WNP gray whale being struck by the Makah over six years (under the Makah Tribe’s proposal), it cautions that “loss of a single whale, particularly if it were a reproductive female, would be a conservation concern.” Moreover, if Moore and Weller underestimated the risk to WNP gray whales from a Makah whale hunt, then the adverse conservation implications of a Makah hunt would be more severe.</p> <p>Similarly, for PCFG whales, no one has determined the carrying capacity for these whales within the PCFG region or any of its sub-regions and, therefore, its OSP is also unknown. This was confirmed by Punt and Moore (2013), who determined “it was not possible to draw a definitive conclusion as to whether the</p>	

Sort #	Commenter Code	Comment	Response
		<p>PCFG is within OSP.” DEIS at 3-156. More recently, Punt (2015) found the PCFG “sub-stock” is approximately at 50 percent of its carrying capacity.</p> <p>Even if NMFS determines that it need not consider PCFG whales in making a waiver decision for ENP whales (since PCFG whales have not yet been designated a stock), since NMFS has itself reported that the PCFG may qualify as a stock in the future and considering the precautionary principle, for the purpose of the waiver determination, NMFS should treat the PCFG gray whales as a stock.</p> <p>Based on the foregoing analysis, and recognizing that with the exception of a handful of PCFG whales that may be known to Makah tribal biologists or other officials based on easily distinguishable markings, it is impossible to differentiate WNP, ENP, and PCFG gray whales through observation alone within the Makah U&amp;A, NMFS must select the no action alternative. Alternatively, if NMFS does allow this process to proceed, the Secretary must not issue the requested waiver at this time. In the future, after further research begins to elucidate answers to many of the remaining questions about stock structure, demographics, reproductive characteristics, genetics, migratory patterns, and behaviors, this waiver request could be revisited but, at present, the waiver application must be denied.</p> <hr/> <p><sup>1</sup> Optimum sustainable population or OSP is defined as “the number of animals which will result in the maximum productivity of the population or species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem in which they form a constituent element.” 16 U.S.C. §§ 1362(9) and 3-51/52. NMFS further defines this term in regulations implementing the MMPA to mean “a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in the maximum net productivity level.” 50 CFR § 216.3 and DEIS at 3-51/52.</p>	
3	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><b><u>The current NEPA process is invalid and must be terminated because the Makah Tribe cannot qualify for an ASW quota:</u></b></p> <p>The DEIS designates a purpose and need for action for both the Makah Tribe and NMFS. For the Makah Tribe, its purpose is “to resume its traditional hunting of gray whales under its treaty right” while its need “is to exercise its treaty whaling rights to provide a traditional subsistence resource to the community and to sustain and revitalize the ceremonial, cultural, and social aspects of its whaling traditions.” DEIS at 1-27. For NMFS, its purpose is “to implement the laws and treaties that apply to the Tribe’s request, including the Treaty of Neah Bay, MMPA, and WCA,” while its need is “to implement its federal</p>	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe. Regardless of whether the Tribe qualifies for an ASW quota, we disagree with the commenter's assertion that our description of the purpose and need is invalid because it precludes selecting the No-Action Alternative. A No-action alternative



Sort #	Commenter Code	Comment	Response
		<p>trust responsibilities to the Makah Tribe with respect to the Tribe’s reserved whaling rights under the Treaty of Neah Bay.” Id. The Coalition does not dispute that the Treaty of Neah Bay includes language recognizing the Makah Tribe’s whaling right, but, as explained below, this treaty language may have been abrogated by the passage of the MMPA and the Makah Tribe cannot qualify for an ASW quota under the Whaling Convention Act (WCA) or IWC standards and, therefore, is not able to engage in whaling. Given that the United States recognizes the legal authority of the IWC to regulate whaling, including ASW, if the Makah Tribe cannot qualify for an ASW quota (as is made clear below), then the United States should not request a quota, no quota should be approved, and, no quota can be allocated to the Makah. Therefore, as explained previously, since the Makah Tribe cannot satisfy the “continuing traditional dependence on whaling and the use of whales” language in the definition of “aboriginal subsistence whaling” and cannot demonstrate either a subsistence or nutritional need for whales or their products, it does not satisfy the basic criteria to obtain an IWC-approved quota (and any previously approved quotas should not be considered valid). Since the Makah Tribe not qualify for an ASW quota from the IWC, its purpose and need (and the purpose and need proffered by NMFS) cannot be met without violating US law or an international treaty and are, therefore, invalid. In turn, without a legitimate purpose and need, the DEIS is unnecessary and the current decision-making process should be terminated.</p> <p>If NMFS must select an alternative that satisfies its own or the Makah Tribe’s purpose and need (additional discussion of this issue is below), then the overall outcome of this NEPA process has been predetermined in that the Makah will be granted a waiver and will be allowed to kill whales because that is the only option available given the purpose and need statements. Under this scenario, the only question is when, where, how, and how many whales the Makah Tribe will be allowed to kill. Consequently, any interested stakeholder that supports the no action alternative, regardless of the quality or substantive content of their comments, is wasting its time because NMFS will claim that it cannot select the No Action Alternative since it would not meet its or the Makah Tribe’s purpose and need. Not only is there nothing in the NEPA statute or its implementing regulations that support this approach, but this effectively undermines the intent of NEPA and the importance of public participation in the NEPA process.</p> <p>Consequently, to ensure that the decision-making process is meaningful for everyone, NMFS must eliminate the Makah Tribe’s stated purpose and need for action and restate its purpose and need so that the no action alternative is a</p>	<p>carries equal weight as a viable option for final alternative selection by the decision-maker, as supported by CEQ regulations, regardless of consistency with a purpose and need statement. If a No-action alternative is the alternative that the agency believes would fulfill its statutory mission and responsibilities, it can be selected by the agency decision-maker (in other words, the proposed action can be withdrawn causing the No-action alternative to stand).</p> <p>Moreover, the formulation of NMFS’ purpose and need is not materially different from the commenter’s proposed rephrasing. The DEIS states that the purpose for agency action is “to implement the laws and treaties that apply to the Tribe’s request” and the need for agency action is to meet its trust responsibility and comply with the requirements of the MMPA and WCA. The commenter does not explain how the suggested rephrasing is materially different from what is in the DEIS.</p> <p>Finally, inclusion of an applicant’s purpose and need may be appropriate where, as here, it aids in the formulation of a full range of alternatives and does not elevate the applicant’s purpose and need above the agencies’.</p>

Sort #	Commenter Code	Comment	Response
		<p>legally viable option at the conclusion of this process. In regard to the Makah Tribe’s purpose and need, it is irrelevant what the Makah want, since this DEIS is being used by NMFS to assist in its decision-making process. Indeed, it is unusual for any DEIS to include dual purposes and needs – one set from the applicant and one set from the agency.</p> <p>For NMFS, if it were to restate its purpose to be “to determine if the Makah Tribe’s interest in resuming whaling under the Treaty of Neah Bay qualifies for a waiver of the moratorium on the take of marine mammals under the Marine Mammal Protection Act and is consistent with other federal laws,” and its purpose to be “to determine if the Makah Tribe’s whaling proposal is consistent with all federal laws,” then the no action alternative is relevant. If this were the purpose and need stated in the DEIS, NMFS could decide that despite the treaty language, whaling by the Makah Tribe is not consistent with the MMPA, WCA, or other relevant federal laws and that, therefore, a waiver would not be granted, and thereby the No Action Alternative would be a legally viable selection.</p>	
4	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><b>Marine Mammal Protection Act</b></p> <p>The MMPA (16 U.S.C. 1361 et seq.) is the nation’s preeminent law for the protection of marine mammals. In passing this law, Congress found that “certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man’s activities.” Id. at § 1361(1). In addition, Congress determined that “such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population.” Id. at § 1361(2) (see also DEIS at 1-13, 1-18). Congress further found that “marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and ... they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine</p>	This background description of the MMPA is noted.

Sort #	Commenter Code	Comment	Response
		<p>ecosystem.” Id. at § 1361(6). The goal is to “obtain an optimum sustainable population (“OSP”) keeping in mind the carrying capacity of the habitat.” Id.</p> <p>To achieve such conservation objectives, the MMPA established a moratorium on the take of marine mammals. Under the MMPA, a marine mammal is defined as “any mammal which (A) is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia and Cetacea), or (B) primarily inhabits the marine environment (such as the polar bear); and, ... includes any part of any such marine mammal, including its raw, dressed, or dyed fur or skin.” Id. at § 1362(6). The law defines “take” to mean “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.” Id. at § 1362(13).</p> <p>Take, under some circumstances, can be allowed under the MMPA if the requisite permits are obtained from the agency. In allowing take, the drafters of the MMPA “endeavored to build... a conservative bias” in favor of marine mammals. H.R. REP. NO. 92-707, at 24 (1971), reprinted in U.S.C.C.A.N. 4144, 4148.</p> <p>In every case, the burden is placed upon those seeking permits to show that the taking should be allowed and will not work to the disadvantage of the species or stock of animals involved. If that burden is not carried-- and it is by no means a light burden-- the permit may not be issued. The effect of this set of requirements is to insist that the management of the animal populations be carried out with the interests of the animals as the prime consideration. H.R. REP. NO. 92-707 at 18, reprinted in U.S.C.C.A.N. 4144, 4151.</p> <p>When NMFS issues a permit, it needs to satisfy the criteria of section 104 and be consistent with MMPA purposes, as demonstrated by the applicant. MMPA § 1374(d)(3). A permit must also comply with regulations promulgated under section 103, be “consistent with the purposes and policies” of the MMPA, and “not be to the disadvantage of those species and stocks.” Id. § 1373(a). A permit will disadvantage a marine mammal stock and cannot be issued if it causes it to fall below OSP or include takes from a stock already below OSP.<sup>9</sup></p> <p>One of the exceptions to the moratorium against the take of marine mammals is for “any Indian, Aleut, or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking ... (is) (1) ... for subsistence purposes; or (is) (2) ... done for purposes of creating and selling authentic native articles of handicrafts and clothing; and (3) in each case, is not accomplished in a wasteful manner. 16 U.S.C. § 1371(b)(1-3).</p>	

Sort #	Commenter Code	Comment	Response
		<p><sup>9</sup> See Committee for Humane Legislation, Inc. v. Richardson, 414 F. Supp. 297, 302 (D.D.C. 1976), aff'd, 540 F.2d 1141 (D.C. Cir. 1976); see also, Kokechik Fishermen's Ass'n v. Secretary of Commerce, 839 F.2d 795 (D.C. Cir. 1988).</p>	
5	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>1. Abrogation of the Makah Tribe's treat right to whale:</u></p> <p>Considering the MMPA's broad moratorium on take and the fact that Congress did not include the Makah Tribe or any other United States coastal tribe with a history of whaling or, as is the case for the Makah, a treaty right explicitly recognizing the tribe's whaling right, the MMPA exception language is ample and indisputable evidence that the Makah's treaty right was abrogated by the MMPA. Supreme Court precedent supports this position.<sup>10</sup></p> <p>Indeed, given the significance of the MMPA, the myriad interests<sup>11</sup> engaged in lobbying for or against the legislation, and the vast number of politicians, aides, and experts involved in both drafting the bill and in achieving its adoption, it is inconceivable that no one, particularly the Makah Tribe, advised Congress of the tribe's treaty language or of its tradition of whaling. Alternatively, if such communications never occurred, this demonstrates that no one, particularly the Makah Tribe, cared enough or was sufficiently concerned about its treaty language to bring it to the attention of Congress at that time. Abrogation of said treaty language is, therefore, inferred as a result of Congress not being asked to recognize or preserve the Makah's interest in whaling when promulgating the MMPA.</p> <p>While the abrogation claim was raised in both Metcalf v. Daley (214 F.3d 1135 (9th Cir. 2000)) and Anderson v. Evans (314 F.3d 1006 (9th Cir. 2002) (rehearing en banc denied and opinion amended 350 F.3d 815 (9th Cir. 2003))), the courts have not ruled on that claim. Consequently, while it is inevitable that a court will eventually have to render a decision on the abrogation claim, NMFS should have, but failed to, discuss the issue in the DEIS. NMFS is well aware of this argument and, therefore, in its summary of the relevant laws applicable to Makah whaling, should have explained the relevant case law on treaty abrogation and made clear the reasons why it believes the MMPA did not abrogate the Makah's treaty language regarding whaling. It should include such a discussion in a revised analysis.</p> <hr/> <p><sup>10</sup> See U.S. v. Dion, 476 U.S. 734 (1986), which held that the Bald and Golden Eagle Protection Act abrogated the rights of the members of the Yankton Sioux Tribe under the 1858 treaty to hunt bald or golden eagles on the Yankton Reservation.</p>	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		<p><sup>11</sup> These interests included Native American Tribes and organizations, states, industry, and non-governmental organizations.</p>	
6	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>2. The Makah MMPA waiver application:</u></p> <p>In this case, because of the MMPA’s moratorium on take of marine mammals, the Makah Tribe is seeking a waiver to that prohibition as directed by the court in Anderson v. Evans. While the Makah Tribe does not agree with the ruling in Anderson and believes that its “treaty right” trumps the MMPA, it elected to pursue a waiver. In its 2005 application, the Makah include several elements or provisions that warrant additional scrutiny or are worth noting for the purpose of this comment letter.</p> <p><u>Treaty of Neah Bay:</u></p> <p>While the Makah attempt to address the specific criteria contained in the MMPA, which must be met to obtain a waiver (discussed in more detail below), it also relies on its “treaty right” to justify a waiver. Yet the Treaty is not the end all, be all; rather, it is limited by the MMPA.</p> <p>The Treaty of Neah Bay was one of the Stevens Treaties, negotiated by Isaac Stevens, the Governor of Washington Territory, with leaders of the Northwest Tribes that occupied what is now the State of Washington. These treaties guaranteed signatory tribes “the right of taking fish at usual and accustomed grounds and stations ... in common with all citizens of the Territory.” The Treaty of Neah Bay explicitly references whaling: “the right of taking fish and of whaling or sealing at usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the United States.” See Treaty of Neah Bay at Article 4.</p> <p>In its repeated references to the treaty language in the DEIS, NMFS fails to include the “in common with” language. While the courts have interpreted that language, the layperson who may read the treaty will likely be confused by this language, which suggests the Makah Tribe can only engage in whaling if other United States citizens are also able to engage in the same activity. In 1855 that was the case, but today, US citizens are prohibited from intentionally killing any marine mammals. NMFS needs to provide additional discussion of judicial interpretations of this treaty language to ensure that all stakeholders have a common understanding of the meaning of the “in common with” language and, more broadly, the limitations inherent to the Makah’s treaty right. The Coalition provides its understanding of the treaty language and the limitations on the treaty here.</p>	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		<p>Generally, the courts have interpreted the phrase “in common with” to establish “a cotenancy, in which neither party may ‘permit the subject matter of [the treaty] to be destroyed.’” <i>Anderson v. Evans</i>, 314 F.3d 1006 (9th Cir. 2002) (quoting <i>United States v. Washington</i>, 520 F.2d 676, 685 (9th Cir. 1975)). See also <i>United States v. Washington</i>, 761 F.2d 1404, 1408 (9th Cir.1985) (recognizing that “in common with” has been interpreted to give rise to cotenancy- type relationships).</p> <p>The treaties guarantee tribes the right to harvest an equal portion of the available resource, not just an equal opportunity to do so with non-Indians. <i>Washington v. Washington State Commercial Passenger Fishing Vessel Ass’n</i>, 443 U.S. 658, 679 (1979) (holding that the Stevens treaties guarantee tribes the “right to take a share of each run of fish that passes through tribal fishing areas”). That right is subject to federal and state regulation, provided that the regulation is nondiscriminatory. See <i>Puyallup Tribe v. Dept. of Game of Wash.</i>, 391 U.S. 392, 398 (1968).</p> <p>The treaties do not guarantee an absolute right to fish or hunt; a state may limit the total treaty and non-treaty fish catch, for example, if regulation becomes necessary for the preservation of the species, is tailored to the conservation of that species, and is nondiscriminatory in its treatment of the Indians. See <i>Puyallup Tribe, Inc. v. Dept. of Game of State of Wash.</i>, 433 U.S. 165, 176 (1977) (holding that state fishing regulation applies on-reservation because “[t]he police power of the State is adequate to prevent the steelhead from following the fate of the passenger pigeon”); <i>United States v. Oregon</i>, 657 F.2d 1009, 1016–1017 (1981) (affirming a total ban on tribal harvest of spring chinook salmon).</p> <p>Because tribal treaty rights to hunt and fish can be regulated for the preservation of a resource, the question is not what the treaty guarantees, but rather what the applicable statute/regulation requires and whether it is non-discriminatory. The <i>Anderson</i> court accordingly found the MMPA applied to the Makah because the Makah can be regulated “in common with all citizens.”</p>	
7	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Limitations and legal implications of the MMPA waiver request:</u></p> <p>The waiver request is limited to ENP gray whales only. It does not cover WNP gray whales, nor would it cover PCFG whales if NMFS determined – as it should – that PCFG whales should be designated as a separate stock (an issue that is further discussed below). Since the waiver, if issued, would not cover WNP gray whales, this raises questions about the legal implications for the Makah if it were to take a WNP gray whale. It is worth noting here that different provisions</p>	Please see the response to frequent comment # 5 regarding the stock status of PCFG whales and frequent comment # 6 regarding the need for waiver of the take moratorium for WNP and/or PCFG whales.

Sort #	Commenter Code	Comment	Response
		<p>of the MMPA are applicable to “marine mammals” while others are applicable to marine mammal “species” or “population stocks.” For example, the moratorium, waiver, take prohibitions, and permit language apply broadly to “marine mammals,” (see 16 U.S.C. 1371(a); Id. at 1371(a)(3)(A); Id. at 1372; Id. at 1374), while the MMPA sections on depleted species and issuance of regulations refer to marine mammal “species” or “population stocks” (see Id. at 1362(1)(A); Id. at 1373). These differences may have implications for the Makah’s MMPA waiver request.</p> <p>While the likelihood of the Makah actually striking and killing a WNP gray whale may be remote according to NMFS (citing to Moore and Weller 2013), since take under the MMPA is broadly defined to include “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal,” if allowed to whale, the Makah may take a WNP gray whale. Moreover, the MMPA’s moratorium covers all takes, regardless of the likelihood of such take. Consequently, absent a separate waiver or any other legal authorization permitting the take of an endangered WNP gray whale, the Makah Tribe will be subject to prosecution under the ESA and MMPA.</p> <p>The MMPA does provide for the incidental take of marine mammals listed under the Endangered Species Act through the acquisition of an “incidental harassment authorization” (IHA) or a “letter of authorization” (LOA) (for incidental take). If the Makah are granted a waiver to the MMPA and NMFS then determines that any “take” of WNP gray whale is incidental to the Makah’s whaling operations, then the Makah would have to obtain an IHA or LOA. In this case, given that the duration of any waiver, if granted, would be valid for at least 10 years (see Alternative 6) and since the Makah would likely take and could potentially seriously injure or kill a WNP gray whale, more than one LOA would be applicable.</p> <p>NMFS provides no explanation as to the legal implications of the Makah’s waiver request being limited to ENP gray whales, nor does it discuss the applicability, or lack thereof, of its incidental take standards to the Makah Tribe’s whaling plans. In order to obtain such an authorization, a request must be made by the applicant (in this case the Makah Tribe), NMFS must evaluate the impacts of the application pursuant to NEPA, it must publish a notice seeking public comment on the requested authorization, and then must decide whether the authorization should be granted under the relevant criteria contained in the MMPA. Since the existing DEIS does not address the issuance of any such authorization, the authorization process either must be pursued separately from</p>	

Sort #	Commenter Code	Comment	Response
		<p>the current DEIS decision-making process (presumably with a decision on a “letter of authorization” made prior to the completion of the present NEPA process) or NMFS must explain why the incidental harassment provisions of the MMPA are not applicable in this case.</p> <p>Conversely, if the Makah Tribe is granted a waiver to hunt ENP whales and NMFS determines that any take, including serious injury or killing of a WNP whale, constitutes intentional take (since the purpose of the hunt is to kill a whale and because ENP, PCFG, or WNP whales cannot be distinguished by observation alone), then the issuance of a waiver will permit illegal take in violation of the MMPA’s moratorium. If such take is considered to be intentional, the only way it can be permitted is if the Makah’s waiver application is amended to include WNP gray whales.</p>	
8	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Lack of accurate and complete analysis of impacts on Pacific Coast Feeding Group whales within the Oregon-Southern Vancouver Island region:</u></p> <p>The Makah Tribe has requested, consistent with the recommendation in Calambokidis et al. (2004), that the primary area of emphasis for the impact of its proposed whale hunt on the PCFG of ENP gray whales be restricted to the OR-SVI region of the PCFG range. The OR-SVI region is larger than the Makah U&amp;A but smaller than the full seasonal range of PCFG whales, which is from Northern California to Southeast Alaska. NMFS has included in the DEIS analysis of the impact of the Makah’s proposed hunt (Alternative 2) and the other action alternatives (Alternatives 3-6) on PCFG whales within the OR-SVI region but, as discussed in more detail below, its analysis of the impacts on PCFG whales in the OR-SVI region is deficient.</p> <p>Moreover, despite the Makah Tribe’s request to focus the analysis on OR-SVI PCFG gray whales and the Anderson court’s emphasis on the need to consider impacts in the local area (e.g., the Makah U&amp;A), NMFS’s analysis of Alternatives 3-6 calculated the PBR level using the larger PCFG population estimate instead of using the estimates for the OR-SVI and Makah U&amp;A regions.</p>	<p>The DEIS includes an alternative (Alternative 2) that bases management measures on abundance of gray whales in the OR-SVI survey areas, as proposed by the Tribe, thus this option is captured. The remaining action alternatives base management measures on abundance of gray whales in the entire PCFG. All alternatives are analyzed with respect to their impacts on gray whales at the scale of both the OR-SVI and the Makah U&amp;A (see Subsection 4.4.2.4, Change in Abundance of Gray Whales in the Makah U&amp;A and OR-SVI Areas). Analysis at the scale of the Makah U&amp;A comports with the court's direction in <i>Anderson v. Evans</i>.</p>
9	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Additional limited waiver request:</u></p> <p>Embedded within the Makah Tribe’s request for a waiver of the MMPA’s prohibition on taking marine mammals is a second request for “a limited waiver from the MMPA’s prohibition on the sale of marine mammal products for the purpose of selling such traditional handicrafts.” Makah Waiver Application at 3. No additional information about this second waiver request, including any explanation as to scope of the “limited waiver,” is contained in the waiver</p>	<p>The DEIS examines the alternatives of either no sale of handicrafts (Alternative 1) or the sale of handicrafts (Alternatives 2-6) and provides relevant information and analyses. During public scoping, no commenters, including this</p>



Sort #	Commenter Code	Comment	Response
		<p>application or in the DEIS. Since this additional waiver request clearly applies to the Tribe’s interest in the sale of authentic native handicrafts manufactured from the non-edible byproducts of killed gray whales, it is imperative that additional information about this second waiver request and its implications be made available so that the public has a chance, as the law requires, to participate in the decision-making process inherent to the second waiver request.</p>	<p>commenter, offered suggestions for additional alternatives regarding the making and sale of handicrafts, nor does the commenter suggest what type of additional information is missing from the DEIS. Although the commenter characterizes this as a "second waiver request," this request was included in the Tribe's original 2005 request and was not made separately.</p>
10	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>3. NMFS must determine if PCFG whales are a separate stock under the MMPA:</u></p> <p>Although the prohibition on taking contained in the MMPA is for “marine mammals,” 16 U.S.C. 1372, the authorization of take is restricted to marine mammal “species” and “population stocks” 16 U.S.C. 1373. The MMPA defines the term “population stock” or “stock” as “a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature.” Unlike the Endangered Species Act, which permits the listing of “Distinct Population Segments,” the MMPA does not provide protections for anything other than species or population stocks.</p> <p>PCFG gray whales are not currently designated as a population stock or stock. The IWC’s Scientific Committee, however, has determined that it is “plausible that the PCFG may be a demographically distinct feeding group,”<sup>12</sup> DEIS at 1-5, 3-157, while NMFS repeatedly reports in the DEIS that the PCFG “seems to be a distinct feeding aggregation and may warrant consideration as a distinct stock in the future” Id.</p> <p>If the PCFG were designated as a stock, this would have significant implications for the PCFG and the Makah Tribe’s whaling proposal. Among other things, a stock designation would permit the PCFG to be potentially designated as “depleted” under the MMPA if the current population size was below the optimum sustainable population (OSP) size (which has historically been interpreted by NMFS as 60 percent of the stock’s carrying capacity). If designated as “depleted,” the Secretary would be barred from issuing any permit to allow take. While this bar could be overcome with an MMPA waiver, if the PCFG were designated as a stock, the current Makah waiver application would not cover PCFG whales. Instead, as explained above for WNP whales, the Makah could be prosecuted under the MMPA for illegally taking (intentionally or incidentally) a</p>	<p>The comment presumes that NMFS has not made a decision on the status of the PCFG. This is not the case. Pursuant to public and scientific peer review and the SAR process NMFS recognizes the PCFG as a “feeding aggregation” and does not recognize the PCFG as a stock. Please see the response to frequent comment #5 regarding stock status of the PCFG. Regarding the need for additional decision-making in the event the PCFG is designated a population stock in the future, please see the response to frequent comment #7.</p> <p>We note that the Tribe's proposed action contained protective measures aimed at avoiding local depletion of PCFG whales, and the action alternatives in the DEIS similarly contain such measures.</p>

Sort #	Commenter Code	Comment	Response
		<p>PCFG whale. The Makah would have to seek an LOA to permit incidental harassment and take, including serious injury and mortality, or it would have to amend its waiver application to include PCFG whales.</p> <p>Considering the implications of the decision on whether PCFG whales are a stock, NMFS must suspend the current decision-making process and make a stock determination before continuing with the current analysis. Indeed, since the DEIS must provide the substantive evidence to support any decision made under the MMPA, NMFS must make a stock determination for PCFG whales as part of this decision-making process.<sup>13</sup> If NMFS determines, after providing an opportunity for public participation, that PCFG whales are a stock, this development would likely require a reassessment of the Makah’s waiver request and, at a minimum, preparation of a supplemental DEIS. Conversely, it would be nonsensical to complete this MMPA waiver and NEPA process and then to conclude that the PCFG is a stock, as that could then require a full reevaluation of previous decisions with implications to the Makah Tribe, other interested stakeholders, and the gray whales.</p> <p>The best available scientific information provides ample support for the designation of PCFG whales as a stock. While neither the MMPA nor its implementing regulations provide direction on how to determine if a group of marine mammals of the same species constitute a stock, NMFS has guidelines that it utilizes to make such determinations.</p> <p>To determine if a group of marine mammals represent a stock, NMFS relies on its Guidelines for Assessing Marine Mammal Stocks (NMFS 2005 or GAMMS II). The original guidelines were developed in June 1994 and were finalized in 1995 to aid NMFS in preparing Stock Assessment Reports (SAR). Immediately thereafter minor revisions to the guidelines were proposed and a new version of the guidelines was published in 1997. NMFS (2005) represents the current version of the guidelines. However, based on a workshop held in 2011 to review the guidelines (referred to below as the GAMMS III workshop), NMFS published a Federal Register notice in 2012 soliciting public comment on proposed amendments to the guidelines. To date, NMFS has not finalized those amendments which, for the purpose of this analysis, will be referred to as GAMMS III Revisions 2011.<sup>14</sup></p> <p>The MMPA defines “population stock” as “a group of marine mammals of the same species or smaller taxa in a common spatial arrangement that interbreed when mature.” NMFS (2005). In interpreting this definition, NMFS considers the objectives of the MMPA, including maintaining the health and</p>	

Sort #	Commenter Code	Comment	Response
		<p>stability of the marine ecosystem and that "...species and population stocks of marine mammals...should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population." Id.</p> <p>In the 2005 GAMMS report, a stock is deemed a management unit if it constitutes a "demographically isolated biological population." NMFS has interpreted this concept to be synonymous with "demographically independent biological population" in subsequent applications of the guidelines since the "demographically independent" better reflects the intent of both the MMPA and those who prepared the GAMMS II report.<sup>15</sup> Furthermore in Weller et al. (2013), the use of demographic independence in defining a stock was articulated as follows:</p> <p>The GAMMS III workshop recommended revising the SAR guidelines to reflect that the intent of the GAMMS II guidelines (NMFS 2005) was to base stock identification on demographic independence as noted in Eagle et al. (2008) and proposed that the term demographic isolation be replaced with "demographic independence" as follows:</p> <p>(1) "For the purposes of management under the MMPA, a stock is recognized as being a management unit that identifies a demographically independent biological population."</p> <p>(2) "Demographic independence means that the population dynamics of the affected group is more a consequence of births and deaths within the group (internal dynamics) rather than immigration or emigration (external dynamics). Thus, the exchange of individuals between population stocks is not great enough to prevent the depletion of one of the populations as a result of increased mortality or lower birth rates."</p> <p>In other words, the participants at the GAMMS III workshop viewed this as a semantic issue where the term demographic independence is a better description for the current GAMMS guidelines definition than is the term demographic isolation.</p> <p>Further, Weller et al. (2013) explained that:</p> <p>"This interpretation of "isolation" differs substantively from how it is used within the GAMMS guidelines definition above, wherein allowance is made for some level of exchange of individuals between stocks. The TF (Task Force) concurred that in spite of using the term "isolation," the actual definitions under the current GAMMS guidelines ... are more consistent with MMPA objectives to</p>	

Sort #	Commenter Code	Comment	Response
		<p>protect population stocks than with the objective of protecting just subspecies and species.</p> <p>Given that the draft GAMMS guideline revisions from the GAMMS III workshop have not yet been formally approved, the TF agreed to use the current GAMMS guidelines definition (NMFS 2005) for the purposes of their discussions and deliberations but noted that the actual definition used in the two versions (for demographic isolation and demographic independence) is essentially the same in that neither implies true “isolation” within the context of the MMPA.</p> <p>Consequently, for the purpose of defining a stock, NMFS uses the concept of “demographic independence” instead of “demographic isolation.” Simply stated, the definition of “demographic independence” is a situation where “the population dynamics of the affected group is more a consequence of births and deaths within the group (internal dynamics) rather than immigration or emigration (external dynamics).” GAMMS Revisions 2011.</p> <p>A variety of information can be used to identify a stock. This can include information about the prospective stocks such as: distribution and movements; population trends; differences in morphology, life history, genetics, parasites, and oceanographic habitats; and contaminant and natural isotope loads. (NMFS 2005). A comparison of population trends of the same species occupying different areas can also be used to assess potential stock status, since different trends would suggest that the stocks are not “strongly linked demographically.” Id. Similarly, morphological or genetic differences in animals from different regions are evidence that these populations are demographically independent.</p> <p>In examining recruitment dynamics in a prospective stock, a failure to detect differences in immigration or emigration rates does not mean that a population is not demographically independent. In some cases, while dispersal rates may be sufficient to “homogenize morphological or genetic differences detectable between putative populations,” they may not be sufficient to deliver enough recruits from an unexploited source to an adjacent exploited sink population which could cause the sink population to no longer be a functioning element of its ecosystem. Id.</p> <hr/> <p><sup>12</sup> As explained in the DEIS, “although the IWC has not formally identified the PCFG as a stock, the Scientific Committee (IWC 2012a) noted that its implementation review of eastern North Pacific gray whales (with an emphasis on the PCFG) was “based on treating PCFG as a separate management stock” (which may not be equivalent to a stock as defined under the MMPA).” DEIS at 1-5.</p>	

Sort #	Commenter Code	Comment	Response
		<p><sup>13</sup> At a minimum, if NMFS makes a preliminary determination to issue an MMPA waiver to the Makah Tribe it must make a stock determination for PCFG whales before the administrative law judge hearing in order to meet the requirements of the MMPA.</p> <p><sup>14</sup> The revisions are available at <a href="http://www.nmfs.noaa.gov/pr/pdfs/sars/gamms3_appendix4.pdf">http://www.nmfs.noaa.gov/pr/pdfs/sars/gamms3_appendix4.pdf</a></p> <p><sup>15</sup> Pers. comm. with Shannon Bettridge, NOAA/NMFS (July 29, 2015)</p>	
11	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>As an example, NMFS (2005) notes that it is common to have human-caused mortality restricted to a portion of a species' range. Depending on the magnitude of such concentrated mortality, it could lead to population fragmentation, a reduction in range, or even the loss of undetected populations. This would only be mitigated by high immigration rates from adjacent areas. If such immigration rates are unknown or are insufficient to mitigate the level of mortality, the affected group of whales may not remain a functioning element of its ecosystem or it may diminish below OSP.</p> <p>If there is inadequate information about stock structure and fisheries mortality is greater than a PBR calculated from the abundance just within the oceanographic region where the human-caused mortality occurs, managers should seriously consider dividing a species into stocks within designated and defensible management units. Id. Such management units could be designated in "distinct oceanographic regions, semi-isolated habitat areas, and areas of higher density of the species that are separated by relatively lower density areas." Id. Such areas have often been found to represent true biological stocks where sufficient information is available or when such evidence is known.</p> <p>Notably, in trans-boundary situations, if a stock's range spans international boundaries or the boundary of the US Exclusive Economic Zone (EEZ), an international management agreement for the species is recommended. Until such an agreement is adopted, if a stock is migratory, the fraction of time in US waters should be noted, and the PBR for US fisheries should be apportioned from the total PBR based on this fraction.<sup>16</sup></p> <p><sup>16</sup> This raises a question as to whether, in calculating a PBR for the OR-SVI PCFG whales that PBR should be lowered based on the proportion of OR-SVI gray whales in Canada.</p>	<p>Please see the response to frequent comment # 5 regarding the stock status of the PCFG. NMFS' consideration of the issue was also subject to review through the SAR process by the SRG and public review and comment. We consider the SAR process as the appropriate mechanism for designating population stocks of marine mammals under the MMPA and will continue to rely on that process for consideration of the best available scientific information. We consider the SAR as the appropriate process to provide advice on calculating a PBR for the PCFG.</p> <p>We agree with the comment that our consideration of a gray whale hunt should take into account the fact that the PCFG spends time outside of U.S. waters and experiences human-caused mortality beyond the mortality in U.S. waters and will take this into account in future decision-making.</p>
12	Schubert (Animal Welfare Institute)_Le	<p>In regard to PCFG gray whales, compelling evidence exists that there is a genetic substructure within the ENP population (DEIS at 3-59, 3-94). For example Lang et al. (2011), based on samples taken from PCFG gray whales and ENP gray whales on the northern feeding grounds, demonstrated small but statistically</p>	<p>Comments noted. Please also see the response to frequent comment # 5 regarding the stock status of the PCFG and review of the information</p>

Sort #	Commenter Code	Comment	Response
	tter Only_7-31-15	<p>significant mitochondrial DNA differences demonstrating site fidelity to the southern feeding area. DEIS at 3-60. Although no significant differences in microsatellites (from nuclear DNA) were seen between whales from the different areas, Lang et al. concluded that these results indicate “that structure is present among gray whales using different feeding areas, matrilineal fidelity plays a role in creating such structure, and individuals from different feeding areas may interbreed.” Id. In a more recently published paper, Lang et al. (2014; Attachment 2) states that their “findings support recognition of the PCFG of gray whales as demographically independent based on the significant differences in mtDNA between the PCFG and whales feeding further north.”<sup>17</sup> Frasier et al. (2011) also concluded that PCFG gray whales likely mate with ENP whales but their findings that there were significant differences in mtDNA haplotype distribution and in estimates of long-term effective population size between PCFG and ENP whales were a result “of maternally directed site fidelity of whales to different feeding grounds.” DEIS at 3-125 (see also Lang et al. 2011).</p> <p>The existing data appears to be equivocal on the recruitment mechanism for PCFG whales. Studies that have found significant differences in mtDNA haplotype frequencies between PCFG whales and whales sampled in the northern areas suggest that the “use of some feeding areas is being influenced by internal recruitment (matrilineal fidelity).” DEIS at 3-127, 3-130.</p> <p>However, Ramarkrishnan et al. (2001), based on an analysis of samples collected from whales within the PCFG range found that the genetic diversity and number of mtDNA haplotypes “were greater than expected if recruitment into PCFG were exclusively internal,” DEIS at 3-124, suggesting that there may be some external recruitment into the PCFG gray whale population via immigration. DEIS at 3-127. As explained in GAMMS II, however, a lack of conclusive evidence as to the immigration or emigration rates or mechanisms does not disqualify a feeding aggregation of whales from being designated as a stock.</p> <p>Based on this and other evidence, a 2012 NMFS task force concluded that there “remains a substantial level of uncertainty in the strength of the lines of evidence supporting demographic independence of the PCFG.” DEIS at 3-129. Evidence in favor of demographic independence includes the fact that PCFG gray whales are the “only feeding group that does not rely on dynamics of a subarctic ecosystem” and that “this uniqueness may provide important flexibility to the species as a whole given potential challenges in a changing sub-arctic ecosystem.” Id.</p>	<p>presented in this comment through the SAR process. Regarding Punt (2015), we have reviewed this information and contacted the author and concluded nothing in that report will likely change the conclusions in the SAR. Punt (2015) will be considered in the next SAR if relevant.</p>

Sort #	Commenter Code	Comment	Response
		<p>Other supporting evidence includes the persistent return of individual whales to specific feeding areas which “strongly suggests that site fidelity is key to maintaining gray whales as a functioning element of this ecosystem,” (DEIS at 3-129), and that data documenting “internal calf recruitment ... may actually be an underestimate because of survey limitations.” DEIS at 130.</p> <p>For those who question whether PCFG whales exhibit demographic independence, they point to evidence demonstrating ongoing external recruitment into the PCFG, although it is conceded that there is “considerable uncertainty as to whether external recruitment exceeds internal recruitment.” DEIS at 3-130. In addition, they claim that genetic analyses using mtDNA and nuclear DNA have not shown a significant difference between the PCFG and larger ENP population when, in fact, mtDNA analyses have demonstrated such differences. While nuclear DNA analyses have not revealed similar results, this does not disqualify a group of whale from being designated as a stock. External recruitment of ENP whales migrating through the PCFG range is also used to question a stock determination even though the mere fact that such external recruitment may occur does not disqualify PCFG whales from being designated a stock. Indeed, as noted in NMFS (2005), if the population dynamics of the affected group is more a consequence of births and deaths within the group (internal dynamics) rather than of immigration or emigration (external dynamics), the group can qualify for a stock designation.</p> <p>Other evidence that supports the designation of the PCFG as a stock includes:</p> <ul style="list-style-type: none"> <li>• Since Punt (2015; Attachment 3) determined that PCFG population is at 50 percent of its carrying capacity and given that NMFS reports that at current rates of recruitment, PCFG abundance trends appear to be flat, DEIS at 4-100, 4-84, if external recruitment was the primary mechanism for PCFG whales then population numbers should be increasing. This could suggest that internal recruitment is a more important mechanism for maintaining PCFG numbers and, therefore, would support a stock designation. In addition, if PCFG gray whales were designated as a stock then, at 50 percent of carrying capacity, they would not be at OSP and any intentional take by the Makah would be prohibited.</li> <li>• If the Makah are allowed to whale, particularly under Alternative 2, the killing of up to six ENP gray whales (which may include PCFG whales) each year would constitute the largest source of reported human-caused mortality for gray whales in US waters. As it is not clear that such concentrated mortality (i.e., in</li> </ul>	

Sort #	Commenter Code	Comment	Response
		<p>the Makah U&amp;A) would be replaced or how such recruitment is likely to occur, the PCFG gray whales in these smaller regions may no longer be a functioning element in the ecosystem, which would violate the MMPA. Furthermore, for the Makah U&amp;A, the potential mortality of gray whales, including PCFG whales, could be well above the PBR for this region.</p> <ul style="list-style-type: none"> <li>• The potential for PCFG whales to be a buffer for the species against adverse impacts attributable to climate change in the Arctic cannot be ignored in making this determination. Given that the evidence demonstrates maternally-driven recruitment into the PCFG and noting the high site-fidelity of some PCFG whales to particular regions, simply assuming that ENP whales will fill PCFG vacant niches is risky given the potential importance of PCFG whales. Moreover, if the PCFG represents an ecological/population buffer against the impact of climate change induced changes in the Arctic, then the removal of any PCFG may prevent full development of the buffer. NMFS should err on the side of caution to designate PCFG as a stock to provide protection and to ensure that they continue to serve their role as a functioning element of the ecosystem as required by the MMPA.</li> <li>• While the apparent stability of the PCFG population is a concern if it is well under K, the stability of this feeding aggregation is nonetheless noteworthy and suggests that the aggregation is exploiting important habitat and should be protected because it may be in the early stages of speciation or developing more complex population structure. Given this evidence and the critical importance of a stock determination for PCFG gray whales in light of the Makah Tribe’s proposed hunt, NMFS has to make this determination before continuing with the current decision-making process.</li> </ul> <hr/> <p><sup>17</sup> Furthermore, Lang et al. (2014) notes that “although uncertainty remains, our results indicate that it is plausible that the PCFG represents a demographically independent group and suggest that caution should be used when evaluating the potential impacts of the proposed Makah harvest on this group of animals.”</p>	
13	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>4. The use of .50 or larger caliber rifles to kill gray whales does not comply with the MMPA’s humane take standards:</u></p> <p>Even if a waiver is granted to the Makah Tribe, this only exempts the tribe from the prohibition against taking marine mammals under the MMPA. Other provisions of the MMPA, including the requirement to issue regulations and permits to govern the taking of gray whales, would be applicable. Any regulations proscribed must set forth the manner of take that will be allowed,</p>	Comments noted. Please see the response to frequent comment # 1 regarding humaneness of a whale hunt.



Sort #	Commenter Code	Comment	Response
		<p>while the requisite permits must specify the location and manner in which marine mammals may be taken. In addition, the Secretary must determine that the manner of take is humane.</p> <p>The MMPA defines the term “humane,” in the context of taking a marine mammal, to mean the “method of taking which involves the least possible degree of pain and suffering practicable to the mammal involved.” 16 U.S.C. § 1362(4). Additional information about this standard is included in the Act’s legislative history which provides that: 'Humane' in the context of taking marine mammals means the method of taking which involves the least possible amount of pain and suffering which can be inflicted upon the animals involved. It is not a simple concept and involves factors such as minimizing trauma to groups of highly intelligent, social animals such as whales and porpoises where the taking of any member may be distressing to the group. In many cases, where an animal may not be taken humanely the bill will prevent that animal from being taken at all. H.R. REP. NO. 92-707 (1971), reprinted in U.S.C.C.A.N. 4144, 4154.</p> <p>NMFS references the MMPA’s “humane” mandate throughout the DEIS. This is particularly relevant in regard to the Makah’s proposal to kill gray whales considering the increasing public concern for the suffering of animals, including those who are hunted, the ongoing consideration of cetacean welfare within the IWC, and since the gray whale illegally harpooned (four times) and shot (16 times) by rogue Makah whalers in 2007 took at least 11 hours to die.</p> <p>In its waiver application, the Makah have proposed to use a .50 caliber rifle as the primary killing weapon after a gray whale is struck and penetrated by a steel toggle-point harpoon. The Makah used a .577 caliber rifle in the 1999 hunt and a same rifle along with smaller caliber weapons during the 2007 illegal hunt. Both weapons have been deemed to be adequate to kill gray whales, DEIS at 2-30, 3-169, 3-364 citing (Ingling 1999, Beattie 2001, and Graves et al. 2004). In their analyses of these two weapons, however these experts only compared the two larger caliber rifles against each other and against smaller caliber weapons; they did not test them against explosive grenades containing black powder or penthrite. One of the experts (Dr. Ingling) cited by NMFS in the DEIS suggested the .577 rifle may be preferable because it is lighter, has a 3-shot magazine, and it is quieter. NMFS, however, notes that gun manufacturers have improved the .50 caliber rifle to meet or exceed the alleged benefits of the .577 rifle. NMFS, therefore, concluded, “we consider the Tribe’s proposed .50 caliber rifle, with its readily available supply of ammunition, the weapon that Makah hunters would most likely use.” DEIS at 3-170. As reported in the DEIS, the whale harpooned and</p>	

Sort #	Commenter Code	Comment	Response
		<p>shot in 1999 took a total of eight minutes to die from the initial harpoon strike to no evidence of life. DEIS at 1-38, 4-76. Both NMFS and the Makah seem to suggest that this is sufficiently “humane” and opine that, with experience, the time to death will decline if the Makah are allowed to kill gray whales. However, whether a kill with a high caliber rifle takes five or eight minutes or longer, that death is not instantaneous or near instantaneous and does not meet the “least possible degree of pain and suffering” standard under the MMPA particularly when less cruel killing methods are available.</p> <p>Furthermore, to use a single event (or a sample size of one) to determine if high caliber rifles are “humane” killing weapons or that the time to death will decrease with more experience is entirely inappropriate since, if the Makah had killed more whales in 1999 or in 2007, the time to death for those whales could have been longer.</p> <p>Although NMFS appears to be prematurely satisfied that the .50 caliber rifle can “humanely” kill a gray whale, it did expand the analysis in the DEIS to consider the potential use of black powder and penthrite explosive grenades. Such grenades could either be delivered using a darting gun or a shoulder gun. A darting gun consists of a barrel to hold the explosive projectile which is attached to the wooden shaft equipped with a toggle point harpoon. DEIS at 2-13. A shoulder gun is like a rifle but designed to fire explosive grenades. For the Makah, just as they propose to use a rifle as the primary killing weapon after a harpoon has penetrated a whale, explosive grenades would be used in the same manner. A primary killing method is required in any gray whale hunt since a steel toggle-point harpoon, even if it is delivered in a perfect strike to the most sensitive part of the whale’s body, will not kill the animal. DEIS at 3-167.</p> <p>The evidence contained in the DEIS, taken from a number of studies or reports from whaling activities in Alaska, Russia, Greenland, and Norway, provide compelling data demonstrating that explosive grenades containing penthrite are the least cruel existing method for killing such large whales and should be the only method NMFS permits the Makah Tribe to use if it, wrongly, grants the waiver application and prevails in any subsequent judicial proceedings.</p> <p>The Alaskan Eskimos utilize explosive grenades as both their primary and secondary killing weapons. DEIS at 3-164. These grenades are delivered using hand thrown darting guns or a shoulder gun. The grenades either contain black powder or penthrite, although penthrite is preferred because black powder can taint the taste of whale meat. Id. After the grenade penetrates the whale’s body, it detonates and kills via shock waves and tearing of tissues, hemorrhage, and/or</p>	

Sort #	Commenter Code	Comment	Response
		<p>damage to internal organs caused by shrapnel. DEIS at 3-167. According to NMFS, a whale can respond to being struck with a grenade by death, insensibility, and stunning as well as diving, thrashing, and ramming boats. Id. (citing Knudsen and Øen 2003, Øen 1995, and Bockstoce 1986).</p> <p>Such actions, however, are generally short in duration since penthrite results in the rapid death of a whale in most instances. Evidence of this is contained in the DEIS and includes:</p> <ul style="list-style-type: none"> <li>• Øen (2006) noted that the instantaneous death rate in Norwegian minke whale hunts in which penthrite grenades were employed had increased from 17 percent from 1981 to 1983 to 80 percent in 2000 to 2002 due primarily to improved grenades and training. Overall, 95.5 percent of whales are killed with the first strike by a penthrite grenade. DEIS at 3-171.</li> <li>• In a study of the killing efficiency of black powder and penthrite grenades used in the Alaskan bowhead hunt, Øen (1995) reported that seven of the eight whales struck with penthrite grenade(s) died from the first grenade thrown while the eighth whale required three grenades before he/she died. In addition, the results demonstrated a reduced time to death for whales struck with penthrite versus black powder grenades. In 1988, seven of the eight bowhead whales struck with penthrite grenades were landed (one died but was lost) and five of the whales (63 percent) died instantaneously or in less than 5 minutes, DEIS at 3-172, 3-176.</li> <li>• In 2010, eight bowhead whales struck with penthrite grenades and five were landed after instantaneous or near instantaneous kills. DEIS at 3-174 (citing IWC 2011d). Of the remaining whales, one was lost under the ice, one sank after being killed, and in one whale the grenade did not explode and the whale was lost. Id.</li> <li>• In the 2011 bowhead whale hunt, of the 38 whales landed, 26 whales were reported as instantaneous or near instantaneous kills including all but three of those taken using penthrite grenades. Id.</li> <li>• In 2011, the then Chairperson of the AEWC reported that penthrite grenades “can reduce the time to death for a bowhead whale to four seconds,” this being the length of time on the grenade’s fuse.” DEIS at 3-173, 3-177.</li> <li>• Øen (2015; Attachment 4) reported the time to death data collected during the Icelandic fin whale hunt in 2014 revealed that “84% of the whales had died instantly.” In that hunt, “the whales were killed with 90 mm Kongsberg harpoon canons and Whale Grenade-99 modified with 100 g of pressed penthrite as</li> </ul>	

Sort #	Commenter Code	Comment	Response
		<p>explosive. Grenade detonation in the thorax (chest), in or at the thoracic spine, neck or brain resulted in 100% instant death.”</p> <p>Notably, bowhead whales are larger than gray whales and, consequently, it is expected that, if a hunt were permitted, penthrite grenades would more rapidly kill gray whales. Nevertheless, despite this and other evidence contained in the DEIS demonstrating that penthrite grenades are a less cruel killing method compared to rifles, NMFS still claims that it is “uncertain what the average time to death would be for gray whales killed in a Makah gray whale hunt using explosive projectiles as the striking and killing weapons” although it then concedes that “it is possible that average time to death would be lower than with the alternate method (toggle- point harpoon and rifle) because the striking weapon has the potential to quickly kill the whale or render it insensible.” DEIS at 4-77.</p> <p>The DEIS also notes that, at an IWC workshop on Whale Killing Methods held in 2003, the United Kingdom presented a paper indicating that whales could experience stress as a result of being pursued which, in turn, can result in stress-related symptoms such as impaired immune defense, reduced fecundity, a failure to grow, and potentially succumb to “exertional myopathy.” DEIS at 3-166. NMFS, in response, reported that exertional myopathy has not been reported in gray whales and that “there are no data at present to evaluate what level of activity would be required to induce this in gray whales.” Id. What NMFS fails to disclose is what efforts have been made by its own scientists or others to examine whether pursuit results in stress related complications, including exertional myopathy. Just because exertional myopathy has not been reported in gray whales, doesn’t mean that the risk is not real.</p> <p>Finally, while the method of killing whales is directly relevant to “humane” concerns associated with the hunt, the efficiency of the hunt is also a critical consideration. Since struck and lost whales could be whales that are injured and suffering, a less efficient hunt will result in greater cruelty than a highly efficient hunt. The hunting proposal submitted by the Makah Tribe (Alternative 2) is the least efficient of all the action alternatives at 57 percent. DEIS at 4-78. The other action alternatives, according to NMFS, have predicted hunt efficiencies of 67 percent (Alternative 3), 100 percent (Alternative 4), 80 percent (Alternative 5), and 100 percent (Alternative 6). DEIS at 4-78/4-79.</p> <p>Given the foregoing evidence and recognizing that the MMPA requires NMFS to mandate the most “humane” method for taking marine mammals, if NMFS wrongly elects to grant the Tribe’s waiver application, it must require the</p>	

Sort #	Commenter Code	Comment	Response
		<p>use of explosive grenades containing penthrite as the primary as well as secondary killing method for gray whales. The fact that such grenades and the darting or shoulder guns used to fire the grenades into a whale are expensive is immaterial in this case. The MMPA does not allow cost to be considered in determining the most “humane” method available to kill a marine mammal. Conversely, allowing the Makah to kill gray whales with either the .50 caliber or .577 caliber rifles would violate the “humane” requirement contained in the Act.</p>	
14	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Furthermore, although significant concerns about public safety in regard to the use of these powerful rifles are addressed elsewhere in this comment letter, requiring the use of penthrite grenades would substantially reduce risks to public safety, as the grenades, due to their weight, have a significantly smaller range than a bullet (i.e., a grenade certainly could not travel as far as 5 miles like a bullet fired from a .50 caliber rifle).</p>	Comment noted.
15	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><b>Endangered Species Act</b></p> <p>The Endangered Species Act is the nation’s preeminent law protecting federally listed threatened and endangered species and their habitats. Its purpose is “to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions” identified in the ESA. ESA Section 2(b). Furthermore, Congressionally-designated policy requires that “all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.” Id. at Section 2(c). Section 7 of the Act mandates that “each federal agency ... in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species.” ESA Section 7(a)(2). To facilitate compliance with the consultation process, “each Federal agency shall ... request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action.” Id. at Section 7(c)(1). If the “Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any</p>	<p>This background description of the ESA is noted.</p> <p>Section 3.3.3.2, Biological Resources, describes the listed fish species in the project area and associated critical habitat designations, as well as fish species designated as overfished under the Magnuson Act and areas designated as essential fish habitat.</p> <p>We will consider including costs of consultation under the Endangered Species Act in a final EIS. Section 7 of the ESA does not provide for public participation in the consultation process. The public will have an opportunity to participate in further proceedings under the MMPA, in particular the permitting process.</p> <p>Information developed during the NEPA analysis may inform a</p>

Sort #	Commenter Code	Comment	Response
		<p>endangered species or threatened species which is likely to be affected by such action” Id.</p> <p>As indicated in the DEIS, there are 14 federally listed endangered (nine species) or threatened (five species) in or near the Project Area. NMFS does not identify any species proposed to be listed under the ESA that may exist in or near the Project Area, although it does identify the sea otter (Washington stock) as a species considered to be endangered by the State of Washington. DEIS at 3-206. Based on a review of information about state and federally protected species maintained by the Washington Department of Fish and Wildlife (accessible at <a href="http://wdfw.wa.gov/conservation/endangered/All/">http://wdfw.wa.gov/conservation/endangered/All/</a>), it appears that there may be other federally protected species, particularly fish, including a number of stocks of salmon, that may live in or near the Project Area that were not identified in the DEIS. NMFS also fails to indicate if critical habitat has been designated for any federally protected species other than the Southern Resident killer whales in the Project Area. NMFS must disclose all federally listed threatened and endangered species in the Project Area and provide analysis of how the proposed hunt may affect those species and their habitat, particularly any critical habitat designated for the species. As NMFS has apparently failed to disclose all relevant information about ESA-protected species in the DEIS, this constitutes a violation of NEPA.</p> <p>Furthermore, NMFS provides no discussion of the ESA consultation requirements and its efforts to satisfy that mandate. There is no reference to any discussion with its own protected species division or with the USFWS regarding federally protected species in the Project Area. Nor does NMFS report whether it is preparing a biological assessment, if said assessment is completed, and/or if it has initiated or concluded its own internal consultation process or the consultation requirement with the USFWS for protected species under its jurisdiction. NMFS must provide assurance that it has complied or is complying with the ESA. Ideally, NMFS should provide the public with an opportunity to participate in the consultation process but, at a minimum it must disclose that it has or is engaged in consultation and, if completed, share the results.</p>	<p>subsequent ESA analysis. It would be premature to begin the process of an ESA section 7 consultation on a waiver and regulations under the MMPA, given the many steps remaining in the MMPA regulatory process before an action is selected.</p>
16	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><b>National Environmental Policy Act</b></p> <p>NEPA is the basic national charter for protection of the environment. 42 U.S.C. § 4321 et seq. It requires that “environmental information is available to public officials and citizens before decisions are made and before actions are taken.” 40 CFR § 1500.1(b). Said information “must be of high quality” and subject to “accurate scientific analysis.” Id. Ultimately, a NEPA analysis and</p>	<p>This background description of NEPA is noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>decision-making process is “intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.” Id. at § 1500.1(c). An Environmental Impact Statement (EIS) as required under NEPA “shall provide full and fair discussion of significant environmental impact and shall inform decisionmakers and the public of the reasonable alternative which would avoid or minimize adverse impacts or enhance the quality of the human environment.” Id. at § 1502.1.</p> <p>Impacts, in the context of NEPA, are synonymous with “effects.” NEPA requires agencies to evaluate the direct, indirect, and cumulative impacts or effects of the proposal or any alternatives. Any alternatives included in a NEPA document must be reasonable, include reasonable alternatives not within the jurisdiction of the lead agencies, must include a no- action alternative, id. at § 1502.14(a)(c) and (d), and can also include alternatives that may require legislation to implement. DEIS at 2-2 citing 46 Federal Register 18027(2b). Qualitatively, reasonable alternatives include those alternatives that are practicable or feasible from a technical and economic standpoint and that use common sense, rather than being simply desirable from the standpoint of the applicant. DEIS at 2-2. The agency is required to “rigorously explore and objectively evaluate all reasonable alternatives” Id. at § 1502.14(a) and, for those alternatives considered but eliminated from detailed study, must discuss the reasons for eliminating alternatives from substantive analysis. Id.</p> <p>Council on Environmental Quality (CEQ) regulations implementing NEPA – with which all agencies must comply – do not define “reasonable alternative” but explains that “reasonable alternatives to proposed actions will avoid or minimize adverse effects of these actions upon the quality of the human environment.” 40 CFR § 1500.2(e). However, the National Oceanic and Atmospheric Administration’s NEPA Handbook states “reasonable alternatives are those that may be feasibly carried out based on technical, economic, environmental and other factors, and meet the purpose and need for the proposed action (citing 40 CFR § 1502.14).” See NOAA NEPA Handbook at 5.4.4.1.</p> <p>This latter requirement – that a reasonable alternative meets the purpose and need for the proposed action – is not reflected in the NEPA statutory language or in the CEQ’s NEPA regulations, including at § 1502.14, and consequently, may not be lawful. Indeed, as explained in more detail below, if a federal agency on its own behalf or when acting on behalf of a third party can dictate a particular outcome of a NEPA process by crafting its purpose and need</p>	

Sort #	Commenter Code	Comment	Response
		to achieve that outcome – which is precisely what has been done here – it makes a mockery of the entire NEPA process.	
17	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In most cases, the agency should identify the “agency’s preferred alternative or alternatives” unless another law prohibits the identification of a preferred alternative. 40 CFR § 1502.14(e). As explained in the NOAA NEPA Handbook, a “proposed action” and a “preferred alternative” are sometimes synonymous, while in other cases, a “proposed action” reflects a more general objective while the preferred alternative describes how the objective will be achieved. NOAA NEPA Handbook at 5.4.4. For NMFS, as stated in NAO 216-6: Environmental Review Procedures for Implementing the National Environmental Policy Act, if it does not have a preferred alternative, it “must provide a range of alternatives or other indication of the alternatives most likely to be selected, thus informing the public of the likely final action and its environmental consequences” so that “the public is ... able to more effectively focus its comments.” NAO 216- 6 at 5.04(a)3. NMFS has not provided such an explanation in the DEIS.</p>	<p>As the commenter notes, identification of a preferred alternative in the DEIS is not required. The DEIS includes the Tribe’s proposed action (Alternative 2) but does not include an agency preferred alternative because at the time of the DEIS NMFS did not have a preferred alternative. This is consistent with CEQ regulations at 40 CFR 1502.14 (e) and 40 questions 4(b). The DEIS provides a range of alternatives, as required by NAO 216-6 A.</p>
18	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The identification of alternatives (including any proposed action), description of the affected environment, and the analysis of environmental consequences are considered the “heart of the environmental impact statement.” 40 CFR § 1502.14. An agency is required to “present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and provide a clear basis for choice among options by the decisionmaker and the public.” Id.</p>	<p>This background description of NEPA regulations is noted.</p>
19	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In addition, an EIS must include a discussion of “any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man’s environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented.” Id. at § 1502.16. The DEIS does not include a discussion of any of these required elements.</p>	<p>These introductory comment are noted; specific responses are provided below.</p>
20	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>1. NMFS has failed to provide a reasonable range of alternatives in the DEIS:</u></p> <p>The DEIS evaluates the environmental impact of six alternatives. Unfortunately, these alternatives do not comply with NEPA requirements to consider all reasonable and feasible alternatives. Additional alternatives, as described below, should have been evaluated in the DEIS. Two of these alternatives, both of which the Coalition would fully support, were not evaluated</p>	<p>Please see the response to frequent comment # 9 regarding non-lethal action alternatives.</p>



Sort #	Commenter Code	Comment	Response
		<p>at all in the DEIS or were considered and rejected. The first is a non-lethal use alternative whereby NMFS, other federal agencies, and even non-governmental organizations would collaborate with the Makah Tribe to establish marine animal (including whales) watching operations in Neah Bay. Such operations could incorporate the use of the traditional canoes for coastal animal watching excursions or employ motorized vessels to permit coastal and offshore excursions. Properly trained Makah tribal members could act as vessel captains, operators, paddlers, and naturalists on such vessels while the actual operation would be fully owned and operated by members of the Makah Tribe.</p> <p>Considering, as described in the DEIS, the significant marine diversity and aesthetic beauty found in Northwest Washington, including in the Makah U&amp;A, and the current lack of any marine wildlife viewing operations in the Neah Bay area, such an alternative would provide a unique opportunity for visitors to Neah Bay. In addition to creating paid employment on the Makah reservation, if properly marketed, such operations would increase visitation to Neah Bay, which would likely translate into increased revenue for the tribe and individual business owners for accommodations, food, services, and miscellaneous purchases. Unlike existing whale and other marine wildlife viewing operations in Washington or the Vancouver area, the Makah Tribe could use its programs to introduce visitors to its history, culture, and traditions (including its traditions related to whaling), which would then be reinforced if visitors also toured the Makah Cultural and Research Center (Museum).</p> <p>If this alternative were evaluated and ultimately selected, the Makah Tribe would not give up its treaty right to whale but, rather, would agree to suspend its pursuit of an MMPA waiver and its resumption of whaling. While this alternative would not permit the Makah Tribe to kill whales, the Tribe could still use products from any drift/stranded or entangled whales that died and practice all of its traditions related to whaling. It could also, consistent with NMFS whale-watching regulations, interact with gray and other whale species in a non-lethal manner that would create jobs, increase visitation to the refuge, increase revenues, and provide an educational value for tourists.</p> <p>A second reasonable alternative involves providing compensation to the Makah Tribe in exchange for its agreement to suspend its pursuit of an MMPA waiver and cease its efforts to resume whaling. A version of this alternative was considered in the DEIS but rejected (DEIS at 2-30/2-31). This alternative would not involve only financial compensation to the Tribe but, could also include the transfer of land, provision of equipment/supplies needed by the Tribe, federal</p>	

Sort #	Commenter Code	Comment	Response
		<p>grants to address known needs of the Tribe and/or individual tribal members, and/or increase the allocation of fishing quotas consistent with conservation needs, along with a federal funding package the Makah could use to address the many needs in Neah Bay. Some of those needs are referenced in the DEIS and include the development of the Makah Tribe's marine program and its harbor at Neah Bay, an upgraded marine fuel float, creating a deep harbor entry area, and a cruise ship facility. DEIS at 3-22.</p> <p>Other potential uses of such federal assistance or funds, which would provide even greater benefits for more reservation residents and are also identified in the DEIS, are: expanding the reservation's forested land base, studying the feasibility of a marine fish hatchery; diversifying the Makah Tribe's fishing industry (particularly the whiting fishery); constructing a visitor center along with an associated ocean front cabin resort and motel, a boardwalk, a wellness/medical center, senior citizens apartments, housing for medical clinic workers, baseball fields, trails for tsunami escape corridors, walking paths, and a new Makah tribal council office; conducting road improvements; developing a new clean water source for the reservation, revitalizing the downtown area, expanding the Shi-Shi Trail, and upgrading the tribal communications network; developing wind energy generation units on the reservation; and facilitating improvements in the tribe's value-added seafood processing capacity. DEIS at 3-23.</p> <p>If this alternative were selected, the Makah Tribe would retain its treaty right to whale but would agree to suspend pursuit of whaling for a set period of time (e.g., 25 years). This alternative is similar to the agreement reached by the Nuu-chah-nulth, a First Nations group that resides on Vancouver Island, with the Canadian government (see DEIS at 1-28). The benefits of such an alternative would be recognized by every tribal member who resides in Neah Bay and could be used to improve the quality of life on the reservation by improving urgent care capabilities, expanding existing medical facilities, enhancing the care of tribal elders, expanding and strengthening tribal substance abuse programs, improving housing standards, and meeting other urgent and critical needs in Neah Bay.</p> <p>NMFS rejected this compensation alternative because it claimed that any of the activities under this alternative would be speculative and would involve uncertain negotiations between the Makah Tribe and other government and non-governmental entities. DEIS at 2-30. This is simply not accurate since, if such an alternative were selected, then once the negotiations on a compensation</p>	

Sort #	Commenter Code	Comment	Response
		package began, specific components of such a package would be identified and articulated.	
21	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS will also likely claim, as it already has for the second suggested alternative, that these alternatives cannot be selected as they do not satisfy the purpose and need for either the Makah Tribe or NMFS. As explained above, however, this claim is not consistent with NEPA. Even if it were, as also noted above, NMFS must restate its purpose and need (and delete the Makah Tribe's purpose and need) to ensure the NEPA decision-making process is legitimate (i.e., by ensuring the No Action Alternative is a viable alternative that can be selected at the conclusion of the NEPA decision-making process).</p>	<p>We disagree with the commenter's position that we must eliminate the Makah Tribe's stated purpose and need for action and that by including it we preclude selecting the No-Action Alternative. CEQ's NEPA guidance (December 2007) notes that "One key aspect of a draft EIS is the statement of the underlying purpose and need. Agencies draft a "Purpose and Need" statement to describe what they are trying to achieve by proposing an action. The purpose and need statement explains to the reader why an agency action is necessary, and serves as the basis for identifying the reasonable alternatives that meet the purpose and need." DEIS Section 1 (Purpose and need) describes the necessity for agency action and our consideration of prospective action alternatives. Moreover, a No-action alternative carries equal weight as a viable option for final alternative selection by the decision-maker, as supported by CEQ regulations, regardless of consistency with a purpose and need statement. If the No-action Alternative is the alternative that the agency concludes would fulfill its statutory mission and responsibilities, it can be selected by the agency decision-maker (in other words, the proposed action can be</p>

Sort #	Commenter Code	Comment	Response
			withdrawn causing the No-action Alternative to stand).
22	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Another alternative that should have been evaluated would combine many of the most conservative elements of the existing action alternatives. In this case, such an alternative would permit whaling during a split season (i.e., three weeks in December and May), all whaling would be required to occur at least five miles offshore, maximum annual take would be limited to one whale (and no more than 6 over six years), a limit of a single struck and lost whale (with any lost whale counted as a PCFG whales), a limit on the take of PCFG whales to be 10 percent of the OR-SVI PBR (.23),<sup>18</sup> with no carryover of any unused limit, and expiration of the MMPA waiver and any associated regulations and permits after ten, three, and three years, respectively. In addition, the Makah Tribe would be required to use penthrite grenades as its primary killing weapon. Such an alternative would allow the Makah to take a limited number of whales during time periods when the risk to WNP gray whales would be reduced. It would also provide increased protection to PCFG whales that occur within the OR-SVI area (the area that the Makah Tribe identified as the recommended region for analysis) by imposing a restrictive take limit which, if a PCFG whale were killed, would require a hiatus in the hunt for as many as four years. In addition, because the hunt would take place well offshore and would require the use of penthrite grenades, it would result in more rapid death to struck whales and would reduce threats to public safety. The expiration of the permits, regulations, and waiver would ensure that NMFS revisits its decision with some frequency in order to make any adjustments as dictated by scientific evidence and social concerns (i.e., adaptive management).</p> <p>While the Coalition would not support this alternative, it should have been evaluated since it combines many of the most conservative collections of elements from the other action alternatives, which would permit the Makah Tribe to engage in ASW but would limit the impact of any hunt to ENP, PCFG, and WNP gray whales and be more humane.</p> <p><sup>18</sup> Section 118 of the MMPA sets a goal of reducing incidental mortality of marine mammals in commercial fisheries to “insignificant levels approaching a zero mortality and serious injury rate.” 16 U.S.C. § 1387, DEIS at 2-21. NMFS considers this goal as being met when commercial fisheries result in a mortality rate of marine mammals that is 10 percent or less of PBR. Id.</p>	<p>We evaluated these elements under the various alternatives in the DEIS. NEPA does not require that we combine the most conservative elements into a single alternative, nor does it preclude us from selecting a preferred alternative in a Final EIS that incorporates elements from different alternatives. The purpose of NEPA is to illuminate relevant effects of alternative actions to inform decision-making. When a proposed action includes numerous elements, as is the case here, the alternatives do not need to include every possible combination. What matters is that the decision-maker can discern the relevant effects of the various elements.</p>

Sort #	Commenter Code	Comment	Response
23	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>2. NMFS has failed to disclose all relevant information and to provide a clear and accurate analysis of the environmental consequences of the no action and action alternatives:</u></p> <p>The affected environment and environmental consequences sections of the DEIS provide the heart of the analysis. The former is intended to fully document the characteristics of the affected environment, while the latter considers the impacts on that environment of the alternatives evaluated in the DEIS. Because of the linkages between these sections of the DEIS, they will be considered together here. Analysis is not provided of each of the environmental variables (e.g., water quality, public services) contained in the DEIS. This is not to suggest these variables are not important but only that the Coalition does not have substantive concerns with the relevant analyses contained in the DEIS, unlike the variables discussed below. Prior to discussing the categories of environmental consequences where the Coalition has substantive concerns, there are broader issues relevant to the content of the affected environment and environmental consequences sections of the DEIS.</p> <p>NEPA requires federal agencies to disclose all relevant information in an EIS. Here, the DEIS does not satisfy this important standard, as critical information has not been disclosed. Where NMFS has failed to fully disclose all relevant information in any of the categories of environmental consequences evaluated in the DEIS, a discussion of the missing information and its relevance to analysis of environmental impacts is included below. In some cases, NMFS has claimed relevant information is not available. While the Coalition questions the legitimacy of many of these claims, that analysis is also incorporated below.</p>	These introductory comment are noted; specific responses are provided below.
24	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The CEQ NEPA implementing regulations explicitly address how federal agencies are to deal with incomplete or unavailable information. For incomplete information that is “essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.” 40 CFR § 1502.22(a). For information that cannot be obtained “because the overall costs of obtaining it are exorbitant or the means to obtain it are not known,” the agency must provide, in the DEIS: “1) a statement that such information is incomplete or unavailable; 2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment; 3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impact on the human environment, and 4) the agency’s evaluation of such</p>	This introductory comment is noted. Subsequent responses address this commenter’s specific claims of incomplete or unavailable information. To the extent a statement regarding such information is necessary and was not provided in the DEIS, we will provide such a statement in a final EIS.

Sort #	Commenter Code	Comment	Response
		<p>impact based upon theoretical approaches or research methods generally accepted in the scientific community.” Id. at § 1502.22(b)(1-4). NMFS has failed to provide the required statement for information that it deems to be unavailable for analysis in the DEIS.</p>	
25	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>3. NMFS has failed to define the impact levels used in the DEIS:</u></p> <p>The DEIS is also missing critical information relevant to the impact levels relied on in the analysis of environmental consequences. Impact thresholds for the purpose of this discussion are the terms used to identify the physical or temporal severity and/or the geographic scope of the environmental impacts caused by action alternatives. Throughout the DEIS, NMFS uses terms such as “negligible,” “minor,” “small,” “temporary,” “short-term,” “no appreciable effect,” “improbable,” “localized,” and other terms to describe its assessment of such impacts. NMFS “interprets” “negligible” in the DEIS to mean “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR § 216.103),” DEIS at 2-21, but it fails to provide a definition for any of the other impact level terms used in in the document.</p> <p>The definition of “negligible” cited above is relevant to NMFS’s analysis of incidental take of marine mammals by United States citizens engaged in specific activities (other than commercial fishing) within a specified geographic range. Id. It is not clear if NMFS is applying this same definition in the context of its analysis of the environmental impacts of the Makah Tribe’s proposed whale hunt in the DEIS. If not, then NMFS has not provided a definition of “negligible” in the DEIS. If so, its use of this definition raises additional questions since, as NMFS notes in the DEIS, “in practice, we consider an incidental take that does not exceed 10 percent of PBR to have a negligible impact” DEIS at 2-21 (citing 64 Fed. Reg. 28,800, May 27, 1999).</p> <p>Since, in the present context, the take of gray whales may be intentional and, at least for PCFG gray whales under several alternatives, the level of take will be at or in excess of PBR, it would not appear that the use of this term is appropriate. Furthermore, some claims of a “negligible” impact in the DEIS have nothing to do with impacts to a species or population stock, further suggesting that the definition of “negligible” in the DEIS is not relevant to the use of “negligible” in evaluating the environmental consequences of the proposed Makah hunt.</p>	<p>The discussion of impacts throughout the DEIS uses descriptive terms such as those cited in the comment to qualitatively describe impacts. Table 4-15 summarizes and compares the impacts of the alternatives on each resource, as required by NEPA. It was not the intent that the descriptive terms used in the narrative would have a quantitative meaning as the commenter cites in other NMFS NEPA documents. The DEIS describes and compares the impacts of the alternatives (relative to the No-action Alternative) in both quantitative and qualitative terms as appropriate, including via numerous tables and figures (e.g., Table ES-1, Table 4-15, and Figure 4-1).</p> <p>The DEIS uses the term "negligible" in its dictionary definition sense, which is "so small or unimportant or of so little consequence as to warrant little or no attention." (Merriam-Webster).</p>

Sort #	Commenter Code	Comment	Response
		<p>Moreover, with the exception of a few instances where it includes text in parentheses to ostensibly explain the meaning of the term being used, NMFS has failed to include any definition of any of the other impact thresholds in the DEIS.</p> <p>NMFS is well aware of the fundamental need to define such impact thresholds. For example, its Final Environmental Impact Statement for Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt on Bowhead Whales for the Years 2013 through 2018 (Bowhead EIS),<sup>19</sup> published in January 2013, includes a section (see pages 74-76 in Bowhead EIS) explaining the “Steps for Determining Level of Impact.” In that section, NMFS explains the legal basis for having to define impact levels:</p> <p>The CEQ regulations implementing NEPA state that an EIS should discuss the significance, or level of impact, of the direct, indirect, and cumulative effects of the proposed alternatives (40 CFR § 1502.16), and that significance is determined by considering both the context in which the action will occur and the intensity of the action (40 CFR § 1508.27). Context and intensity are often further broken down into components for impact evaluation. The context is composed of the extent of the effect (geographic extent or extent within a species, ecosystem, or region) and any special conditions, such as endangered species status or other legal status. The intensity of an impact is the result of its magnitude and duration. Actions may have both adverse and beneficial effects on a particular resource. A component of both the context and the intensity of an effect is the likelihood of its occurrence.</p> <p>The combination of context and intensity is used to determine the level of impact on each type of resource. The first step is to examine the mechanisms by which the proposed action could affect the particular resource. For each type of effect, the analysts develop a set of criteria to distinguish between major, moderate, minor, or negligible impacts. The analysts then use these impact criteria to rank the expected magnitude, extent, duration, and likelihood of each type of effect under each alternative.</p> <p>NMFS then goes on to include a number of definitions of different impact levels. For example, as to the impact of the proposed action and any alternatives on bowhead whales, NMFS defines “negligible,” “minor,” “moderate,” and “major” based on the relevant “Q” values from the 2006 stock assessment report for this stock of bowhead whales. For other variables evaluated, NMFS provides definitions of terms such as “temporary,” “long-term,” “moderate,” “frequent,” “infrequent,” and “likely.”</p>	

Sort #	Commenter Code	Comment	Response
		<p>In its Supplemental Draft Environmental Impact Statement on the Effects of Oil and Gas Activities in the Arctic Ocean (March 2013), it provides a more comprehensive (and useful) suite of definitions of impact levels used in its analysis. In that document, NMFS defines: “low,” “medium,” and “high” in regard to the intensity (magnitude) of the impacts; “temporary” and “long-term” in the temporal context of the duration of the impact; “local,” “regional,” and “state-wide” in regard to the extent of the impact; and “common,” “important,” and “unique” in terms of the value of the resources that may be impacted. It then, for its “qualitative thresholds,” provides a definition of “negligible,” “minor,” “moderate,” and “major.” In that NEPA document, “negligible” is defined as “impacts (that) are generally extremely low in intensity (often they cannot be measured or observed), are temporary, localized, and do not affect unique resources.” This definition is different from the definition of “negligible” in the context of incidental take analyses.</p> <p>In the context of the DEIS, not only has NMFS failed to define the impact levels that it has used in its analysis, but it has even failed to provide a full complement of impact levels as reflected in the other NEPA documents identified above. Importantly, it is not just a matter of defining impact levels, but the impact levels used also must be developed so they are distinguishable, such that the public and decisionmakers are able to easily understand the difference between the various levels used (e.g., how a “negligible” impact is distinguished from a “minor” impact).</p> <p>As noted previously, the alternatives, affected environment, and environmental consequences sections of any EIS is considered the “heart” of the analysis and an agency “should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public.” 40 CFR § 1502.14. In order to sharply define the issues and to ensure, post- decision, that the agency’s analysis of impact levels was accurate, it follows that the impact levels used must be meaningful, distinguishable, quantifiable, and/or measureable. If not, then the impact levels effectively become irrelevant since there would be no mechanism to differentiate between the reported impacts. In other words, the agency’s analysis would be based largely on speculation as to severity of any impacts.</p> <p>In <i>Bluewater v. Salazar</i> (721 F.Supp.2d 7 D.D.C. (2010)), the National Park Service was criticized for its failure to use meaningful, distinguishable, quantifiable, and measureable impact thresholds in its impairment analysis of</p>	



Sort #	Commenter Code	Comment	Response
		<p>allowing jet skis use in the Gulf Islands National Seashore. The court went into great detail to explain why impact levels (or thresholds) in the context of the NPS impairment standard must be distinguishable from each other. While the NPS impairment standard is not a component of NEPA, the impact level concept is exactly the same, suggesting that impact levels contained in NEPA documents must, at a minimum, meet the standards imposed in Bluewater. Given the critical importance of the impact analysis in any EIS, the failure by NMFS to define the impact levels used in the DEIS, to provide a full complement of impact levels (i.e., to address the intensity, temporal context, extent, resource value, and physical impact of an action and its alternatives), and to differentiate between impact levels, is not an error that can be corrected in a Final EIS. Rather, at a minimum, NMFS needs to suspend the current NEPA process while it prepares a Supplemental EIS to address this (and other deficiencies) in the DEIS.</p> <p><sup>19</sup> Available at:  <a href="https://alaskafisheries.noaa.gov/protectedresources/whales/bowhead/eis0113/final.pdf">https://alaskafisheries.noaa.gov/protectedresources/whales/bowhead/eis0113/final.pdf</a></p>	
26	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><b>Other Federal Agencies and Additional Legal Concerns</b></p> <p><u>1. NMFS has failed to adequately evaluate how the proposed whale hunt would impact other federal agencies with jurisdiction within the Project Area or to clearly explain management authorities of those agencies:</u></p> <p>The Obama Administration has led a push towards the use of ecosystem-based management of our marine resources. In its 2011 EBM Strategic Action Plan Outline, the National Ocean Council (NOC) defined EBM as: an integrated approach to resource management that considers the entire ecosystem, including humans, and the elements that are integral to ecosystem functions. EBM is informed by science to conserve and protect our cultural and natural heritage by sustaining diverse, productive, resilient ecosystems and the services they provide, thereby promoting the long-term health, security, and well-being of our Nation.</p> <p>In a 2013 report to the NOC, the Ocean Research Advisory Panel (ORAP) stated: EBM is an integrated approach to management that drives decisions at the ecosystem level to protect the resilience and ensure the health of the ocean, our coasts and the Great Lakes. EBM is informed by science and draws heavily on natural and social science to conserve and protect our cultural and natural heritage, sustaining diverse, productive, resilient ecosystems and the services they provide, thereby promoting the long-term health, security, and well-being of our Nation.</p>	These introductory comment are noted; specific responses are provided below.

Sort #	Commenter Code	Comment	Response
		<p>As described in the DEIS, the project area encompasses several federally designated and managed areas, including the Olympic Coast National Marine Sanctuary (OCNMS), the Washington Islands National Wildlife Refuges, Olympic National Park, and internationally designated areas, including a United Nations World Heritage Site and the Olympic Biosphere Reserve, as well as the Makah and Ozette Reservations.</p> <p>To be consistent with EBM, NMFS must take into consideration the environmental impacts of a proposed hunt on this larger geographic region, which it has not done in this DEIS, as explained below.</p> <p>There are a number of federal agencies that manage lands or waters within the Project Area. These agencies include NOAA, the National Park Service, and the United States Fish and Wildlife Service. For each of the areas managed by these agencies, there are separate statutes and regulations that dictate wildlife management requirements.</p> <p><u>Olympic Coast National Marine Sanctuary (OCNMS):</u></p> <p>The OCNMS is managed by NOAA’s Office of National Marine Sanctuaries. As noted in the OCNMS Final Management Plan and Environmental Assessment, the OCNMS encompasses 2,500 square nautical miles of marine waters off of Washington’s Olympic Peninsula coast. See Figure 1. Its location enhances protections to the region’s natural integrity provided by both Olympic National Park and the Washington Maritime National Wildlife Refuge Complex. The area’s nutrient-rich waters contribute to the high primary productivity within the OCNMS, which attracts twenty-nine species of marine mammals, some of the largest seabird colonies in the continental United States, and a variety of commercially important fish species. It also supports the critical habitats of a number of unique communities of organisms, including deep sea coral and one of the world’s most diverse seaweed communities.</p> <p>Figure 1: Map of OCNMS (available at <a href="http://sanctuaries.noaa.gov/pgallery/atlasmaps/oc.html">http://sanctuaries.noaa.gov/pgallery/atlasmaps/oc.html</a>)</p> <p>The OCNMS is managed pursuant to the National Marine Sanctuaries Act (NMSA). The NMSA, enacted in 1972, authorizes the Secretary of Commerce to designate and protect areas of the marine environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities as national marine sanctuaries. The primary objective of the NMSA is to protect marine resources, such as coral reefs, sunken historical vessels or unique habitats.</p>	

Sort #	Commenter Code	Comment	Response
		<p>Section 304(d) of the NMSA requires federal agencies whose actions are “likely to destroy, cause the loss of, or injure a sanctuary resource,” to consult with the program before taking the action. The program is, in these cases, required to recommend reasonable and prudent alternatives to protect sanctuary resources. 16 U.S.C. § 1434(d).</p> <p>The boundaries of the Makah U&amp;A appear to overlap with the boundaries of the northern portion of the OCNMS. Regulations relevant to the OCNMS generally prohibit the taking of marine mammals and other species in or above the sanctuary, except if such taking is authorized by several laws or treaties. Specifically, the regulations prohibit: Taking any marine mammal, sea turtle or seabird in or above the Sanctuary, except as authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 et seq., the Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 et seq., and the Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 et seq., or pursuant to any Indian treaty with an Indian tribe to which the United States is a party, provided that the Indian treaty right is exercised in accordance with the MMPA, ESA, and MBTA, to the extent that they apply.</p> <p>15 CFR § 922.152(a)(6)</p> <p>While the whaling provisions in the Treaty of Neah Bay would appear to secure the Makah Tribe’s ability to hunt whales within the OCNMS, information in the OCNMS Final Management Plan and EA suggests that a management plan is required to facilitate this exemption to the general prohibition against taking marine mammals in the OCNMS. As explained in the Final Management Plan and EA:</p> <p>NOAA’s implementation of the NMSA and its duty to implement the federal trust responsibility toward American Indian tribes complement and support one another. The purposes and policies of the NMSA include the following, “to maintain the natural biological communities in national marine sanctuaries, and to protect, and where appropriate restore and enhance natural habitats, populations, and ecological processes.” This statutory mission supports NOAA’s implementation of its trust responsibility for the protection of treaty trust resources, tribal access to treaty resources and the sustainable development of treaty rights. <u>One of the purposes and policies of the NMSA is “to develop and implement coordinated plans for the protections and management of [sanctuaries] with ... Native American Tribes and organizations...and other public and private interests concerned with the</u></p>	

Sort #	Commenter Code	Comment	Response
		<p>continuing health and resilience of these marine areas.” <u>This policy statement in the NMSA supports OCNMFS efforts to defer to tribal management plans that achieve the statutory mission and obligations of OCNMS.</u></p> <p>Finally, the NMSA’s objective “to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of” national marine sanctuaries supports implementation of NOAA’s trust responsibility to protect the exercise of treaty rights, now and in perpetuity. The NMSA and the federal trust responsibility provide one basis, among many, for the determination OCNMS regulations do not restrict the ability of Coastal Treaty Tribes to exercise their treaty protected rights (15 CFR 122.152(f)). <u>The Coastal Treaty Tribes and NOAA strive to develop joint activities and projects, and to engage in the collaborative development and implementation of coordinated plans for the management and protection of treaty resources, to ensure resilience of those resources, and to promote the continuing health of the OCNMS ecosystem.</u> (Final Management Plan and EA at 10; emphasis added).</p>	
27	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>This language indicates that OCNMS and the Makah Tribe either must develop a coordinated plan for the protection and management of treaty resources or the OCNMS can defer to a management plan promulgated by the Makah Tribe. Any such plan, however, must provide for the protection of treaty resources, ensure the resilience of those resources, and promote the continuing health of the OCNMS ecosystem. NMFS does not provide any information in the DEIS to suggest that such a management plan for gray whales or for all sanctuary resources that may be exploited by the Makah Tribe has been developed. If such a plan exists, it should be disclosed as part of the NEPA process. If no plan is available, the Makah must not be allowed to engage in whaling within the OCNMS until it, ideally in collaboration with OCNMS representatives, promulgates a plan. Such a plan should be subject to public notice and comment before it is finalized.</p>	<p>NMFS is consulting with OCNMS, as appropriate under the National Marine Sanctuaries Act and as subject to the requirements of that Act. The language in the OCNMS Final Management Plan, that NOAA and the Tribe will “strive to” develop a joint management plan, does not require the Tribe to have a plan in place before exercising its treaty rights.</p>
28	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Washington Islands National Wildlife Refuges:</u></p> <p>The Washington Islands National Wildlife Refuges include the Flattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges. See Figure 2. The refuge complex is under the jurisdiction of the US Fish and Wildlife Service (USFWS). For management purposes these refuges are managed as part of a complex. Flattery Rocks National Wildlife Refuge (NWR) is the furthest north of all three refuges and is the refuge most likely to be affected by the proposed Makah hunt. See Figure 3.</p>	<p>These introductory comment are noted; specific responses are provided below.</p>

Sort #	Commenter Code	Comment	Response
		<p>In 1907, President Theodore Roosevelt signed Executive Order 703, establishing the Flattery Rocks Reservation. That EO specified that: It is hereby ordered that all small, unsurveyed and unreserved islands lying off the coast of the State of Washington in the Pacific Ocean, between latitudes 48° 02' North and 48° 23' North, among which are those named and commonly known as Spike Rock, Father and Son, Bodi-el-teh Islets, Flattery Rocks, Ozette Island and White Rock, as the same are shown upon coast survey chart No. 6400, or upon the General Land Office map of the State of Washington, dated 1887, and located within the area segregated by a broken line and shown upon the diagram hereto attached and made a part of this order, are hereby reserved and set aside for the use of the Department of Agriculture, as a preserve and breeding ground for native birds and animals. This reservation to be known as Flattery Rocks Reservation. In 1940, by proclamation, Flattery Rocks, Quillayute, and Copalis reservations were redesignated as national wildlife refuges. In 1970, all three refuges were designated as wilderness areas.</p> <p>Figure 2: Map of the Washington Islands National Wildlife Refuges (available at <a href="http://www.thearmchairexplorer.com/washington/w-images/nwr-photos/Washington_Maritime_NWRC_Ma.jpg">http://www.thearmchairexplorer.com/washington/w-images/nwr-photos/Washington_Maritime_NWRC_Ma.jpg</a>)</p> <p>Figure 3: Map of Flattery Rocks National Wildlife Refuge (available at <a href="https://upload.wikimedia.org/wikipedia/commons/thumb/7/70/Flattery_Rocks_NWR_Map.svg/283px-Flattery_Rocks_NWR_Map.svg.png">https://upload.wikimedia.org/wikipedia/commons/thumb/7/70/Flattery_Rocks_NWR_Map.svg/283px-Flattery_Rocks_NWR_Map.svg.png</a>)</p> <p>Management of Flattery Rocks NWR is complicated given the multiple agencies, state and federal, and tribal that have separate or overlapping jurisdiction for the management of natural resources in the area. As explained in the Washington Islands National Wildlife Refuges Comprehensive Conservation Plan and Environmental Assessment (CCP/EA): The Service (USFWS) is responsible for most of the islands, rocks, and seastacks above the mean high water line. As with other national wildlife refuges, the Service is responsible for any wildlife, fish, and plants that occupy the Washington Islands NWRs whether they are seasonal or permanent residents. This includes seabirds, shorebirds, and marine mammals that use the Refuges' islands and shoreline. Although Service responsibilities cover terrestrial environments, the Refuges are vitally linked with the surrounding marine environment and its resources. The waters surrounding the Flattery Rocks NWR are largely managed by the OCNMS although, given the purpose of the refuge to protect birds and animals and the legally designated</p>	

Sort #	Commenter Code	Comment	Response
		<p>refuge boundary that includes a large amount of ocean habitat, the USFWS must have some role in the management of this wildlife, including ocean species.</p> <p>Management of Flattery Rocks NWR is governed by the National Wildlife System Administration Act, as amended by the National Wildlife Refuge System Improvement Act (16 U.S.C. § 668dd et seq.). While hunting can be permitted on national wildlife refuges, the USFWS must engage in an independent planning process to open a refuge to hunting or to amend or modify hunting practices once a refuge has been opened to hunting. In addition, refuge-specific hunting regulations must be promulgated. The Flattery Rocks NWR is not open to hunting or fishing, as there are no refuge-specific hunting or fishing regulations published in the Code of Federal Regulations (see 50 CFR 32.67).</p>	
29	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Since the waters surrounding Flattery Rocks NWR appear to be managed by ONNMCS up to the “higher high water mark on Refuge islands,” it would appear any hunting of whales by the Makah Tribe within the boundaries of the Flattery Rocks NWR does not require refuge-specific hunting regulations. However, if such hunting resulted in adverse impacts to the birds and mammals that utilize the islands, beaches, and rocky outcrops within the Flattery Rocks NWR, or if the Makah were to land a struck whale on lands under the jurisdiction of the USFWS, then the USFWS would have the authority to act to protect such species and their habitat despite NMFS’s jurisdiction over whales under the MMPA and ESA. More than likely, given USFWS NWR regulations and policies, the Makah would not be authorized to land a whale onto any of the islands within the Washington Islands National Wildlife Refuges complex absent prior authorization to do so. As explained in the CCP/EA, the USFWS can enter into Memoranda of Understanding with tribal governments to permit their use of refuge lands and resources but, in this case, there is no evidence such an MOU has been negotiated between the Makah Tribe and the USFWS.</p> <p>Given the confusing mixture of management jurisdictions among federal, state, and tribal agencies in this region, NMFS must include a more detailed analysis of the various agencies and their management responsibilities in a revised EIS. In particular, it must identify the legal standards, including those relevant to the USFWS, that govern management of terrestrial and aquatic species in the area and under what circumstances the agencies have a role in the wildlife management decision-making process. Furthermore, NMFS must clarify if the Makah can land a dead whale on USFWS refuge lands, what permits would be required to do so, and evaluate how that could impact refuge wildlife, including refuge birds, and wildlife habitat.</p>	<p>For each affected resource the DEIS describes the regulatory environment. We are unaware of any permitting requirements for the Tribe to land a harvested whale on refuge lands. The CCP/EA includes a discussion (Section 1.7.5 – Tribal Consultation) describing the meetings between USFWS refuge staff and the Makah (and other affected tribes). In those discussions the Tribe noted that it considers these islands within its usual and accustomed ground and stations to be subsistence resources. The commenters assertion that the Makah would not be allowed to land a whale on a refuge island is speculative and inconsistent with the USFWS conclusion in the CCP/EA that “it will continue meeting with the tribes independent of the CCP process to develop memorandums of understanding that are both respectful of the rights and needs of the Tribes and consistent with preserving the</p>

Sort #	Commenter Code	Comment	Response
			wildlife and wilderness values of the Washington Islands Refuges.”
30	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	While the DEIS does provide some broad analysis of the impacts of a hunt on birds, other marine mammals, and intertidal habitat, it fails to provide the level of detail that is required by NEPA in an EIS.	The commenter does not provide any specific information and does not identify how the current detail in the DEIS is deficient. The DEIS provides sufficient detail to allow for an examination of the potential impacts of the proposed action and alternatives.
31	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Olympic National Park:</u></p> <p>Olympic National Park (ONP) is administered by the National Park Service (NPS). ONP protects 922,651 acres of three distinct ecosystem types: glaciers, coastline, and old growth and temperate forests. As described in ONP’s Final General Management Plan and Environmental Impact Statement (ONP GMP EIS), the park provides habitat for 70 unique stocks of Pacific salmon and steelhead, 29 species of native freshwater fish, 1,100 species of native plants, 300 species of birds, including the federally protected marbled murrelet, and 70 species of mammals. ONP GMP EIS at 3. The 70-mile long, 43,000 acre Pacific coastal strip and off-shore islands of ONP provides protection to beached, intertidal areas, and rocky tidal pools as the park’s boundary extends seaward to the “lowest low tideline.” Id. See Figure 4. In addition, 95 percent of the park, including its coastal strip, is Congressionally designated wilderness managed pursuant to statutes governing national parks and the Wilderness Act (16 U.S.C. § 1131, et seq.).</p> <p>Figure 4: Map of Olympic National Park (available at <a href="http://media.away.com/gifs/states/wa/m_olymov.gif">http://media.away.com/gifs/states/wa/m_olymov.gif</a>)</p> <p>ONP is managed pursuant to the NPS Organic Act (16 U.S.C. § 1, et seq.). The fundamental purpose of the NPS is to “promote and regulate the use of the Federal areas known as national parks, monuments, and reservations ... as provided by law, by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” 16 U.S.C § 1. Furthermore, the “authorization of activities (in national parks) shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National</p>	These introductory comments are noted.

Sort #	Commenter Code	Comment	Response
		<p>Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. 16 U.S.C § 1a-1.</p> <p>Regulations specific to ONP indicate that “all hunting or the killing, wounding, or capturing at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited within the limits of the park...” The Secretary of the Interior is also required to promulgate “regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonderful objects within the park, and for the protection of the animals and birds in the park from capture or destruction, and to prevent their being frightened or driven from the park...” As dictated by statute, “possession within the park of the dead bodies or any part thereof of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act.” 16 U.S.C. § 256b.</p>	
32	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>While the majority of ONP is inland and, therefore, not likely to be directly impacted by the proposed hunt, the coastal portion of ONP could be affected. Such impacts could include park visitors observing a hunt, a dead whale being towed back to the Makah reservation, a whale injured by a hunt that strands on ONP lands, or a whale struck and lost by the Makah if it were to wash up on to ONP lands. In addition, albeit unlikely, Makah whalers under certain circumstances, including inclement weather or equipment failure, may elect to land a whale on ONP lands even though this would be illegal under existing ONP regulations.</p> <p>With the exception of conceding that visitors to ONP may be able to see or hear a whale hunt, NMFS failed to consider other potential adverse impacts to ONP visitors like those summarized above. In addition, it did not provide any discussion in the DEIS about the laws relevant to the protection of ONP, what the Makah would be authorized to do (or not to do) on lands and waters under jurisdiction of ONP, nor did it adequately consider the requirements of the Wilderness Act in the context of Makah whaling.</p>	Several sections of the DEIS consider current activities at Olympic National Park (e.g., Section 3.6.3.2.4, Contribution of Tourism to the Local Economy; Section 3.11.3.1.3, Olympic National Park), and potential impacts to resources and visitors at Olympic National Park (e.g., Section 4.6.2.1, Tourism; 4.11.2.2, Noise Levels at Receiving Properties).
33	Schubert (Animal Welfare Institute)_Le	<p><u>The Wilderness Act</u></p> <p>The Wilderness Act permits the designation of wilderness areas in order to protect these areas from increasing human population, expanding settlements, and growing mechanization. 16 U.S.C. § 1362.2(a).</p>	The DEIS identifies the wilderness areas that might be affected by a hunt as well as effects of concern and relevant provisions of the Wilderness



Sort #	Commenter Code	Comment	Response
	tter Only_7-31-15	<p>A wilderness is defined as “an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain,” that retains “its primeval character and influence,” where “natural conditions” are preserved, where there is no “natural improvements or human habituation,” and that “generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable.” Id. at § 1362.2(c). Such areas are to be “administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use as wilderness, and so as to provide for the protection of these areas, (and) the preservation of their wilderness character...”Id. at § 1362.2(a). Within wilderness areas, “there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.” Id. at § 1364.4(c).</p> <p>NMFS has failed to evaluate the environmental impacts of the proposed whale hunt in the context of the Wilderness Act and its stringent standards for the protection of wilderness areas.</p>	<p>Act (e.g., Subsections 3.11.2 and 3.11.12, Regulatory Overview, specifically related to Noise and Aesthetics, respectively). It is unclear what is meant by evaluating impacts of the alternatives "in the context of the Wilderness Act." The DEIS examines the effect of the alternatives on wilderness areas. It is not the purpose of the DEIS to arrive at legal conclusions.</p>
34	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><b>NMFS has failed to disclose all relevant information and to provide a clear and accurate analysis of the environmental consequences of the No Action and action alternatives:</b></p> <p>The affected environment and environmental consequences sections of the DEIS provide the heart of the analysis. The former is intended to fully document the characteristics of the affected environment, while the latter considers the impacts on that environment of the alternatives evaluated in the DEIS. Because of the linkages between these sections of the DEIS, they will be considered together here. Analysis is not provided of each of the environmental variables (e.g., water quality, public services) contained in the DEIS. This is not to suggest that these variables are not important but only that the coalition does not have substantive concerns with the relevant analyses contained in the DEIS, unlike the variables discussed below.</p> <p><u>NMFS has failed to properly evaluate the impact of a proposed whale hunt on ENP, PCFG and WNP gray whales:</u></p> <p>This section provides an overview of each of the alternatives in the context of the potential timing of the hunt, number of hunting (and scouting) days, number and type of vessels involved in hunt related activities, number of ENP and PCFG whales killed, likelihood of striking a WNP, likely number of whales killed, number of unsuccessful harpoon attempts, number of approaches to</p>	<p>These introductory comments are noted.</p> <p>We agree there are many different ways to present whale counts and abundance, and presentation of the data can be confusing. We note that the discrepancies pointed out in this review of the data are minor. We will strive to ensure the final EIS accurately reflects the data as of the time it is published. Any decision-making on the Tribe’s request will incorporate the most up-to-date information available at that time.</p> <p>We respond to specific criticisms of the DEIS analysis below.</p>

Sort #	Commenter Code	Comment	Response
		<p>whales, the number of shots fired, and the number of grenade explosions. As indicated below, there are a number of questions, concerns, and errors in the analysis of the environmental impact of the proposed whale hunt on ENP, PCFG, and WNP gray whales. Most of these issues are raised in the analysis of specific alternatives. Some of the issues raised under one alternative may be also applicable to another alternative. In those instances, such relationships are noted in the text. Before engaging in an alternative-specific analysis, there are broader issues and concerns that warrant discussion and review.</p> <p><u>Scope and focus of DEIS analysis:</u></p> <p>In regard to the scope or focus of the analysis, as explained in the Anderson opinion and as quoted in the DEIS: Even if the eastern Pacific gray whales overall or the smaller PCFG group of whales are not significantly impacted by the Makah Tribes' whaling, the summer whale population in the local Washington area may be significantly affected. Such local effects are a basis for a finding that there will be a significant impact from the Tribe's hunts. Thus, if there are substantial questions about the impact on the number of whales who frequent the Strait of Juan de Fuca and the Northwest Washington coast, an EIS must be prepared.</p> <p>DEIS at 3-122.</p> <p>In the DEIS, NMFS attempts to evaluate the environmental impacts of the hunt on PCFG whales and those PCFG whales in the OR-SVI and Makah U&amp;A regions. The Makah U&amp;A region, as evaluated in the DEIS, does not include any portion of the Strait of Juan de Fuca as the Makah Tribe's proposal explicitly excluded whaling in the Strait. Consequently, if approved, a hunt would only be permitted in the Northern Washington PCFG region. In the waiver application, the Makah Tribe requests that the analysis of the impacts to PCFG whales be focused on those whales within the OR-SVI region. That region encompasses the Makah U&amp;A and, based on PCFG observation records, there is considerable exchange or mixing of PCFG whales within the OR- SVI and Makah U&amp;A regions. As explained below, the analysis provided by NMFS does not consistently focus or apply the correct statistics to the OR-SVI or Makah U&amp;A regions, as requested by the Makah Tribe or directed by the court.</p> <p><u>Pacific Coast Feeding Group:</u></p> <p>The DEIS contains a large amount of information about PCFG whales. This information includes data (numbers and percentages) on gray whales in the PCFG observed over time, seen more than once, seen by PCFG region, and newly seen by year. The assortment of numbers and percentages used throughout the DEIS</p>	

Sort #	Commenter Code	Comment	Response
		<p>can be confusing and difficult to follow. For the purpose of this analysis, the key PCFG information contained in the DEIS is:</p> <ul style="list-style-type: none"> <li>• Since 1977, approximately 650 gray whales have been seen at least once in the PCFG range from June 1 to November 30 and about half of these whales have been seen two or more times over the years. The whales seen more than once meet the definition of PCFG relied on in Alternatives 3-6 of the DEIS. DEIS at 3-144.</li> <li>• Of the 603 whales observed in the PCFG range after June 1 from 1996 through 2011, 309 (51 percent) have never been resighted in the PCFG region, while 44 of the 603 (7.3 percent) have been resighted every summer and 265 (44 percent) have been seen more than once but not in every year. DEIS at 3-137 (citing Calambokidis et al. 2014).<sup>20</sup></li> <li>• 35.5 to 58.8 percent of whales seen in at least one year in the PCFG region from Northern California to Northern British Columbia were seen at some point within the Makah U&amp;A, while 41.4 to 78.9 percent of whales seen within the PCFG region over at least two years were seen at some point within the Makah U&amp;A. DEIS at 3-139 (citing Calambokidis et al. 2014).</li> <li>• Based on PCFG observation records collected from 1996 through 2012, of the 181 whales sighted in the Northern Washington PCFG region (which corresponds to the proposed hunt area) prior to June 1, 73 (40.33 percent) were seen in the PCFG range after June 1, 67 (37.02 percent) were seen in the OR-SVI area after June 1 and 60 (33.15 percent) were seen in the Northern Washington-Strait of Juan de Fuca (i.e., the Makah U&amp;A) area after June 1. DEIS at 3-140 (citing Calambokidis et al. 2014).</li> <li>• The annual average of newly seen whales in the PCFG range, based on data from 1996- 2012, was 35.4, 23.8, and 12.1 for PCFG, OR-SVI, and Makah U&amp;A regions, respectively. DEIS at 3-147. The annual average of newly seen whales that were recruited into the PCFG population was 14.3, 11.8, and 6.1 for the PCFG, OR-SVI, and Makah U&amp;A areas, respectively. DEIS at 3-148.</li> <li>• The number of PCFG whales increased from 38 in 1996 to over 219 in 2005. The population has been relatively stable since 2002. The most recent (2012) population estimate was 209 animals. DEIS at 3-146. Within this region, the number of whales identified in the June through November period has averaged 146 whales from 1996 through 2012. DEIS at 3-148. Of these 146 whales, on average 35 are newly seen whales each year and 14 of these are recruited into the PCFG population (i.e., seen again in a subsequent year). Id. For calculating</li> </ul>	

Sort #	Commenter Code	Comment	Response
		<p>the PBR level, the Nmin for the PCFG whales is 173. DEIS at 3-145 (citing Carretta et al. 2014).</p> <ul style="list-style-type: none"> <li>• For OR-SVI whales, the number of animals increased from 25 in 1996 to 181 in 2008, with the most recent population estimate (2012) being lower but stable at approximately 155 animals. DEIS at 3-154. Within this region, the number of whales identified in the June through November period has averaged 95 whales from 1996 through 2012, ranging from 30 in 2002 to 128 in 2001, with 127 in 2012. Id. Of these 95 whales, on average 24 are newly seen whales (ranging from 8 to 56 with 28 in 2012) and 12 of these (ranging from 3 to 37 with 3 seen in 2012) are recruited into the PCFG population (i.e., seen again in a subsequent year). DEIS at 4-86.<sup>21</sup> For calculating the PBR level, the Nmin for OR-SVI PCFG whales is 152. DEIS at 3-154 (citing Calambokidis et al. 2014).</li> <li>• For Makah U&amp;A whales, the number of animals increased from 18 in 1996 to 82 in 2008, with the most recent population estimate (2012) being somewhat lower but stable at approximately 77 whales. DEIS at 3-155. Within this region, the number of whales identified in the June through November period has averaged 33 whales from 1996 through 2012, ranging from 8 in 2002 to 75 in 2008. Id. Of the 33 whales, on average 12 are newly seen whales (ranging from 1 to 29 with 22 seen in 2012) and 6.1 of these (ranging from 2 to 17 with 4 seen in 2012) are recruited into the PCFG population (i.e., seen again in a subsequent year). DEIS at 4-86.<sup>22</sup> For calculating the PBR level, the Nmin of the Makah U&amp;A whales is 73. DEIS at 3-155 (citing Calambokidis et al. 2014).</li> <li>• Although the IWC has not formally identified the PCFG as a stock, its Scientific Committee noted that its Implementation Review of ENP gray whales (with an emphasis on the PCFG) was “based on treating the PCFG as a separate management stock (which may not be equivalent to a stock as defined under the MMPA).” DEIS at 3-156, footnote 53 (citing IWC 2012). The IWC has also determined that it is plausible the PCFG may be a “demographically distinct feeding group,” DEIS at 3-123, while NMFS concludes that PCFG whales “appear to be a distinct feeding aggregation and may warrant consideration as a distinct stock [under the MMPA] in the future.” Id. at 3-68, 3-123/3- 124, 4-62, 4-65.</li> </ul> <p>It is important to note that PCFG surveys cannot locate and identify every potential PCFG whale. Due to the size of the PCFG range, it is simply impossible to comprehensively survey the entire area each year. In addition, a lack of personnel, equipment, time, and funds do not allow for the survey metrics to be consistent each year. Consequently, the number of PCFG whales seen each year represents only a rough approximation of the whales actually observed each</p>	

Sort #	Commenter Code	Comment	Response
		<p>year. There are two reasons for this: there are likely more whales present each year than are photographed and identified, and it is likely that some whales were present in a previous year but were not photographed and identified. DEIS at 4-66. For example, from 1999 to 2011 there were 14.3 new recruits on average annually in the PCFG, of which 12.5 were not identified as calves, while 1.8 were. The calf estimate could possibly be higher because some of the new whales may have entered the PCFG earlier as calves and were not seen. Id.</p> <hr/> <p><sup>20</sup> It is not known why the numbers cited in the DEIS and repeated in this summary do not add up to 603 whales. NMFS may want to confirm that these numbers are accurate.</p> <p><sup>21</sup> NMFS should reexamine these numbers, particularly the number of newly seen whales, given contradictions in the DEIS 3-154 and 4-86. This discrepancy may be due to how the data are presented in Calambokidis et al. (2014). They are presented as the average number of whales identified per year (95) (page 9) and as the average number of unique whales seen in Table 2 (page 32).</p> <p><sup>22</sup> NMFS should reexamine these numbers, particularly the number of newly seen whales, given contradictions in the DEIS at 3-155 and 4-86. This discrepancy may be due to how the data are presented in Calambokidis et al. (2014). They are presented as the average number of whales identified per year (33) (see page 9) versus as the average number of unique whales seen in Table 2 (page 32).</p>	
35	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Interestingly, when the PCFG, OR-SVI, and Makah U&amp;A PBRs are compared to the PBR for the California/Oregon/Washington stock of sperm whales or the ENP stock of blue whales, those populations are much larger than any of the groups of PCFG gray whales, but their PBR is either half (for the sperm whale) or just slightly higher (for the blue whale) compared to the PBR for PCFG whales.</p> <p>For example, for the CA/OR/WA stock of sperm whales, the estimated population size is 971 animals (Carretta et al. 2013), Nmin is 751, and the recovery factor is 0.1 (because the species is designated as endangered), resulting in a PBR of 1.5 animals. DEIS at 3-211. Using the estimate of 197 PCFG gray whales,<sup>23</sup> there are nearly 5 times as many sperm whales as PCFG whales yet, because the sperm whale is designated as endangered, its PBR is nearly half that of PCFG whales. Similarly, the ENP blue whale has an estimated abundance of 2,497 (Carretta et al. 2013). Despite there being 12.6 times more blue whales than PCFG whales, the recovery factor used for the blue whale is 0.3 (used for endangered species with a minimum abundance estimate of more than 1,500</p>	<p>The recovery factor is based on the overall status of the population stock in question. For example, blue whales and sperm whales are listed as endangered and therefore have an appropriately low recovery factor. The PCFG is not recognized as a stock. The stock assessment report (Carretta et al. 2019) nevertheless calculates a PBR for the PCFG, using a recovery factor of 0.5, which is explained as follows:</p> <p>"Use of the recovery factor of 0.5 for PCFG gray whales, rather than 1.0 used for ENP gray whales, is based on uncertainty regarding stock structure and guidelines for preparing</p>

Sort #	Commenter Code	Comment	Response
		<p>and a CV Nmin of &lt;0.5), resulting in a PBR (3.1) only 0.4 more than the PCFG PBR (2.7).</p> <hr/> <p><sup>23</sup> 197 is the abundance estimate for PCFG whales used in the DEIS even though it is not the most recent abundance estimate, which is 209 whales. Calambokidis et al (2014).</p>	<p>marine mammal stock assessments which state that "Recovery factors of 1.0 for stocks of unknown status should be reserved for cases where there is assurance that Nmin, Rmax, and the kill are unbiased and where the stock structure is unequivocal" (NMFS 2005, Weller et al. 2013). Given uncertainties in external versus internal recruitment levels of PCFG whales described above, the equivocal nature of the stock structure, and the small estimated population size of the PCFG, NMFS will continue to use the default recovery factor of 0.5 for PCFG gray whales."</p>
36	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>While PCFG whales are not presently designated as endangered or depleted, given their low population numbers, the potential for them to be designated as a stock in the future, and remembering the precautionary principle, the PCFG PBR should be calculated using a 0.1 recovery factor. If this were done, the PCFG PBR would be 0.54, while the corresponding PBRs for OR-SVI and Makah U&amp;A PCFG whales would be 0.47 and 0.23, respectively.<sup>24</sup> Alternatively, if the 0.3 recovery factor was used (even though the number of PCFG gray whales is nowhere near a minimum population of greater than 1,500 animals), the PCFG, OR-SVI, and Makah U&amp;A PBR levels would be 1.6, 1.4, and 0.7, respectively.</p> <hr/> <p><sup>24</sup> For these calculations, the Nmins for PCFG, OR-SVI, and Makah U&amp;A that are included in the DEIS were used, along with the larger .062 Rmax (instead of the default value of .04).</p>	<p>Comment noted. The DEIS relied on the stock assessment report for ENP gray whales, which contains the best available scientific information on its status and to inform the PBR estimate. The stock assessment report was adopted following scientific peer review and public notice and comment, which the commenter did not participate in.</p>
37	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The potential impact of each action alternative on PCFG whales, including those that utilize the OR-SVI and Makah U&amp;A, along with WNP gray whales if the maximum permitted number of strikes is used, is summarized in Table 1.</p> <p>Table 1. Estimated number of strikes on PCFG, OR-SVI, Makah U&amp;A, ENP, and WNP whales per year in each PCFG region analyzed in the DEIS under each alternative based on maximum permitted strikes. (Data from Tables in DEIS on pages 4-16, 4-25, 4-29, 4-36, and 4-40/41).</p>	<p>This description of DEIS contents is noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>In regard to the potential impact of any of the action alternatives on PCFG whales, including whales in the OR-SVI and Makah U&amp;A, NMFS largely dismisses any meaningful effects.</p>	
38	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In evaluating the environmental impacts of the proposed hunt to PCFG whales, for Alternatives 3-6, NMFS concludes that “gray whales would continue using these survey areas during summer months” because: 1) the PCFG mortality limit is more restrictive than the bycatch formula used in Alternative 2; 2) struck and lost whales will count as PCFG whales; 3) other human-caused mortality will be subtracted from the calculated PBR (for Alternatives 4 and 6 only); 4) the IWC analysis demonstrates that PCFG whales would remain viable with a Makah hunt; 5) PCFG whales are dense and abundant in the OR-SVI area; 6) PCFG whales are highly mobile within the PCFG range; 7) many new and returning whales are available to replace killed whales; and 8) gray whales continue to return in large numbers to feeding areas (Chukotka) where scores are actively hunted and killed. DEIS at 4-89, 4-96, 4-103, 4-111, 4-118.</p> <p>This suggestion that a hunt will not have any adverse impact on PCFG whales flat out contradicts other statements in the DEIS. For example, NMFS concedes in the DEIS that if external recruits don’t replace killed PCFG whales, then under each of the action alternatives, it is “likely that the number of whales would decrease.”<sup>25</sup> DEIS at 4-89, 4-96, 4-103, 4-111, 4-118. Considering that scientists continue to obtain data to better understand PCFG recruitment mechanisms, this possibility should not simply be dismissed to satisfy the Makah. This possibility is consistent with another statement in the DEIS that “killing even a few animals per year (especially over an extended period of time) from the relatively small PCFG stock could have long-lasting impacts for a group of whales whose population dynamics are not well understood.” DEIS at 5-3. Indeed, considering the level of site fidelity seen in some PCFG whales, it is possible that removals of whales from the Makah U&amp;A could result in a localized depletion that would require an extended time period to recover. Unlike calves of PCFG females who are known to be recruited into the feeding aggregation, it may take a unique ENP whale to not just use PCFG range but to use it annually (i.e., to become a PCFG recruit). If that unique whale is not common, then perturbations to PCFG whales may not be reversed for some time.</p> <hr/> <p><sup>25</sup> This finding is included in the analysis of Alternative 4. However, NMFS also notes in the DEIS that “Alternative 4 is less likely to affect PCFG viability compared to Alternatives 2 and 3 because the hunt would target males and would not affect matrilineal recruitment.” DEIS at 4-101.</p>	<p>The comment mischaracterizes the DEIS analysis. The conclusion that gray whales will continue using PCFG survey areas during the summer months is not the same as a conclusion that the action alternatives “will not have any adverse effects.” The comment goes on to cite passages in the DEIS where potential effects are described.</p>

Sort #	Commenter Code	Comment	Response
39	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In regard to the specific conclusions noted above, the Coalition questions whether PCFG whales are “dense and abundant in the OR-SVI area,” whether there are “many new and returning whales available to replace killed whales,” and whether whales will continue to return to the OR-SVI area if subjected to hunting. As indicated above, from 1996 to 2012 the average number of whales seen in the OR-SVI area was 155. Considering the size of the area, this number hardly suggests a “dense and abundant” distribution. Furthermore, on average, only 12 whales per year are recruited into the OR-SVI region, which does not qualify as “many new and returning whales” available to fill the gaps left by any whales the Makah might kill or whales that may leave the hunt areas due to impacts of the hunt. These conclusions should be revisited.</p>	<p>We have reviewed information provided by the commenter and continue to find the conclusion in the DEIS accurate. It is based on more than a decade of photo-identification research by Cascadia Research Collective and others (e.g., Calambokidis et al., 2014), that PCFG whales are dense and abundant in the OR-SVI area. The area has long been considered a "core region" for the PCFG (Calambokidis et al. 2009) and consistently has large numbers of gray whales and high interchange rates between subareas within.</p>
40	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Finally, assuming new whales will readily fill gaps left by dead whales based on the Chukotkan gray whale hunt may not be accurate, particularly considering that the Makah U&amp;A is within the OR-SVI region. The mere fact that Chukotkan natives have killed an average of 116 gray whales over the past ten years (2004-2013)<sup>26</sup> is not sufficient information to determine if the characteristics of the whales’ distribution have changed over time as a result of hunting pressure. To make that determination, additional information is necessary regarding catch-per-unit effort, the spatial and temporal distribution of the whales within their Russian feeding areas, how actual kill locations have changed over time (if at all), and if whales on the Russian feeding areas demonstrate different behaviors (i.e., alertness, flight response) to the approach by or presence of a vessel, including a whaling vessel. Even if maternal site fidelity to the feeding areas draws whales back to such areas year after year, it is still possible that their distribution (within their feeding areas) or behaviors have been changed as a consequence of the hunt.</p> <p><sup>26</sup> Data obtained from <a href="https://iwc.int/table_aboriginal">https://iwc.int/table_aboriginal</a></p>	<p>We continue to evaluate IWC harvest data and studies by Russian researchers monitoring the Chukotkan gray whale hunts (e.g., Borodin et al. 2012 [cited in the DEIS]; Blohkin et al. 2012, 2013, 2017) and believe the best available information supports our conclusions in the DEIS. The comment points to no new studies that would further illuminate these issues. Please also see the response to frequent comment # 10 regarding the response of gray whales to being hunted. We will update any future NEPA analysis with information bearing on the issues raised by these comments.</p>
41	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Similarly, for PCFG whales, unless maternal fidelity is specific to the Makah U&amp;A region, PCFG whales have alternative feeding areas from North California to Southeast Alaska. That is, the Makah U&amp;A, although it may be a desirable location for PCFG whales based on prey abundance, may be abandoned for alternative feeding areas – literally only miles away – if hunting is allowed.</p>	<p>The DEIS considers the potential for PCFG whales to abandon the Makah U&amp;A in response to a hunt (see Subsection 4.4.2.4, Change in Numbers of Gray Whales in the Makah U&amp;A and OR-SVI Areas).</p>



Sort #	Commenter Code	Comment	Response
		This means PCFG whales would no longer be “functioning elements of [the Makah U&A] ecosystem.”	
42	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	In addition, considering that gray whales have been largely protected along the entire west coast of North America for decades (with the exception of the gray whales killed in 1999 and 2007), gray whales are not accustomed to being hunted in this region (unlike Chukotkan gray whales who are subjected to hunts every year). Consequently, the behavioral impact of a hunt on an OR-SVI PCFG whale could be vastly different from how gray whales in Russia respond to a hunt; “naïve” OR-SVI whales may be more likely to abandon the area because of the novel, negative stimulus posed by a hunt. NMFS must reevaluate this analysis, recognizing that comparing the reactions of PCFG whales with those of Chukotkan whales may not be valid. It should seek out information, perhaps from new stocks of whales that suddenly became subject to a novel threat, to determine if those reactions could provide any guidance to how PCFG gray whales may react to a hunt.	Please see the response to frequent comment # 10 regarding the response of gray whales to being hunted.
43	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	NMFS must also reconsider its use of the Chukotkan whale hunt as a proxy for how a Makah hunt could physically and behaviorally impact PCFG whales. This analysis must consider the impacts within the PCFG and OR-SVI regions.	Please see the response to frequent comment # 10 regarding the response of gray whales to being hunted.
44	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	It also should more comprehensively evaluate the impact of a hunt on PCFG whales in the Makah U&A region given the direction from the Anderson opinion to consider the impacts of a hunt on whales in the specific project location (i.e., the Makah U&A).	DEIS Subsections 4.4.2.3 (Change in Abundance and Viability of PCFG Whales) and 4.4.2.4 (Change in Numbers of Gray Whales in the Makah U&A and OR-SVI Areas) address the impacts referenced in this comment.
45	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	NMFS also claims the “loss of a feeding aggregation such as the PCFG may not affect the viability of the overall ENP stock” because “sighting data and diet studies indicate that ENP gray whales, including PCFG whales, have the ability to switch feeding areas over time.” DEIS at 4-64. This statement ignores NMFS’s determination that PCFG whales “may provide important flexibility to the species as a whole given potential challenges in a changing sub-arctic ecosystem,” DEIS at 3-129, and also ignores the fact that the loss of this feeding aggregation would remove it as a functioning element of this ecosystem. In addition, in its analysis of Alternative 2, NMFS concedes “If PCFG whales are uniquely adapted to exploit feeding areas in the southern portion of the ENP	This comment takes excerpts from the DEIS out of context and mischaracterizes the analysis. The DEIS explicitly considers the impact of actions on the PCFG feeding aggregation, even though it is not an MMPA stock, in part because of the possibility that actions affecting the PCFG may affect the ENP as a whole. The DEIS does not suggest the PCFG

Sort #	Commenter Code	Comment	Response
		summer range, and that adaptation were lost if the PCFG were compromised, Alternative 2 has the potential to affect the long-term viability of the ENP stock as a whole.” DEIS at 4-82. Such conflicting statements and conclusions must be clarified and, in this particular case, NMFS must remove from its analysis any assertion that PCFG whales can be sacrificed without potentially significant adverse impacts to ENP gray whales and, in fact, to the entire population if the ongoing changes in the Arctic begin to adversely affect ENP gray whales.	could be “sacrificed” without affecting the ENP stock. To the contrary, the DEIS links these two elements of the environment.
46	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Western North Pacific gray whales:</u></p> <p>For WNP gray whales, NMFS relies entirely on the analysis by Moore and Weller (2013) to assess the potential of a Makah whale hunt to impact this endangered population of whales. Their analysis included consideration of the action alternatives evaluated in the DEIS. Their findings are presented in Table 2.<sup>27</sup></p> <p>Table 2: Percent Chance of Approaching, Attempting to Strike, or Striking One WNP Gray Whale Over Six Years</p> <p>While their modelling results provide probabilities for a WNP gray whale to be approached/pursued, subject to an unsuccessful harpoon attempt, or struck is low, it is not zero (except under Alternative 4, where the risk is likely near zero). Notably, any of these outcomes reflects a “take” under the MMPA and, if not authorized by permit or included in the waiver application,<sup>28</sup> could lead to prosecution of a Makah whaler and his crew for violating the MMPA and ESA. Furthermore, whether these probabilities accurately reflect the real risk is uncertain.</p> <hr/> <p><sup>27</sup> These findings, as indicated in the DEIS, are also based on a separate communications between NMFS and J. Moore.</p> <p><sup>28</sup> WNP gray whales are not included in the Makah Tribe’s waiver application. In addition, the Makah could not qualify for any type of harassment authorization if it is allowed to hunt and any take of a WNP gray whale is considered intentional.</p>	Please see the response to frequent comment # 6 regarding the need for waiver of the take moratorium for WNP whales. The comment questions whether the probabilities shown in Table 2 accurately reflect the real risk, but points to no information that would further illuminate the issue.
47	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	In the analysis by Moore and Weller, the percent chance over six years of actually striking at least one WNP “was relatively low but non-trivial,” of attempting to strike at least one WNP gray whale was “fairly high,” and of approaching at least one WNP whale was “high.” DEIS at 3-93. Overall, Moore and Weller conclude the tribe “might strike a whale (WNP) approximately once every 100 years.” Id. Even if this is accurate, NMFS determined “the loss of a single whale, particularly if it were a reproductive female, would be a conservation concern for this small stock,” DEIS at 3-93/3-94, 4-82, 4-92, while the IUCN has “emphasized the urgent need for a comprehensive international	Comments noted.

Sort #	Commenter Code	Comment	Response
		strategy to eliminate or mitigate anthropogenic threats facing WNP gray whales throughout their range.” DEIS at 3-94.	
48	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Furthermore, the analysis by Moore and Weller examined only the numerical probability of being affected by the hunt based on the total number of WNP gray whales and the proportion of the population known to have emigrated to the ENP gray whale range. They didn’t consider any variable linked to time spent in the ENP range or, more specifically, in the Makah U&amp;A. This is not a trivial concern since the more time a WNP gray whale spends in the hunting area, particularly during the time when a hunt is permitted, the greater the probability of an approach, pursuit, strike attempt, or strike.</p> <p>Even NMFS notes that “Sakhalin whales were seen in an area of the ENP (i.e., Vancouver Island) where some whales tend to linger and feed during the northbound migration,” and that “the long distance and potential open water crossing required for transit from the ENP to the WNP may make it more advantageous for whales to spend time feeding in the Pacific Northwest prior to undertaking a westerly passage to Sakhalin.” DEIS at 3-89 (citing Darling et al. 1998 and Weller et al. 2012).</p>	<p>The comment cites an alternative method of calculating the chance of hunters encountering a WNP gray whale based on time spent in the project area. Though we infer that WNP gray whales pass through the Tribe’s U&amp;A, there are no sightings of WNP gray whales in the project area (Moore and Weller, 2013). The comment points to no other source of information regarding the time spent by WNP whales in the ENP range. We are aware of a post-DEIS 2015 report regarding the migration rates of two WNP gray whales to the ENP (Mate B.R., Ilyashenko V.Y., Bradford, A.L., Vertyankin, V.V., Tsidulko, G.A., Rozhnov, V.V., Irvine, L.M. 2015. Critically endangered western gray whales migrate to the eastern North Pacific. Biol. Lett. 11:20150071). The average migration speeds of those whales (5.5-6.5 km/hr) is very consistent with the average migration speed of 5.9-6.3 km/hr reported by Swartz et al. (1987) for nine southbound gray whales tracked off California. Also, the study by Mate et al. (2015) only noted “[s]ome slower movement segments” for one of the whales, and those were recorded along the north side of the Alaska Peninsula and while crossing the Bering Sea, i.e., well outside the range of the Makah U&amp;A.</p>

Sort #	Commenter Code	Comment	Response
49	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Another concern independent of any statistical probability of WNP whales being struck, killed, or even approached during a hunt is the fact that none of the action alternatives require the comparison of any photographs taken of killed and landed whales with the WNP gray whale photo-id catalog maintained by Alexander M. Burdin of the Vyatka State Agricultural Academy, Kirov, RUSSIA. Considering the critically endangered status of WNP gray whales and the fact that each whale is critical to the short and long-term conservation and recovery of the population, any hunt must include a photo-id requirement for WNP gray whales. While NMFS suggests in the analysis of each action alternative that, if a gray whale is taken and landed, it will be possible to determine if it is a WNP whale based on comparing photographs to the WNP photo-id catalog, DEIS at 4-82, 4-92, this is not reflected in the description of any of the alternatives. At present, all the action alternatives require photographs of gray whales killed by the Makah to be compared only with the PCFG photo-id catalog maintained by the Cascadia Research Collective. If NMFS grants the Makah request for a waiver and permits the Tribe to whale, it must include a requirement in the waiver, regulations, or permit language that all landed whales must be photographed and the images compared to both the PCFG and WNP photo-id catalogs. In addition, tissue samples from any dead whale must be taken for DNA analysis to obtain a greater understanding of gray whale genetics and population/feeding aggregation relationships.</p>	<p>We agree that if hunting proceeds there would need to be a mechanism for comparing killed whales to the WNP catalog and anticipate that would be taken into account in any future decision-making that authorized a hunt.</p>
50	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS also asserts that it might be possible to determine if a struck gray whale, even if it were lost, is a WNP whale. DEIS at 4-92, 4-99, 4-114. Unless the Makah or NMFS intend to take photographs of any targeted whale before he/she is struck with a harpoon or shot with a bullet or grenade or unless a WNP whale is otherwise marked or tagged, it is unclear how this could be accomplished. NMFS must clarify the methodology that would be employed to determine if a struck and lost whale is a WNP whale.</p>	<p>We agree that photographs of struck and lost whales should be compared to photo-cataloged WNP whales and anticipate that future decision-making would take that into account.</p>
51	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Alternative 1:</u>  This is the No Action Alternative. If selected it would deny issuance of the requested MMPA waiver to the Makah Tribe. However, this alternative does not prevent the Makah Tribe from revitalizing its whaling traditions and/or continuing to engage in any rituals, songs, dances, ceremonies, or story telling that has reportedly been ongoing since the tribe ceased whaling in the 1920s. It also, as indicated in the DEIS, does not prevent Makah whalers from constructing whaling canoes, from engaging in physical training as practiced in the past, or in</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		using the canoes in the Makah U&A as long as no protected marine mammal species is taken in violation of the MMPA.	
52	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In the DEIS, NMFS repeatedly claims that Alternative 1, if it were selected, would not reduce the number of gray whales killed since the United States would likely transfer its allocation of gray whales back to the Russian Federation for its native hunters consistent with a bilateral agreement between Russia and the United States. DEIS at 4-8. While the return of any unused quota to the Russian Federation may occur, that does not necessarily mean the same number of whales (i.e., 140 per year as currently permitted by the IWC) would be killed each year. The Chukotkan natives do not currently take the full quota allocation, averaging 126 whales annually from 2009 through 2013.<sup>29</sup></p> <p><sup>29</sup>Data obtained from <a href="https://iwc.int/table_aboriginal">https://iwc.int/table_aboriginal</a></p>	<p>During 2003-2018 there were two 5-year block quotas for 620 ENP gray whales and one 6-year block quota for 744 ENP gray whales. Each of these quotas equated to 124 whales per year (and each had a maximum annual limit of 140 whales). A bilateral agreement between the Russian Federation and the United States, renewed each year, allocates catches between the two countries; 120 per year for Chukotkan hunters and 4 per year for Makah hunters. The DEIS notes that for the period 2009 through 2012 the Chukotka Natives harvested nearly all of the IWC catch limit (an annual average of 123.5). The most recent report by the Russia Federation (Blokhin et al. 2017) reports that an even higher level of harvest occurred between 2012-2016 with 640 whales landed (i.e., an average of 128 whales per year). Therefore, it is reasonable to expect that if the Makah Tribe's request is denied, or authorized at a lower limit, or the Tribe is unable to use its entire allocation, any unused allocation would continue to be transferred to and used by the Chukotka Natives.</p>
53	Schubert (Animal Welfare Institute)_Le	<p>At present,<sup>30</sup> if the no action alternative were selected, it would not necessarily correlate to an increase in Russian ASW kills. Conversely, if one of the action alternatives were selected, this would result in an increase in the number of whales killed because any gray whales killed by the Makah would be added to those killed by the Russian native whalers. Historically, the only other group that</p>	<p>The DEIS does not state that Russian kills would "increase" under the No-action Alternative. Rather, as noted in the preceding response, the entire IWC quota for ENP gray whales of 124</p>

Sort #	Commenter Code	Comment	Response
	tter Only_7-31-15	<p>killed gray whales was Alaska Natives, who killed a total of seven from 1985 through 1995 but, at present, do not have an IWC-approved quota for gray whales.</p> <hr/> <p><sup>30</sup> Based on discussions at recent IWC meetings, the Russian Federation may attempt to increase the ASW quota for gray whales in the future to compensate for “stinky” whales that are reportedly inedible.</p>	per year on average was nearly met in the Russian hunt from 2009 through 2012 (123.5 on average) and exceeded from 2012 through 2016 (128 on average). Under the No-action Alternative it would be reasonable to expect that the number of ENP gray whales killed by ASW hunting would continue to be the full number authorized by the IWC.
54	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Moreover, even if the United States transfers its gray whale quota to the Russian Federation, the additional whales that could be killed by the Chukotkan natives would likely not be the same animals that could have been killed by the Makah. In particular, transferring the quota would indisputably prevent the killing of PCFG and WNP gray whales, since neither group of whales are subject to hunting by Chukotkan natives. For the WNP and PCFG gray whales, this would be significant given their low population numbers and the many threats they face.</p>	Comments noted.
55	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Benefits could also accrue to those who regularly observe PCFG whales and who may have named or otherwise developed a particular connection with select, distinguishable whales (this is further discussed below). Other benefits of selecting Alternative 1, whether the quota is transferred to the Russian Federation or not, would include preventing gray whales from being intentionally killed in United States waters by an aboriginal group that does not qualify for an IWC-approved ASW quota. This could be of great importance to the majority of Americans who oppose whaling.</p> <p>As previously noted, the Coalition supports this alternative and believes it is the only alternative that is consistent with federal law.</p>	Comment noted.
56	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Alternative 2:</u></p> <p>This is the Makah Tribe’s proposed alternative. It is the most liberal of the alternatives, allowing the most strikes per year, the most hunting days (along with Alternatives 3 and 6), the largest number of whales that could be killed per year (six) with a limit of 24 whales over six years, as well as the largest number of PCFG whales likely to be killed each year (2.8). The allowable bycatch limit (ABL) for PCFG whales calculated for this hunt is three,<sup>31</sup> which is in excess of the current calculated PBR for PCFG whales (2.7). It would limit strikes to seven per year or 42 over six years, allow for three stuck and lost whales per year or 18 over six years, and would not permit any carry-over of any unused annual limits.</p>	This background description of the Tribe's proposal is noted. We also note that the IWC provides for “local use.”

Sort #	Commenter Code	Comment	Response
		<p>All landed whales would be photographed in order to compare them to the photo-identification catalogs of PCFG gray whales (this would be an element common to all of the action alternatives) maintained by the Cascadia Research Collective. Whaling under this alternative would not occur in the Strait of Juan de Fuca, nor could it occur within 200 yards of Tatoosh Island or White Rock.</p> <p>Under this alternative, edible products from the hunt could not be sold, but could be consumed locally or shared with relatives on or off the reservation and with non-relatives on or off the reservation with whom the Makah whalers have familial, economic, social, or cultural ties. Non-edible products from any killed whale could be used to manufacture authentic native handicrafts that could be sold anywhere in the United States.<sup>32</sup></p> <p>Notably, the PBR calculation used in this Alternative is based on the abundance estimate for PCFG gray whales in the OR-SVI region. This is consistent with the Makah Tribe’s waiver application, which recommended the analysis area be the OR-SVI region in order to limit the potential impact of a hunt on PCFG whales. This is also consistent with the recommendation of Calambokidis et al. (2004), who identified the OR-SVI region as the most appropriate for the hunt analysis given the significant mixing of whales between the Makah U&amp;A and OR-SVI PCFG regions.</p> <hr/> <p><sup>31</sup> As defined in the Makah Tribe’s waiver application, the allowable bycatch level (ABL) is the “number of whales from the Pacific Coast Feeding Group that may be taken incidental to a hunt directed at the migratory portion of the Eastern North Pacific stock of gray whales. The ABL is calculated using the Marine Mammal Protection Act’s potential biological removal approach but the minimum population estimate is based on the number of previously seen whales in the Oregon-Southern Vancouver Island survey area.” DEIS at iv-v. Since the Makah Tribe uses the maximum recovery factor in calculating the ABL, the resulting number is larger than the PBR for the entire group of PCFG gray whales. This is problematic as it provides no buffer for other forms of anthropogenic mortality if the full ABL is taken.</p> <p><sup>32</sup> As noted previously, the Coalition asserts that permitting the sharing of edible whale products throughout the United States would not be consistent with the IWC Schedule language for ENP gray whales.</p>	
57	Schubert (Animal Welfare Institute)_Le	NMFS does not sufficiently highlight this caveat in its analysis of Alternative 2, nor does it employ the same limitation when evaluating the other action alternatives. It is precautionary to use the OR-SVI region instead of the entire PCFG region for the analysis. While consistent with the Anderson opinion’s	The recommendation in Calambokidis et al. (2004), that a PCFG harvest limit be calculated using the abundance of whales in the OR-SVI, was based on

Sort #	Commenter Code	Comment	Response
	tter Only_7-31-15	<p>emphasis on evaluating the local impacts to gray whales, extending the analysis to Makah U&amp;A whales would also be appropriate. It is therefore astonishing NMFS continues to evaluate impacts to PCFG whales at the largest possible scale. NMFS should prepare a revised analysis that utilizes the OR-SVI region as the primary analysis area for direct hunt effects or, ideally, that focuses the analysis on the OR-SVI and Makah U&amp;A areas for all action alternatives.</p>	<p>the best available scientific information at that time. A considerable new body of information has been developed since then, which is reviewed extensively in the DEIS ((Subsection 3.4.3.4, Pacific Coast Feeding Group (PCFG) of Gray Whales). The IWC Scientific Committee has developed a working definition of the PCFG, which NMFS has followed in its stock assessment report. As noted elsewhere, we consider the stock assessment report as reflecting the best scientific information available. In any event, the DEIS includes an alternative that follows the Calambokidis et al. (2004) recommendation regarding the OR-SVI as the reference group for calculating a PCFG mortality limit. It is not necessary that every other action alternative also include that outdated recommendation.</p>
58	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>If this alternative is selected and the Makah are allowed to kill up to 3 PCFG whales per year, this take would not only be in excess of the current PBR but it would not provide a buffer to compensate for any other anthropogenic mortality of PCFG whales, which could adversely affect the PCFG. Indeed, as noted in the DEIS, “as long as the total number of animals removed from the population as a result of human sources is no more than the calculated PBR of an affected stock of marine mammals, then the removals will not prevent the stock from recovering to, or being maintained within its OSP.” DEIS at 3-55. Given this, even NMFS admits that the “Tribe does not propose to account for other sources of mortality when setting ABL for PCFG whales.” DEIS at 2-10.</p> <p>According to the Makah Tribe’s 2005 waiver application, the ABL was to be calculated from a “conservative abundance estimate based on the number of gray whales that are seen in more than one year in the OR-SVI survey area between June 1 and November 30.” Makah Waiver Application at ii. The</p>	<p>This background description of the Tribe's proposal is noted.</p>



Sort #	Commenter Code	Comment	Response
		<p>abundance estimate used in the calculation is 165, which is the number of PCFG whales observed in the OR-SVI area in 2012. DEIS at 3-146 (citing Calambokidis et al.2014). Based on that number, the Nmin is 152 which, when combined with an Rmax of 0.04 (which is the Rmax used only for the analysis of Alternative 2), and a recovery factor of 1,<sup>33</sup> the PBR or ABL is three whales.</p> <p>The Tribe proposes to stop hunting when the ABL is reached. The ABL will be dynamic and will be calculated annually based on PCFG observation data for the June through November period before any Makah hunt were to occur. To determine when this ABL is reached, all cataloged whales seen between June 1 and November 30, even if seen only once, would be used to define a PCFG whale. A second definition, whales seen at least twice over two or more years in the PCFG range from June 1 through November 30, is used in the analysis of the other action alternatives. The Makah’s definition would mean that any landed whale could be categorized as a PCFG whale based on a single observation in the PCFG range in past seasons, even though it may not actually be a PCFG whale. However, the Makah’s proposal does not count whales struck and lost against the ABL for PCFG whales.</p> <hr/> <p><sup>33</sup> This recovery factor is used based on the Tribe’s claim that the ENP stock of gray whales is not listed under the ESA and has been undergoing a steady or declining level of removals by aboriginal hunters. Makah Needs Statement at 30.</p>	
59	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Alternative 3:</u></p> <p>This alternative would not allow the Makah to strike a whale unless it was five or more miles offshore. It would also count struck and lost whales as PCFG whales, would establish a PCFG PBR of 2.7 whales (with a sub-quota of 1.6 females), and set the struck and lost limit at 2 whales. DEIS at 2-18. In addition, this alternative limits the number of whales killed annually to a maximum of five (24 over six years), allow only six strikes (36 over six years), restrict the number of struck and lost whales to two per year (12 over six years), and would limit the landing of PCFG whales to 2.7 with a subquota limit of 1.6 female PCFG whales. Under this alternative, any struck and lost whale would be considered a PCFG whale and would count toward the quota. All other elements of this alternative are identical to Alternative 2.</p> <p>For struck and lost whales, they would be counted against the PCFG mortality limit in proportion to the availability of PCFG whales in the coastal portion of the Makah U&amp;A from March through May. DEIS at 4-20. Calambokidis</p>	This background description of Alternative 3 is noted.

Sort #	Commenter Code	Comment	Response
		<p>et al. (2014) determined that, of 181 whales observed in the Northern Washington PCFG Region (which is included as part of the Makah U&amp;A) from March to May from 1996 to 2012, 40.33 percent were observed in the PCFG range after June 1, 37.02 percent were seen in the OR-SVI range after June 1, and 33.15 percent was seen in the Makah U&amp;A after June 1. DEIS at 3-140. In determining the proportion of stuck and lost whales that would be counted as PCFG whales, NMFS uses the 40.33 percent applicable to the entire PCFG range.</p>	
60	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The NMFS definition of a PCFG whale is a whale seen more than once over two or more years. Percentages used in this (and other action alternatives) presumably should reflect that definition. However, according to Calambokidis et al. (2014), the 40.33 percent figure refers to whales seen only once, while 36.46 percent would be the corresponding figure for whales that meet the PCFG definition used by NMFS. This may mean the 37.02 and 33.15 percentages do not reflect the NMFS definition of PCFG whales either. NMFS should revisit these figures to ensure they are consistently reflective of the agency's definition of PCFG whales.</p>	<p>We agree that any future decision-making should rely on the most up-to-date scientific information regarding identification of PCFG whales.</p>
61	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The proportion of struck and lost whales that would be considered PCFG whales will change over time based on new data from PCFG surveys. As with Alternative 2, however, the schedule for this adjustment is unclear. Presumably data collected in the summer immediately prior to any hunting season would be used. However, that raises concerns as to whether the proportion of PCFG whales observed in different PCFG regions from June through November would correspond to proportions seen during a hunt that could occur from March to May of the following year. Alternatively, data to identify proportional presence could be collected contemporaneously with a hunt. NMFS fails to adequately explain how it will determine the percentages to use in this alternative (as well as Alternatives 4, 5, and 6). For example, while this will require the continuation of the PCFG monitoring program (which the Coalition assumes will be coordinated by the Cascadia Research Collective), NMFS does not explicitly disclose who would perform this work. Further NMFS doesn't address how any changes to the PCFG mortality limit would be communicated to the Makah, law enforcement authorities, and the public.</p>	<p>The comment notes the need to account for new data developed during implementation of a hunt. We agree that any future decision-making should consider procedures for monitoring and identifying whales and communicating changes in mortality limits.</p>
62	Schubert (Animal Welfare Institute)_Le	<p>This Alternative also establishes a sub-quota for females which is based on both the percent of PCFG whales present during the hunting period and the proportion of females within the entire PCFG population (which is currently 59 percent). Consequently, if using the 40.33 percent figure, a struck and lost whale would count as 0.24 PCFG female (0.4033 x 0.59). The use of the 0.59 figure is</p>	<p>DEIS Subsection 4.1.3.3 (Potential Number of ENP and PCFG Whales Killed; Likelihood of Striking a WNP Whale; Likely Number of Whales Harvested) cites the most recent data</p>

Sort #	Commenter Code	Comment	Response
	tter Only_7-31-15	inconsistent with the findings of Ramarkrishan et al. (2001) and Steeves et al. (2001), who reported a significant male bias in the PCFG of 1.8 to 1 (N=45) and 1.7 to 1 (N=16), respectively. Makah Waiver Application at 27. NMFS must revisit this analysis to determine which correction factor is accurate.	regarding the PCFG sex ratio, i.e., "The annual female PCFG mortality limit would be equal to the total PCFG mortality limit times the proportion of females in the PCFG, which is currently estimated to be 0.59 (Lang et al. 2011b)." Subsequent to publication of the DEIS, new information was developed indicating the PCFG is actually approximately evenly divided between males and females (A. Lang, pers. comm., 10/17/17*). The most up-to-date information will be reflected in future decision-making and a final EIS.  * October 17, 2017 e-mail from A. Lang, NMFS, to S. Stone, NMFS.
63	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Alternatively, because there is a struck and lost limit of 2, it is unnecessary to use these calculations at all. It would be simpler and far more precautionary to consider any whale struck and lost as a PCFG whale and, in order to maximize protection for PCFG females, to assume that each lost whale is female. Alternative 3 must be adjusted accordingly to be more precautionary.	Alternative 3 would rely on the best scientific information available regarding proportions of PCFG whales and female whales. NEPA does not require that every alternative be as precautionary as possible.
64	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	As for the risk to WNP gray whales, while the offshore hunt location could reduce the potential risk to WNP gray whales, NMFS concedes there are "insufficient data to discern whether hunters would be more or less likely to encounter WNP whales if hunting is restricted to offshore area at least 5 miles from the coast, but tracking data for two whales indicate that they could be encountered in such areas." DEIS at 4-92.	Comments noted.
65	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	In calculating PBR under this alternative (and for Alternatives 5 and 6), NMFS relies on data contained in Carretta et al. 2014. The gray whale population estimate in Carretta et al. (2014) is from 2006-2007, making it 8-9 years old. As indicated in NMFS (2005), "the minimum population estimate of the stock should be considered unknown if 8 years have transpired since the last abundance survey of a stock." Consequently, as long as NMFS continues to rely on the gray whale population estimate from Carretta et al. (2014) it cannot calculate a PBR	We agree it would be important to maintain up-to-date gray whale abundance estimates if a hunt is authorized. NMFS recently updated the ENP gray whale SAR in 2019 (Carretta et al. 2019). The revised SAR includes a more recent estimate of

Sort #	Commenter Code	Comment	Response
		for the ENP or PCFG whales. Even if NMFS claims the 2006-2007 estimate is only 8 years old and therefore still appropriate to use to calculate PBR, by the time NMFS completes this decision-making process the estimate will be significantly more than 8 years old.	<p>abundance of the ENP stock of 26,960 whales, based on data from the 2015/2016 southbound survey (Durban et al. 2017) and calculates a new PBR accordingly (801).</p> <p>Please also see the response to frequent comment # 7 regarding calculation and use of PBR for a PCFG mortality limit.</p>
66	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>An updated gray whale population estimate from 2010-2011 was published in new draft Stock Assessment Reports (SARs) for marine mammals in the Pacific Ocean (Carretta et al. 2015), but those SARs have not been finalized. This is presumably why NMFS was unable to include the updated estimate in the DEIS. However, given the restrictions associated with using a population estimate that is 8 or more years old to calculate PBR, NMFS must use the updated estimate in its decision-making process. While the public comment period on Carretta et al. (2015) has closed, given the importance of the gray whale population estimate to this issue and the DEIS analysis, the Coalition recommends that NMFS republish just the ENP and WNP draft SARs for public review and suspend the current decision-making process until any comments are evaluated and those SARs are finalized.</p>	<p>Comment noted. Since publication of the DEIS, updated gray whale reports were published in the 2014 final SARs (Carretta et al. 2015) and the 2018 final SARs (Carretta et al. 2019). We anticipate additional SARs with updated information would be published before a final EIS is published and there will be ample opportunity for public comment on those updated SARs.</p>
67	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Regardless of which gray whale population estimate is used, the PBR calculation should be based on the OR-SVI Nmin rather than the Nmin for the entire PCFG range. This would be consistent with both the Makah's request (as reflected in Alternative 2), which was intended to limit the potential impact of a hunt on PCFG whales, and the direction provided by the Anderson opinion, which was particularly concerned with the potential for a hunt to impact the local gray whale population (i.e., the population in the Makah U&amp;A).</p>	<p>As noted previously, Alternative 2 relies on a PBR calculation based on the OR-SVI abundance. NEPA does not require that all alternatives adopt the same management elements. The court in the <i>Anderson</i> decision required the NEPA analysis to consider impacts at the local scale, which the court defined as the Makah Tribe's U&amp;A. The DEIS comports with this direction. The court's decision did not require that any of the alternatives in the NEPA analysis adopt a particular scale for management, only that</p>

Sort #	Commenter Code	Comment	Response
			impacts be considered at the local scale.
68	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Alternative 4:</u>  This alternative, if selected, would allow whaling from June 1 through November 30 each year and would retain the prohibition on hunting in the Strait of Juan de Fuca and within 200 yards of Tatoosh Island or White Rock. Under Alternative 4, the hunt would be limited to seven days, the Makah could only strike male ENP whales, struck and lost whales would count as PCFG whales, and the PBR for PCFG whales would be a single whale. This alternative would permit up to five whales to be killed and seven struck per year with a struck and lost limit of a single whale and no carry-over of any unused annual limits. Due to the timing of this hunt, there would be close to no risk of hunters approaching, attempting to strike, or striking a WNP gray whale but PCFG whales would be killed. In addition, under this alternative “any whale landed would be presumed to be a PCFG whale even if it did not match a known PCFG whale.” DEIS at 2-20.</p> <p>In calculating PBR for PCFG gray whales under this alternative, NMFS utilized a conservative recovery factor of 0.35, while also subtracting estimated mortalities from other human causes (0.45) as reported in the ENP gray whale SAR (Carretta et al. 2014). DEIS at 2-19. According to Wade (1998), this restrictive recovery factor would allow the PCFG whales to equilibrate at 80 percent of carrying capacity over a 200 year period. Id. This results in a PBR of 1.43, which NMFS rounds down to 1 for use in this alternative. Since this alternative will necessarily target PCFG whales given the hunting period, a restrictive limit on PCFG gray whale mortality is appropriate. Notably, if the analysis under this alternative used the OR-SVI or Makah U&amp;A regions, the corresponding PBR levels would be 1.19 and 0.34, respectively.</p>	This background description of Alternative 4 is noted.
69	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	While this alternative is unique in that it explicitly targets ENP male whales, NMFS doesn’t explain how Makah whalers, if permitted to whale, will be able to limit their pursuit and killing of whales to only males. This must be clarified.	If such an alternative were ultimately adopted, any regulations would need to describe how hunters would distinguish known PCFG males.
70	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	In addition, the deficiencies identified in the other alternatives are relevant here as well (i.e., use of an 8-year-old population estimate and lack of clarification on how, when, and by whom PCFG data will be collected in order to update the PBR calculations).	Comments noted. As noted above, If hunting is authorized it would be important to ensure up-to-date abundance estimates.

Sort #	Commenter Code	Comment	Response
	tter Only_7-31-15		
71	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Alternative 5:</u></p> <p>This alternative would permit whaling during a split season (December 1-21 and May 10-31), but it sets the PBR level for PCFG whales at 0.27 (10 percent of the current PBR for PCFG gray whales as reflected in Carretta et al. (2014)) and requires that stuck and lost whales (with a limit of a single whale) be counted toward PBR in proportion to their presence in the Project Area. Notably, if the PBR level in this alternative was calculated using the Nmins for the OR-SVI and Makah U&amp;A regions, they would be 0.23 and 0.11, respectively.</p> <p>This alternative is intended to reduce the potential for take of WNP gray whales based on limited data suggesting that WNP gray whales have not been observed in the Makah U&amp;A during the split season dates. It is possible that, as scientists continue to monitor WNP gray whales, they will be found in the ENP regions during the split season dates.</p> <p>The total days available for hunting under this alternative would be 14.7 to 22.<sup>34</sup> Under this alternative, as many as five non-PCFG whales could be killed each year, but NMFS anticipates an average of no more than four ENP whales to be killed annually. Even this would be unlikely, according to NMFS, given the PCFG struck-and-lost limit. In fact, NMFS anticipates that only one whale will be killed every five years under this alternative. If so, this alternative could substantially reduce the number of ENP gray whales killed by the Makah should a hunt be approved, which in turn would reduce risk to PCFG and WNP gray whales.</p> <hr/> <p><sup>34</sup> The DEIS contains two different estimates for the number of hunting days under this alternative. Compare DEIS at 4-34 (“22 days of hunting in May”) to DEIS at 4-35 (“14.7 hunting days per year”).</p>	This background description of Alternative 5 is noted.
72	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Although more conservative [than] Alternative 2, 3, and 6, this alternative suffers from the same deficiencies as in the other action alternatives (i.e., use of an 8-year-old population estimate and lack of clarification of how, when, and by whom PCFG data will be collected in order to update the PBR calculations).	Comment noted. As noted above, if hunting is authorized it would be important to ensure up-to-date abundance estimates.
73	Schubert (Animal Welfare Institute)_Le	<p><u>Alternative 6:</u></p> <p>Alternative 6 shares many of the same characteristics as Alternatives 2 and 3 in regard to the number of days available to hunt and the timing of the hunt. However, under this alternative the Makah could kill a maximum of four</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
	tter Only_7-31-15	whales in any single year and could not kill more than 7 whales over two years. The maximum number of PCFG whales that could be killed under this alternative would be 3.5 per year, but 1.4 would be more likely, according to NMFS, due to struck and lost whales being limited to 3 and a PBR level set at 2 per year. Struck and lost whales would be counted as PCFG whales in proportion to their presence in the Project Area and there would be no carry-over of unused whales. This alternative would also impose a 10- year limit on the duration of any MMPA waiver and any regulations issued pursuant to the waiver would expire after three years. The limitations on the duration of the waiver and regulations are appropriate, as this will provide an opportunity to adjust the terms of the hunt, or cancel it altogether, depending on a review of the relevant data. Under the other alternatives the waiver would be valid indefinitely.	
74	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>This alternative also suffers from the same deficiencies as identified in the other action alternatives (i.e., use of an 8-year-old population estimate lack of clarification of how, when, and by whom PCFG data will be collected in order to update the PBR calculations).</p> <p>Given the deficiencies noted above with respect to alternatives 2-6, the Coalition presents a seventh alternative at page 38 of this letter. This alternative combines some of the more conservative elements from alternatives 2-6. While the Coalition would not support this seventh alternative, it is included to highlight NMFS' deficiency in presenting a comprehensive analysis of alternatives.</p>	Comments noted. As noted above, if hunting is authorized it would be important to ensure up-to-date abundance estimates.
75	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>NMFS has failed to disclose all relevant information regarding marine species, including marine plants and invertebrates, and has downplayed the potential impact of a whale hunt on these species and the local ecosystem:</u></p> <p>NMFS fails to disclose all relevant information about marine species in the DEIS. It includes information about ocean current patterns, the influence of upwellings on marine productivity, and the impact of large scale environmental perturbations (e.g., Pacific Decadal Oscillation, El Nino, La Nina) on the marine ecosystem. DEIS at 3-98. It also provides general information about phytoplankton, zooplankton, and other marine species, including marine plants, marine mammals, and marine birds.</p>	These introductory comment are noted; specific responses are provided below.
76	Schubert (Animal Welfare Institute)_Le	<p>What is lacking, however, is information relevant to evaluating the environmental impact of the hunt on many of these species. In particular, despite asserting that any impacts of a gray whale hunt on benthic marine plant, macroalgal species, shellfish, and kelp raft communities would be "negligible" due to high levels of background disturbance and a strong capacity of these</p>	We disagree. Subsection 3.3, Marine Habitat and Dependent Species, provides the information the commenter suggests is lacking. Consistent with CEQ regulations at 40

Sort #	Commenter Code	Comment	Response
	tter Only_7-31-15	species for growth and recolonization (DEIS at 4-56, 4-58, 4-59, 4-60), there are no data in the DEIS upon which to make that determination. Specifically, NMFS did not disclose any information about the composition, abundance, diversity, or productivity of marine plants, macroalgal species, and/or shellfish in the Project Area. This assertion may be true and may simply be common knowledge among NMFS and local biologists in the area but, for the purpose of a NEPA analysis, the evidence supporting a conclusion must be disclosed instead of asking the public to trust that an otherwise unsubstantiated finding is correct.	CFR 1502.2(b), there is a sufficient description of marine habitat and species, with citations to the literature, to support the analysis regarding the minor level of impact on these resources. When an impact is likely to be minor, it is not necessary to present the detailed information suggested by the comment.
77	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The potential environmental impacts of the proposed hunt on other wildlife species are largely dismissed by NMFS for all species either because the impacts will be “temporary (lasting a few minutes to a few hours)” and “localized (occurring near the hunt).” DEIS at 4-123, 4-126, 4-137, 4-143, 4-144. It also claims that the “number of marine mammals that would potentially occur close enough to hunting activities to be affected by the associated noise would probably be low.” DEIS at 4-123. Only Alternative 4 is identified as having greater potential impacts on other wildlife since the hunt would occur during the summer when it is more likely to disrupt key activities such as breeding and nesting (although the limited number of hunting days under Alternative 4 could mitigate such impacts). DEIS at 4-142, 4-143.</p> <p>The alleged lack of impacts of the hunt may be more wishful thinking than substantive finding, since a hunt is not merely a carved wooden canoe with a crew of Makah whalers pursuing a gray whale. Rather, given the significant controversy inherent to a Makah whale hunt, the atmosphere surrounding a hunt (if the 1999 hunt is any guide) is akin to an aquatic three-ring circus, with whalers, support personnel, media representatives (on land and sea and in air), law enforcement personnel, federal and state wildlife officials, and protesters (on land and sea) all seeking to achieve a certain objective. Such activities will contribute to the harassment of wildlife in the Project Area above and beyond the baseline disturbance from recreational boaters/anglers, commercial shipping, and private and commercial air traffic.</p> <p>Instead of seriously considering this threat, NMFS compares it to a normal level of recreational angler trips, to suggest that the impacts would be similar. This is nonsense. While most humans using the Project Area may have no intention of disrupting or harassing other wildlife, including protected species, such impacts are inevitable. For seals that are hauled out on a beach, for nesting birds, or for other species engaged in daily behaviors (e.g., feeding, breeding,</p>	<p>The DEIS contains a thorough discussion of the activity surrounding a Makah whale hunt, beyond the activity of a hunting party (Subsection 1.4.2, Summary of Recent Makah Whaling - 1998 through 2014). The analysis contains a thorough discussion of potential impacts to other wildlife (Subsection 4.5, Other Wildlife) based upon best available science.</p> <p>We appreciate the referenced article and will include relevant information in a final EIS.</p>



Sort #	Commenter Code	Comment	Response
		<p>resting), the impacts of a hunt could be deadly, sub-lethal or, at a minimum, disruptive.</p> <p>The scientific literature is replete with studies on the adverse impact of stress on birds, terrestrial and aquatic mammals, fish, and reptiles (e.g., Kuczaj 2007; Attachment 5). The potential for sub-lethal stress to adversely impact a host of species in or near the Project Area has not been even remotely evaluated by NMFS.</p>	
78	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Its attempt to evaluate the potential effects of stress on gray whales was similarly deficient as it largely disregarded such an impact claiming that stress-related symptoms triggered by pursuit have not been documented in gray whales. DEIS at 3-166. More than likely, such symptoms have not been documented because no one has specifically studied stress in gray whales.</p> <p>Even if an animal does not flee from a threat, this does not mean it is not undergoing significant stress. In terrestrial mammals, for example, even if animals become habituated to particular perturbations in their environment, they may still experience elevated chronic stress levels, which can translate into reduced survival, a decline in productivity, or increased susceptibility to disease (Martin et al. 2011) NMFS must reconsider its analysis of such impacts to other marine species (i.e., mammals, fish, reptiles, and birds) and, in particular, focus on the potential impacts and implications of the hunt causing acute stress or contributing to chronic stress in these species.</p>	<p>The DEIS considers potential effects of stress on gray whales from the proposed hunt and alternatives in light of best available information (Subsection 4.4.2.1, Change in Abundance and Viability of the ENP Gray Whale Stock). Although information is limited, it is sufficient to allow for a comparison between the action alternatives and the No-action Alternative. We are unaware of studies that could be conducted or additional information that can be available and the commenter does not suggest any that could be obtained within a reasonable timeframe.</p>
79	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>As previously explained, NMFS has failed to explain the ESA consultation requirements or to provide any information about that process for federally listed threatened and endangered species in the Project Area. The DEIS does not describe whether NMFS has engaged or is engaging in the required internal and external reviews. While WNP gray whales are likely the most critically endangered species within the Project Area that could be impacted by a proposed hunt, there are several other endangered or threatened marine mammals, sea turtles, birds, and fish that may be affected by the proposed hunt and related activities. NMFS completely failed to even disclose that there are a number of federally protected fish, including salmon, in the Project Area that could be indirectly impacted by a hunt.</p>	<p>NMFS will engage in ESA section 7 consultations as appropriate, when a preferred alternative is sufficiently certain to support an ESA analysis.</p>
80	Schubert (Animal Welfare	<p>In general, for imperiled species within the Project Area, NMFS discounts potential impacts due largely to the rarity of the species. That is, it assumes that if a species is rare in the region the impacts of the proposed hunt will be limited.</p>	<p>Please see the response to frequent comment # 12 regarding the risks to WNP gray whales. Evaluating risks to</p>

Sort #	Commenter Code	Comment	Response
	Institute)_ Letter Only_7-31-15	<p>However, it is this rarity that should be of considerable concern and must merit additional analysis since, if there were an impact, its consequences would be more significant from a conservation standpoint on a rare species than on a species that is common.</p> <p>Recently, in Conservation Council for Hawaii v. NMFS (2015 WL 1499589 at *50 (D. Hawaii Mar. 31, 2015)(Attachment 6), the court criticized NMFS for dismissing potential adverse impact caused by training and testing activities of the US Navy conducted in its Hawaii-Southern California Training and Testing Study areas on imperiled species. Specifically, in regard to WNP gray whales, the court wrote:</p> <p>For Western North Pacific gray whales, NMFS says it does “not expect any western North Pacific gray whales to be involved in a ship strike event” because of “the low number of western North Pacific gray whales in the HSTT Study Area.” ECF No. 67-19, PageID # 12641. But if Western North Pacific gray whales are so scarce in the area, why does NMFS proceed to authorize mortalities for that species and on what basis does NMFS conclude that those mortalities in an area where the species is low in number “would not appreciably reduce the Western North Pacific gray whales’ likelihood of surviving and recovering in the wild”?</p> <p>This same concept is applicable here in that the rarity of a species should not be used to disregard the potential adverse implications of an impact and, indeed, if anything, such impacts should be subject to more careful review when they could affect imperiled species.</p>	<p>any species involves considering the likelihood of an encounter (i.e., its rarity) as well as the nature of the encounter/impact. The DEIS explores both of these aspects and, in the case of WNP gray whales, evaluates two alternatives (#4 and #5) specifically designed to explore the consequences of implementing additional protective measures for these whales.</p> <p>The concept the commenter suggests flows from the cited case is not relevant here because as described by the commenter the court in that case questioned the agencies’ authorization of take of WNP whales and evaluation under ESA Section 7. None of the alternatives analyzed in the DEIS would authorize the take of WNP whales or analyze authorization under Section 7 of the ESA.</p>
81	Schubert (Animal Welfare Institute)_ Letter Only_7-31-15	<p>For ESA-listed bird species (i.e., the short-tailed albatross and marbled murrelet), as well as the bald eagle (which is protected under the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act), NMFS again discounts the potential impact of a hunt (claiming that the risk of potential disturbance to albatross and murrelet is “extremely low” to “low,” respectively, while indicating that it is unlikely that any whale hunt activities would occur close to bald eagle nests). DEIS at 4-127, 4-128. NMFS, however, failed to disclose sufficient information about these species to permit any assessment of these claims. For example, for the albatross it failed to disclose information about estimated population numbers, trends, likelihood of the species’ presence in the project area, distribution and movement data, nor did it discuss the threats to the species. For the murrelet, the analysis was somewhat more robust, but much of the same information was lacking for that species. Failing to disclose such information violates NEPA.</p>	<p>There is a sufficient description of these species, with citations to the literature, to support the analysis regarding the level of impact. Consistent with CEQ regulations 40 CFR 1502.2(b), when an impact is likely to be minor, it is not necessary to present the detailed information suggested by the comment.</p>

Sort #	Commenter Code	Comment	Response
82	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS concedes that the ESA-listed species that have the highest likelihood to encounter hunt-related activities include killer whales and humpback whales. Southern Resident killer whales (J, K, and L pods) are listed as endangered under the ESA. NMFS reports that, when this stock of killer whales was listed, the listing factors included noise and disturbance of vessel traffic. DEIS at 4-124. It also concedes that “disturbance from vessels, aircraft, and weapons associated with whale hunting also has the potential to disrupt the ability of killer whales to communicate or find prey.” DEIS at 4-124/4-125. With only 80 Southern Resident killer whales remaining, NMFS is rather cavalier in its dismissal of the potential impacts of a whale hunt on this stock or its critical habitat (i.e., “none of the proposed alternatives would appreciably affect these elements<sup>35</sup> of critical habitat for this species” DEIS at 4-125). A far more detailed analysis of the impacts of any potential hunt on this population must be conducted in the context of NEPA and pursuant to the consultation requirements of the ESA.</p> <p><sup>35</sup> As stated in the DEIS, the elements referred to here are the primary constituent elements for the Southern Resident killer whale critical habitat. They include 1) water quality to support growth and development; 2) prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development as well as overall population growth; and 3) passage conditions to allow for migration, resting, and foraging or critical habitat for this species. DEIS at 4-125</p>	Given the minor increase in vessel traffic associated with a whale hunt, compared to overall vessel traffic in the project area, the large size of the project area, and the fact that Southern Resident killer whales do not prey on gray whales, it is unlikely a Makah gray whale hunt would have a noticeable effect on the Southern Resident population (Section 4.5.2.1.1, Marine Mammals (Excluding Gray Whales)).
83	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	For non-listed marine birds, NMFS makes conclusions for which there is no supporting evidence, does not provide a conclusion as to the potential impact of the hunt, dismisses potential impacts as “temporary and localized,” DEIS at 4-130, or indicates that long-term effects on local populations “cannot be determined with certainty.” DEIS at 4-144. For marine birds inhabiting beaches, bays, and estuaries, NMFS concedes that gunfire and helicopter noise “is particularly likely to flush birds off nests if it occurs close to shore where these birds are nesting or if they are foraging just off shore” but then concludes that it is “difficult to determine what impact this type of direct short-term effect would have on the long-term productivity of populations as a whole, although it might be a negligible loss.” DEIS at 4-130. Or it claims such long-term effects “cannot be determined with certainty.” DEIS at 4-139. Assuming that an impact “might be negligible” without providing evidence to support such a finding is reckless and may reflect an effort to discount some impacts of the proposed hunt. Similarly, for birds inhabiting coastal headlands and islands, despite concluding that “ledge nesting birds in the project area may be easily flushed off nest sites, leading to	We disagree. Section 4.5.2.1.2, Other Marine Wildlife, describes expected effects on non-listed marine birds and their associated habitat, commensurate with the expected minor level of effect (40 CFR 1502.2(b)). This comment does not point to any information not considered in the DEIS.

Sort #	Commenter Code	Comment	Response
		abandonment, predation on eggs or chicks, and subsequent nest failure,” NMFS fails to make a determination as to the impact of the hunt on this assemblage of birds. Id.	
84	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS has failed to fully disclose all relevant information about <u>gray whales and has downplayed potential adverse impacts on the species posed by a Makah hunt:</u></p> <p><u>Gray whale population trends and carrying capacity</u></p> <p>As reported in the DEIS, the estimated average annual rate of population increase for WNP gray whales is 3.3 percent per annum. DEIS at 3-67 (citing Cooke et al. 2013). The ENP gray whale population trajectory has remained relatively flat since 1980. DEIS at 3-110 (See Figure 5<sup>36</sup>). This suggests that the ENP gray whale population is at carrying capacity (or K), that births largely equal deaths, or there are other factors, natural or anthropogenic, that are preventing the ENP gray whale population from increasing its numbers.</p> <hr/> <p><sup>36</sup> Data obtained from DEIS at 3-111.</p>	These introductory comments are noted.
85	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Similarly, NMFS reports that the PCFG abundance trend appears to be flat at the current rate of recruitment. DEIS at 4-84, 4-100 (See Figure 6<sup>37</sup>). Noting that Punt (2015) found that PCFG whales are at 50 percent of K, the long-term stability of this population should be cause for concern, since the population should be increasing in size toward the region’s carrying capacity. It is not entirely clear why the PCFG population’s numbers have stabilized but, since they are only at 50 percent of K, permitting their lethal take by authorizing a Makah whale hunt is not appropriate. If Punt’s estimate of K for the PCFG is correct, then it would qualify for a depleted designation if it were designated as a stock, which would prohibit NMFS from authorizing lethal take through a Makah whale hunt.</p> <hr/> <p><sup>37</sup> Data obtained from DEIS at 3-145/3-146.</p>	We contacted Dr. Andre Punt who authored the paper cited in this comment. In an 8/24/15 e-mail to S. Stone (NMFS), Dr. Punt noted that this was a draft document still under development and "that this model does not make assumptions about constant carrying capacity so I am not sure what it can say about stock status relative to K - certainly that is not the aim of the overall project."
86	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In regard to carrying capacity, NMFS reports that it interprets K as the “current” capacity versus the habitat’s historic capacity. DEIS at 3-52. To substantiate that claim, NMFS cites from Gerodette and DeMaster (1990) who, in contrast to the NMFS claim, report that:</p> <p>in the context of OSP determination and as used in this paper, carrying capacity refers to an equilibrium population level before impact by man, either direct (through harvest or incidental killing) or indirect (through habitat degradation or harvest of predator, prey, or competitor species). Id.</p> <p>This quoted text contradicts the NMFS claim above. NMFS must clarify this issue and provide additional analysis of its recent practice in the use of</p>	Punt and Wade (2012) represents the best scientific information available on the OSP status of ENP gray whales. That published study concludes the ENP stock is at OSP. The 2012 Punt and Wade analysis was subject to review by the IWC Scientific Committee and also to public review and comment during the SAR process.

Sort #	Commenter Code	Comment	Response
		current or historical K when, for example, making depleted designations for species or stocks.	
87	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Lack of disclosure of critical information and deficient analysis of impacts</u></p> <p>The Project Area is confined primarily to the marine waters, islands, and land area near the Makah Tribe’s U&amp;A in the Pacific Ocean and Strait of Juan de Fuca that may be directly or indirectly affected by one or more of the project alternatives. DEIS at 1-3. In terms of any direct impacts of the hunt, this Project Area may be sufficient. However, as to indirect effects, the scope of the DEIS should have been extended to the entire range of ENP gray whales, as was done for the cumulative impacts analysis. In particular, with respect to the disclosure of information relevant to the analysis, NMFS should have provided more information about gray whales and their habitat throughout this larger area.</p> <p>NMFS has disclosed some information about gray whales and their habitat in Alaska and elsewhere along the migratory corridor. The DEIS includes information about killer whale predation on gray whales, amphipod availability on gray whale feeding grounds in the Arctic, and briefly references the ecological regime shift that is ongoing in the Bering Sea. While some of this information is relevant to the cumulative impacts analysis, ENP gray whales would be killed in the proposed hunt. Therefore, given changing habitat conditions (particularly in the Arctic), there is a compelling need to disclose additional information about the ecology, prey species, distribution, movements, and habitat use patterns for gray whales in the Arctic.</p> <p>Ocean warming caused by climate change is altering gray whale distribution, causing them to expand their summer range in order to find new feeding areas. DEIS at 3-196. This is due to changes in prey abundance, composition, productivity, and distribution. Indeed, the Arctic is experiencing a regime shift whereby a benthic ecosystem is transitioning into a pelagic ecosystem, as Arctic waters warm due to climate change (Grebmeier et al. 2006). In the past, a large proportion of the zooplankton and phytoplankton, including under ice algae, would die and settle to the ocean floor where it would sustain an enormous benthic community, including energy-rich amphipods. As the oceans have warmed, the zooplankton and phytoplankton blooms are occurring earlier and much of their production is being consumed by pelagic fish that have immigrated into the area. Without as much primary production settling to the ocean bottom, the abundance, density, and composition of the benthic invertebrate community has declined. DEIS at 3-99, 3-197.</p>	<p>The DEIS focuses on impacts of the proposed action in the project area but also contains relevant information regarding the status of gray whales and threats across their migration and life history (including the conditions identified in this comment) (Subsection 3.4.3.6, Known and Potential Anthropogenic Impacts) to support an analysis of the effects of the proposed action and alternatives (e.g., Subsection 4.4.3.2.1, Change in Abundance and Viability of the ENP Gray Whale Stock) and cumulative effects (Subsection 5.4, Gray Whales).</p> <p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>

Sort #	Commenter Code	Comment	Response
		<p>This is consistent with findings by Highsmith and Coyle (1992), Grebmeier et al. (2006), and others who have studied the implications of this regime shift. In the Chirikov Basin, amphipod populations declined 30 percent between 1986 and 1988, DEIS at 3-99 (citing Highsmith and Coyle 1992, Sirenko and Koltun 1992), which, over time, forced gray whales to find alternative feeding areas. DEIS at 3-99. As a result, gray whale numbers in the Chirikov Basin were 3 to 17 times lower in 2002 compared to numbers observed in the 1980s. Id. (citing Moore et al. 2003, Grebmeier et al. 2006). Gray whales are now observed in areas that were historically devoid of the species or where the species was rare, including in the south-central Chukchi Sea, just north of St. Lawrence Island in the Bering Sea, and in the Beaufort Sea. Id. This, along with the reduction in sea ice, has contributed to a one-week delay in the timing of the southbound migration, DEIS at 3-100, resulting in a larger proportion of gray whales giving birth along the migratory route outside of the protective confines of the Mexican lagoons.</p> <p>This, in turn, has increased the risks to newborn gray whale calves as a consequence of predation, increased energy use for thermoregulation, and other threats (e.g., ship strikes, exposure to pollution, oil spills and seepage) that are more prominent along the west coast of the United States compared to those faced in or near the Mexican lagoons.</p> <p>While some have suggested that gray whales, as generalist feeders, may adapt well to climate change impacts to their Arctic feeding areas, this may not be true. At present it is, at best, difficult to accurately predict what impact the changing Arctic will have on gray whales.</p> <p>Some of the information that would be needed – which is the evidence that should have been disclosed in the DEIS – includes data on the:</p> <ol style="list-style-type: none"> <li>1) abundance, composition, diversity, and productivity of amphipods throughout the Arctic including in the Chukchi and Beaufort Seas;</li> <li>2) the availability of pelagic prey for gray whales both in currently occupied Arctic feeding areas but also throughout Arctic waters given their expanding range;</li> <li>3) the caloric content and energy value of potential gray whale prey in the Arctic;</li> <li>4) ocean substrate survey data to determine potential future feeding areas for the species (particularly in regard to amphipod availability, given their preference for particular substrate types);</li> </ol>	

Sort #	Commenter Code	Comment	Response
		<p>5) species-specific data on fish that are increasing in density in Arctic waters, including their preferred prey, to assess if gray whales will be competing with such fish for pelagic prey; and,</p> <p>6) an assessment of any new potential health threats to gray whale in the form of exotic or invasive species, including viruses, bacteria, parasites, and natural toxins (e.g., saritoxin, domoic acid) that may be more prevalent or have greater pathogenicity as Arctic waters warm.</p> <p>In addition, NMFS must disclose if there is any evidence of radionuclide contamination in Arctic waters linked to the Fukushima nuclear reactor meltdown in Japan in 2011. Only with such information can there be any meaningful analysis of the long-term survival potential of ENP gray whales.</p> <p>Whether such evidence applies primarily to the analysis of indirect or cumulative impacts (which is addressed below), it should have been disclosed in the affected environment section of the DEIS so that interested stakeholders could consider and evaluate it in light of the full suite of potential impacts of the hunt.</p>	
88	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS also addresses the impact of PCFG whales within the ecosystems they occupy. This is a critically important issue, as it is directly relevant to the MMPA requirement to ensure that marine mammals remain a significant functioning element in the ecosystem. While ENP gray whales may transit the Project Area relatively quickly during their south or northbound migrations, there is also evidence that some ENP gray whales may linger within the range of the PCFG, including in the OR-SVI and Makah U&amp;A, primarily to feed. While these whales will have an effect on the ecosystem while present in the area, PCFG whales have a far greater impact given their presence throughout the spring, summer, and fall. While present, PCFG whales can have substantial impact on the pelagic and benthic environments, which, in turn, can benefit other species.</p> <p>Instead of acknowledging such potential effects, NMFS reports that “none of the action alternatives has the potential to appreciably affect the physical features and dynamic processes of the pelagic or benthic environments.” DEIS at 4-51, 4-54. NMFS claims that these environments are subject to far greater impacts from larger scale oceanographic processes. The Coalition does not dispute that there are larger scale processes, including ocean currents, upwelling, oscillation events, and other factors that influence the pelagic and benthic ecology of the project area, but NMFS is evaluating the impacts at too large a scale and in doing so has wrongly dismissed the potential impact of a hunt</p>	<p>The comment asserts that PCFG whales have a "substantial impact" on the marine environment in the project area but cites no evidence or information not considered in the DEIS.</p> <p>Section 3.3, Marine Habitat and Dependent Species, describes conditions in the existing environment, including benthic conditions, and Section 3.4.3.1.4, Feeding Ecology and Role in the Marine Ecosystem, describes gray whale feeding ecology and effects of gray whale feeding on the benthos. Section 4.3, Marine Habitat and Species, discusses the effect of each alternative on marine habitats, including the benthos.</p>

Sort #	Commenter Code	Comment	Response
		on the role of gray whales in influencing pelagic and benthic ecology in the Project Area.	
89	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Gray whales are important to the ecological structure of the Bering Sea. Though they can consume pelagic prey, as primarily bottom feeders they suck up mouthfuls of sediment, which is then resuspended in the water column (Grebmeier and Harrison 1992, Oliver and Statterly 1985). In the early 1980s when the gray whale population contained approximately 16,000 individuals, it was estimated that they resuspended approximately 1.2 x 10<sup>8</sup> m<sup>3</sup> of sediment during a summer feeding season (Johnson and Nelson 1984, Nerini 1984). Resuspended sediments include various nutrients, microorganisms, invertebrate species that provide benefits to ocean ecology, as well as food to other species, including seabirds (Obst and Hunt 1990). PCFG whales provide the same ecosystem service in their range and, thereby, provide important benefits to the structure and function of the ecosystem, as well as to other species in the area. Dismissing such impacts, as NMFS has done in the DEIS, is wrong.</p> <p>Indeed, if the hunt results in a reduction in gray whales in the Project Area, given the influence of gray whales on benthic ecology, this loss could at least result in an appreciable effect on ecology of the Makah U&amp;A and OR-SVI. In addition, since gray whales, as generalist feeders, also consume pelagic prey, their impact on the structure and function of the pelagic ecosystem could also be higher than considered by NMFS. Quantifying this impact, however, is not possible given the lack of any specific data on benthic and pelagic species, their abundance, composition, productivity, and distribution within the project area. NMFS needs to disclose such information in the DEIS.</p>	<p>The comment refers to impacts of gray whale feeding in the Bering Sea and asserts that PCFG whales play a similar role in the PCFG feeding area, but provides no information or evidence to support that conclusion.</p> <p>The comment also asserts that the DEIS should have provided greater detail regarding "benthic and pelagic species, their abundance, composition, productivity, and distribution within the project area" so that impacts could be quantified but provides no new information on this point. There is a sufficient description of marine habitat and species, with citations to the best available science and literature, to support the analysis regarding the level of impact (Section 4.3, Marine Habitat and Species). Consistent with CEQ regulations 40 CFR 1502.2(b), when an impact is likely to be minor, it is not necessary to present the detailed information suggested by the comment.</p>
90	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>NMFS has failed to adequately evaluate the economic impacts of the proposed whale hunt:</u></p> <p>As an initial matter, the description of the economic environment in the affected environment section of the DEIS is confusing. The variable use of numbers in some cases and percentages in others creates a data set that is difficult to interpret. NMFS should, at a minimum, review this section with the intent to clarify the statistics by, for example, consistently using numerical followed by percentage values in parentheses. For example, where the DEIS reports that "the per capita income of Makah Reservation tribal members is</p>	Comments noted. We reviewed the cited sections of the DEIS and did not find errors. We also note that CEQ regulations at 40 CFR 1502.2(b) do not require a detailed presentation of information when a category of impacts is likely to be minor. In any event, we will consider these



Sort #	Commenter Code	Comment	Response
		<p>lower than per capita income countywide, registering 54 percent of the countywide level in 2010,” DEIS at 3-281, it should insert a numerical value before the “54 percent” reference. By doing so, NMFS could then confirm that all of the data contained in any of the economic tables contained in the DEIS are accurate.</p> <p>In addition, NMFS should compare the economic values contained in the DEIS on pages 3-246 to 3-269 with the data contained in the environmental justice section of the DEIS on pages 3- 270 to 3-281 to ensure that they are consistent. Such a comparison would be unnecessary if NMFS removes the Environmental Justice text from the DEIS as recommended below.</p>	<p>suggestions for clarifying the presentation in developing a final EIS.</p>
91	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The Coalition has no reason to question the accuracy of the economic data presented in the DEIS, although it is concerned that, as presented, the data used may not be consistent throughout the document. We note, however, that the overall economic impact analysis is incomplete.</p> <p>NMFS’s evaluation of the impacts to economics is based on the following economic variables: potential change in revenue, employment and/or economic value associated with tourist-related business activity; change in household consumption of whale products and manufacture and sale of traditional handicrafts; and economic impacts to the whale-watching industry, commercial shipping, and sport and commercial fishing, and hunt-related management and law enforcement. DEIS at 4-148.</p>	<p>Comments noted.</p>
92	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Based on an analysis of the information contained in the DEIS, there are a number of questions and concerns that NMFS must address.</p> <p>Prior to articulating those concerns, there are several key statements or conclusions in the DEIS that are relevant to the analysis and must be noted and discussed. These include:</p> <ul style="list-style-type: none"> <li>• The Makah Tribal Council financially supported the whaling crews in 1999 and 2000, but in 2002 the Council decided to end financial support for whale hunts, leaving it up to the whaling families to financially support any hunts consistent with tribal traditions. DEIS at 3-283, 4-147. Because of this, the economic impact analysis in the DEIS does not include an assessment of the economic burden on Makah tribal members or households that may choose to engage in whaling. The Coalition supports this decision and notes that, should the Makah Tribal Council elect to financially support tribal whalers in the future, NMFS must reevaluate the economic impacts of the hunt, since funds expended on whaling could not be spent on meeting other needs of the Makah people on the reservation. Moreover, if the Makah Tribe seeks federal funds (i.e.,</li> </ul>	<p>Comment noted.</p>

Sort #	Commenter Code	Comment	Response
		taxpayer money) for the purpose of subsidizing whaling from NMFS or any other agency, this too should trigger at least a supplemental Environmental Assessment under NEPA.	
93	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<ul style="list-style-type: none"> <li>• The potential for any changes on the reservation under any of the alternatives to have a noticeable effect on economic conditions in Clallam County is negligible, because economic contributions by the Makah reservation to the countywide economy are so small. DEIS at 4-147. Given this conclusion it also would hold that the economic impacts of the No Action Alternative would also be negligible in the context of the economic conditions in Clallam County.</li> </ul>	Comment noted.
94	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<ul style="list-style-type: none"> <li>• There are no economic data demonstrating any positive economic impact from the influx of visitors during previous hunt-related events as a result of an increase in the number of rooms rented or in other economic activities in the region. DEIS at 4-149. This is notable since, as indicated below, NMFS ignores this point when evaluating the alternative-specific economic impacts. Nor has NMFS disclosed any economic data to suggest that there was any positive economic impact for Clallam County or the Makah reservation subsequent to the hunt because of the media attention focused on the Makah Tribe.</li> </ul>	Comment noted.
95	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<ul style="list-style-type: none"> <li>• Figures are not available for the amount of revenue generated by reservation tourism and recreation or the number of jobs and amount of personal income that depend on visitor spending. DEIS at 4-148. This statement is at least partially false, given that the DEIS did include statistics in regard to the number of persons purchasing permits to recreate on the reservation, including to use the Cape Flattery trail, and the number of non-tribal members visiting the Makah Cultural and Research Center. It is also inconceivable that additional tourism data are not available. Surely the Makah or NMFS (or its environmental consulting firm Parametrix) could have surveyed any inns, hotels, motels, lodges, tourist cabin owners, or other tourism-linked companies on the reservation to obtain data on the nightly room rentals and/or other tourist expenditures. Similarly, considering that the Makah have attempted to improve the marketing of Neah Bay as a tourist destination through Washington State and through the Affiliated Tribes of Northwest Indians, DEIS at 4-419, the Makah Tribal government must have data that documents what impact, if any, such marketing efforts have had on tourist visits to the reservation. Since NMFS has not satisfied the requirements of NEPA in regard to incomplete or unavailable information in this case, it must secure this information and use it in a revised analysis.</li> </ul>	Comment noted. We will assess whether it is necessary to obtain such information for a final EIS.

Sort #	Commenter Code	Comment	Response
96	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<ul style="list-style-type: none"> <li>• There is no evidence that calls for boycotts of Olympic Peninsula tourism as a result of the 1999 hunt had any negative economic impact on tourist businesses in the area. DEIS at 4-150. While this may be true, using this to predict the future is naïve. During the 1999 and 2000 hunts, it was known that litigation was being pursued that could stop the hunt. Consequently, although some advocated a tourism boycott of the Olympic Peninsula, others elected to determine the outcome of the judicial process instead of immediately supporting a boycott. If, as a result of this decision-making process, an MMPA waiver is granted and legal efforts to stop the hunt are not successful, there may be a renewed and more vigorous effort to promote a tourism boycott that could have adverse economic impacts on the Makah reservation and other businesses on the Olympic Peninsula.</li> </ul>	Whether there would be an economic boycott of the Olympic Peninsula as a result of implementing any of the alternatives is speculative in light of existing evidence. The DEIS notes that there were attempts to organize a boycott around the 1998-99 hunts but that there is no evidence of any effect of those efforts (Section 3.6.3.3.1, Summary of Economic Effects of the Makah Gray Whale Hunts).
97	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<ul style="list-style-type: none"> <li>• No revenue would be made from the sale of whale meat but such products would meet the nutritional needs of Makah families. DEIS at 4-150. NMFS also claims that “attaching a dollar value to food products from harvested whales is difficult,” id., but that whale products could “potentially replace foods that families would otherwise have to purchase.” Id. This statement is not entirely accurate since, as explained below, an estimate can be obtained as to the value of the reported 8-20 pounds of whale meat per capita and 16 to 20 pounds of oil or blubber per capita based on similar, currently available food products. With that estimate, the alleged economic benefit to Makah families if the whale hunt were to be allowed can be quantified.</li> </ul>	We maintain that attaching a dollar value to food products from harvested whales is difficult and speculative. The commenter does not provide any new data or information on how to obtain data. For example, the DEIS Subsection referred to in this comment (4.6.2.2, Household Use of Whale Products) also notes that the distribution of subsistence products through sharing networks makes it likely that many households and individuals would enjoy the economic benefits of a whale harvest. We do not have information to predict the type and cost of products that would be exchanged in such sharing networks nor the frequency of such exchange.
98	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<ul style="list-style-type: none"> <li>• The Makah Tribe has a long tradition of manufacturing carvings, baskets, and other items for sale to collectors and tourists. Tribal artisans also produce carvings, jewelry, and silk screen designs for sale in local shops and regional galleries. DEIS at 4-151. Despite this claim, NMFS provides no data in the DEIS on the annual revenue generated by the sale of these products. As explained below, this is relevant to the environmental impact analysis when NMFS asserts that whaling will increase revenue for tribal artisans because it will</li> </ul>	We disagree that it is necessary to quantify the potential economic benefit and/or tradeoffs from the manufacture of handicrafts to provide information necessary for an informed evaluation of the proposed action and alternatives. The DEIS presents

Sort #	Commenter Code	Comment	Response
		<p>allow them to manufacture and sell native handicrafts from whale bone, baleen, and other non-edible parts of the whale. In addition, NMFS needs to provide some data on the value of native authentic handicrafts manufactured from whale products. Such data may be available from Native Alaskan artists who utilize non-edible products from the bowhead whale hunt to manufacture authentic handicrafts. Quantifying this potential effect requires understanding the current value of Makah authentic native art/handicraft sales and of the potential revenue that could be gained by selling native handicrafts manufactured from whale products.</p>	<p>sufficient information for decision-makers to distinguish among the alternatives regarding impacts to this resource. When an impact is likely to be minor, CEQ regulations at 40 CFR 1502.2(b) provide it is not necessary to present detailed information such as that suggested by the commenter.</p>
99	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<ul style="list-style-type: none"> <li>Information on the current number of whale-watching expenditures, passengers, revenues, and employment numbers in the Washington/British Columbia areas is “not available.” DEIS at 4-152. In addition, NMFS claims that “current revenues of whale-watching operations are unknown, and there is no information available or that could reasonably be obtained that would allow an estimation of how much whale watching revenues might decrease if gray whale behavior or numbers were altered by a Makah hunt.” DEIS at 4-154. Despite admitting to not having such data, NMFS reports that it is “unlikely that whale hunting under any of the action alternatives would have more than a negligible effect on whale-watching revenues or employment within or outside the Project Area.” DEIS at 4-152. It is inconceivable that the whale-watching data reported above were not reasonably attainable. It could be that neither NMFS nor Parametrix (the consulting firm paid by NMFS to prepare the DEIS) endeavored to obtain the data but, surely, had NMFS contacted whale watching companies, they likely could have provided requested revenue, expenditure, passenger, and employment numbers. NMFS has not complied with the NEPA requirements in regard to incomplete or unavailable information, so since this information is reasonably available, NMFS must obtain it and use it in a revised analysis.</li> </ul>	<p>NMFS did attempt to collect data on the whale-watching industry, through its contractor TCW Economics. Such information is not available and NMFS cannot require whale watch operators to provide it. Moreover, we consider this potential impact to likely be minor and therefore not requiring the level of detail suggested by the comment, per CEQ regulations at 40 CFR 1502.2(b). Given the likely minor impact, the qualitative comparison among alternatives is sufficient to support informed decision-making. We will determine the need to make a statement pursuant to 40 CFR 1502.22 when we complete a final EIS.</p> <p>Following publication of the DEIS NMFS did retain another economics firm to analyze impacts on the Puget Sound whale watching industry of regulations to protect Southern Resident killer whales (Industrial Economics, Incorporated (IEc). 2015. Memorandum: Regional Economic Benefits of Whale Watching in Puget Sound). We have reviewed that study</p>

Sort #	Commenter Code	Comment	Response
			and concluded it does not change the analysis in the DEIS. We will incorporate the findings from that study in a final EIS.
100	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	It is also reasonable to conclude that tourists may not wish to watch whales they believe might be killed in a Makah hunt, which would result in a decrease in whale-watching bookings in the region and indeed throughout the North American Pacific coast. Claiming this likelihood is negligible because the Chukotkan hunt does not have a similar effect is disingenuous, given the attention the Makah hunt has received in the past by US media, compared to the relative lack of attention US media pay the Chukotkan hunt. Further, the remoteness of the Chukotkan hunts makes whale watching there currently almost impossible and therefore not a good comparison. Therefore, the conclusion in the DEIS that a hunt would have a negligible impact on whale-watching revenues is not necessarily true.	As noted in the DEIS, the proposed hunt area is remote and not a major whale-watching destination compared to other areas along the West Coast. There is no information to suggest that individuals would avoid whale-watching tours if a Makah hunt is authorized, and it is unlikely that Makah hunting activities would overlap geographically with whale-watching tours (Section 4.6.2.3, Whale-watching Industry). The DEIS also notes that whale watching has grown within the analysis area during the past two decades and may continue to grow (Subsection 5.1.3.5, Tourism).
101	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<ul style="list-style-type: none"> <li>Costs associated with any proposed hunt would include approximately \$75,000 per year to continue a photo-identification study of PCFG gray whales, \$263 per day to cover the costs of NMFS observers, and \$91,670 per day for law enforcement costs, with the bulk of the costs borne by the United States Coast Guard to cover the costs of its aircraft and vessels. DEIS at 4-155/4-156.</li> </ul>	This summary of information contained in the DEIS is noted.
102	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	In evaluating the impacts of each action alternative, NMFS dismisses any potential impact on whale-watching operations as a result of a change in behavior of gray whales in response to vessels. This is based on the Chukotkan gray whale hunt in Russia, which has been ongoing, largely without any stoppage, for centuries. NMFS claims that the hunt “has not translated into a general avoidance of boats by gray whales.” DEIS at 4-153. This is a rather simplistic analysis of the potential impact of a hunt in the Washington region on gray whale behavior. First, NMFS has not disclosed sufficient information in the DEIS to permit a credible assessment of the impact of a Chukotkan hunt on gray whales. While the Russians continue to kill approximately 123 gray whales per year, DEIS	The DEIS does not dismiss potential impacts on whale-watching operations. Subsection 3.6.3.3.2, Commercial Value of Whales, describes available information on the whale-watching industry off the U.S. coast and Subsection 4.6.2.3, Whale-watching Industry, summarizes potential impacts of the alternatives. Contrary to commenter’s assertion,

Sort #	Commenter Code	Comment	Response
		<p>at 3-162, NMFS has not provided any information about catch- per-unit-effort, any change in gray whale distribution within their Russian feeding grounds, any change in the temporal use of near shore habitats, or any change in their behavior on those feeding grounds in response to vessels (i.e., are they more alert or more likely to flee compared to gray whales using feeding grounds within the Arctic waters of the United States where they are protected).</p>	<p>the DEIS relies on a variety of sources to inform its conclusion, in addition to the response of gray whales to the Chukotkan hunt. The commenter asserts the DEIS should have provided additional information but does not identify where such information may be available. Since publication of the DEIS Russia has reported some limited additional information, which we have reviewed but which has not altered the conclusions in the DEIS. We will consider whether a final EIS would benefit from additional discussion of the impacts from Chukotkan hunts on gray whales. . Moreover, we consider impacts on the whale-watching industry would likely be minor and therefore the analysis of impacts isn't essential to informing a reasoned choice and does not require the level of detail suggested by the commenter (40 CFR 1502.2(b)).</p>
103	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Although matrilineal site fidelity may be the dominant factor drawing gray whales into Russian feeding grounds where they are subject to hunting, it would not be surprising if there have been some changes, even if only subtle, in gray whale behavior within the Russian feeding grounds. For example, it is well known that white-tailed deer can learn where and when they are safe from hunters and where and when they are not. This allows deer to utilize forage resources by night in areas open to hunting during the day, only to return to more protected areas during the day. If white-tailed deer have this capacity, it is likely gray whales do as well. In other words, gray whales may recognize, after decades of near complete protection in Mexico, along the west coast of the US and Canada, and in US Arctic waters that they are safe from hunting, while those who occupy Russian waters may demonstrate different behaviors intended to minimize their risk of lethal take while in that area. NMFS must explore this issue</p>	<p>The line of reasoning suggested in this comment is speculative.</p>

Sort #	Commenter Code	Comment	Response
		<p>in more detail before making such overreaching comments about the potential impact, or lack thereof, of any hunt on gray whale behavior.</p>	
104	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS also must consider how a hunt by the Makah Tribe, which would include harassment of gray whales through pursuit, unsuccessful harpoon attempts, and potential injury to gray whales due to non-lethal strikes of a harpoon or bullet, might impact the behavior of gray whales in the larger eastern Pacific region. The impact of the proposed hunt on gray whale behavior is not addressed in the DEIS.</p> <p>Similarly, NMFS entirely ignores the possibility that a Makah hunt could influence the popularity of gray whale watching along the entire Pacific coast of North America, including the unique experience of interacting with gray whales and their calves in the lagoons in Mexico.. It is possible that people interested in undertaking a gray whale watching excursion may choose to skip such a trip if they are aware that the whales they would observe could be killed in a hunt in US waters. At a minimum, the enjoyment of watching gray whales would likely be diminished if tourists were aware of the potential danger posed by Makah whalers.</p>	<p>The DEIS considers whether a hunt would alter the distribution of ENP gray whales (e.g., Section 4.4.2.4, Change in Numbers of Gray Whales in the Makah U&amp;A and OR-SVI Areas). The assertion that a Makah hunt could affect whale watching coast-wide is speculative, and the commenter provides no information to support the speculation.</p>
105	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In evaluating each action alternative, NMFS suggests each is likely to increase tourism to the Makah reservation. DEIS at 4-158, 4-162, 4-164, 4-168. This assumes that non-tribal members have an interest in watching the killing or butchering of a whale or that media attention to the hunt will increase tourism to the reservation. This claim completely ignores evidence from the 1999 hunt, as contained in the DEIS, that the Seattle Times reported that of the 400 calls it received after the 1999 hunt ran 10 to 1 against the hunt (DEIS at 3-286) and that more residents of Clallam County expressed disapproval of the hunt than expressed support. Id. at 3-288, If anything, given that most US citizens are opposed to whaling, including aboriginal whaling when the tribe does not have a legitimate need for whales, it is more likely the action alternatives will result in a reduction in tourism to the Makah reservation.</p>	<p>It is unclear what if any correlation there is between the desire and effort to phone in an opinion about a hunt versus actually visiting the reservation to observe a hunt.</p> <p>The conclusion that there is likely to be a "minor short term" increase in tourism at the time of a hunt is based on the influx of visitors to the area during previous hunts, which included hunt protesters and reporters.</p>
106	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Similarly, for each action alternative, NMFS claims there will be a negligible change in whale- watching revenue. DEIS at 4-159, 4-162, 4-167, 4-168. This conclusion is curious considering NMFS claims data on whale-watching operation revenues was not reasonably available.</p>	<p>Comment noted.</p>

Sort #	Commenter Code	Comment	Response
107	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS also claims, for each of the action alternatives, that the increase in the availability of whale meat/blubber/oil for consumption and non-edible whale products for use by artisans will provide an economic value for members of the Makah Tribe. DEIS at 4-160, 4-163, 4-166, 4-168. For the non-edible products, without data on current sales of Makah artisan products and some assessment of the value of products manufactured from whale baleen or bone, the alleged impact of a whale hunt on artisan revenues cannot be quantified.</p>	<p>The DEIS does not attempt to quantify the economic benefits of handicraft sales.</p>
108	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>For edible products, NMFS should have provided an estimate of the value of such products so as to quantify the potential savings to Makah tribal households. For example, the June 2015 price for uncooked beef steak in the western US is \$7.67 per pound,<sup>38</sup> while olive oil (which, for this analysis is being used to represent whale blubber/oil; olive oil is often used to flavor foods as the Makah traditionally used whale oil) costs approximately \$5.46 for 25.5 ounces<sup>39</sup> or 27.40 per gallon (which corresponds to \$3.28 per pound). Using these figures, the estimated 8 to 20 pounds of whale meat would correspond to a value of \$61.36 to \$153.40, while the 16 to 20 pounds of blubber/oil would correspond to a value of \$52.48 to \$68.52. Combined, the value of the meat and blubber/oil would be \$113.84 to \$221.92. Depending on the household or family income of the Makah families that choose to consume whale products, the savings accrued by consuming these products may or may not be significant to a family/household annual budget. This assumes any savings accrued from the consumption of whale products will not be spent on other food items.</p> <p><sup>38</sup> See <a href="http://www.economagic.com/em-cgi/data.exe/blsap/APU0400FC3101">http://www.economagic.com/em-cgi/data.exe/blsap/APU0400FC3101</a></p> <p><sup>39</sup> <a href="http://www.walmart.com/ip/Great-Value-100-Extra-Virgin-Olive-Oil-25.5-oz/10316039">http://www.walmart.com/ip/Great-Value-100-Extra-Virgin-Olive-Oil-25.5-oz/10316039</a></p>	<p>For purposes of the analysis in this DEIS, it is sufficient to present information about edible products in the quantitative terms referenced here. Monetizing the benefit of whale products would not provide additional information that would benefit the decision-making process. Moreover, CEQ regulations at 1502.2(b) direct that EIS analyses be commensurate with likely impacts, which in the case of this resource are likely to be minor.</p>
109	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In regard to the potential impacts of a hunt on law enforcement/management costs, Table 4-14 in the DEIS provides a summary of the estimated enforcement-related costs (including the costs for NMFS observers) of each alternative. These costs would range from a maximum of \$5.6million per year under Alternatives 2, 3, and 6 to a minimum of approximately \$717,000 per year under Alternative 4. As indicated previously, the majority of these costs will be borne by the United States Coast Guard, yet NMFS provides no discussion of whether the Coast Guard has the funds to cover this cost, if Congress would allocate funds for the Coast Guard to cover such costs, or how Coast Guard funding for these costs could impact other Coast Guard operations in the Washington area, including search and rescue, homeland security patrols, and any drug interdiction efforts. While admittedly the Makah</p>	<p>Comment noted. It would be speculative to consider whether future funding would be available to support monitoring and enforcement and NMFS cannot commit the federal government to future expenditures.</p>



Sort #	Commenter Code	Comment	Response
		<p>hunt, if allowed, will not occur in the immediate future, given federal budgetary realities there must be some discussion of whether the funds needed to pay for a hunt are or would be available and if they would impact other Coast Guard operational programs.</p>	
110	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Similarly, since funds allocated by the Coast Guard and NMFS to a potential hunt are collected from taxpayers, if a waiver is granted then NMFS is effectively subsidizing with taxpayer dollars a hunt the public may strongly oppose. This impact to the taxpayer was not evaluated in the DEIS.</p>	<p>The information commenter suggests is lacking is provided in the DEIS. DEIS Subsection 4.6.2.5 (Management and Law Enforcement) and Table 4-14 address the costs described in this comment, noting that "If whale hunting by the Tribe engendered protests by whaling opponents, as it has in the past, there would likely be law enforcement operations to maintain order. Past law enforcement activities have involved the United States Coast Guard, NMFS Office of Law Enforcement, the State of Washington, Clallam County Sheriff's Office, and Makah tribal police. Estimated costs for all non-tribal agencies could approach \$91,670 per day, with the bulk of costs associated with United States Coast Guard aircraft and vessels."</p>
111	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>There are other gaps in the economic impact analysis that must be addressed. First, NMFS has not disclosed any information about the total amount of federal funds expended since the mid- 1990s in an effort to facilitate the Makah's resumption of whaling. This would include, but not be limited to, costs for NEPA compliance, consultations with the Makah and other agencies, fees paid to consultants, legal costs, costs associated with scientific research relevant to the proposed hunt, and costs incurred in obtaining past ASW gray whales quotas from the IWC. This is directly relevant to any analysis of economic impacts of a Makah hunt, as it would provide interested stakeholders with additional information about the true costs of the Makah's whale hunting proposal.</p>	<p>The DEIS considers potential costs to local, state, and federal governments associated with implementing the alternatives. It's not clear how the retrospective costs of responding to the Makah Tribe's request would be relevant to decision-making regarding the proposed action and alternatives because these costs fall within NMFS' authorized responsibilities and prior appropriated funds</p>

Sort #	Commenter Code	Comment	Response
112	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Finally, NMFS completely fails to include any information about the economic value of gray whales. This is not uncommon, as most agencies, when evaluating the environmental impacts of an action that will affect a species, fail to recognize that the species has worth beyond its value, economic or otherwise, to humans (i.e., for hunting, fishing, or wildlife watching/tourism). This value extends well beyond the value to a whale watching company, to include the ecological value of gray whales (i.e., the value gray whales provide as part of an ecosystem, including as prey, predator, and how their behaviors may affect other marine species and the marine environment) and their intrinsic or existence values.</p>	<p>The DEIS examines the role of gray whales in their environment (e.g., Subsection 3.4.3.1.4, Feeding Ecology and Role in the Marine Ecosystem). Though it does not explicitly consider the "existence value" of whales, the DEIS does examine the social environment that may be affected by the proposed action (Subsection 4.8, Social Environment). Please also refer to the response to the next comment.</p>
113	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Calculating such intrinsic values can be done using an economic tool known as contingent valuation (CV). CV has historically been used by the Department of the Interior and the Department of Commerce, including NMFS, to assess the intrinsic value of natural resources lost as a result of an oil spill. Indeed, federal law requires that such intrinsic values be assessed in order to calculate the amount of damage caused to the environment. This damage calculation is used to assess penalties against those responsible for the damage.</p> <p>The CV concept, however, is equally applicable in this context and could – and should – be used to assess the intrinsic or existence value of a gray whale, in order for the cost of losing a whale due to a Makah hunt to be considered in the economic analysis. The CV process utilizes surveys to determine, in this case, the value local residents, regional residents, and citizens nationally apply to gray whales. The purpose of the analysis is to collect value data both from those who may observe gray whales in the wild and from those who have never seen, and may never see, a gray whale in the wild.</p> <p>The Department of Commerce is well aware of CV as its National Oceanic and Atmospheric Administration empaneled a number of distinguished social scientists in the early 1990s to determine if CV “is capable of providing reliable information about lost existence or other passive-use values.”<sup>40</sup> The report provided support for the use of CV to calculate such existence or passive-use values and included a series of recommendations to direct such assessments. NMFS must engage in this type of analysis using the CV methodology (or something similar), so that it can obtain data on the intrinsic value of gray whales to include in a revised analysis.</p> <p><sup>40</sup> See Arrow, K., R. Solow, P.R. Portney, E.E. Leamer, R. Radner, and H. Schuman. Report of the NOAA Panel on Contingent Valuation. January 11, 1993 (available</p>	<p>We are unaware of information or existing studies regarding the contingency valuation of gray whales and the commenter does not provide such information. Commenter does not cite such studies. . The DEIS provides a qualitative analysis of public values surrounding whales in Subsections 3.8 and 4.8, Social Environment and that analysis supports informed decisionmaking for this scale of potential impact.</p>

Sort #	Commenter Code	Comment	Response
		at <a href="http://www.economia.unimib.it/DATA/moduli/7_6067/materiale/noaa%20report.pdf">http://www.economia.unimib.it/DATA/moduli/7_6067/materiale/noaa%20report.pdf</a> ).	
114	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>NMFS has improperly applied the environmental justice concept to the proposed Makah whale hunt:</u></p> <p>NMFS has grossly misapplied the environmental justice requirements contained in Executive Order (EO) 12898 in the DEIS (59 Federal Register 7629, February 16, 1994). This EO mandates that "... each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States ..." DEIS at 4-173, EO 12898 at 1-101.</p> <p>Traditionally, this concept has been applied to, for example, the impact of constructing a road, refinery, waste storage facility, or feedlot in areas where the majority of the population is minority or low income. The idea is to ensure such populations are not disproportionately impacted or unduly burdened by such a project compared to other human populations (i.e., non-minority and middle/upper income).</p> <p>Here, however, NMFS is attempting to evaluate the environmental justice implications of allowing or not allowing a minority group, the Makah Tribe, to engage in whaling; an activity that the Makah have not pursued, save for once, for nearly 90 years. If the Makah Tribe was currently whaling and the government was considering prohibiting the hunt, the environmental justice implications of such an action would be relevant. Or, if the government was considering the construction of a road, military base, mine, port, or missile silo on or near the Makah reservation, environmental justice concerns would be applicable. Attempting to apply such an analysis to an activity for which there has been such an extended period of inaction, however, is entirely inconsistent with the intent of the Executive Order. Indeed, the Coalition challenges NMFS to identify any other instance where it or any federal agency has applied the environmental justice analysis in the same manner as it has here.</p> <p>An examination of EO 12898 reveals other elements that further demonstrate the inapplicability of its use in the present situation. For example, Section 2-2 states that:</p> <p>"Each Federal agency shall conduct its programs, policies, and activities that <u>substantially affect human health or the environment</u> in a manner that</p>	We properly applied and met the requirements of the Executive Order in our inquiry into whether any of the alternatives would have a disproportionate impact on minority or low-income populations.

Sort #	Commenter Code	Comment	Response
		<p>ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin” (emphasis added).</p> <p>Although unstated in the analysis in the DEIS, NMFS may be engaging in this analysis based on claims that depriving Makah access to whale meat, blubber, and oil is substantially affecting the health of the Tribe. As previously explained, however, this is not supported by the evidence.</p>	
115	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Section 4-4 of the EO is specifically focused on subsistence consumption of fish and wildlife. This section mandates that federal agencies do the following: 4-401. Consumption patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns. “4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.”</p> <p>NMFS may believe these mandates permit the application of environmental justice in the case of the Makah whale hunt. If anything, based on the lack of any credible data or analysis in the DEIS on the fish and wildlife consumption patterns of Makah tribal members (i.e., what wildlife species are consumed, the quantity consumed, the contaminant profile of each consumed species), NMFS has clearly failed to comply with this section of EO 12898. Indeed, the only information contained in the DEIS regarding Makah consumption patterns of fish and wildlife includes statements about how frequently Makah families consume traditional foods, how many times per week they eat fish, how many pounds of fish they eat each year, and that they also engage in subsistence hunting of terrestrial wildlife.</p>	<p>The DEIS considers patterns of consumption to the extent necessary to analyze and compare the alternatives.</p> <p>Please also see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.</p>
116	Schubert (Animal Welfare	<p>NMFS also provides no information in the DEIS to suggest it has worked collaboratively with other agencies to publish guidance on methods used to evaluate the human health risks associated with the consumption of pollutant-</p>	<p>Please see the response to frequent comment # 11 regarding the safety of</p>

Sort #	Commenter Code	Comment	Response
	Institute)_ Letter Only_7-31-15	bearing fish or wildlife or that it relied on such guidance in evaluating the environmental impacts of consuming gray whale products by the Makah. NMFS does provide data on contaminant loads in some species of fish and wildlife in the DEIS. It also refers to Washington State standards for what amount of whale blubber may be safe to consume (see DEIS at 3-373: “(e.g., an 8-ox [227 gram] meal size) yields a calculated ‘allowable consumption rate’ of 0.43 meals of blubber per month.” It does not, however, identify any federal standards or guidelines for what is considered an acceptable or safe level of contaminants in fish and wildlife species used for subsistence purposes. Nor does it suggest that it has provided – or will provide – any guidance to the Makah in regard to its consumption of gray whale food products.	gray whale products for human consumption.
117	Schubert (Animal Welfare Institute)_ Letter Only_7-31-15	<p>While the EO provides broad standards for all federal agencies to meet, it does not establish agency or department-specific standards for environmental justice review. Rather, Section 1- 103 mandates that:</p> <p>“... each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)–(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low- income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable.”</p> <p>What NMFS fails to disclose in the DEIS is that the Department of Commerce (DOC) has adopted an Environmental Justice Strategy (DOC Strategy).<sup>41</sup> In this strategy, the DOC does specify that: “During National Environmental Policy Act reviews of major agency actions, <u>any potential disproportionate and adverse environmental or health effects</u> on low-income or minority populations are considered.” (emphasis added) DOC Strategy at II.B.1.</p> <p>Notably, this DOC language is not consistent with the EO language, which refers to a “substantial” effect on human health or the environment.</p>	Comments noted. Please also see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.

Sort #	Commenter Code	Comment	Response
		<p>Nevertheless, even without reference to a substantial effect, the impacts of the proposed whale hunt (or lack thereof) on the environment and health of the Makah people do not meet this standard and, therefore, the environmental justice analysis in the DEIS is improper. First, there would be no adverse environmental impacts if NMFS rejects the Makah Tribe’s request for a waiver. Indeed, as documented in the DEIS, all of the adverse environmental impacts (differentiating environmental from cultural, social, and subsistence use impacts) would occur if NMFS allows the Makah to whale.</p> <hr/> <p><sup>41</sup> The Department of Commerce Environmental Justice Strategy is available at: <a href="http://open.commerce.gov/sites/default/files/DOC_Environmental_Justice_Strategy.pdf">http://open.commerce.gov/sites/default/files/DOC_Environmental_Justice_Strategy.pdf</a></p>	
118	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Moreover, as previously stated, NMFS concedes that “there is insufficient information to conclude that the lack of fresh whale products under the No-action Alternative would be expected to negatively alter current dietary conditions for any tribal member,” DEIS at 4-259, so denying the waiver would have no known health effects on the Makah. If anything, as also conceded by NMFS, whale products, particularly blubber, “would likely contain higher levels of certain contaminants (e.g., PCBs) than other foods consumed by the Makah,” DEIS at 4-257, suggesting that allowing a whale hunt could be adverse, not beneficial, to the health of the Makah people. The environmental justice analysis in the DEIS, however, fails to consider how allowing a whale hunt could adversely impact the health of the Makah Tribe.</p>	Potential health effects of hunting whales and consuming whale products are discussed in Section 4.16, Human Health. We will consider whether this information needs to be repeated in the section on environmental justice in a final EIS.
119	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In the DOC Strategy, NOAA is identified as an operating unit of the DOC that is in a position to advance environmental justice for affected populations. DOC Strategy at II.B.2.i. This is done through five overarching NOAA programs or activities; recovery of protected species, sustaining healthy coastal ecosystems, habitat protection, climate change and weather. While all of these programs or activities may be broadly relevant to the Makah (and indeed directly relevant to the conservation status of gray whales), only the recovery of protected species—gray whales— is directly relevant here. For the recovery of protected resources, the Strategy contains the following mandates:</p> <ul style="list-style-type: none"> <li>• NOAA will continue its current research and management activities to determine the impact of subsistence harvest on protected resources, and the impacts of other factors (e.g., commercial fishing, habitat loss, renewable energy development, oil and gas production, and pollution) on subsistence activities.</li> </ul>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<ul style="list-style-type: none"> <li>• NOAA will continue to conduct research to determine the status of North Pacific marine mammals used by indigenous peoples. In addition, NOAA will continue to support the Eskimos' full participation in the International Whaling Commission and provide information in support of sustaining the bowhead whale quota allocated to subsistence use.</li> <li>• NOAA will also ensure that the activities it authorizes are conducted in a manner that ensures no unmitigatable adverse impacts on subsistence use of marine mammals. DOC Strategy at II.B.2.i.a.</li> </ul>	
120	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>None of these mandates specifically mention the Makah, as they do Alaska Natives. None are directly relevant to any decision by NMFS regarding the Makah Tribe's MMPA waiver application. Indeed, notably, there is no language in the DOC Strategy suggesting that NOAA will support the Makah Tribe's full participation in IWC meetings or that it will provide information to support or sustain the ASW quota for gray whales for the Makah.</p> <p>Based on the foregoing evidence, NMFS has improperly included an analysis of environmental justice effects in the DEIS and it must be removed from future documents.</p>	NMFS determined that the Makah Tribe constitutes an "Environmental Justice" community based on the fact that Native Americans are a minority community and the Makah Tribe is a low income community. We are required to include an environmental justice analysis in the DEIS. The analysis contained in the DEIS follows the guidance from the Environmental Protection Agency's Office of Civil Rights and Environmental Justice (EPA 1998; EPA 2010).
121	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Regarding the analysis itself, it is, predictably, entirely one-sided. The criteria used to evaluate the environmental justice impacts were economics, ceremonial and subsistence resources, and the social environment. DEIS at 4-174. In regard to the latter criterion, NMFS concluded that "it is not possible to determine if the action alternatives would result in disproportionately high and adverse social effects on the Makah Tribe." DEIS at 4-176.</p>	Comment noted.
122	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>As for economic impacts, this analysis was linked to the potential effects of each alternative on tourism, with NMFS asserting, albeit inaccurately and without any supporting data, that a hunt would increase tourism to the Makah reservation. This ignores the widespread opposition to the Makah whale hunt in Clallam County and the broader region based on public outrage expressed in association with the 1999 hunt (see DEIS at 3-286, 3-288). It also ignores NMFS' own determination that there are no economic data demonstrating any positive economic impact from the previous hunt related events, DEIS at 1-149, nor has NMFS provided any evidence that there was an positive economic impact post-hunt as a result of media coverage of the event. Nevertheless, based on the</p>	This comment misrepresents the information contained in the DEIS. The DEIS notes that a hunt could result in more visitors to the peninsula, such as occurred during the 1998 and 1999 hunts, but concludes that "while a whale hunt might attract visitors to the Neah Bay area, it is likely that any positive effect would be short term and minor," and adds that any positive

Sort #	Commenter Code	Comment	Response
		NMFS claim that a hunt will increase tourism to the reservation, it concluded that the action alternatives would not have a disproportionately adverse impact on the Makah Tribe compared to the No Action Alternative.	effect could be offset by negative effects from potential boycotts.
123	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Predictably, the NMFS analysis of the impacts of the proposed hunt on the ceremonial and subsistence criteria concludes that action alternatives would “have positive ceremonial and subsistence effects associated with a resumption of a Makah whale hunt.” DEIS at 4-176. Conversely, it claims that the No Action Alternative - by preventing the preparation, hunting, butchering, sharing, consuming, dancing, singing and rituals associated with whale hunting - would result in a “disproportionate share of the adverse effects on subsistence uses, traditional knowledge and activities, spiritual connection to whale hunting, and cultural identity ... upon the Makah Tribe.” Id. This analysis entirely ignores any consideration of the health effects of a whale hunt in the context of a review of environmental justice, although it is highlighted in EO 12898 and in the DOC Strategy. This is not to suggest that NMFS should merely add such information to the environmental justice text in any revision to the DEIS since, as recommended above, the entire section should be struck from the analysis due to non-relevance. Rather, this is noted to demonstrate that, as presented, the analysis does not even include a key element that is a focus of the EO.	Potential health effects of hunting whales and consuming whale products are discussed in Subsection 4.16, Human Health. We will consider whether this information needs to be repeated in the section on environmental justice in a final EIS.
124	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>The DEIS contains substantial evidence to suggest the Makah Tribe does not have a subsistence or cultural need to whale or for whale products:</u></p> <p>The discussion of subsistence use in the DEIS largely focuses on the Makah Tribe’s historic whaling practices and its traditional use of whale and whale products for ceremonial purposes and how these activities, if reinstated, may affect the social environment on the reservation. In other words, the analysis of the impacts of a whale hunt on subsistence use overlaps with the Tribe’s desire for whaling and whale products for its traditional ceremonies, rituals, and other cultural practices. This section does not address any nutritional need for whale products, as this was evaluated separately in the DEIS. In addition, since this section of the DEIS shares a number of similarities with the analysis of environmental impacts of the proposed hunt on the social environment, these sections are analyzed together. The latter section evaluates the impact of a whale hunt on the social relationships among supporters and opponents of the proposed Makah hunt.</p>	We disagree with the assertion that the DEIS contains “evidence” regarding the Makah Tribe’s needs. Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
125	Schubert (Animal Welfare	One critical element in evaluating subsistence and cultural need in this context is whether, in fact, the Makah Tribe has a legitimate subsistence/cultural need for whaling and whale products. Nevertheless, setting aside for the moment	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt, # 2 regarding the



Sort #	Commenter Code	Comment	Response
	Institute)_ Letter Only_7-31-15	<p>any discussion of whether the Makah Tribe has continued to practice its traditions associated with whaling (e.g., ceremonies, rituals, dances, songs, stories), the role of tradition in any potential future whale hunt must be addressed. The DEIS and its appendices are replete with information about historical traditions associated with the Makah whale hunt. What is not clear is whether the Makah Tribe, if granted the authority to kill whales, will continue to practice such traditions. Considering the apparent importance of the Tribe’s cultural and spiritual connection to whales, it would be expected that such traditional rituals, including frequent bathing, rubbing the body with nettles, and sexual abstinence would be continued. However, in the DEIS, the only statement regarding such practices being followed if the Makah Tribe resumes whaling is that “whaling team members may also partake in spiritual preparations.” DEIS at 2-16 (emphasis added).</p> <p>The Coalition is not advocating that the Makah Tribe must follow all of the past traditions. For example, in regard to the methods used to kill the whales, if whaling is allowed, the method used must, by law, cause the least suffering and cruelty (i.e., must be the most humane). The traditional methods of killing a whale with cold harpoons and floats, where the whale would sometimes linger for days before dying, are clearly no longer acceptable. To that end, if the Makah Tribe and NMFS elected to only utilize motorized vessels in order to reduce the amount of harassment inherent to a hunt and to more effectively and efficiently kill the whale (ideally utilizing an explosive grenade as the primary killing weapon), the Coalition, based on humane concerns alone, would not object. However, notwithstanding the killing methods, considering that the Makah Tribe’s hunt, if allowed, represents a form of cultural ASW (since the evidence of subsistence or nutritional need is lacking), it is expected that all cultural traditions will be followed. Many of those traditions are described below.</p> <p>While the Coalition reemphasizes its recognition of the Makah Tribe’s history of whaling, the DEIS and its appendices contain considerable information suggesting the traditions the Tribe has claimed have continued during its nearly 90-year hiatus in whaling may not have been consistently practiced over the years. In this regard, the Makah Tribe has a dilemma. If it can prove, as it claims, that it has continued to engage in traditional whaling practices for the past nine decades, then this raises the question of why it needs to kill any whales to satisfy a cultural need. Alternatively, if it cannot prove that it has continually practiced such traditions, then the claims that it and the United States government have</p>	ASW status of the Makah Tribe, and # 3 regarding the Makah Tribe’s desire to revive its cultural traditions.

Sort #	Commenter Code	Comment	Response
		<p>used to suggest that the Tribe can meet the “continuing traditional dependence on whaling”<sup>42</sup> language in the IWC’s definition of ASW would simply not be true.</p> <p>Admittedly, because Makah whaling has historically only been conducted by a limited number of powerful and influential families, some families may have retained and shared their whaling traditions more consistently than other families. Nevertheless, given that only a limited number of families had the qualifications, skill, and rank to engage in whaling, it is unclear if that social hierarchy will limit the number of families that can participate in any future whaling (if permitted) and whose members could serve as whaling captains. If only select families among the Makah Tribe qualify, through their ancestry, to engage in whaling, then NMFS should identify which families would have the authority to whale. This would allow the agency to gather more information from those families about their financial resources (i.e., can they afford to conduct whaling if it were allowed) and their history of sharing, both within their family and with other tribal members, of their family-specific whaling traditions (at least those traditions that are not secret). Conversely, if any member of the Makah Tribe, if he/she has the equipment and funds and regardless of ancestral connections to whale, can engage in whaling, then this raises questions about the Tribe’s alleged cultural connection to whaling.</p> <p>Traditionally, a Makah whaling canoe was helmed by the whaler or headman and contained seven crew members. Whalers, who provided the equipment for whaling and owned important ceremonial privileges acquired through heredity, were ranked at the top of the Makah society social pyramid. The whaler was also believed to have the ability to “interact with the natural and the supernatural to assure a successful hunt.” 2002 Needs Statement at 9/10. Furthermore, given the hierarchy in Makah society (i.e., nobles, commoners, and slaves), DEIS at 3-295, positions on whaling crews “were restricted to men who could withstand the rigors of intensive ritualized training, possessed the hereditary access to the position and its ritualized knowledge, or underwent a supernatural encounter which engendered the gift of whaling ability.” Makah Waiver Application at 6. The safety and success of the hunt was not limited to the crews’ training, strength, or stamina, as it depended on the observance of rituals by the whaler, his crew, and their families. Id.</p> <p>Training included “ritual bathing, praying, rubbing the skin with boughs or nettles, and imitative performance.” DEIS at 3-297. Many if not all such rituals were conducted at secret locations and varied for each whaling family. Such details like the “bather’s costume, the prayers, and the type of branches the</p>	

Sort #	Commenter Code	Comment	Response
		<p>whaler used were private knowledge that was passed from one generation to the next according to the rules of inheritance.” Id.</p> <p>For the whaler’s wife, tradition held that her movement during a hunt would determine the behavior of the whale. DEIS at 3-297. If she moved too much, the whale being pursued by her husband would be “equally active and difficult to spear.” Id. Conversely, if she lay quietly, “the whale would give itself to her husband.” Id. Lack of attention to such traditions, which included other proscribed behaviors, “could result in the capture of a whale that was not fat or large enough, or cause the harpooned whale to run out to sea instead of in toward the shore.” 2002 Needs Statement at 11. For the chief whaler and his wife, the traditions required even greater sacrifice as “the whaler and his wife observe a long and exacting course of purification, which includes sexual continence and morning and evening baths at frequent interval from October until the end of the whaling season ... about the end of June.” Id.</p> <p>If the Makah Tribe desires to hunt whales to honor tradition, it would follow that tribal members would willingly follow such traditional practices.</p> <p>Evidence of potential disruptions to the alleged sharing of whaling traditions extends back to even before the Treaty of Neah Bay was signed. According to the Makah Tribe’s 2002 needs statement, in 1853, the Makah Tribe was devastated by an epidemic of smallpox. This and other diseases reduced the Tribe’s population by 75 percent by 1890, resulting in the loss of much family-owned information that was therefore never passed down to younger generations. 2002 Needs Statement at 21. While this was and is a tragic period in Makah history, it is simply a fact that it caused the abrupt loss of knowledge about critical components of rituals and ceremonies. Id.</p> <p>Considering the loss of historic knowledge during long ago epidemics and, more recently, the lengthy hiatus in whaling during which many of those alive in the 1920s passed away, and the potential lapse in transmitting traditions within a family, it is unclear how many Makah whaling families can demonstrate an unbroken link to the past. In the various Makah Tribe’s needs statements submitted to the IWC, such links are assured, but beyond the words on the page, no other proof has been offered to verify such claims.</p> <p>Although it is commonly reported that the Makah ceased whaling in the late 1920s, the decline of whaling as a tribal tradition extends to the mid-1800s, even before commercial whalers decimated gray whale numbers. DEIS at 3-302. At that time, as a result of contact with non- Indian traders and explorers who had come to the Pacific Northwest, whale products, particularly oil, became more</p>	

Sort #	Commenter Code	Comment	Response
		<p>of a marketable good than a subsistence need. Although the Makah had already been engaged in the trading of whale products, the new visitors to Neah Bay provided a new market for whale oil. By the late 1840s and 1850s, as the market for whale oil and dogfish oil increased, the whale oil purchased from the Makah Tribe (and presumably other Native Americans) became a major export of the Hudson Bay Company. 2002 Needs Statement at 17. By 1852, the Makah “were trading or selling some 20,000 gallons of whale oil and fish oil each year, with this amount escalating to 30,000 gallons per annum over the next two decades.” Id. at 18. Whales had apparently become a cash commodity for the Tribe.</p> <p>As whale populations declined in the 1870s, whaling by the Makah diminished in frequency, reportedly because it became too cost prohibitive. Makah Waiver Application at 8. Profits from whale products also declined. 2002 Needs Statement at 21. At that time, the Makah Tribe “increased their seal hunting efforts to compensate for a less profitable whale hunt.”2002 Needs Statement at 20. Given their sealing and navigational skills, Makah tribal members were hired to work on commercial sealing ships plying the waters of the Washington coast and Vancouver Island in search of fur seals; the European-American ship owners relied on the Makah Tribe’s aboriginal wage-labor force to succeed at sealing. DEIS at 3-304. The profits accrued from the seal hunts permitted Makah tribal members to purchase and operate their own schooners and, in a role reversal, they began to hire non-tribal navigators. 2002 Needs Statement at 20. By 1891, “sealing became so lucrative for the Makah and west coast native hunters that their traditional whaling expeditions virtually ceased.” Id.</p> <p>In 1897, an international convention signed by the United States effectively banned pelagic seal hunting. At that time, given the diminished number of gray whales, the intensive investment in time and ritual preparation to hunt whales “was too difficult to justify.” Id. at 23. Consequently, in 1905 there were only three recorded whale hunts undertaken by the Makah whalers (although the success of these hunts is not known). Id. at 23.</p> <p>Without whaling or sealing, Makah men engaged in a new, more productive venture – ocean fishing – that would continue to make use of their exceptional navigational and seafaring skills. 2002 Needs Statement at 23. At that time (the early 1900s), fishing “had become a more effective venture than whaling prior to the turn of the last century.” Id. As noted in the 1889 Annual Report to the Commissioner of Indian Affairs:</p>	

Sort #	Commenter Code	Comment	Response
		<p>“the Makahs catch a great many fish, which they ship three times a week to Seattle, where they have a good market for them. They have caught and shipped as high as 10,000 pounds of halibut in one day.” 2002 Needs Statement at 23.</p> <p>As both gray and humpback whale populations continued to decline and as more Makah men shifted toward “the very successful subsistence and commercial venture of ocean fishing,” whale hunts became an even riskier investment. 2002 Needs Statement at 24.</p> <p>Based on these historical accounts, while the Makah Tribe has a long history of whaling, its whaling practices transitioned from true subsistence to a profit-making operation by the mid- 1800s.</p> <p>Once profits from the sale of whale oil declined, the Makah Tribe transitioned to sealing to continue to profit from Northwest Washington’s bountiful wildlife. When that hunt was largely banned by an international convention, the Makah transitioned again to ocean fishing – an activity that continues today and that, given the revenue produced, must provide some Makah with substantial income.<sup>43</sup> Cumulatively, this evidence raises additional questions about the claims that the Makah have continually practiced and passed down from generation to generation their traditions related to whaling, given that, for many ancestral whaling families, whaling has not been practiced for approximately 165 years.</p> <p>Despite a 90-165 year hiatus in whaling, the DEIS indicates that recently the “Makah Tribe has attempted to revive its cultural traditions for the past three decades” in order to “combat social disruption resulting from the rapid changes of the last century and a half,” causing high rates of teenage pregnancy, students dropping out of high school, substance abuse, and juvenile crime. DEIS at 3-282, Makah Waiver Application at 9. To reverse these trends, the Makah “have reinstated numerous song, dance, and artistic traditions.” Id. The Coalition supports the revival of the cultural traditions but notes that “revival” clearly suggests that these traditions – particularly those tied to whaling – have not been continually practiced since the late 1920s when the Tribe gave up whaling.</p> <p><sup>42</sup> The Coalition believes that any claim that the Makah Tribe has continually engaged in traditional practices related to whaling does not meeting the “continuing tradition dependence on whaling and use of whales” standard to obtain an ASW quota as explained previously in this comment letter.</p> <p><sup>43</sup> According to data in the DEIS the salmon fishery out of Neah Bay generated annual revenue between \$226,000 to 1.4 million between 2003 and 2011, DEIS at</p>	

Sort #	Commenter Code	Comment	Response
		3-260,while overall commercial fish landings to Neah Bay for 2007-2011 were valued at 5.9 to 9 million dollars each year.	
126	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Furthermore, recognizing that these revitalizations were undertaken to address certain social ills on the reservation, NMFS has not provided any data to demonstrate the impact of such cultural revival on the rate of, for example, teenage pregnancy, substance abuse, or juvenile crime on the Makah reservation. Nor has it cited to any other data – for example from other Native American tribes – to suggest that, in this modern era, reviving cultural traditions can influence the rate of such societal ills. For example, have efforts by the United States Fish and Wildlife Service to facilitate the acquisition of feathers from bald eagles and other raptors for Native American tribes to use in their cultural celebrations helped any of those tribes in reducing social ills on the relevant reservations? The Coalition is not suggesting that restoring cultural traditions cannot aid in addressing social ills on reservations, but such claims have to be proven with credible data versus mere opinion.	The Makah Tribe asserts that a revival of their culture is necessary to combat social ills within the society, and that a resumption of whaling is necessary to pursue their cultural revival (Makah 2005a). The DEIS presents information from the Makah Tribe’s needs statements and from interviews conducted by Dr. Stephen Braund DEIS Subsection 4.8.2.1 (Makah Tribal Members). The DEIS draws limited conclusions about the social and cultural effects of authorizing or not authorizing a whale hunt.
127	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Surely, the Makah Tribe has monitored and measured the rates of these societal ills that are of concern on the reservation and can demonstrate a trend in those rates over the past three decades. If such data were available, a proper analysis would also require the consideration of other tools, methods, or strategies the Makah Tribe may have implemented over the past decades, so that the impact of cultural revival can be considered in the full context of other methodologies used to address these problems. According to tribal survey results, “an overwhelming majority (93.9 percent) of the village believes the resumption of the whale hunt has positively affected the Tribe and 51.6 percent specifically cited moral and social changes as the most important benefit,” 2002 Needs Statement at 1, but no other metrics have been provided to quantify such positive change.	We are not aware of other metrics or information besides those described in the tribe's application (Makah 2005) and household survey and needs statements provided in several reviews over the years and routinely updated for presentation at the IWC. (Renker 2012). Nor does the commenter suggest additional metrics or information.
128	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Other examples of statements that call into question whether the Makah have continued to practice whaling traditions are evident throughout the DEIS and its appendices. For example, NMFS notes that the Makah Tribe’s “desire to reinvigorate the whaling tradition never dissipated,” DEIS at 3-306, which suggests the traditions have not continued, at least not substantially, over time. Similarly, NMFS concedes that “many traditions related to whaling have waned, however, since the Makah Tribe’s cessation of the hunt in the 1920s.” DEIS at 3-309. The DEIS also notes that “tribal members reported that whaling songs and rituals also resumed following the 1999 hunt, with more people participating in	DEIS Subsection 3.10.3.5.1 (Makah Whaling) notes that according to a survey of Makah tribal members (Renker 2012), 'Makah people had never stopped educating their children about their respective familial whaling traditions.' Furthermore, the public school included a whaling curriculum, and the Makah Cultural and Research

Sort #	Commenter Code	Comment	Response
		<p>family songs and sharing traditional knowledge,” DEIS at 3-313 (citing Braund and Associates 2007), which is counter to the claim that such traditions were continuously practiced since the 1920s.</p> <p>NMFS also concedes in the DEIS that while the continuous practice of a cultural activity makes it “more likely that knowledge of that activity will pass from generation to generation,” should there be “a hiatus in practicing the activity, the knowledge may be lost.” DEIS at 4-197. Such a loss could take time, but inevitably “knowledge of specific elements of the activity wanes as elders die.” Id. If that is true, given the Makah Tribe’s nearly 90-year hiatus in whaling (with the sole exception of a whale killed in 1999), it would follow that the cultural knowledge of whaling has, at least, diminished, if not been largely lost.</p> <p>If traditions regarding whaling, including the transfer of recipes on how to prepare whale meat and blubber, had been passed down between family members, then those receiving whale products after the 1999 hunt would have been able to use those recipes to prepare the meat and blubber consistent with tradition. Yet, according to tribal survey results, the majority of respondents “reported a desire to learn more about preparing whale products and using whalebone.” DEIS at 3-313. While some “households began to use recipes held in family confidence for decades,” others experimented with “techniques used for other sea creatures like seals and fish,” suggesting those who experimented didn’t have traditional family recipes. Even Makah whalers, after the 1999 hunt, expressed an interest in learning more about the “ancient activity of whaling,” again calling into question the transmission of whaling traditions among family members. Id. Similarly, the Makah Tribe reports that “community members are ready to rise to this challenge and re-learn the techniques necessary to make the food from the whale a part of Makah life again,” 2002 Needs Statement at 38, providing further evidence that such techniques have not been passed down through the generations.</p> <p>According to the data in the Makah Tribe’s 2002 needs statement from the first tribal household survey, of the 61.3 percent of survey respondents who received whale meat after the 1999 hunt, 41.5 percent made jerky, 43.9 percent ate roasts, 41.5 percent cooked stew, 35.4 percent grilled steaks, and 34.1 percent smoked meat; what is not clear is whether any of this was done with the use of traditional recipes passed down through the generations. 2002 Needs Statement at 15. Another 19.5 percent of respondents utilized “innovative methods” for preparing whale meat, including stir frying, kippering, deep frying, barbecuing, and boiling,” id. at 16; this would suggest that these tribal members</p>	<p>Center supported whaling education efforts.” “While non-Makahs perceived a large temporal gap in the whaling history of the Tribe, tribal members saw continuity. Many individuals were patiently waiting for the whaling traditions to be taken from storage and implemented in reality.”</p>

Sort #	Commenter Code	Comment	Response
		<p>did not rely on traditional recipes to prepare whale meat. Similarly, for the 75.4 percent of survey respondents receiving blubber, 22.4 percent smoked it, 37.9 percent rendered the blubber into oil, 6.9 percent pickled it, 48.3 percent boiled it, and 65.5 percent ate the blubber raw, id., although again it is not clear if they used traditional recipes to prepare the blubber.</p> <p>While traditions and traditional techniques do change with time, this occurs when these traditions are in continuous use. When reviving traditions that have fallen out of use, simply substituting modern methods of food preparation and recipes arguably defeats the purpose.</p> <p>Makah whalers participating in the 1999 hunt also had “to learn whaling techniques and traditions from knowledgeable Canadian elders.” DEIS at 3-315. While it is understandable that no Makah whalers in 1999 would be skilled in the killing technique (as none had ever killed a whale) the fact that they had to learn whaling traditions from Canadian elders suggests whaling traditions had not been passed down through their own families. Also, considering the fact that many of the whaling traditions are apparently family-specific, they were likely taught traditional practices that were inconsistent with those followed by their ancestors.</p>	
129	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Even the process of butchering the whale killed in 1999 created confusion, as the Makah whalers and other tribal members apparently didn’t know how to butcher the whale or have the requisite tools to do so. DEIS at 3-381. According to Renker (2012):</p> <p>Butchering the gray whale proved a huge task for the Makah people. Lack of familiarity with gray whale anatomy, tools poorly adapted for gray whale meat and blubber, and logistical issues presented immediate obstacles for the butchering process which began on Front Beach. Some confusion also centered on whale parts other than meat and blubber. DEIS at 3-381</p> <p>Indeed, some of the Makah tribal butchering crew included tribal members who had traveled to Alaska to learn the processing techniques. DEIS at 3-382. On the day of the kill, they also had assistance from an Alaska Native. Id. As recorded in video footage of the 1999 hunt, at the end of the day, even though the butchering process had not been completed, the Alaska Native, one or more NMFS officials, and a number of bystanders were left alone with the carcass to continue the flensing process.<sup>44</sup> According to Sepez (2001), the “1999 whale harvest yielded approximately 2,000 to 3,000 pounds of meat and 4,000 to 5,000 pounds of blubber,” DEIS at 4- 196, although there’s no information as to</p>	Comments noted.



Sort #	Commenter Code	Comment	Response
		<p>how much meat and blubber may have been lost due to the difficulties butchering the whale.</p> <p>Furthermore, although not reported by NMFS, given the difficulty the Makah whalers faced during the butchering process, it is possible they failed to comply with traditions associated with whale flensing, which were dictated by strict protocols that identified “the sequence of the butchering, the portions of the whale reserved for ceremonial use, and the portions to be distributed to the crew and other village inhabitants.” Makah Waiver Application at 6. Tradition associated with the flensing process was not limited to protocols on how to butcher and apportion the whale but included who would make the first cut into the whale and the “need to decorate the whale with eagle feathers and white down.” DEIS at 3-299. The chief whaler was responsible for entertaining the villagers with his family’s songs and imitations while adorned in ceremonial gear. He was given the dorsal section of the whale, the section richest in oil, for his family’s use, although it was often sold. Id. Based on eyewitness accounts of the flensing process in 1999, none of these practices were followed.</p> <hr/> <p><sup>44</sup> The videotape footage was obtained by Erin O’Connell on May 18, 1999. A DVD of the footage will be mailed to NMFS to be part of the administrative record for the DEIS. Since it is submitted as part of the record it will need to be reviewed, including by agency decision-makers, so that they are familiar with its content. The content includes video and sound of the Alaskan native asking where the Makah were and if anyone knew how to reach them and explaining that he was “really tired right now and there is no one helping us.” A NMFS official is also seen and heard on the DVD complaining about the lack of Makah present to help clean the whale intestines.</p>	
130	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Much of the data the Makah Tribe uses to try to justify the resumption of whaling comes from the various household surveys that have been conducted on the reservation (in 2001, 2006, and 2011). These surveys, which were essentially identical, were prepared and the results analyzed by Dr. Ann Renker. Dr. Renker, however, is hardly an objective or independent expert in regard to Makah whaling, given that she is a longtime resident of Neah Bay and is married to a Makah whaler who is a current member of the Makah Whaling Commission. Consequently, whether these surveys provide a legitimate picture of the Makah Tribe’s interest in resuming whaling, its use of whale products, and the cultural value of whaling to the Tribe is open to debate. Furthermore, as is the case with any survey, the design or content of the survey can be created to achieve a particular outcome.</p>	Dr. Stephen Braund assisted in development of the 2008 DEIS with relevant analysis carried forward into the 2015 DEIS. Dr. Braund visited the Makah reservation and interviewed tribal members. He also reviewed Dr. Renker’s work and included references to it in his report. We also retained Dr. Dorothy Kennedy to review our presentation of Dr. Renker’s work and provide comments. The names of both

Sort #	Commenter Code	Comment	Response
		<p>The administration of the first survey in 2001 raises additional questions about its legitimacy. In that year, of 217 Makah households reportedly randomly selected to participate in the survey, 159 agreed to participate. This means that 58 (27 percent) elected not to participate. The reasons why those families elected not to participate in the survey were not disclosed (if even known). Although the DEIS contains conflicting information on this point, at least four households that were selected to participate in the survey either declined to participate or were not allowed to participate due to their known opposition to Makah whaling (compare DEIS 3-310 to 2002 Needs Statement at 49). Those conducting the survey filled in the survey for those four families, marking a negative response for all questions regarding support of the hunt or use of whale products. DEIS at 3-310. Reportedly, this was done “to minimize external influences on the survey administration.” 2002 Needs Statement at 49.</p> <p>In regard to those survey results, based on the results of the 2001 survey, only 38 percent of surveyed households reported participation in post-hunt ceremonies in 1999, DEIS at 3-312, and only 30 percent reported they “cooked whale meat.” Makah Waiver Application at 10. Such percentages seem to be inconsistent with the claims of the importance of whaling to tribal members and to revive tribal culture. The percentage of Makah Tribal members participating in ceremonies related to whaling increased to 42.2 percent based on the results of the 2006 Household Survey (Renker 2007) but that statistic was not reported in the results of the 2012 Household Survey (Renker 2013).</p>	<p>of these cultural anthropologists appear in the list of preparers.</p> <p>To ensure that NMFS decision-makers give appropriate weight to the information from Renker’s household surveys, the DEIS includes a discussion of the limitations of the data from the surveys. We have also included the information that Renker has lived on the reservation for many years and has close ties to the community.</p>
131	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Collectively, this evidence raises serious concerns about whether the Makah Tribe can demonstrate either a cultural or subsistence need for whaling and whale products. While the Coalition concedes that the information summarized above is only a fraction of the relevant evidence presented in the DEIS, NMFS must reinvestigate the claims of cultural and subsistence need with the Makah to confirm or reject the Tribe’s alleged needs.</p>	<p>Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.</p>
132	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Notwithstanding the foregoing evidence that questions whether the Makah Tribe has a credible cultural or subsistence need for whaling and whale products, NMFS concludes in the DEIS that the action alternatives will facilitate subsistence use of whale products on the reservation consistent with the tribe’s cultural and ceremonial needs and that whaling will improve the social environment on the reservation. Conversely, the No Action Alternative in both cases would prevent the Makah Tribe from exercising a treaty right, would prevent them from accessing freshly killed whale products not only for nourishment but would also adversely impact their cultural identity, sense of self-</p>	<p>The DEIS does not conclude that the No-action Alternative will “cause the cultural, spiritual, or physical collapse of the Makah Tribe.” The conclusions in the DEIS regarding cultural impacts to the tribe of various alternatives are based on interviews of tribal members by an independent cultural anthropologist, Dr. Stephen Braund,</p>

Sort #	Commenter Code	Comment	Response
		<p>sufficiency, the self-esteem of the tribe and its individual members, and their trust in the United States government. In particular, according to NMFS, the impact of the No Action Alternative on subsistence use would: erode tribal identity in the absence of opportunities to participate in an activity central to Makah cultural identity; provide the community little or no incentive to work cooperatively to prepare for the hunt, to harvest, butcher, share and eat whale or to participate in song and dance festivals to celebrate the harvest; adversely affect community and individual pride and self-esteem, particularly among Makah tribal members who support the hunt; reinforce that the Makah are not in control of their destiny and would undermine a sense of autonomy within the community; and reinforce the Makah's feeling of disillusionment with the federal government. DEIS at 4-201.</p> <p>Considering that the Makah Tribe has not been able to regularly engage in whaling since at least the late 1920s (and likely since the mid-1850s), this description of the implications of the No Action Alternative seems disingenuous, as it suggests the Makah Tribe is currently whaling and the United States is considering ending the practice. The reality is that no evidence has been offered to confirm the Makah are suffering from such cultural ailments. Indeed, since the Makah have been living without whaling for nearly 90 years, the description of the No Action Alternative proffered by NMFS is a significant overstatement of present day reality. It should be amended to reflect the fact that the Tribe has adapted to life without whaling and, while some may desire to resume a hunt, not doing so will not cause the cultural, spiritual, or physical collapse of the Makah Tribe as suggested in the DEIS.</p>	<p>whose qualifications are described in the DEIS.</p>
133	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>NMFS has failed to comprehensively evaluate the adverse impacts of the proposed hunt on aesthetics:</u></p> <p>NMFS concedes that a hunt may have impacts on the aesthetics of people who live and recreate near or in Neah Bay. It notes that, if the hunt is conducted 1-2 miles from shore, then there are few vantage points on land. However, "activities closer to shore, (e.g., towing a dead whale and butchering it) would be more readily viewed." DEIS at 4-227. It then contradicts itself and reports that "under all action alternatives, interested observers could view a whale being hunted, towed to shore, or butchered from numerous points along the shoreline near Neah Bay and, to a lesser degree, the Pacific coast portion of the Makah U&amp;A." DEIS at 4-228. It claims that such impacts could be positive for those who may have an interest in observing a hunt and the butchering of a</p>	<p>The second statement quoted by the commenter contains an "or"; while not all alternatives would allow viewers to view a whale being hunted, all of the action alternatives would allow viewers to view the cited activities of towing and butchering a dead whale.</p>

Sort #	Commenter Code	Comment	Response
		whale or negative for those who have no interest in observing whaling or the flensing process. DEIS at 4-228.	
134	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	This is a simplistic analysis that doesn't do justice to the potential adverse aesthetic impacts associated with a hunt. This is because NMFS has based its analysis largely on the potential for observing certain activities associated with a whale hunt versus considering how such observations may impact a person's experience on the Olympic Peninsula (i.e., how the actual experience contrasts with the expected experience of using public lands in or near the Project Area). Nor is the scope of its analysis sufficient to capture the full range of aesthetic impacts.	We disagree. The evaluation criteria in Subsection 4.12.2, Evaluation Criteria, provide important insights into potential aesthetic effects under the various alternatives.
135	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Many who visit the Olympic Peninsula do so to enjoy Olympic National Park (ONP) or to explore the rugged Washington coastline. ONP includes a 70-mile-long coastal strip that is designated wilderness. Those who visit wilderness areas often do so to enjoy a primitive and relatively pristine experience in an area where the human imprint is, by law, supposed to be minimal if not non-existent. The experience of solitude and serenity is often a key attribute of the desired experience when using wilderness and backcountry areas of national parks. For such a visit to be disrupted by images of a whale hunt, the associated chaos surrounding the hunt, weapon fire, and the possibility of seeing a dead or dying whale is not consistent with the wilderness experience. For those who recreate along the Washington coast, they do so to enjoy the scenic beauty, and marine wildlife; very few if any expect a trip to the coast to include scenes of a whale being pursued, harpooned, shot, and killed, or the frenzy of media, protestors and law enforcement that is likely to accompany a hunt. NMFS has failed to consider such impacts in the DEIS. The analysis that should be undertaken is not just about how many people may observe a whale hunt or from what vantage points but, rather, has to evaluate how such observation will affect the tourist's (or resident's) experience based on his or her purpose for recreating (or living) in the area.	As noted in DEIS Subsection 4.12 (Aesthetics), we used two criteria to determine the potential for aesthetic effects under the alternatives. The first was the anticipated number of persons who may be present at sites that may offer views of hunt-related activities, as well as their expectations (that is, whether individuals may encounter views of hunt related activities without intending to do so). The second criterion includes the anticipated amount, intensity, duration, scope, and content of media coverage. The commenter fails to acknowledge that interested observers also warrant consideration in an analysis of aesthetics.
136	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Tourists, residents, anglers, commercial shippers, among others, also use the Pacific Ocean for recreation, sport, or work. While the Coast Guard's RNA and MEZ may alert boaters to a hunt, permitting (or requiring) them to leave the area, it doesn't mean that they could not be adversely impacted by the hunt (due to disruption of otherwise legal activities which could cause economic loss or disrupt recreational activities) or through the mere contemplation of a whale being killed whether they observe it or not. Indeed, this same impact could affect anyone nationally or internationally that opposes the hunt. In Fund for Animals v.	The DEIS notes that previous Makah whale hunts were the focus of intense coverage in the media. Such media attention would make it relatively easy for the public to contemplate a whale hunt and, as noted in the DEIS, result in substantial and diverse responses from the public.

Sort #	Commenter Code	Comment	Response
		Ridenour, Civ. No. 91- 0726 (D.D.C. 1991), the court held that that merely contemplating the killing of a bison near Yellowstone National Park was sufficient harm to demonstrate legal standing. These impacts were not evaluated in the DEIS. Nor did NMFS consider the impact to a resident, tourist, or boater upon seeing a whale that is injured or dying as a consequence of a Makah hunt (i.e., a struck and lost whale) in the ocean or stranded. Each of the action alternatives set a limit on the number of struck and lost whales so the potential to observe an injured or dying whale is real.	
137	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Finally, NMFS only considers the impact of the hunt on the economics of whale-watching in the DEIS. Such impacts, however, extend well beyond economics to include adverse effects on the social environment and on the aesthetic experience of those who enjoy observing whales in their natural habitat. NMFS largely dismisses the potential of the hunt to impact whale-watching operations, claiming that there are no such operations in the immediate project area and that it had no information to suggest that the hunt would stop people from taking whale-watching trips nearby. DEIS at 4-152. It also asserts that Washington-based whale-watching companies will not expend the time or funds necessary to access whales in the Makah U&A and, therefore, won't be adversely impacted by the proposed hunt. Id. Finally, it claims that because gray whales are not typically targeted by most whale-watching operators in the region, a decrease in gray whale numbers would not appreciably impact the public's incentive to pursue whale watching in the PCFG range. DEIS at 4-153. These conclusions are either wrong or not supported with any credible evidence.	Comment noted. The DEIS considers the potential for a Makah whale hunt to affect whale watching, as cited in the comment.
138	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	The issue is not only about watching a whale die but, again, it must extend to the knowledge of the hunt and the contemplation of a whale being killed. For those who enjoy observing gray whales throughout their migratory range, from the Mexican lagoons to Alaska, the knowledge that the whales that they observe and, in some cases know by name, could be killed in a Makah hunt could result in emotional harm or cause them to choose not to partake in future whale- watching trips or visit the region. Indeed, contrary to the claim by NMFS that gray whales are not targeted by most whale-watching operations, a few minutes of online research revealed three operations in Oregon (oregonwhales.com, The Whale's Tail Chartered Whale Watching, and Tradewinds Charters) that appear to focus on gray whales.	The DEIS acknowledges that whale hunting under the action alternatives would inspire a wide range of feelings among persons and groups who oppose the hunt, including sorrow, frustration, and anger (see Subsections 3.8.3.3 and 4.8.2.3, Other Individuals and Organizations).
139	Schubert (Animal	Notably, several whale-watching operations offer whale adoption programs for named PCFG whales. For example, oregonwhales.com Whale	Comments noted.

Sort #	Commenter Code	Comment	Response
	Welfare Institute)_Letter Only_7-31-15	<p>Research EcoExcursions currently has a number of PCFG whales up for adoption (e.g., Scarback, Rambolina, Zebra Stripe). In addition, the company blogs on the activities of whales that it observes. On July 27, 2015, the blog entry was:</p> <p>Whale sightings have been excellent as usual. Ginger, Ridgeback, and Pearl have been in the bay and very active. There were 4 whales at on (sic) time in and around our boats. I have identified and along with my team, suggested by a group on one of our trips named a new whale, "BANDIT". A beautiful female with a large band of white on her dorsal area. Also we saw a couple of Mola Mola (Ocean Sunfish), one of which was over 8ft in size and lazily swam right up to the boats. We have had a 100% sighting rate for many weeks now. Trips leave every day from 8am every 2 hours through 6 pm and sometimes sunset tours. We would love to teach you all about our whales and other wildlife. Also check out our Baja information. We are going to Baja in February to see and pet the friendly gray whales. This is the only place in the world where you can have this kind of interaction. It is awesome!!!" (see <a href="http://www.oregonwhales.com/daily.html">http://www.oregonwhales.com/daily.html</a>).</p> <p>Cascadia Research Collective also provides an opportunity for people to adopt PCFG whales (see <a href="http://www.cascadiaresearch.org/adopt.htm">http://www.cascadiaresearch.org/adopt.htm</a>).</p>	
140	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>As these websites reveal, many PCFG whales have names, they are known, and there may be people who have bonded to these animals. During excursions run by oregonwhales.com, clients are introduced to individual PCFG whales and are provided information about each whale and his or her history. While it is not known how many whale-watching operations from Alaska to Mexico promote PCFG whales, for those who do they are creating a connection between their clients and individual whales. If their clients, or those who adopt a whale, were to learn that their whale was killed by the Makah Tribe, the emotional impact could be significant. Even NMFS concedes that "many people who watch whales in the project area on a regular basis attach existence values to individual PCFG whales that regularly visit the area." DEIS at 4-188.</p> <p>The likelihood that the public, including those who participate in whale-watching, will oppose the Makah hunt is high. Evidence of this is included in the DEIS (see DEIS at 3-286 and 3-288). In addition, according to Hoyt and Hvenegaard (2002), 75 percent of whale watchers surveyed in California said it was "morally wrong" to kill whales, while whale watchers surveyed in Vancouver registered an average score of 4.47 (based on a survey scale of 1 to 5, with 5 being "strongly agree") to the statement "it is wrong to kill whales." Another survey of New England whale watchers found that 83 percent agreed it was "morally wrong" to kill whales, regardless of the reason.</p>	The DEIS acknowledges that whale hunting under the action alternatives would inspire a wide range of feelings among persons and groups who oppose the hunt, including sorrow, frustration, and anger (see Subsections 3.8.3.3 and 4.8.2.3, Other Individuals and Organizations).

Sort #	Commenter Code	Comment	Response
		<p>One need only consider the ongoing international outrage surrounding the case of Cecil, the lion from Zimbabwe, to understand the potential for adverse social impacts associate with the killing of a single, named whale. In that case, an American trophy hunter was involved in a hunt that illegally lured Cecil out of a national park after which he shot and injured him with an arrow. The injured lion was then tracked and killed, skinned and beheaded after 40 hours of suffering.<sup>45</sup> The social media backlash has been massive and the trophy hunter has disappeared from public view. NMFS has not evaluated such impacts in the DEIS related to the killing of a gray whale.</p> <hr/> <p><sup>45</sup> See K. Rogers, American Hunter Killed Cecil, Beloved Lion That Was Lured Out of Its Sanctuary, New York Times, July 28, 2015 (available at <a href="http://www.nytimes.com/2015/07/29/world/africa/american-hunter-is-accused-ofkilling-cecil-a-beloved-lion-in-zimbabwe.html?emc=eta1">http://www.nytimes.com/2015/07/29/world/africa/american-hunter-is-accused-ofkilling-cecil-a-beloved-lion-in-zimbabwe.html?emc=eta1</a>).</p>	
141	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Nor has it considered how, if the Makah Tribe is allowed to whale indefinitely, the hunt could harm the reputation of the whale-watching industry in Washington, Canada and throughout the species' migratory range; people may choose to avoid whale-watching or visiting the coast because they do not want to view whales who could be killed by the Makah Tribe.</p>	<p>Refer to the following Subsections: 3.6.3.2.1, General Description of the Local Economy; 3.6.3.2.4, Contribution of Tourism to the Local Economy; 3.6.3.3.1, Summary of Economic Effects of the Makah Gray Whale Hunts; 3.6.3.3.2, Commercial Value of Whales; 3.8.3.3 Other Individuals and Organizations; 4.6.2.1, Tourism; 4.6.2.3, Whale-watching Industry; 4.6.3, Evaluation of Alternatives.</p>
142	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>NMFS has failed to adequately evaluate the risks to public safety inherent to the proposed gray whale hunt:</u></p> <p>The DEIS significantly underestimates the substantial risk to public safety inherent to any Makah whale hunt. Unlike the Alaskan, Russian, or Greenlandic ASW hunts that take place in extremely remote regions of the world, the Makah hunt, if permitted, would occur in a region that is much more populated, is a destination for millions of tourists annually, and where commercial and recreational shipping/vessel operations are common. As an example of the population differences, there are an estimated 3,439,809 people live in the Washington Metropolitan Area (which comprises the Seattle-Tacoma-Bellevue region of Washington)<sup>46</sup> and, based on the 2010 US population census results, 71,404 people lived in Clallam County, WA.<sup>47</sup> This compares to a total of 736,732</p>	<p>The DEIS describes and analyses the potential for impacts to public safety resulting from a hunt (Subsection 4.15, Public Safety). That subsection notes that the hunt area is large and remote, and also describes Coast Guard actions and regulations to protect public safety. Regarding Footnote 51, we will update any final EIS to accurately reflect testing requirements in the latest tribal ordinance.</p>

Sort #	Commenter Code	Comment	Response
		<p>people in the entire state of Alaska in 2014,<sup>48</sup> including only 4,373 (as of 2013) in Barrow, AK<sup>49</sup> (one of 11 whaling villages).</p> <p>According to tourism data contained in the DEIS, 3 million people visit the Northern Washington Coast every year to enjoy the beautiful scenery, pristine wilderness, and opportunities to view wildlife. DEIS at 3-331. More specifically, Olympic National Park attracted an average of 3.0 million visitors per year between 2006 and 2010, with more than half of those visits occurring during the months of July through September, with an additional 25 percent occurring during the months of March through June. Id. Within the Makah reservation, 16,000 people visited the Cape Flattery Trail each year from 2005 through 2011, with more than 80 percent of those visits occurring during the months of July, August, or September. Id. For those using the area for commercial and recreational boat trips, 80 percent of such trips occur from May through August, six percent from November to March, with another four, seven, and three percent in April, September, and October, respectively. DEIS at 3-341.</p> <p>While the risks to public safety may be lower during a hunt conducted in the winter months or offshore, simply due to the lower number of persons in the vicinity, even those hunts could adversely affect persons occupying any hunt support vessels, media vessels, or vessels operated by protesters. This is due to the likelihood of more challenging sea conditions further from shore potentially resulting in an errant shot, DEIS at 4-246, or an increased risk of boating accidents where any needed medical assistance would not be readily available. Conversely, a hunt conducted during the spring months or over the summer (Alternative 4) would increase public safety risks, although, if conducted well offshore, the risks would be less than if conducted near shore.</p> <p>The use of high-powered rifles poses a significant public safety concern. As indicated in the DEIS, a 750 grain bullet fired from a .50 caliber rifle can travel nearly 5 miles. DEIS at 3-169 (citing Graves et al. 2004). A bullet from a .577 rifle, because it has a lower ballistic coefficient and greater rate of drop, would be expected to result in a shorter range than a bullet fired by a .50 caliber rifle, id., but that range is not identified in the DEIS. Due to the distance that such bullets can travel, Kline (2001) stated that “no firing should be conducted within 6,670 yards from shore and advised that a ricochet could travel almost 1,860 yards off the line of fire.” DEIS at 3-363. The use of an explosive projectile would substantially reduce the public safety risks since such grenades, due to their weight and size, will have only a very limited range.</p>	



Sort #	Commenter Code	Comment	Response
		<p>If there were no public safety risks associated with the hunt, there would have been no need for the Coast Guard to establish a Regulated Navigation Area (RNA). In finalizing its rule establishing the RNA after the 1999 hunt, the Coast Guard reported that “the uncertain reactions of a pursued or wounded whale and the inherent dangers in firing a hunting rifle from a pitching and rolling small boat are likely to be present in all future hunts, and present a significant danger to life and property if persons or vessels are not excluded from the immediate vicinity of the hunt.” DEIS at 3-10 citing 64 Federal Register 61212 (November 10, 1999), DEIS at 3-349. The Coast Guard also created a 500 yard Moving Exclusionary Zone (MEZ) around tribal hunting vessels in order to ostensibly “keep protesters, reporters, and spectators out of the area where life and property would face the greatest risk of endangerment from an injured or pursued whale or a round from a .50 caliber rifle.” DEIS at 3-349. Consequently, even the Coast Guard’s 500 yard RNA is likely not sufficient to eliminate the potential risks to other vessels, including protest vessels, in the vicinity of the hunt.</p> <p>The Makah Tribe has established, in its 2013 Whaling Ordinance,<sup>50</sup> rules that are intended to address the risks of the whale hunt. These rules include drug and alcohol testing of the riflemen, training and certification programs, and requirements regarding when a shot can be fired. DEIS at 2-15.<sup>51</sup> More specifically, the Makah Tribe has developed the following safety standards for any hunt:</p> <p>The Makah safety officer has authority to determine whether visibility is less than 500 yards in any direction in which case the whaling captain suspends the hunt; safety officer would not authorize the rifleman to discharge the weapon unless the barrel of the rifle was above and within 30 feet or less from the target area of the whale; safety officer would not authorize the rifleman to discharge the weapon unless the field of view is clear of all persons, vessels, buildings, vehicles, highways, and other objects or structures that if hit by a rifle shot could cause injury to human life and property. DEIS at 3-351.</p> <p>The risks to public safety inherent to any Makah whale hunt are not limited to the weapons used or vessel collisions, since a struck gray whale can also pose a significant threat to public safety by ramming nearby boats or swamping the Makah canoe. DEIS at 4-249. While those vessels, including any Makah canoes, closest to the injured whale would be most at risk, an injured and distressed gray whale could cover a fair distance in a short period of time. As explained in the DEIS, the Russian Federation reported that of the 129 gray</p>	

Sort #	Commenter Code	Comment	Response
		<p>whales killed in its 2007 hunt, 49 animals (or 39 percent) were highly aggressive and even attacked hunting boats. DEIS at 3-166. Such violent struggles by struck gray whales can, as reported in the DEIS, “result in vessels being capsized, persons on vessels being knocked in to the water, or individuals become entangled in the lines fastened to the whale.” DEIS at 3-357.</p> <p>Given the sheer numbers of people who live and recreate in the vicinity of any potential Makah whale hunt, there is a significant public safety risk associated with the hunt. Conducting a hunt well offshore with a strongly enforced RNA, and using explosive grenades as the killing weapon, would reduce public safety risks compared to conducting a hunt near shore using high-powered rifles. Nevertheless, even with an offshore hunt, there would still be a risk to the whalers, their support personnel, the Coast Guard (and other enforcement agency personnel), the media, protesters, and innocent onlookers, not just from the use of rifles as the primary killing weapon but also from a wounded whale. Regardless of where the hunt occurs, if rifles are used, the likelihood of every shot being fired at a safe downward angle, given that the rifleman is aiming at a swimming whale from a moving boat on a rolling ocean, is low. Consequently, a misfired bullet could travel an extended distance, potentially hitting something or someone and causing damage, injury, or death. Even with an RNA, an MEZ, and Makah safety standards, the potential risk of the whale hunt to public safety in such a highly populated and trafficked area is simply too high to justify a hunt for a Tribe that does not need to hunt whales. NMFS must reevaluate its analysis of the public safety risks inherent to the whale hunt and provide a more detailed and comprehensive risk assessment.</p> <hr/> <p><sup>46</sup> See <a href="http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&amp;prodType=table?">http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&amp;prodType=table?</a></p> <p><sup>47</sup> See <a href="http://www.peninsuladailynews.com/article/20110225/NEWS/302259982">http://www.peninsuladailynews.com/article/20110225/NEWS/302259982</a></p> <p><sup>48</sup> See <a href="http://quickfacts.census.gov/qfd/states/02000.html">http://quickfacts.census.gov/qfd/states/02000.html</a></p> <p><sup>49</sup> See <a href="https://www.google.com/?gws_rd=ssl#safe=active&amp;q=how+many+people+live+in+Barrow%2C+AK">https://www.google.com/?gws_rd=ssl#safe=active&amp;q=how+many+people+live+in+Barrow%2C+AK</a></p> <p><sup>50</sup> The mere existence of a 2013 Makah Whaling Ordinance is of concern to the Coalition since the current decisionmaking process will likely take years to complete. Consequently, it is unclear why the Makah would expend the time and resources to create and approve a whaling ordinance when they cannot currently whale and may not receive the requested MMPA waiver. Perhaps the Makah</p>	

Sort #	Commenter Code	Comment	Response
		<p>Tribe presumes that it will receive a waiver given its treaty right, or its adoption of a new whaling ordinance may suggest that the outcome of this NEPA/MMPA process has been predetermined, which is illegal. The Makah Whaling Ordinance is discussed in greater detail in a latter section of this comment letter.</p> <p><sup>51</sup> NMFS suggests that the alcohol testing requirement for Makah riflemen is contained in the 2013 Makah Whaling Ordinance but a review of that ordinance reveals no such requirement.</p>	
143	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>The DEIS fails to substantiate the need for whale meat or other products to benefit the health or nutrition of the Makah Tribe:</u></p> <p>The Makah Tribe has repeatedly claimed in need statements submitted to the IWC that marine foods, including marine mammal products, are of nutritional importance in the diet of tribal members. In making this claim, the Makah Tribe has described the alleged nutritional benefits of whale products and the notion that access to whale products would help alleviate poverty on the reservation by providing food that would be shared and free of charge, reducing costs of store-bought foods. DEIS at 1-31.</p> <p>Prior to contact with Europeans, the Tribe was able to exploit land and sea animals, including elk, deer, bear, seal, and a diverse population of fish, shellfish, and other marine species. Whale meat and oil were among their principle foods. 2002 Needs Statement at 33.</p> <p>Traditionally, the Makah Tribe consumed nearly every edible part of whales, including the meat, organs, and blubber. In addition, whale oil extracted directly from dead whales or rendered down from blubber was widely used. Considering that some of the traditional hunts could take days to complete,<sup>52</sup> the oil was often the most important product from the whale, as it did not spoil as quickly as the meat. DEIS at 3-367, DEIS at 3-300. Interestingly, due to the tendency of whale meat to spoil easily, particularly when the process of towing a dead whale back to land could take several days, whale meat was not as important in the pre-contact and historical diet of the Makah compared to whale oil. 2002 Needs Statement at 33. Indeed, as the Makah Tribe concedes, only “about ten percent of the food the Makah people derived from whales can be attributed to meat.” Id. Whale oil, which was not subject to spoilage, could be stored and used indefinitely, assuming it was rendered properly. Id.</p> <p>While the historical quantity of whale products consumed per capita was not reported in the DEIS, Sepez (2001) calculated that the whale killed in 1999 resulted in about 2.4 pounds of whale meat and product per capita on the reservation, with an additional amount consumed at the community potlatch.</p>	<p>Comments noted. As the commenter notes, need statements are relevant to inform decisionmaking in the international arena at the IWC and it is not the purpose of the DEIS to establish the subsistence needs of the Tribe. Rather the purpose of this DEIS is to implement NEPA by comparing the effects of the alternatives to aid subsequent decisionmaking under the MMPA and WCA.</p> <p>The DEIS notes that the action alternatives may result in an increase in certain minerals and omega-3 fatty acids in the Makah diet, which could have health benefits. It makes no assertions that Makah tribal members need an increase in any particular nutrients. It also notes that the action alternatives may increase the exposure of tribal members to certain contaminants, depending on whether whale products replaced other foods with similar contaminants (primarily other seafood), or food that did not.</p>

Sort #	Commenter Code	Comment	Response
		<p>DEIS at 3-367. In the future, if the Makah are allowed to resume whaling, Renker (2012) determined that if an average of four whales were killed per year, the hunts would yield 8 to 20 pounds of whale meat and 16 to 20 pound of oil or blubber per Makah tribal member (with a smaller amount of oil due to the rendering process). Id. Based on the reported number of Makah tribal members (1,121) living on the reservation in 2010, DEIS at 4-196, this would equate to 8,968 to 22,420 pounds of meat and blubber and 17,936 to 22,420 pounds of oil/blubber.</p> <p>Results of the survey of Makah tribal members conducted in 2001 revealed that “most reservation households now desire whale products to be a regular part of their diets” with 86.5, 72.4, and 55.8 percent of respondents desiring whale meat, whale oil, and blubber respectively.<sup>53</sup> Makah 2002 Needs Statement at 2. Desiring to have whale meat and oil, however, is not the same as needing these products to reverse any health concerns caused by decades without access to such products. The Makah Tribe claims in its needs statement that the “restored (whale) hunt provides modern Makah people with a rich source of traditional foods which are nutritionally superior to many non-indigenous provisions which are available in the community,” Id. Yet, it provides no evidence to substantiate that claim nor does it concede, as is made clear in the DEIS, that the same alleged benefits from whale products can be obtained from other marine foods.</p> <p>As to the alleged consequences of not having regular access to whale products in their diet, in the Makah Tribe’s 2002 needs statement, the majority of the claims regarding the health consequences of not eating a traditional diet are based on health concerns for American Indians generally, instead of focusing on particular health/disease conditions experienced by members of the Makah Tribe specifically. For example, the needs statement claims the following regarding the health of American Indians:</p> <ul style="list-style-type: none"> <li>• American Indians are generally considered to be one of the unhealthiest populations living within the United States. This observation is especially true for natives living within the confines of a reservation. Infant mortality and life expectancy rates for reservation residents are the lowest of all American citizens. 2002 Needs Statement at 35.</li> <li>• Diminished life expectancy on American Indian reservations is compounded by the fact that certain systemic illnesses linked to food and nutrition appear in a statistically higher percentage among these populations. Diabetes, for</li> </ul>	

Sort #	Commenter Code	Comment	Response
		<p>example, is 234% more prevalent among American Indians than in all other US races. Id.</p> <p>The only specific information about health concerns contained in the needs statement relevant to the Makah Tribe is that they “did not utilize plant foods to a great degree” in their historical diet, and thus they “still experience many digestive problems with diets high in fiber and cruciferous vegetables,” 2002 Needs Statement at 35. In addition, it is noted that some tribal members, particularly descendants of whaling families, are frequently affected by rheumatoid arthritis and diabetic neuropathy. Reportedly, digestive disorders seem to be an issue for members of other Native American tribes who live along the NW coast, as the Makah Tribe reports that it “have the highest rate of digestive illnesses of all American Indian people and are the leading cause of hospitalizations.” 2002 Needs Statement at 37. Yet no evidence is provided that whale products, especially to the exclusion of other marine foods, will address these digestive disorders.</p> <p>Notably, when discussing the value of essential fatty acids (EFAs) in their diet, the Makah Tribe refers not to cetacean or even gray whale EFAs but, rather, to marine EFAs. 2002 Needs Statement at 37. General marine EFAs have reportedly improved conditions such as rheumatoid arthritis and diabetic neuropathy. Since the benefits can be obtained from any marine EFA, however, this does not provide justification for killing gray whales.</p> <p>Today, the Makah tribal members consume a large quantity of subsistence food. Reportedly, “a majority of Makah households use traditional Makah foods (i.e., fermented salmon eggs, smoked fish heads and backbones, halibut cheeks and gills, and dried fish) at least once a week.” Makah Waiver Application at 9.</p> <hr/> <p><sup>52</sup> According to the Makah Tribe’s 2005 waiver application, historically some hunts occurred 30 or more miles from shore, even though at that time the Makah were using the traditional hand-carved canoes. Makah Waiver Application at 5. At that time, the process of killing a whale “could take up to three to four days” followed by up to two days to tow the whale back to shore. Id. at 6.</p> <p><sup>53</sup> The percentages declined in 2006. Survey results that year revealed that 71.7, 67.1, and 47.4 percent of survey respondents desired whale meat, oil, and blubber, respectively. DEIS at 4-203.</p>	
144	Schubert (Animal Welfare)	The DEIS reports both terrestrial and marine species (primarily fish) are taken in subsistence hunts. It does not, however, disclose any information about the quantity of terrestrial wildlife killed, the amount of meat/fat/other edible	We are not aware of information available regarding the number of terrestrial wildlife killed nor the

Sort #	Commenter Code	Comment	Response
	Institute)_Letter Only_7-31-15	products obtained from those animals, nor does it provide any information regarding contaminant profiles of such subsistence foods. For fish, it is estimated the Makah consume 126 pounds of fish per capita each year, which is eight times higher than the average American. DEIS at 3-367 citing Sepez (2001), Makah Waiver Application at 9. Yet, again NMFS does not provide any data as to the contaminant loads contained in fish products regularly consumed by the Makah.	amount of meat, fat, or other edible products. DEIS Subsection 4.16.2.2 (Environmental Contaminants) does report that PCB concentrations in Chinook salmon from the Makah National Fish Hatchery (19 µg/kg) (Missildine et al. 2005) are considerably lower than those found in samples of gray whale blubber (137 to 1,200 µg/kg).
145	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Western foods are also available on the reservation, although NMFS does not disclose the type of such foods or the quantities consumed.	Comments noted.
146	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In evaluating the human health impacts of a whale hunt, NMFS considered three issues: the potential nutritional benefits associated with consuming whale food products; the potential for exposure to contaminants in food items from the whale harvest; and the potential for exposure to food-borne pathogens in food items from the whale harvest. DEIS at 4-256. NMFS concedes, however, that due to uncertainties associated with this analysis, it is not possible to “predict whether any of the alternatives would result in a net positive or negative effect on human health.” Id.</p> <p>Indeed, the DEIS lacks data needed to even begin to evaluate the alleged nutritional benefits of whale products to the Makah Tribe. This includes: a baseline evaluation of the health status of Makah tribal member (or at least data on a representative sample of tribal members), a lack of species-specific (terrestrial and marine) data on Makah consumption of subsistence foods; the quantity of such foods consumed per capita per week, month, or year; the nutritional value of such products; the contaminant loads of such products; the amount and type of western foods consumed; current health conditions of Makah tribal members (i.e., prevalence of heart disease, diabetes, kidney disease, obesity, and other diet or lifestyle-related diseases), and evidence of lifestyle factors that may affect disease conditions (i.e., activity levels, smoking, drinking, illegal drug use).</p>	The purpose of the DEIS is not to establish the “nutritional benefits” of whale products, but to analyze the effects of the alternatives on, among other things, human health. The DEIS (Subsection 4.16, Human Health) analyzes the best available information pertaining to these comments. CEQ's NEPA guidance ("NEPA's Forty Most Asked Questions") notes that NEPA 1502.14(b) specifically requires "substantial treatment" in the EIS of each alternative. This regulation does not dictate an amount of information to be provided, but rather, prescribes a level of treatment, which may in turn require varying amounts of information, to enable a reviewer to evaluate and compare alternatives.

Sort #	Commenter Code	Comment	Response
		<p>NMFS recognizes this void, given its own disclosure of a litany of information that would be required to determine if consuming freshly killed gray whale products would improve nutrition among the Makah. Such deficiencies include the current types and level of nutrition present in Makah tribal members' existing diet; what parts of the whales and how much would be consumed; what currently consumed food items and associated nutritional levels would be replaced by whale products; and how such food items are collected, stored, and prepared for consumption. DEIS at 4-257. NMFS claims that "none of this information is currently available or could reasonably be obtained" but it failed to meet the required standards for incomplete or unavailable information under NEPA. If the Makah or NMFS want to ever meaningfully address the Makah's alleged need for whale products, they would have to, at a minimum, collect and analyze this type of information.</p>	<p>The commenter makes suggestions about future work and studies that would be helpful but offers no information on the potential costs of or time associated with conducting the studies or what uncertainties they will address. Data gaps will always exist and NMFS will continue to review new information on this topic as it is developed.</p> <p>As commenter notes the DEIS appropriately identifies information that is currently unavailable and can not reasonably be obtained as required by CEQ regulations 40 CFR 1502.22.</p>
147	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In the DEIS, NMFS asserts that "whale products have a similar nutritional profile as other finfish, shellfish, wild game and domestic meats," DEIS at 3-368, that whale oils and blubber provide a richer source of energy (calories) than other food types listed in Table 3-46, DEIS at 3-370, while whale meat has higher levels of iron.<sup>54</sup> Id. NMFS concedes, however, that gray whale meat, blubber, and oil are not necessary to obtain the alleged nutritional benefit claimed by the Makah, since many of the vitamins, essential elements, and both essential and beneficial polyunsaturated fatty acids found in whale products can be obtained from other marine mammal food products, DEIS at 4-256, as well as from fish oils, vegetable oils, soybeans, nuts, meat from terrestrial mammals, and vitamin and other nutritional supplements. DEIS at 3-268, 4-256. For example, essential fatty acids that have reportedly been found to be beneficial in controlling diabetes, kidney disease, heart disease, hypertension, and other similar health problems, are found in fish food products. Id.</p> <hr/> <p><sup>54</sup> Notably, Table 3-46 does not provide any data for gray whale meat, blubber, or oil.</p>	<p>Comments noted. With respect to Footnote 54, the whale products referenced in DEIS Table 3-46 do not contain gray whale products because such products are not hunted and readily available for analysis by the USDA.</p>

Sort #	Commenter Code	Comment	Response
148	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Fundamentally, despite the Makah's claims to the contrary, NMFS concludes in the DEIS that "there are no data to suggest that current diets of individual Makah members sufficiently lack (the) nutritional benefits" ascribed to whale products. DEIS at 4-259. Furthermore, as admitted by NMFS, "there is insufficient information to conclude that the lack of fresh whale products under the No Action Alternative would be expected to negatively alter current dietary conditions for any tribal member." Id.	Comments noted.
149	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>NMFS has failed to adequately evaluate the potential impact of environmental contaminants from whale products on the health of Makah Tribal members:</u></p> <p>There are a number of chemical compounds in the environment, including in the marine environment, which can have direct lethal effects or insidious sub-lethal effects on individual animals. Sub-lethal effects include impaired reproductive, metabolic, and immune functions. DEIS at 3-178. Such chemicals include organochlorines (e.g., DDT, PCB, dioxins, furans), heavy metals (e.g., copper, mercury, lead), and newly emerging chemicals (e.g., flame retardants). Id. The three heavy metals of greatest concern to cetaceans are mercury, cadmium, and lead. DEIS at 3-179 (citing O'Shea 1999).</p> <p>The health of a gray whale is not always indicative of its contaminant load. For example, as revealed in the DEIS, the mean concentrations of PCBs (1200 µg /mg) and DDTs (520 µg/mg) in the blubber of gray whales that stranded in 1999 were well below levels measured in gray whales harvested in Russian waters (PCBs 630 µg/mg and DDT 150 µg /mg). DEIS at 3-373. Furthermore, the concentrations of chlordanes, DDTs, dieldrin, hexachlorobenzene, mirex, and PCBs in gray whales collected during Russian hunts in the Bering Sea in 1994 were two to three times lower than those measured in stranded gray whales collected over the 1990s in Washington. Id.</p> <p>Such contaminants also occur and are documented in the diets of native subsistence populations. DEIS at 3-372. In determining the potential risk for members of the Makah Tribe to be exposed to contaminants, their existing and ongoing exposure to such toxins must be considered. For the Makah, due to their high consumption of seafood products, including finfish and shellfish, it is likely that they are exposed to high levels of contaminants.</p> <p>This risk is also linked to the level of contaminants in gray whales. While gray whales are generalist feeders, their reliance on bottom feeding to acquire energy-rich amphipods exposes them to various contaminants that may settle to the ocean floor. Their pelagic prey may also contain contaminants through bioaccumulation or as a consequence of the contaminant loads in the waters in</p>	These introductory comments are noted.



Sort #	Commenter Code	Comment	Response
		<p>Washington State. Indeed, as noted in the DEIS, a number of “researchers have documented concentrations of organic and inorganic contaminants in the tissue (blubber, muscle, organs, etc.) of the gray whales proposed for hunting by the Makah.” DEIS at 3-378 (citing numerous studies).</p> <p>Importantly, as noted in the DEIS:</p> <p>“...concentrations for some of these contaminants in whale blubber can be quite high, resulting in quite low ‘allowable consumption rates.’ For example, the unweighted average PCB concentration for the 11 gray whale blubber samples in Table 3-47 is 44 µg/kg. While the Washington State Department of Health has not developed screening levels for gray whale blubber, this value – combined with the estimated per capita blubber consumption rates in the Tribe’s needs statement (approximately 20-25 grams/day...) and other values applied by the Washington Department of Health (e.g., an 8-oz [227-gram] meal size) – yields a calculated ‘allowable consumption rate’ of 0.43 meals of blubber per month.” DEIS at 3-374.</p> <p>Notably, as also explained in the DEIS, this example is based on non-cancer endpoints and if cancer endpoints were used, the allowable consumption rates would be lower. Id.</p> <p>While the concentration of persistent organic pollutants in whale blubber is typically higher or comparable to those in other tissues, heavy metal concentrations are typically higher in muscle tissues compared to blubber. Mean metal concentrations (in µg/kg dry weight) found in gray whales, as reported in the DEIS, range from 0.4 to 0.86 cadmium, 3.1 to 4.1 copper, 305 to 1,009 iron, 0.6 to 1.11 lead, 0.33 to 0.8 manganese, 0.145 mercury, 1.39 nickel, and 120 to 279 zinc.</p> <p>Considering that contaminants are already found in foods presently consumed by the Makah, including fish and shellfish, as well as store-bought food, whether adding whale products will have a positive or negative effect is unclear. Since, as NMFS admits, no database is available to “compare the amount of contaminants currently being consumed by the Makah Tribe with the amount of contaminants found in fresh whale products,” it is “difficult to determine the net change in contaminants to which tribal members would be exposed.” DEIS at 4-257.</p> <p>Nevertheless, since whale products, particularly blubber, “would likely contain higher levels of certain contaminants (e.g., PCBs) than other foods consumed by the Makah,” id., NMFS cautions that whale products may exceed levels that trigger human health concerns based on guidelines published by state</p>	

Sort #	Commenter Code	Comment	Response
		and federal agencies. Id. Similarly, NMFS reports that “changes in the quantity of freshly harvested whale consumed would probably not appreciably change the potential for food-borne illness to occur in Makah tribal members.” DEIS at 4-258.	
150	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>There are several deficiencies in the analysis of the impact of environmental contaminants in the DEIS.</p> <p>First, NMFS has failed to disclose sufficient data to evaluate the relevant impacts of such contaminants on the Makah if they are allowed to hunt whales. Not only are there apparently no data on the current contaminant loads in Makah tribal members from their high-fish diet, but NMFS provides no data on the contaminant profiles of the fish species and other food products typically consumed on the Makah reservation.</p>	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.
151	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Second, although NMFS refers to state and federal food safety standards in the DEIS, it fails to identify those standards, fails to provide any reference to them so that interested stakeholders could examine them, and fails to compare those standards, with the sole exception of the PCB example provided above, to the concentration of contaminants documented in gray whales.</p>	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.
152	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Third, many of the studies cited in Tables 3-47 and 3-48 are also rather dated, which calls into question the accuracy of the documented concentrations in terms of what may be found in gray whales today.</p>	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption, which cites updated research on contaminants in gray whales.
153	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Despite these deficiencies, to be precautionary, particularly with regard to the health of Makah tribal members and recognizing that NMFS concedes that consuming whale products may trigger health concerns; NMFS should deny the MMPA waiver application on health grounds alone. Surely NMFS does not want to authorize a gray whale hunt when there is a distinct possibility that consumption of products from the hunt could compromise human health.</p>	The MMPA waiver provisions establish the criteria for judging a waiver application. Health risks are not among the criteria.
154	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>NMFS has failed to adequately evaluate the precedential impacts of the issuance of a waiver to the Makah Tribe:</u></p> <p>One of the key issues emphasized in the Anderson opinion was the potential for a Makah whale hunt to create the precedent for other whale hunts in the United States and around the world. In evaluating this potential impact, NMFS considers the potential change in the number of requests for MMPA waivers to permit the killing of marine mammals in US waters (other than</p>	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
		whales) and for regulatory action to permit the killing of whales in US waters. DEIS at 4-260.	
155	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	The DEIS identifies a number of US tribes between the Aleutian Islands and California who hunted gray whales and/or used drift whales for subsistence as part of their cultural and religious traditions. These tribes include the Aleuts, Koniag, Chugash, Tiglit, Haida, Tsimshian, Nootka, Makah (including the Ozette), Quileute, Klallam, and Chomash. DEIS at 3-176. However, this list is incomplete, as it does not include any tribes that live on the east or Gulf coasts that may have historically hunted whales.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
156	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS concedes the fact that Northwest Indian tribes have previously expressed an interest in killing marine mammals, that an authorization of a Makah gray whale hunt could revive the interest of the Makah or other tribes in hunting marine mammals, and that it could increase interest by non-Indians in sport or commercial hunting of marine mammals. DEIS at 4-261.</p> <p>Despite this concession, NMFS largely dismisses the potential for an increase in waiver requests if the Makah’s MMPA waiver is granted, claiming, for example, that “history suggests that there is little interest by other native groups to seek authorization to harvest whales.” Id. This conclusion may be misplaced, however, since both the Makah and other US coastal tribes, including those on the east and Gulf coasts, may simply be waiting for the outcome of the Makah waiver application before proceeding with their own request for whales or other marine mammals. While there is no evidence yet that this will occur, tribes with an interest in obtaining a waiver would not help their own cause – or the cause of the Makah to obtain a waiver to kill gray whales – if they were to prematurely announce their intent before the current process ended. Such an announcement would support the argument that the Makah Tribe’s waiver application has had a significant precedential impact, thereby supporting a denial of the waiver.</p> <p>Many tribes, particularly in the Northwest, have expressed a desire to kill seals and sea lions, given the perceived conflict with fisheries, particularly salmon fisheries. The Northwest Indian Fisheries Commission recently opined that “harbor seal and sea lion populations must be brought back into balance with the reality of today’s ecosystems, which cannot support their steadily increasing numbers.”<sup>55</sup> It is myopic for NMFS to conclude that the outcome of the Makah Tribe’s waiver application will have no influence on the likelihood of these tribes applying for their own waivers. Even the Makah Tribe may choose to pursue additional waivers if its whaling waiver is obtained, considering that it ceased</p>	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
		<p>authorizing tribal members to take any marine mammals in 2005 as a result of the Anderson opinion. DEIS at 3-215.</p> <hr/> <p><sup>55</sup> See <a href="http://nwifc.org/2015/04/10158/">http://nwifc.org/2015/04/10158/</a></p>	
157	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Furthermore, the recent decision in <i>United States v. Washington</i> opens the door to a significant increase in MMPA waiver requests. In that case, initiated by the Makah Tribe to determine the boundaries of the usual and accustomed fishing grounds of the Quileute and Quinault tribes, the court concluded that “fish as used in the Treaty of Olympia encompasses sea mammals and that evidence of customary harvest of whales and seals at and before treaty time may be the basis for the determination of a tribe’s U&amp;A.” <i>United States v. Washington</i>, No. C70-9213, slip op. at 78 (W.D. Wa. July 9, 2015; Attachment 7).<sup>56</sup> This is now a legal precedent defining a treaty right to fish to encompass the hunting of marine mammals, including cetaceans. Therefore, the Coalition concludes that MMPA waiver applications are very likely to increase.</p> <p>Admittedly, the ruling in <i>United States v. Washington</i>, issued on July 9, 2015, was not available to NMFS when it prepared the DEIS, but it now represents new information that must be considered as NMFS continues with the NEPA and MMPA waiver processes.</p> <hr/> <p><sup>56</sup> In the opinion, the court provides significant details as to the history of whaling, sealing, and fishing by both the Quileute and Quinault tribes. It also identifies several other tribes that also had a tradition of whaling.</p>	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
158	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS concludes that “it is also unlikely that other countries could use authorization of a Makah whale hunt under Alternatives 2-6 as leverage for increasing commercial or scientific whaling.” DEIS at 4-267. To support this conclusion, NMFS cites to the skirmish between Japan and the United States over the Alaskan bowhead whale quota in 2002. While it is true this situation did not result in a “fundamental change in the United States position” on commercial or scientific whaling, it did result in the United States voting in favor of Japan’s small-type coastal whaling proposal at a special meeting of the IWC called to address, in particular, the bowhead quota. In that case, though the US vote for small-type coastal whaling did not practically benefit Japan (as there were sufficient no votes to block the proposal even with the United States voting in support), it was clearly a psychological victory for Japan given by the United States in order to secure the bowhead whale quota. To think that Japan would not attempt to block a US ASW quota in the future to compel a change, even temporary, in a US position at a future IWC meeting is naïve.</p>	Comment noted.

Sort #	Commenter Code	Comment	Response
159	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Admittedly, the Makah ASW request may not provide Japan with the same leverage over the United States as did the bowhead whale quota. This is because the Makah ASW quota is for a small number of whales and, if blocked, the repercussions are not as significant for the Makah as are the implications for Alaska Natives. The Makah, as Japan is well aware, have not regularly engaged in whaling for nearly 90 years (and potentially as long as 165 years) and have access to a variety of other foodstuffs. Conversely, the bowhead quota is for a larger number of whales for which the 11 Alaskan whaling villages have a genuine nutritional, subsistence, and cultural need.	Comments noted.
160	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Furthermore, the suggestion that ASW was not a consideration in the effort to construct an agreement leading up to the 2010 IWC meeting that, if approved, would have undermined the commercial whaling moratorium is also without merit. The principal reason the US ASW quotas were not challenged at the 2007 meeting, held in Anchorage, AK, is because the late Senator Ted Stevens negotiated an agreement, believed to be unwritten, with Japan. In its simplest terms, that agreement ensured that Japan did not object to the United States quota request, particularly its request for bowhead whales, at the Anchorage meeting in exchange for US leadership in the process that led to the proposed "deal" to lift the commercial whaling moratorium, which was soundly rejected at the 2010 IWC meeting.	Comment noted. The comment does not provide evidence to support the assertions made. Please also see the response to frequent comment # 4 regarding the precedential effect of a waiver domestically and internationally.
161	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	Finally, NMFS' dismissal of the potential adverse precedent that Makah whaling could have on other IWC countries seeking whaling opportunities for their own people, including aboriginal people, is in error. Fundamentally, the mere fact that the United States was able to secure a quota for the Makah in 1997, given that the Tribe did not qualify (and still does not qualify) for an ASW quota, has already substantially weakened the ASW criteria within the IWC. NMFS even admits that the Makah whale hunt is different from other aboriginal subsistence hunts because of "the Tribe's 70-80 year hiatus in whaling." DEIS at 4-268. While approval of the Makah quota as recently as 2012 has not been explicitly used by any country to seek IWC approval to allow its own people to engage in whaling, this may occur in the future. Indeed, considering that the Makah hunt has been prevented from occurring as a result of legal action, if NMFS is able to ultimately permit the Makah to begin to actively use the IWC-approved quota, this could be the trigger that other countries are waiting for to exploit the 1997 decision.	Comment noted. The DEIS fully analyzes and does not dismiss potential precedential effects of Makah whaling (see Subsection 4.17.3.2.3, International Regulation of Whaling). As the commenter acknowledges, to date approval of the Makah quota has not led to additional requests for ASW quotas by other parties to the ICRW. We reviewed recent IWC actions and confirm that no additional requests have been made since the DEIS was published in 2015 (i.e., other than those countries that typically have done so - the U.S., Russian Federation, Denmark, and St. Vincent and the Grenadines). Please

Sort #	Commenter Code	Comment	Response
			also see the response to frequent comment # 4 regarding the precedential effect of a waiver domestically and internationally.
162	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>This does not mean that the damage done by the United States to the ASW standards in 1997 cannot be reversed. This is possible, but only if the US denies the Makah Tribe’s MMPA waiver request and does not pursue another gray whale ASW quota for the Makah at any future IWC meetings. This would not erase the adverse precedent set in 1997, but it would return some integrity to the IWC’s ASW standards.</p>	Comment noted.
163	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>NMFS has failed to fully disclose all relevant information regarding the cumulative impact of the proposed hunt and to adequately analyze such impacts:</u></p> <p>NEPA requires federal agencies to evaluate the cumulative impact of any proposed action or other alternatives on the environment. Under NEPA, a “cumulative impact” is defined as an “impact on the environment which results from the incremental impact of the action when added to the past, present, and reasonably foreseeable future actions, regardless of what agency (federal or non-federal) or person undertakes such other actions. DEIS at 5-1 and 40 CFR § 1508.7. Much of the information contained in the cumulative impact analysis (CIA) section of the DEIS overlaps with information regarding other threats to gray whales. Consequently, those issues are addressed together in this section of the comment letter.</p> <p>The geographic and temporal scope of the CIA included the entire range of ENP gray whales over an indefinite time period. DEIS at 5-2/5-3. These provide an appropriate scope for the CIA although, considering that WNP gray whales are known to emigrate into the ENP region and that one or more could theoretically be killed as a result of the hunt, not including the WNP range in the CIA is in error. DEIS at 5-2. Surely, if a Makah hunt resulted in the death of a WNP gray whale then understanding the impact to a critically endangered population of gray whales given other existing and increasing threats would be relevant and should have been included in the CIA.</p> <p>In its analysis of the CIA, NMFS ostensibly evaluated past, present, and reasonably foreseeable actions in the following categories: harvest of gray whales, shipping, military exercises, fisheries, tourism, marine energy and mining projects, scientific research, natural mortality, climate change and US government policy. DEIS at 5-4. The background portion of the analysis simply confirms that these activities will continue in the future and will impact gray</p>	<p>As noted in DEIS Section 5 (Cumulative Effects), guidance from the Environmental Protection Agency underscores that the proper spatial scope of the analysis should include geographic areas that sustain the resources of concern. Importantly, the geographical boundaries should not be extended to the point that the analysis becomes unwieldy and useless for decision-making. In that DEIS section we also noted that our analysis of cumulative impacts discusses possible effects on WNP whales where appropriate; however, we did not include the geography of the Western North Pacific in our analysis area because it is not within the primary range of ENP whales that are the focus of the proposed action and action alternatives. If new information supports expanding the range of our analysis we will do so in a subsequent NEPA analysis.</p> <p>The comment provides no information to demonstrate how effects of past,</p>

Sort #	Commenter Code	Comment	Response
		whales to some degree. NMFS then attempts to evaluate the actual cumulative impacts of these different actions in the section 5.2 of the CIA but its analysis is woefully inadequate. Consequently, it is of no surprise that NMFS concludes that nearly all of the 15 environmental factors evaluated will not result in a significant cumulative impact. The only exceptions to this is for the environmental justice and ceremonial and subsistence resources factors where NMFS concluded that Makah Tribe would experience negative cumulative effects if Alternative 1 (the No Action Alternative) was chosen. DEIS at 5-43, 5.44.	present, and reasonably foreseeable future actions would combine with the proposed action to cause effects beyond those analyzed in Chapter 4, Effects of the Action.
164	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	For some actions analyzed, NMFS claims that information was not available (e.g., from the Canadian, Russian, or Mexican governments) to assess certain actions under the control of those countries that may impact gray whales or their habitat. NMFS provides no information about the effort made to obtain such information, causing the Coalition to question whether NMFS adequately attempted to secure such evidence by, for example, contacting the relevant government agencies. Nevertheless, NMFS has failed to comply with the NEPA requirements as to unavailable and incomplete information, which further undermines the sufficiency of its CIA. This error must be corrected in a revised analysis either by obtaining the missing information or providing the requisite evaluation of the relevance of the information to the environmental impacts of the proposed action as required by NEPA.	The comment does not explain what information is lacking or how it would inform the decision-maker or be relevant to decision-making.
165	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Similarly, the CIA provides no evidence that NMFS contacted relevant state or provincial agencies to obtain information about past, present, and reasonably foreseeable state-approved actions that may impact gray whales and their habitat. The definition of “cumulative impact” explicitly includes actions by non-federal agencies. Yet, NMFS has apparently limited its analysis to those actions authorized and/or undertaken by federal agencies.</p> <p>In California, for example, the California Coastal Commission (CCC) is responsible for approving projects that may impact coastal resources, yet there is no indication that NMFS reached out to CCC for information relevant to the CIA. Washington and Oregon have agencies similar to the CCC that review and approve coastal projects. At a minimum, NMFS must contact all appropriate state agencies in Alaska, Washington, Oregon, and California to seek information about coastal projects authorized at the state level that may impact gray whales. It must also contact authorities in British Columbia, Canada and in the state of Baja California Norte and Baja California Sur to seek out information from them to include in the CIA. In addition, NMFS should compile a list of all of the relevant IHAs, LOAs, and other authorizations (as published in the Federal Register) that it</p>	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats. The comment cites potential sources of information but does not describe how this information might affect the analysis.

Sort #	Commenter Code	Comment	Response
		has issued at least over the past five years in order to include that information in the CIA.	
166	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	While many of the individual projects authorized by NMFS (or by other countries or agencies) may not, independently, pose any substantive threat to gray whales, when considered together - as is the entire purpose of the CIA - the impacts become significant. Merely asserting that certain actions will continue into the future and that they will or will not result in cumulative impacts - as NMFS has done in the DEIS – entirely ignores the purpose of a CIA.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
167	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	That purpose is to combine all of the past, present, and reasonably foreseeable future action that may impact, in this case, gray whales and to subject them to a comprehensive and scientifically robust analysis to determine how, when combined, will impact gray whales today and into the future. Such an analysis cannot be based merely on speculation and opinion but rather, must be credible with predictions or projections about how present and future actions will effect gray whale populations and their habitat. Qualitative conclusions are not entirely sufficient in a legitimate CIA unless they are confirmed through a quantitative analysis. While there is no required methodology for conducting a CIA, a method that would be advisable in this case would involve a modelling exercise to quantify the potential short and long-term cumulative impacts of the various impacts in order to predict potential outcomes under different scenarios	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
168	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	NMFS has not engaged in such an analysis in the DEIS. Indeed, the foundation of its CIA is speculation and opinion without any substantive underlying analysis. In many cases, while NMFS acknowledges current and future impacts, it doesn't take the next step to assess the cumulative impact of such threats on gray whales and their habitat or, what analysis it provides is deficient. Until NMFS provide a legitimate CIA in a revised analysis it must not continue the current decision-making process.	Comments noted.
169	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	For the remainder of this section, the Coalition provides a summary of some of the relevant present and future threats to gray whales. While NMFS has included many of these in the DEIS, in many cases the information is inadequate or incomplete. In other instances NMFS has ignored an existing or future threat that it should have considered.	This introductory comment is noted.
170	Schubert (Animal Welfare	<u>Harvest of gray whales</u> As discussed in this comment letter, permitting a new intentional take of gray whales by granting the Makah Tribe's request for an MMPA waiver is	As noted in the DEIS, authorization of a Makah tribal hunt would be unlikely to result in a net change in the



Sort #	Commenter Code	Comment	Response
	Institute)_ Letter Only_7-31-15	<p>biologically reckless. There are too many ongoing threats to the species throughout its range, including in the PCFG region, to purposefully allow additional take.</p> <p>For WNP and PCFG, such take is particularly alarming given their small population sizes. Indeed, even NMFS concedes that “killing even a few animals per year (especially over an extended period of time) from the relatively small PCFG could have long-lasting impacts for a group of whales whose population dynamics are not well understood.” DEIS at 5-3.</p> <p>Furthermore, since so little is known about the long-term implications of Arctic ecosystem changes attributable to climate change, there is no guarantee that the ENP gray whale population is secure.</p>	<p>mortality of ENP gray whales as Russian ASW hunters would harvest any IWC quota not used by the Makah Tribe (Subsection 4.4. 2.1, Change in Abundance and Viability of the ENP Gray Whale Stock).</p> <p>Potential impacts on WNP and PCFG whales are discussed elsewhere in responses to these comments.</p>
171	Schubert (Animal Welfare Institute)_ Letter Only_7-31-15	<p>The CIA in the DEIS, had it been done objectively and through a quantitative assessment of the combined threats to gray whales and their habitat, would have concluded that the cumulative impacts are substantial. Conversely, based on its deficient analysis, NMFS found that when adding potential impacts of a gray whale hunt under Alternatives 2 through 6 to past, existing, and future levels of disturbance then “reasonably foreseeable future actions would not be expected to have cumulative effects on gray whales in the PCFG, local survey areas within the PCFG range, and individual gray whales. DEIS at 5-40. Of note, NMFS doesn’t appear to make a CIA finding for ENP gray whales (nor for WNP gray whales which, in error, it neglected to consider in the CIA.</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>
172	Schubert (Animal Welfare Institute)_ Letter Only_7-31-15	<p><u>Shipping</u></p> <p>The DEIS includes information about current shipping traffic and how it will increase throughout the range of the ENP gray whales in the future. DEIS at 5-8/5-9. It recognizes that this will increase risks to gray whales as a consequence of ship strikes, ocean noise, and potential fuel spills. Id. at 5-8. It finds that shipping is a reasonably foreseeable future action, but fails to engage in any legitimate quantitative analysis of the potential threats of shipping traffic to gray whales in relationship to the actions identified.</p>	<p>The information provided is sufficient to consider the effects of the proposed action when combined with past, present, and reasonably foreseeable future actions. Consistent with CEQ regulations at 40 CFR 1502.2(b), there is a sufficient description of anthropogenic impacts, including from shipping, in Subsections 3.4.3.5, Known and Potential Anthropogenic Impacts, and 5.1.3.2, Shipping, with citations to the literature, to support the analysis regarding the minor level of cumulative impact from potential hunting when combined with impacts</p>

Sort #	Commenter Code	Comment	Response
			from shipping on gray whales. Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
173	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Military exercises</u></p> <p>NMFS largely discounts the potential cumulative impacts of military exercises (in waters of the US, Russia and Mexico). NMFS reports that it was unable to obtain any information about military activities conducted by Mexico and Russia within their respective Exclusive Economic Zones. For Canada, NMFS notes the role of Maritime Forces Pacific (MARPAAC) in ensuring the training and operational readiness for the Royal Canadian Navy but claims that it could not find information detailing the types of training or testing that MARPAAC conducts within the NMFS CIA analysis area. The failure of NMFS to obtain such information is an ideal example of a weakness in the CIA. It is improbable that if NMFS or the US State Department, on behalf of NMFS, sought the relevant information from Mexico, Canada, and Russia that those governments would not have responded at least to provide basic information about relevant military training activities in the analysis area. Without that information, the CIA is incomplete.</p> <p>As for the analysis of the impacts of military activities in US waters, NMFS evaluates the impacts of activities conducted within the Southern California Range Complex (SCRC), Northwest Testing and Training Range (NWTTR), and the Gulf of Alaska Range Complex (GOA). The potential impacts from these testing and training exercise include noise (from ships, explosives, sonar), direct harm (from ship strikes, projectiles, underwater explosions, consumption of expended materials), and indirect harm (hearing impairment and loss, disrupting communications, noise masking, behavioral impacts, general harassment).</p> <p>Instead of providing a credible analysis of these impacts, NMFS largely dismisses any significant threat to gray whales by citing to its relevant Biological Opinions for the different ranges and complexes. These Biological Opinion’s generally conclude the overall impact from such exercises, which they concede will result in harassment (primarily Level B). Notably, for the SCRC, NMFS has authorized 15 Level A takes (through harassment) of ENP gray whales and, in addition, 15 whale injury, mortality, or serious injuries for 15 gray whales of which three, shockingly, can be WNP gray whales. Considering that this</p>	<p>The information provided in Subsection 5.1.3.3, Military Exercises, is sufficient to consider the effects of the proposed action when combined with past, present, and reasonably foreseeable future actions. Consistent with CEQ regulations at 40 CFR 1502.2(b), there is a sufficient description of military exercises in Subsection 5.1.3.3, Military Exercises, to support the analysis regarding the minor level of cumulative impact on gray whales.</p> <p>We will consider whether a final EIS would benefit from additional specific discussion of military exercises in Subsection 3.4.3.6, Known and Potential Anthropogenic Impacts.</p> <p>The comment provides no information to demonstrate how effects of past, present, and reasonably foreseeable future actions would combine with the proposed action to cause effects beyond those analyzed in Chapter 4, Effects of the Action. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray</p>

Sort #	Commenter Code	Comment	Response
		population of gray whale is critically endangered, that level of mortality or serious injury rate is excessive. Furthermore, relying on old Biological Opinions for this CIA is inappropriate. NMFS should have engaged in a new analysis of these impacts specific to gray whales and their habitat.	whale population in the face of climate change and other threats.
174	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>In general, for all gray whales subject to military testing and training activities, NMFS dismisses potential adverse impacts claiming that “any stress responses or disruptions of normal behavior patterns of gray whales would not continue long enough to have fitness consequences for individual animals because these whales are likely to have energy reserves sufficient to meet the demands of their normal behavioral patterns and the additional demands of any stress responses.” DEIS at 5-15. Of course, NMFS provides no data to support its contention that gray whale exposure to such military training exercises will be only temporary nor has it disclosed evidence to substantiate the assertions that gray whales have sufficient energy reserves to both meet daily demands and to deal with acute or chronic stress impacts. NMFS must provide such data if it wants to ensure that its CIA is credible and legal.</p>	The commenter cites a passage in the DEIS that describes a document that analyzes the likely responses of other large whales to military activities, and reasons that gray whales would be expected to have similar responses as other large whales. The comment cites no evidence suggesting why this would not be the case.
175	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>While NMFS concedes that in past Biological Opinions, WNP gray whales were not considered, it is evaluating impacts to that population in pending decisions regarding continuation of military testing and training activities in the NWTTTR and the GOA ranges. In regard to the SCRC, a court recently ruled in favor of plaintiffs challenging a Biological Opinion prepared by NMFS to evaluate the impacts of the military’s training and testing in that region. Conservation Council for Hawaii v. NMFS (2015 WL 1499589 at *48-50 (D. Hawaii Mar. 31, 2015)).</p> <p>In particular, given the increasing body of scientific evidence documenting the adverse impact of ocean noise, including sonar and seismic testing, on marine mammals and other ocean species, this issue in particular warranted far greater analysis in the CIA. Indeed, surprisingly, while NMFS provides some information about ocean noise in the affected environment and environmental consequences sections of the DEIS, it virtually ignores the issue in its CIA. Not only can such anthropogenic noise directly harm whales through temporary or permanent hearing loss, but the behavioral implications of acute and chronic exposure to human-caused noise sources can cause behavioral changes that can have serious consequences to gray whales. This can include disrupting feeding and breeding activities, abandonment of preferred habitat, and avoidance reactions that may result in increased stress and have adverse bioenergetics consequences.</p>	Section 3.4.3.6.5, Offshore Activities and Underwater Noise, examines the effects of noise conditions on existing environment to the extent necessary to support the cumulative effects analysis in Section 5.4, Gray Whales. Consistent with CEQ regulations at 40 CFR 1502.2(b), there is a sufficient description of military exercises in Subsection 5.1.3.3, Military Exercises, to support the analysis regarding the minor level of cumulative impact on WNP gray whales. We will consider whether a final EIS would benefit from additional specific discussion of military exercises in Subsection 3.4.3.6, Known and Potential Anthropogenic Impacts. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the

Sort #	Commenter Code	Comment	Response
		<p>Considering the increase in anthropogenic noise in the Pacific Ocean, including noise associated with military operations, and recognizing that climate change will increase human activities in the Arctic which, in turn, will increase noise impacts, NMFS must provide a far more substantive and scientifically robust evaluation of noise impacts in a revised document.</p>	<p>ENP gray whale population in the face of climate change and other threats.</p>
176	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Fisheries</u></p> <p>NMFS acknowledges the adverse impacts of various fisheries on gray whales and concedes that reported fishery-related mortality is an underestimate of actual mortality. This is, in part, due to the lack of observer coverage in many of the west coast fisheries that are known to pose a risk to gray whales. For example, no observers are assigned to most of the Alaskan gillnet fisheries, including those in Bristol Bay known to interact with gray whales. DEIS at 41. Similarly, due to a lack of observer data for mortality in Canadian commercial fisheries, data is not available but NMFS estimates it to be approximately two whales per year. The DEIS contains no information about any commercial fishery-related mortality of gray whales in Mexico.</p>	<p>The DEIS reports and analyzes the best available information. The commenter suggests there may be other relevant information but neither provides it nor a source to obtain it. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>
177	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Overall, NMFS reports a known, but minimum, estimate of commercial fishery-related mortality was 12.25 ENP gray whales between 2007 and 2011 (Carretta et al. 2014), or an average of 2.45 gray whale per year. DEIS at 3-195. This is limited to reported mortalities in US waters only indicating that the actual number is larger if mortalities in Mexico and Russia were included.</p> <p>NMFS provides some limited gray whale entanglement data for Mexico for 2013 where six gray whales were reported entangled in fishing gear. DEIS at 5-19. For Russia, NMFS reports that no data on gray whale entanglements were available, id., and apparently none could be obtained from Canada either. For PCFG gray whales, for the same period of time, the DEIS reports a mortality rate of one whale or 0.15 whales per year; figures that must be underestimates given the commercial fishing activity within the PCFG range. Punt and Moore (2013) estimate that reported strandings of gray whales represent only 3.9 to 13 percent of actual mortality. DEIS at 3-193. Consequently, average actual fishery-related gray whale mortalities in US waters may range from 18 to 62 animals annually.</p>	<p>Comments noted.</p>
178	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS provides some limited gray whale entanglement data for Mexico for 2013 where six gray whales were reported entangled in fishing gear. DEIS at 5-19. For Russia, NMFS reports that no data on gray whale entanglements were available, id., and apparently none could be obtained from Canada either. For PCFG gray whales, for the same period of time, the DEIS reports a mortality rate of one whale or 0.15 whales per year; figures that must be underestimates given</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		the commercial fishing activity within the PCFG range. Punt and Moore (2013) estimate that reported strandings of gray whales represent only 3.9 to 13 percent of actual mortality. DEIS at 3-193. Consequently, average actual fishery-related gray whale mortalities in US waters may range from 18 to 62 animals annually.	
179	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>When evaluating the cumulative impacts of this action in relationship to the hunt, NMFS should not use reported mortality rates as that will significantly underestimate actual mortality.</p> <p>Furthermore, while the reported mortality statistics above are for US fisheries, there is likely unreported mortality associated with other forms of mortality (i.e., ship strikes, sonar use, seismic testing). If the mortality rate from Punt and Moore is used to determine actual mortality for all types or reported mortality, the estimated number of whales lost due to human-caused mortality may be far higher than expected.</p> <p>Since gray whales are known to sink when they die, NMFS needs to identify unreported mortality rates for these other forms or mortality so that it can conduct a credible quantitative CIA as well as to determine if human-caused mortality exceeds PBR. This is precisely the type of analysis that NMFS should undertake in a comprehensive CIA.</p>	It is unclear how one would report/identify unreported information suggested in this comment. We acknowledge in the DEIS and in the ENP gray whale SAR that reported strandings represent only a fraction of actual gray whale deaths (natural or human-caused). If better estimates become available we will evaluate them as part of our review of the tribe's waiver request. Please also see the response to frequent comment # 7 regarding the calculation and use of PBR for a PCFG mortality limit.
180	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Tourism</u></p> <p>NMFS notes that the number of people engaging in whale-watching in the ENP increased from million in 1998 to over 3.3 million in 2008. DEIS at 5-20. Since 2008 the numbers have likely increased. NMFS also acknowledges that the activity of commercial whale-watching vessels and private recreational boats has increased concerns about potential effects on gray whales. DEIS at 5-22.</p>	Comments noted.
181	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The Coalition concurs with this assessment. While whale-watching provides a unique opportunity for millions of people annually to enjoy whales in their natural habitat, to learn about marine species and marine ecology, and that whale-watching generates billions in revenue worldwide, it is not without potential risk to marine wildlife. Improperly or non-regulated whale-watching operations or even an excessive number of operators in a concentrated area can have adverse impacts on marine mammals and other species.</p> <p>This constitutes another threat to gray whales which has not been sufficiently studied to understand the full range of direct and indirect impacts to these animals. NMFS has also failed to quantify this effect in its CIA in order to better understand its impact in the context of other impacts on gray whales and their habitat. Instead of engaging in such an analysis, NMFS has concluded that</p>	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.

Sort #	Commenter Code	Comment	Response
		whale-based tourism is a reasonably foreseeable future action that will continue to impact gray whales throughout their range in the ENP. DEIS at 5-22. It does not appear that the CIA provides a determination as to the cumulative impacts to gray whales as a result of tourism when considered alongside the proposed hunt.	
182	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Marine energy and mining projects</u></p> <p>NMFS discloses information about active and proposed energy and mining projects within the range of the gray whale. For example, it notes the proposed construction of a number of Liquefied Natural Gas terminals (DEIS at 5-9) while also providing some data on oil spills particularly in Washington State waters. It provides a basic explanation of oil and gas development in the Arctic and both its role and the role of the Bureau of Ocean Energy Management in overseeing, authorizing, or permitting such projects.</p>	Comments noted.
183	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>What it fails to do, however, is to engage in a credible analysis of the direct and indirect impacts of these projects on gray whales and their habitats. There's no serious analysis of the impacts of oil/gas exploration or production activities on gray whales (i.e., seismic testing, drilling noise, ship traffic), no substantive discussion of the lethal and sub-lethal impacts of oil on gray whales, and no assessment of the potential for a significant oil spill within the range of the gray whale or how such a spill would impact gray whales and their habitat. In the Arctic, since summer is the only time when drilling can be commenced, a spill associated with production processes would occur when gray whales are in the region. Given the controversy surrounding President Obama's recent decision to allow Shell Oil to drill in the Arctic, this emphasizes the need for a more complete analysis. The notion that such spills are unrealistic or unlikely due to the efforts made by the oil and gas companies to prevent such accidents is not (and never has been) cause for complacency particularly as a result of the Deepwater Horizon spill in the Gulf of Mexico several years ago.</p>	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
184	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Notably, NMFS failed to even disclose a mining project in Mexico that may significantly impact gray whales. Although not yet approved, a large phosphorous mining operation has been proposed in the Gulf of Ulloa between Apreojos and Cabo San Lazaro, Mexico. A summary translation of the first few paragraphs of the Environmental Impact Statement<sup>57</sup> prepared on the proposed mine states that:</p> <ul style="list-style-type: none"> <li>• The project is to be located within the Mexican EEZ in the Gulf of Ulloa, on the west coast of Baja California Sur between Apreojos and Cabo San Lazaro, about 22 km off the coasts.</li> </ul>	In an April 11, 2016 press release the company advancing the project noted that "the recent decision by the Mexican Secretary of Environment and Natural Resources (SEMARNAT) regarding the "Don Diego" dredging and phosphate sand extraction project resulted in a denial of the application for an environmental license as presented."

Sort #	Commenter Code	Comment	Response
		<ul style="list-style-type: none"> <li>• It is projected that 7 million tons of phosphates will be extracted each year for a period of 50 years, equal to a rate of 19,178 tons a day; the digging will be done 24 hour per day, 7 days per week or each year.</li> <li>• The EIS does not mention the total quantities of other materials that would also be removed and then returned to the ocean as waste. An analysis by Dr. Janette Murillo Jimenez, however, indicated that to produce the quantity of phosphate indicated 150,000 tons of sediment would need to be removed daily. "These quantities are so large that they would require more than one processing vessel, would generate a plume of sediment and waste, of which argillaceous particles would be left permanently in the water in the area due to the continual agitation."</li> <li>• The company seeking the permit, Exploraciones Oceanicas, S. de R.L. de C.V. (a subsidiary of a US company Odyssey Marine Exploration Inc, Omex) is a vessel salvage company which has no experience in submarine dragging, and even less in mining phosphates. In other countries in which similar proposals have been presented they have not been approved, and Namibia has a moratorium on such activities. This is due to concerns about fisheries.</li> </ul> <hr/> <p><sup>57</sup> The EIS can be accessed at:  <a href="http://consultaspublicas.semarnat.gob.mx/data/expediente/bcs/estudios/2014/03BS2014M0007.pdf">http://consultaspublicas.semarnat.gob.mx/data/expediente/bcs/estudios/2014/03BS2014M0007.pdf</a></p>	<p>(<a href="http://ir.odysseymarine.com/release_detail.cfm?ReleaseID=964396">http://ir.odysseymarine.com/release_detail.cfm?ReleaseID=964396</a>). If such a project is ultimately approved and implemented it may be appropriate to consider in a final EIS.</p>
185	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Furthermore, in a recent article published in Excelsior<sup>58</sup>, a periodical in Mexico, Dr. Jorge Urban- Ramirez, head of the Marine Mammal Research Program from the Universidad Autónoma de Baja California Sur, noted that the project would impact the migratory route of gray whales which for millennia have traveled 10,000 kilometers from the Arctic Ocean, through the Bering and Chukchi Seas between Alaska and Siberia, to the Baja California, peninsula in order to rest and give birth.</p> <p>Dr. Urban-Ramirez, who is respected gray whale biologist with 32 years invested into the study of the species, states that "the underwater noise from the mining activity would mask the acoustic communication that exists between the whales principally in the Laguna complex at Bahia Magdalena, the closest point to the Don Diego (name of mining project) project, where every year a large number of gray whale calves are born," and that "the greatest potential damage is to the north where the mothers with calves will be precisely in the drag zone."</p> <p>While he reports that the noise generated by the mine, if it were allowed, would not kill gray whales, it would trigger a behavioral response that would cause them to divert from their normal migratory route which, in turn,</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>would result in greater energy expenditures while also potentially adversely impacting the whale-watching tourism industry in the area.</p> <hr/> <p><sup>58</sup> See <a href="http://www.excelsior.com.mx/nacional/2015/01/18/1003281">http://www.excelsior.com.mx/nacional/2015/01/18/1003281</a></p>	
186	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Natural mortality</u></p> <p>NMFS notes the potential impacts of killer whale predation on gray whales but largely ignores the role of sharks as natural predators of gray whales, particularly gray whale calves. In addition, it does not sufficiently consider the potential impact of predation on gray whales in the context of the other threats and stressors on the population. For example, the delay in the south of the southbound migration, which is linked to ocean warming in the Arctic and the expansion of the gray whales' range, has led to an increase in births outside of the Mexican lagoons. Some births are now occurring in coastal waters as far north as central California. Gray whale calves born in these areas are more susceptible to predation than those born in the lagoons. NMFS has not quantified such impacts for the purpose of its CIA. Nor has it considered predation severity throughout the migratory range. Unimak Pass, Alaska, is an area where gray whales may be most susceptible to predation by killer whales, who take advantage of this relatively narrow passage way to kill gray whales. NMFS must provide a far more substantive analysis of the impact of predation on gray whales as both a separate threat to the species as well as in the context of a credible CIA.</p>	<p>The DEIS presents an extensive analysis of the status of the ENP gray whale population, more than sufficient to support an analysis of the effects of the proposed action considered alone and in combination with other past, present, and reasonably foreseeable future actions. Most of the individual factors mentioned in this comment are described and considered in the DEIS. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>
187	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><u>Climate change</u></p> <p>As previously noted, ocean warming caused by climate change is significantly impacting the Arctic. A regime shift is ongoing whereby a benthic driven ecosystem is transitioning into a pelagic system. This has significant potential implications to gray whales and their prey, including amphipods. As the composition and density of fish stocks increase in Arctic waters, benthic productivity is declining, forcing gray whales to expand their range. The consequences of this shift are documented in the scientific literature but, more recently, evidence of this shift is available in the form of an agreement between the US, Russian Federation, Canada, Norway, and Denmark (representing Greenland) to prevent unregulated commercial fishing in the Arctic. This agreement, signed on July 16, 2015 is a product of the regime shift in the Arctic linked to climate change. According to a press release issued by the US State Department about the agreement:</p> <p>The declaration acknowledges that commercial fishing in this area of Arctic Ocean – which is larger than Alaska and Texas combined – is unlikely to occur in the near future. Nevertheless, the dramatic reduction of Arctic sea ice</p>	<p>This introductory comment is noted.</p>



Sort #	Commenter Code	Comment	Response
		<p>and other environmental changes in the Arctic, combined with the limited scientific knowledge about marine resources in this area, necessitate a precautionary approach to prevent unregulated fishing in the area.<sup>59</sup></p> <hr/> <p><sup>59</sup> Available at <a href="http://www.state.gov/r/pa/prs/ps/2015/07/244969.htm">http://www.state.gov/r/pa/prs/ps/2015/07/244969.htm</a></p>	
188	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The countries have agreed to initiate research in the region to better understand changes occurring to the Arctic. It is precisely this type of precautionary approach that must be applied in the context of the Makah hunt. Given the need to better understand the changing Arctic environment and what it means to whales and other Arctic and sub-Arctic species, permitting direct lethal take of gray whales at this time is reckless.</p>	<p>The comment does not address an alleged deficiency with the DEIS. The DEIS evaluates the implications of various hunt scenarios and uncertainties associated with changing climate and conditions in the Arctic. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>
189	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Another threat to gray whales linked to climate change is ocean acidification. NMFS provides some information about this threat in the DEIS. It notes, for example, that ocean acidification can change the chemical composition of ocean water, which will decrease its ability to absorb sound, thereby making the oceans even noisier than they are at present. DEIS at 3-198. While this could cause both direct and indirect adverse impacts on gray whales, the fact that ocean acidification will reduce the abundance and types of shell forming organisms, “many of which are important in the gray whales diet,” DEIS at 3-197, is also a significant concern. While gray whales are expanding their range to find additional food sources, such an expansion will be irrelevant if potential prey species are eliminated or reduced as a consequence of climate change.</p>	<p>The DEIS examines likely effects of ocean acidification on gray whales (Subsection 3.4.3.6.11, Climate Change and Ocean Acidification and Subsection 5.1.3.9, Climate Change and Ocean Acidification). Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>
190	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Climate change is also increasing human activities in the Arctic, including oil and gas exploration and development and shipping traffic. Both of these activities also can adversely impact gray whales directly and indirectly as well as by impacting their habitat.</p>	<p>The DEIS examines likely effects of climate change on gray whales (Subsection 3.4.3.6.11, Climate Change and Ocean Acidification and Subsection 5.1.3.9, Climate Change and Ocean Acidification). Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the</p>

Sort #	Commenter Code	Comment	Response
			ENP gray whale population in the face of climate change and other threats.
191	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>NMFS provides some information about hypoxic zones in the DEIS but its analysis is deficient. While it notes that such zones are now increasingly linked to climate change (as well as associated with poor land management activities), it fails to disclose where such zones exist within the ENP gray whale range, if the zones are increasing in size, if they are more prominent in certain seasons, or what direct or indirect impacts they have on gray whales and gray whale prey. Nor has NMFS adequately consider these [hypoxic] zones in the CIA.</p>	Consistent with CEQ regulations at 40 CFR 1502.2(b), there is a sufficient description of future ocean conditions in Subsection 5.1.3.9, Climate Change and Ocean Acidification, to support the analysis regarding the minor level of cumulative impact on gray whales.
192	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>What NMFS failed to address in its assessment of climate change in the CIA is the predicted “strong” El Nino event for the upcoming winter season.<sup>60</sup> Considering that this prediction was made by NOAA, it is troubling that it was not addressed in the CIA. During a previous “strong” El Nino in 1997-1998, the ENP gray whale population was significantly and adversely impacted as a result of substantial mortality. During and after that event, ENP population estimates declined from over 20,000 whales in the late 1990s to approximately 16,000 in the early 2000s. While no one can predict if this predicted El Nino will have similar impacts, the precautionary principle mandates that this potential be considered in management decisions.</p> <hr/> <p><sup>60</sup> See <a href="https://www.climate.gov/news-features/blogs/enso/june-el-ni%C3%B1o-update-damn-torpedoes-fullspeed-ahead">https://www.climate.gov/news-features/blogs/enso/june-el-ni%C3%B1o-update-damn-torpedoes-fullspeed-ahead</a></p>	The DEIS considers the potential for future events such as the one that caused the mass stranding of gray whales in 1999/2000 (Subsection 5.1.3.8, Natural Mortality).
193	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>Finally, NMFS fails to discuss “the blob,” a warm water anomaly in the Northeast Pacific that has led to significant ecological destruction. Bond et al. (2015)(Attachment 8).</p> <p><u>US government policy</u></p> <p>This issue was addressed previously in this comment letter. No further comments are necessary.</p>	We will consider updating this information in the final EIS.
194	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><b><u>Additional Comments:</u></b></p> <p><u>The environmental consulting firm used by NFMS to prepare the DEIS has an unacceptable conflict of interest:</u></p> <p>NMFS hired Parametrix, a Washington state-based environmental consulting firm, to prepare the 2008 and 2015 DEIS documents. In 2008, AWI and other NGOs raised concerns that Parametrix had a conflict of interest, as it had done work for the Makah Tribe (e.g., on the Cape Flattery Scenic Byway Corridor</p>	Consistent with CEQ regulation 40 CFR 1506.5 and the NOAA NEPA Handbook (see 82 FR 4306, January 13, 2017), we independently reviewed all contractor-prepared documents and took full responsibility for their content, considered the experience and expertise of the individuals at

Sort #	Commenter Code	Comment	Response
		<p>Management Plan). In 2008, Parametrix had a contract with NMFS and the Makah Tribe simultaneously. Appendix C-22. NMFS dismissed these concerns, claiming that: 1) Parametrix and its subcontractors signed disclosure statements affirming “that there is no conflict of interest by being employed by both the Tribe and NMFS (id. at C-23); 2) due diligence reviews by NMFS of Parametrix’s role as a contractor for the Tribe did not pose a potential for conflict (id.); and 3) “no biased information could be inserted into the DEIS under our sole supervision.” Id. NMFS also noted that producing an EIS is the responsibility of the Federal action agency and that it did “not consider the relationship between Parametrix and the Tribe to have compromised the integrity of Parametrix’s work product.” Id.</p> <p>These statements do not reassure the Coalition that Parametrix does not have a conflict of interest and that its role in preparing NEPA documentation for the Makah hunt did not compromise the objectivity and integrity of the 2008 and now the 2015 DEIS documents. In the list of preparers of the DEIS (DEIS at 8-1/8-2), NMFS fails to include the affiliations of all but two of the 27 people identified. One person whose affiliation was disclosed was the DEIS project manager for Parametrix and the other is a NMFS employee. Independent research conducted by the Coalition reveals that of the remaining 25 people identified, 12 are employed by NMFS, nine are (or were) employed by Parametrix, and four were employed elsewhere.</p> <p>Beyond mere affiliation, however, an examination of the Parametrix website (<a href="http://www.parametrix.com/">http://www.parametrix.com/</a>) reveals the following description of who the firm serves:</p> <p>Parametrix has served more than 50 tribes, pueblos, and rancherias. We support tribal governments’ long-term visions, concern for future generations, and efforts to strengthen their sovereignty. Integrity and trust are the foundation of our efforts to serve tribes and provide the highest level of client service.</p> <p>We frequently assist tribal clients with infrastructure improvements, economic development, environmental planning and protection, and comprehensive land use planning—all critical to enhancing the quality of life in tribal communities and creating economic self-sufficiency for members and business. We often assist tribes in identifying and obtaining grant funding through our understanding of BIA processes, other governmental funding programs, and innovative partnerships.</p> <p>We are proud of the relationships we have built with our tribal clients and are committed to growing and nurturing these relationships in the future.</p>	<p>Parametrix who performed the work, prepared a specific scope of work, requested and received documents disclosing conflicts of interest, and stayed closely and extensively involved with the contractor’s product.</p> <p>We have complied with NEPA regulations at 40 CFR 1502.17 pertaining to preparers of an EIS which state: "The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement (§§ 1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages."</p> <p>As is allowed by Federal law (40 CFR 1506.5c), we employed a contractor to assist in preparation of the 2008 and 2015 DEISs, under the supervision of NMFS staff, and using a competitive and documented process to select Parametrix. The contractor disclosed that it also had a contract with the Makah Tribe to assist in the development of the Cape Flattery Tribal Scenic Byway Scenic Corridor</p>

Sort #	Commenter Code	Comment	Response
		<p>(accessed at <a href="http://www.parametrix.com/who-we-serve/tribes-pueblos-rancherias">http://www.parametrix.com/who-we-serve/tribes-pueblos-rancherias</a>)</p> <p>This webpage includes a picture of Parametrix employees and Makah Tribal officials. See Figure 7. It is not just a picture that causes concern, but Parametrix’s support for “tribal governments’ long-term visions” and “strengthen[ing] their sovereignty,” which suggests an inherent bias in favor of the Tribe’s interests. Such support is admirable, but not for a consulting firm supposedly providing an objective and scientifically sound work product evaluating the environmental impacts of Makah whaling.</p> <p>Figure 7: Lower left image is of a Parametrix project on the Makah reservation. Available at <a href="http://www.parametrix.com/who-we-serve/tribes-pueblos-rancherias">http://www.parametrix.com/who-we-serve/tribes-pueblos-rancherias</a></p> <p>Given the close past and present ties between Parametrix and the Makah Tribe, the use of Parametrix to prepare the DEIS was a poor choice and raises serious questions about the credibility of the content and impartiality of the analysis. While this error cannot be undone, NMFS must cease its relationship with Parametrix and either engage in an internal reevaluation of the content and analysis in the DEIS or hire a new environmental consulting firm with no ties to the Makah or other Native American tribes to perform such a reevaluation.</p>	<p>management plan. After the unauthorized hunt in September 2007, members of the public raised questions about additional work Parametrix was performing for the Tribe. When questioned by NMFS about the additional work, Parametrix provided information on the details of the subsequent contract, and affirmed that it had obtained the work for the Tribe in a competitive process. Also as required by law, Parametrix and its subcontractors signed disclosure statements prepared by NMFS as affidavits that there is no conflict of interest by being employed by both the Tribe and NMFS (40 CFR 1506.5c). We accepted the disclosure statements in good faith, and conducted due diligence reviews of Parametrix's role as a contractor for the Tribe. We concluded that there was no potential for conflict to occur, and further, no biased information could be inserted into the DEIS under our sole supervision. Producing an EIS is the responsibility of the Federal action agency (40 CFR 1506.5(a)(c)). We are responsible for the content and process. We do not consider the relationship between Parametrix and the Tribe to have compromised the integrity of Parametrix's work product, and in any event are confident that in exercising our oversight we have ensured the document is a product of our analysis.</p>

Sort #	Commenter Code	Comment	Response
195	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p>The Makah Tribe’s promulgation of its 2013 Makah Whaling Ordinance raises <u>concerns about the integrity of the DEIS process:</u></p> <p>Included in the DEIS is a 2013 Makah Whaling Ordinance that was enacted by the Makah Tribe in August 2013. While the Makah Tribe can adopt any ordinances it deems appropriate, the adoption of a whaling ordinance in 2013 is odd. Considering that the present DEIS would not be published for another 20 months, that the NEPA and MMPA processes that must be completed to determine if the Makah Tribe will receive a waiver could take several years, and that, without the waiver, the Makah Tribe cannot whale, it seems unusual for the Tribe to expend the time, energy, and resources to develop and promulgate a whaling ordinance. While this may simply represent a choice made by the Makah Tribe, it could also reflect the Makah Tribe’s understanding that it will receive a waiver and will be allowed to resume whale hunting. If NMFS has tacitly or expressly conveyed any guarantees to the Makah Tribe to cause them to develop such an understanding, it means the outcome of this planning process has been predetermined, in violation of NEPA.</p> <p>As NMFS may recall, in <i>Metcalfe v. Daley</i> (214 F.3d 1135 (9th Cir. 2000)), the appellate court found in favor of the plaintiffs because NMFS entered into a cooperative agreement with the Makah Tribe days before it published its Final EA and Finding of No Significant Impact. The court held this action predetermined the outcome of the NEPA process. The facts here are different, but the concern is the same. While it is unknown if NMFS suggested, recommended, or directed the Makah Tribe to adopt a whaling ordinance in 2013, this issue warrants some discussion and explanation by NMFS.</p>	Throughout development of the DEIS, NMFS has maintained contact with the Makah Tribe regarding its request, as it would with any applicant, and also as it would with any Tribe pursuant to Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments.
196	Schubert (Animal Welfare Institute)_Letter Only_7-31-15	<p><b><u>Conclusion:</u></b></p> <p>Based on the foregoing evidence and analysis, NMFS must deny the Makah Tribe’s request for an MMPA waiver application and terminate the NEPA process. There is no other legal option. It is time for this 20-year effort to end. The Makah Tribe does not qualify for an IWC-approved ASW quota and NMFS cannot issue an MMPA waiver to allow a Makah hunt without violating the law.</p> <p>Furthermore, as exhaustively demonstrated in this letter, the DEIS is woefully inadequate—failing to satisfy the requirements of NEPA. The purpose and need statements are invalid, NMFS has not considered a reasonable range of alternatives, it has failed to disclose all relevant information, and its analysis of the environmental consequences of the hunt is neither complete nor accurate.</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>If NMFS, despite the overwhelming evidence, makes a preliminary determination to issue the MMPA waiver, the Coalition will participate in the process in order to demonstrate conclusively that issuance of the waiver is illegal and that, therefore, the Makah's whale hunt cannot be allowed.</p> <p>Thank you in advance for considering this information. Should you have any questions or require additional information, please contact me at dj@awionline.org or, by telephone, at (609) 601-2875.</p> <p>Sincerely, DJ Schubert Wildlife Biologist</p> <p>cc: Dr. Rebecca Lent, Executive Director, Marine Mammal Commission</p> <p>Attachments: Attachment 1: C. Wold and M. Kearney. 2015. The Legal Effect of Greenland's Unilateral Aboriginal Subsistence Whale Hunt. American University International Law Review. Vol. 30, Issue 3, Article 5. Attachment 2: Lang, A. R., Calambokidis, J., Scordino, J., Pease, V. L., Klimek, A., Burkanov, V. N., Gearin, P., Litovka, D. I., Robertson, K. M., Mate, B. R., Jacobsen, J. K. and Taylor, B. L. 2014. Assessment of genetic structure among eastern North Pacific gray whales on their feeding grounds. Marine Mammal Science, 30(4), 1473–1493. doi:10.1111/mms.12129 Punt, A.E. 2015. An Age Structured Model of Exploring the Conceptual Models Developed for Gray Whales in the North Pacific. SC/SC65b/BRGx. Attachment 4: Øen, E.O. Killing efficiency in the Icelandic fin whale hunt 2014. Report to the Directorate of Fisheries in Iceland, February 19, 2015. Wildlife Management Service-Sweden. Attachment 5: Kuczaj, S. 2007. Considerations of the Effects of Noise on Marine Mammals and other Animals. International Society for Comparative Psychology. Attachment 6: Conservation Council of Hawaii v. United States Attachment 7: United States v. Washington Attachment 8: Bond, N.A., Cronin, M.F., Freeland, H., and Mantua, N. 2015. Causes and impacts of the 2014 warm anomaly in the NE Pacific. Geophysical Research Letters. 42.</p>	
197	Anderson (Green Vegans)_7-31-15	<p>Dear Mr. Stone,</p> <p>Please accept these comments submitted on behalf of Green Vegans   The New Human Ecology, for the 2015 DEIS Regarding the Makah Tribe's Request to Hunt Eastern North Pacific Gray Whales. Green Vegans is a nonprofit 501(c)(3) organization. We will begin with an opening statement and then follow with specific remarks that include new, relevant information from the scientific</p>	<p>The introductory comments numbered 197 through 205 are noted; specific responses are provided below.</p>

Sort #	Commenter Code	Comment	Response
		<p>literature we believe should be cited in this DEIS. Please note we are listing citations as they are sourced, so they will not all follow traditional formatting.</p> <p><u>Opening Statement</u>  Green Vegans finds a number of improvements in the 2015 edition of the serial DEIS and earlier Environmental Assessments. However, we must respond to a number of critical areas that include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• The Northern Puget Sound population of eleven or so gray whales has been effectively ignored throughout the DEIS despite their high fidelity to state waters and their importance to the ecosystem. Alternatives 2, 5, and 6 put them at risk.</li> </ul>	
198	Anderson (Green Vegans)_7-31-15	<ul style="list-style-type: none"> <li>• Whales cannot be killed humanely.</li> </ul>	
199	Anderson (Green Vegans)_7-31-15	<ul style="list-style-type: none"> <li>• Dietary needs and the Needs Statement do not address the need for informed decisions. Adding high fat whale products to a Standard American Diet (SAD) and stating this will cure any number of food-derived health issues is misleading at best. Reforming dietary habits is a challenge in many cultural settings.</li> </ul>	
200	Anderson (Green Vegans)_7-31-15	<p>We find it hard to comprehend that the federal government is passively enabling the increase in consumption of whale products containing toxics that will not pass the Washington State health guidelines. We would think this would be prominent in impacts listed under alternatives 2 - 6.</p>	
201	Anderson (Green Vegans)_7-31-15	<ul style="list-style-type: none"> <li>• The MMPA intent to minimize disturbance and lethal take of marine mammals must determine the lowest level of “takes”, including zero, regardless of the IWC quota. The MMPA Waiver process and the DEIS should not use the IWC quota as the baseline for alternatives. This is essential if a Waiver decision is approved.</li> </ul>	
202	Anderson (Green Vegans)_7-31-15	<ul style="list-style-type: none"> <li>• We do not agree with the confounding of the ICRW Schedule definitions of strike and take with the U.S. Whaling Convention Act and the Marine Mammal Protection act.</li> </ul>	
203	Anderson (Green Vegans)_7-31-15	<ul style="list-style-type: none"> <li>• Carrying capacity is discussed without clear conclusions. We’ve some newer, peer-reviewed publications to add to the discussion.</li> </ul>	

Sort #	Commenter Code	Comment	Response
204	Anderson (Green Vegans)_7-31-15	<ul style="list-style-type: none"> <li>Climate change and acidification are minimized and seen as being in the future instead of imminent. We have additional data from the scientific literature and ask their inclusion.</li> </ul>	
205	Anderson (Green Vegans)_7-31-15	Green Vegans selects Alternative 1: No Action, because it will prevent harm to both gray whales and the Makah people in addition to other reasons in our comments.	
206	Anderson (Green Vegans)_7-31-15	<p><u>Specific Remarks</u></p> <p>1) The Northern Puget Sound gray whales. Unlike the PCFG, these whales do not remain throughout the summer but arrive in March and leave by June 1. Photo identification demonstrates they continue their northward migration after that date and have been identified well to the north of the PCFG thereafter. That they have found a niche in Northern Puget Sound during the migration does not diminish their importance to the NPS ecosystem in and around Possession Sound. With a fidelity return of at least twenty-five years for one whale, they are a biological constant for the ecosystem and a dependable mainstay for the commercial success of the whale watching industry. Yet, Alternative 2, 5 and 6 would allow whaling while the NPS whales are transiting to their seasonal habitat. The loss of one NPS whale out of eleven is unacceptable. The thousands of feeding pit scars attest to their major role in the community of species in this region. This must be stated in the DEIS presentation before decisions are made an alternative chosen.</p>	<p>As described in the DEIS in Subsection 3.4.3.4.1, PCFG Population Structure, these whales “are typically seen only in the spring (especially in northern Puget Sound), are less likely to be seen in multiple years and regions, and likely represent migratory animals (Calambokidis et al. 2002; Calambokidis et al. 2003; Calambokidis et al. 2004a; Calambokidis 2008; Calambokidis et al. 2009a).” They are not recognized as a marine mammal population stock or a feeding aggregation.</p> <p>According to Cascadia Research Collective's website, "The North Puget Sound gray whales, also known as the "Sounders," represent roughly a dozen individual whales, part of the larger population of the Eastern North Pacific gray whales."</p> <p>We will continue to evaluate the PCFG via the SAR process. In any event, if there are a dozen whales showing spring site fidelity in northern Puget Sound, mixed with the larger migrating ENP herd during the spring</p>



Sort #	Commenter Code	Comment	Response
			migration through the hunt area, there would be a very small chance that a tribal hunt of at most 7 strikes would strike one of these 12 whales out of a herd of 27,000.
207	Anderson (Green Vegans)_7-31-15	<p>2) MMPA Section 3; “Definitions (4) The term ‘humane’ in the context of the taking of a marine mammal means that method of taking which involves the least possible degree of pain and suffering practicable to the mammal involved.” The failure of the MMPA to reflect today’s sensibilities should not lead NOAA/NMFS to accept the obvious suffering of whales as they are killed. There is no reliable way to achieve instantaneous unconsciousness in whaling. Given the MMPA applies to many species of marine mammals, the ability to quickly kill a smaller individual from one species is not as formidable as doing so for a ten ton or larger whale. Regulatory decisions must account for this discrepancy in not being able to prevent immense fear and physical suffering. Killing whales is innately inhumane as lengthy suffering is unavoidable. The approximate eight minutes it took the juvenile gray whale to die at Makah hands in 1999 was deemed by NMFS/NOAA to be a success. What were the criteria? Here is how that suffering unfolded: <a href="https://www.youtube.com/watch?v=cGmc1-fbs5U">https://www.youtube.com/watch?v=cGmc1-fbs5U</a> The addition of darting and shoulder guns with penthrite enhancement may or may not shorten the time to death, but the DEIS assumes an average of three explosions inside the gray whale’s body will be required. The violence waged by our human species, across cultures, against individuals from other species is so terribly ingrained in us and NOAA/NMFS, that that norm obscures what must change. Our collective human ecologies of violence have gone on long enough. No matter how you try to reduce the suffering, it will remain. There is no practicable way to kill a whale so his or her suffering is equal to that of a sea otter killed by gunshot. The “no action” alternative is the only choice that recognizes killing whales cannot be done humanely.</p>	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
208	Anderson (Green Vegans)_7-31-15	<p>3) Dietary Needs and toxics in whale meat. The nutrition profile chart in DEIS Section 3.16 does not support a nutritional necessity of whale edibles. Though there are a few beneficial nutritional differences at the levels proscribed by the tribe’s request of four whales annually, this would be overwhelmed by the increased toxic contaminant intake that the Washington State Department of Health will not recommend because of its lack of safety.</p>	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.

Sort #	Commenter Code	Comment	Response
		<p>See: Section 3.16 - General nutritional components of whale meat<sup>76</sup> and other protein sources are compared in Table 3-46. Nutritional data are from the United States Department of Agriculture National Nutrient Database for Standard Reference (U.S. Department of Agriculture 2011). With the exception of whale oil and blubber, whale products have a similar nutritional profile (e.g., calories, protein, fat, and calcium) as other finfish, shellfish, wild game, and domestic meats. Whale oils and blubber provide a richer source of energy (calories) than other food types listed in Table 3-46, and whale meat has higher levels of iron. Whale oil is a good source of vitamin E (an antioxidant) and whale meat is a good source of selenium, both of which may play a role in protecting against the toxicity of certain seafood contaminants like mercury (Arnold and Middaugh 2004). Overall, however, it is difficult to compare essential nutrients and minerals of whale products directly to other protein sources because the former have not been studied extensively. Marine mammal food products are rich with many of the same nutrients found in commonly consumed seafood products (fish and shellfish), and, in the case of some minerals and vitamins, marine mammal products provide an even richer source.</p> <p>AND</p> <p>However, concentrations for some of these contaminants in whale blubber can be quite high, resulting in quite low “allowable consumption rates.” For example, the unweighted average PCB concentration for the 11 gray whale blubber samples in Table 3-47 is 440 µg/kg. While the Washington State Department of Health has not developed screening levels for gray whale blubber, this value - combined with the estimated per capita blubber consumption rates in the Tribe’s needs statement (approximately 20-25 grams/day; Renker 2012) and other values applied by the Washington Department of Health (e.g., an 8-oz [227-gram] meal size) - yields a calculated “allowable consumption rate” of 0.43 meals of blubber per month. This level would likely result in a ‘no consumption’ recommendation by the Washington State Department of Health. The lowest PCB concentration observed in gray whale blubber (137 µg/kg) would yield an allowable consumption rate of 1.34 meals of blubber per month, which would likely result in a recommended maximum of one 8-oz (227 gram) meal per month (D. McBride, Washington State Department of Health, pers. comm., September 30, 2014). While the number of blubber samples is not large and it is possible that PCB concentrations may vary by the area/depth of blubber sampled on each animal, these are the best data available for our analysis. Few measurements of metal concentrations are available for blubber or muscle of gray whales, and</p>	

Sort #	Commenter Code	Comment	Response
		<p>those available are from stranded whales (Mendez et al. 2002; Ruelas-Inzunza and Paez-Osuna 2002; Ruelas-Inzunza et al. 2003). Metal concentrations typically are higher in muscle tissue compared to whale blubber...</p> <p><u>Additional data:</u> Persistent organochlorine pesticides and heavy metals in organs of grey whale from the Bering Sea. Tsigankov, VYu 1 1 Dal'nevostochnyj federal'nyj universitet, ul. Oktyabr'skaya, 27, 690950, Vladivostok Russia; 2012; Transactions of the Pacific Research Fisheries Centre. Vol 170; 202-209. ISSN: 1606-9919</p> <p><b>A needs statement does not trump a toxicological profile that will harm the Makah. Given NEPA is required to consider environmental justice in the impacts of its alternatives, then the agency must choose Alternative 1, no action.</b></p>	
209	Anderson (Green Vegans)_7-31-15	<p>4) NOAA/NMFS should take a different approach with the confounding of the ICRW Schedule definitions of “strike” and “take” with the U.S. Whaling Convention Act and the Marine Mammal Protection act. The IWC quota does not specify how many strikes are associated with the Makah hunts. The way the agency is working around “strikes” is perhaps mitigated to an extent by some of the alternatives.</p>	<p>Comments noted. It is unclear what the comment means by “working around ‘strikes.’” The comment is correct that the IWC schedule sets a harvest (or “take”) limit on gray whales, not a strike limit. The alternatives in the DEIS do set strike limits. It’s not clear from this comment why it might be a problem for the alternatives to include strike limits, and to define strike in the same way that strike is defined by the IWC schedule.</p>
210	Anderson (Green Vegans)_7-31-15	<p>The DEIS, as a result, describes alternatives in which there are possible large numbers of strikes in scenarios so complex that the Makah will need “game officials” to make calls on what can and cannot be done. Though the DEIS appears to downplay this, it fails to account for “takes” by harassment as defined by the MMPA) during whale-killing attempts. As noted in the DEIS, there is a clear history of the Makah chasing and harassing gray whales along the shores of the Olympic Peninsula for hours at a time. Why does the NMFS mention that harassment approaches are “takes” under the MMPA (see 2.3.2.2.2 , for instance) and then skip over to the definitions of takes defined by the International Whaling Commission (IWC) and Whaling Convention Act (WCA) when the whole point of this DEIS is to fulfill the requirements of the MMPA? Makah whaling activities cause harassment and displace PCFG gray whales from</p>	<p>The purpose of the DEIS is to analyze potential impacts of alternatives to inform decision-making regarding authorization of a hunt pursuant to criteria under the MMPA and WCA, not to explore or resolve legal debates. The DEIS describes the effects of specific activities that would occur under each alternative, regardless of how those activities and effects might be characterized under</p>

Sort #	Commenter Code	Comment	Response
		feeding, socializing, and resting areas and are takes under the MMPA. The NMFS must use the MMPA definition of “take” throughout the DEIS because this is a Waiver to the MMPA.	any particular legal or regulatory regime.
211	Anderson (Green Vegans)_7-31-15	In a related problem, there needs to be a threshold on the number of wounds allowed since there seems to be no evidence presented in the DEIS about the impacts of wounds to the gray whales other than anecdotal comparisons such as to tracking “tags” (swelling). We cited a paper on wound outcomes in gray whales, perhaps in 2005. We cannot find it at this time but more needs to be done in the FEIS to use data about wounds that break the skin. Waiting until a harpoon toggle head enters and then falls out before being cited as a strike does not appear to be supported by the information in the DEIS.	Consistent with these comments, except for the tribe's proposal (Alternative 2), all of the action alternatives count struck and lost (i.e., wounded) whales against the calculated limits on PCFG whales. The commenter does not provide any new information on the impact of wounds on gray whales and the DEIS provides best available information on this issue. If we obtain or review new information regarding the wound issue identified in this comment we will incorporate it into our decisionmaking as appropriate.
212	Anderson (Green Vegans)_7-31-15	5) Climate Change get’s too little discussion in the DEIS. The rapid pace and changing ideas of what is to come regarding climate in a complex array of ecosystems that support gray whales should be reason to limit the time length of any permit given under alternatives. Permits, if given, should be for single, not multiple years.	This comment raises the concern that future predictions of gray whale viability are uncertain in the face of global climate change. Alternative 6 of the DEIS limits the term of a waiver to 10 years, which would allow for an assessment of any ongoing effects of climate change on gray whales after a set period of years.
213	Anderson (Green Vegans)_7-31-15	We offer these papers for your consideration to expand on the many variables triggered by climate change and their impacts on Arctic food webs and gray whale prey. We believe there should be many more considerations discussed given their as-not-yet-clear outcomes. Weydmann, A., Soreide, J.E., Kwasniewski, S. and Widdicombe,S. 2012. Influence of CO2-induced acidification on the reproduction of a key Arctic copepod Calanus glacialis. Journal of Experimental Marine Biology and Ecology 428: 39-42. Brown A1, Thatje S. 2015. The effects of changing climate on faunal depth distributions determine winners and losers. Glob Chang Biol. Jan;21(1):173-80. doi: 10.1111/gcb.12680. Epub 2014 Aug 1 A. Yamamoto, M. Kawamiya1, A. Ishida1, Y. Yamanaka1, and S.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats. We have examined the cited papers, which do not change the conclusions in the DEIS.

Sort #	Commenter Code	Comment	Response
		<p>Watanabe. 2012. Impact of rapid sea-ice reduction in the Arctic Ocean on the rate of ocean acidification. <i>Biogeosciences</i>, 9, 2365– 2375, 2012. <a href="http://www.biogeosciences.net/9/2365/2012/">www.biogeosciences.net/9/2365/2012/</a> doi:10.5194/bg-9-2365-2012</p>	
214	Anderson (Green Vegans)_7-31-15	<p>The DEIS habitually infers the permitting for Makah gray whaling is in the context that ecosystems will not change enough in the short term to impact the decisions in this DEIS/Waiver process. However, that is not something the DEIS should assume. Here is an example why: Mathis, J.T., J.N. Cross, W. Evans, and S.C. Doney. 2015. Ocean acidification in the surface waters of the Pacific-Arctic boundary regions. <i>Oceanography</i> 28(2):122–135, <a href="http://dx.doi.org/10.5670/oceanog.2015.36">http://dx.doi.org/10.5670/oceanog.2015.36</a>. Popova, E. E., Yool, A., Aksenov, Y., Coward, A. C., and Anderson, T. R.: Regional variability of acidification in the Arctic: a sea of contrasts, <i>Biogeosciences</i>, 11, 293-308, doi:10.5194/bg-11-293-2014, 2014. David C, Lange B, Rabe B, Flores H (2015) Community structure of under-ice fauna in the Eurasian central Arctic Ocean in relation to environmental properties of sea-ice habitats. <i>Mar Ecol Prog Ser</i> 522:15-32 Thomas A. Okey, Hussein M. Alidina, Veronica Lo, Sabine Jessen. 2014. Effects of climate change on Canada’s Pacific marine ecosystems: a summary of scientific knowledge. <i>Rev Fish Biol Fisheries</i> (2014) 24:519–559 DOI 10.1007/s11160-014-9342-1 S. Elizabeth Alter et al. 2015. Climate impacts on transocean dispersal and habitat in gray whales from the Pleistocene to 2100. A. Yool, E. E. Popova<sup>1</sup>, A. C. Coward, D. Berni<sup>2</sup>, and T. R. Anderson. Climate change and ocean acidification impacts on lower trophic levels and the export of organic carbon to the deep ocean. <i>Biogeosciences</i>, 10, 5831–5854, 2013 <a href="http://www.biogeosciences.net/10/5831/2013/">www.biogeosciences.net/10/5831/2013/</a> doi:10.5194/bg-10- 5831-2013</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats. We have examined the cited papers, which do not change the conclusions in the DEIS.</p>
215	Anderson (Green Vegans)_7-31-15	<p>6) Section 3.4.3.3.4 - ENP Status, Carrying Capacity, and Related Estimates Comment: The dance between evidence for estimates of much higher populations in the past and the possible differences between carrying capacity then versus now is not settled. The DEIS must not dismiss this because there are conflicting assumptions and data for carrying capacity. The current science reflects the belief that gray whales are dietarily flexible enough to advantage an increase in pelagic foraging opportunities as benthic food sources decline in robustness. We think it important to make distinctions between likely changes closer to shore along those further at sea. Near-shore benthic communities will face possible increases in fresh water from melting glaciers for instance. We offer these studies believing they should be considered and cited in the FEIS. This paper claims there’s plenty of prey for gray whales, far more than the current population – M. P. Heide-Jørgensen, K. L. Laidre, D. Litovka, M. Villum Jensen, J.</p>	<p>The DEIS reviews and does not dismiss information regarding possible higher abundance of North Pacific gray whales in the distant past, and explains NMFS’s conclusion that the ENP is currently at carrying capacity (Subsection 3.4.3.1.3 Population Exploitation, Protection, and Status).</p> <p>Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale</p>

Sort #	Commenter Code	Comment	Response
		<p>M. Grebmeier, B. I. Sirenko. 2012, Identifying gray whale (<i>Eschrichtius robustus</i>) foraging grounds along the Chukotka Peninsula, Russia, using satellite telemetry. <i>Polar Biol</i> (2012) 35:1035–1045 DOI 10.1007/s00300-011-1151-6</p> <p>Susan V.Schonberg, JanetT.Clarke, KennethH.Dunton. 2013, Distribution, abundance, biomass and diversity of benthic infauna in the Northeast Chukchi Sea, Alaska: Relation to environmental variables and marine mammals. <i>Deep-Sea Research</i>; II102(2014)144–163</p> <p>K. H.Dunton, J. M.Grebmeier, J.H.Trefry. 2014. The benthic ecosystem of the northeastern Chukchi Sea: An overview of its unique biogeochemical and biological characteristics. <i>Deep-Sea Research</i>II102(2014)1–8 <a href="http://www.int-res.com/articles/meps/111/m111p171.pdf">http://www.int-res.com/articles/meps/111/m111p171.pdf</a></p>	<p>population in the face of climate change and other threats.</p>
216	Anderson (Green Vegans)_7-31-15	<p>7) <u>Comment:</u> Though greatly improved, the DEIS does not do justice to the opposition to Makah whaling proposals at the IWC. It took years of U.S. delegation pressure and hiding under the shadow of the Russian Federation’s ASW ongoing request for the Chukotka people. We believe this should be presented clearly as reflected in a Mother Jones report:</p> <p>The IWC's dryly written meeting report speaks volumes about the extent of opposition to the United States' plea: "France... asked how subsistence requirements could arise after 70 years of non-whaling.... The Netherlands expressed concern at the widening of the scope of whaling activities.... The People's Republic of China...regretted that the request was not completely in accordance with the IWC definition of aboriginal subsistence.... Oman asked why the Makah, who had survived without whaling for 70 years, could not continue to survive without whaling.... Australia questioned whether IWC nutritional subsistence criteria had been met.... Chile expressed its doubts.... The People's Republic of China and New Zealand had similar concerns on continuity and need, a position shared by Mexico...." Japan, however, "commended the USA's presentation and expressed understanding of the welfare of the Makah." — Mother Jones   Richard Blow   September/October 1998</p>	<p>DEIS Subsection 1.4.1.2.2, Overview of Requests for ENP Gray Whales on Behalf of the Makah, describes the IWC deliberations that have resulted in the most recent joint requests by the U.S. and Russian Federation. Please also see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.</p>
217	Anderson (Green Vegans)_7-31-15	<p>8) Section 2.4.6 reads,</p> <p>In reviewing public comment on the 2008 DEIS, we identified another alternative hunting method not considered in the scoping process or draft EIS. That alternative is the use of an all-motorized hunt. We included this element under Alternative 3 to allow consideration of whether use of an all motorized hunt might expand hunting potential to other times of year and areas farther offshore, might improve the welfare of individual whales by decreasing time to death or the proportion of whales struck and lost, and/or might improve hunter or public safety.</p>	<p>We agree it would be important to monitor a hunt if one is permitted. Real time video monitoring may not be technically feasible but we would explore all options.</p>

Sort #	Commenter Code	Comment	Response
		<u>Comment:</u> If an alternative is chosen that includes off-shore hunting and killing of whales, there must be an unedited, continuous visual and audio documentation created that will readily available for public viewing in real time and for review of all attempted and successful hunting efforts. This level of transparency is essential for public trust and freedom of information without having to ask for it after the fact.	
218	Anderson (Green Vegans)_7-31-15	9) Section 2.4.7 – Alternative Compensation. <u>Comment:</u> This should not be dismissed as an alternative. It is no more speculative than how the tribe will react to one or more of the Alternatives or combinations thereof.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
219	Anderson (Green Vegans)_7-31-15	10) <u>Comment:</u> Alternatives 2 through 6 are dependent on the use identifying marks matched to research photo libraries before most strikes occur. Has this been tested “on the water” in real time in simulated whaling conditions? If not, this must not be the basis for a whaling management plan nor a NOAA/DEIS method for controlling the hunt outcomes and impacts. If yes, can we see the data indicating the likelihood of this working given so much depends on it?	We are not aware of such real-time testing, and agree that this alternative would need to rely on highly distinctive markings (which are not uncommon for certain gray whales).
220	Anderson (Green Vegans)_7-31-15	11) <u>Comment:</u> Just as there is consideration for increasing the impact value for any female member of the PCFG struck / killed and landed, it is important to calculate added value for each PCFG/OR-SVI gray whales based on the number of years they have been re-sighted. This would reflect their value to the ecosystem and support of the PCFG population. For example, a PCFG/OR-SVI whale sighted over five years would have X value more than one sighted for three years.	Comments noted, but we are not aware of a scientific basis for such a sighting-based 'weighting' scheme.
221	Anderson (Green Vegans)_7-31-15	12) <u>Comment:</u> “Harvest” as it is used in the DEIS is a term of humane-washing. Given this is a fact- based exercise about impacts to gray whales and others, we ask that term be replaced with” harpooning” and “shooting” gray whales because this is the accurate description at the core of the DEIS.	The DEIS glossary defines "harvest" as to kill <u>and land</u> a whale. The suggested replacement terms are incomplete for this purpose. The use of the term “harvest” in the DEIS is consistent with terminology used by fish and wildlife management agencies and by the International Whaling Commission in its definition of subsistence use.
222	Anderson (Green Vegans)_7-31-15	<b><u>Conclusions</u></b> We support Alternative 1, the No-action Alternative that would not authorize a Makah gray whale hunt.	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>Wrapped around U.S. regulatory structures, the Treaty of Neah Bay and our nations part in the ICRW is a rapidly changing Earth of our own doing. That change is happening so quickly that past agreements and regulatory assumptions are rapidly becoming unable to be adaptive to the changing ecosystems. It is Green Vegans' contention that we stop seeing everything from an anthropocentric interest and move to the biocentric responses Earth requires of us.</p> <p>Imagine what would have happened had we not challenged the Makah proposal to kill gray whales. How many whales from the Pacific Coast Feeding Group would have been killed, how many of the 140 Western Gray whales would the Makah have harmed because of a treaty created in a world and ecosystem that no longer exist biologically? What have we not yet learned and will destroy in our ignorance because of being forced by this treaty to attack whales?</p> <p>The context here is more than a treaty, cultural identities carried from the past, and NMFS ignoring the certainty that they—none of us—control the juggernaut called climate change we together have unleashed. It is about launching yet another volley of violence against this planet already ravaged by 7.3 billion people.</p> <p>Nothing is certain now, not for gray whales, not for us. There are so many of us that Earth now experiences us as a species far more than our respective cultures. The highest purpose of any culture and its human ecology is to adapt to the ecosystem in which it lives. None of us is succeeding in that—not in our various cultures and not as individuals.</p> <p>The NMFS feels constrained by its Congressional mandate and a treaty neither of which is current enough to be adaptive in stopping the increased instability of ecosystems. Tellingly, NMFS is itself under the Department of Commerce. However, that is no reason to minimize in the DEIS the volumes of data about climate change that show how precarious are the ecosystems in which gray whales live. Given the climate change emergency underway and the fear and suffering caused by violent attacks against gray whales, we do not trust or accept a treaty right to harass, displace, harpoon, shoot, and kill gray whales.</p> <p>Like it or not, the Makah tribe is part of a world that has changed in its relationships with ecosystems and individuals from other species including gray whales. Harpoons and penthrite grenades are the last thing we need as cultures to adapt to ecosystems under attack from all of us. It's time to work together and do what Earth requires of us – create new human ecologies that are nonviolent</p>	



Sort #	Commenter Code	Comment	Response
		<p>and do not exploit individuals from other species who have taken to bringing their calves right up to vessels – to be harpooned?</p> <p>On behalf of Green Vegans, we thank you for this opportunity to comment on the Makah DEIS proposal to kill gray whales.</p> <p>Will Anderson, President Green Vegans   The New Human Ecology</p>	
223	Anderson (Green Vegans)_Suppl_8-2-15	<p><b>SUPPLEMENT TO: Comments Submitted on the Draft Environmental Impact Statement Regarding the Makah Tribe’s Request To Hunt Eastern North Pacific Gray Whales</b></p> <p>Sent via Makah2015DEIS.wcr@noaa.gov and Steve.Stone@noaa.com</p> <p>Dear Mr. Stone,</p> <p>Please accept these supplemental comments submitted on behalf of Green Vegans   The New Human Ecology, for the 2015 DEIS Regarding the Makah Tribe’s Request to Hunt Eastern North Pacific Gray Whales. We submit additional sources of new information not cited in the DEIS.</p>	These introductory comments are noted.
224	Anderson (Green Vegans)_Suppl_8-2-15	<p>a) In our comments dated 8/31/2015, we noted that carrying capacity for gray whales is discussed without clear conclusions. There is a wait-and-see approach regarding changes in pelagic foraging opportunities versus benthic. Given the rate of change and the complexity of ecosystems and their processes, we note there is a lack of inventorying habitat condition and correlation to importance of use by gray whales. Rather than broad-brushing the Chuckchi and Bering Seas with generalities, a more detailed presentation of their habitat already described by peer-reviewed literature would provide a more accurate indicator of the carrying capacities of specific areas and the total. The FEIS needs added a thorough review of the literature that describes known biological and chemical states and trends of ecosystems used by gray whales. For example, the following paper states in part (abstract) that,</p> <p>“It is likely that the abundant benthic biomass is more than sufficient forage to support the current gray whale population. The use of satellite telemetry in this study quantifies space use and movement patterns of gray whales along the Chukotka coast and identifies key feeding areas.”</p> <p>Heide-Jørgensen, M. P. et al. 2012 Identifying gray whale (<i>Eschrichtius robustus</i>) foraging grounds along the Chukotka Peninsula, Russia, using satellite telemetry. <i>Polar Biol</i> (2012) 35:1035–1045. DOI 10.1007/s00300-011-1151-6 (<a href="http://staff.washington.edu/klaidre/docs/HJetal_2012.pdf">http://staff.washington.edu/klaidre/docs/HJetal_2012.pdf</a>)</p>	Subsection 3.3, Marine Habitat and Dependent Species, provides the information the commenter suggests is lacking. Consistent with CEQ regulations at 40 CFR 1502.2(b), there is a sufficient description of marine habitat and species, with citations to the literature, to support the analysis regarding the minor level of impact on these resources. When an impact is likely to be minor, it is not necessary to present the detailed information suggested by the comment.

Sort #	Commenter Code	Comment	Response
		<p>The DEIS must include the best available evidence that indicates a definitive inventory, with specificity, of gray whale foraging areas. There are recent papers that declare biologically important areas (BIA) for cetaceans in the U.S. and the arctic. The areas described therein would be a feasible template for tracking the specifics of K for gray whales by area as well as trends expected for sea ice loss, temperature changes, and other environmental changes that drive prey availability and gray whale viability. See, Clarke, J.T. et al. Biologically Important Areas for Cetaceans Within U.S. Waters – Arctic Region. <i>Aquatic Mammals</i> 2015, 41 (1), 94-103, DOI 10.1578/AM.41.1.2015.94 “In this assessment, we combined published and unpublished information to identify 16 Biologically Important Areas (BIAs) for bowhead whales, gray whales, and belugas in the U.S. Arctic.</p> <p><a href="http://www.researchgate.net/publication/273123704_8._Biologically_Important_Areas_for_Cetaceans_Within_U.S._Waters_-_Arctic_Region">http://www.researchgate.net/publication/273123704_8._Biologically_Important_Areas_for_Cetaceans_Within_U.S._Waters_-_Arctic_Region</a></p>	
225	Anderson (Green Vegans)_Suppl_8-2-15	<p>b) Climate change and acidification are minimized in the DEIS and seen as being in the future instead of imminent importance. This overlaps our comments in “a”. The value of specificity is demonstrated in, Evans, W. et al. 2013. Calcium carbonate corrosivity in an Alaskan inland sea. <i>Biogeosciences</i> 09/2013; 11(2):365-379. DOI:10.5194/bg-11-365-2014. (<a href="http://www.researchgate.net/publication/251437823_Ocean_acidification_and_biologically_induced_seasonality_of_carbonate_mineral_saturation_states_in_the_western_Arctic_Ocean">http://www.researchgate.net/publication/251437823_Ocean_acidification_and_biologically_induced_seasonality_of_carbonate_mineral_saturation_states_in_the_western_Arctic_Ocean</a>)</p> <p>We are not comforted by assurances that whaling management plans and permitting (for up to several years) will be responsive enough to minimize risk. The lag time between research data acquisition and publishing as well as inadequate and inconsistent funding for research means changes detrimental to gray whale survival can go unnoticed for too long. The DEIS reflects complacency generated by belief some twenty thousand whales is a goal reached because of assumed K. See, Kristin L. Laidre, Harry Stern, Kit M. Kovacs, Lloyd Lowry, Sue E. Moore, Eric V. Regehr, Steven H. Ferguson, Øystein Wiig, Peter Boveng, Robyn P. Angliss, Erik W. Born, Dennis Litovka, Lori Quakenbush, Christian Lydersen, Dag Vongraven, Fernando Ugarte. Arctic marine mammal population status, sea ice habitat loss, and conservation recommendations for the 21st century. <i>Conservation Biology</i>, 2015; DOI: 10.1111/cobi.12474 (<a href="http://onlinelibrary.wiley.com/doi/10.1111/cobi.12474/abstract;jsessionid=D26B809F98BE14ABE2DF099C6AD266D0.f03t04">http://onlinelibrary.wiley.com/doi/10.1111/cobi.12474/abstract;jsessionid=D26B809F98BE14ABE2DF099C6AD266D0.f03t04</a>)</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p> <p>We have reviewed these studies, which do not change the conclusions in the DEIS. We will consider whether they warrant inclusion in any final decision-making.</p>

Sort #	Commenter Code	Comment	Response
		And, Bates, W. et al. 2009. Ocean acidification and biologically induced seasonality of carbonate mineral saturation states in the western Arctic Ocean. Journal of Geophysical Research Atmospheres (Impact Factor: 3.44). 01/2009; 114(C11). DOI: 10.1029/2008JC004862	
226	Anderson (Green Vegans)_Suppl_8-2-15	c) In the needs statement (Renker) there is a description of meat and oil yield from gray whales based on historic and research (Rice) accounts. This information is used to demonstrate the number of gray whales needed to fulfill claims of nutritional need (that we addressed in our July 31 comments). Two biases concern us. The first is that historic methods of rendering oil and meat from gray whales are likely less efficient than can be done today. To comply with the “waste” provisions of the ICRW and WCA, the FEIS should examine the rendering methods proposed by the Makah tribe, improve on them, and require reporting of results.	Neither the ICRW nor the WCA contain a 'waste' provision. Agency whaling regulations at 50 CFR 230.2 implementing the WCA define "wasteful manner" as "a method of whaling that is not likely to result in the landing of a struck whale or that does not include all reasonable efforts to retrieve the whale." However, these regulations do not include standards for processing whale products.
227	Anderson (Green Vegans)_Suppl_8-2-15	There should be also an objective accounting of how “households” actually utilize that taken from gray whales as well as tribal freezer capacity and reliability. My (Will Anderson) concerns result from personal experience in seeing too much Bowhead whale pieces rotting in the sun in a coastal Alaska village decades ago.	Comment noted. We note that the Tribe has addressed the issue of waste in an Ordinance it adopted pursuant its to its waiver application to govern any hunt approved pursuant to its MMPA waiver application.
228	Anderson (Green Vegans)_Suppl_8-2-15	The second bias concerns the estimate of age and weight of landed gray whales. Describing the gray whale killed by the Makah at DEIS 1 – 38: “According to measurements taken by NMFS and tribal observers, the harvested whale was a non- lactating female that [who] (my re-emphasis) measured 30 feet, 5 inches (9.27 meters) long. Fluke width was 7 feet, 4 inches (2.2 m). The whale could not be weighed, but, based on gray whales taken by the Russian harvest of similar length and body condition, it was estimated to weigh approximately 5 to 7 metric tons. Age could not be determined either, but, based on similar lengths of whales taken in the Russian harvest, it was probably more than 2 years old.” More recent data should have been used in the DEIS: Sumich, J.L et al. 2013. Revised estimates of foetal and post-natal growth in young gray whales ( <i>Eschrichtius robustus</i> ). J. CETACEAN RES. MANAGE. 13(2): 89–96, 2013 ( <a href="https://archive.iwc.int/pages/terms.php?ref=3274&amp;k=&amp;search=%21collection15">https://archive.iwc.int/pages/terms.php?ref=3274&amp;k=&amp;search=%21collection15</a>	We will consider the new information regarding age and weight estimations in any future decision-making.

Sort #	Commenter Code	Comment	Response
		<p>&amp;url=pages%2Fdownload_progress.php%3Fref%3D3274%26ext%3Dpdf%26k%3D%26alternative%3D1722%26search%3D%2521collection15%26offset%3D0%26archive%3D0%26sort%3DDESC%26order_by%3Drelevance)</p> <p>“...Gompertz growth models are fitted to foetal and post-natal lengths at age, predicting mean lengths at birth in mid-January of 4.7m, 7.9m at weaning and 8.7m at one year. The late foetal diapause in growth of length is not supported by the available data. Two equations were derived for estimating body weights from the linear body dimensions of length and maximum girth. For biomass estimates, two equations based on length alone and on both girth and length are derived. A multiple least squares regression equation fit to 14 measurements of the same whale over 14 months of captive rehabilitation predicts mean body weights at birth of 1,100–1,200kg, 5,100–5,200kg at six months (weaning), and 6,700–6,800kg at one year of age.”</p> <p>In the above calculations, the NMFS/DEIS description of the 1999 landed gray whales was up to 7 metric tons and was stated to be more than two years old. Sumich et al. state that, at that weight, the whale would have been a little over one year old (additional factor is they increased the weights by 6% to account for loss of body fluids at time of rendering). The lengths differed in the two calculations by approximately .57 meter (9.27 meters for landed 1999 whale and Sumich 8.7 meters for a one year old).</p> <p>It appears the field observation in Neah Bay in 1999 should be reviewed to see if corrections are necessary, including assumptions of age (it appears she was a younger whale) and by length was likely close to 7 metric tons, not the two tons less. The DEIS must give reasons if it does not both use the more recent Sumich modeling and revise the record for the 1999 Makah gray whale. Weight (calculated yields from gross weight) and age are both critical determinants in both age at time of death and claims for nutritional need—how many whales at what length will produce what amount of oil and fat.</p>	
229	Anderson (Green Vegans)_Suppl_8-2-15	<p>Had we the resources, Green Vegans would have produced far more newer papers that shed light on the confident assertions the DEIS makes about killing four whales and striking and harassing many more whales under alternatives. One example is a paper that describes the decline of fat content in gray whale prey because of climate change / ocean acidification. The papers we ask be included in the FEIS represent a far larger number of papers that must be considered. We do not have the resources to do that, but the obligations of NOAA/NMFS under NEPA and the MMPA have no such constraints.</p>	<p>The DEIS contains the best available information relevant to decision-making under the MMPA and WCA. In subsequent decision-making, we will again review the literature to ensure we have used all relevant information.</p>

Sort #	Commenter Code	Comment	Response
		Thank you for considering these, our supplemental comments on the Draft Environmental Impact Statement Regarding the Makah Tribe's Request To Hunt Eastern North Pacific Gray Whales. Will Anderson, President Green Vegans   The New Human Ecology 206.715.6414   will@greenvegans.org	
230	Arnold (CA Gray Whale Coalition)_7-30-15	<b><u>SUBMISSION BY CALIFORNIA GRAY WHALE COALITION ON MAKAH 2015 DEIS</u></b> The California Gray Whale Coalition objects to the DEIS on many grounds. Principally, in spite of an extension granted by NMFS, it is a misguided assumption of the part of the Agency to expect that non government organisations and the concerned public are able to :- a) deal with the sheer complexities of Alternatives suggested in this massive document.	We acknowledge that the DEIS is lengthy and contains some complicated subject matter, which is why we provided additional time for the public to provide comments. We have done our best to portray any complex subject matter by defining terms, following a consistent format when analyzing impacts across alternatives, supplying maps, graphs and summary tables, and using examples as appropriate.
231	Arnold (CA Gray Whale Coalition)_7-30-15	b) deal with the flaws, mistakes, inadequate and mis-information, out of date research and lack of any substantive examination of the cumulative impacts of Navy warfare program, seismic exploration, shipping, coastal development, climate change, ocean acidification as well as a five year whale killing proposal not forgetting the implications inherent in the International Whaling Commission's (IWC) considerations and quotas.	Comments noted.
232	Arnold (CA Gray Whale Coalition)_7-30-15	b) has the capacity to adequately critique these Alternatives and the complex mathematical equations.	We acknowledge that the DEIS is lengthy and contains some complicated subject matter, which is why we provided additional time for the public to provide comments. We have done our best to describe the basis for equations used in the DEIS (e.g., to calculate PCFG mortality limits) and included numerous tables, graphics, footnotes and examples to aid reviewers.
233	Arnold (CA Gray Whale Coalition)_7-30-15	c) adequately object to a proposal which is, in the Coalition's opinion illegal, given that the US government has sought a quota at IWC without any domestic legal approval.	Opinion noted.

Sort #	Commenter Code	Comment	Response
234	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>Objections</b> to the DEIS also involve :-</p> <p>* It is abundantly clear from the Makah needs statement that the tribe killed many species of whales and that Humpbacks made up almost 50% of the kill. There is absolutely no guarantees in the DEIS that the delisted Humpbacks and other whale species that may be delisted in the future will not be included in any quota. The Treaty provision on which the Makah rely does NOT specify any species of whale thus leaving open the potential to kill Humpbacks. Once a waiver is granted, the precedent is set.</p>	<p>The tribe's waiver request and our analyses are specific to hunting ENP gray whales, not other species. A separate MMPA waiver request and process would be needed to hunt other species and any hunt of large whales would require submission for review at the IWC.</p>
235	Arnold (CA Gray Whale Coalition)_7-30-15	<p>* <b>questions</b> as to the amount of taxpayers' funds that have been spent over the years by the Agency in attempting to satisfy the Makah tribe's insistence on questionable Treaty rights.</p>	<p>We do not deem it appropriate or useful to specify the costs associated with conducting the NEPA analysis itself as this falls within our Congressionally authorized work and general appropriation.</p>
236	Arnold (CA Gray Whale Coalition)_7-30-15	<p>* <b>questions</b> as to the visible bias of the Agency in previous DEIS's as well as the current one.</p>	<p>The NMFS staff who prepared the 2008 and 2015 DEIS documents were Northwest Region (subsequently West Coast Region) staff who had not been involved with prior agency actions regarding the Makah Tribe's requests to hunt gray whales. Other circumstances were also different from past NMFS' actions on the Tribe's request. In response to the Ninth Circuit decision in <i>Anderson v. Evans</i>, staff prepared an EIS rather than an environmental assessment, ensuring a hard look at potential environmental effects. Also in response to <i>Anderson</i>, the 2008 and 2015 DEIS used MMPA factors, among others, to inform the evaluation criteria so that agency decision-makers will have the necessary analysis to make MMPA determinations.</p>
237	Arnold (CA Gray Whale	<p>* <b>questions</b> how any whaler could possibly distinguish between male and female whales, WNP whales and PCFG whales.</p>	<p>Under DEIS Alternative 4, hunters would need to rely on cataloged</p>

Sort #	Commenter Code	Comment	Response
	Coalition)_7-30-15		photographs of known male PCFG whales prior to making an approach.
238	Arnold (CA Gray Whale Coalition)_7-30-15	* <b>questions</b> the lack of any proper process which would allow proper identification of killed or targeted whales.	The DEIS describes how photo-identification would be used to determine whether any landed whale was a PCFG whale (see Subsection 2.3.2.2.3, Limits on Harvesting PCFG Whales).
239	Arnold (CA Gray Whale Coalition)_7-30-15	* <b>questions</b> over the astonishing fluidity of abundance estimates, maximum theoretical net productivity, recovery rates.	Estimates can and do change as new information and analytical techniques emerge. NMFS regularly reports on such information in the SAR.
240	Arnold (CA Gray Whale Coalition)_7-30-15	* <b>questions</b> over the lack of any objective discussion on the ramifications of a waiver, in particular the possibility of other tribes seeking the same rights	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
241	Arnold (CA Gray Whale Coalition)_7-30-15	* <b>questions</b> over the corruption of the IWC Aboriginal Subsistence quota by the US government in seeking a quota which quite obviously does not fulfil any of the IWC definitions of Aboriginal Subsistence Whaling.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
242	Arnold (CA Gray Whale Coalition)_7-30-15	* <b>questions</b> over the ramifications of the precedent set at the IWC by the US seeking to corrupt the ABSW definition, thus creating unknown precedents.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
243	Arnold (CA Gray Whale Coalition)_7-30-15	* A lack of objectivity in assessing the very real risks to the WNP and PCFG in allowing the Makah to kill gray whales.	Please see the responses to frequent comments # 12 regarding risks to WNP gray whales and # 13 regarding risks to PCFG whales.
244	Arnold (CA Gray Whale Coalition)_7-30-15	* Failure to deal with orca predation. Failure to fund orca predation research which provides current estimates of the predation.	DEIS Subsection 3.4.3.1.6 (Natural Mortality) discusses some of the recent research pertaining to killer whale predation on gray whales. NOAA provided funding and/or had scientists co-author some of this research, for example: Matkin et al. (2007; Wade et al. (2007); Weller et al.

Sort #	Commenter Code	Comment	Response
			(2009); and Barrett-Lennard et al. (2011).
245	Arnold (CA Gray Whale Coalition)_7-30-15	* Lack of current population estimates. Given that NMFS is using thermal imagery for the first time to calculate the 2014-2015 population, the importance of baseline data using this imagery cannot be under-estimated.	The DEIS relied on the best available information. We anticipate receiving new population estimates prior to issuing a final EIS.
246	Arnold (CA Gray Whale Coalition)_7-30-15	* Leaving the responsibility of finding resources to adequately and objectively critique the DEIS as a result of the lack of objectivity by the Agency to the public and non government organisations.	We disagree that the agency lacks objectivity. Please see the response to comment #236 above.
247	Arnold (CA Gray Whale Coalition)_7-30-15	* Lack of any focus on the role of Gray whales in the marine ecosystem.	Please refer to DEIS Subsection 3.4.3.1.4 (Feeding Ecology and Role in the Marine Ecosystem).
248	Arnold (CA Gray Whale Coalition)_7-30-15	* Failure to take into account mega impacts of ocean acidification and increasing anoxic zones.	DEIS Subsection 3.4.3.6.11 (Climate Change and Ocean Acidification), Subsection 5.1.3.9 (Climate Change), and Subsection 5.2 (Water Quality) include our assessment of climate change impacts.
249	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>The California Gray Whale Coalition</b> makes the following comments in relation to the Makah DEIS 2015. The Coalition supports Alternative 1 – no kill -for the following reasons:</p> <p><b><u>Three different Gray Whale populations.</u></b></p> <p>Given the unknowns involved in identifying migrating ENP whales, PCFG whales and Western North Pacific whales, NMFS should be obliged to insist on waivers for all three populations as the risks to the PCFG group and the WNP whales by any Makah kill are unacceptable. The Coalition notes in support of our submission that the 2013 Stock Assessment Report (SAR) states:-</p> <p>“... the Task Force noted that WNP gray whales should be recognized as a population stock under the MMPA and NMFS intends on preparing a separate report for WNP gray whales in 2014. Because the PCFG appears to be a distinct feeding aggregation and may warrant consideration as a distinct stock in the future, separate PBRs are calculated for the PCFG within this report.”</p> <p>The NMFS Stock Identification Task Force 2012 detailed the following response from scientists involved.</p>	Comments noted, however the tribe is not seeking a waiver to hunt WNP gray whales and any waiver is specific to an identified stock (which the PCFG is not). Please also see the response to frequent comment # 6 regarding the need for waiver of the take moratorium for WNP and PCFG whales.



Sort #	Commenter Code	Comment	Response
		<p>“Given that some whales identified in the WNP have been observed to migrate through U.S. waters to Mexico, in combination with the 1994 amendments to the MMPA requiring that SARs be published for all stocks of marine mammals in U.S. waters, the Task Force agreed to a high degree (79%) that a separate SAR should be developed in the future for the WNP stock of gray whales.</p> <p>Based on the differences found in mtDNA and nDNA between Sakhalin Island (WNP) and ENP gray whales, the Task Force unanimously (100%) agreed that it qualifies as a population stock under the MMPA and GAMMS guidelines.”</p>	
250	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b><u>Legal issues.</u></b>  The Coalition considers the Makah waiver application as frivolous and vexatious. This issue has tied up NMFS resources, legal resources, courts, scientists, environmental organisations and the concerned public for many years with the same outcome.</p>	Comments noted.
251	Arnold (CA Gray Whale Coalition)_7-30-15	<p>The Coalition considers the US Government acted ultra vires in seeking an aboriginal subsistence whaling quota for the Makah tribe at the International Whaling Commission. IWC approval of a quota could jeopardize the integrity of the new EIS planning process by pre-determining the outcome of the domestic planning effort in violation of U.S. federal law. The U.S. has, since 1997, submitted a combined gray whale quota request to the IWC with the Russian Federation in order to gain approval for the joint quota instead of allowing the Makah quota to be voted on independently. As well, the US has failed to advise delegates that under domestic legislation in the US, no waiver has been granted and the request for a quota has no domestic legal authority. Given that the IWC has no mechanism whereby it can investigate or enforce member governments’ legislation or legal powers, the US has deliberately mislead the IWC and corrupted the entire process of aboriginal subsistence quotas.</p> <p>“The proposition that an administrative authority must act within the powers conferred upon it by the legislature may well be considered the foundation of Administrative Law. The primary purpose of administrative law, therefore, is to keep the powers of government within their legal bounds, so as to protect the citizens against their abuse.”</p> <p>“When an administrative authority acts in contravention of mandatory rules stipulated in the legislation or does not comply with the principles of natural justice, such acts are liable to be rendered invalid on the ground of procedural ultra vires.”<sup>1</sup></p>	We disagree. The Makah request to whale involves international and domestic review. Domestic legal review under the MMPA is separate and distinct from the IWC process. The DEIS describes the concerns of IWC members and the process leading to a combine U.S.-Russian request for a gray whale ASW quota (Subsection 1.4.1.2.2, Overview of Requests for ENP Gray Whales on Behalf of the Makah). Further the U.S. has kept the IWC apprised of the status of domestic review of the tribe's request. For example, the IWC's 2012 annual report describes the U.S. response to a delegate's inquiry by confirming that its proposal to update catch limits was subject to domestic legal requirements including the evaluation of an EIS under NEPA.

Sort #	Commenter Code	Comment	Response
		<sup>1</sup> H.W.R. Wade & C.F. Forsyth, Administrative Law , [10th Edition, Oxford University Press, 2009 at p.4	
252	Arnold (CA Gray Whale Coalition)_7-30-15	<p>A careful read of the Treaty with the Makah ( dated 1855) raises important questions as to the interpretation of the relevant provision but also the likelihood of not only an increase in any Gray whale quota if granted to the tribe, but the potential for other whale species to be taken. * See Appendix I from Makah Needs Statement</p> <p>“Article 4. The right of taking fish and of whaling or sealing at usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the United States.</p>	Please see the responses to frequent comments # 4 regarding precedential effect of a waiver internationally and domestically and # 8 regarding the Treaty of Neah Bay.
253	Arnold (CA Gray Whale Coalition)_7-30-15	The Coalition assumes that if the Makah is granted a waiver, it follows that all citizens of the United States would have the right to kill whales.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
254	Arnold (CA Gray Whale Coalition)_7-30-15	If a waiver is granted to the Makah and efforts to delist the Humpback Whales continue, an interpretation of this ancient treaty could readily be attributed to not only Humpback whales but other whale species as they are delisted. In other words, how would any waiver be made specific to Gray whales and ensure that other species, listed or delisted, were not included in the future?	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
255	Arnold (CA Gray Whale Coalition)_7-30-15	<p>The Coalition notes Article 9.</p> <p>“the said Indians acknowledge their dependence on the Government of the United States, and promise to be friendly with all citizens thereof, and they pledge themselves to commit no depredations on the property of such citizens.”</p> <p>The waiver represents a depredation of the property of all citizens of the United States and does not constitute a friendly act.</p>	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
256	Arnold (CA Gray Whale Coalition)_7-30-15	<p>Further- Article 10 states:-</p> <p>“the above tribe is desirous to exclude from its reservation the use of ardent spirits and to prevent its people from drinking the same, and therefore it is provided that any Indian belonging thereto who shall be guilty of bringing liquor into said reservation, or who drinks liquor, may have his or her proportion of the annuities withheld from him or her for such time as the President may determine.”</p> <p>There is nothing in the Treaty which acknowledges the need to kill whales to prevent alcohol consumption or problems associated with alcoholism. If the Makah tribe continue to rely on this very old out-dated Treaty, then the tribe and the Federal Government should take account of all provisions. Thus,</p>	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		tribe members who consume alcohol should be dealt with as set out under Article 10.	
257	Arnold (CA Gray Whale Coalition)_7-30-15	Article 12 states:- “ the said tribe agrees to free all slaves now held by its people, and is not to purchase or acquire others hereafter.” Selectively taking Article 4 as justification for a return to whaling has no logic. Clearly the entire Treaty is out-date, irrelevant, and cannot be used to support killing whales.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
258	Arnold (CA Gray Whale Coalition)_7-30-15	Given that all citizens in the United States are prohibited from killing whales, permitting the Makah to kill whales is deceptive, dishonest and unacceptable.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
259	Arnold (CA Gray Whale Coalition)_7-30-15	The DEIS states that the tribe wishes to kill whales for ceremonial and subsistence purposes. Once again, the Coalition points out that there is nothing in the Treaty of Neah Bay, no Article or sentence which supports the killing of whales for ceremonial and/or subsistence purposes. Under the Table ES-1, the Coalition notes:- “All action alternatives are likely to have beneficial impacts on traditional knowledge and activities.” Like what? What benefits are listed under the Treaty Articles? Does the DEIS suggest that killing whales will enhance traditional knowledge of 1855? <b>Either NMFS relies on ALL Articles of the Treaty or none. To selectively interpret Article 4 as a legitimate claim to kill whales is baseless.</b>	Opinion noted. Please also see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
260	Arnold (CA Gray Whale Coalition)_7-30-15	As a signatory of the Bonn Convention, the Coalition asserts that the US is violating its obligations which include:- <b>RECOGNIZING that the States are and must be the protectors of the migratory species of wild animals that live within or pass through their national jurisdictional boundaries;</b> <b>CONVINCED that conservation and effective management of migratory species of wild animals require the concerted action of all States within the national jurisdictional boundaries of which such species spend any part of their life cycle;</b> The relevant provision dealing with subsistence users cannot be interpreted to include the Makah who have not whaled for almost a century. <sup>2</sup> <sup>2</sup> c) the taking is to accommodate the needs of traditional subsistence users of such species.	The U.S. protects whales and other migratory species under a variety of laws including the WCA, MMPA, ESA, and NEPA and these laws have been followed in the process of reviewing the tribe's request (see DEIS Subsection 1.2, Legal Framework).
261	Arnold (CA Gray Whale	The Coalition expresses concern over the failure of the US government to consult with the Canadian and Mexican governments in relation to the proposed Makah kill. These governments should have input into the proposal. Given that PCFG	The U.S. reports regularly to the 87 other member governments of the IWC (including Mexico). Although

Sort #	Commenter Code	Comment	Response
	Coalition)_7-30-15	whales have been identified and photographed in northern British Columbia, west Vancouver Island, and southern Vancouver Island, the lack of consultation with the Canadian government as to the impacts on these whales must be addressed.	Canada withdrew from the IWC in 1982, the U.S. and Canada cooperate closely on a range of environmental issues and initiatives (e.g., both countries are founding members of the Arctic Council). In addition, information regarding waiver-related actions by the U.S. are readily available to all interested parties via federal portals (e.g., www.regulations.gov) and the media.
262	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>PCFG whales.</b></p> <p>The Marine Mammal Institute of Oregon State University sums up the importance of the PCFG whales to the State. “Gray whales are an iconic feature of the Oregon coast, with thousands of tourists coming annually to visit Oregon’s beautiful lookouts, headlands and beaches to spot migrating and seasonally resident gray whales. These resident whales do not make the full migration to the Bering or Chukchi seas in Alaska, but rather spend May through October feeding at various coastal locations between northern California and SE Alaska. <b>Little is known</b> about how short- term (i.e., water temperatures, upwelling strength, local prey dynamics) and long-term environmental variation (i.e., ENSO cycles, oceanographic regime, long-term productivity) effect the distribution, habitat use, and health of this population of gray whales.<sup>3</sup>”</p> <p>The Coalition strenuously objects to any killing of the PCFG group of whales as any loss will be significant. As well, the measures outlined in the DEIS contain zero protection for these whales substituting measures based on highly questionable PBR estimates.</p> <hr/> <p><sup>3</sup> Marine Mammal Institute, Oregon State University</p>	Contrary to the commenter's assertion, all of the action alternatives include provisions designed to provide varying levels of protection for PCFG whales. Please also see the response to frequent comment # 7 regarding calculation and use of PBR for a PCFG mortality limit.
263	Arnold (CA Gray Whale Coalition)_7-30-15	<p>Noting that the 2013 NMFS Stock Assessment Report ( the most current available) states:- “not all whales seen within the PCFG area at this time (June 1- November 30 ) will be PCFG whales and some PCFG whales will be found outside of the PCFG area at various times during the year. (IWC 2012)”</p> <p>An ability to identify PCFG is not only difficult but scientific research indicates the Group should be regarded as an independent management unit.</p> <p>This concern is also noted in the 2013 Stock Assessment. “Frasier et al (2011) found significant differences in mtDNA haplotype distributions between PCFG and ENP gray whale sequences, in addition to differences in long-term</p>	Comments noted. Based upon the SAR process and best available science, some of which is noted in this comment, NMFS does not recognize the PCFG as a stock. Please also see the response to frequent comment # 5 regarding the stock status of the PCFG.

Sort #	Commenter Code	Comment	Response
		<p>effective population size, and concluded that the PCFG qualifies as a separate management unit under the criteria of Moritz (1994) and Palsboll et al.(2007).”</p> <p>Further research is cited below indicating that the PCFG should not, under any circumstances be killed. “Concern for PCFG whales has arisen in part from recent interest in the resumption of whaling by the Makah Tribe in northwest Washington, an area used by virtually all migrating whales as well as by foraging whales considered part of the PCFG. The current proposal by the Makah Tribe includes time/area restrictions designed to reduce the probability of killing a PCFG whale by focusing hunt effort on the much larger group of whales migrating to/from feeding areas further north. However, PCFG whales are present during the migratory season, and it is impossible to ensure that no PCFG whales would be killed. However, significant differences in estimates of long-term effective size and mtDNA haplotype frequencies were identified between the two groups. These results suggest that matrilineally directed fidelity plays a role in use of this area, and the authors concluded that the PCFG should be recognized as a distinct management unit (Frasier et al. 2011)<sup>4</sup>”</p> <p>And further:-</p> <p>Lang et al. (2011) evaluated biopsy samples from California to southern Vancouver Island in the PCFG and ENP samples from whales sampled north of the Aleutians and also found significant mtDNA haplotype frequency differences. These two studies provide the strongest evidence to date that the Pacific Northwest whales might be sufficiently isolated to allow maternally inherited mtDNA to differ from the overall ENP population.<sup>5</sup></p> <p>From Cascadia Research :-</p> <p>Although uncertainty remains, our results indicate that it is plausible that the PCFG represents a demographically independent group and suggest that caution should be used when evaluating the potential impacts of the proposed Makah harvest on this group of animals. Continued monitoring of the PCFG, including the collection of additional photographs and genetic samples, is warranted.<sup>6</sup></p> <p>At the NMFS Stock Identification Workshop in 2012, the following comment was made in the report. “After review of results from photo-identification, genetics, tagging, and other studies within the context of the GAMMS guidelines (NMFS 2005) there remains a substantial level of uncertainty in the strength of the lines of evidence supporting demographic independence of the PCFG. Consequently, the Task Force was unable to provide definitive advice</p>	

Sort #	Commenter Code	Comment	Response
		<p>as to whether the PCFG is a population stock under the MMPA and the GAMMS guidelines.”</p> <hr/> <p><sup>4</sup> A Lang et al Assessment of genetic structure among eastern North Pacific Gray whales on their feeding ground Marine Mammal Science. April 2014 Vol. 30</p> <p><sup>5</sup> John Calambokidis, Jeffrey L. Laake, Amber Klimek, Updated analysis of abundance and population structure of seasonal gray whales in the Pacific Northwest, 1998-2010 (SC/M12/AWMP2-Rev)</p> <p><sup>6</sup> <a href="http://www.cascadiaresearch.org/reports/Lang%20et%20al.%202014%20EGW%20stock%20structure.pdf">http://www.cascadiaresearch.org/reports/Lang%20et%20al.%202014%20EGW%20stock%20structure.pdf</a></p>	
264	Arnold (CA Gray Whale Coalition)_7-30-15	<p>The Coalition notes at Section I.0 under Table 1-1 Summary of the Makah’s proposed action.. “Cease hunting in any year if the number of harvested whales exceeds an allowable catch bycatch level based on matches in the National Marine Mammal Laboratory’s photographic identification catalog for PCFG gray whales (2).” Yet footnote 2 states:-</p> <p>“The National Marine Mammal Catalog does not maintain a comprehensive PCFG catalog. Rather, a non-government organization, Cascadia Research Collective, maintains a database of photographically identified ENP gray whales.” So, on the same page, the DEIS contradicts itself and confuses the reader. Clearly, the Table should have stated that there is NO photographic identification catalog is readily available.</p>	Both the footnote to Table 1-1 and Footnote 2 in Subsection 2.3.2.2.3, Limits on Harvesting PCFG Whales, clarify that Cascadia Research Collective manages the photographic database of ENP whales.
265	Arnold (CA Gray Whale Coalition)_7-30-15	It would appear the DEIS is suggesting that any whale killed which may be a PCFG whale would be identified post killing. This is not an action which provides any adequate protection for the PCFG whales.	The action alternatives in the DEIS have various measures aimed at protecting PCFG whales, including season limits, strike limits, and mortality limits. Under these alternatives, whales that are struck and landed would be compared to photo-ID catalogs and allocated as appropriate to the applicable mortality limit. Whales that are struck and lost would be counted as PCFG whales in proportion to their presence in the area
266	Arnold (CA Gray Whale Coalition)_7-30-15	As well, the instruction above which states that hunting must cease in any year “ if the number of harvested whales exceeds an allowable bycatch level etc) is entirely unclear. How many “harvested” whales will be killed and identified before “an allowable bycatch level for PCFG “ is established. What is the purpose	We understand this comment to refer to Alternative 2, which is the Tribe’s proposal. The DEIS definitions note that the "allowable bycatch level" as

Sort #	Commenter Code	Comment	Response
		of using the term “ allowable bycatch level”? Surely the PBR is the most relevant calculation. The Coalition notes that the term ABL is consistently introduced through the DEIS, further confusing the public.	defined in the Makah Tribe’s waiver request is the number of whales from the PCFG that may be taken incidental to a hunt directed at the migratory portion of the Eastern North Pacific stock of gray whales. Under Alternative 2, the ABL would be calculated using the MMPA's PBR approach but the minimum population estimate would be is calculated from the number of previously seen whales in the Oregon-Southern Vancouver Island survey area.
267	Arnold (CA Gray Whale Coalition)_7-30-15	<p>The Coalition is aware that the PCFG whales can remain in the area much longer than indicated in the DEIS. “There are 200-300 "seasonal resident" Gray whales that spend the spring, summer, and fall feeding from California to SE Alaska. In Washington, Gray whales were once thought to be strictly seasonal travelers along the outer coast. We now know that these waters are more than just a stop on a migratory route for some. Two small groups of Grays often turn east into Washington's inland waters, usually during the spring northern migration. Some of them stay all summer. The first group seems to know where the best feeding grounds are. From ten to twelve Grays return most years to northwestern Whidbey Island or southeastern Whidbey Island and Port Susan, Camano Island, feeding on ghost shrimp and tubeworms for several months. In recent years (2008-2009) more gray whales have been reported feeding in more areas around Whidbey Island, including Holmes Harbor and along Whidbey Naval Air Station and Joseph Whidbey State Park near Oak Harbor. They also appear to be arriving earlier - some in January - and staying later - some not leaving until July. “<sup>7</sup></p> <hr/> <p><sup>7</sup> Orca Network</p>	The DEIS reports the best available information on the timing, distribution and abundance of PCFG whales.
268	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b><u>Photographic ID.</u></b></p> <p>Given that not all PCFG whales have been photographed or catalogued and given the complexity of identification detailed below, the ability of Makah whalers to properly identify WNP and PCFG whales is totally inadequate and unacceptable.</p> <p>How would Makah whalers be provided with access to any photographic catalog ? Would they paddle their canoes to shore and drive to Cascadia ? Or the National Marine Mammal Laboratory ? Or visit with Dr Jorge Urban in La Paz on</p>	The comment opines the photographic catalogues are inadequate but does not identify the asserted deficiencies. Nevertheless we note the commenters’ concerns and note the following information provided in the Tribe’s application and the DEIS addressing these concerns. The Makah

Sort #	Commenter Code	Comment	Response
		<p>the internet ? Or where ? What training would be provided that would allow Makah whalers to photograph and identify whether any PCFG had been killed ? Would NMFS offices in the region carry any catalog ? If so, what photographs would be included ? How recent would they be ?</p> <p>The following excerpts from scientific research teams photographing and identifying WNP whales and PCFG whales gives important descriptions of the skills involved. It is obviously a task for experts.</p> <p><b>“Photo-identification surveys</b></p> <p>In 2002 and 2003, photographs were taken using 35mm single-lens reflex cameras equipped with telephoto lenses, such as a Canon EOS 630 with a 70-210mm zoom lens, a Canon EOS 3 with a 75-300mm image stabilized zoom lens, and a Nikon N90S with a fixed 300mm f/4 telephoto lens. Both Fuji Neopan 1600 black and white print film and Fuji Provia 100F and 400F color slide film were used for photographing the gray whales. The film was developed commercially and the negatives were sent to the Cascadia Research Collective (CRC) for cataloging and comparing the images with photographs in their collection. In 2005, a Nikon D-70 digital camera with a 70-300mm zoom lens was used to photograph gray whales. The images were transferred to DVDs and sent to the CRC for identification and matching. Gray whales are identified by their natural markings on the left and right sides of the whale, especially in the region around the dorsal hump, an area routinely exposed during the whale’s surfacing. The photographs were compared with others taken that year in other locations and with a catalog maintained by CRC of gray whales photographed in previous years and in subsequent years up to 2008 along the west coast of the United States and British Columbia, Canada. At CRC, the photographs were compared by at least two matchers to identify the whale. As a final check on the matching, the relative spacing between the knuckles along the dorsal ridge behind the dorsal hump was measured and compared. The Kodiak gray whale photographic images were also analyzed by the Coastal Ecosystem Research Foundation who discovered additional matches. <sup>8”</sup></p> <p>And further: -</p> <p><b>MATERIALS AND METHODS</b></p> <p>Photo-identification images of 181 Sakhalin gray whales (the Sakhalin catalog, hereafter SAK catalog)collected off Sakhalin Island (Area 1 in Fig. 1)</p>	<p>have a marine mammal biologist who regularly surveys for gray whales and provides photographs for inclusion in the catalogs maintained by Cascadia Research Collective and NMML. While the tribe would be responsible for submitting hunt-related digital photographs (e.g., via e-mail or internet drive) for comparison to cataloged whales, it would be NMFS' responsibility to ensure the adequacy of catalogs and to oversee the actual comparisons to determine if photographs or other data (e.g., tissue samples) of hunted whales match with a cataloged whale.</p>



Sort #	Commenter Code	Comment	Response
		<p>between 1994 and 2009 by a joint Russia-U.S. research program (Weller et al. 1999, 2002) were compared to a catalog of 1064 ‘Pacific Northwest gray whales’ (hereafter, PNW catalog) identified by Cascadia Research Collective and collaborators working in U.S. and Canadian waters from California to Alaska (Area 2 in Fig. 1) primarily between 1998 and 2009 (Calambokidis et al. 2002, 2010). The PNW catalog focuses on gray whales that feed during summer and fall in coastal waters between northern California and the Gulf of Alaska, referred to as the Pacific Coast Feeding Group (PCFG), but also includes some migrating whales identified in the spring (March to May) during their northward passage to high-latitude feeding grounds. Of the 181 whales in the SAK catalog, all were represented by a right side dorsal flank image, and 179 were associated with a left-side dorsal flank image. Of the 1064 whales in the PNW catalog, 845 were represented by a right-side dorsal flank image, and 898 were associated with a left-side dorsal flank image. Each individual in the SAK catalog was compared in numerical order to all individuals in the PNW catalog as follows. First, the left-side dorsal flank of each individual in the SAK catalog was compared to the left-side dorsal flank of all individuals in the PNW catalog. This process was then repeated using the right-side dorsal flank and ventral aspect of the tail flukes. Comparisons were made by a single analyst (A.K.), but resulting matches were confirmed by 3 independent researchers skilled in gray whale photo-identification (including A.L.B. and J.C.). Similarly, photo-identification images of 181 whales in the SAK catalog were compared to an online catalog of 2514 ‘Laguna San Ignacio gray whales’ (hereafter, the LSI catalog) identified between 2006 and 2010 in Baja California, Mexico (Area 4 in Fig. 1). This assessment was not comprehensive or systematic, as was the case for the PNW catalog, because the LSI catalog represented a collection of ‘annual working catalogs’ rather than a single multi-year catalog of known individuals. Thus, the comparison to the SAK catalog reported herein was undertaken opportunistically. A single analyst (A.L.B.) conducted the appraisal, with identified matches confirmed by additional observers (including D.W.W.).<sup>9</sup></p> <p>Clearly the Makah whalers do not have the expertise to identify photo ID of whales and this lack of expertise and any proper protocol addressing this lack in the DEIS provides further reasons why the Makah waiver must be refused.</p> <p>The Coalition says it would be impossible for any whaler to be able to discern the difference between a living male or female whale out on the water. To suggest that the PBR be equal to one half of the estimated 2.7 for male whales for a female PCFG is ridiculous.</p>	

Sort #	Commenter Code	Comment	Response
		<p><sup>8</sup> Movements and diet of gray whales (<i>Eschrichtius robustus</i>) off Kodiak Island, Alaska, 2002-2005 ( SCMI/AWMP2)Merrill Gosho, Patrick Gearin, Ryan Jenkinson Jeff Laake, Lori Mazzuca, David Kubiak, John Calambokidis, Will Megill, Brian Gisborne, Dawn Goley Christina Tombach James Darling and Volker Deecke.</p> <p><sup>9</sup> Movement of Gray Whales between the western and eastern north Pacific : Endangered Species Research Vol. 18: 193–199, 2012 Published online September 12 :David Weller et al.</p>	
269	Arnold (CA Gray Whale Coalition)_7-30-15	<p>The PCFG whales would be a prime target for any Makah whalers. Six PCFG whales were recorded at locations either inside (or adjacent to) the Makah Tribal U&amp;A Fishing grounds during five months (Feb., apr., may, sep., Dec.).<sup>10</sup></p> <p>The IWC Sub-Committee detailed PCFG whales in Makah whaling grounds. “Seven whales had sssm locations either inside the Makah whaling grounds or adjacent to them. two of these whales had continuous ars locations in the Makah tribal area, for 1 and 2.5 days respectively. three whales, while not having ars locations in the Makah area, had sssm locations there on 2, 4 and 5 days respectively. a sixth whale had one ars location near the southern edge of the Makah area. a seventh whale travelled to areas north of the Olympic peninsula, but we did not receive enough tag locations to confirm its occurrence in the Makah area. Locations of tagged whales in or near the Makah tribal area occurred in six months (february, april, may, august, september and December), including those that overlap with migratory timing of eastern North Pacific gray whales (December, february, april and may).”<sup>11</sup> The Navy Marine Species Monitoring Final Report confirms the close proximity of PCFG whales to the shore:- “ In conclusion, the whales that were tagged showed very strong preference for shallow, near-shore habitat and never ventured far from shore. They did not appear to use any canyons or underwater features preferentially, and were rarely, if ever, found in the NWTRC more than 19 km from shore.”<sup>12</sup></p> <p><sup>10</sup> Report of the Workshop on the Rangewide Review of the Population Structure and Status of North Pacific Gray Whales. J cetacean res. manage.l6(Suppl.) 2015</p> <p><sup>11</sup> La Jolla Workshop, April 2015 Annex F Report of the Sub-Committee on Bowhead, Right and Gray Whales</p> <p><sup>12</sup> <a href="http://www.navy-marinespeciesmonitoring.us/files/9413/8255/0256/Mate_2013_Final_report-Offshore_gray_whale_tagging_in_Pacific_NW_1.pdf">http://www.navy-marinespeciesmonitoring.us/files/9413/8255/0256/Mate_2013_Final_report-Offshore_gray_whale_tagging_in_Pacific_NW_1.pdf</a></p>	Comments noted.
270	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b><u>The PBR Saga.</u></b></p> <p>The Coalition notes that the minimum population of 18,07 in 2011 is used as the Nmin in the 2013 SAR PBR but the maximum theoretical net productivity rate has increased from 3.2% to 6.25% and the one half equation</p>	This comment misinterprets the information in the NMFS SARs. Please see the response to frequent comment # 7 regarding the calculation

Sort #	Commenter Code	Comment	Response
		now set at 3.1%. There is no evidence to support a doubling of the rate of increase of the ENP Gray Whale population as the minimum population remains the same. Furthermore, the suggested doubling of the maximum theoretical net productivity rate is biologically impossible in the time period.	and use of PBR for a PCFG mortality limit for a detailed response.
271	Arnold (CA Gray Whale Coalition)_7-30-15	<p>The default maximum theoretical productivity rate is 0.04 for cetaceans. This value is used as a default in the absence of species specific information. A recovery factor of 0.5 should be used for stock of an indeterminate status. The following excerpts from SARs detail the Rmax from previous assessments in comparison to the significant changes made in the DEIS to the maximum theoretical net productivity rate. The table below is a summary of PBRs 1997-2007</p> <p><b>PBR Equations for NMFS Stock Assessment Reports</b>  PBR = Nmin x 0.5Rmax x FR  Nmin=min pop. Est.  Rmax=maximum theoretical net productivity rate  FR = recovery factor  1997 PBR = 432 animals (21,597 x 0.02 x 1.0)  2000 PBR = 575 animals (24,477 x 0.0235 x 1.0)  2002 PBR = 575 animals (24,477 x 0.0235 x 1.0)  2005 PBR = 417 animals (17,752 x 0.0235 x 1.0)  2007 PBR = 417 animals (17,752 x 0.0235 x 1.0).</p> <p><b>SAR 2011</b>  <b>Current Population Trend</b>  The population size of the Eastern North Pacific gray whale stock has been increasing over the past several decades despite an unusual mortality event in 1999 and 2000. The estimated annual rate of increase, based on the unrevised abundance estimates between 1967 and 1988, is 3.3% with a standard error of 0.44% (Buckland et al. 1993); using the revised abundance time series from Laake et al. (2009) leads to an annual rate of increase for that same period of 3.2% with a standard error of 0.5%(Punt and Wade 2010).</p> <p><b>CURRENT AND MAXIMUM NET PRODUCTIVITY RATES</b>  The abundance time-series has been revised (Laake et al. 2009), so estimates of productivity rates must be based on the revised time-series. Using abundance data through 2006/07, an analysis of the Eastern North Pacific gray whale population led to an estimate of Rmax of 0.062, with a 90% probability the</p>	This summary of information from NMFS gray whale SARs is noted.

Sort #	Commenter Code	Comment	Response
		<p>value was between 0.032 and 0.088 (Punt and Wade 2010). This estimate came from the best fitting age- and sex-structured model, which was a density-dependent Leslie model including an additional variance term, with females and males modeled separately, that accounted for the mortality event in 1999-2000. NMFS has decided to use the lower 10th percentile of that estimate of 0.040. This has the interpretation that there is a 90% probability that the true value of Rmax is greater than 0.040. Therefore, the Rmax for Eastern North Pacific gray whales is the same as the default value of 0.04. Therefore, NMFS will use an Rmax of 0.040. Number of stranded gray whales recorded along the west coast of North America between 1990 and 2006 (data from Brownell et al. 2007).</p> <p><b>POTENTIAL BIOLOGICAL REMOVAL</b></p> <p>Under the 1994 reauthorized Marine Mammal Protection Act (MMPA), the potential biological removal (PBR) is defined as the product of the minimum population estimate, one-half the maximum theoretical net productivity rate, and a recovery factor: <math>PBR = N_{MIN} \times 0.5R_{MAX} \times FR</math>. The recovery factor (FR) for this stock is 1.0, the value for a stock estimated to be above MNPL and therefore not depleted. Thus, for the Eastern North Pacific stock of gray whales, <math>PBR = 360</math> animals (<math>18,017 \times 0.02 \times 1.0</math>).</p> <p><b>SAR 2013.</b></p> <p>“The PBR level for the ENP stock of gray whales is calculated as the minimum population size (18,017) times one half of the maximum theoretical net population growth rate (<math>1/2 \times 6.25 = 3.1\%</math>) times a recovery factor of 1.0 for a stock above MNPL ( Punt and Wade 2012) or 559 animals.”</p> <p><b>2010 SAR</b></p> <p><b>CURRENT POPULATION TREND</b></p> <p>The population size of the Eastern North Pacific gray whale stock has been increasing over the past several decades despite an unusual mortality event in 1999 and 2000. The estimated annual rate of increase, based on the unrevised abundance estimates between 1967 and 1988, is 3.3% with a standard error of 0.44% (Buckland et al. 1993); using the revised abundance time series from Laake et al. (2009) leads to an annual rate of increase for that same period of 3.2% with a standard error of 0.5% (Punt and Wade 2010)</p> <p><b>POTENTIAL BIOLOGICAL REMOVAL</b></p>	

Sort #	Commenter Code	Comment	Response
		<p>Under the 1994 reauthorized Marine Mammal Protection Act (MMPA), the potential biological removal (PBR) is defined as the product of the minimum population estimate, one-half the maximum theoretical net productivity rate, and a recovery factor: <math>PBR = N_{MIN} \times 0.5RHFR</math>. The recovery factor (FR) for this stock is 1.0, the value for a stock estimated to be above MNPL and therefore not depleted. Thus, for the Eastern North Pacific stock of gray whales, <math>PBR = 360</math> animals (<math>18,017 \times 0.02 \times 1.0</math>). Overall, the population increased (nearly doubled in size) over approximately the first 20 years of monitoring, and then has fluctuated for the last 30 years around its average carrying capacity. This is entirely consistent with a population approaching K.</p>	
272	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>THEREFORE..</b>  The PBR for the PCFG should be: - <math>173 \times 0.02 \times 0.5 = 1.73</math> whales  As the Coalition believes a recovery factor of 0.1 is more appropriate for this small population with so many unknown factors existing, the PBR for the PCFG should be:-  <math>173 \times 0.02 \times 0.1 = 0.34</math> - Based on a recovery rate of 0.1 this figure exceeds the PBR recovery rate of 0.1.</p>	<p>We disagree with the commenter's values for Rmax and the recovery factor used in the PBR equation. The DEIS relied on Carretta et al. (2014), which represented the 2013 gray whale SAR. Since publication of the DEIS, NMFS has released a 2014 SAR (Carretta et al. 2015) and a 2018 SAR (Carretta et al. 2019) for ENP gray whales. The 2013, 2014, and 2018 SARs all use the same Rmax for the PCFG as for the ENP as a whole, because the PCFG is not recognized as a separate stock and is part of the larger ENP. The SARs also use a recovery factor of 0.5 based on uncertainty regarding stock structure and internal versus external recruitment levels. During completion of the 2013, 2014, and 2018 SARs, there were no suggestions from the Scientific Review Group, the Marine Mammal Commission, or public reviewers, that the recovery factor should be 0.1, as suggested by this comment, nor does the commenter provide any analysis to support the</p>

Sort #	Commenter Code	Comment	Response
			<p>use of such a recovery factor. The most recent SAR (2018 SAR, Carretta et al. 2019) contains the best available information pertaining to PBR levels for ENP gray whales, including the PCFG. That SAR states "The potential biological removal (PBR) level for PCFG gray whales is calculated as the minimum population size (227 animals), times one half the maximum theoretical net population growth rate (<math>\frac{1}{2} \times 6.2\% = 3.1\%</math>), times a recovery factor of 0.5 (for a population of unknown status), resulting in a PBR of 3.5 animals per year. Use of the recovery factor of 0.5 for PCFG gray whales, rather than 1.0 used for ENP gray whales, is based on uncertainty regarding stock structure and guidelines for preparing marine mammal stock assessments which state that "Recovery factors of 1.0 for stocks of unknown status should be reserved for cases where there is assurance that <math>N_{min}</math>, <math>R_{max}</math>, and the kill are unbiased and where the stock structure is unequivocal" (NMFS 2005, Weller et al. 2013). Given uncertainties in the external versus internal recruitment levels of PCFG whales, the equivocal nature of the stock structure, and the small estimated population size of the PCFG, NMFS will continue to use the default recovery factor of 0.5 for PCFG gray whales."</p>

Sort #	Commenter Code	Comment	Response
273	Arnold (CA Gray Whale Coalition)_7-30-15	<p>The Coalition notes that although the SAR 2013 states: “ that total ship strike serious injury and mortality of gray whales observed in the PCFG range and season during this same period is 0.52 or 0.2 whales per year. The total annual human caused mortality and serious injury of PCFG gray whales during the period 2007 to 2011 from commercial fisheries (0.15/yr), ship strikes, (0.1/yr) and illegal hunts (0.2/yr) totals 0.45 annual. This does not exceed the PBR level of 2.7 whales for this population.” This statement is contradicted by the following analysis. “ The results of the analysis were summarised in Table 2 of Scordino and Mate (2012) with estimated annual human-caused mortality (bycatch and ship strike combined) of 1.845 PCFG whales (analysis assumed California whales in summer were PCFG whales) and 4.555 ENP/WFG whales.<sup>13</sup>”</p> <p>The number of ship strikes is also contradicted by Washington Department of Fish &amp; Wildlife’s 2012 Annual Report.</p> <p>“Reports of deaths from ship strikes average about 1-2 per year, although this is likely an under-estimate. “</p> <p>Strandings are also under-reported. Washington Department of Fish &amp; Wildlife’s 2012 Annual Report states:</p> <p>“Strandings of gray whales are more common than for any other large whale in Washington and Oregon (Norman et al. 2004), with an average of 4.7 (range of 2 to 11) individuals per year in Washington during the past decade (NOAA Fisheries, unpublished data). Three strandings of gray whales occurred in Washington in 2012 (NOAA Fisheries, unpublished data).”</p> <p>These levels of strandings and ship strikes are not reported in the most current SAR or the DEIS and obviously make a significant difference in calculating the PBR ensuring a zero result.</p> <hr/> <p><sup>13</sup> IWC SC66a 8 Report of the 2nd Workshop on the Range Wide Review of the population structure and status of North Pacific Gray Whales.</p>	<p>The WDFW report cited in this comment does not provide data or a citation for the assertion regarding 1-2 deaths from ship strikes per year. The Scordino and Mate (2012) analysis cited in the comments relies on different assumptions and a much longer time period than what is employed in the SAR. The SAR notes that "NMFS uses guidance from previous serious injury workshops, expert opinion, and analysis of historic injury cases to distinguish serious from non-serious injury" and acknowledges that "[a]dditional mortality from ship strikes probably goes unreported because the whales either do not strand or do not have obvious signs of trauma." If the agency were to determine that corrections should be made to estimates of human-caused mortality then we would expect that to be conveyed in the SAR and subjected to peer review (e.g., by the Scientific Review Group) and public comment.</p>
274	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>WNP Gray Whales</b></p> <p>“ If the recovery factor for calculating PBR is set to 0.1, and discounting the estimate for the proportion of the population that may be migrating through U.S. waters and the proportion of time (months out of a year) they are in U.S waters, then the 5-year PBR estimate is between 0.1 and 0.6 animals, depending on different assumptions about the amount of mixing between the WNP and ENP. Thus, if a WNP whale were to be struck during the 5-year period, PBR would be exceeded.”<sup>14</sup></p> <p><b>NOTING</b></p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>The western gray whale is listed as critically endangered, as designated by the IUCN; the most recent estimate of its population size is N = 179 for the age 1+ population (Cooke et al., 2014; IUCN 2014)</p> <p><b>NOTING</b> Additionally, at least 12 members of the Western North Pacific stock have been detected visiting waters from off Vancouver Island to Mexico since 2004 (Mate et al. 2011, Weller et al. 2012</p> <hr/> <p><sup>14</sup> NMFS Stock Identification Task Force 2012</p>	
275	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>ORCA PREDATION.</b></p> <p>As any studies on orca predation have not been funded for some years, it is impossible to determine the current extent of mortalities. Given the number of calves in the last season, predation is likely to be high. Climate change impacts are driving the Gray Whales further north seeking prey and anecdotal evidence indicates that transient orcas are pursuing the whales into new habitat.</p> <p><b>SWFSC WEBSITE.</b></p> <p>“Preliminary estimates have suggested that predation by mammal-eating “transient” killer whales may be responsible for mortalities constituting up to 35% of the average annual calf production of California Gray Whales (Barrett-Lennard et al. 2005), but there is substantial uncertainty about assumptions underpinning this estimate. Nonetheless, it is clear that if the “transient” killer whale population continues to increase in the eastern Pacific (Ford et al. 2007), the potential for impact on gray whales will also increase.</p>	DEIS Subsection 3.4.3.1.6 (Natural Mortality) discusses some of the recent research pertaining to killer whale predation on gray whales. NOAA provided funding and/or had scientists co-author some of this research, for example: Matkin et al. (2007; Wade et al. (2007); Weller et al. (2009); and Barrett-Lennard et al. (2011).
276	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>CLIMATE CHANGE.</b></p> <p>The 2013 SAR states that:</p> <p>“ocean acidification could reduce the abundance of shell-forming organisms (Fabry et al. 2008, Hall-Spencer et al. 2008), many of which are important in the gray whales’ diet (Nerini 1984, Moore and Huntington 2008).</p> <p>Ocean acidity and the exponential increase in anoxic zones pose significant threats to the whales. Over the next five years of the proposed kill, the likelihood of gray whale habitat and prey experiencing major changes is significant.</p> <p><b>APPENDIX I – From Makah Needs Statement</b></p> <p>Using a very conservative estimate the five whales caught at Nootka Sound" would have provided between 16.25 and 37.5 metric tons of blubber, and could have provided a similar amount of meat, depending on whether or not the</p>	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats. <p>Comments summarizing information from the Makah Needs Statement are noted.</p>



Sort #	Commenter Code	Comment	Response
		<p>California gray or the larger humpback whale was taken" (Huelsbeck 1988_b:3).This huge quantity of meat and blubber could have provided between 32.5 and 150 kg.of edible whale product per person for a village with a population of 500 individuals (Huelsbeck 1988b:4). Certainly the number of whales taken by all Makah crews varied from year to year. A minimum of 67 whales were "represented by the bones recovered from the late prehistoric level" at Ozette (Huelsbeck 1988a:7), constituting a huge quantity of food products and raw material. Based on historic documents, Huelsbeck estimates that whalers of the Yuquot band,a nu.ca.nu.=group, "would have averaged 5 whales per year"(1988:157). Densmore reports a much higher success rate for historic Makah whale hunters. "In old times the average catch for a whaler was one or two whales a year, but a man often caught four and occasionally five in a season" (1939:63). Wilcox (1895:20) provides a more conservative appraisal of the Makah whale hunt for the years 1889-1892. His figures indicate that the Makah Tribe averaged 5.5 whales per year (as cited in Huelsbeck 1988:152) at a time when the cetacean population had already been severely impacted by other, non-Makah whaling interests. Makah whale hunting capitalized on the annual northerly migration of the gray whale, and the availability of the humpback in their waters. Archeological data corroborate Makah oral history in this regard. In the Ozette Collection, 50.51% of the whale bones identifiable by species were that of the gray, while another 46.51% came from the humpback (Huelsbeck 1988a:4). The remainder of the sample contained finback, right, sperm and killer whales. Huelsbeck interprets the archaeological and ethnohistorical data to indicate that the finback and right whales were hunted from time to time, while the sperm and killer whales "probably represent drift whales" (1988a:6), although some Makah families have oral traditions which involve hunting these species.</p>	
277	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>CONCLUSION</b>  <b>The California Gray Whale Coalition opposes any slaughter of the Gray Whale by the Makah Tribe and expresses its concern over the poor quality of the DEIS, its length and complexity which do not serve the rights of the public who oppose an unnecessary slaughter of majestic whales.</b></p>	<p>Opposition noted.</p> <p>The purpose of an EIS is to develop information for the decision-maker and the public, in particular information about the difference in impacts on the human environment between the proposed action and the alternatives, including no action. We acknowledge that the DEIS is lengthy</p>

Sort #	Commenter Code	Comment	Response
			and contains some complicated subject matter, which is why we provided additional time for the public to provide comments. The commenter does not identify which DEIS elements they consider to be of poor quality.
278	Arnold (CA Gray Whale Coalition)_7-30-15	<p><b>Any precedent set by granting a waiver will have ramifications at the IWC, with other tribes and almost certainly lead to future requests for waivers for Humpbacks and other species.</b></p> <p><b>Sue Arnold</b>  <b>CEO</b>  <b>California Gray Whale Coalition</b>  <b>Palo Alto CA</b>  <b>7/30/2015</b></p>	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
279	e_Abels_7-26-15	<p><b><u>I firmly believe there should be no whaling at all.</u></b></p> <p><b><u>Climate Change:</u></b></p> <p>As you know phytoplankton is one of the first steps in the food chain of the ocean. As NOAA states there was a large die off in Antarctica due to the decrease in general health of oceans. Pelagic species depend on water temperatures and were profoundly affected by El Nino and La Nina which was characterized by increased water temperatures. During that time there was an “unusual mortality event” in gray whales. Most looked like it was due to “starvation related to climatically based decline in prey availability..” NOAA further states that “regional climate can have a dramatic affects on its flow (current). Currents affect productivity.” El Nino with increased water temperatures and decreased productivity 1997-1998 “profoundly affected the productivity and marine ecology of the region”. In an article Ocean Warming’s effect on Phytoplankton/NASA satellite Data Show How Global Climate Change Hurts Marine Food Chain by Jane Kay, “Decrease phytoplankton consume less CO2, aggravating a cycle that can lead to even more warming.”</p> <p>The EPA website shows NOAA data that ocean temperatures have steadily increased and “will continue”. Temperatures have been highest in last 30 years than ever before. One graph shows temperatures increased 0.5-1 degrees on the West Coast from 1901-2014. During the same time frame in the Bering Sea an increase of 1.5-2 degrees. National Geographic article by Christine</p>	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.

Sort #	Commenter Code	Comment	Response
		<p>Dell'Amore- "Since 1970's, the ice has retreated by 12% per decade worsening after 2007, according to NASA. May 2014 represented the third lowest extent of sea ice during that month in the satellite record, according to the National Snow and Ice Data Center." "Ice loss is accelerated in the Arctic because of a phenomenon known as the feedback loop: Thin ice is less reflective than thick ice, allowing more sunlight to be absorbed by the ocean, which in turn weakens the ice and warms the ocean even more, NASA says."</p> <p>National Snow and Ice Data Center states, "Arctic sea ice extent for June 2015 was third lowest in the satellite record. June snow cover for the Northern Hemisphere was the second lowest on record..." "Ice extent remains below average in the Barents Sea as well as in the Chukchi Sea continuing the pattern seen in May. Air temperatures were above average over much of the Arctic Ocean (2-3 degrees). June snow cover was especially low over Alaska and Western Canada due to changes in the jet stream."</p> <p>U.S. Geological Service Ice Projections: mid to late 21st century Chukchi Sea will be ice free 5 months of the year and the Bering Sea will be ice free 8.5 months of the year.</p> <p>The DEIS states that grays are opportunistic feeders, but with a decrease or elimination of one food source means more competition for remaining food resources for other species. The DEIS refers to the grays increase diet of small crustaceans. It also states, "the increase acidification cause changes in abundance and types of shell-forming organisms- important part of grays diet."</p> <p>In the DEIS, "Organisms will continue to live in the oceans wherever nutrients and light are available, even under conditions arising from ocean acidification. However, from the data available, it is not known if organisms at the various levels in the food web will be able to adapt or if one species will replace another. It is also not possible to predict what impacts this will have on the community structure and ultimately if it will affect the services that the ecosystems provide. Without significant action to reduce CO2 emissions into the atmosphere, this may mean that there will be no place in the future oceans for many of the species and ecosystems that we know today. This is especially likely for some calcifying organisms."</p> <p>The DEIS states that increased ocean acidification has an impact on ocean noise resulting in a decrease in sound absorption resulting in a "noisier" ocean. Decreasing sea ice will likely increase human activity in the arctic resulting in more noise in their feeding ground. As NOAA states grays are sensitive to sounds associated with oil and gas exploration. NOAA also states this increase in activity</p>	

Sort #	Commenter Code	Comment	Response
		<p>“means more oil spills and ship strikes” in their feeding grounds. Oil will also kill their prey species.</p> <p>The one thing that struck me repeatedly in reading the DEIS, other government websites and news articles was 4 little words “from the data available”. Warming oceans, shrinking ice and ocean acidification pose great and immediate threats to not only gray whales, but the ocean itself. You state in the DEIS the grays have changed their feeding ground from the Bering Sea to the Chukchi Sea. Where do they go when that area can’t support them? The DEIS also speculates that with the shrinking ice the grays could repopulate the Atlantic Ocean. If they do make that move what does that mean for the population in the Pacific? NOAA has to know with all the fires in the West and no change in human behavior these next few years will probably demonstrate an increase in ocean temperatures. Given the clear unknowns here that even NOAA demonstrates I think it would be short sighted and dangerous to allow the killing of any whales, but particularly the greys since their feeding grounds are in the Arctic. It also seems that much more research is needed on the health of the ocean and it’s food chain. A side note is, given the incredibly small population of bowhead whales, how can you possibly say it is ok to hunt them?? Whales can’t change their behaviors, diet or where they live. Humans can change their behaviors, adapt to a changing environment and evolve! Sometimes they just need a nudge in the right direction.</p>	
280	e_Abels_7-26-15	<p><b><u>Economic Impact:</u></b></p> <p>The DEIS quotes the Makah as stating their hotel bookings increased during the whale hunt. Clallam County also saw an increased activity during the whale hunt season. Also the DEIS states that it was due to reporters and protesters. IT WAS NOT TOURISM. People avoided the area due to the whaling. Webster defines tourism as: “the practice of traveling for recreation, the activity of traveling to a place for pleasure.”</p> <p>None of us were there for pleasure I can tell you that!!! You can’t use this “boost in tourism during the hunt” as your argument!! Especially, when NOAA themselves say the uptick was due to reporters and protesters. Delete this part of your argument. The DEIS states that there were a “few” people there to observe the hunt. When whale watching is a billion dollar industry, can you seriously use this as part of your argument???? People want to see live happy whales, not whales being repeatedly harpooned and shot.</p>	<p>The DEIS does not attempt to make arguments but to present and analyze facts.</p> <p>While the comment takes issue with the inclusion of reporters and protestors as “visitors” under the analysis of economic impacts from tourism, it does not take issue with the data provided in the DEIS regarding economic impacts from those visitors.</p>

Sort #	Commenter Code	Comment	Response
281	e_Abels_7-26-15	You also state the whale was shot twice and died. BULL! We were there. The whale was harpooned several times and then shot at repeatedly. Not humane, not quick and nobody wanted to see that.	DEIS Subsection 1.4.2 (Summary of Recent Makah Whaling - 1998 through 2014) recounts the events associated with the gray whale killed by Makah hunters in 1999. That description relies on a report by a NMFS observer/biologist (Gosho 1999) and describes that the whale was subjected to three harpoon throws and four rifle shots (two of which missed). The commenter provides no additional information to support the assertion in this comment.
282	e_Abels_7-26-15	<p>The DEIS also stated that people were disgusted with the news stations for showing the footage on TV. Again, if people were complaining about seeing it on TV how can you argue that people would show up to see it in person????</p> <p>The DEIS states that visiting and fishing permits in Neah Bay increased from 6405-10,678 from 2007-2011. Can I point out the fact that there was no sanctioned whaling then?? The DEIS states "Many people travel to the coast to watch the annual migration of California Gray Whales," Yes, at La Push where they have a welcoming ceremony for the whales and show the whales respect. The DEIS states the attractions in Neah Bay are: Makah Museum, Sport fishing and guided tours, vehicle sightseeing tours, beach activities, camping (attendance 2341 in 1999 7206 in 2011 again no whaling), hiking is popular for wildlife viewing (live happy wildlife not wildlife being tortured and killed)..” Can you reasonably argue that these activities won’t be affected by whaling? Whaling itself will be a deterrent, but the collateral effect of protesters will make people think again about going out to Neah Bay. The DEIS states that tourism accounts directly for 8% of the employment. What is the indirect employment from tourism? Sport fishing is a big part of the Makah tourism income. “Sport fishing mostly offshore in whale hunt zone.” The DEIS states that it would be infrequent brief interruptions to the sports fishermen. These disruptions may be enough to encourage them to go elsewhere.</p>	The DEIS does not assert that whaling would have no impacts on the activities identified in this comment but instead reports that all of the action alternatives are likely to have a mix of beneficial and adverse impacts on tourism and on-scene and media observers. Section 4 of the DEIS notes that "[g]iven the likely influx of visitors coming to Neah Bay to observe, protest, or report on the hunt, or to participate in tribal ceremonies and celebrations, it is reasonable to expect there would be a short-term increase in tourist-related business activity associated with these visitors. Any short-term effect is likely to be minor, and may diminish as more hunts occur" and that "[o]ver the long term, there is no information suggesting that the hunts in 1999 and 2000 had any lasting effect on tourism in Clallam County or Neah Bay. Thus, while a whale hunt might attract visitors to

Sort #	Commenter Code	Comment	Response
			the Neah Bay area, it is likely that any positive effect would be short-term and minor."
283	e_Abels_7-26-15	<p>The DEIS states that the cost of law enforcement was \$91,670 PER DAY including the Coast Guard. Why are taxpayers being burdened with the cost of the Makah's hunt???? Where is the cost of NOAA going through litigation and doing this DEIS?? These tax dollars would be better spent elsewhere. These costs should be paid by the Makah. They want to kill whales, let them pay for it. No taxpayer funded whale hunts.</p>	We do not deem it appropriate or useful to specify the costs associated with NMFS conduct of its normal business as this falls within our Congressionally authorized work and general appropriation.
284	e_Abels_7-26-15	<p>The DEIS states "fluctuations in the reservation's natural resources, commercial fishing, tourism and sport fishing continue to present challenges to the Tribe's ability to ensure reliable incomes.." First this speaks to their inability to manage their resources. There are no deer on the reservation, because they killed them all without allowing the population to recover. They logged their land with reckless abandon. Whaling isn't going to improve any of these challenges and they can't be trusted to manage their whaling activities. They proved that when they had an unauthorized hunt that killed, likely, a resident whale since they killed it in the Strait.</p> <p>It would be interesting to compare tourism to La Push against tourism in Neah Bay. One pro whale the other pro whaling. I can say that all the people I know who go to the Olympic Peninsula I give them the same speech, "You will love the Hoh Rainforest and if you want ocean and whales go to La Push. Stay out of Neah Bay."</p>	Comments noted.
285	e_Abels_7-26-15	<p><b><u>False Claims and Inaccuracies:</u></b></p> <p>The DEIS quotes Keith Hunter (not a Makah tribal member), "all dissent regarding whaling was healed the day the whale was killed." Where do I begin? Alberta Thompson was a courageous and honorable Makah Elder. I will always have great respect for her. She frequently told us how she was threatened and bullied while on the reservation. The day the whale was killed there was "no opposition by tribal members" because Alberta was thrown off the reservation and forced to live elsewhere. Many other Makah members came to us and discussed their opposition to the hunt, but were intimidated into silence. One afternoon staying at Snow Creek, a Makah member stood on an overlook above the campground and fired their .22 over our campers. The police were called and the shell casings were found. At the public hearing in Port Angeles several activists were threatened. My impression is that the pro whaling faction can be pretty intimidating.</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
286	e_Abels_7-26-15	The DEIS states that many tribes support the Makah. They support their “right” not whaling. Many tribes asked them to not go whaling.	The comment provides no evidence to support the assertion made.
287	e_Abels_7-26-15	<p>The DEIS blames “antiwhaling activists for targeting Muckleshoot, Puyallup and Tulalip tribes for supporting the Makah hunt.” Once and for all this was a protest about the action of whaling, not against the Makah. I was one of the many protesters who was in the area regularly and involved regularly. There was 1 person who suggested going after tribal casinos. It was immediately shot down because we were about stopping the action of whaling. Going after other tribes or their assets was inappropriate, unnecessary and counterproductive. This person was separated from the antiwhaling community.</p> <p>The DEIS also blames the antiwhaling activists for death threats to a tribal school?? This is news to me. The DEIS can’t hold the antiwhaling activists accountable for all the wingnuts in society. So don’t paint us with the same brush. This does speak to the “negative social affects” the hunt has had and will have. The antiwhaling protesters went to great lengths to monitor and censor words and actions on our side. To be respectful even in the face of some very harsh words and physical threats. We have no control over other members of society who do have inappropriate thoughts and decide to express them.</p>	Comments noted. The discussion provided in the DEIS is based on a Seattle Times article by Janet Burkitt (1999) titled "Sound Tribes Feel the Impact of the Hunt" which noted that "Yesterday, the Puyallup Tribe's Chief Leschi School was evacuated after an unidentified caller claimed that a bomb had been planted there in retaliation for the tribe's support of the Makahs' whale hunt."
288	e_Abels_7-26-15	The only racism I witnessed was when I was standing on the road protesting near Neah Bay. Multiple youth would drive by and yell, “White people smell like wet chickens!” I’m sure it was an attempt to bait someone into saying something. They were disappointed when we waved and smiled. I personally always found that statement funny. Cluck Cluck!	Comments noted.
289	e_Abels_7-26-15	Another misrepresentation was that the Makah stayed and butchered the whale that they killed. We have video of NMFS and Inuit members butchering the whale on the beach. You can hear them ask, “Where are the Makah?” If this was a ceremonial/cultural hunt, why did they leave and why were Makah youth doing backflips off the dead whale. Their ancestors showed more respect to the whales that were sacrificed to aid in their survival.	<p>We disagree with the commenter's assertion that we misrepresented the butchering of the whale killed in the 1999 hunt; the DEIS notes the following:</p> <p>"The whale was butchered following tribal ceremonies"</p> <p>"Tribal members removed almost all edible portions of the meat and blubber from the whale by midnight"</p>

Sort #	Commenter Code	Comment	Response
			<p>"Tribal members flensed small portions of meat the next day to prepare the skeleton for a museum display"</p> <p>"Tribal members consumed the meat and blubber during tribal ceremonies"</p> <p>Subsection 1.4.2 Summary of Recent Makah Whaling — 1998 through 2014</p>
290	e_Abels_7-26-15	<p><b>International Impact:</b></p> <p>In the DEIS the only argument against the precedent setting effect of the Makah hunt to Japan's proposed coastal/cultural whaling was that if they haven't done it yet they aren't going to. Really?? Did it cross your minds at any point that maybe they are waiting for all the litigation to settle to see where it all shakes out? I found it interesting the day the Makah killed the whale that there were multiple cars heading to Neah Bay with Japanese passengers.</p>	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
291	e_Abels_7-26-15	Given the Makah were offered money by Japan to kill whales and FOIA documents showing they wanted a processing plant to sell the whale meat, there is more to this than NOAA appears ready to disclose (or admit to).	The comment provides no evidence to support the assertions made. Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.
292	e_Abels_7-26-15	It is note worthy that the only way the Makah could get a quota was not on their own merits, but only if they were shackled to the bowhead quota. Also, outside the IWC meetings and behind closed doors. Interesting. 80 year absence in whaling is hard to argue being so necessary to their subsistence.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
293	e_Abels_7-26-15	<p><b>NOAA/NMFS bias:</b></p> <p>There is an inherent bias by NOAA/NMFS towards the Makah. FOIA documents demonstrated that NOAA gave the EA to the Makah first to edit, change the science and then put out for public comment. This bias was a pivotal argument in our lawsuit. I look at NMFS in Neah Bay as having Stockholm</p>	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.



Sort #	Commenter Code	Comment	Response
		<p>Syndrome. They only hear one side of the argument repeatedly over a protracted period of time and they start to believe it and accept it as fact. It's human nature, you can't avoid it. I look at NOAA as the Republican Party. If you tell a lie often enough it starts to sound true. NOAA repeatedly goes to the IWC and argues on behalf of the Makah to obtain a quota. So if NOAA/NMFS argue on behalf of the Makah and change the science for the Makah then you believe it and agree with it. So any outside argument against it will be automatically dismissed. It was interesting that the Makah (and non-Makah) who favor whaling are quoted in the DEIS, but no quotes from the antiwhaling community and sadly Alberta passed away so her voice is silent. You will probably argue that this whole DEIS was because of the antiwhaling activists. Our perspective was never put in the DEIS, especially, with regards to the criticisms and accusations against the antiwhaling activists. We weren't given equal time. We were also misrepresented in the DEIS and accused of things we didn't do. Again, demonstrates bias.</p>	
294	e_Abels_7-26-15	<p><b><u>Some final thoughts:</u></b></p> <p>In 2000 I had several Congressmen and Senators, local and federal, who were willing to cede Makah traditional land back to the Makah in exchange for not whaling. There would have been no amendments to their Treaty, just an agreement to not whale. The Makah just had to say yes and the deal would have gone to the appropriate committees to be finalized. Assistance was offered to the Makah repeatedly to start ecotourism and to start a whale watching operation which, as stated in the DEIS, is a \$2 billion industry. We offered many ideas to promote the Makah and increase tourism. If the Makah had offered a whale watching trip that incorporated a "mock" whale hunt and ceremony, I would be all over that. Take the canoe out and throw a non-lethal harpoon at the whale then wish it well on its journey, I would pay good money to see that!!</p> <p>The DEIS speaks to the Makah's continued challenges for reliable income. First, welcome to our crappy economy. Second, whaling isn't going to help that. Third, the antiwhaling activists stand at the ready to help the Makah if they abandon whaling.</p>	<p>This comment makes factual assertions but does not provide supporting evidence that would allow us to consider the information asserted. Please see the response to frequent comment # 9 regarding non-lethal action alternatives.</p>
295	e_Abels_7-26-15	<p>Given the changing climate and not knowing what happens next I feel it's a bad idea to hunt whales. The great whales were on the brink of extinction due to human hunting and now I fear because of how we treat our environment. When I repeatedly see "from the data available" it tells me that far more research is needed. In medicine they say rule number one, "is first do no harm". NOAA needs to embrace that philosophy.</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
296	e_Abels_7-26-15	<p>In 1979 Congress found, “marine mammals have proven themselves to be resources of great international significance, aesthetic and recreational as well as economic.” Congressional Record, V. 147, Pt. 9, June 26, 2001 to July 16 2001 refers to whales as “among the most intelligent animals on Earth, and they play an important role in the marine ecosystem...The right policy is to protect whales around the globe...” The link below is a great example of the intellect of whales: <a href="http://www.goodhousekeeping.com/life/a33456/beluga-whale-boy-funny-video/">http://www.goodhousekeeping.com/life/a33456/beluga-whale-boy-funny-video/</a></p>	Comments noted.
297	e_Abels_7-26-15	<p>I’ve been to the breeding lagoons in San Ignacio. We were in a small boat, shut off the engine to float and watch whales. It wasn’t long that we were approached by a mother and calf. The calf wanted to stay away, but the mother nudged the whale towards the humans. Of course, we were quite animated in our excitement. The mother rolled on her side and watched the goofy humans go nuts over the calf. The calf seemed to enjoy being rubbed by the humans. A little while later the mother nudged the calf away from us and moved off. Kind of struck me like the Mom was saying, “Ok junior, we have things to do. Time to go.” Another adult spy hopped next to the boat. She was so huge and was leaning over our boat. She started to drop down back into the water. I was terrified that she was going to take us out. However, she gently moved over, glided down and missed us. She had an awareness of us. Another juvenile came over and gently pushed our boat then spy hopped next to us. Then nudged us and spy hopped. Again, she seemed to have an awareness of how fragile we were and seemed to respond to our squeals of delight. What other animals in the wild “play” with humans? What other animal in the wild “encourage” their young to interact with humans?? For all we are doing to the whales, they continue to show us a humanity humans don’t deserve!</p> <p>Sandra Abels Please do not publish my contact information.</p>	Comments noted.
298	Greene (Makah Tribe)_7-31-15	<p>Dear Mr. Stone,</p> <p>The Makah Indian Tribe submits the following comments on the National Marine Fisheries Service, West Coast Region’s February 2015 Draft Environmental Impact Statement (DEIS) on the Makah Tribe request to hunt gray whales pursuant to its treaty right secured in the 1855 Treaty of Neah Bay.</p> <p>The Tribe’s comments focus on aspects of the DEIS alternatives which could deprive Tribal members of reasonable and viable hunting opportunities. The Tribe also submits three documents it prepared over the past several years analyzing legal issues that have arisen during the EIS process. While these documents have been submitted to NMFS previously, we want to ensure they are</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>part of the record for the EIS and NMFS' decision on the Tribe's application for a waiver under the Marine Mammal Protection Act.</p> <p>The Tribe's comments are narrowly focused and should not be construed as agreement with or endorsement of other information or analyses in the DEIS.</p> <p><u>Comments on Hunt Restrictions in DEIS Alternatives</u></p> <p>The Tribe's waiver request proposes a hunt which would enable it to resume treaty whaling and take an average of four gray whales per year. To address conservation and other concerns, the Tribe proposed a season lasting six months (December through May), excluding hunting during summer months, when whales would be most readily available and easily hunted. The Tribe also proposed to limit the area of the hunt to waters of the Pacific Ocean, excluding the Strait of Juan de Fuca where whales could most easily be hunted. In addition, the Tribe proposed an annual limit on strikes and struck and lost whales of seven and three, respectively, and proposed an additional limit on bycatch or PCFG whales using a PBR-based formula, which could end the hunt in any year before the annual limits on strikes or struck and lost whales were reached.</p> <p>Notwithstanding these and other restrictions described in the Tribe's waiver application, the Tribe believed its proposed hunt would provide reasonable and viable hunting opportunities for its members, keeping in mind the extensive physical and spiritual preparation required to hunt whales. The Tribe came to this conclusion because it believed its proposal would provide a realistic opportunity to harvest an average of four whales and up to five whales in a year, as described in its waiver request.</p> <p>The Tribe's proposed hunt was analyzed in detail by the International Whaling Commission's Scientific Committee from 2010 through 2013, with a particular emphasis on the impacts to PCFG whales, and the IWC concluded that the hunt satisfied the conservation standards of the IWC. These standards are similar in many respects to the standards under the MMPA.</p>	
299	Greene (Makah Tribe)_7-31-15	<p>The Tribe is concerned that several restrictions included in DEIS alternatives 2 through 6 would impose substantial limits beyond those proposed by the Tribe and impede the Tribe's objective of providing reasonable and viable hunting opportunities for its members. The Tribe describes key areas of concern below, noting that this is not an exhaustive list, and requests that NMFS consult with the Tribe before determining whether to include such restrictions in proposed regulations governing the Tribe's hunt.</p>	<p>Comments noted. Alternative 3, the offshore hunt, was included to explore whether an offshore hunt would have different impacts on PCFG whales, in response to public comments.</p>

Sort #	Commenter Code	Comment	Response
		<p>• Offshore Hunt.</p> <p>Alternative 3 analyzes a hunt that would take place at least five miles from shore. The Tribe does not consider the offshore hunt to be a viable hunt for several reasons. Recent surveys by the Tribe's marine mammal biologist out to eight miles from shore indicate that gray whales are far less available during the winter and spring at distances greater than five miles than they are closer to shore. Beginning in 2011, the Tribe conducted surveys following two general routes through the Makah ocean U&amp;A. The first route traveled southbound between one and three miles from shore and northbound five miles from shore. The Tribe also conducted surveys in a "sawtooth" pattern, extending out to sea some seven to eight miles and returning to nearshore locations (commonly identified by sea lion haulouts). This same pattern was repeated several times between Tatoosh Island and Sea Lion Rock (47° 59.58' N, 124° 43.45' W). The results of these surveys are depicted in Table 1, which shows that from 2011 through 2014, only 30% of the gray whales sighted in the Tribe's surveys were present greater than five miles from shore during the December through May time period.</p> <p>Table 1. Gray whales observed by year by distance from shore (Dec-May, 2011-2015).</p> <p>Including 2015 sightings, where a large number (&gt;100) of gray whales were sighted in the vicinity of Tatoosh Island (i.e., less than two miles from shore), the percentage of whales sighted in the past five years (2011-2015) greater than five miles from shore would be approximately 15% (Table 1). The data, which are mapped in Attachment 1<sup>1</sup>, suggest that the greatest probability of sighting a whale during this time period occurs within three miles of shore. <sup>1</sup> The map depicted in Attachment 1 includes gray whale sightings in the Strait of Juan de Fuca. These sightings outside of the Tribe's proposed hunting area are not included in the data in Tables 1 and 2.</p> <p>Table 2. Gray whales observed by month by distance from shore (2011-2015).</p> <p>These data demonstrate that it will be more difficult to find gray whales greater than five miles from shore in the winter and spring even if, as the DEIS assumes, the Tribe were to use motorized vessels in the hunt. In two of the years, no whales were sighted greater than five miles from shore (Table 1), and in no</p>	

Sort #	Commenter Code	Comment	Response
		<p>years were whales sighted this distance from shore during May when weather conditions are more likely to be favorable (Table 2).</p> <hr/> <p><sup>1</sup>The map depicted in Attachment I includes gray whale sightings in the Strait of Juan de Fuca. These sightings outside of the Tribe's proposed hunting area are not included in the data in Tables I and 2.</p>	
300	Greene (Makah Tribe)_7-31-15	The efficiency of a canoe-based hunt, the Tribe's preferred method, would be even lower than a motorized hunt due to slower travel speeds.	Comment noted.
301	Greene (Makah Tribe)_7-31-15	There also does not appear to be any identifiable conservation benefit to either PCFG or WNP gray whales by restricting the hunt to areas five miles from shore. As the DEIS describes, the scant data regarding the presence of such whales in the offshore hunt area required NMFS to assume that they are available in the same proportion as in areas within five miles. (DEIS 4-22, 4-92, 4-96 to 4-97) Thus, the DEIS concludes that there is a similar risk to WNP whales from the offshore hunt and the Tribe's proposed hunt (DEIS 4-92) and that PCFG whales would remain viable under either alternative (DEIS 4-96).	We agree that, with respect to the offshore hunt alternative (Alternative 3), there are limited data regarding the offshore distribution of WNP and PCFG whales.
302	Greene (Makah Tribe)_7-31-15	<ul style="list-style-type: none"> <li>Struck and Lost Limit less than three.</li> </ul> <p>Either as an express limit or through the operation of a PCFG mortality or bycatch limit, some alternatives could result in a struck and lost limit less than three, which would in practice be rounded down to one or two struck and lost whales per year. A hunt which could end after a single struck and lost whale (or even after two struck and lost whales) would not be conducive to establishing the regular hunting opportunities for multiple whales per year that the Tribe seeks (and which are necessary to justify the extensive preparation required of Tribal whalers). Particularly as the Tribe resumes hunting after the hiatus since the successful 1999 hunt, a hunting opportunity where a single mistake or accident (or even two mistakes or accidents) could end whaling for the entire year for all tribal members, does not realistically allow for the Tribe to reinvigorate its whaling culture and meet its subsistence needs.</p>	Comments noted.
303	Greene (Makah Tribe)_7-31-15	Moreover, such a restrictive struck and lost limit does not appear necessary to conserve PCFG whales, as demonstrated by the IWC's analysis of the Tribe's proposed hunt with its struck and loss limit of three whales. (DEIS 3-157 to 3-161 and 4-66 to -67)	Comments noted. Ultimately NMFS must make a decision on the tribe's request based on the standards under the MMPA and WCA.
304	Greene (Makah	<ul style="list-style-type: none"> <li>A Short Hunting Season (or a Season Restricted by Severe Weather).</li> </ul> <p>Alternative 5 would restrict the hunt to two three-week periods in December and May in an effort to reduce impacts to both PCFG and WNP</p>	While we recognize that short hunting seasons could make it more difficult for the tribe to hunt whales, the

Sort #	Commenter Code	Comment	Response
	Tribe)_7-31-15	whales. A hunting season measured in weeks rather than months is unlikely to allow the Tribe to harvest multiple whales per year and could discourage Makahs from making the substantial commitments of time and resources necessary for a whaling crew to adequately prepare for and conduct a successful hunt.	report from the 2000 hunt (Gearin and Gosho 2000) demonstrates that the tribe was not discouraged and was able to launch multiple hunting expeditions in a single week during which the tribe approached 25 whales and made two strike attempts.
305	Greene (Makah Tribe)_7-31-15	Limiting hunting seasons to mid-winter when dangerous weather is likely (such as in December) compounds the problem of a short season. As with a hunt restricted to one or two struck and lost whales per year, the Tribe does not believe that a hunting season with restrictions like those in Alternative 5 would enable it to conduct a viable hunt.	Comment noted; DEIS subsection 3.15.3.2.2 (Description of Weather and Sea Conditions in the Project Area) notes that "[i]nclement weather during November to March would likely result in only 5 to 7 days with favorable conditions per month (on average) during that period, followed by an increase to 13 to 23 days per month in April and May."
306	Greene (Makah Tribe)_7-31-15	<ul style="list-style-type: none"> <li>Harvest of only one whale per year or an Intermittent Hunt.</li> </ul> <p>Some alternatives could have the effect of limiting the hunt to a single harvested whale per year through the operation of a PCFG mortality limit using a fraction of the PBR calculated for the PCFG. Alternative 4 would result in a likely maximum harvest of one whale per year (DEIS 4-28), while Alternative 5 could result in a multi-year hiatus in the hunt if a PCFG whale is landed (DEIS 4-32). A hunt limited to the harvest of a single whale per year or a hunt that could occur less frequently than every year would not achieve the Tribe's objective of a viable hunt and could discourage Makahs from committing the time and resources necessary to adequately prepare to whale.</p>	<p>Comment noted; DEIS subsection 4.10.3.4.2 (Subsistence Use) acknowledges that "[b]ased on the high percentage of Makah residents desiring whale products for consumption and use, limiting the number of whales harvested to one would likely not meet the Makah's need for whale products."</p> <p>The DEIS also considers the impact of alternatives on the management goal of avoiding local depletion of PCFG whales.</p>
307	Greene (Makah Tribe)_7-31-15	Furthermore, the fractional PBR used in these alternatives does not appear necessary to conserve PCFG whales based on the IWC's analysis of the Tribe's proposed hunt, which does not utilize such a restriction to limit the impact to PCFG whales.	Comments noted. Ultimately NMFS must make a decision on the tribe's request based on the standards under the MMPA and WCA.
308	Greene (Makah	Even if the PCFG mortality limit were based on PBR without a fractional multiplier (e.g. Alternative 6), the hunt could still be severely restricted if the calculation of	We acknowledge and report on the utility of the IWC's modeling (see DEIS

Sort #	Commenter Code	Comment	Response
	Tribe)_7-31-15	human-caused mortalities changes from NMFS' current practice. The IWC's review incorporated a level of human-caused mortality 4.5 times greater than the current level utilized in the gray whale stock assessment report (SAR) and still found that the Tribe's proposed hunt satisfied the IWC's conservation standard. (Scordino and Mate, 2011; IWC/64/Rep 1 Annex E at 28) Thus, a somewhat higher level of human-caused mortality of PCFG whales than is currently accounted for the SAR should not pose a threat to the PCFG's viability.	Subsection 3.4.3.3.4, ENP Status, Carrying Capacity, and Related Estimates, and Subsection 4.4.2.3, Change in Abundance and Viability of PCFG Whales). Ultimately NMFS must make a decision on the tribe's request based on the standards under the MMPA and WCA
309	Greene (Makah Tribe)_7-31-15	<p><u>Makah Analysis of Pertinent Legal Issues</u></p> <p>The Tribe submits three documents with these comments which explain the Tribe's position on pertinent legal issues that have arisen since the Tribe submitted its request in 2005. These documents were submitted to NMFS and other entities as part of the Tribe's ongoing analysis of the applicable law and scientific information relevant to its request to hunt gray whales. While the Tribe understands that the purpose of the EIS is to collect and analyze information regarding impacts and not to resolve legal issues, it wants to be sure that these documents are included in the administrative record for the EIS and any subsequent waiver process under the MMPA.</p> <p>The following documents are attached:</p> <ul style="list-style-type: none"> <li>• Attachment 2. Is the Pacific Coast Feeding Group of Gray Whales a "Population Stock" within the Meaning of the Marine Mammal Protection Act? (Oct. 5, 2011).</li> <li>• Attachment 3. Letter to Stone and Ragen re analysis of the MMPA, the Tribe's treaty whaling right, and Kokechik Fishermen's Association v. Secretary of Commerce and other federal court decisions (Nov. 20, 2012).</li> <li>• Attachment 4. Comments on the 2014 Draft Stock Assessment Report for the Western North Pacific Stock of Gray Whales (April 29, 2015).</li> </ul> <p>The Tribe recognizes that new scientific information has become available since it prepared these documents. For example, new information regarding the PCFG provides further support for the Tribe's view, expressed in its October 5, 2011, memorandum, that the PCFG is not a population stock within the meaning of the MMPA. In addition, new information, particularly the results of the IWC's review of the Tribe's proposed hunt, provides further support for the Tribe's view, expressed in its November 20, 2012, letter, that its proposed hunt meets the criteria for a waiver of the take moratorium under the MMPA. Nevertheless, the Tribe believes it is important to include these documents in the</p>	Comments and documents noted and reviewed.

Sort #	Commenter Code	Comment	Response
		<p>record to provide a baseline for the Tribe's views regarding key legal issues that may arise in the waiver process.</p> <p>***</p> <p>The Tribe sincerely appreciates the years of hard work that have gone into the preparation of the DEIS. The agency's thorough analysis of a tremendous amount of relevant scientific information is truly impressive. Please do not hesitate to contact me if you have any questions regarding the Tribe's comments.</p> <p>Sincerely yours,  MAKAH TRIBAL COUNCIL  [Greig W. Arnold for]  Timothy J. Greene, Sr., Chairman</p> <p>Attachments</p>	
310	Lent (Marine Mammal Commission )_7-31-15	<p>Dear Mr. Stelle:</p> <p>The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Draft Environmental Impact Statement (DEIS) prepared by the National Marine Fisheries Service (NMFS) in response to the request by the Makah Tribe (the Tribe) to resume hunting gray whales. In its review, the Commission has considered the goals, policies, and requirements of the Marine Mammal Protection Act (the MMPA) and offers the following comments and recommendations.</p> <p>The Commission believes that the DEIS meets the requirements of the National Environmental Policy Act (NEPA) and responds to the major points raised in its 27 August 2012 letter concerning the Notice of Intent to prepare the DEIS. While the DEIS took considerable time to prepare, the Commission recognizes the extensive efforts made by NMFS to solicit input from the Tribe and from the public, and the careful attention given to describing the affected environment. The range of Alternatives analyzed in the DEIS is sufficient for the needs of NEPA, although the Commission notes that NMFS did not consider Alternatives that would authorize the take of more whales than under the Alternative proposed by the Tribe or apportioned to the United States under the catch limit adopted by the International Whaling Commission (IWC). The Commission agrees that there is little need for the EIS to consider higher take levels than are being sought or than are allowed under international law, but doing so could help decision-makers assess the relative impacts of the requested</p>	Comments noted.



Sort #	Commenter Code	Comment	Response
		take level against other possible removal levels. Overall, the DEIS provides scientific, socio-economic, cultural, and other relevant information to help NMFS draft the proposed rule, and to inform parties to the rulemaking and others as they develop input on the six Alternatives considered and on other possible Alternatives as part of the regulatory process.	
311	Lent (Marine Mammal Commission )_7-31-15	<p><b>Background</b></p> <p>The Makah Tribe submitted a request to NMFS in February 2005 seeking authorization under the MMPA to resume treaty-based hunting of eastern North Pacific (ENP) gray whales (<i>Eschrichtius robustus</i>) for ceremonial and subsistence purposes in the coastal portion of the Tribe’s usual and accustomed (U&amp;A) hunting and fishing area. NMFS prepared the 2015 DEIS to analyze various Alternatives, including the Tribe’s proposed action (Alternative 2), and to consider the impacts on gray whales, including the ENP stock, the Pacific Coast Feeding Group (PCFG), and the western North Pacific (WNP) stock. In addition, the DEIS considers the potential impacts on marine waters, pelagic and benthic species, other protected species, and numerous aspects of the human environment.</p>	Comments noted.
312	Lent (Marine Mammal Commission )_7-31-15	<p>NMFS has thus far refrained from recognizing the PCFG gray whales as a separate population stock under the MMPA. However, the agency has calculated the Potential Biological Removal (PBR) level for this group of whales in the most recent Pacific Stock Assessment Reports (Carretta et al. 2015) and, in view of the uncertainty about these whales’ population status, the DEIS has chosen to treat the PCFG as a stock for the purpose of the rulemaking. The Commission agrees with this precautionary approach.</p>	<p>The DEIS action alternatives capture a range of approaches to a stated goal of the tribe’s application, which is to “avoid local depletion” of the PCFG. The NMFS gray whale SAR echoes this management goal in calculating and presenting a PBR for the PCFG. This is a precautionary approach, but is not the same as treating the PCFG as a stock for the purpose of this rulemaking. The tribe has requested a waiver of the MMPA take moratorium only for ENP gray whales, and any subsequent rulemaking by NMFS in this proceeding will apply only to the ENP gray whale marine mammal stock.</p>
313	Lent (Marine Mammal	Similarly, the present state of understanding of gray whale movements and population structure throughout the North Pacific does not allow a definitive	We consider the SAR process as the appropriate mechanism for

Sort #	Commenter Code	Comment	Response
	Commission )_7-31-15	<p>answer to the question of how the whales that migrate from East Asia to North America should be classified or categorized. A recent analysis for the IWC Scientific Committee concluded that more than a third (possibly many more than a third) of the gray whales that feed in summer off Sakhalin Island, Russia, migrate to North America in the autumn and likely overwinter in the Mexican breeding grounds along with the ENP stock before returning to Russia in the spring (IWC in press). The Sakhalin feeding group nevertheless shows very strong site fidelity to feeding areas in Russia, and genetic studies using both mitochondrial and nuclear markers have demonstrated significant differentiation between Sakhalin gray whales and ENP gray whales (Leduc et al. 2002; Lang et al. 2011; Weller et al. 2012). Therefore, until understanding improves, the Commission considers it appropriate for NMFS to treat these trans-oceanic migrants as a separate unit to conserve. In other words, WNP gray whales should effectively be treated as a stock for the purposes of assessment and management in the United States, and this is the approach being taken by NMFS in its Stock Assessment Reports as well as this DEIS.</p> <p>The Makah's request describes the history of whaling by the Tribe, noting that whaling began at least 1,500 years ago and was central to the Makah way of life until the early 20th century. Whaling contributed to the Tribe's subsistence needs and helped to shape and maintain social and cultural functions. The importance of whaling to the Tribe was reflected in the wording of the 1855 Treaty of Neah Bay, which explicitly reserves the Tribe's whaling rights – the only treaty with a U.S. tribe that does so. While the Tribe's engagement in whaling declined over the past century due to many factors – most of them beyond the Tribe's control – whaling remains a big part of the Makah's self-identity and traditions. The Commission notes that Tribal representatives have worked closely with the U.S. delegation to the IWC to ensure the recognition of Makah whaling as an aboriginal subsistence hunt. Moreover, the IWC has provided a catch limit (apportioned between Russia and the United States) so the Makah Tribe can take a small number of ENP gray whales.</p>	<p>designating population stocks of marine mammals under the MMPA and will continue to rely on that process for consideration of the best available scientific information in recognizing North Pacific stocks of gray whales.</p> <p>We note the comment regarding the tribe's treaty and whaling history.</p>
314	Lent (Marine Mammal Commission )_7-31-15	<p><b>Primary Concerns</b></p> <p>In reviewing the Tribe's request, particularly as it relates to the MMPA's waiver requirements (Sections 101(a)(3)(A) and 103), the Commission is primarily interested in the following issues, in order of importance:</p> <p>1) Risk of killing or injuring a WNP gray whale (although from a legal perspective all types of unauthorized take, not just killing or injuring a whale, are of concern);</p>	<p>The DEIS presents action alternatives that enable agency decision-makers to evaluate these four issues.</p>

Sort #	Commenter Code	Comment	Response
		<p>2) Risk of having negative impacts on PCFG gray whales;</p> <p>3) Ensuring that the ENP gray whale stock is at and remains within its optimum sustainable population; and</p> <p>4) Balancing the Tribe’s desire to use traditional hunting methods with the goals of achieving hunting efficiency and humaneness.</p>	
315	Lent (Marine Mammal Commission )_7-31-15	<p><b>Analysis of Alternatives</b></p> <p>The Commission’s comments on each of the six Alternatives are presented below, focusing primarily on the four concerns noted above. Each of the Alternatives contains a number of elements that would have a bearing on these concerns, notably: (1) the timing and location of the hunt; (2) the cap on total take (primarily landings and strikes), including how that cap is apportioned between ENP and PCFG whales and the implications of taking a WNP whale; and (3) the hunting methods (e.g. type(s) of vessel, method(s) of propulsion, weapon(s) used). The Commission notes that the other potential impacts listed in the Summary Table ES-1 would be similar across all action Alternatives or be in proportion to the number of whales taken. The Commission provides its recommendations for the elements to be included in a final, preferred Alternative, based on review of the six Alternatives.</p> <p><b>Alternative 1 - No Action Alternative</b></p> <p>The No Action Alternative is basically the status quo, i.e., no hunting of gray whales by the Tribe would be allowed. As explained in the DEIS, the IWC has authorized, based on the joint request of the Russian Federation and the United States, a catch limit of 744 whales over the six-year period from 2013 to 2018, provided that no more than 140 whales are taken in any given year. Under a bilateral agreement, in the absence of a Makah gray whale hunt, or if the Makah hunt yields fewer whales than the number assigned to the United States, a transfer arrangement may be agreed such that the Chukotka Natives in Russia are allowed to take the “unused” portion of the U.S. allocation. Given the location of the Russian subsistence hunting, it is unlikely that any PCFG whales or WNP whales would be taken by Russia. However, there is a reasonable probability that the portion of the overall catch limit for ENP gray whales allocated to the United States would be harvested by Russia.</p> <p>Alternative 1 would deny the Tribe’s request for a waiver, therefore rendering the community unable to conduct its treaty-recognized, traditional subsistence hunting activities legally, and this would further erode the Tribe’s spiritual and cultural connection to whaling. As noted in the DEIS, the Makah</p>	These introductory comment are noted; specific responses are provided below.

Sort #	Commenter Code	Comment	Response
		community's access to whale products would be limited to making use of drift (dead stranded) whales, to the extent that such use is allowed under applicable law. The cultural value of such usage would be limited given that the salvaging of drift whales is not a Makah traditional practice and is not the type of whaling right recognized in Article 4 of the Treaty of Neah Bay.	
316	Lent (Marine Mammal Commission )_7-31-15	<p><b>Alternative 2 - Makah Tribe's Proposal</b></p> <p>Of the six Alternatives identified in the DEIS, Alternative 2 has the greatest potential impact on PCFG and WNP whales and therefore can be viewed as the least precautionary. A cap on the number of PCFG whales harvested (i.e. struck or landed) is based on a calculation of the PBR level for the PCFG, even though this group of whales is not yet formally recognized by NMFS as a separate stock. The PBR calculation in the Makah proposal uses a recovery factor of 1.0, which is less precautionary than the recovery factor of 0.5 used by NMFS in its most recent draft Stock Assessment Report owing to the uncertainty of whether the PCFG qualifies as a population stock under the MMPA and, if so, what its status is. While there is a cap on the number of whales that can be struck and lost (3 whales), these would not count against the PCFG cap. In addition, the PBR calculation used to establish the PCFG cap does not reflect sources of human-caused mortality other than whaling (e.g. fishing, ship strikes). The resulting average allowable annual take of 4 PCFG whales (and up to 5 in one year) is the highest of any of the Alternatives. Given that the hunt under Alternative 2 would be conducted during a period that includes the times when WNP gray whales are most likely to migrate through the Makah U&amp;A hunting area, this Alternative also has the highest estimated probability of interactions with WNP gray whales, with near certainty that at least one of them would be approached, and a probability of around 35 percent that an unsuccessful harpoon attempt on a WNP would be made over a six-year period.</p> <p>The Commission believes that (a) the calculation used to determine a limit on removals should reflect the uncertainty surrounding the question of whether the PCFG is a population stock, (b) struck and lost whales, and the possibility that they are PCFG whales, should be accounted for in some way, and (c) all sources of human-caused injury and mortality should be considered in setting the cap for whaling.</p> <p>The Tribe proposed that the hunt be conducted with a combination of traditional and "modern" methods, using canoes and motorized vessels as well as harpoons and high-powered rifles. When a whale is targeted for harvest, a Tribal hunter in a canoe would attempt the first strike using a stainless steel harpoon</p>	<p>Regarding the uncertainty around whether the PCFG is a population stock, we note that the tribe's proposal, and all of the alternatives, include measures to protect against "local depletion." While a management goal to protect against "local depletion" is not necessarily the same as the MMPA management goal of avoiding "disadvantage" to a marine mammal stock (16 U.S.C. 1373(a)) it does focus on maintaining the PCFG as a functioning element of its ecosystem, within a "pseudo" OSP range.</p> <p>Regarding struck and lost whales, we agree that any management of a hunt should include a method of accounting for all mortality of PCFG whales.</p> <p>Regarding the observation that any management of a hunt should take into account all sources of human-caused mortality, this observation caused us to reconsider our analysis, because it did not account for human-caused mortality outside of U.S. waters, and a further investigation of that issue led us to conclude that we lack reliable information to estimate that mortality. Any future decision-</p>

Sort #	Commenter Code	Comment	Response
		<p>with a toggle point, which is secured to a rope with floats attached. This would be followed by a Tribal hunter on a motorized chase boat shooting the whale at close range with a high-powered, .50-caliber rifle. As noted in the DEIS, the .50-caliber rifle proposed by the Makah is more powerful than the .22 to .32-caliber rifles used by Chukotka Natives in Russia for hunting gray whales, and the .50-caliber rifle has been demonstrated to be effective in killing gray whales humanely. Alternative 3 (discussed below) proposes the use of a somewhat higher-caliber gun (0.577) than the .50-caliber rifle proposed by the Tribe. Although not included in the Makah proposal, the DEIS proposes in Alternatives 2 (as modified from the Makah proposal), 4, 5, and 6 the possible use of a hand-thrown darting gun or a shoulder gun to fire an explosive projectile into the whale (black powder or penthrite). The Commission believes that the .50-caliber rifle may be sufficient to address its concern that the hunting method strive to shorten the time to a whale's death, and avoid losing struck whales.</p>	<p>making would need to account for this consideration.</p> <p>We note the comment regarding tribes proposed weapon for killing whales.</p>
317	Lent (Marine Mammal Commission )_7-31-15	<p><b>Alternative 3- Offshore Hunt</b></p> <p>This Alternative is similar to Alternative 2, but differs in several respects. First, it would require whaling activities to be conducted further from shore, with initial strikes occurring at least 5 miles off shore. This proposed hunting-area restriction stems from public comment expressing concern about gun shots and other hunting operations occurring close to shore, possible disturbance of wildlife (including birds) on the shoreline and on rocks and islands, and impacts on PCFG whales, which tend to feed closer inshore. Alternative 3 is also more conservative (i.e., more risk-averse or precautionary – with regards to whale conservation) than Alternative 2 by establishing lower caps on the annual number of strikes (6 vs. 7), the annual number of struck and lost whales (2 vs. 3) allowed, and the number of PCFG whales that can be harvested (using a recovery factor of 0.5 vs. 1.0 in the PBR calculation), and by setting a specific cap on the number of female PCFG whales that can be harvested. Any struck and lost whales would be deducted from the harvest limit based on the proportion of PCFG whales in the Makah U&amp;A area during that season. The probability of approaching a WNP whale is equivalent to that in Alternative 2, with slightly less likelihood of a strike or unsuccessful harpoon attempt given the lower number of strikes allowed.</p> <p>The Commission notes that this offshore requirement would significantly alter the very nature of the hunt since it would need to be conducted with motorized vessels only. The request by the Tribe is based on a strong interest in adherence to cultural traditions, and the use of canoes is an important aspect of</p>	<p>The DEIS explores the implications of the offshore hunt, including issues raised in these comments, in 2.3.3 Alternative 3 (Offshore Hunt); and 4.1.3 (Alternative 3, Offshore Hunt) (as well as in various resource-specific subsections in Section 4, Environmental Consequences).</p>

Sort #	Commenter Code	Comment	Response
		their traditional hunting practices. Furthermore, hunting farther from shore in small vessels presents more risk to the hunters.	
318	Lent (Marine Mammal Commission )_7-31-15	The impacts on PCFG gray whales under this Alternative would be slightly less than Alternative 2, not only because of the distance from shore, but also because of the lower caps on mortality of PCFG whales as a whole and specifically on female PCFG whales, and because it accounts for struck and lost whales in proportion to the presence of PCFG whales in the hunting area.	Comments noted.
319	Lent (Marine Mammal Commission )_7-31-15	<p><b>Alternative 4 – Summer/Fall Hunt</b></p> <p>The Summer/Fall hunt Alternative, which is exactly the opposite in timing to the Makah proposal, would virtually rule out any potential direct impacts on WNP gray whales, given what we currently know about the timing of their presence off the Washington coast. It is therefore the most precautionary Alternative in terms of avoiding WNP whales; however, it also would virtually ensure that the whales taken will be from the PCFG, since this would be the peak time at which the PCFG would be in the Makah U&amp;A area. This Alternative also requires hunters to approach only known males. The higher PCFG interaction rate under this Alternative is also addressed through a stricter cap on the number of strikes and whales landed, counting all struck and lost whales against the PCFG cap, and reducing the cap by other known sources of human-caused mortality. While the Commission supports measures to minimize potential interactions with WNP gray whales, Alternative 4 would result in a very small number of whales harvested each year – a maximum of one gray whale. Furthermore, it is estimated that it would take the Tribal hunters around seven days to locate and strike a known male, according to the Makah’s analysis that is supported in the DEIS. The Commission believes that other options for the timing of the hunt could better balance the desire to limit the possibility of WNP interactions with the potential impacts on PCFG whales.</p>	Comments noted. The DEIS explores a split-season hunt (Alternative 5) to address the 'balance' raised in these comments.
320	Lent (Marine Mammal Commission )_7-31-15	<p><b>Alternative 5- Split-Season Hunt</b></p> <p>The intent of the proposed split season is to avoid killing a WNP gray whale while still minimizing the chances of killing a PCFG whale. The cap on killing PCFG whales is limited to 10 percent of the PBR, calculated as under Alternative 3 (using a recovery factor of 0.5), resulting in a total mortality cap of 0.27 PCFG whales/year. Any whale struck but not landed would count against the mortality cap in proportion to the presence of PCFG whales in the Makah U&amp;A area during that season. While the 10 percent of PBR cap is based on the practice in other situations under the MMPA (i.e., achieving the Zero Mortality Rate Goal for incidental lethal take in commercial fisheries and authorizing incidental serious</p>	We note the Marine Mammal Commission’s opinion that a PCFG cap of 10% of PBR would be overly restrictive for purposes of meeting the requirements of the MMPA and would severely hamper the ability of the Makah Tribe to conduct a traditional hunt.

Sort #	Commenter Code	Comment	Response
		<p>injury and mortality of ESA-listed marine mammals in commercial fisheries), the Commission finds this cap to be overly restrictive for whaling by the Tribe, particularly given that the PCFG is not necessarily a separate stock, and is not listed under the ESA. This split-season Alternative would result in the lowest allowable whale harvest by the Makah, notably a maximum of one PCFG whale per year, but also with only one PCFG whale every five years. As noted in the DEIS, the Makah would have to accept a "hiatus" in whaling of up to four years after landing, or just striking and losing, one whale under this mortality cap. This alternative would severely hamper the ability of the Makah to conduct a traditional hunt as it could take place only every 3-5 years depending upon the estimated abundance of PCFG gray whales and the timing of the hunt.</p> <p>Any changes in the estimated abundance of PCFG whales would result in a modification of the cap. According to Calambokidis et al. (2014) (and the draft 2014 Stock Assessment Report, Carretta 2015) the current estimate of PCFG whales, excluding transient whales, is 209 (SE=15.4), which would yield the possibility of harvesting a whale every three years rather than every five years. The Commission notes that all Alternatives should be considered in light of a flexible cap as estimates of the PCFG population are modified through new research.</p>	<p>We agree with the Commission's recommendation that if a hunt is authorized, any limit on PCFG mortality should respond to changes in PCFG abundance.</p>
321	Lent (Marine Mammal Commission )_7-31-15	<p><b>Alternative 6 -Different Limits on Strikes and PCFG Whales, and Limited Duration of Regulations and Permits</b></p> <p>Alternative 6 is the same as Alternative 2 except that there would be a more restrictive limit on the number of strikes (3.5 per year), which would halve the probability of an encounter with a WNP gray whale. In addition, the PCFG mortality limit would be set as in Alternative 3, however reduced for other sources of human-caused mortality, for a total cap of 2.25 PCFG gray whales/year. All struck and lost whales would count against this cap. A limit on the number of strikes would likely curtail the Tribe's hunting activities, making it more challenging for the hunters to land a whale successfully. Nevertheless, the analysis of Alternative 6 results in an estimate of no more than four whales killed in a single year and seven over two years.</p>	<p>Comments noted.</p>
322	Lent (Marine Mammal Commission )_7-31-15	<p>Alternative 6 would also require that permits be limited to three years, and that the MMPA waiver period end after 10 years. The Commission believes that some form of ongoing review and flexibility in the regulations governing the hunt should be part of the final action should the waiver be issued, but that requiring a new rulemaking after 10 years may not be necessary.</p>	<p>Comments noted; DEIS Subsection 2.3.6 (Alternative 6 - Different Limits on Strikes and PCFG, and Limited Duration of Regulations and Permits) addresses the "ongoing review and flexibility" aspects of this comment.</p>

Sort #	Commenter Code	Comment	Response
			We will explore in future agency decision-making whether there are mechanisms that would allow us to streamline future rulemaking in the event the agency adopts time-limited regulations.
323	Lent (Marine Mammal Commission )_7-31-15	<p><b>Discerning the category of gray whale approached, struck, or harvested</b></p> <p>The Commission is concerned about how the Makah whale hunt can be monitored in real or near-real time. In other words, the Commission is not convinced from the information provided in the DEIS that it will be feasible for the Makah hunters and hunt managers to discern quickly (within days) whether a given animal that was pursued, struck and lost, or landed was a WNP, ENP, or PCFG gray whale (this concern might also apply to sex determination in cases where there is a cap on the number of female PCFG whales that are allowed to be taken). The catalogues of PCFG and WNP whales appears to allow considerable ability to identify members of those groups even at a distance (including potentially the sex), but this assumes that at least one scientist with the requisite experience and skill is present with the whalers or that photographs sufficient to allow later identification of whales are taken by those who are present. This will be particularly important in determining which type of whale was approached or struck and lost.</p>	Except in Alternative 4 (where strikes could only be made on a whale with unique markings/characteristics to make it readily identifiable in "real-time"), hunt regulations would require that photo-comparisons be made after a whale is encountered or killed. We have assurances from researchers familiar with the WNP and PCFG catalogs that matches to those catalogs could be achieved in a matter of hours or at most a few days.
324	Lent (Marine Mammal Commission )_7-31-15	<p><b>Commission Recommendations for Formulating the Elements of the Preferred Alternative</b></p> <p>In making the recommendations below, the Commission notes that whatever Alternative(s) NMFS includes in its proposed rule will be subject to review and possible modification in the course of the rulemaking. Thus, at this stage, without hearing the testimony and arguments made by all of the parties to the rulemaking, it is not possible for the Commission to make definitive pronouncements of its eventual positions. However, at this juncture, <u>the Commission recommends</u> that NMFS adopt a preferred Alternative that strives for a balance between the risks of encountering a WNP gray whale – whether such encounter ends up with an approach, a strike, or a landed whale – and the risk of taking PCFG gray whales above the number that would keep this group within its OSP or some proxy for OSP. At the same time, the Commission believes that, if consistent with the requirements of the MMPA, there should be a reasonable opportunity for the Tribe to harvest at least one gray whale per year. Given these factors, <u>the Commission recommends that:</u></p>	We note the Commission’s views that the Tribe should have a reasonable opportunity to harvest at least one whale per year. We also note the Commission’s support for a goal of “avoiding local depletion,” expressed by the Commission as keeping the PCFG “within its OSP or some proxy for OSP.” Regarding the reference to balancing risks to WNP versus PCFG whales, similar to the response to comment #319 above, we have explored additional options for future decision-making to promote that balance.



Sort #	Commenter Code	Comment	Response
		<ul style="list-style-type: none"> <li>The hunting season should be split to require that at least a portion of the hunt occurs when it is highly unlikely that a WNP gray whale would be harvested, while also ensuring adequate protection for PCFG gray whales.</li> </ul>	
325	Lent (Marine Mammal Commission )_7-31-15	<ul style="list-style-type: none"> <li>The hunt should be conducted in the Makah U&amp;A area as described under Alternative 2, but with year-round restrictions around Tatoosh Island and White Rock.</li> </ul>	Comments noted.
326	Lent (Marine Mammal Commission )_7-31-15	<ul style="list-style-type: none"> <li>PCFG gray whale limits should be derived using a recovery factor of 0.5 in order to reflect the uncertain status of this feeding group – including whether or not it qualifies as a population stock; these limits should be adjusted as new information on stock structure and improved estimates of PCFG numbers become available.</li> </ul>	Comment noted. We also note that based on concerns raised by the Commission in comment #317, we have reconsidered the use of a PBR-based mortality limit and explored other options to be considered in future agency decision-making.
327	Lent (Marine Mammal Commission )_7-31-15	<ul style="list-style-type: none"> <li>Mortality caps should be set taking into account other (non-whaling) human-caused mortality, and these other sources of human-caused mortality should continue to be addressed by NMFS.</li> </ul>	Please see the response to comment #316 above.
328	Lent (Marine Mammal Commission )_7-31-15	<ul style="list-style-type: none"> <li>All struck and lost whales should be counted against the mortality cap in proportion to the presence of the PCFG in the Makah U&amp;A area in the corresponding season.</li> </ul>	Comment noted; this is consistent with the approach described in DEIS alternatives 3, 5, and 6.
329	Lent (Marine Mammal Commission )_7-31-15	<ul style="list-style-type: none"> <li>There should be a limit on the number of whales that can be struck each year, particularly during the seasons when WNP and PCFG whales are most likely to be present in the Makah U&amp;A area.</li> </ul>	We note the Commission's recommendation that any authorization to hunt include strike limits aimed at managing impacts to WNP and PCFG whales.
330	Lent (Marine Mammal Commission )_7-31-15	<ul style="list-style-type: none"> <li>The Tribe should be required to use a combination of traditional and "modern" hunting methods so as to minimize the time to death of a struck whale, and reduce the possibility that a whale will be struck and lost.</li> </ul>	Please see the response to frequent comment # 15 regarding the use of modern weapons.
331	Lent (Marine Mammal Commission )_7-31-15	<ul style="list-style-type: none"> <li>In light of the two recently completed workshops on range-wide population structure and status of gray whales in the North Pacific (IWC 2015, IWC in press) and the additional workshop planned by the IWC Scientific Committee for April 2016, along with ongoing research by NMFS and others to improve understanding of stock structure, the preferred Alternative should include be</li> </ul>	Comments noted. Alternative 6 analyzes the implications of a 10-year waiver period and shorter, 3-year permits noting that "By adopting regulations with a set termination date, we would assure that the most

Sort #	Commenter Code	Comment	Response
		<p>some form of periodic review of these issues, perhaps in conjunction with permit reissuance, or more frequently as new information warrants.</p>	<p>up-to-date information regarding the status of the PCFG as a population stock would be considered after not more than 10 years. We selected 10 years because it allows a reasonable amount of time for NMFS to develop additional information about stock structure" and "Limiting the permit term to 3 years provides an opportunity for more frequent NMFS review than if permits were issued for 5 years" (2.3.6 Alternative 6 - Different Limits on Strikes and PCFG, and Limited Duration of Regulations and Permits).</p>
332	Lent (Marine Mammal Commission )_7-31-15	<p><u>The Commission also recommends</u> that all of the elements that are included across each action Alternative (as listed on pages 2-3 – 2-4 of the DEIS) be included in the final preferred Alternative.</p> <p>The Commission hopes these comments and recommendations are useful and looks forward to working with NMFS on the proposed rule.</p> <p>Sincerely, Rebecca J. Lent, Ph.D. Executive Director</p> <p>Literature cited</p> <p>Calambokidis, J., L. Laake, and A. Pérez. 2014. Updated analysis of abundance and population structure of seasonal gray whales in the Pacific Northwest, 1996-2012. Intersessional Workshop of the International Whaling Commission: Rangewide review of the population structure and status of North Pacific Gray Whales. Southwest Fisheries Science Center, La Jolla, CA. April 8- 11, 2014. SC/A14/NPGW03. 75 pp.</p> <p>Carretta et al. 2015. U.S. Draft Pacific Marine Mammal Stock Assessments: 2014. National Marine Fisheries Service, NOAA. Available at: <a href="http://www.nmfs.noaa.gov/pr/sars/draft.htm">http://www.nmfs.noaa.gov/pr/sars/draft.htm</a></p> <p>International Whaling Commission. In Press. Report of the 2nd Workshop on the Rangewide Review of the Population Structure and Status of North Pacific</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>Gray Whales. SC/66a/Rep/8. To be published in J. Cetacean Res. Manage. (Suppl.) 17.</p> <p>International Whaling Commission. 2015. Report of the Workshop on the Rangewide Review of the Population Structure and Status of North Pacific Gray Whales, 8-11 April 2014, La Jolla, California, USA. J. Cetacean Res. Manage. (Suppl.) 16:487-528.</p> <p>Leduc, R.G., D.W. Weller, J. Hyde, et. al. 2002. Genetic differences between western and eastern gray whales (<i>Eschrichtius robustus</i>). J. Cetacean Res. Manage. 4:1-5.</p> <p>Lang A.R., D.W. Weller, R. LeDuc, A.M. Burdin, et al. 2011. Genetic analysis of stock structure and movements of gray whales in the eastern and western North Pacific. Paper SC/63/BRG10 presented to the International Whaling Commission Scientific Committee. Available from the International Whaling Commission Secretariat, Cambridge, UK.</p> <p>Weller, D.W., A. Klimek, A.L. Bradford, et al. 2012. Movements of gray whales between the western and eastern North Pacific. Endangered Species Research 18:193–199.</p>	
333	Keisha Sedlacek, The Humane Society of the US	Whaling is an archaic practice that has no place in today's society.	Opinion noted.
334	Keisha Sedlacek, The Humane Society of the US	The methods used to hunt these whales are cruel,	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
335	Keisha Sedlacek, The Humane Society of the US	and if even one of the endangered western Pacific gray whales were killed, it would be devastating for their recovery.	Any authorization to hunt ENP gray whales would need to be appropriately protective of WNP gray whales.
336	Keisha Sedlacek, The Humane Society of the US	Tradition should not serve as an excuse for the slaughter of these animals-- especially when that tradition hasn't been practiced legally in nearly one hundred years.	Comments noted.

Sort #	Commenter Code	Comment	Response
337	Keisha Sedlacek, The Humane Society of the US	Instead of returning to whaling, the Makah Tribe should rely on non-lethal ceremonial celebrations of these creatures that traverse their waters. Please deny the Makah Tribe's request to resume the hunting of whales off the west coast.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
338	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>RE: Comments on DEIS - Makah Tribe Request to Hunt Gray Whales</b></p> <p>Dear Mr. Stelle:</p> <p>Please accept these comments on behalf of the many members and supporters of PCPW , and all friends of the great gray whales. We are particularly concerned with the safety of the small number of gray whales who inhabit our State and County waters. As NMFS posted on their website in an article titled, "Safe Passage: NOAA Scientists and Gray Whales are Forging New Paths": "These days, the California gray whale is a beloved icon." We couldn't agree more.</p>	Comments noted.
339	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	Over the years PCPW has submitted reams of comments to NMFS on the issue of whaling. Our most substantive to date had been the comments to the 2008 DEIS. Although a few of our comments received answers, or "comments noted", the great bulk of our concerns remained unanswered , and problematic, in the 2015 DEIS. There are still great inaccuracies and inadequacies of analysis.	Comments noted and responses to specific issues dealt with separately.
340	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	The likely effects of perpetual whale hunts on the local tourism economy is minimized, and the local economy is inexplicably described as healthy and growing. The specter of tourism boycotts of the Olympic Peninsula is likewise deflected. This is a great disservice to the hardworking people of Clallam County, already struggling with job losses in traditional sectors, and a very "down" economy. The fact that "no boycott materialized" is a factor of the very short time span of actual whaling. When court actions stopped active whaling after one kill, most casual observers, including locals, mistakenly thought that whaling was "over". Had whaling continued, or if it resumes, there should be no doubt that there will be very measurable economic effects. The Olympic Peninsula is marketed as a natural wonderland. To contemplate a "new" high-profile image as a place where the locally viewable whales are regularly killed and butchered on the beach is worthy of some analysis. This DEIS does not dare to do such contemplation.	The DEIS does not assert that whaling would have no impacts on the activities identified in this comment but instead reports that all of the action alternatives are likely to have a mix of beneficial and adverse impacts on tourism and on-scene and media observers. Section 4 of the DEIS notes that "[g]iven the likely influx of visitors coming to Neah Bay to observe, protest, or report on the hunt, or to participate in tribal ceremonies and celebrations, it is reasonable to expect there would be a short-term increase in tourist-related business activity associated with these visitors. Any

Sort #	Commenter Code	Comment	Response
			short-term effect is likely to be minor, and may diminish as more hunts occur" and that "[o]ver the long term, there is no information suggesting that the hunts in 1999 and 2000 had any lasting effect on tourism in Clallam County or Neah Bay. Thus, while a whale hunt might attract visitors to the Neah Bay area, it is likely that any positive effect would be short-term and minor."
341	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	The issues related to the known contamination of the meat and blubber of "even healthy whales" such as the young whale killed in 1999, are also dealt with in a brief and cavalier manner. Will the co-managers be concerned with establishing proper "dosages" of pollutants in the diets of elders, children and pregnant women? Or will they continue to hide behind the "inability" to gauge current contaminant loads of individual consumers of whale products? Will there be cautions regarding the potential introduction of whale products into the school lunch programs or the senior nutrition programs? Doubtful, as whale products are being touted as a "health food"! With the high amount of potentially polluted seafood already consumed in Neah Bay, who will actually analyze or track the effects of ingesting the flesh and fat of up to five different whales per year? Or will that be a politically forbidden endeavor?	Please see the response to frequent comment # 11 regarding health risks of consuming gray whale products.
342	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	The social costs to the fabric of life on our Peninsula are also unanalyzed, but they will be great. There is simply no middle ground in a conflict over whether to kill or not to kill whales, complicated by the "piggy-backing" of racism from both sides. The "anti-tribal" or "anti-white" fringe element is out of the control of the mainstream proponents of whaling or whales. But it's existence cannot be a deterrent to the serious voices on either side. The members of PCPW, especially in the years of active hunting, have withstood much in the way of harassment, name-calling, threats, bullying phone calls, and physical harm. All incidents were documented, and some referred to law enforcement, but we understood that this would likely "come with the turf ". Eventually most of our members preferred some measure of anonymity. Many were/are vulnerable elders who could no longer take the bullying phone calls following their letters to the editor expressing opposition to whaling. Some members have held elected office, or are in businesses that have tribal clients. Whaling will add much	For an examination of the impacts of the authorization or denial of the Tribe's request on social relations, see Subsection 4.8, Social Environment.

Sort #	Commenter Code	Comment	Response
		negativity to relationships on the Peninsula, and the Makah Tribe understood that going in. In that way, and many others, whaling is a selfish and self-indulgent pursuit that will not resolve well for anyone. Collateral damage within the Peninsula's economy and community will harm us all.	
343	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	There could possibly have been a way to moderate the impact to local whales and local feelings, but these options stand little chance against the co-managers' desire to expand local whaling to the greatest degree possible. There is only one alternative that can be endorsed as protective of the small group of genetically distinct local whales and the tiny group of highly endangered Western Pacific Gray Whales who transit the Makah U&A during hunt seasons. This alternative will also protect innocent bystanders from the dangers of the .50 cal. rifle, and will allow the Clallam County economy a fair chance to rebound without becoming "famous" for conflict and dead whales. The only alternative that causes no harm to the local economy, the local people, and the local whales is Alternative1, no action.	Comments noted.
344	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>OPENING STATEMENT</u></b></p> <p>It has been a bumpy, twenty year ride for NMFS and the Makah Tribe in their joint quest to accomplish the killing of whales in the waters of Washington State. But a slow, stop-and-go ride is what you can expect when the cart you ride in is inextricably lashed before the horse. Observers of this misadventure know the timeline of the rush to judgment....the chain of decisions made by a handful of NMFS "higher ups" that the judges of the 9th Circuit Court of Appeals would ultimately designate as "arbitrary, capricious, and otherwise outside the law ." [ Anderson v Evans 2004]</p> <p><b>From 1994-2012, NMFS has presided over :1) the premature and contentious de-listing of the Eastern North Pacific gray whale, [ petitioned for by the Northwest Indian Fisheries Commission], 2) the "Agreement" to help the tribe obtain a quota from the IWC without benefit of NEPA analysis, 3) the pushing through of a highly controversial new category of whaling at the IWC: "whaling for cultural [not nutritional] subsistence need", 4) the "back-door" bundling of the Makah request with the Russian quota request, sidestepping a vote on the merit of the Makah 's "needs" 5) two highly insufficient EAs that resulted in two insupportable" Findings of No Significant Impact", 6)back and forth lawsuits, 7) a huge loss for the government's position at the 9th Circuit Court of Appeals,[Anderson v Evans],8) weak studies utilizing small sample sizes that led to: 9) the de-bunking by independent scientists of many of NMFS' "facts" about the PCFG, and as a result, 10) an aborted DEIS [2008]. Throughout,</b></p>	Opening statement/comments noted.

Sort #	Commenter Code	Comment	Response
		<p>NMFS has unapologetically lurched the cart, full of inappropriate decisions and justifications, in and out of the ditch while the poor, disregarded "horse" of science and law was dragged along in the rear.</p>	
345	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>But hope springs eternal, and it seemed there could be a chance that the decision of the 9th Circuit Court, coupled with fresh advances in knowledge about gray whales, would serve as a turning point for NMFS. A time to pause and to consider the new information coming in, get the "horse" in the logical lead position, and let the chips fall where they may concerning the ability of NMFS to advocate for a waiver from the MMPA to allow the Makah to kill local gray whales. The 9th Circuit's Final Decision in 2004 clearly required NMFS to take a hard look at certain aspects of the whaling plans. High on the Court's list to NMFS were to: <b>1) analyze the effects of harassing and killing members of the small group of PCFG whales as well as the very small group faithful to the Makah U&amp;A, 2) analyze the likelihood of other U.S. tribes following the Makah lead and requesting similar waivers to take whales, and 3) provide evidence of specific IWC approval for the Makah quota. These areas alone required an EIS, and the Court so ordered.</b></p> <p>Eleven years later, we have a second DEIS, but new science keeps on coming. Even as we comment on this DEIS, the "facts" about gray whale stock designations and population sizes and migration paths are in flux. <b>Precaution dictates that no decisions regarding waivers from the MMPA be finalized until NMFS is certain about the nature and population status of the various branches and twigs on the gray whale family tree.</b> It is hard to have faith that NMFS will take the path of precaution. Willingly or unwillingly, NMFS is continually pushed by the Pacific Northwest tribes to clear a path through the Marine Mammal Protection Act [MMPA], with haste more important than scientific certainty.</p>	<p>We agree with the commenter's recommendation to take a precautionary approach amid scientific uncertainty. We terminated an initial DEIS after public comments to ensure that new scientific information was appropriately evaluated and reviewed. New information included revised ENP gray whale abundance estimates, evidence relevant to the stock status of the PCFG, and presence of endangered WNP whales in the proposed hunt area.</p>
346	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>So we note with weary "surprise" that this DEIS is worse than the 2008 DEIS. It is worse, because there is more at stake than was even imagined in 2008. Unfortunately, this DEIS is over 1200 pages of avoidance and denial of NMFS' responsibility to make science-based assessments and management decisions. It has been said before, that when NMFS departs from science-based assessments, the integrity of its entire management system is harmed.</p>	<p>Comments noted.</p>
347	Owens (Peninsula Citizens for Protection	<p>These comments are submitted by ordinary people of the Olympic Peninsula. We are not scientists, but avidly keep abreast of advances in gray whale science. We are not anthropologists, but have a genuine love and interest in the study of the deep and fascinating history of our tribal neighbors. And as</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
	of Whales)_7-27-15	neighbors, with a multitude of personal and business relationships, we uniquely care for, respect, and listen to our friends at The Cape. We all have our own stories of experiencing the warmth and generosity of the Makah people. To care about the local whales does not preclude caring about the local people, no matter their opinion of whaling. But we do know, as the DEIS points out, that the tribe is not "of one mind" on the plan to kill whales. We also know, sadly, that the freedom to oppose whaling is complicated in Neah Bay. It takes great courage to oppose the will of the politically dominant, and to suffer subtle and blatant bullying and abuse in one's own ancestral home. Abuse that is rooted in an attempt by "the powers that be" in Neah Bay to present a united, pro-whaling face to the world. Thus, we feel that some of our comments reflect the feelings of some of our neighbors, and this gives us even more strength of heart to continue to "speak for the whales".	
348	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	Because of the great length of the DEIS and the great many scientific papers referenced, it has been difficult to feel that we have done "justice" to the gigantic task of analyzing the many issues raised [and not raised] by the draft in the short time allowed. 90 days might have seemed sufficient if one had no other tasks to deal with. To place this big job on top of one's "real" jobs and commitments has been extremely harsh. NMFS has allowed itself many years to put this document together. As much time as they wanted. Yet they made the responding public beg for more than 60 days. And the announcement that there would be another month or so added was not announced until well into the 60 day period, causing much extended anxiety. All disadvantage was to those committed to being part of this official process in their opposition to whaling. All advantage is to the pro-whaling "co-managers" who have had unlimited time to cut and paste old and new parts of the 2008 and 2015 DEISs together into this massive document.	NOAA's regulations regarding NEPA require that the agency provide a 45-day comment period on all EISs (NOAA Administrative Order 216-6A Companion Manual). We provided 150 days for public review - an initial 90-day period and a 50-day extension.  We also provided several opportunities for oral comment.
349	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	PCPW requests, therefore, that our comments to the 2008 DEIS be re-reviewed along with these current comments. There is simply no time to accomplish the level of "cut and paste" that the government has accomplished in the short time allowed us. We believe our 2008 comments to still be relevant. The issues of conflicts of interest, anthropologist bias, effects to economy and community still exist. The degradation of the local ocean environment: acidification, warming waters on the coast, toxic algae blooms, low oxygen levels, and the many threats to the ENP population in the Arctic related to global warming and oil exploration and drilling...these are problems that have only gotten worse. As have the threats of ship strikes, noise pollution and fishing gear	As noted in DEIS Subsection 2.2 (Alternative Development Process), our responses to these and other comments received on the 2008 DEIS are found in the agency memorandum "National Marine Fisheries Service" (NMFS 2015a). Responses to Comments on the 2008 Draft Environmental Impact Statement on the Makah Tribe's Request to Hunt



Sort #	Commenter Code	Comment	Response
		<p>entanglements. Many believe that the so-called "healthy" ENP population of gray whales is far from secure, and is in fact depleted. Numbers are down. Breeding lagoon temperatures are up. Orca "takes" of calves are high. Prey species are at risk. The "stinky whale" mystery remains unsolved and the die-off of one third of the ENP population in 1999-2000 does not seem to be completely understood. The long-term survival of the ENP gray whales is not a given, and many believe that they should be re-listed. PCPW echoes these concerns.</p> <p><b>But for the Peninsula Citizens for the Protection of Whales, as local people our first and foremost concern, and "expertise", is with the local whales, and that will be the primary focus of these comments.</b></p>	<p>Gray Whales. Memorandum to the file from Steve Stone, NMFS Protected Resources Division. January 2015. Available from NMFS West Coast Region, Protected Resources Division, 1201 NE Lloyd Blvd, Ste. 1100, Portland, OR, 97232.</p> <p>The 2008 DEIS process was taken into consideration and helped to inform the process for this EIS.</p>
350	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>THE PACIFIC COAST FEEDING GROUP (PCFG)</u></b></p> <p>Observers of America's west coast waters have always known that a smattering of gray whales remain to feed in near-shore areas of California, Oregon, and Washington, while the main group migrates north to the Arctic for the summer. The old Yankee whalers knew it, the shore-based whaling stations knew it, and long before them, the indigenous coastal peoples knew it. The fossil record, and new DNA studies, tell us that these whales, in these various feeding areas north to south, pre-date human occupation here, and even human evolution.</p> <p>Gray whales occupied the Pacific and Atlantic Ocean basins on the east and west sides of each ocean, in numbers far greater than now exist. They have witnessed the opening and closing of the connecting arctic waterway between the oceans, and on the Pacific side, they have survived at least forty ice-age advances of glaciation over their primary northern feeding grounds. Gray whales survived the ice-ages by being innovative, adaptable, and by diversifying their feeding strategies to match the seasonal food sources on the portions of the coast left ice-free.</p> <p><b>Amazingly, those ice-age survival tactics have survived to this day, transmitted by example, from mothers to calves over a long enough stretch of time to differentiate them at the mtDNA level from the grays who feed in the far north.</b> This small remnant of an unknown pre-historic population size, is what NMFS refers to as the "PCFG". They are the descendants of the gray whales who for some reason did not resume the full northbound migration with the majority of ENP gray whales, even after the ice melted back and cleared the route north. Instead, they stayed in pockets of habitat along the coast, transmitting the "south</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>of the Arctic" survival techniques to their offspring over countless generations. There are fewer than 200 PCFG gray whales in existence.</p> <p><b>The Makah U&amp;A Gray Whales</b></p> <p>It is from this small group of PCFG whales, that smaller sub-groups break off during spring northbound migration, to spend the next 8-10 months of the year feeding in the places their mothers showed them. Groups break off in Northern California and along the Oregon Coast. And a small number break off on the Northern Washington Coast. Some will head into the Strait of Juan de Fuca to find the shrimp their mothers showed them, deep in Puget Sound. "Patch" and his friends return in early spring, like swallows to Capistrano. These are the gray whales of the Puget Sound Feeding Group, unique, but possibly separate from the PCFG whales. Other whales go straight to feeding spots around Cape Alava, Point of Arches, Portage Head, Cape Flattery, and other spots on the outer coast, and into the Western Strait. These are the Makah U&amp;A whales. They are a sub-group of the Oregon-S. Vancouver Island [OR-SVI] sub-group of the PCFG. The DEIS uses [152] as the OR-SVI population number, and the number [33] as an average annual population count for the tiny group faithful to the Tribe's "Usual and Accustomed" waters adjacent to the Makah Reservation: the Makah U&amp;A whales.</p>	
351	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>There is an ebb and flow of whales between feeding hot-spots off South Vancouver Island, the North Washington Coast, and the Western Strait. The whales move to where the best food patch is at any given time. How do they find the shifting hot-spots? Their mothers certainly gave them the basic lay of their land... but the timing, as well? No one knows. These few 33 or so whales are very special and irreplaceable. They hold the key knowledge of how to live well on this small portion of the coast. They are the only resident baleen whales in the shallow coastal waters, and their benefits to the environment are documented, as they plow up the muddy bottoms and suspend food up in the water column, to the benefit of seabirds, fish, and various benthic prey species. Their wastes fertilize the area. In the DEIS , "<b>Changes in Pelagic Community</b>" pg.4-54: NMFS states: "<b>...it is possible that abundance, species composition, and distribution could be altered if whales were harassed in or removed from the project area.</b>"</p>	Comments noted.
352	Owens (Peninsula Citizens for Protection	<p>The judges of the 9th Circuit Court understood the importance of this small sub-group of the PCFG, even before their genetic distinction was proven. They wrote in their final decision : "<b>We must consider not just the effects to the PCFG whales, but effects to the smaller group of whales frequenting the Makah</b></p>	Comments noted. The DEIS explains our analytical approach and the basis for reporting both "likely" and "maximum" values. For example, see

Sort #	Commenter Code	Comment	Response
	of Whales)_7-27-15	<p><b>U&amp;A...The crucial question is : whether the hunting, striking and taking of whales from this smaller group could significantly affect the environment in the local area.....No one, including the government's retained scientists has a firm idea what will happen to the local whale population if the Tribe is allowed to hunt and kill whales pursuant to an approved quota and the Makah Management Plan." [Anderson v. Evans -2004]</b></p> <p>What would the "...hunting, striking and taking of whales from this smaller group..." look like in these local coastal waters? The DEIS provides a plethora of confusing charts that do not always agree with each other. On pg. 4-16 there is a chart giving the "likely" estimates of approaches, harpoon attempts and strikes [kills] on the 33 or so Makah U&amp;A whales under the Makah Management Plan. The word "likely" hints that this is a "low ball" prediction, not a worst case.</p> <p><b>DEIS pg.4-16: In every 6 year quota period under Alt. 2:</b>  <b>[14] MU&amp;A whales "likely" struck/killed</b>  <b>[84] MU&amp;A whales "likely" will have harpoons thrown at them [misses].</b>  <b>[702] Approaches "likely" to MU&amp;A whales</b>  <b>[386] rifle shots "likely" fired at MU&amp;A whales</b>  <b>[82] "likely" grenade explosions aimed at MU&amp;A whales</b></p> <p>To have a loss of [14] MU&amp;A whales in a 6 year period would be devastating: "likely" extirpation in 12 years. <b>But on pg.4-71, Alt 2 is listed as having the potential to kill [36] Makah U&amp;A whales in 6 years. That number, [36] , represents the elimination of every single Makah U&amp;A whale, "co-managed" to extinction in 6 years!</b> Both scenarios will have the same effect, whether over 6 years or 24 years, but this is an example of the many difficulties the DEIS presents to readers trying to differentiate the "likely" from the "possible". When estimating and analyzing important risk factors, precaution dictates we assume the worst will happen, and analyze that.</p>	<p>'estimates for analysis' in Table 4-1. Please also see the response to frequent comment # 13 regarding risks to PCFG whales.</p>
353	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>In total, to satisfy a Makah quota demand of [24] gray whales butchered every 6 years, [42] gray whales can be struck and killed every 6 years.</b> The difference between those two totals represents the number of wasted "struck and lost" whales that will "likely" sink to the bottom, dead of their injuries. <b>Unknown numbers of Makah U&amp;A whales, PCFG whales, and even Western Gray whales would be part of the [42] every 6 years, even though "migrating ENP whales" are the only whales named in the Makah waiver request. These gray whales all look alike, but they are each parts of very different eco-systems and genetic groups.</b></p>	<p>Comments noted. Please also see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.</p>

Sort #	Commenter Code	Comment	Response
354	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	The Makah Tribe announced in their Management Plan [represented by Alt. 2], that they will not count the wasted [struck and lost] whales against their self-allocated "annual allowable bycatch" of [3] PCFG whales. <b>Therefore it will never be known how many PCFG whales have been killed each year.</b>	The tribe did propose limits on harvested whales (up to 5 per year) and struck and lost whales (3 per year), and no more than 7 whales struck overall per year. As noted in DEIS Subsection 4.1.2.3 (Potential Number of ENP and PCFG Whales Killed; Likelihood of Striking a WNP Whale; Likely Number of Whales Harvested), other action alternatives include a mechanism to account for struck and lost PCFG whales based on the proportion of PCFG whales in the hunt area.
355	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<b>Worse, there is no prohibition on chasing or killing MU&amp;A whales or female whales in particular.</b>	Alternative 3 (Offshore Hunt) includes an annual mortality limit on female PCFG whales and Alternative 4 (Summer/Fall Hunt) would authorize only the striking on known males.
356	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	Again, they all look the same. The "Annual Allowable Bycatch" is calculated from the total number of OR-SVI whales [152], not from the [33] MU&A group, who are much more likely to be killed in the first years. <b>This is a callous brand of "co-management" that is not sustainable even in the short term. There is no guarantee that any of the kills will be from the "targeted" migrating ENP whales in a particular time period, rather than from the PCFG whales.</b> The main migratory corridor of the "targeted" ENP gray whales is an average 11 miles off shore. Far from the preferred "hunting grounds" : the near-shore shallow-water feeding grounds of the Makah U&A whales in the Olympic Coast National Marine Sanctuary, and right off the Wilderness beaches of the Olympic National Park.	The DEIS analyzes the potential impact of the tribe's proposal and the other alternatives on abundance of whales using the Makah Tribe's U&A (Subsection 4.4.2.4, Change in Numbers of Gray Whales in the Makah U&A and OR-SVI). Table 3-7 reports the abundance of OR-SVI whales as 165 (Nmin of 152) and of MUA whales as 81 (Nmin of 73). The comment asserts that the main migration corridor for ENP gray whales is an average of 11 miles off shore but provides no information to support that assertion.

Sort #	Commenter Code	Comment	Response
357	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Location is definitely a big issue in protecting the resident whales, as is timing. <b>DEIS pg. 2-12: "The timing of the hunt, Dec.1-May 31...is designed to avoid any intentional harvest of PCFG whales ...by hunting outside the times that coincide with the summer feeding period." The preferred hunt time will be March, April and May. This is the precise time when all resident MU&amp;A whales are arriving, as well as the newly pregnant females, the mothers, calves, juveniles and adults of all the sensitive gray whale sub-groups: Puget Sound Feeding Group, MU&amp;A, PCFG and Western North Pacific gray whales [WNP]. All are trailing through the Marine Sanctuary ["project area"] during those months.</b> If the prospect was not so horrible to contemplate, it would be laughable that the Tribe designates this time-frame as "protective" of PCFG whales. <b>Just because the decision was made to define "PCFG" whales as "seen between June 1 and November 1" [to exclude counting any migrating whales], does not mean that those dates define the actual times of arrival or departure from the "project area". To say that this time-frame will protect any particular whales in March, April or May is not supported by survey efforts or common sense.</b></p>	<p>The comment fails to acknowledge that the time period cited is when the tribe would encounter the entire ENP herd of more than 20,000 migrating whales. Subsection 3.4.3.4.2, PCFG Seasonal Distribution, Migration, and Movements, describes that approximately 40 percent of whales encountered in the Makah Tribe's U&amp;A during the migration period are PCFG whales.</p>
358	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Makah U&amp;A whales, including newly pregnant females, and juveniles, arrive "back home" in March and April, with the PCFG mothers and calves arriving in April and May, in sync with the phases of the ENP migration. And now we know that, additionally, Western North Pacific gray whale mothers and their calves are also traveling, nursing, and feeding on the near-shore Washington Coast during the same time-frame as the PCFG and the ENP whales. The very survival of the WNP gray whales who winter in Baja depends on "fueling up" at the PCFG feeding areas. This must explain the surprising number of photo IDs made of WNP whales mixed in with PCFG whales in the spring on the Washington Coast. They must eat, as they are preparing for the long open-ocean crossing-- final leg in the longest of all mammal migrations-- back to Russian waters. No doubt, as their mothers taught them. How could anyone contemplate bringing the hunting chaos into this sensitive time and place?</p>	<p>Comments noted. Please also see the response to frequent comment # 12 regarding risks to WNP whales.</p>
359	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>March, April, and May are obviously the absolute worst months to be chasing, frightening, scattering, harpooning, and shooting at whales in the Marine Sanctuary. This is a baby nursery in spring and summer, where PCFG mothers must feed themselves and their young. Milk production and nursing are imperative, as is resting, hiding near shore from orca attack, and beginning the "PCFG nursery school". Weaning will occur during the summer, and there is more for the calves to learn than we can imagine. We know practically nothing about their social lives, their relationships with each other, their vocalizations</b></p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		<p><b>and communications, their methods of navigation, or their methods of finding the variety of seasonal foods. But these things the calves must learn in a few short months. These descendants of ice-age survivors, carriers and transmitters of ancient knowledge, should be protected from disturbance and unnecessary death. Not much chance of that, when the co-managers consider them, "Annual Allowable Bycatch" ; collateral damage, with no hint of regret should they even take them all.</b></p>	
360	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>These Makah U&amp;A whales, "the residents", are the whales most personally known and loved by the members of the Peninsula Citizens for the Protection of Whales, [PCPW], and at the very least, the 5,000 local petition-signers against gray whale hunts on Washington State's Olympic Peninsula. These are the gray whales easily visible and photographed from every shore, spring through fall, from La Push to Port Angeles, to the delight of locals and tourists. There is a popular segment of "The Whale Trail" along the Strait of Juan de Fuca. The Whale Trail is an organized system of highlighting shore-based whale watching locations. There are at least 6 strategic feeding sites along the Strait marked with interpretive signage, and supported by a website and brochure maps. On the outer coast there are sites in 3 or 4 more locations, including on Olympic National Park's coastal strip. Resident gray whales are the stars of this segment of the Whale Trail, with their heart-shaped blows and near-shore presence most of the year. Their diminishment and ultimate disappearance would be a tremendous loss to local enjoyment of life, and to the tourists so important to the weak economy currently gripping Clallam County.</p>	Comments noted.
361	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The members of PCPW adopted 7 of the whales from the small resident group many years ago. They were named in 1999 and have been followed via sighting reports ever since. "Our" whales have many years of documented life-histories, here in the waters next to us. There have been hundreds of photos of resident whales taken by our group alone; from shore, from small boats, and from kayaks. There have been many paintings and sculptures created featuring these gray whales. Poems and stories written. Additionally, we follow and pass on scientific information gathered about these whales by local scientists. These whales are personal to us, and it is unthinkable that our "Buddy", "Spot", "Kelpy", "Karin", "Grace", "Freedom" and "Hope" will "likely" have torturous ends to their gentle lives, as nothing more than "Annual Allowable Bycatch". The grim mathematical formulas of the Makah Management Plan will grind them to extinction in very short order. Our lives will never be the same.</p>	The DEIS acknowledges that whale hunting under the action alternatives would inspire a wide range of feelings among persons and groups who oppose the hunt, including sorrow, frustration, and anger (see Subsections 3.8.3.3 and 4.8.2.3, Other Individuals and Organizations).

Sort #	Commenter Code	Comment	Response
		<p>The feelings of personal loss were brought home to all friends of whales, when a gray whale was killed by "rogue" Makah whalers in 2007, at a famous resident whale feeding spot inside the Strait. This was truly a case of "shooting a fish in a barrel". When this whale was finally identified, it hit us all very hard: this poor whale, CRC-175, was a very well known whale, who happened to be the companion of one of PCPW's adopted whales, "Freedom". The association of these two whales was documented in our adoption papers in 1999. We were so intrigued with the mysterious nature of gray whale "friendships". CRC-175's protracted and torturous death impacted so many, in such a sad way. It is impossible to believe that "Freedom's life was not also impacted. We will never know what conclusions may have been reached over time regarding the connection between these two adult whales. Quite a loss to science and the whale-loving public, as well as to" Freedom."</p>	
362	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>So why is this well known, well loved, tiny group of gray whales not worthy of protection from certain annihilation? We now know beyond a doubt that "other" whales will not magically fill in their places in the environments of the Northern Washington Coast , the Strait of Juan de Fuca, and South Vancouver Island. They have been trained to these locations by their mothers, and random stragglers will not have the knowledge to thrive. The loss of these few whales will mean the loss of this knowledge, so faithfully transmitted through generations of mothers.</p>	<p>Comments noted. DEIS Subsection 3.4.3.4.2, PCFG Seasonal Distribution, Migration, and Movements describes the wide-ranging movements of PCFG whales within the PCFG survey areas within and across seasons.</p>
363	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>And how many of the Makah U&amp;A whales are reproductive age females? No answer in the DEIS. Their inevitable eliminations will have dramatic and immediate effects on such a small group. There is no analysis in the DEIS or the Makah Management Plan, of what the effect of taking out adult females will be to the tiny group.. The only prohibition is on striking a "cow with calf". In a primarily genetically discrete group like the PCFG, births are the main method of recruitment. The females represent the future, yet there is no limit on the taking of females. No doubt because there is no way of knowing the difference between male and female whales until they are beached and ready to butcher.</p>	<p>Alternative 3 (Offshore Hunt) includes an annual mortality limit on female PCFG whales and Alternative 4 (Summer/Fall Hunt) would authorize only the striking on known males. Regarding the assertion that the PCFG is a "primarily genetically discrete group" please see the response to frequent comment # 5 regarding the stock status of the PCFG.</p>
364	Owens (Peninsula Citizens for Protection of	<p>The problem with trying to "save" the Makah U&amp;A whales, is that they are a subgroup of the 180 or so PCFG whales who themselves have no protection. So why doesn't the PCFG group deserve protection? They represent the sum total remaining population of whales who have received the "south of the Arctic" survival techniques from their mothers. The PCFG whales who show site fidelity to California and Oregon are relatively safe in the shorter term from a</p>	<p>Please see the response to frequent comment # 5 regarding the stock status of the PCFG. All of the action alternatives include provisions designed to provide varying levels of protection for PCFG whales.</p>

Sort #	Commenter Code	Comment	Response
	Whales)_7-27-15	Makah hunt, as are the PCFG whales who generally head further north to Southern Alaska and Northern Vancouver Island. Although there is some interchange between adjoining regions, the burden of loss will fall most heavily and most quickly on the smallest group of PCFG whales, the ones that are most faithful to the Makah's hunt area. The only way to protect these Makah U&A whales is to put all PCFG whales off limits for killing.	
365	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Since at least 1998, management concerns have been raised by marine mammal biologists in Canada, the U.S., and at the IWC, in regard to the threats to the PCFG raised by a return to whaling by the Makah. The times and locations that the co-managers [NMFS and Makah Tribe] have always put forward for hunts "targeting migrating whales", have never been designed to actually kill migrating whales instead of resident whales. In 1998 and for many subsequent years, the co-managers denied that "resident whales" even existed. The co-managers were either blind to observable reality, unaware of years of documented "site fidelity" by resident whales, or guilty of a convenient bit of "political science". Much easier to say: "they are all migrating", and let the whalers take the easy, neighborhood whales that they have always preferred to take. And if they took them all, no problem: the story line would be that "so-called resident whales" were not special, and that "other whales" would "fill in" the holes the environment left by whales killed locally. The members and supporters of PCPW were ridiculed for insisting that there was a difference, and that the lives of resident gray whales mattered.</p>	Comments noted.
366	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>One would have thought that the finding of genetic distinctness among the PCFG would have ended the debate, and that the whales would finally receive the protection that such a tiny, unique, and threatened population deserves. That protection would need to take the form of designation as a "distinct stock" from NMFS. So why has that not happened? Other small population sub-groups and feeding groups have received protected status.</p> <p>The answer from NMFS regarding a lack of stock designation for the PCFG is that their scientists could not agree, and "more information was needed". During a "Task Force" workshop on gray whale stock identity, the arguments for and against the PCFG being a "demographically independent unit" have seemingly stalemated the process of decision-making since the 2012 workshop, at least. The definition of "demographic independence" on page 3-133 of the DEIS seems rather clear: "Different in biologically significant ways [i.e. genetic or behavioral differences]."</p>	Please see the response to frequent comment # 5 regarding the stock status of the PCFG.



Sort #	Commenter Code	Comment	Response
		<p>Scientists who agree that this definition is a great fit with what is currently known about the PCFG include:</p> <p><b>DEIS pg.1-5: "The IWC found it "plausible" that the PCFG may be a demographically distinct feeding group. [IWC 2011a] "footnote same page: " IWC Scientific Committee's [IWC 2012a] review of the ENP [with emphasis on the PCFG] was "...based on treating the PCFG as a separate management stock."</b></p> <p><b>DEIS pg.3-120: "...Frasier et al [2011] concluded that the PCFG qualifies as a separate management unit under the criteria of Moritz [1994] and Palsboll et al [2007].</b></p> <p><b>Marine Mammal Commission: comments to NMFS 2012: "...recent genetic studies indicate that the PCFG may be sufficiently distinct to merit consideration as a separate stock or management unit."</b></p> <p><b>Makah Tribal Council -comments to NMFS [ 2000] pg. 6: "The Draft EA concedes that no evidence exists". [that the summer feeding aggregation is in fact a stock.] "To remedy this confusion, the EA should include a definition of the term "stock". One definition that would satisfy the conservation necessity was suggested in Clapham and Hatch [2000]: a grouping of individuals from a given species that if extirpated would not likely be recolonized by immigration from other areas on any time scale relevant to human management of whale populations." [inadvertently applicable suggestion]</b></p> <p><b>DEIS pg.1-5, pg. 2-6, pg.2-25, pg.3-60, pg.3-68, pg.3-121, pg. 3-130, pg. 3-156, pg.4-62, pg.4-65, and pg.4-80: The following phrase repeated on all listed pages: "...we have stated that the PCFG seems to be a distinct feeding aggregation and may warrant consideration as a distinct stock in the future." [Carretta et al 2014]</b></p> <p>For whatever reason, NMFS will not decide on a stock designation for the PCFG before the waiver process plays out. This non-decision strongly favors the whalers, and strongly disadvantages the whales. The devil is in the details. Because they have no separate status, the PCFG are treated as one and the same as the entire ENP gray whale population, and no separate waiver application is needed. DEIS pg. 2-7: "The Tribe did not request a waiver for the PCFG as they were not designated as a separate stock at the time of the request."</p> <p>This simple statement swings the door open for a waiver request, because many agree that the ENP can survive a certain "take" that would encompass the Makah request. The whales that will not survive Makah whaling, the MU&amp;A in the short term, and the rest of the diminished and harassed PCFG</p>	

Sort #	Commenter Code	Comment	Response
		<p>eventually, need not be mentioned or considered, as they are officially invisible--folded into the ENP stock of gray whales.</p> <p>With no separation of the PCFG via stock designation, there is no need for a separate waiver request for the PCFG. Such a request would have triggered extra analysis and care by the decision makers to decide if a waiver was even possible from this group. Very unlikely as there is no evidence that the PCFG population is currently at more than even half it's OSP.</p>	
367	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Additionally, certain strategic formulas for "takes" will only rely on ENP population numbers, not PCFG numbers. For instance, on pg. 33 of the Makah Waiver Request is this statement: A recovery factor of 1.0 is used "...because best available science shows that the PCFG is part of the ENP stock...a recovered non-listed stock." Based on this, the take of PCFG whales is calculated as 2.7 [or 3] "allowable bycatch" per year, [and struck and lost whales will not count against their PCFG quota.] The "co-managers" agree that the needs of the tribe should outweigh the needs of whales. On pg. 2-25 of the DEIS, NMFS reports allowing a 1% of PBR take of California Sea Lions in 2004, but did not consider a 1% of PBR for the PCFG, because that would "...not be sufficient for the tribe." This certainly raises questions as to whether NMFS has the will or the ability to stand up to the Tribe and protect the Makah U&amp;A whales and the PCFG from extinction. It may sound reasonable to allow the tribe a quota of "migrating ENP gray whales" but, in reality, the overwhelming disadvantage will be to the Makah U&amp;A whales and the rest of the PCFG whales.</p>	The DEIS explores a spectrum of action alternatives with a wide range of potential impacts on gray whales and the tribe, including one (Alternative 5, Split-Season Hunt) that currently yields a likely PCFG mortality limit equivalent to limiting the tribe to 1 whale every 5 years.
368	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>If NMFS is complicit in the ruin of this small ancient group, it won't be because they did not understand the "likely" end result of the Makah plan, or any of the Alternatives they present. These quotes from the DEIS itself, speak the truth, however cautiously:</p> <p><b>DEIS pg. 3-68: "...the Tribe's request addresses the potential for "local depletion of gray whales in the Makah U&amp;A."</b></p> <p><b>DEIS pg. 4-56: "It is possible that hunting under Alt.2 in the coastal portion of the Tribe's U&amp;A could, over time, cause gray whales to use the area less frequently."</b></p> <p><b>DEIS pg.4-66: "Over time, an ongoing hunt could reduce the abundance of PCFG whales compared to No Action...With respect to the viability of the PCFG, a reduction over time could decrease the likelihood that the PCFG is viable, compared to No Action."</b></p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>DEIS pg. 4-69: "If there were a decrease in the number of whales using the coastal portion of the Makah U&amp;A...it could also result in a decrease in the number of whales using the Strait of Juan de Fuca."</p> <p>DEIS pg. 4-70 "It is also possible that animals could reduce the usage of, or stop using an area because of the disturbance associated with a hunt."</p> <p>DEIS pg. 4-71: "In any given year...the total number of gray whales present during summer in the Makah U&amp;A and OR-SVI would be at least temporarily reduced."</p> <p>DEIS pg. 4-72: "Over time, an ongoing hunt could reduce numbers of whales in the Makah U&amp;A and OR-SVI..."</p> <p>DEIS pg. 4-72: "Numbers...could also be affected if gray whales change their distribution and habitat use in response to tribal hunts under action alternatives...Response could include changes in distance from shore that whales travel during migration, amount of time spent by whales while in the Makah U&amp;A or OR-SVI, or changes in approachability of whales."</p> <p>DEIS pg. 4-72: "It is possible hunts in the MU&amp;A might disturb whales, causing them to move elsewhere...more approaches, etc., cause more disturbance of feeding whales."</p> <p>DEIS pg. 4-83: Alt.2 "...could reduce abundance of PCFG, which could affect the viability of the PCFG."</p> <p>DEIS pg. 4-84: "...the PCFG abundance trend appears to be flat." "Alt.2 could reduce the likelihood of PCFG being viable into the future."</p> <p>DEIS pg.4-92: "If one PCFG whale was killed in a year it would represent a 0.5% reduction in the current abundance estimate of 209 PCFG whales...This would represent a small decrease in abundance...Over time it is uncertain to what extent the death of one PCFG whale per year might decrease the abundance of the PCFG whales."</p> <p>DEIS pg. 4-277: Alt.2: Proposed Action: "Under current conditions, 2.8 [maximum of 6] PCFG whales are likely to be killed per year. If more than 3.0 whales are killed they may not be replaced in a subsequent year, and would exceed current estimates of PBR. It is unclear whether the intensity of unsuccessful harpoon attempts [17 per year] or approaches [142 per year] would result in more than a temporary disturbance of PCFG whales and cause them to avoid this portion of their range."</p> <p>DEIS pg.4-278: Alt.2: Proposed action: "Under current conditions, 2.3 Makah U&amp;A whales, or 2.6 OR-SVI whales might be killed per year. It is unclear whether killed whales would be replaced in the same year in which they were</p>	

Sort #	Commenter Code	Comment	Response
		<p>killed or in subsequent years because of the uncertainties regarding PCFG recruitment. It is also unclear whether the intensity of unsuccessful harpoon attempts [14 to 16 per year] or approaches [117 to 131 per year] would result in more than a temporary disturbance of whales using local survey areas."</p> <p>DEIS pg 4-278: "All action alternatives are likely to increase the risk of adverse impacts on gray whales using local survey areas. Alternative 2 would likely have the most impact..."</p> <p>DEIS pg.5-3: "...so it may take a long time to detect if the proposed action is affecting gray whales as expected under current harvest models. In addition, killing even a few animals per year [especially over an extended period of time] from the relatively small PCFG could have long-lasting impacts for a group of whales whose population dynamics are not well understood."</p>	
369	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>NMFS hides the truth in plain sight. These hunting schemes are all too risky, with irreversible harm accurately predicted for the depleted PCFG, and the tiny band of Makah U&amp;A whales. It can only be hoped that savvy "deciders" in the path of this rush to judgment will ask themselves this: If the "co-managers" had been allowed to carry out their planned hunts from 2000 until now, what frightened fragment of the doomed PCFG would be left to pass on the ancient knowledge? Did that knowledge have no meaning? Could these whales have been a lifeboat for the species if disaster were to befall the Arctic feeding grounds? It is telling that no PCFG whales are known to have perished in the great die-off of 1999-2000. What consequences to the local ecosystem, if no Makah U&amp;A whales remained to plow the bottoms and return nutrients to the water column? There are far too many questions, and in this case, no harm is done by waiting for further information before acting. Dispersal is extinction insurance. Gray whales must be allowed these pockets of "alternative lifestyle". These rare whales should be encouraged to thrive and expand in their environments, not be targeted for unbearable harassment and gruesome death. Fewer than 200 ENP gray whales know how to survive south of the Arctic. They must not be harmed.</p>	Comments noted. Please also see the response to frequent comment # 13 regarding risks to PCFG whales.
370	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>NMFS understands that by "not deciding" on stock designation for the PCFG, they are sealing their doom. While NMFS may be shackled to the whaling ambitions of a fraction of the Makah Tribe, watch guards over the MMPA process should be under no such obligation, and must intervene to save these whales. History will judge harshly government agencies who betray the public trust, and allow the torment and destruction of this small race of whales.</p>	Please see the response to frequent comment # 5 regarding stock status of the PCFG.

Sort #	Commenter Code	Comment	Response
371	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>"CO-MANAGING" THE PCFG WHALES</b></p> <p>In the early 1990's, the Northwest Indian Fisheries Commission [NWIFC], on behalf of twenty Washington State tribes, petitioned the National Marine Fisheries Service [NMFS] to remove the ENP gray whales from the Endangered Species List. " The tribe hopes to get the northern gray whale...downgraded...not to hunt them but so research money can be moved to other species that need monitoring." [PDN 11-13-92] The ink was barely dry on the contentious de-listing documents before the Makah Tribe formally notified the Government of its desire to initiate a harvest of ENP gray whales. This "bait and switch" tactic initiated the relationship between the Makah Tribal Council and NOAA / NMFS in regard to gray whale harvests.</p>	<p>DEIS Subsection 3.4.3.1.3 (Population Exploitation, Protection, and Status) includes a summary of the steps and determinations made that resulted in ENP gray whales being delisted under the ESA in 1994. As described in a December 10, 1991 Federal Register notice (56 FR 64498), NMFS received the NWIFC petition referenced in this comment "[c]oincident with completion of the status review under section 4(c)(2) of the ESA and after work was initiated on the proposed determination and rule" to delist the ENP gray whales.</p>
372	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Senior NMFS personnel had already decided that they could go ahead and allow the taking of seals and sea lions by NWIFC member tribes, with minimal NMFS oversight. A perfunctory legal analysis had persuaded them that there was no conflict between the Makah's Treaty of 1855 and the MMPA. They believed that hunting clauses in the various Stevens treaties entered into by the U.S. Government with Pacific Northwest Tribes in the 1850's, gave NMFS the ability to grant permission for the taking of marine mammals without triggering NEPA or MMPA protocols. [R. Schmitt letter to NWIFC 9-22-94] Upon this weak foundation, built to accommodate the taking of seals and sea lions, NMFS "architects" built a context for Makah whaling to go forward. Without benefit of NEPA analysis, binding agreements were made with the Tribe to support their gray whale quota-quest at the IWC. Ultimately, these agreements, and all the decisions that would flow from them over the next 10 years, would be denounced by the 9th Circuit Court of Appeals in this way: "<b>Because the agencies have not complied with NEPA, we set aside the FONSI, suspend the "Agreement" with the Tribe, and vacate the approved quota...</b>" And in even stronger language, the Court proclaimed that the issuance by NOAA of a gray whale quota to the Tribe, absent compliance with the MMPA, had violated federal law. In their words, the Court described the actions of NMFS' decision-makers as: "...arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." [Anderson vs. Evans 2004]</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>So these are the two "co-managers": the Makah Tribal Council and NOAA/NMFS personnel favorable to allowing a hunt. Between them, their over-zealous plans and weak science would have caused immense environmental harm, particularly to the local whales and the local environment, and still threatens to do so.</p>	
373	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The "summer resident" grays, known and loved by the local public and by tourists, were a problem for the co-managers from the beginning. The Tribe's Whaling Commission President, Keith Johnson, responded to the issue by saying that he did not see killing a resident whale as a problem: <b>"If we were to take nothing but resident whales it would not severely impact the rest of the whale population."</b> [Peninsula Daily News [PDN], Sept.27,1998] In a subsequent article, "Would Makah kill resident whale?", NMFS spokesman Brian Gorman opined that <b>"It would be easier and safer if the Makah were free to hunt resident whales."</b> [PDN :Oct. 19, 1998] NMFS decision makers backed up the Tribe by asserting that government scientists were certain that the so-called "resident" grays were simply a few random wanderers...lolly-gaggers from the "main herd", and that in the unlikely event any were taken in a hunt, that "other whales" would fill in their places in the local environment.</p> <p>In May, 2000, responding to an article in the PDN regarding the Peninsula Citizens for the Protection of Whales having adopted a group of resident whales through Cascadia Research, "Group starts adopt-a-whale campaign", Keith Johnson both denies their existence "...disputes calling the whales "residents"...", and asserts ownership over them: "As to their claim to be adopting certain whale populations, I don't think they can adopt whales in our usual and accustomed [hunting] areas."</p>	Comments noted.
374	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>By July, 2001 the co-managers had announced a new Management Plan. The PDN article titled "Does Makah decision put local whales at risk? Some fear impact of new rules on relatively tame resident pods", explained: <b>"A new federal environmental assessment now allows the Makah to hunt not only migrating gray whales off the coast but also the so-called "resident whales" that feed near Neah Bay. It also increases the tribe's hunting territory from the open Pacific off the coast into the Strait of Juan de Fuca."</b> Said NMFS' Brian Gorman: <b>"There is no biological reason in terms of a hunt why they [the resident whales] should be separated out. We have clear evidence that the whales found in the Strait of Juan de Fuca are not a separate population."</b> [PDN-July 16, 2001]</p> <p>Regarding protecting local gray whales in the Strait: "It was a political decision that science couldn't support," said Pat Gearin of the National Marine</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>Fisheries Service." It was some politician's interpretation, to avoid the so-called "friendly whales". But there really was very little science behind it, and we were in an untenable position with the tribe saying "You can't hunt in your traditional time and area' without any scientific basis for that." No conservation issues will be raised should the tribe take another whale this spring, Gearin said. The gray whale population is robust, even above historic levels." [Seattle Times, Lynda Mapes, April 15, 2002]</p>	
375	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Strangely, Pat Gearin made those comments about the "robust" gray whale population shortly after the huge gray whale die-off [Unusual Mortality Event] of 1999 - 2000. <b>One third of the entire ENP gray whale population died. The west coast was littered with carcasses.</b> An odd time to describe their population as "even above historical levels." He certainly knew better.</p>	Comments noted.
376	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>What can we glean from all this, about predicting the behavior of the "co-managers"? What we observe is that <b>NMFS will twist science and law and good judgment into pretzels to accommodate tribal demands.</b> The NWIFC threatened to sue NMFS when the de-listing of the ENP gray whales seemed to be proceeding at a slow pace in the early 1990's. Six months after petitioning for the de-listing, an impatient Bill Frank wrote to the Department of Commerce: <b>"Continued inaction by NMFS can only lead to Federal Court to explain the lack of timely response that is required by the ESA."</b> [letter 10-16-91] NMFS sped things up right away. A little over a month later, NMFS replied to Mr. Franks: <b>"Thanks for your letter...I am pleased to inform you that the proposed rule to delist the eastern Pacific gray whale stock has been published in the Federal Register..."</b> [letter to Bill Franks 11-27-91.]</p> <p>To this day, it seems that the combination of the NMFS "old guard" sympathy towards aboriginal whaling, in addition to an institutional fear of being sued by tribes, is what motivates NMFS. Our naive belief that NMFS/NOAA would consider their top priority to be protection and conservation of the marine environment was long ago dashed. We still hold, however, that NMFS' main focus should be protecting whales from the significant impacts they know that any hunt plan will have, rather than tailoring whaling plans to placate the Makah whaling faction.</p> <p>So, it is left to the general public, educated by the work of independent scientists, to care enough about these whales to check NMFS' work as carefully as possible. Thankfully, lawsuits were successfully brought against the co-managers'</p>	<p>The NMFS staff who prepared the 2008 and 2015 DEIS documents were Northwest Region (subsequently West Coast Region) staff who had not been involved with prior agency actions regarding the Makah Tribe's requests to hunt gray whales. Other circumstances were also different from past NMFS' actions on the Tribe's request. In response to the Ninth Circuit decision in <i>Anderson v. Evans</i>, staff prepared an EIS rather than an environmental assessment, ensuring a hard look at potential environmental effects. Also in response to <i>Anderson</i>, the 2008 and 2015 DEIS documents used MMPA standards to inform the evaluation criteria so that agency decision-makers will have the necessary analysis to make MMPA determinations.</p>

Sort #	Commenter Code	Comment	Response
		<p>plans. If not for the efforts of those opposed to whaling, the questions surrounding the odd presence of gray whales in the Pacific Northwest who do not travel to the Arctic would be moot. Their unique genetic story would never have been told. After 17 years of co-managed hunts, they would all be gone by now. Gone from the Strait, gone from the Marine Sanctuary, gone from Neah Bay, gone from all the Whale Trail look-outs.</p>	
377	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>That is certain, because in 2001 the co-managers announced that they had expanded what was possible, in terms of whaling in the Makah U&amp;A, to the maximum extent. NMFS agreed with their Makah co-managers that it would now be fine to go whaling anytime of the year--go whaling anywhere in their entire U&amp;A --and kill any gray whale they came across. Exactly what the Makah whalers had wanted all along. It had only taken two years for the co-managers to expand the Makah Management Plan from an outer-coast-only hunt for migrating whales, to the 2001 no-holds-barred, into-the-Straits to Salt Creek County Park plan. NMFS must have had no desire-or no will-to oppose the Tribe and keep the Straits off-limits. That would have at least given the "so-called" resident whales some ability to escape the torment. Even the issue of public safety [regarding the use of the 50 cal. rifle on a populated coast] did not deter the co-managers.</p> <p>These reckless decisions do not signal any regard for under-studied whale populations or for innocent human by-standers, by the Tribe or by NMFS. Neither do these decisions seem to reflect an equal "co-manager" balance of power. Assuming NMFS would prefer to show some good faith in regard to protecting the resident whales, why does all advantage go to the whalers, and why is all harm, injury, and disadvantage borne by the whales whose welfare is entrusted to NMFS? Both co-managers defended the new plan, with NMFS seeing no reason to "separate out" the resident whales from the killings. Luckily for the whales, the 9th Circuit Court saw things differently and stopped the co-managers in their tracks before irreversible harm could be done.</p>	<p>None of the DEIS alternatives contemplate a hunt with an initial strike on a gray whale in the Strait of Juan de Fuca, and all of the action alternatives incorporate a protective mortality limit on PCFG whales. Contrary to the commenter's assertion, all harm, injury, and disadvantage is not borne by whales. The DEIS evaluates safety issues and risks to hunters, protesters, and bystanders, as well as the impetus for the Coast Guard to establish a regulated navigation area to address the inherent dangers of a hunt.</p>
378	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>NMFS should be embarrassed at having been so wrong on so many of their assumptions in regards to the gray whales. Assumptions that were not corrected by open-minded and thorough research before binding agreements were made with the Tribe. Assumptions that could have, if acted upon, done irreversible harm to several small gray whale populations, in utter disregard to the spirit and purposes of the MMPA. In 1998 NMFS told the public: "trust us--there are no resident whales". In 2001 they claimed that they had "clear evidence" that there were no "resident" gray whales. This in spite of over 20 years of research by local scientists on maternally directed site-fidelity. Based on</p>	<p>NMFS' decisions have been, and continue to be, based on the best scientific information available at the time. NMFS has invested considerable time and effort over many years to obtain additional information on the ENP gray whale stock and on the PCFG (ADD REFERENCE TO THE TABLE OF RESEARCH) and will continue to use</p>



Sort #	Commenter Code	Comment	Response
		<p>a tiny sampling, NMFS announced that there was no genetic difference between the "summer" gray whales and the "rest of the herd". NMFS has been proven WRONG. Based on another tiny sampling, NMFS assured the public that "most" local whales were males. WRONG. Based on a minimal legal analysis, NMFS asserted that the Makah hunt was not bound by the MMPA. WRONG. This is a very bad track record for our government's co-manager of a much-loved public treasure.</p>	<p>the best scientific information available in future decision-making.</p>
379	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>For their part, the Makah Tribal Council also proclaimed that there were no "resident whales". With their oft-stated intimate knowledge and understanding of the resources in their waters, they really should have known better. After all, we now know that the ancestors of the present day Makah Tribe hunted the ancestors of the present day PCFG gray whales.</b></p> <p>So does the current 2015 DEIS show any signs of compliance by the co-managers with the dictates of the 9th Circuit Court? Will there be safeguards in place to ensure a stable future for the PCFG gray whales in their various environments? Will extra care be taken not to harm the very small group of Makah U&amp;A gray whales that the 9th Circuit was concerned with? Or did past actions correctly foreshadow the current proposals? For their part, the Makah Tribe's waiver request, did not change in the slightest to acknowledge the new information about the uniqueness of the PCFG gray whales. Not a word has changed in the original 2005 Waiver Request.</p>	<p>The tribe's 2005 application does acknowledge the existence of a Pacific Coast Feeding Aggregation and notes that "Although the PCFA [aka PCFG] is not a separate stock under the MMPA, the Tribe's waiver request is designed to prevent any depletion of whales that exhibit inter-annual site fidelity to the ORSVI gray whale management area and thereby assure that gray whales remain a "significant functioning element" of the local ecosystem." It also states "the Tribe will cease hunting in a calendar year if, based on this photographic analysis, suspension of the hunt is necessary to prevent the number of whales harvested from the PCFA catalog from exceeding an annual allowable bycatch level (ABL) for that year. The ABL for the PCFA will be calculated by applying the MMPA's potential biological removal (PBR) methodology to a conservative estimate of the number of gray whales seen in more than one year in the OR-SVI gray whale survey area..."</p>
380	Owens (Peninsula Citizens for	<p>And no words needed to change, as the co-managers had years ago developed a strategy to circumvent any need for "special care" for the PCFG whales. It is diabolical in its simplicity. <b>Just continue to designate all Eastern</b></p>	<p>Please see the response to frequent comment # 4 regarding the stock status of the PCFG.</p>

Sort #	Commenter Code	Comment	Response
	Protection of Whales)_7-27-15	<b>North Pacific gray whales as a single stock. With this system, PCFG whales practically disappear. Do the PCFG whales give birth in the warm waters of Mexico with the ENP gray whales? If so, they are a single stock. No one knows who is breeding with whom, so assume that PCFG whales are interbreeding with "other" whales, and claim that this precludes separate stock designation. Do many scientists disagree with the decision not to give stock designation to the PCFG whales? That's fine...quote some government scientists who do agree, and declare a stalemate. Problem solved for now. The Tribe's favored Alternative, Alt.2, encodes this solution to an extreme degree, and insures that the pesky resident whales won't be around to be a problem for too long.</b>	
381	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	Because NMFS has balked at stock designation for the 200 PCFG whales, many policy details favor the co-managers' desire to "not separate out" the PCFG whales. <b>These devilish details will ensure the brisk elimination of the 33 or less Makah U&amp;A whales. At a worst-case rate of 42 whales killed in pursuit of 24 butchered every 6 years, or in any lesser annual take, it is obviously not a matter of if the resident whales are eliminated, it is only a matter of when. This is a plan that gives no value or mercy to the resident whales, but goes after them in a very aggressive way.</b> A Makah whaler once commented gleefully that hunting the resident whales would be " like shooting cows in the barn", and the "safety" of the whalers is often used to justify taking the local whales.	Comments noted.
382	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<b>The Makah's "Annual Allowable Bycatch" [AAB] of three PCFG whales a year is a "management to extinction plan" for the majority of the PCFG gray whales.</b> The term AAB itself is straight from fisheries management, and refers to how many of the "wrong" fish you can catch per year without penalty. In this case, since lip service is being paid in the waiver request to targeting "migrating ENP whales", any landing of a known PCFG whale is considered a landing of a "wrong" whale. From the 152 OR-SVI grays, the Makah biologists have calculated an Annual Allowable Bycatch of 3 per year, or 18 in every 6 year quota period. So out of a maximum of 5 whales butchered each year, or 24 in a 6 year period, the great majority can, and likely will be, resident whales--as long as they last. The DEIS 2015 at pg.3-156 gives a Potential Biological Removal rate for the entire 200 member PCFG of 3.1 per year, so Tribal managers are calculating their AAB [from the smaller OR-SVI population] in their own, less protective way.	The DEIS describes the different ways that the action alternatives calculate mortality limits for PCFG whales. The commenter's assertion that the "great majority" of whales would be PCFG animals is not supported by the available survey data which instead indicate that approximately 40% of whales encountered during a spring hunt would be PCFG whales.
383	Owens (Peninsula Citizens for Protection	How is such an unreasonable bycatch quota calculated for a small population that is estimated to be at half its optimum sustainable population? [ A.E. Punt IWC 2015] <b>Because the PCFG has no separate stock status, the co-managers make their calculations based on the ENP population as a whole.</b>	Unlike action alternatives 3 thru 6, the Tribe's proposal (Alternative 2) is the only one that employs a 1.0 recovery factor to calculate PBR and does not

Sort #	Commenter Code	Comment	Response
	of Whales)_7-27-15	<p>From the Waiver Request [2005], pg. 33: " A recovery factor of 1.0 is used [to develop the bycatch number] because best available science shows that the PCFG is part of the ENP stock...a recovered non-listed stock." If the PCFG were granted stock status, "separated out", the recovery factor would have to be calculated at a much lower rate.</p> <p>NMFS' response to a 2008 comment regarding Potential Biological Removal [PBR] states: "<b>NMFS' guidance on preparing stock assessment reports generally recommends using a recovery factor of 0.1 for a depleted population, a recovery factor of 0.5 for a population of unknown status, and a recovery factor of 1.0 when a population is known to be stable and at OSP [NMFS 2005]...NMFS uses 1.0 in setting PBR for the ENP [gray whales].</b>" In the 2013 stock assessment report [Carretta et al 2014], authors concluded that the PCFG may warrant consideration as a stock in the future and used a recovery factor of 0.5 to calculate its PBR, as appropriate for a stock of unknown status. But because the Makah co-managers can "get away with it" on a NMFS-facilitated technicality, the "unknown status" of the PCFG population conveniently becomes one and the same as the "stable and at OSP" status of the entire ENP gray whale population. The outcome is a callous Annual Allowable Bycatch [AAB] quota for resident whales, self-allocated by Tribal co-managers and ready for approval by NMFS.</p>	<p>account for other sources of human-caused mortality. If the PCFG were designated as a stock in the future, the proposed waiver and regulations, in their current form, would not authorize take from that stock.</p>
384	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>In addition to the 3.0 AAB, any whales struck and not landed [ and presumed dead] will not, says the Tribe, be counted against their AAB.</b> In a 6 year period 18 whales can be struck and lost. Any or all could be PCFG whales. And in another blow to the resident whales, "<b>The Tribe does not propose to account for other sources of human-caused mortality when setting the allowable by-catch limit for PCFG....In its' comments on the 2008 DEIS, the Marine Mammal Commission questioned this approach.</b>" [DEIS 2015, pg. 2-10] Also on this topic, the DEIS at pg. 5-37: "The IWC Implementation Review of PCFG [IWC 2013c] included an even more precautionary estimate of non-hunting human caused mortality [ 2.0 PCFG whales] which is considerably higher than the 0.45 whales in the PCFG range and season reported in the most recent stock assessment report [Carretta 2014]." <b>An honest calculation would show that there is no "take" possible from the PCFG.</b></p>	<p>While the tribe's proposal (Alternative 2) does not propose to account for other sources of human-caused mortality, DEIS alternatives 4 and 6 do. The agency's current MMPA stock assessment report (Carretta et al. 2019) concludes that:</p> <ul style="list-style-type: none"> <li>- PCFG gray whale abundance remained stable for the period 2005-2010, and have steadily increased during the 2011-2015 time period. (Note that Calambokidis et al. [2017] found the PCFG had grown in abundance to 243 whales in 2015).</li> <li>- Informational PBR for PCFG whales is 3.5</li> </ul>

Sort #	Commenter Code	Comment	Response
			<p>- annual human-caused mortality of PCFG whales for the period 2012-2016 averaged 1.35 whales.</p> <p>In addition, the IWC SC has continued to analyze proposals for a Makah gray whale hunt (International Whaling Commission (IWC). 2018. Report of the Scientific Committee Bled, Slovenia, 24 April-6 May 2018. IWC/67/Rep01(2018)).</p>
385	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Whether we consider the OR-SVI population of 152, or the Makah U&amp;A whales at about 33 members, where is any discussion of the extra value of the reproductive age female gray whales? Where is any cautionary note regarding avoidance of killing too many females? There is no discussion of this, even though the females are the only hope for the future for the PCFG whales. How many of either group are adult females? How many are likely to be pregnant each spring? No answer in the DEIS. The example from another small stock, the Western Pacific gray whales, gives us a clue. Out of a total population of about 130 whales, it is known that only about 24 WNP gray whales are breeding age females. So how does this translate to the OR-SVI population? It could mean that there are barely 30 mothers in whole the group. And of the 33 Makah U&amp;A whales? There could be as few as 6 or 7. How is it possible for NMFS to support, or the Tribe to conceive, a plan so short-sighted? It's easy if you just don't care about the PCFG whales. It is quite an understatement for NMFS to say in the 2015 DEIS at pg.4-66: <b>"Over time, an ongoing hunt [under Alt.2] could reduce the abundance of the PCFG whales compared to No Action...With respect to the viability of the PCFG, a reduction over time could decrease the likelihood that the PCFG is viable, compared to No Action."</b></p>	<p>Comments noted. Alternative 3 (Offshore Hunt) includes an annual mortality limit on female PCFG whales and Alternative 4 (Summer/Fall Hunt) would authorize only the striking on known males.</p>
386	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Can NMFS be trusted to closely monitor the swift hunting-out of the Makah U&amp;A whales, and call a halt to any over-harvest before they are eliminated from the Neah Bay area and the Strait of Juan de Fuca? [The gray whales feeding near shore along the Strait are one and the same as the Makah U&amp;A whales feeding on the coast. The small group moves freely between the outer coast, inside the strait, and to S. Vancouver Island.] Nowhere in the DEIS, the Waiver Request, or the Management Plan, is there any mention of limits or concerns on "over-takes" from the 33 resident whales. So there is no reason to believe that either co-</p>	<p>Comments noted. Please also see the response to frequent comment # 13 regarding risks to PCFG whales.</p>

Sort #	Commenter Code	Comment	Response
		manager cares. NMFS' shameful "co-management" of the Alaska Natives' hunt of Cook Inlet beluga whales is a cautionary tale. On NMFS' watch, their tribal co-managers killed half the total population in four years! This same depletion and possible decline to extinction could befall the PCFG whales, with the Makah U&A whales eliminated first.	
387	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>How is it that co-managers can take with such a heavy hand from a tiny group of genetically distinct whales with 1) no well established population count, 2) no known Optimal Sustainable Population number, 3) living in the Makah U&amp;A , whose carrying capacity is, according to NMFS, "unknown" ? This would not pass muster with any objective "decider". All these problems with "saving" the Makah U&amp;A whales from oblivion are rooted in NMFS' simple strategy of refusing to decide "yet" to give the PCFG gray whales separate stock status.</b> NMFS repeats many times in the DEIS that "the PCFG...may warrant consideration as a distinct stock in the future". Will there be any whales left to protect after even one 6 year period of Makah hunts? We are extremely concerned that there may not be a "future" for the local whales.. It was also problematic to receive the following response to us from NMFS regarding a reference in the 2008 DEIS to an annual PCFG quota that could possibly be exceeded by the Tribe: <b>Said NMFS: " The Tribe's proposal also implies that more than one hunting party may be active at a time, which could lead to the quota being exceeded."</b> What kind of co-management is this, where the ability to exceed a quota is built in and taken for granted?</p>	Please see the responses to frequent comments # 4 regarding the stock status of the PCFG and # 13 regarding risks to PCFG whales.
388	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>And there is at least one more huge benefit to the Tribe springing from the refusal to decide on stock status for the PCFG. <b>DEIS 2015 pg. 2-7: "The Tribe did not request a waiver for the PCFG as they were not designated as a separate stock at the time of the request."</b> So there may be no scrutiny by "waiver grantors" of the impact of the "bycatch "allowance on the PCFG whales, the Makah U&amp;A whales, and their environments. If this waiver is granted under such questionable circumstances, there will be no hope for the PCFG. If NMFS has not decided on stock designation by now, when will they? They will be irreversibly locked into the scenario they have designed for years to come, and the PCFG whales will be irrevocably harmed to the great detriment of the local environment, the local whale-loving public, and the economy of local nature-based tourism.</p>	Please see the response to frequent comment # 4 regarding the stock status of the PCFG.
389	Owens (Peninsula Citizens for	<p><b>To quote the DEIS quoting the 9th Circuit [Anderson v Evans] pg.1-18: "The Court defined the conservation purpose of the MMPA as "To ensure that marine mammals continue to be significant functioning elements in the</b></p>	As noted in DEIS Subsection 4.4 (Gray Whales), for whales using the Makah U&A and OR-SVI areas, our NEPA

Sort #	Commenter Code	Comment	Response
	Protection of Whales)_7-27-15	<p><b>ecosystem.....and not diminish below their optimum sustainable population."</b>  <b>And: "Without review under the MMPA, there is no assurance takes by the tribe, including both killed and harassed without success, will not threaten the role of gray whales...in the ecosystem."</b></p> <p>These quotes do not refer to "stocks". They refer to "gray whales" and "ecosystems". The only gray whales utilizing, dependent upon, and functioning in the ecosystems of the Makah U&amp;A in anything other than a "migrating through" capacity are the Makah U&amp;A portion of the PCFG whales. The Court did not care if they were genetically distinct or not, from "the other California gray whales". The words of the judges are crystal clear: <b>"If California gray whales disappear from the area of the Strait of Juan de Fuca, the Marine Sanctuary, or both, that would be a significant environmental impact even if the PCFA whales populating the rest of the Pacific Coast in the summer are genetically identical to the local whales, and even if the PCFA whales are genetically identical to the migrating whales."</b> [Anderson v Evans 2004]</p> <p><b>What wise and important words. The 9th Circuit was not concerned with stocks or the definition of a stock. They insist that the co-managers must honor the will of the American people, as Congress expressed it in the MMPA: protect the whales, whoever they are, in the specific environments that they inhabit, such as the Makah U&amp;A. The American people, the Congress, and the 9th Circuit Court are concerned with the ecosystems, large and small, and that whales remain a functioning part of them in populations as large as the ecosystems will support. The DEIS quotes the Court [ Anderson v Evans ] often, but the co-managers don't seem to "get" that it applies to them.</b></p>	analysis considers potential effects on numbers of whales. Our analysis does not consider the viability of whales using these survey areas because our stock assessment reports have not suggested that these smaller units may be stocks, the genetic information does not indicate that there could be stock structure below the PCFG, and monitoring of movements of photographically identified whales suggest that they use a larger feeding area than the Makah U&A and OR-SVI.
390	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>DEIS [2015] pg. 1-18: "...whether the Tribe's whaling will damage the delicate balance of gray whales in the ecosystem is a question that must be asked long before we reach the desperate point where we face a scramble for species preservation." [Anderson v Evans]</b></p> <p><b>DEIS [2015] pg. 3-122 : "Even if the eastern Pacific gray whales overall or the smaller PCFA group are not significantly impacted by the Makah Tribe's whaling, the summer whale population in the local Washington area may be significantly affected. Such local effects are a basis for a finding that there will be a significant impact from the Tribe's hunts. Thus, if there are substantial questions about the impact on the number of whales who frequent the Strait of Juan de Fuca and the northern Washington Coast, an EIS must be prepared [Anderson v. Evans 2004]."</b></p>	Comments noted and evaluated in DEIS subsections 3.4 and 4.4 (Gray Whales).

Sort #	Commenter Code	Comment	Response
		<p>In response, the DEIS could not be more straightforward about the likely results of a Makah hunt on the local whales: <b>Pg. 4-66: "Overtime an ongoing hunt could reduce the abundance of PCFG whales... With respect to viability of the PCFG , a reduction over time could decrease the likelihood that the PCFG is viable..." Pg. 4-69: "...a decrease in the number of whales using the coastal portion of the MU&amp;A...could also result in a decrease in the number of whales using the Strait..." Pg. 4-70: "It is also possible that animals could reduce their usage of or stop using an area because of the disturbance associated with a hunt." Pg.4-71: "In any given year...the total number of gray whales present during summer in the MU&amp;A and OR-SVI would be at least temporarily reduced." Pg. 4-72: "Over time, an ongoing hunt could reduce the number of whales in the Makah U&amp;A and the OR-SVI survey areas...The number of whales in the MU&amp;A or OR-SVI could also be affected if gray whales change their distribution and habitat use in response to a tribal hunt under action alternatives...Responses could include changes in distance from shore that whales travel during migration, amount of time spent by whales in the MU&amp;A or OR-SVI, or changes in approachability of whales...It is possible a hunt in...MU&amp;A might disturb whales, causing them to move elsewhere...more approaches, etc cause more disturbance of feeding whales." Pg.3-133: "Animals with strong site fidelity may be unlikely to move or select new habitats if their traditional habitat becomes less favorable.[Quan 2000]."</b></p>	
391	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>So how does the Makah Management Plan respond? <b>Under Alt.2, 6 Makah U&amp;A whales may be killed per year, which is 36 in every 6 year quota period. With only 33 MU&amp;A whales in existence, the 9th Circuit Court would never condone this plan.</b> There is no doubt that a great number of kills will be from the local whales. <b>The most "likely" hunt times will fall in the months of April and May, "designed to avoid any intentional harvest of PCFG whales...by hunting outside of times that coincide with the summer feeding period."</b>[DEIS pg. 2-12] <b>That statement is as deceptive as it can be. The PCFG whales arrive in force to the Makah U&amp;A in March, April and May.</b> As explained in earlier comment sections, these are the arrival months for the Western Pacific grays, the PCFG whales, and all mothers and calves. This is terrible timing, meant to accommodate good weather "safety" for the whalers, and the pretense that PCFG whales arrive in June to feed. This timing has little to do with "avoiding" the harvest of local whales.</p>	DEIS subsections 3.4 and 4.4 (Gray Whales) explore the issues raised in these comments, as well as the fact that over 20,000 non-PCFG whales migrate through the Makah U&A each year and are more likely to be encountered under the alternatives 3, 5 and 6.
392	Owens (Peninsula	<p>It is a fact that the local whales will be much easier and "safer" targets, not only because they are close to shore and the weather is better in April and</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
	Citizens for Protection of Whales)_7-27-15	<p>May. At DEIS pg. 4-26 we learn another reason: <b>"The Makah Tribe's marine biologist...is surveying the Makah U&amp;A throughout the year. The survey involves searching for, approaching, photographing, and/or taking biopsies..."</b></p> <p>In other words, the constant "research" by the tribe's own biologist and the various NMFS biologists, is specifically habituating Makah U&amp;A whales to contact with small boats. The co-managers are basically "training" the whales to be docile and unafraid of vessel approach and "grooming" them for killing. The whalers should keep in mind that in Russia, the years of whaling have resulted in 44% of whales landed demonstrating aggressive behavior. [IWC 2015]. And they will be frightened into avoiding their feeding areas, to their own detriment. Three days after the 1999 hunting mayhem culminated in a young dead gray whale, the large group of whales that had been feeding together in the Cape Alava area was seen 10 miles south of that area. And these were whales that the co-managers insisted were "migrating north".</p> <p>To say that the Makah co-managers have disregarded the Court's edicts would be putting it mildly. Even NMFS admits: "All action alternatives are likely to increase the risk of adverse impacts on PCFG gray whales. Alt.2 would have the most impact." [DEIS 4-277]</p>	
393	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>WESTERN NORTH PACIFIC GRAY WHALES (WNP)</u></b></p> <p>Along with the finding of genetic difference between the PCFG and the migrating ENP gray whales, there was another big reason for this "back to the drawing-board" DEIS. That was the new realization that some extremely rare gray whales from the Western North Pacific (WNP) utilize the birthing lagoons in Mexico. And to the dismay of the co-managers, their epic migration takes them right through the Makah U&amp;A waters during the prime hunt time: December through May. They are migrating in sync with the ENP gray whales and the PCFG whales, both southbound and northbound, and cannot be differentiated from each other on the fly.</p> <p>The population number used in the DEIS for the WNP gray whales is 140. They are thought to be a practically extinct remnant of a once robust Western North Pacific gray whale stock, and are genetically distinct from the ENP gray whales and the PCFG whales. However there are various and conflicting hypotheses regarding the population structure of gray whales as a whole, and many years of studies will be needed to come close to understanding what the facts are. What is accepted is that the WNP gray whales are at very low numbers and far below their OSP. They are listed as endangered on the U.S. ESL, listed as</p>	Comments noted.



Sort #	Commenter Code	Comment	Response
		<p>depleted by the MMPA, and listed as critically endangered by the IUCN. From the DEIS [2015]:</p> <p><b>DEIS pg. 3-94: "The IWC and a series of independent expert panels established by the IUCN have emphasized the urgent need for a comprehensive international strategy to eliminate or mitigate anthropogenic threats facing WNP gray whales throughout their range."</b></p> <p>The International Western Gray Whale Rangewide Workshop [IUCN] in Tokyo, 2008, recommended the implementation of a conservation plan for WNP gray whales. <b>In 2014 the "Memorandum of Cooperation Concerning Conservation Measures for the Western Gray Whale Population" was signed by the U.S., the Russian Federation, and Japan. The text begins: " Acknowledging that the Western Gray Whale population has the critically endangered status on the IUCN Red List of Threatened Species..."</b>. The Memorandum is non binding, but is a stirring call to action to "...prevent the disappearance of the existing population...and manage human activities that affect their status..."</p>	
394	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The 140 Western Pacific gray whales have many threats to their survival. High on the danger list is the intrusion of oil and gas exploration and development in the waters off Sakhalin Island, the main feeding area for the WNP gray whales. There are very real concerns about the deafening underwater noises created by these industrial activities. The danger of collisions with ships will only increase. Oil spills could devastate this small population, as could any disruption in their effort to consume a year's worth of food in the summer months. Entanglements in fishing gear have already occurred with WNP whales off-shore of Sakhalin Island. The DEIS mentions none of this, and only tells us [pg. 3-11], that there are photos of [28] Western grays with entanglement scars and [3] with collision scars. Even at that, it is obviously a perilous world for 140 whales to navigate and survive in. But in a great lapse, the DEIS leaves all these threats un-analysed, and does not add them to any "cumulative effects" discussion.</p> <p>At least 19% of all Western Pacific gray whales also face the many additional threats involved in their only recently observed migration to and from Mexico. At the very least, 27 WNP gray whales have been noted, mixed in with the ENP [and PCFG] migrations. To achieve this stupendous migration they first must cross the deep Pacific Ocean. Then, they share with the entire ENP gray whale population the threats of ship strikes, fishing gear entanglements, oil spills, and orca predation, as they move up and down the Canadian, U.S., and Mexican coastlines. They may also be impacted by Navy training exercises in California and</p>	Please see the response to frequent comment # 12 regarding risks to WNP whales.

Sort #	Commenter Code	Comment	Response
		the Pacific Northwest. The Navy is currently authorized by NMFS to "take" [60] WNP whales in the SOCAL Complex by Level B harassments and [3] per year in ship strikes.	
395	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The effects of climate change, and how that will affect all gray whales, is a vast and depressing topic. Changes in water temperature already seem to be having a negative effect in some Baja birthing lagoons.[ Urban IWC doc. 2015]. And the implications of a warming Arctic are continuously studied and modeled. No scenario favors the gray whales' benthic prey species, and neither does the acidification that is already measurable in the Makah U&amp;A. Climate change should be considered an ever more crushing over-arching limiting factor for many aquatic species, including whales. Sadly, NOAA's scientists tell us that climate change is "real", and will have heavy consequences to everything in NOAA's purview. The entire west coast is currently experiencing a "blob" of water many degrees warmer than normal. Acidification has already killed billions of oysters along the Washington coast and at Hood Canal. <b>"This change we're seeing is happening so fast it's almost instantaneous. I think it might be so important that we will see large levels, high rates, of extinction."</b> ["Sea change..." Craig Welch, Seattle Times, Sept.11,2013-- quote from James Barry, Monterey Bay Aquarium Research Institute]</p>	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
396	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>And to all this the co-managers propose to add even more deadly drama to the gray whales' lives. On top of the existing gauntlet of perils all gray whales must face, NMFS and the Tribe propose to operate a completely unnecessary chamber of horrors and death row for gray whales on our beautiful North Washington Coast. The net of boat approaches, boat chases, harpoon attempts, strikes with harpoons, strikes with .50 cal shells and possibly penthrite grenade blasts and strikes, will be cast over all gray whales transiting through or returning home to the Makah U&amp;A. The likely hunt time will be the milder weather of April and May. Nursery time for all gray whales. Math formulas churn out annual and 6-year estimates of the numbers of frightening and injurious contacts that gray whales will encounter every spring in waters they have been accustomed to trust.</p> <p>Takes of Western Gray whales will be inevitable, and there are no mitigation measures possible to prevent that. <b>DEIS pg. 3-1 : "...and there is a chance that WNP gray whales might be killed, subjected to harpoon attempts, or approached."</b> Also from the DEIS:</p> <p><b>DEIS pg. 3-93: "...Potential Biological Removal [PBR] values [for WNP stock] ranging from 0.07...to .033, with uncertainty in these values being driven by uncertainty in the fraction of WNP animals migrating in ENP areas."</b></p>	Please see the response to frequent comment # 12 regarding risks to WNP whales.

Sort #	Commenter Code	Comment	Response
		<p>"...it is most likely that whales from this stock could be encountered in the vicinity of the Makah U&amp;A during the hunting season proposed by the Tribe..."</p> <p>"...there is a high probability that during a 6-year period a WNP whale would be pursued or approached by Makah hunters [a probability of 0.98 to 1.0]."</p> <p>"The probability of an attempted strike on at least one WNP in 6 years was still fairly high...[35%] and the chance of actually striking at least at least one WNP whale in 6 years was relatively low but non trivial" [7%].</p> <p>"The loss of a single whale, particularly if it were a reproductive female , would be a conservation concern for this small stock."</p> <p>pg.5-29: "It is unclear how natural mortality may be influencing WNP whales. High incidence of orca tooth scars, small size and limited number of reproductive females, and relatively low calf survival, are likely to be key factors limiting potential population growth. They are likely more susceptible to changes in mortality, natural or human caused." [Burdin 2012]</p> <p>Given the above statements of risks and probabilities, it is instructive to read the definition of "negligible impact" from the DEIS pg. 2-21: "An impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."</p> <p>From the DEIS pg. 5-36: "Given the small size of the WNP in the analysis area, it is speculative to predict whether appreciable effects would be expected from any of the activities assessed in Subsection 5.1.3, past, Present, and Reasonably Foreseeable Future Actions."</p> <p>Add to that the often repeated phrase in the DEIS: "There are very limited data for WNP whales in the project area to inform this analysis."</p> <p>From the GAMMS SAR guidelines, June 2005, pg.10: Definition of Strategic stock: " If human caused mortality is likely to be significant relative to stock size...the stock should be considered as strategic."</p> <p>And: "In the complete absence of any information on sources of mortality, and without guidance from the Scientific Review Groups, the precautionary principle should be followed and the default stock status should be "strategic" until information is available to demonstrate otherwise."</p> <p>It is heartening to see the Precautionary Principle invoked by the government. A precautionary approach to risk management states that if an action or policy has a suspected risk of causing harm to the public or the</p>	

Sort #	Commenter Code	Comment	Response
		<p><b>environment, in the absence of scientific consensus that the action or policy is not harmful, the burden of proof that it is not harmful falls on those taking an action.</b></p> <p>NMFS has in no way proven that there will be no harm, or even "negligible impact", to the 27 WNP whales from Russia on the U.S. coast, or that there will be no harm or impact to the entire 140 WNP grays by removal of adult females [likely pregnant] from the Baja-migration group. For NMFS to green-light the action of Makah whale hunts during migration times is to green-light the never-ending harassments, woundings and deaths that math formulas assure us will likely touch 27, or more, WNP gray whales transiting the Makah U&amp;A near-shore December-May into perpetuity. And those losses will affect the viability of the WNP gray whale population.</p> <p>In fact, it bears repeating that what NMFS says is: "<b>There are very limited data for WNP whales in the project area to inform this analysis.</b>"[DEIS pg. 4-34]</p> <p>Making a decision to allow actions that can harm the WNP gray whales, will make Makah whaling one big game of Russian Roulette. No one will ever know the identities of the hungry WNP whales chased from their productive food sources before the longest known mammal migration....the WNP mothers , desperately needing to eat to produce milk for precious calves, chased and disrupted from feeding and nursing...possibly chased into dangerous deep water. The struck and wounded WNP whales, the struck and lost WNP whales, sinking to the sea floor. Only the struck-and-butchered-on-the-beach WNP whales will be ID'd. Then it will be too late for those whales, and too late for NMFS to back-pedal on the whole whaling scheme. By the time NMFS admits that math formulas and computer models can be wrong, irreparable harm will likely have been done.</p> <p>The risks to the severely depleted WNP stock are high and not easily calculable. The very time to act in a precautionary manner. The U.S. has a responsibility to assist the recovery of the Western North Pacific gray whales, not drive the nails into the coffin of this population. To satisfy the demands of a small group of whaling families to carry on the elitist activities of their ancestors, NMFS offers up small, vulnerable whale families as sacrificial lambs. The judges of the 9th Circuit Court were extremely concerned about the PCFG whales, and even more concerned for the survival of the Makah U&amp;A whales. We can only imagine what their opinion would have been of this unmitigated threat to the Western Pacific Gray Whales.</p>	

Sort #	Commenter Code	Comment	Response
		<p>The Peninsula Citizens for the Protection of Whales strongly believe that these once thought to be extinct Western Pacific gray whales are guests in our waters. Important guests, with much to teach us about their surprising lives. Perhaps the "Russian" whales are well known to the PCFG families as individuals. We have no idea what harm can come from "hunters" running amuck amongst these sensitive animals. These ancient lineages of whales deserve better. <b>Why don't the Makah need a waiver from the MMPA for "takes" of WNP whales? The DEIS describes the possibility of a "take" as "non-trivial". The MMPA must protect them as well as the PCFG whales.</b></p>	
397	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>SMALL POPULATIONS</u></b></p> <p>There are many problems with, and objections to, the NMFS/Makah whale hunt plans. But none is more important or urgent to address than the issue of stock designation for the PCFG gray whales. Nothing bothers the Peninsula Citizens for the Protection of Whales more than contemplating the chasing, terrifying, scattering, ambushing, harpooning, wounding, shooting, and killing of our resident whales. Every year, multiple times a year, for years on end. Until it becomes obvious that there are no more grays in the Strait....or at the Cape. Or on the coast. Their absence will bring a great sadness and leave a huge void in the ecosystem. How can this be allowed to happen?</p> <p><b>From the DEIS pg.1-5: " NMFS currently does not recognize the PCFG as a " population stock" as we interpret that term under the MMPA, but we have stated that the PCFG seems to be a distinct feeding aggregation and may warrant consideration as a distinct stock in the future. [Carretta et al 2014]" This phrase is repeated over and over throughout the DEIS. "In the future.." ?</b></p> <p>We do not feel that we can over-emphasize the harm that NMFS does by postponing the decision to give stock designation to the 200 PCFG gray whales until some indefinite future. It is now that it matters, as NMFS contemplates allowing a hunt [into perpetuity] that will quickly do away with a great portion of the PCFG . So what is the hold-up?</p> <p>NMFS mentions in the DEIS holding a "workshop" on gray whale stock ID. <b>From the DEIS: pg. 3-56: "Workshop participants recommended that the criterion for determining when a group of animals should be considered a separate population stock is when it is demographically independent, rather than demographically isolated."</b></p> <p>The workshop report states: " <b>The group agreed to replace references to "reproductive isolation" and "demographic isolation" in the report guidelines with references to "demographic independence" as the term "isolation" is</b></p>	Please see the response to frequent comment # 5 regarding the stock status of the PCFG.

Sort #	Commenter Code	Comment	Response
		<p><b>likely to be interpreted by some as implying that there should be no interchange between stocks." [Moore and Merrick 2011]</b></p> <p>DEIS at pg.3-129:[ NMFS 2012 workshop ["Task Force"] on Gray whale Stock ID] The discussion on stock designations continued among un-named government scientists. Arguments were made for and against the PCFG being deemed a "demographically independent unit". The scientists could not agree. <b>The definition of "demographically independent" is given at DEIS pg.3-133 as : "Different in biologically significant way [i.e. genetic or behavioral difference.]"</b></p> <p>The PCFG gray whales are different from the rest of the ENP gray whales genetically AND behaviorally. How could there be disagreement on the facts? So apparently, from 2012 until now there has been no movement toward a consensus on this important point. A point so important that <b>no waiver should be considered, and no DEIS should have been completed, without a decision on stock identity for the PCFG whales.</b> Their survival now hangs in the balance, and still no decision from NMFS. <b>It would do no harm to delay a waiver request until this important stock designation is decided. It will do immense harm to the PCFG whales to go ahead without it. So who does NMFS decide to tip the advantage to? As usual, all advantage is to the hunters. With no stock designation for the PCFG whales, they are part and parcel of the entire "plentiful" ENP gray whale population, wide open for killing.</b></p> <p>The reckless nature of this co-managed maneuver is staggering. How could there be two less worthy "stewards" of our whales? Real stewards would insist on actually conducting more research if there are more questions. A few thoughts from non-governmental scientists:</p> <ul style="list-style-type: none"> <li>-<b>"The precautionary principle, adopted by the U.N. Conference on Environmental Development, urges caution when making decisions about systems that are not fully understood."</b>[Meffle &amp; Carroll, 1997]</li> <li>-<b>"The negative consequences of ignoring potential population structure when making management decisions, such as the extinction of unrecognized populations and/or species, are well known."</b> [Frasier et al," Assessment of population substructure in relation to summer feeding ground use..."]</li> <li>-<b>And from the same paper: " The combined genetic and photo-ID data showing that the southern feeding group [PCFG] represents a distinct maternally based seasonal sub-population indicates that these whales require separate management consideration from the larger population."</b></li> </ul>	

Sort #	Commenter Code	Comment	Response
398	Owens (Peninsula Citizens for Protection of Whales)_7- 27-15	<p>These words are re-enforced at: <b>"Definition of Stocks" [GAMMS pg.4] :</b>  <b>"Insufficient dispersal between populations where one bears the brunt of exploitation coupled with their inappropriate pooling for management could easily result in failure to meet MMPA objectives. For example, it is common to have human-caused mortality restricted to a portion of the species' range. Such concentrated mortality [of a large magnitude] could lead to population fragmentation, a reduction of range, or even the loss of undetected populations, and would only be mitigated by high immigration rates from adjacent areas."</b></p> <p>That paragraph could not describe the current situation more clearly. <b>The PCFG whales ARE being "inappropriately pooled" with the entire ENP gray whale population. The Makah U&amp;A whales WILL bear the "brunt of exploitation", as the "human-caused mortality" WILL be restricted to a certain portion of the PCFG range: the Makah U&amp;A.</b> And the following passage explains why there will NOT be "high immigration rates from adjacent areas":</p> <p><b>"Because of site fidelity, knowledge of specific feeding areas is only present within certain matriline. Therefore, if whales are extirpated from a specific feeding ground, they will not be "replaced" by others from the larger population, because knowledge of that feeding area has been lost. Indeed, such localized extinctions and lack of subsequent re-population of areas [despite an increasing overall population size] is widely documented in whales." [Northridge 2008]</b></p> <p>And for the record, NMFS policies in the 1990's and early 2000's WOULD have led to the loss of at least one "undetected" population. The then "non-existent" resident whales. And what of the Western North Pacific gray whales? Their migration through the Makah U&amp;A was un-imagined then. Who knows what harm could have been done to that tiny group after 17 years of whaling?</p> <p>NMFS needs to follow its own advice: <b>From "Definition of Stocks---management units" [SARS pg.4]: "In the absence of adequate information on stock structure...a species' range within an ocean should be divided into stocks that represent defensible management units. Examples of such management units include...semi-isolated habitat areas, and areas of higher density of the species that are separated by relatively lower density areas. Such areas have often been found to represent true biological stocks where sufficient information is available."</b> How could anyone argue that the PCFG is not a "defensible management unit"?</p>	Please see the response to frequent comment # 5 regarding the stock status of the PCFG.

Sort #	Commenter Code	Comment	Response
		<p>Whatever kind of management philosophy NMFS is engaged in, it is certainly more politics than science. NMFS charges forward, ready to give up the resident whales to the Tribe, when it is scientifically defensible to put the local whales off limits. What gives? Will NMFS promise anything to avoid a lawsuit from the Tribe? NMFS cannot fault observers for wondering what the explanation is. And there is no clue in the DEIS as to whether NMFS intends to rein-in their co-managers at the last minute. We certainly cannot count on that happening. Past actions do not predict it.</p>	
399	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>So how does our small, genetically distinct, PCFG group --population size: 200 -- geographically isolated from the "main herd" most of the year, and possibly utilizing birthing areas specific to their small group--compare to other small populations of whales in numbers and PBRs?</p> <p><b>-Gulf of Mexico sperm whales: population size: 1,400-1,660. " If the Gulf of Mexico oil spill kills just three sperm whales [PBR set by NOAA, 2009] it could seriously endanger the long-term survival of the Gulf's native whale population, scientists say...the population is thought to be especially vulnerable due to its relatively small size." [National Geographic News, 5-21-2010]</b></p> <p><b>-CA-OR-WA sperm whales: population size: 751- 971. PBR: 1.5 per year</b></p> <p><b>-Western Pacific Gray whales: population size:134-146. PBR: .07- .33 per year [with "uncertainty", DEIS pg.3-93] "Loss of a single whale, particularly a reproductive female, would be a conservation concern for this small stock." [DEIS pg. 3-93]</b></p> <p><b>In these examples, a population of 1,400 -1,660 cannot sustain a loss of ( 3), a population of 751-971 cannot lose more than (1) per year, and a population of 134-146 should only lose (1) over a span of years. By contrast, the Tribe could potentially eliminate (6) out of the (33) Makah U&amp;A grays whales per year. This illustrates the low value NMFS places on the PCFG and MU&amp;A gray whales. What reason could there be to decide to place no value on the PCFG, other than as an aid to the Tribal whaling plan? NMFS should have learned a lesson from their Cook Inlet Beluga co-management debacle.</b></p> <p><b>-Cook Inlet Beluga Whales: population size: "Once thought to number 1,300, beluga whales in the waterway plummeted during the 1990s in a decline federal biologists blamed on over hunting by Alaska Natives, the only people allowed to kill them." [Philly burbs.com, 5-28-04] From a more recent article: "The 2014 estimate is 340 animals...The Cook Inlet beluga population dwindled steadily through the 1980s and early 1990s. The decline accelerated between 1994 and 1998 when Alaska Natives harvested nearly half the remaining 650</b></p>	Comments noted. Please also see the response to frequent comment # 5 regarding the stock status of the PCFG.



Sort #	Commenter Code	Comment	Response
		<p><b>whales in only four years. NMFS initially determined that controlling subsistence hunting would allow the population to recover. When it did not, the agency declared belugas endangered and a "strategic stock" in 2008. Population estimates have ranged from 278 to 375 animals in the past decade. The overall trend shows the beluga population is not recovering and is in decline at an average rate of 0.4 percent.... Researchers conclude the population remains in danger of extinction." ["NOAA says Cook Inlet beluga numbers..." AP 3-30-15.]</b></p>	
400	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Looking at the sad history of the Cook Inlet beluga whales, <b>it is obvious that a once-healthy sub-population of around 1,300 was reduced in a very short time, [ thanks to NMFS's authorized "subsistence" hunting] , to a marginally viable population number that may lead to extinction of the stock. Where was NMFS when the hunters were butchering half the remaining population between 1994 and 1998 ? Where was the monitoring? Was "take" information being submitted to NMFS by the tribes and analyzed more than annually? Was there blind trust in the Alaska Native co-managers? NMFS cannot blame the hunters, alone. NMFS set up the system, and the system failed. How in the world can we be persuaded to trust NMFS/Makah co-management of the 33 Makah U&amp;A gray whales, or the additional 100 or so OR-SVI whales? We cannot and we do not.</b></p>	<p>Comments noted. If hunting is authorized in the future, monitoring would be an important component of the authorization.</p>
401	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>The fact that the tribal managers "gift" themselves with an annual allowable bycatch of three PCFG whales per year betrays either a severe disconnect from reality, or a cold lack of interest in preserving the Makah U&amp;A gray whales or any of the other PCFG whales that by chance or necessity enter their area.</b> Estimates of non-hunting human-caused mortality for gray whales between California and B.C. for 1990-2010 found an annual PCFG mortality rate of 1.845 whales per year. "Total estimates of non-hunt human-caused mortality reported are minimum estimates because it is not likely that all whales killed by human activities are reported...and because mortalities in Mexico are not in this report." [Moore,J.E. and D.W. Weller 2013] Other calculations come up with higher annual PCFG mortalities: 2.6 to 2.3 for the years 2005-2012. It has also been noted that there are many PCFG gray whales known to have very visible, large, healed wounds. A.E. Punt [2015 IWC] finds the average incidental deaths of PCFG whales to be: [December-May] :1.10, [June-November] 1.55 with California [June-November] 3.65. <b>Punt also found the PCFG "sub-stock" to be at half of carrying capacity.</b></p>	<p>These and similar comments have led us to reexamine the tribe's proposal to use PBR to establish an allowable mortality level for PCFG whales and will be taken into account in future decision-making.</p>

Sort #	Commenter Code	Comment	Response
		<p>We will never know how many PCFG whales meet untimely deaths per year without hunting. We must assume that the number is at least three. The DEIS at pg. 4-71 gives a maximum number of PCFG whales killed per year under Alt.2 of 5 per year, MU&amp;A whales:6 per year. <b>So we are contemplating the possible loss of 9-10 PCFG whales per year, considering hunting and non-hunting causes of death together. The only comparable PBR is for the CA-OR-WA Humpback population of 1,878 with a PBR of 11.3 per year.</b></p> <p>So what does NMFS say is the PBR for 197 PCFG whales? DEIS pg. 3-156: 3.1 per year. The Makah co-managers have claimed that same number as their annual allowable take from the smaller OR-SVI group, with no allowance for the non-hunt mortality number. <b>Is there really a surplus of expendable PCFG whales in the Makah U&amp;A?</b></p> <p>DEIS at pg.3-156: "It was not possible to draw a definitive conclusion as to whether the PCFG is within its Optimal Sustainable Population [OSP]." From Punt and Moore [2013], "With variants of the model, the probability that the PCFG was at OSP ranged from 0.35...to 0.88. they concluded that additional data were needed to obtain better empirical estimates of bycatch mortality and net annual immigration rates and to reduce uncertainty in Maximum Sustainable Yield rate [MSYR] and Maximum Net Productivity Level [MNPL] that would potentially improve inferences about the likelihood of the PCFG being at OSP"</p>	
402	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>So it is NOT known if there are more than enough PCFG gray whales in the Makah U&amp;A to sustain hunting AND non-hunting mortality rates. NMFS knows there are way too many unknowns.</p> <ul style="list-style-type: none"> <li>-What is the carrying capacity of the PCFG range? Unknown</li> <li>-What is the OSP of the PCFG gray whales? Unknown</li> <li>-Are the PCFG within OSP? Unknown</li> <li>-What is the annual immigration rate to the PCFG? Unknown</li> <li>-Is there sub-structuring in the Baja lagoons? Unknown</li> <li>-How long ago did the PCFG population originate? Unknown</li> <li>-Why did the population originate? Unknown</li> <li>-Why does the PCFG persist? Unknown</li> <li>-What is the average annual calf-count in MU&amp;A? Unknown</li> <li>-What is the status of the food supply? Unknown</li> <li>-How do PCFG whales find their food? Unknown</li> <li>-What effects will acidification have on their prey? Unknown</li> <li>-What effect are warm water temps having on prey? Unknown</li> </ul>	Many of the issues raised in these comments are addressed - including statements of uncertainty - throughout the DEIS, in particular in subsections 3.4, 4.4, and 5.4 (Gray Whales).

Sort #	Commenter Code	Comment	Response
		<p>-Will increased killer whale predation be a concern? Unknown            -What is the carrying capacity of the Makah U&amp;A? Unknown            -How many adult females are in MU&amp;A sub-group? Unknown            -What is OSP of the MU&amp;A gray whales? Unknown            -What is the population trend for the PCFG? Unknown            -How many PCFG females are newly pregnant per year? Unknown            -What is the annual bycatch mortality rate for the PCFG? Unknown            -How does underwater noise impact PCFG communication? Unknown            -Are elevated water temperatures in Baja driving whales from some lagoons? Unknown</p>	
403	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>It is crystal clear why NMFS refuses to protect the PCFG whales. To do so would force the Tribe to an off-shore hunt in the actual migratory corridor. This type of hunt, while sparing PCFG whales, would be a threat to the Western North Pacific gray whales coming and going from Sakhalin Island. The WNP gray whales do have stock designation, and all possible care must be taken not to harm even one. "The world is watching" when it comes to the severely depleted WNP gray whales.</b> Not quite so much with the PCFG whales, as NMFS has kept the waters muddied on stock designation, and continues to do so. In actuality, there are only a few more PCFG whales than WNP whales. In the case of the MU&amp;A whales, there are far fewer. The PCFG whales are genetically distinct from the larger ENP gray whale population, as are the WNP whales. The PCFG whales give birth in Baja, as do many WNP whales.</p> <p><b>The only way for NMFS to comply with tribal hunting demands is to keep the PCFG whales "hunt-able". That is what drives the "inability to decide on stock designation", and thus protection, for the PCFG gray whales. There are no plans for protections. They will be sacrificial lambs for the Makah and whatever other tribes gain access to whaling rights. They just won't last very long.</b></p> <p><b>However, NMFS must answer the questions listed above before they decide that ANY gray whales in the Makah U&amp;A are "disposable". The 9th Circuit Court of Appeals requires, as does the MMPA, that the PCFG and MU&amp;A whales remain" functioning parts of their environments." It will be interesting to see how all parties to the coming decisions will navigate these issues of local whales and those who would kill them all. If only NMFS had given more thought, and more value, to the lives of the Cook Inlet Beluga Whales.</b></p>	Please see the response to frequent comment # 5 regarding the stock status of the PCFG.
404	Owens (Peninsula	<b><u>DOMESTIC EXPANSION OF WHALING</u></b>	Comments noted. Please see the response to frequent comment # 4

Sort #	Commenter Code	Comment	Response
	Citizens for Protection of Whales)_7-27-15	<p>When the judges of the 9th Circuit Court [Anderson v Evans 2004] took a hard look at NMFS' then most recent EA, and ordered an EIS be prepared instead, one of the very important areas that the Court deemed lacking in the EA was an analysis of the "<b>precedent for future actions.</b>" By this the Court meant : could there be an expansion of whaling domestically or internationally as a result of approval of Makah whaling?</p> <p><b>The Court said: " We cannot agree with the agency's assessment that because the Makah Tribe is the only tribe that has an explicit treaty-based whaling right, the approval of their whaling is unlikely to lead to an increase in whaling by other domestic groups. " And: "...while defendants argue that the Makah Tribe is the only tribe in the U.S. with a treaty right expressly guaranteeing the right to whale, that argument ignores the fact that whale hunting could be protected under less specific treaty language...less specific "hunting and fishing" rights might be urged to cover a hunt for marine mammals. Although such mammals might not be the subject of "fishing", there is little doubt they are "hunted". " [Anderson v. Evans 2004]</b></p> <p>So what does this DEIS have to say on the topic?</p> <p><b>- "The scope of reserved hunting rights...is very broad. Twenty Indian tribes in Western Washington State have treaty protected fishing rights in the Pacific Ocean, the Strait, and Puget Sound." [pg.1-8]</b></p> <p><b>- "Other tribes historically hunted whales, and the authorization of a Makah whale hunt...could lead them to request a similar authorization." [pg. 4-261]</b></p> <p><b>- "This authorization...could lead other parties to seek similar authorization to harvest marine mammals other than whales. Some NW Indian tribes traditionally harvested...seals, sea otters, and other marine mammals. Northwest Indian tribes have, in the past, expressed an interest in harvesting marine mammals. Authorization of a Makah gray whale hunt could revive the interest of the Makah or other tribes in hunting marine mammals. It could also lead to interest by non-Indians in sport or commercial hunting of marine mammals. Such interest could lead to additional requests for MMPA waivers from Indian or non-Indians, and ultimately to the federally authorized harvests of additional marine mammals." [pg.4-261]</b></p> <p><b>- "Alternatives 2- 6 could encourage applicants [ including Makah] to consider seeking waivers of the MMPA to allow subsistence, commercial, or sport harvest of gray whales or other marine mammals. Thus there would be an</b></p>	regarding precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
		<p>increased likelihood of future requests. We consider the increased likelihood to be small." [pg.4-265]</p> <p>- "Under Alternatives 2- 6, we would authorize a Makah gray whale hunt, and that authorization would make it more likely for parties to seek an MMPA waiver compared with the No-action alternative."</p> <p>- "The most likely increase in waiver applications would come from other treaty tribes, who might view the approval of the Makah's application as a precedent for approval of additional waiver applications to take marine mammals that they had harvested traditionally and that remained important to them for cultural or other reasons. " [pg. 4-266]</p> <p>- "Nevertheless, tribes other than the Makah traditionally hunted gray whales, and authorization of a Makah hunt could encourage them to seek a similar authorization ." [pg. 4-266]</p> <p>- "Authorization of the Makah Tribe's request under Alternatives 2 through 6 could also lead the Makah Tribe or other tribes to request additional authorization to hunt other species of whale besides gray whales. " [pg.4-266]</p> <p>From the above excerpts, it would seem that NMFS is now bending over backwards to finally agree that other tribes do indeed have the same treaty right to request waivers from the MMPA to take many species of marine mammals, and may indeed seek similar waivers. [There is no explanation for why they also raise the odd specter of "non-Indian sport or commercial hunting of marine mammals."] It appears that NMFS understands the risk that a regular Pandora's Box will be opened by creating a precedent-setting breach in the MMPA with a waiver for the Makah. Especially a waiver request so boldly callous to the small PCFG and WNP gray whale groups. A waiver request so much in violation of the spirit and the intent of the Marine Mammal Protection Act. A waiver which, if granted, will remove the ancient lineages of "summer" gray whales from the Olympic Peninsula waters forever. A waiver request that will eventually do damage to the WNP whales, and will open the door for a crush of tribal [and non-tribal?] requests for a variety of marine mammal takes. Because if this request "passes muster", the bar is set so low that it will be difficult to reject any request that follows. So what is NMFS' analysis of the potential outcome of the scenarios that they themselves describe?</p> <p><b>DEIS pg. 4-265: " Although it has been ...over 15 years since the Makah Tribe received their allocation , no other Indian tribe...has requested an allocation ...This history suggests that beyond the Makah...there is very little interest by other native groups to seek authorization to harvest whales. In</b></p>	

Sort #	Commenter Code	Comment	Response
		<p><b>addition, the complexity of the process and length of time required to complete it would probably limit the interest of most potential applicants.." and finally: " If authorization of a hunt under Alternatives 2- 6 did lead to an additional waiver request by the Makah Tribe or other tribes, the outcome of any process would depend on facts specific to those requests that are not presently known, making it speculative to conclude that the harvest of whales nationally would change as a result of implementing Alternatives 2 through 6." [DEIS pg.266]</b></p> <p>It does us no good to continue to quote the various tribal sources proclaiming the right and the intent to pursue marine mammal hunts, as NMFS refuses to "speculate" without specific requests in front of them. It is also of no use to continue to point out that it is common sense to believe that "other tribes" understand the negative complication they pose to the Makah's waiver attempt. It seems obviously strategic to "hang back" and let the Makah precedent be set. We will only add three more quotes to the many we have sent in the past, the first one an "oldie but a goodie":</p> <p><b>"Even the Makah say it is likely that their proposal, if successful, will inspire Native Americans throughout the Pacific Northwest to again take to the seas on the trail of the whale. Already 13 Nuu-chah-nulth tribes of Vancouver Island, cousins to the Makah from across the Strait of Juan de Fuca, have launched treaty talks in Canada aimed at resuming whale hunting. "We're hearing rumblings that some of the tribes up in Alaska will want to start whaling, too. We know there are three in Washington that would like to. The 13 in Canada. We kind of figure there will be a domino effect," said Denise Dailey, marine biologist for the Makah Tribe. "Everybody's kind of looking at us and saying, 'See what you've caused?' But as Makahs we always feel like we're in the front of a lot of issues, especially when it comes to treaty rights." [L.A. Times, 8-2-95]</b></p> <p><b>NWIFC comments to DEIS 2008: ""The DEIS correctly notes that the tradition of whaling is not unique to the Makah Tribe and that other Pacific Northwest Indian tribes traditionally harvested marine mammals and have expressed relatively recent interest in doing so. The connection of other treaty tribes to whaling continues to this day. See DEIS [2008] at 1-38 [ceremonial involvement of four canoes from various Washington Indian tribes in the landing of whale harvested by Makah Tribe in 1999."</b></p>	
405	Owens (Peninsula Citizens for	And from the Report of the Scientific Committee, June, 2012: 2.2.2 Stock structure: <b>"SC/64/AWMP2 tested the assertion that individuals of the southern feeding groups mate with the rest of the population, and therefore that the</b>	Comments noted and evaluated in DEIS subsections 3.4 and 4.4 (Gray Whales).

Sort #	Commenter Code	Comment	Response
	Protection of Whales)_7-27-15	<p><b>ENP gray whale represents one interbreeding population because this assumption is key to making appropriate management decisions given there is an interest by native groups in Washington and British Columbia to resume their traditional hunts. Such hunts could disproportionately affect whales of the PCFG, and understanding how these whales are related to the rest of the population is necessary for properly managing such hunts."</b></p> <p>How the PCFG gray whales "are related to the rest of the population", may take many years to unravel. But in U.S. waters, it doesn't really matter. The MMPA requires optimum populations of whales to be sustained in the various ecosystems, large and small. <b>The 9th Circuit stated in Anderson vs. Evans: "If California gray whales disappear from the area of the Strait of Juan de Fuca, the Marine Sanctuary, or both, that would be a significant environmental impact even if the PCFA whales populating the rest of the Pacific Coast in the summer are genetically identical to the local whales, and even if the PCFA whales are genetically identical to the migrating whales."</b></p>	
406	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The Makah hunt, under Alternatives 2 through 6, will definitely impact the Makah U&amp;A whales first and foremost, through deaths and unending harassments. Over time the fright and destruction will also cut into the wider PCFG population. If other Western Washington tribes obtain similar waivers, what other whales are there to be targeted but the "plentiful" ENP gray whales? And because NMFS gives no stock designation to the PCFG whales, but folds them into the ENP population, there will be nothing to stop multiple tribes from killing and harassing the same small group of PCFG whales. The template will have been created, and any changes in the "rules" will be poorly received and hard for NMFS to justify. NMFS' strategy to assist the Makah Tribe could result in many more tribes demanding a share of the "plentiful" ENP gray whales. With or without the "help" of other tribes in Washington State and Canada, the PCFG whales are doomed to extinction in the Pacific Northwest in a relatively short time frame. Under 20 years will be long enough to have finished off the peaceful springtime "baby nursery" of the Makah U&amp;A mothers, the PCFG mothers, the ENP gray whale mothers, the WNP gray whale mothers, and all of their offspring.</p>	<p>The issues raised in these comments are addressed throughout the DEIS, in particular in subsections 3.4, 4.4, and 5.4 (Gray Whales). DEIS Subsection 3.17.3.2.2 (Aboriginal Subsistence Whaling) and Subsection 4.17 (Regulatory Environment Governing Harvest of Marine Mammals) address the precedential issue raised in this comment.</p>
407	Owens (Peninsula Citizens for Protection of	<p><b>NMFS wants us to have faith that : " The complexity of the process--the length of time to complete it...would probably limit the interest of most potential applicants. It therefore seems unlikely that Alt.2 through 6 would lead other Indian tribes to seek authorization to hunt whales." [DEIS pg.4-264-265]</b></p> <p>This is an extremely weak argument, and a cowardly avoidance of the type of analysis that we believe the 9th Circuit Court had in mind. The</p>	<p>Comments noted. These assertions provide no information that would change the conclusions in DEIS Subsection 4.17.3.2.1 (National Regulation of Marine Mammal Harvests). Please also see the</p>

Sort #	Commenter Code	Comment	Response
	Whales)_7-27-15	"complexity" and the "length of time to complete" will be immensely reduced by a successful waiver request this time. Why would any tribe be anything other than encouraged and energized by the opened door? Besides, it is NMFS that does most of the "complex process", and all the tribes have lawyers and the Northwest Indian Fisheries Commission to press their demands. It is simply a matter of sending a request letter to NMFS, and letting the process get under way.	response to frequent comment # 4 regarding the precedential effect of waiver internationally and domestically.
408	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	A whaling request is also a proven "cash cow" for travel, jobs, "whaling commission" start-ups, equipment, etc. <b>" The government plowed \$200,000 into Makah whaling in 1996; \$60,000 in 1997; and 475,000 in 1998. The money paid to send delegations to represent the Tribe before the IWC in Monaco, Dublin, and London; to determine a humane whale-killing method; to monitor the 1999 hunt; and to hire a tribal biologist. The federal government gave the tribe \$25,000 more last month to pay for an upcoming trip to Japan to appear before the IWC...financial support for Makah whaling has totaled \$360,000 since 1996, though none was spent to actually kill a whale said Brian Gorman, NMFS spokesman."</b> [Seattle Times, Lynda Mapes, April 15, 2002] It is a money-maker without ever killing a whale or selling an ounce of meat. NMFS knows more than they admit about tribal desires to hunt marine mammals. They cover themselves by admitting the possibility, but declare over and over that it is "too speculative to conclude" that authorization of the Makah to hunt whales "would affect marine mammals in the U.S." Credulity strains to breaking on that one.	Comments noted, however the commenter provides no evidence to support the contention that NMFS is hiding information regarding "tribal desires to hunt marine mammals." The DEIS identifies a number of issues (including effects on marine mammals in the U.S. and whaling worldwide; DEIS Subsection 5.16, National and International Regulatory Environment) where it is "too speculative" to make specific conclusions.
409	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The Peninsula Citizens for the Protection of Whales believe that until such time that NMFS has a more complete understanding of the cumulative results of this action, it is <b>"too speculative"</b> to allow this whaling to be approved. The members and supporters of the PCPW are also very concerned about the future and the integrity of the MMPA itself. We are afraid that this waiver request process, if successful, will undermine the meaning and the effectiveness of this Act. An Act that reflects the will and desire of the great majority of Americans to see marine mammals thrive in U.S. waters to their fullest extent. There is no legal reason that the will of the American people bend to the desires of a particular tribal council, or multiple tribal councils.</p> <p><b>In the words of the Court [Anderson vs. Evans] : " The intent of Congress cannot be held hostage to the goodwill or good judgment or good sense of the particular leaders empowered by the tribe at present; it must be assumed that Congress intended to effectuate policies for the United States</b></p>	The Makah Tribe is pursuing a waiver of the MMPA take moratorium through legal means, pursuant to the Court's decision in <i>Anderson v. Evans</i> , and as allowed for in Section 101(a)(3)(A) of the MMPA. For more information, see Subsections 1.2.3.3 and 3.17.3.1 of the DEIS.



Sort #	Commenter Code	Comment	Response
		<p><b>and its residents, including the Makah Tribe, that transcend the decisions of any subordinate group."</b></p>	
410	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>THE IWC " MAKAH QUOTA"</u></b></p> <p>The Final Decision of the 9th Circuit Court in Anderson v Evans [2004] gives great emphasis to the issue of the IWC quota for the Makah Tribe, and was a primary reason for ordering an EIS to be prepared. <b>From the opening statement of the Court's Final Decision: "Appellants' complaint sought relief broader than invalidation of the procedures used to obtain the IWC permit and of the Cooperative Agreement as violative of NEPA and the and the MMPA. The government activity challenged...is the way the government has gone about contracting with the Makah, obtaining "aboriginal subsistence" quotas from the IWC, and allocating them to the Tribe...Precedential harms continue to flow from the government's action."</b></p> <p>Continuing the words of the Court: <b>"Delegates at the IWC again disagreed about whether the Tribe qualified under the aboriginal subsistence exception. Rather than resolving the disagreement, the delegates papered it over with ambiguous language...It remained unclear whether a majority of the members considered the Tribe entitled to the aboriginal subsistence exception..."</b> It had been the understanding among IWC members "...that only the IWC [not individual member countries] could decide which groups met the subsistence exception...The 1997 IWC gray whale quota, as implemented by the U.S., could be used as a precedent for other countries to declare subsistence needs of their own aboriginal groups, thereby making it easier for such groups to gain approval for whaling."</p> <p>And: <b>"...the agencies' failure to consider the precedential impact of our government's support for the Makah Tribe's whaling in future IWC deliberations remains a troubling vacuum."</b></p> <p><b>The Court found the problems to involve "specificity"...the IWC Schedule fails to expressly provide any whaling quota for the Tribe...and "uncertainty": "...surrounding circumstances of the adoption of the Schedule cast doubt on the intent of the IWC to approve a quota for the Tribe..."Whether recognition must formally come from the IWC or the U.S. is not clear...the "expressly provided for " requirement is not satisfied." [Anderson v Evans]</b></p>	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
411	Owens (Peninsula Citizens for Protection	<p>We believe that the 9th Circuit would continue to see a "troubling vacuum" in the DEIS' analysis of the impact that the Makah's "aboriginal subsistence" could have at the international level. When ordered to prepare an assessment "free of the previous taint", we really assumed that NMFS</p>	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.

Sort #	Commenter Code	Comment	Response
	of Whales)_7-27-15	<p>compliance on this topic would need to entail an actual re-visiting of the IWC quota arrangement with Russia. sharing of the Russian quota with more U.S. tribes. Maybe more bowheads would be traded to Russia to sweeten the deal. <b>There is only one way to establish the "specificity" required by the Court, to resolve the "uncertainty" described by the Court, and to remove the "previous taint" of unlawful actions by NMFS in the procedures leading to the IWC. That one and only way is to un-bundle the Makah request from the Russian request and allow the IWC member countries to vote separately on each request. Many delegates to the IWC complained that a "good request" [Chukotka] was tied to a "bad request" [Makah]. We believe that the U.S. well knows that a stand-alone vote on Makah "subsistence needs" would not be successful. It is only by binding itself to the actual needs of the Chukotka people that the Makah have slipped through the cracks of true IWC approval. The ultimate result of this strategy could become the expanded sweeten the deal. A very bad precedent to be left standing as an example to other nations and other domestic tribes.</b></p> <p>The concerns of the 9th Circuit are certainly not satisfied by this DEIS. The Court saw fit to repeat these words in their concluding statement: <b>"The government activity challenged is not an ordinary time-limited regulatory permit, but rather the way the government has gone about contracting with the Makah. obtaining "aboriginal subsistence quotas" from the IWC, and allocating them to the Tribe." The challenge has not been satisfactorily answered. The NMFS position remains "...arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law", and in spite of a 1,200+ page DEIS., the taint remains.</b></p>	
412	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>EASTERN NORTH PACIFIC GRAY WHALES (ENP)</u></b></p> <p>It is difficult to read this DEIS without experiencing extreme concern for the ultimate survival of the ENP gray whales. Threatened on every side, ecosystems changing out from under them, food sources unreliable, mothers and calves hounded by whalers on the northern feeding grounds, surrounded by ship traffic and increasing underwater noise, crowded by oil explorations, threading through increasing hazards of fishing gear entanglement and orca predation on their calves. Absorbing pollutants into their systems, Navy war games throughout their migration route. Stinky whales, skinny whales, the huge die-off...and now the Makah want to take a stab at them, too. These whales should never have been removed from the Endangered Species List, and they could never have been de-listed under current conditions. They have been left with far less protection than they should have. Less money is available for a "recovered species", so there</p>	<p>The DEIS discusses the basis for the delisting determination in Subsection 1.1.3 (Summary of Gray Whale Status). The agency's 2019 MMPA stock assessment report (which undergoes public and scientific peer review) monitors the status and trend of ENP gray whales and concludes that:</p> <ul style="list-style-type: none"> <li>- The ENP population has recovered to levels seen prior to the 1999-2000 unusual mortality event and, based on the 2015/2016 southbound survey, was estimated to be at the highest</li> </ul>

Sort #	Commenter Code	Comment	Response
		is less time and attention to their problems. NMFS boldly describes them as "at Optimal Sustainable Population".	abundance recorded in the 1967-2015 time series.. - The potential biological removal (PBR) level for the ENP stock of gray whales was calculated as 801 animals per year (Carretta et al. 2019). - Even though the stock is within OSP, abundance will fluctuate as the population adjusts to natural and human-caused factors affecting carrying capacity.
413	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>This is an example of "shifting baseline syndrome". <b>"What has become a degraded state of nature for the previous generation becomes the normal state of nature for the present generation." (J.B. McKinnen)</b> It seems that things now degrade in an even quicker time-frame than a generation.</p> <p>What were once mighty oceans-full of gray whales is down to a trickle, and that is the new "healthy stock." With the opening of the Arctic passage to the Atlantic Ocean, ENP gray whales should be left to explore, to expand, and to move about in peace. At least two gray whales have already made it to the Atlantic side. The ENP should be helped to reach greater population numbers that would possibly support a shift, by some, to old territories. Maybe into WNP gray whale turf, too, to help build that population back up to viable numbers.</p> <p><b>Dispersal is extinction insurance!</b></p> <p>The ENP gray whale situation is frustrating. They should be re-listed, but that seems a long shot now, with NMFS bent on committing the ENP gray whales to deadly encounters with Makah guns and harpoons "into perpetuity." And to think that the Makah Tribe, along with all the Northwest Indian Fisheries Commission member tribes, got this ball rolling 25 years ago with the demand that NMFS de-list the ENP gray whales..."not so we can hunt them, but so money can go to other species."</p> <p>We support and appreciate the more thorough analyses done by those with more expertise on the plethora of problems plaguing the ENP, although no one knows better than NMFS what the situation is. The Peninsula Citizens for the Protection of Whales wish for nothing less than full protection for all gray whales. Every stock is depleted, and every stock will be harmed by tribal hunts.</p>	Comments noted.
414	Owens (Peninsula	<b><u>CO-MANAGEMENT OF PUBLIC SAFETY IN OLYMPIC NATIONAL PARK</u></b>	As noted in this comment, we did not receive comments on the DEIS from

Sort #	Commenter Code	Comment	Response
	Citizens for Protection of Whales)_7-27-15	<p>For a great many years, the Peninsula Citizens for the Protection of Whales have advocated for the protection of Peninsula citizens as well. Our primary safety concern involves the use of high-powered rifles close to the Pacific Coast areas of Olympic National Park [ONP]. <b>For close to 20 years we have insisted that NMFS must consult with the Park on the risks to their visitors on the coast. The Park can then decide whether to issue warnings, close trails, or somehow lower the chances of harm. The DEIS [2015] pg.8-2 and 8-3 : "List of Preparers and Agencies Consulted" does not list the Olympic National Park , although ONP is on the distribution list and is specifically mentioned in various locations of the DEIS. The following quotes from the DEIS should be of interest to the "deciders" at the National Park Service and ONP:</b></p> <p>-pg. 3-168: "The Makah propose to use a .50 cal. rifle...In 1999 (4) rifle shots were fired over a span of 5 minutes, the first 2 shots either missed or were ineffective..." [ cameras caught at least one of the two bullets bouncing over the whale and flying off in an unknown direction]</p> <p>-pg.3-169: "...the maximum range [ for .50 cal.] is 4.97 miles."</p> <p>-pg.4-246: "The possibility of any person being struck by a bullet or shoulder-fired explosive projectile would be minimized by proposed safety requirements..."</p> <p>-pg.3-169: [footnote] " Safety measures: 1) within 30' of a whale 2) field of view clear of vessels, persons, etc. 3) minimum visibility of 500 yards in any direction."</p> <p>-pg.4-248: "There is nevertheless a remote possibility that a bystander on shore could be struck by a .50 cal. bullet which has a range of up to 5 miles."</p> <p>The Park should be informed that the Makah's proposed Alternative 2 will have a likely hunt season of March, April and May. Each year there will likely be (60) days of hunt-related activity on the water, likely (64) rifle shots, possibly (12) grenade explosions, and likely (353) approaches to whales. <b>The Park should understand that all previous hunts have taken place between Shi Shi Beach and Cape Alava, and within one and a half miles of shore, putting the beach areas well within the danger zone of the .50 cal. rifle. ONP well knows the high numbers of campers who use the Wilderness Beach areas in March, April and May. PCPW would like to know why the Olympic National Park--the biggest draw for the tourism industry on the Olympic Peninsula, visited by millions annually, and at the greatest risk for "bystanders" injury --was not consulted for comment by NMFS. And if it was, where is the evidence? We would be interested to know if the Park feels that the "safety measures" are adequate.</b></p>	the Olympic National Park. In the event of a Makah whale hunt the ONP could consider taking the precautions suggested by this commenter.

Sort #	Commenter Code	Comment	Response
		<p>On a misty, foggy coast, "500 yards visibility" should not inspire confidence when considering a weapon with a 5 mile range.</p>	
415	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The Park may have also wanted to weigh in on the noise factor: DEIS pg. 4-218-220: "Noise Generated by Hunt-Related Activities - Recreational users of beaches in the OCNMS,...and the ONP would be most likely to hear noise." And the ONP would be wise not to underestimate emotional discomfort: DEIS pg. 4-226-227: " "On Scene Observers... [there is the] potential for inadvertent encounters with views of whale hunting from hiking trails and beaches along the Pacific coastal portion of the project area." Does the Olympic National Park understand that they are participating in and giving tacit approval to this "project" in their "area"?</p>	As noted in this comment, we did not receive comments on the DEIS from the Olympic National Park.
416	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The Park would also be wise to have policies in place to deal with another "Yellow Banks"- type incident. In 2001 a young gray whale stranded alive on the beach at Yellow Banks. The Park response was disorganized. The public eventually learned that the whale had lived for days before being butchered ["dead or alive": ONP report] by Makah tribal members who accessed the wilderness beach by motorboats. Park Rangers who went out to check on the whale found a partially butchered whale, chunks of blubber littering the shoreline, tarps laying abandoned on the beach, and hikers found a bloody kitchen knife which they turned over to rangers. [Sanny Lustig ONP ranger: ONP Incident Report-OLYMO100000192 + photos]. There were rumors that the whale had been shot on the beach. The Tribe had not asked to access the ONP Wilderness beach. They were alerted to the whale's presence by a NMFS biologist, who witnessed but failed to report the butchering. There were never clear answers as to the legal status of the situation, although many questions were put to ONP Supt. Morris, the National Park Service and NMFS.</p>	Recommendation to ONP noted.
417	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>What will ONP's response be to beaching and butchering whales on the Wilderness beaches?</b></p> <p>It is likely that with most hunts occurring in shallow waters right off-shore of the Park, that scenario could be an unintended consequence at any point in time "into perpetuity". The Park might want to exercise its stewardship over its reputation and it's visitors by making a strong case for either Alternative 1 [no action] or Alternative 3, [ the "off-shore" hunt.] They should at least have a chance to take a public stand. Or has the NPS declined to comment for political reasons? The public has a right to know who is behind a lack of comment from the Park Service.</p>	As noted in this comment, we did not receive comments on the DEIS from the Olympic National Park.

Sort #	Commenter Code	Comment	Response
418	Owens (Peninsula Citizens for Protection of Whales)_7- 27-15	<p><b>After all, in 1999 the Coast Guard found that "...The uncertain reactions of a pursued or wounded whale and the inherent dangers in firing a .50 cal. hunting rifle from a pitching and rolling small boat are likely to be present in all future hunts, and present a significant danger to life and property." [DEIS 2008 pg.3-10] When asked by PCPW : "Who will be responsible if a person in the coastal beach area of ONP is struck by a .50 cal. bullet?", the Coast Guard response was: "Our responsibility ends when the bullet crosses the shore." In over 20 years of controversy, the Park has remained absolutely silent. Has NMFS thoroughly briefed ONP on the risks to their visitors that will accompany Makah whale hunts? Or does ONP management close its eyes and hope for the best, rather than "engage" with the Tribe over a perceived treaty right?</b></p> <p>And what is the plan to protect occupants of fishing boats, pleasure boats, the increasing numbers of freighters, or any of the other vessels that could be hidden in the mist as far as 5 miles in any direction? The co-managers' safety plans are minimal to the point of ridiculous. <b>This whole plan should be dead in the water based on hazards to human life.</b></p>	The ONP is one of numerous Federal agencies contacted regarding the tribe's request and our NEPA analysis (see Distribution List in DEIS). DEIS subsections 3.15 and 4.15 provide background on this issue and our analysis, including the potential for injury from weapons, boating accidents, and land-based protest activities.
419	Owens (Peninsula Citizens for Protection of Whales)_7- 27-15	<p><b><u>ENFORCEMENT</u></b></p> <p>While PCPW does not believe that it will be possible to allow these hunt plans to be realized, we will comment on the problem of enforcement. There is no point in making rules and regulations if they are not, or cannot be, enforced. When it comes to killing whales, the public will expect and demand complete transparency in every aspect of the co-management of this very valued public resource. The Makah Tribe does not own the gray whales. These whales cross international boundaries as they feed and as they migrate. They are beloved in Mexico--their birthplace--as well as along the American west coast. "Beloved icons" NMFS called them on their website. The PCFG whales, including the Makah U&amp;A whales, spend time feeding in Canada as well, along the outer coast of Vancouver Island. Numerous Canadian whale watch companies feature gray whale encounters, and they have been studied by Canadian scientists since the 70's. The Russian gray whales cross even more international boundaries in their annual cycles.</p> <p>The Makah Tribal Council cannot take the attitude that they have proprietary control over all these whales, whether transiting through or feeding, in their U&amp;A. After all these years, it is still surprising to local observers that there is no interest in being "good stewards" of the whales in their back yard. No interest in getting to know them or in protecting them. They just want to kill as</p>	The Makah Tribe has a whaling ordinance that, among other provisions, addresses enforcement, permits, violations, penalties, training/qualifications, monitoring and reporting, and whaling administration. Refer to Subsection 1.4.2, Summary of Recent Makah Whaling – 1998 through 2014, and Appendix B of the DEIS. In addition, Subsection 2.3.2.2.12, Other Environmental Protection Measures, describes enforcement measures that are common among the action alternatives. If a hunt is authorized, possible enforcement measures under the permit would include criminal sanctions (e.g., fines and imprisonment) and barring violators from fishing, hunting, and/or whaling

Sort #	Commenter Code	Comment	Response
		many as possible per year. Where is the incentive to play by "the rules" and where is the deterrent to breaking them?	for at least 3 years. See also Subsection 1.2, Legal Framework.
420	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The Makah co-managers have always insisted that they could deter their own tribal members from violating the rules of the hunt. This was an untested hypothesis right up until September 8, 2007. The story of the "rogue hunt" was followed closely in the press by the public and the politicians. Five members of previous "cultural, traditional and spiritual" whaling crews had pumped numerous harpoons and bullets into a resident whale at a feeding site within the Strait. They did not kill for the previously proclaimed reasons of "culture and tradition", but out of feelings of frustration, anger and unrequited entitlement. They failed to kill the whale outright, and it slowly bled to death over a 10 hour period.</p>	<p>The DEIS describes the NMFS investigation of the illegal hunt (see Subsection 1.4.2, Summary of Recent Makah Whaling--1998 through 2014). The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct. For information on enforcement measures that are common among the action alternatives, see Subsection 2.3.2.2.12, Other Environmental Protection Measures.</p>
421	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>How did the Makah co-managers handle this incident? First, three days after the "hunt", Makah Tribal Council members went to Washington D.C. and made promises. "We are taking care of it in our own judicial system," said former Council Chairman, Ben Johnson. Sen. Patty Murray commended the Makah leaders "for immediately condemning this rogue act and taking steps to prosecute the offenders."</b></p> <p>A flurry of headlines continue the story of the Makah's judicial system:  <b>"Makah file charges against whalers" [PDN Nov.27, 2007]</b>  <b>"Search for a judge" [PDN Feb.10,2007]</b>  <b>"New judge assumes bench on Makah Tribal bench" [PDN Feb.20,2007]</b>  <b>"Tribal judge rejects plea deal" [Seattle Times April 19, 2007]</b>  <b>"Makah court defers prosecution for 5 who killed gray whale" [AP May 15, 2007]</b>  <b>"Makah judge fails to empanel jury to prosecute whalers" [Seattle Times May 15, 2007]</b></p> <p>Lynda Mapes summed up the situation in the Seattle Times article of May 15, 2007:</p>	<p>The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct.</p>

Sort #	Commenter Code	Comment	Response
		<p><b>"They promised tough prosecution, but in the end the Makah Nation couldn't put together a jury to try five whalers who were charged with illegally killing a gray whale off Neah Bay last fall. Tribal Judge Stanley Myers on Wednesday instead granted the men one-year deferred prosecution and...the whalers were each ordered to pay a \$20 fine. The deferral came after the judge summoned more than 200 people from the village of Neah Bay on the Olympic Peninsula to serve as prospective jurors. But the judge gave up on impaneling a jury because just about everyone was either related or said they had strong feelings about the case... It was a far cry from last fall...Then a tribal council held a news conference and flew to Washington, D.C., to promise swift and sure prosecution. "We are a law-abiding people and we will not tolerate lawless conduct by any of our members", they said in a prepared statement at the time."</b></p>	
422	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>The Makah Tribal Council lost a great amount of credibility with most of the public over this terrible incident. Many felt there was a lack of fairness in the very light punishment dealt out by the Federal Government, as well. The crime was treated as a "hunting violation". Astute observers felt that strings were being pulled to help the Makah Tribe avoid a scenario where some of its own members, rebelling against stiff sentences, would feel compelled to seek relief from the Supreme Court. The uncertainty of the outcome at the Supreme Court level rattled the Tribal Council. The entire situation has rattled the public's faith in the ability of either co-manager to discourage violations of any agreed upon policies in the future. What assurance can NMFS give that breaking the rules will not be tolerated? What "illegal" acts will trigger Federal, rather than Tribal, investigation? Which will not? This was not well explained in the DEIS. Can the public be assured of transparency in all things regarding whaling by the Makah Tribe? Or will NMFS allow there to be the usual veil of secrecy over "tribal matters".</p>	<p>Regulations governing a Makah hunt would need to describe various enforcement-related aspects, including take authorizations, prohibited acts, and requirements for monitoring and reporting.</p>
423	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>We need to see an itemized listing of potential types of violations, and which co-manager will be charged with bringing justice. Whaling is bad enough without also being lawless. There can be no gray areas, where breaches of rules fall between the cracks or are swept under the carpet. Potential punishments are far more serious if the Federal Government is charged with enforcement, and more likely to dissuade violations. NMFS cannot take a hands off approach to enforcement.</b></p>	<p>Regulations governing a Makah hunt would need to describe various enforcement-related aspects, including take authorizations, prohibited acts, and requirements for monitoring and reporting.</p>
424	Owens (Peninsula	<p><b><u>THE TREATY</u></b></p>	<p>Comments noted. Please also see the responses to frequent comments # 4</p>



Sort #	Commenter Code	Comment	Response
	Citizens for Protection of Whales)_7-27-15	<p>NMFS's support for whaling by the Makah Tribe has always been predicated on the well-known and oft-repeated clause in the Treaty of Neah Bay of 1855, preserving the right to take whales and seals in common with all citizens of the United States. This reserved whaling right has been touted as "unique" among treaties, and the Makah described as "unique" among Northwest tribes in their whaling culture, and that their ability to claim a treaty right to whale could not be claimed by any other tribes. The <b>Peninsula Daily News</b> said in May, 2014: <b>"The Makah is the only tribe in the lower 48 states to have that right guaranteed in its treaty with the United States."</b> The media has repeated this claim for 20 years. And it has been an up-hill struggle to make the argument for the last 20 years, that many other Washington State tribes could claim the same right. But we did have an unexpected ally:</p> <p><b>The 9th Circuit Court of Appeals was skeptical.</b></p> <p><b>"While defendants argue that the Makah Tribe is the only tribe in the U.S. with a treaty right expressly guaranteeing the right to whale, that argument ignores the fact that whale hunting could be protected under less specific treaty language...less specific "hunting and fishing" rights might be urged to cover a hunt for marine mammals. Although such mammals might not be the subject of "fishing", there is little doubt they are "hunted". [Anderson v Evans]</b></p> <p><b><u>This just in:</u></b></p> <p><b>On July 9, 2015, U.S. District Court Judge Ricardo Martinez wrapped up a decision on disputed fishing boundaries of Washington State's coastal tribes: the Makah, the Quileute, and the Quinault. The Judge noted that each of the tribes' word for "fish" at the time of the treaty negotiations with the U.S. government in 1855 encompassed all marine life- including seals, whales, and shellfish. So there should be no further argument about whether the Makah treaty is "unique". In the Judge's ruling he also detailed the whaling cultures of the Quileute Tribe and the Quinault Tribe. All the coastal tribes were whalers, had rituals and customs, used harpoons and gear identical to that used by the Makah. It was not part of that court case, but tribes on the inner waters of the Salish Sea also whaled, so we are left with the fact that about 20 Northwest tribes could claim rights to whale identical to the Makah, by utilizing their treaty rights to "fish". The cost to NMFS in time, personnel, and tax dollars to give equal effort to even a handful of other tribes is not analyzed in the DEIS. The cost to the whales will be high, and should have been analyzed as well. It is common sense to expect that any new requests would be for takes from the ENP gray whale</b></p>	regarding the precedential effect of waiver internationally and domestically and # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		population. There are no other de-listed whale species at this writing, and the population is believed by NMFS and the IWC to be able to sustain a greater take.	
425	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	The problem will be, of course, that the real damage will be to the "invisible" PCFG and MU&A gray whales, hastening their demise beyond what the Makah will have already accomplished. The eventual impact on the Western North Pacific gray whales can be imagined.	Please see the responses to frequent comments # 12 regarding risks to WNP gray whales and # 13 regarding risks to PCFG whales.
426	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Makah whaling proponents have often said, when asked to hold the whaling right in reserve: <b>"A treaty right is not a right unless you use it." "We need to prove the treaty right". "A treaty right must be exercised to continue to exist.."</b> In a <b>Seattle Times</b> article, April 15,2002, a tribal council luke-warm to whaling is described by reporter Lynda Mapes: <b>"...a new slate of Makah tribal leaders slashed funding for whaling--arguing other needs are more pressing...To be sure, the tribal council wants to ensure the Makah's treaty right to hunt gray whales remains protected. But actually landing a whale on the beach is not on this council's to-do list...[said tribal council-man DavidLawrence :] "It's not so much the whaling; we are securing the treaty right." ["Makah leaders say more pressing needs than whale hunts face their people", Seattle Times]</b></p> <p>So, will other tribes use the same rationale and insist on "proving" or "securing" or "protecting" the right to kill whales by following the Makah through the waiver process and killing whales ? A successful waiver outcome for the Makah may ring the starting bell for a rush of other tribal requests. If that happens it will be too late to close the lid on Pandora's Box.</p>	Comments noted. Please also see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
427	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Where is the "cultural necessity" in the statement, <b>"It's not so much the whaling; we are securing the treaty right."</b>? And if whaling was such a watershed cultural boon to the tribe, why did enthusiasm wane to such a low, just three years after the 1999 hunt? From the same <b>Seattle Times</b> article: <b>"Keith Johnson said he was voted off the council after the first hunt amidst criticism that the council had spent too much time and money on whaling. "It was really clear that whaling was a dead horse", he said." And Wayne Johnson, captain of the first whale hunt said : " People have lost interest. We need to have a few more whales on the beach to keep it alive."</b> And this was at a time when the ability to whale was wide open. <b>"Burdensome federal restrictions on when and where whalers can hunt have been largely lifted." [ Lynda Mapes, Seattle Times, 2002]]</b></p>	Comments noted. Please also see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.

Sort #	Commenter Code	Comment	Response
428	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>One month before the above statements were made to reporter Lynda Mapes, Gordon Smith, Makah Tribal Chairman, submitted Ann Renker's "Needs Statement" to Rolland Schmitten to be submitted to the IWC meeting in Shimonoseki, Japan. In this "Needs Statement" are Ann Renker's Household Survey results. She found close to 100% enthusiasm and support and desire for whale hunts and whale meat in Neah Bay!</b> We did show her statistics to be skewed in our 2008 comments, and the statements from Keith Johnson, Wayne Johnson and David Lawrence back up our distrust of her "results". But the IWC and NMFS always seem satisfied to take her biased findings of "need" at face value.</p> <p>So what is really "needed" that would justify the killing of five whales per year? It does not really seem to be about free meat, traditional food, cultural rejuvenation, or a cure for drug and alcohol problems. It seems to be about "proving" and "securing" the words in the treaty. And maybe "proving" and "preserving" whaling family status, as well. Is that sufficient reason for the IWC to approve an aboriginal subsistence quota? The IWC agenda should not be to help the U.S. government avoid lawsuits from U.S. tribes. So is the real "need", NMFS' need to prove that the word of the government is good, by allowing the tribe to "prove" the treaty right? Is it sufficient reason to allow a first-ever waiver from the MMPA to kill and injure whales from three separate gray whale groups? Is it sufficient reason for the residents of the Peninsula to deal with the economic and emotional fall-out? If the tribes use the killing of whales to measure the Federal Government's willingness to support their treaty rights, will each tribe need to continually "prove" that the government will still back them up no matter the public outcry? The gray whales should not be sacrificial lambs in this political chess match. Dead gray whales will not erase the horrid history of government / tribal relations.</p>	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
429	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>And though the judges of the 9th Circuit Court of Appeals said in their decision: "<b>We need not and do not decide whether the Tribe's whaling rights have been abrogated by the MMPA...</b>", many tribal attorneys believe they did just that. From a legal brief submitted to the 9th Circuit Court by the lawyers for 20+ Washington State Tribes [ Amici Curiae ] requesting en banc re-hearing of the Anderson v Evans decision of 2002: "<b>The Panel's conclusion that Makah must be treated the same with respect to the MMPA as anyone without treaty whaling rights therefore constitutes nothing less than a decision that the MMPA abrogated the Makah treaty.</b> "</p>	The purpose of the DEIS is to analyze potential impacts of alternatives to inform decision-making regarding authorization of a hunt pursuant to criteria under the MMPA and WCA, not to explore or resolve legal debates.

Sort #	Commenter Code	Comment	Response
		<p>The tribes' lawyers also attempt to make the case that the protections afforded marine mammals are excessive and should not apply to treaty tribes: <b>"The "conservation" purposes of the MMPA, are much broader than simply ensuring perpetuation with a reasonable margin of safety. They are geared instead to maintaining optimum populations without regard to other considerations, including treaty rights. The MMPA "conservation" purposes therefore have no relation to the conservation standards that have always been applied to treaty rights, and the Panel's opinion marks a radical expansion of the allowable limits on treaty rights that is contrary to settled law in this and other Circuits." [Amici Curiae, 2003]</b></p> <p>It is obvious that the tribes would prefer that whales be treated [legally] as fish. What they understand is that the MMPA has a higher protective bar than the Endangered Species Act. Tribes have never before had to deal with this level of protection over something they wanted to kill. What the Makah realize is that there can be no whaling of the type they want to do, that can ever comply with the protections afforded whales by the MMPA. Particularly in regard to the PCFG and MU&amp;A gray whales. <b>This is the dilemma that NMFS attempts to solve for the Tribe by postponing stock designation for the PCFG gray whales.</b> We will have to see if this strategy passes deeper scrutiny.</p> <p>From Anderson v Evans: <b>"Whether the tribe's whaling will damage the delicate balance of the gray whales in the marine ecosystem is a question that must be asked long before we reach the desperate point where we face a reactive scramble for species preservation."</b> Footnote 24 " This conclusion is re-enforced by our holding in Midwater Trawlers Co-operative v Dept. of Commerce [9th Cir. 2002] wherein we held that the Magnuson-Stevens Act [protection of U.S. fisheries] applies to Makah's fishing rights despite the Treaty of Neah Bay."</p> <p>The 9th Circuit Court was not swayed by the opinions of the lawyers for the tribes. There was no en banc hearing granted, and the Makah Tribe did not choose to challenge the decision at the Supreme Court level. So it stands. In the Court's words: <b>"The Tribe may urge a treaty right to be considered in the NMFS review of an application submitted by the Tribe under the MMPA." "May urge a treaty right to be considered."</b> Not exactly a ringing endorsement of the treaty's power to break down the protective walls of the MMPA, and quite a difference from NMFS' long-standing policy of doing just about anything to comply with the Makah's "unique" treaty right-based demands.</p>	

Sort #	Commenter Code	Comment	Response
		<p>And while NMFS tries to "make something" of diminished protests after the 1999 kill and the 2000 "family" hunts, that is understandable: there were no serious attempts to hunt after that. There was nothing to protest.</p>	
430	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Of more note, if NMFS was doing a balanced analysis, was the low turnout for a 15th Anniversary "event" on May 17, 2014, staged by the Makah Whaling Commission: "A small flotilla of canoes...a feast, dancing and traditional songs to celebrate the whalers and the whale" was announced in a front page story on May 16. [PDN "Makah to mark anniversary"] Surprisingly, the Tribal Council "was unaware of the event." <b>The Peninsula Daily News</b> covered the anniversary celebration in another front page story on May 18. There was a very small turnout, as it turned out. "...the rogue 2007 hunt created divisions, Keith Johnson said, pointing out there was no event to mark the 10-year anniversary of the 1999 hunt. "Do you see the whole tribe here?" he asked as he pointed to the three dozen people on the beach before Saturday's commemorative paddle. Keith Johnson expressed hope that the divisions within the tribe would be closed. "It's our traditional food and people still want it. <b>And if for no other reason, a lot of people here will support us for the treaty right.</b>" [PDN, May 18, 2014]</p> <p><b>It seems that "proving the treaty right" is the cultural necessity. Let the IWC vote on that need.</b></p>	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
431	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>AESTHETICS AND TREATY RIGHTS</u></b></p> <p>The Marine Mammal Protection Act opens with an important statement :  <b>"Marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management, and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the carrying capacity of the habitat."</b></p> <p><b>From the DEIS, pg.5-45, Cumulative Effects on Aesthetics:</b>  <b>"Under Alternatives 2 through 6 there may be some temporary aesthetic effects to people viewing gray whale hunts through the media or from local vantage points both inside and outside of the project area...we do not expect there would be significant cumulative effects on aesthetics." One sentence to dismiss the feelings of the majority of all people everywhere who</b></p>	As noted in DEIS Subsection 4.12 (Aesthetics), we used two criteria to determine the potential for aesthetic effects under the alternatives. The first was the anticipated number of persons who may be present at sites that may offer views of hunt-related activities, as well as their expectations (that is, whether individuals may encounter views of hunt related activities without intending to do so). The second criterion includes the anticipated amount, intensity, duration, scope, and content of media coverage. The commenter fails to acknowledge that interested observers also warrant consideration in an analysis of aesthetics. Also, DEIS

Sort #	Commenter Code	Comment	Response
		<p><b>find whales to be "resources of great international significance, esthetic and recreational as well as economic..."</b></p> <p>Does NMFS understand the poetic and subtle meanings of the word "aesthetics"? The framers of the MMPA certainly did. NMFS' reference to "temporary aesthetic effects to people viewing gray whale hunts..." seems to define "aesthetic effects" as a fleeting negative response to watching a "distasteful" act. Nothing that would persist after the fact. It is hard to fathom the meaning of NMFS' final phrase:"...we do not expect there would be significant cumulative effects on aesthetics," but we are sure NMFS could not be more wrong. NMFS interpreted "aesthetics" as a negative noun, never dealing with its profound meaning as a positive.</p> <p><b>From on-line dictionary definitions of "aesthetics":</b></p> <p><b>"Critical reflection on art, culture and nature..."</b></p> <p><b>"A branch of philosophy dealing with the nature of beauty--what is pleasing to the senses."</b></p> <p><b>"The study of sensory--emotional values."</b></p> <p><b>"Relating to, involving, or concerned with pure emotion and sensation as opposed to pure intellectuality."</b></p> <p><b>"To perceive, to feel."</b></p> <p><b>"The study of the nature of sensation."</b></p> <p>So NMFS's "analysis" of the "aesthetics" of whaling is this: Viewing the slaughter would be " a temporary aesthetic effect ". We assume they mean a temporary "negative" aesthetic effect. So evidently their position is that if you don't "watch" unpleasantness, it can't hurt you. And if you do have an aesthetically bad glimpse of whaling, it will be a temporary effect. End of story.</p> <p>We do not think that is what the writers of the MMPA meant when they used the word, but we will try to explain what we think it's context should be in regard to whales and whaling.</p> <p>The Olympic Peninsula is experienced by its residents and visitors as "a world apart". It is practically an island, with water all around. The Olympic National Park is the centerpiece, with soaring snow-capped peaks, lush rain forests, and rocky wilderness coasts. Wildlife of all kinds can be spotted if one is lucky..elk, black bear, cougar, eagles, sea birds in the thousands. The waters of the Strait of Juan de Fuca and the Pacific Coast are homes to many species of marine mammals. Seals, sea lions, dolphins, porpoise, orcas, humpback whales, and gray whales can sometimes be glimpsed from shore, if one is lucky. <b>The impact on people of all of these natural wonders of the Peninsula, added</b></p>	<p>Subsection (4.6, Economics) explores the potential for the alternatives to affect economic conditions in the project area.</p>

Sort #	Commenter Code	Comment	Response
		<p>together, comprises the intrinsic aesthetic value of this corner of the state. Visitors come here to relax and enjoy the rejuvenating effects of seeing and experiencing and feeling the beauty and awe of nature. The feeling one has looking out from a mountain top...looking up into the forest canopy...watching a herd of magnificent elk grazing in a meadow. We all know that feelings and emotions can come from "seeing": the "sensory--emotional values" noted in one definition of aesthetics above. These feelings are deeper than a "fleeting enjoyment" that adds nothing significant to life. People go to great lengths to trigger these aesthetic feelings: they climb mountains, hike into the back country, camp on wilderness beaches, stand by the edge of the ocean's breakers. And they watch for whales. Something about being in the presence of the largest beings on earth is a huge trigger of aesthetic emotions for most people. Many people are surprised to feel the unexpected levels of excitement and emotion that can be triggered by proximity to whales. It can't be explained well, but this definition helps: "Relating to, involving, or concerned with pure emotion and sensation as opposed to pure intellectuality." These feelings are "good for what ails us" in our hurried technical lives.</p>	
432	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>Those of us lucky enough to live by waters populated by whales know that the aesthetic joy does not diminish with each sighting. It is a "heart-filling" experience that is wonderful to anticipate, to feel and to share with others time after time.. There is a reason that whale watching is such huge business, and that boatloads of men, women and children will break out into uncontrollable screams, cheers, and even tears at the sight of a whale exhaling! Or at the sight of a few square feet of gray skin. What other animal generates responses like this everywhere in the world? That "joy at seeing" is the great aesthetic gift the whales give to humans. The opportunity to "perceive and to feel" unexpected emotions in the presence of huge, mysterious, and gentle animals.</p> <p>The opposite of that great aesthetic joy is the contemplation of the unnecessary, and inhumane killings of these same whales. The sad feelings and the anxiety provoked by the fear that these local whales will suffer and die is enough to trigger a great gray gloom, even without actually witnessing a kill. And let us assure you that community-wide sadness and anxiety do and will have "significant cumulative effects."</p> <p><b>The whales that PCPW members and supporters, and all residents and visitors to the Olympic Peninsula can hope to see at any time of the year, and are most likely to see from our beaches and look-outs, are the resident gray whales: the Makah U&amp;A sub-group of the PCFG. We have seen them in every</b></p>	<p>The DEIS acknowledges that whale hunting under the action alternatives would inspire a wide range of feelings among persons and groups who oppose the hunt, including sorrow, frustration, and anger (see Subsections 3.8.3.3 and 4.8.2.3, Other Individuals and Organizations).</p> <p>Please see the response to frequent comment # 10 regarding the response of gray whales to being hunted.</p>

Sort #	Commenter Code	Comment	Response
		<p>month of the year. We adopted seven of these whales many years ago, and we believe we may have seen several of them. We have amassed a large collection of photos, some of which were used to convince the Whale Trail Association to place interpretive signs about gray whales along the Strait. The aesthetic delight that our families and friends have experienced with these whales has inspired art enough to fill a gallery, stories, dreams, and poems enough to fill many children's story books. "They're sprouting!" our youngest child would holler. He is now 36 years old, and still just as enthusiastic about "spout spotting". The resident whales are most certainly resources of great and significant aesthetic pleasure to the resident people and their visitors, and add greatly to the aesthetics of the Olympic Peninsula. Just the chance of seeing a whale adds to the excitement of a visit to the water's edge.</p> <p>If Makah whaling is approved, there will eventually be no more gray whales to be spotted near shore. There may still be distant migrating whales moving way off the coast in winter and spring, but we will likely never see them. We can certainly never "know" them. Our "big friends" will be a mere memory. The cumulative negative feelings of sadness and loss will last as long as our memories and the memories of our children last. That time-frame is measured in lifetimes. The gloom will spread outward from "ground zero", and before long the unique aesthetics of the entire Olympic Peninsula will be tainted by the continual slaughter. We will no longer be the "happy place" to relax amidst natural wonders. We will be "the place where whales are killed ." A place to be shunned. And there will be an entirely different "aesthetic" with likely harsh economic effects that will be cumulative.</p>	
433	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>But we believe that the 9th Circuit Court of Appeals, the Marine Mammal Protection Act and the Treaty of Neah Bay hold the keys to protecting the resident whales and the aesthetic joy they provide to so many.</b></p> <p>The key phrase in the Treaty of Neah Bay is this: "...in common with all citizens of the United States."</p> <p><b>From the 9th Circuit's 2004 Final Decision in Anderson v Evans:</b></p> <p><b>"In common with all citizens of the United States" creates a relationship between Indians and non-Indians similar to a co-tenancy, in which neither party may permit the subject matter (of the treaty) to be destroyed. The treaty secures the rights to both. The Makah, consistent with the plain terms of the treaty may not hunt whales without regard to processes in place and designed to advance conservation values by preserving marine mammals or to engage in whale watching, scientific study, and other non-consumptive uses."</b></p>	Comments noted. The purpose of the DEIS is to analyze potential impacts of alternatives to inform decision-making regarding authorization of a hunt pursuant to criteria under the MMPA and WCA, not to explore or resolve legal debates



Sort #	Commenter Code	Comment	Response
		<p><b>So the Makah's "treaty right to kill whales" is no more binding or important than the "treaty right" of other U.S. citizens to "preserve whales" for "non-consumptive use". Since all whales referenced by both sides, for killing or saving, are primarily the PCFG whales, and more specifically the Makah U&amp;A whales, all local whale watchers, local whale biologists, and local "whale lovers" have an equal right to the local whales, for "non-consumptive uses".</b> As do the whale-watchers and scientists in other areas of the PCFG range. The Makah will be killing PCFG whales studied, known, and loved in Oregon and off the west coast of S. Vancouver Island. U.S. laws may not cover Canadians' rights to "non-consumptive" use of the shared local whales, but Oregonians should be covered by the treaty right.</p> <p>This sets up a decision worthy of King Solomon. How can the Makah U&amp;A whales, or the PCFG whales, be divided in half for two opposite uses? Should the Makah be allowed to kill only half of the MU&amp;A gray whales? What if they kill most of the reproductive age females? "Our half" would not then be a viable population remnant.</p> <p><b>And what of the MMPA's decree that whales should be protected to the greatest extent feasible, and to be allowed to expand to their optimum sustainable population? The MMPA does not restrict this proviso to "stocks", they say "marine mammals". If you take half of a small population, you are not left with a population safe from extinction. Think of the Cook Inlet belugas. Will the aesthetics of Cook Inlet be harmed if the little white whales are gone? Does their sad fight for survival already damage the aesthetics of a "pristine" environment? We believe the answer is yes.</b></p>	
434	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>THE KOKECHIK DECISION [1988]</u></b></p> <p>In its 2012 comments to NMFS, The Marine Mammal Commission brought a new topic to the table; the Kokechik case. This case involved a waiver request from the MMPA for a Japanese salmon fisheries cooperative. Their overnight gill-netting technique, within U.S. waters, would not permit discrimination between which species of fish and mammals would be ensnared, and which would not. The permit the Federal Government sought to renew for the Japanese fishing group asked for an annual take of 5,500 Dall's porpoise, 450 fur seals, and 25 sea lions. Statements were required concerning the status of each marine mammal stock affected, and the effects of any permitted taking on its OSP. A DEIS was published that contained no reference to the northern sea lions, as NMFS considered the probability of takings "too remote to warrant it's concern." Observers found there were also problems with potential takings from</p>	We note the summary of the Kokechik decision.

Sort #	Commenter Code	Comment	Response
		<p>the Commander Island northern fur seal stock. The proposed regulations dealt solely with the incidental taking of Dall's porpoise. The Administrative Law Judge recommended a take of 1750 Dall's porpoise and 45 northern fur seals from the Commander Is. stock. The Secretary of Commerce's final decision also allowed the annual taking of 25 northern sea lions, while prohibiting takes of harbor porpoise, Pacific white-sided porpoise, and orca, subject to prosecution under the MMPA.</p> <p>With the gill-netting scenario, marine mammals protected by the MMPA end up as unintended victims. This result is absolutely prohibited by the MMPA unless the Secretary of Commerce grants permission for the taking. Only the Dall's porpoise had a specified quota with Federal permission, but it was foreseeable that takes of northern sea lions, harbor porpoise, etc. would occur. Thus the legitimacy of the permit issued came under scrutiny. The question was: can the Secretary of Commerce issue a permit allowing incidental taking of one protected species, knowing that other protected species would be taken as well?</p> <p><b>The MMPA moratorium means a complete cessation of taking marine mammals. The Act defines "taking" as "to harass, hunt, capture or kill or attempt to harass, hunt capture or kill any marine mammal."</b> Before any permit can be issued, species and population stocks should not have been permitted to diminish below OSP. Further, the Act was to be administered "for the benefit of the protected species rather than for the benefit of commercial exploitation." [ 540 F.2d 1141,1148[D.C.Cir.1976] The MMPA also requires "incidental kills or injury ...be reduced to insignificant levels approaching zero mortality and serious injury rate..."</p> <p>In the Kokechik case, the taking of the fur seals was not merely a remote possibility, but a certainty. The Secretary concluded that it was not possible to make the required finding that the northern fur seal population from the Commander Is. stock was within its OSP level...evidence was unclear, and a "significant dispute" existed as to whether it was above the minimum level of its OSP. Therefore it could not be determined that this protected stock would not be disadvantaged by takings." <b>The Secretary chose to issue the permit anyway, taking the position that as long as the permit did not authorize the taking of northern fur seals, he had complied with the MMPA. "The Secretary chose to disregard the incidental takings in this case as "negligible", an undefined and ambiguous standard at best. The MMPA ,however, does not provide for a "negligible impact" exception to its permitting requirements where incidental takings are not merely a remote possibility but a certainty. The Secretary has</b></p>	

Sort #	Commenter Code	Comment	Response
		<p><b>no authority...to issue a permit that allows conduct prohibited by the Act." [ Animal Legal and Historical Center]</b></p> <p>Shortly after the Secretary's final decision, all parties filed petitions for review of the permit in U.S. District Court. <b>In the words of the Marine Mammal Commission, "...the court [Court of Appeals, D.C. 1988] ruled that no taking could be authorized for any marine mammal stock because of the virtual certainty of taking marine mammals from stocks for which an OSP determination could not be made." [MMC comments to NMFS 2012]</b></p> <p><b>Said the MMC in 2012 comments to NMFS: "The Service may find itself able to authorize the taking of whales from some groups, but not others. Such a finding will depend on (1) resolution of the stock identity questions related to the PCFG and the whales that spend some time in both the western and eastern Pacific, and (2) the information available to make OSP determinations for the whale groups whose members may occur in Washington waters. Such an outcome would be similar to that faced in Kokechik ..".</b></p>	
435	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>We now know, of course, that <b>the DEIS did not announce a resolution of the "stock identity questions related to the PCFG". Neither did NMFS determine an OSP for the PCFG or the WNP gray whales. It is agreed that both groups are far below their OSP, however. The way that NMFS attempts to circumvent the "PCFG problem" is by not resolving the stock identity question.</b></p>	<p>We disagree that NMFS has attempted to circumvent the question of stock identity of the PCFG. Please see the response to frequent comment # 5 regarding the stock status of the PCFG.</p>
436	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>The WNP gray whale problem may be more severe, because the WNP whales do have stock designation, and are listed as endangered or depleted on any list that exists world-wide. Their "takes" by all forms of harassment are detailed in the DEIS, and are not "negligible" by any stretch of the definition. The possibility of killings are estimated as "non trivial", yet no waiver is requested for any stock but the Eastern North Pacific gray whale.</b></p>	<p>Please see the response to frequent comment # 12 regarding risks to WNP whales.</p>
437	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>So did NMFS comply with the MMC's recommendation that they discuss the implications of the Kokechik case for the Makah's waiver request in the DEIS? Absolutely not. Their answer to the MMC: "The purpose of the analysis in the DEIS is not to assert legal opinions or conclusions..."</b></p> <p><b>So the problem remains that it is necessary to know the OSPs in order to determine whether or not an activity will "disadvantage" the marine mammals involved. And the question remains, can the Secretary of Commerce</b></p>	<p>As the commenter notes, the purpose of the DEIS is to analyze potential impacts of alternatives to inform decision-making regarding authorization of a hunt pursuant to criteria under the MMPA and WCA, not to explore or resolve legal debates</p>

Sort #	Commenter Code	Comment	Response
		<p><b>legally issue a permit allowing deliberate taking of one protected stock, knowing that other protected stocks will be taken as well?</b></p> <p><b>The Marine Mammal Commission should not be satisfied with the lack of answers.</b></p>	
438	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b><u>ALTERNATIVE 1 - NO ACTION</u></b></p> <p>There is only one of NMFS' alternatives that is endorsed by the members and supporters of PCPW. That is Alternative 1, No Action. NMFS must consider Alternative 1 as more than just a meaningless requirement on the list of alternatives. Alternative 1 is the only "action" that will keep whales and people safe.</p> <p><b>From the DEIS:</b></p> <p><b>pg. 4-251: "Alternative 1 represents the lowest risk to the public and the hunters. All action alternatives likely increase the risks of injury." [pg. 4-294]</b></p> <p><b>pg. 4-274: "Alternative 1 will cause no increased risk to water quality."</b></p> <p><b>pg.4-275: "Alternative 1 will cause no increased disturbance to marine species and habitats."</b></p> <p><b>pg. 4-276: "Alternative 1 will cause no increased risk to Western North Pacific gray whales."</b></p> <p><b>pg.4-277: "Alternative 1 will cause there to be no hunting and killing of PCFG gray whales."</b></p> <p><b>pg.4-278: "Alternative 1 will cause there to be no hunting and killing of OR-SVI and MU&amp;A gray whales."</b></p> <p><b>pg.4-66 : "With respect to the viability of the PCFG [under Alt.2], a reduction over time could decrease the likelihood that the PCFG is viable, compared to No Action [Alt.1]</b></p> <p><b>pg.4-280: "Alternative 1 will cause there to be no hunt-related boycott of tourism."</b></p> <p><b>pg.4-282: "Alternative 1 will cause no change and no increased costs to law enforcement."</b></p> <p><b>pg.4-284: "Alternative 1 will create no change in the social environment- no protests and no related social tensions."</b></p> <p><b>pg.4-258: "Alternative 1 will create no change [increase] in exposure to contaminants. There is no data to suggest that current diets of Makah Tribal members are lacking in Omega-3 oils...a lack of fresh whale products would not negatively impact current dietary conditions."</b></p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>pg.4-296: "A decision not to authorize Makah whaling [Alt.1] could discourage future requests for waivers from the MMPA."</p> <p>pg.4-255: "With each strike attempt, rifle shot, or grenade explosion, there would be an increased risk, compared to the No-action Alt.1,of weapons-related injury to the hunt party, protesters, or bystanders."</p>	
439	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>NMFS has always attempted to make the argument that if there was "no action"- no Makah whaling-the same number of whales would be killed by the Russians, anyway. And to really "stick it" to those who care about whales, they have also stated that those whales would be killed in a less humane way. But there is another difference that should be factored in. <b>Under Alt.1, the Russians will not be taking from or causing harm to the PCFG and the WNP groups.</b></p>	<p>The DEIS acknowledges these points, reporting, for example, that for the PCFG the No-action Alternative would result in zero whales killed by hunting versus Alternative 2 which could result in up to 25 PCFG whales killed by hunting over 6 years (Table 4-13), and for the WNP the No-action Alternative would result in zero chance of WNP whales killed versus Alternative 2 which could result in a 7 percent chance of striking a WNP whale over 6 years (Subsection 4.4.3.2.2, Change in Abundance and Viability of the WNP Gray Whale Stock.</p>
440	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>The UN World charter for Nature urges "strong precaution", and states that "...when potential adverse effects are not fully understood, the activities should not proceed."</b> The Precautionary Principle should be applied when risks are high and not easily calculable. The La Jolla Workshop 2015 enumerated many studies that still need to be done regarding PCFG recruitment , the comparing of PCFG cow-calf pairs to lagoon IDs, satellite tags on PCFG whales, more photos and biopsies of PCFG whales. Certainly years more work. From the workshop report: "...the value of such work is in filling important data gaps...regarding understanding the dynamics of the PCFG". It was noted that there are no confirmed plans for more telemetry work off Sakhalin. Huge "data gaps" will persist for many years in regards to all gray whales.</p>	<p>The commenter notes that a workshop identified studies that might be undertaken to provide additional information on PCFG recruitment. The commenter does not opine or offer information on the cost and timelines associated with completing those studies or how they will reduce uncertainty. Data gaps have and always will exist and NMFS will continue to consider additional work to reduce uncertainties. However, the purpose of an EIS is to provide best available information to the decision-maker and the public, including identifying areas where potentially</p>

Sort #	Commenter Code	Comment	Response
			relevant information is unknown or uncertain. This comment does not cite available information that we failed to consider in the DEIS.
441	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p>What sane person or agency would choose any of the "action alternatives" in light of the numerous problems and hazards they will entail? <b>If the theoretical "benefits" to the whaling factions of the tribe[s] are placed on one side of a scale, and the inevitable ecological losses, unavoidable cruelty to whales, and harm to people and the community are placed on the other side of a scale, how can justice, the common good, and the MMPA be served in any way other than a strong tip of the scale to Alternative1? It is the only alternative that meets the needs and purposes of the overwhelming majority of whales and people in the affected environment.</b></p>	Comments noted.
442	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>The genetic uniqueness of the PCFG gray whales increases the importance of the population, as extirpation will eliminate those genetic traits and lineages from the worldwide population of gray whales. There is value to their knowledge and culture. We cannot know the future, but the PCFG may have a great role to play in the ultimate survival of the species. Their knowledge was vital once, it could be again. During the great die off years of 1999 and 2000, abnormally large numbers of gray whales were seen feeding in the spring in the Makah U&amp;A with known resident whales. They obviously did not "become" PCFG whales, but feeding with them during that hard time of starvation may have given many the strength to complete their migrations north and survive.</b></p>	Comments noted.
443	Owens (Peninsula Citizens for Protection of Whales)_7-27-15	<p><b>To paraphrase Heckel, it would be unwise to wait until it can be shown that the whales' feeding areas, etc., have been displaced to modify the activity [hunting], because the long-term effect may be irreversible. Management has to be based on best available knowledge and the precautionary principle.</b></p> <p><b>There are many hypotheses and little absolute knowledge regarding the Western North Pacific gray whales and the PCFG gray whales. In light of such uncertainty, we cannot stand silently by while NMFS mismanages our tiny group of resident whales to extinction, and proposes such unnecessary threats to the struggling WNP whales. Remember the grave management mistakes at Cook Inlet.</b></p>	We agree that a decision to waive the MMPA take moratorium must be based on the best scientific information available. We note that the precautionary principle may be incorporated into agency decisions in various ways, including through monitoring and adjustments to management.
444	Pruett (Sea Shepherd)	Dear Mr. Stelle: On behalf of Sea Shepherd Legal, I submit the following comments on the Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales, published March 20, 2015 by the National Marine	These introductory comment are noted; specific responses are provided below.

Sort #	Commenter Code	Comment	Response
	Legal)_7-27-15	<p>Fisheries Service. Thank you for the opportunity to comment. Respectfully submitted, Catherine Pruett, JD, MPA Executive Director Sea Shepherd Legal</p> <p><b>I. Introduction</b></p> <p>SSL submits these comments in an effort to protect gray whales from being brutally killed in archaic, unjustifiable and inhumane hunts. SSL's goal is to persuade the National Marine Fisheries Service (NMFS) to uphold its responsibility of "stewardship of the nation's ocean resources and their habitat."<sup>1</sup> We implore NMFS to take heed of our concerns, and of the concerns voiced by the multitude of others opposed to the resumption of the gray whale hunt. There is much at stake, and a great deal to lose.</p> <p>As NMFS acknowledges, "[t]he resilience of our marine ecosystems and coastal communities depend on healthy marine species, including protected species such as whales, sea turtles, corals, and salmon."<sup>2</sup> NMFS has been tasked with securing that resilience through, among other things, appropriately implementing the Marine Mammal Protection Act (MMPA).<sup>3</sup> There are times, however, that NMFS fails in this duty - or comes dangerously close to doing so. This is one of those times. By disregarding the potential impacts of the Makah's proposed hunt, NMFS virtually abandons its post as the steward of our oceans and marine wildlife.</p> <p><b>A. Conservation Takes Highest Priority</b></p> <p>When enacting the MMPA, Congress mandated that conservation, including maintaining healthy populations of marine mammals, is of highest priority. The legislative history of MMPA makes it clear that the <b>precautionary principle must be applied and that any bias must favor marine mammals.</b><sup>4</sup> 4 H.R. REP. NO. 92-707, at 24 (1971); 118 CONG. REC. S15680 (daily Ed. Oct. 4, 1971) (statement of Sen. Packwood) (emphasis added)</p> <p>The courts have agreed. In Comm. For Humane Legislation v. Richardson, the court stated that any action subject to the MMPA, must "proceed knowledgeably and cautiously"<sup>5</sup> and that <b>the MMPA must be interpreted and applied for the benefit of marine mammals "and not for the benefit of commercial exploitation."</b><sup>6</sup> Similarly, in Kokechik Fishermen's Ass'n v. Secretary of Commerce, the District of Columbia Circuit Court of Appeals held that when balancing commercial fishing interests with the conservation goals of the MMPA,</p>	

Sort #	Commenter Code	Comment	Response
		<p>“the interest in maintaining healthy populations of marine mammals comes first.”<sup>7</sup></p> <p>The burden of proof is borne by any party proposing to take marine mammals, or take actions contrary to the MMPA. This “is by no means a light burden.”<sup>8</sup> The intent behind the MMPA's “set of requirements is to insist that the management of the animal populations be carried out with the interests of the animals as the prime consideration.”<sup>9</sup></p> <p><b>B. Whale Hunting Cannot Be Justified</b></p> <p>In Section 2. Findings and Declaration of Policy, the MMPA states:  (6) marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the carrying capacity of the habitat.<sup>10</sup></p> <p>Congress clearly understood that whales are extremely valuable and highly revered. The \$2.1 billion whale watching industry, involving more than 120 countries, exemplifies how critically important whales are to mankind.<sup>11</sup> Far beyond these anthropocentric benefit considerations, however, lies the fact that all cetaceans - not least of all gray whales - have intrinsic value.</p> <p>There are abundant scientific findings demonstrating that whales are intelligent mammals with extensive cognitive abilities, emotional lives, and social relations. Studies have shown that gray whales care for unrelated calves and assist injured companions - including those harpooned and dying.<sup>12</sup> Multiple scientists acknowledge that whales have an extremely high cognitive function and “exhibit some of the most complex behavior in the animal kingdom.”<sup>13</sup> “Evidence is growing that for at least some cetacean species, culture is both sophisticated and important.”<sup>14</sup> Indeed, “if we wipe out a sub-group [of whales], it is more than killing a certain number of individuals, it could actually wipe out an entire culture.”<sup>15</sup></p> <p>NMFS provides a plethora of notes from the Makah describing the nature and application of proposed weaponry for the hunt.<sup>16</sup> While there is some mention of how some of these weapons and methods might expedite a kill,</p>	



Sort #	Commenter Code	Comment	Response
		<p>nowhere does NMFS acknowledge that these sentient, magnificent creatures will suffer immense pain and stress. This omission alone violates the MMPA's mandate to ensure that the killing - or otherwise "taking" - of a marine mammal be conducted in the most humane way possible and for the right reasons. For these and a multitude of other reasons, the hunt cannot be justified and should not be permitted.</p> <hr/> <p><sup>1</sup> NMFS mission statement at <a href="http://www.nmfs.noaa.gov/aboutus/our_mission.html">http://www.nmfs.noaa.gov/aboutus/our_mission.html</a> (last visited July 30, 2015).</p> <p><sup>2</sup> Id.</p> <p><sup>3</sup> Id.</p> <p><sup>4</sup> H.R. REP. NO. 92-707, at 24 (1971); 118 CONG. REC. S15680 (daily Ed. Oct. 4, 1971) (statement of Sen. Packwood) (emphasis added).</p> <p><sup>5</sup> 414 F. Supp. 297, 310 at n. 29 (D.D.C. 1976), aff'd, 540 F.2d 1141 (D.C. Cir. 1976) (emphasis added).</p> <p><sup>6</sup> Id. at 24 (emphasis added).</p> <p><sup>7</sup> 839 F.2d 795, 802 (D.C. Cir. 1958), cert. denied sub nom., See also Verity v. Center for Env'tl. Educ., 988 U.S. 1004 (1989) (emphasis added).</p> <p><sup>8</sup> H.R. REP. NO. 92-707, supra, at 4.</p> <p><sup>9</sup> Id. (emphasis added).</p> <p><sup>10</sup> 16 U.S.C. §1361.</p> <p><sup>11</sup> Russel McLendon. Could whale-watching replace whaling in Japan? June 6, 2014. <a href="http://www.mnn.com/earth-matters/animals/blogs/could-whale-watching-replace-whaling-in-japan#ixzz3h1svqQCv">http://www.mnn.com/earth-matters/animals/blogs/could-whale-watching-replace-whaling-in-japan#ixzz3h1svqQCv</a> (Last visited July 27, 2015).</p> <p><sup>12</sup> Kim, Claire Jean. DANGEROUS CROSSINGS - RACE SPECIES AND NATURE IN A MULTICULTURAL AGE. Cambridge University Press (2015): 214.</p> <p><sup>13</sup> S. Savage. Whales and Humans Have Much in Common. June 21, 2010. <a href="http://www.redorbit.com/news/science/1881867/whales_and_humans_have_much_in_common/">http://www.redorbit.com/news/science/1881867/whales_and_humans_have_much_in_common/</a> (Last visited July 26, 2015).</p> <p><sup>14</sup> Id. (Citing Hal Whitehead, a professor at Dalhousie University in Halifax, in the Canadian province of Nova Scotia).</p> <p><sup>15</sup> Id. (Citing Lori Marino, a neurobiologist at Emory University in Atlanta, Georgia).</p> <p><sup>16</sup> U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Services, Northwest Region, Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales. 2015. (Hereinafter the "DEIS") at 2-30.</p>	

Sort #	Commenter Code	Comment	Response
445	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>II. Discussion</b></p> <p><b>A. NMFS Has Illegally Predetermined the Outcome of the NEPA Process</b></p> <p>NMFS has deliberately and inappropriately structured the DEIS in an effort to ensure, in one form or another, that there will only be a single outcome from this process: whaling by the Makah Tribe. By attempting to guarantee this predetermined outcome, NMFS' actions are arbitrary, capricious, and contrary to law.</p>	These introductory comment are noted; specific responses are provided below.
446	Pruett (Sea Shepherd Legal)_7-27-15	<p>The fundamental purpose of an EIS is to force the decision-maker to take a "hard look" at a particular action – at the agency's need for it, at the environmental consequences it will have, and at more environmentally benign alternatives that may substitute for it – before the decision to proceed is made.<sup>17</sup> This "hard look" requires agencies to obtain high quality information and accurate scientific analysis.<sup>18</sup> "General statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided."<sup>19</sup></p> <hr/> <p><sup>17</sup> 40 C.F.R. §§ 1500.1(b), 1502.1; Baltimore Gas &amp; Electric v. NRDC, 462 U.S. 87, 97 (1983).</p> <p><sup>18</sup> 40 C.F.R. § 1500.1(b).</p> <p><sup>19</sup> Klamath-Siskiyou Wilderness Center v. Bureau of Land Management, 387 F.3d 989, 994 (9th Cir. 2004) (quoting Neighbors of Cuddy Mountain v. United States Forest Service, 137 F.3d 1372, 1380 (9th Cir. 1998)).</p>	The commenter makes general conclusions about the science and information included in the DEIS but does not identify specific deficiencies. We prepared an EIS rather than an environmental assessment to ensure that the agency takes a hard look at potential environmental effects associated with the tribe's request, and the DEIS does contain high quality information and accurate scientific analysis referred to in this comment. In cases where such information was lacking we initiated and funded studies and workshops to obtain it, for example the work of Punt and Moore (2013) to evaluate OSP for PCFG whales, the analysis by Moore and Weller (2013) to assess the probability of taking a WNP gray whale during the proposed Makah hunt, and the gray whale stock identification workshop (Weller et al., 2013).
447	Pruett (Sea Shepherd Legal)_7-27-15	<p>While it is true that an agency enjoys discretion in defining the purpose and need of a project in an EIS, "an agency cannot define its objectives in unreasonably narrow terms."<sup>20</sup> In particular, the agency cannot so narrowly craft those objectives so as transform the EIS into a "foreordained formality."<sup>21</sup> Moreover, the public purpose and need are given considerably more weight than the private goals and needs. In this respect, the private interests are not</p>	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		<p>permitted to define the scope of the proposed project. Rather, as described by the D.C. Circuit:</p> <p>[A]gencies must look hard at the factors relevant to the definition of purpose.... Perhaps more importantly [than the need to take private interests into account], an agency should always consider the views of Congress, expressed, to the extent that the agency can determine them, in the agency's statutory authorization to act, as well as in other congressional directives.[<sup>22</sup>]</p> <p>Where, as here, “an action is taken pursuant to a specific statute, the statutory objectives of the project serve as a guide by which to determine the reasonableness of objectives outlined in an EIS.”<sup>23</sup></p> <p>Contrary to these well-recognized principles, NMFS drafted a narrowly circumscribed statement of purpose and need in the DEIS that elevates the private (Makah) interest well above NMFS' statutory obligations under the MMPA and ESA.<sup>24</sup> As stated in the DEIS:</p> <p>1.3.1 Purpose for Action</p> <p>The Makah Tribe’s purpose is to resume its traditional hunting of gray whales under its treaty right, as described in detail in Subsection 2.3.2, Alternative 2 (Proposed Action). NMFS’ purpose is to implement the laws and treaties that apply to the Tribe’s request, including the Treaty of Neah Bay, MMPA, and WCA.</p> <p>1.3.2 Need for Action The Makah Tribe’s need for the action is to exercise its treaty whaling rights to provide a traditional subsistence resource to the community and to sustain and revitalize the ceremonial, cultural, and social aspects of its whaling traditions. NMFS’ need for this action is to implement its federal trust responsibilities to the Makah Tribe with respect to the Tribe’s reserved whaling rights under the Treaty of Neah Bay. In meeting this need, NMFS must also comply with the requirements of the MMPA and the WCA. Under the MMPA, we must protect and conserve the gray whale population; under the WCA, we must regulate whaling in accordance with the ICRW and IWC regulations.[<sup>25</sup>]</p> <p>This statement of purpose and need narrowly focuses on the Tribe’s “traditional hunting of gray whales under its treaty right.”<sup>26</sup> Although mentioning NMFS’ statutory responsibilities in passing, the statement strongly emphasizes NMFS’ alleged duty to “implement” this treaty right and its “federal trust responsibilities to the Makah Tribe with respect to the Tribe’s reserved whaling rights under the [treaty].”<sup>27</sup> The needs statement, in particular, subordinates the</p>	

Sort #	Commenter Code	Comment	Response
		<p>agency’s public responsibility, stating that “NMFS must also comply with the requirements of the MMPA and the WCA.”<sup>28</sup></p> <hr/> <p><sup>20</sup> See <i>Friends of Southeast’s Future v. Morrison</i>, 153 F.3d 1059, 1066 (9th Cir.1998); <i>City of Carmel–By–The–Sea v. United States Dep’t. of Transp.</i>, 123 F.3d 1142, 1155 (9th Cir.1997).</p> <p><sup>21</sup> <i>Friends</i>, 153 F.3d at 1066 (quoting <i>Citizens Against Burlington, Inc. v. Busey</i>, 938 F.2d 190, 196 (D.C.Cir. 1991), cert. denied, 502 U.S. 994 (1991)).</p> <p><sup>22</sup> <i>Burlington</i>, 938 F.2d at 196.</p> <p><sup>23</sup> <i>Westlands Water Dist. v. U.S. Dep’t of Interior</i>, 376 F.3d 853, 866 (9th Cir.2004).</p> <p><sup>24</sup> In fact, as discussed below, NMFS has completely abdicated its responsibility to protect a listed species under the ESA.</p> <p><sup>25</sup> DEIS, at 1-27.</p> <p><sup>26</sup> <i>Id.</i></p> <p><sup>27</sup> <i>Id.</i></p> <p><sup>28</sup> <i>Id.</i> (emphasis added).</p>	
448	Pruett (Sea Shepherd Legal)_7-27-15	<p>The manner in which NMFS has framed this important, threshold provision in the DEIS runs directly counter to the Ninth Circuit’s pronouncements in <i>Anderson v. Evans</i>.<sup>29</sup> Significantly in this regard, the court placed supreme importance on NFMS’ obligation to ensure that any proposed action satisfied the “conservation necessity” of the MMPA. The court observed that the Tribe’s treaty right was a factor to be considered in deciding whether to permit an exception to the MMPA’s moratorium on the take of marine mammals.<sup>30</sup> However, the <i>Anderson</i> court’s prime directive was that the agency safeguard the conservation goals of the MMPA.</p> <p>In support of this directive, the court expressed the congressional intent behind the MMPA in clear terms:</p> <p>One need only review Congress's carefully selected language to realize that Congress's concern was not merely with survival of marine mammals, though that is of inestimable importance, but more broadly with ensuring that these mammals maintain an “optimum sustainable population” and remain “significant functioning elements in the ecosystem.”</p> <hr/> <p><sup>29</sup> 371 F.3d 475 (9th Cir. 2004).</p> <p><sup>30</sup> <i>Id.</i> at 501n.26.</p>	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
449	Pruett (Sea Shepherd	<p>The <i>Anderson</i> court further held that NMFS has a duty to uphold the “nonconsumptive” uses of the gray whales.<sup>31</sup> On this point, the court noted that the Makah had a treaty right “in common with all citizens of the United States”</p>	Please see the response to frequent comment # 3 regarding the Makah

Sort #	Commenter Code	Comment	Response
	Legal)_7-27-15	<p>and that this language “creates a relationship between Indians and non-Indians similar to a cotenancy, in which neither party may ‘permit the subject matter of [the treaty] to be destroyed.’”<sup>32</sup> As a consequence of this “co-tenancy” relationship, the Tribe was only entitled to its “fair share” of whales that must be allocated in a manner that upheld the conservation principles of the MMPA:</p> <p>[W]e conclude that to the extent there is a “fair share” of marine mammal takes by the Tribe, the proper scope of such a share must be considered in light of the MMPA through its permit or waiver process. The MMPA will properly allow the taking of marine mammals only when it will not diminish the sustainability and optimum level of the resource for all citizens. The procedural safeguards and conservation principles of the MMPA ensure that marine mammals like the gray whale can be sustained as a resource for the benefit of the Tribe and others.</p> <p>Viewed through the lens of the Anderson decision, NMFS' statement of purpose and need – the language that sets the stage for the proposed alternatives – is grossly deficient. NMFS has abdicated its public responsibility and ignored the court’s clear directives in focusing almost exclusively upon the Tribe’s asserted treaty right to traditional whaling while marginalizing the “conservation necessity” of the MMPA and completely ignoring the right of nontribal persons to enjoy these magnificent creatures in nonconsumptive ways.</p> <p>NMFS’ digression at the outset of the DEIS has serious, and fatal, consequences for the remainder of the document. Of greatest concern is that the agency relies upon this narrow and tribally-biased statement of purpose and need to dismiss the No Action Alternative and promote action alternatives that lead to a single result: whaling by the Makah. NMFS then uses the No Action Alternative (no whaling) as the benchmark upon which to justify its cursory dismissal of all other potential action alternatives that do not involve whaling. By taking this approach, NMFS impermissibly and illegally disregards its mandate to promote the MMPA’s conservation necessity and to uphold the “cotenancy” rights of nonconsumptive users.</p> <p>One example of NMFS’ myopic focus is its discussion of the rejected “nonlethal hunt” alternative. The agency’s failure to consider the conservation necessity is no more evident than in its description of the applicable laws (e.g. WCA and MMPA) as supporting whaling in their “contemplation” of “lethal takes” and its linking of this circumstance with the Treaty of Neah Bay’s conveyance of the “opportunity” to kill whales.<sup>33</sup> Noting that Tribe seeks authorization under these “authorities” to hunt whales, NMFS concludes that a “non-lethal hunt</p>	Tribe’s desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		<p>would therefore not meet the purpose and need for the Tribe’s proposed action.”<sup>34</sup> The agency then dismissively compares the outcome of the non-lethal hunt to the no action alternative, finding that the non-lethal hunt need not be considered because it will have the same effects as the no action (no whaling) alternative.<sup>35</sup> This narrow, circular “analytical” approach, anchored only in whaling, graphically illustrates the manner in which NMFS uses the statement of purpose and need to predetermine the outcome of this entire process.</p> <p>NMFS provides a nearly identical “analysis” for other rejected alternatives, including “alternative compensation to the Makah.” Notably, this alternative encompasses at least one nonconsumptive use envisioned by Anderson: whale-watching. Yet, here and elsewhere in the DEIS, NMFS forgoes the opportunity to explore the potential benefits associated with the promotion of this particular activity for the Makah and the Tribe’s “co-tenants.” Instead, NMFS again cursorily dismisses the “alternative compensation” as equivalent to the (rejected) No Action Alternative and inconsistent with the purpose and need.</p> <p>In summary, NMFS has most certainly “preordained” the result of this NEPA process at the expense of its mandatory duty to uphold the MMPA’s “conservation necessity” and the “rights in common” to enjoy whales held by others outside the Makah Tribe. The law is clear that the EIS must be a pre-decisional, objective, rigorous, and neutral document, not a work of advocacy to justify an outcome that has been foreordained. The agency has, therefore, acted arbitrarily and capriciously in crafting the narrow statement of purpose and need and infecting the remainder of the DEIS with its singular focus in promoting a lethal hunt of the whales.</p> <hr/> <p><sup>31</sup> Id. at 500 (“[T]he Makah cannot, consistent with the plain terms of the treaty, hunt whales without regard to processes in place and designed to advance conservation values by preserving marine mammals or to engage in whale-watching, scientific study, and other non-consumptive uses.”).</p> <p><sup>32</sup> Id.</p> <p><sup>33</sup> DEIS, at 2-22.</p> <p><sup>34</sup> Id. at 2-23.</p> <p><sup>35</sup> Id.</p>	
450	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>B. The Makah Do Not Have a Valid Subsistence Right To Hunt Whales</b></p> <p>In 1982, the International Whaling Commission (IWC) issued a moratorium on commercial whaling.<sup>36</sup> A recognized exception to the moratorium is “Aboriginal Subsistence Whaling” (ASW), which allows qualifying indigenous</p>	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.

Sort #	Commenter Code	Comment	Response
		<p>peoples to hunt a small number of whales for legitimate aboriginal subsistence needs.<sup>37</sup> NMFS claims that the Makah qualify for this exception. They do not.</p> <hr/> <p><sup>36</sup> Id. at 1-20.</p> <p><sup>37</sup> Id. at 1-21. (Note: SSL is merely stating IWC law on this issue. SSL believes that cetaceans should never be killed by anyone, for any reason.)</p>	
451	Pruett (Sea Shepherd Legal)_7-27-15	<p>The IWC has repeatedly clarified its position that the ASW exception should never undermine the overarching purpose of the IWC and its regulations - the conservation of whales.<sup>38</sup> For example, in its 45th Annual report, the IWC stated:</p> <p style="padding-left: 40px;">While allowing aboriginal people to meet their cultural and nutritional requirements is an important objective, that objective is subject to the other objectives of preventing risks of extinction and maintaining stocks at the highest level of recruitment. In fact, the highest priority shall be accorded to the objective of ensuring that the risks of extinction to individual stocks are not seriously increased by subsistence hunting.<sup>39</sup></p> <p style="padding-left: 40px;">It is with this caveat that all risks to whales - whether by ship strikes, pollution or aboriginal subsistence whaling - must be considered. Thus, any claim of an ASW right must be legitimate, substantiated and incontrovertible.</p> <hr/> <p><sup>38</sup> See IWC History and Purpose. <a href="https://iwc.int/history-and-purpose">https://iwc.int/history-and-purpose</a>. (Last visited July 29, 2015).</p> <p><sup>39</sup> IWC, 45th Annual Report of the International Whaling Commission, at 42-43 (1995). Emphasis added.</p>	<p>We agree and note this is an area of active discussion by the IWC. At its 65th annual meeting the IWC passed a resolution (Resolution 2014-1) directing the aboriginal subsistence whaling (ASW) subcommittee to address a number of issues, including the development of standardized need statements and a better understanding of the relationship between needs and consumption patterns for ASW hunts. Subsection 1.4.1, Summary of Aboriginal Subsistence Whaling Catch Limits provides an overview of requests for ENP gray whales on behalf of the Makah as well as IWC plans to convene an aboriginal subsistence workshop in the near future to address ASW needs and related topics.</p>
452	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>1. The IWC Never Granted the Makah a Whaling Right</b></p> <p>The IWC is the only entity authorized to officially recognize subsistence rights in support of a whaling quota allotment. Pursuant to the International Convention for the Regulation of Whaling (ICRW), "the number of whales killed for aboriginal subsistence must align with subsistence needs; national governments are responsible for providing the IWC with evidence of the cultural, nutritional, and subsistence needs of their people."<sup>40</sup> The parties provide this evidence so that the IWC can make a determination. Clearly, a party itself cannot unilaterally determine that a subsistence need exists, which means that the U.S. could not unilaterally do so for the Makah. Yet it did.<sup>41</sup> It is clear that the U.S. does not firmly believe that it was authorized to make this determination independently. In its DEIS, NMFS states that the IWC's adoption of the U.S.-</p>	<p>Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.</p>

Sort #	Commenter Code	Comment	Response
		<p>Russian Federation joint quota request merely "suggest[s] the possibility that each IWC party was free to recognize the subsistence and cultural needs of its aborigines."<sup>42</sup></p> <p>In May 1995, the Makah submitted a needs statement to the U.S. government, requesting representation before the IWC, in an effort to be granted an annual quota to hunt whales.<sup>43</sup> The U.S. acquiesced and, in 1996, sought to attain that quota as a contracting party to the IWC.<sup>44</sup> The request received strong resistance from the other parties to the IWC, with no less than 17 countries expressing skepticism. Throughout the process, much debate ensued as to whether the Makah were even entitled to invoke the ASW exception. Ultimately, the IWC denied the request for a Makah quota.<sup>45</sup></p> <p>A year later, the U.S. and the Russian Federation submitted a joint request for a quota - both claiming to require the quota for aboriginal groups with alleged legitimate subsistence needs. While the IWC ultimately granted the joint quota - it never did so for the purpose of granting the Makah any specific right or ASW recognition. This is made patently clear in the following quoted correspondence from Dr. Ray Gambell, Secretary to the IWC:</p> <p>The IWC sets catch limits for whale stocks. It cannot set individual quotas for nations, or communities of people. Once having set the stock catch limit, it is the responsibility of the government(s) which wish(es) to take the whales to arrange that the catch limit is not exceeded.</p> <p>The IWC's Aboriginal Subsistence Whaling Management procedure normally also takes into account the perceived needs claimed by the prospective hunters in setting the catch limit, but in the case of the gray whale the catch of 140 whales requested by the Russian Federation was not increased to accommodate the USA's request. You can see how this arose in the records of our meetings. The IWC has specifically not passed a judgement on recognising or otherwise the claim by the Makah Tribe, since the member nations were clearly unable to agree.<sup>46</sup></p> <p>Unabashedly, the U.S., by and through NMFS, has repeatedly pressed forward with its efforts to allot a whale quota to the Makah. How they can do this with a straight face is astounding. Quite evidently, the U.S. fully understood that an IWC ASW determination was a necessary legal prerequisite to permitting a Makah hunt, otherwise the U.S. would not have so fervently initially pursued that course of action. When that failed, the U.S. resorted to its backdoor deal with Russia.</p>	



Sort #	Commenter Code	Comment	Response
		<p><sup>40</sup> Wold Chris, and Michael D. Kearney. The Legal Effect of Greenland’s Unilateral Aboriginal Subsistence Whale Hunt. American University International Law Review 30 no. 3 (2015): 564, citing ICRW Art. XI, ¶ 10, Dec. 2, 1946, 62 Stat. 1716, 161 U.N.T.S. 72.</p> <p><sup>41</sup> Id. at 4-269 (emphasis added).</p> <p><sup>42</sup> Id. at 4-269.</p> <p><sup>43</sup> NOAA Fisheries website Chronology of Major Events Related to Makah Tribal Gray Whale Hunt.  <a href="http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/cetaceans/chronology.html">http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/cetaceans/chronology.html</a> (Last visited July 230, 2015).</p> <p><sup>44</sup> Id.</p> <p><sup>45</sup> Id.</p> <p><sup>46</sup> October 5, 1998 electronic communication from Dr Ray Gambell, Secretary to the International Whaling Commission, to Eric Dickman, counsel for the Makah Tribal Council (emphasis added).</p>	
453	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>2. The Makah Do Not Qualify for the ASW Exception</b></p> <p>NMFS has failed to meet the burden of showing that the Makah meet any of the requisite criteria to qualify for ASW status. To qualify, the Makah must have cultural, nutritional and subsistence needs for whale products. All three of these criteria must be established. None are.</p> <p><b><u>The Makah Do Not Have A Nutritional Need to Whale</u></b></p> <p>For the Makah’s proposed whaling practices to legitimately fall within the realm of "Aboriginal Subsistence Whaling," NMFS must demonstrate that whale meat and blubber are required in diets of Makah tribal members for health reasons or survival. A desire or preference for whale meat and blubber is not sufficient justification.</p> <p>The Makah by no means require whale meat for nutritional sustenance. While not living in direct proximity to a major metropolitan area, the tribe has consistent access to a multitude of nutritional sources, including approximately four food service establishments and two grocery purveyors directly on tribal grounds, a direct, weekly grocery delivery service, and 7 other food stores and restaurants within a 20 mile radius - not to mention their own fish hatchery and vast backyard expanse of open water.<sup>47</sup></p> <p>Notwithstanding the foregoing, NMFS spends several pages in the DEIS espousing the purported potential virtues of a diet rich in seafood - specifically whale meat and blubber.<sup>48</sup> Yet after this long monologue, NMFS concedes that “. . . it is difficult to compare essential nutrients and minerals of whale products</p>	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		<p>directly to other protein sources because the former have not been studied extensively." NMFS further concludes that there is "[i]nsufficient information about nutritional value and contaminant levels in current Makah diet to predict the precise changes in exposure to contaminants or foodborne pathogens or the nutritional composition of the Makah diet if tribal members have the opportunity to consume freshly harvested whale. However, whale products, in particular blubber, could contain higher levels of certain contaminants . . . All action alternatives are likely to have a mix of beneficial and adverse impacts associated with nutritional benefits, environmental contaminants, and exposure to foodborne pathogens."<sup>49</sup></p> <hr/> <p><sup>47</sup> By making this statement, SSL does not claim that fish hatchery practices are ecologically sound or that any ocean wildlife exploitation is justified. We merely wish to point out the absurdity of NMFS' position that whale products are a nutritional requirement for the Makah.</p> <p><sup>48</sup> DEIS at 3-370.</p> <p><sup>49</sup> Id. at 4-294.</p>	
454	Pruett (Sea Shepherd Legal)_7-27-15	<p>The one thing that is not misguided in NMFS' diatribe about speculative nutritional benefits is its reference to the risk of contaminant exposure when consuming whale products. To be sure, whale meat is broadly considered unfit - if not outright dangerous - for human consumption. As numerous studies note, "[w]hale meat can be highly contaminated with organic contaminants and heavy metals."<sup>50</sup> Notably, "organochlorine pollutants—namely, polychlorinated biphenyls (PCBs), pesticides (DDT, dieldrin, chlordanes, and hexachloro-cyclohexane [HCH])—and mercury (inorganic and organic) are typically present in cetacean tissues"<sup>51</sup> These contaminants are considered "ubiquitous pollutants of the marine environment and biomagnify up the marine food chain as a result of their lipophilic and persistent nature" and bioaccumulate "in lipid-rich tissues, particularly [whale] blubber."<sup>52</sup> Moreover, studies conducted on laboratory animals, marine mammals and humans accidentally poisoned prove that PCBs and organochlorine pesticides "have the potential to cause adverse health effects, such as immunosuppression, endocrine disruption, reproductive and nervous system disorders, and cancer,"<sup>53</sup> while mercury has been associated with kidney damage as well as "neurological and developmental abnormalities."<sup>54</sup></p> <p>Finally, even if the Makah remain undeterred by the known toxicity risk, a large number of the whales they slaughters could simply go to waste. As detailed in the DEIS, "[s]ince 1998, Chukotka Natives have been reporting a number of hunted whales from the Bering Sea that exhibit a strong medicinal odor, referred</p>	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.

Sort #	Commenter Code	Comment	Response
		<p>to as the ‘stinky whale’ phenomenon (IWC 2007b). From 2008 through 2012, 1 to 8 stinky whales (approximately 1 to 6 percent of whales landed) have been reported by Chukotka Natives each year. Tissues from these whales have been deemed inedible by hunters. In some cases, people who have tasted the blubber or meat have reported symptoms of numbness of the oral cavity, skin rashes, or stomach aches. Toxicologists have recommended that such whales be considered unfit for human consumption."<sup>55</sup> The risk is very real. As with the whales killed by the Chukotka, the gray whales subject to the Makah hunt are exposed to exorbitant levels of pollution throughout their lives.<sup>56</sup></p> <p><sup>50</sup> Simmonds, M. P., et al. Human health significance of organochlorine and mercury contaminants in Japanese whale meat. <i>Journal of Toxicology and Environmental Health Part A</i> 65.17 (2002): 1212.</p> <p><sup>51</sup> Id.</p> <p><sup>52</sup> Id. at 1213.</p> <p><sup>53</sup> Id.</p> <p><sup>54</sup> Id.</p> <p><sup>55</sup> Id. 3-376.</p> <p><sup>56</sup> Based on multiple scientific reports over the course of more than 20 years on the contaminant load of numerous beached and stranded whales. See Wolman, A.A. and AJ Wilson. Occurrence of pesticides in whales. <i>Pesticides Monitoring J.</i>, 4 (1970): 8–10; Schafer, Henry A., et al. Chlorinated Hydrocarbons in Marine Mammals. <i>Biennial Report</i> (1983) 109; Varanasi, Usha, et al. Chemical Contaminants in Gray Whales (<i>Eschrichtius robustus</i>) Stranded Along the West Coast of North America. <i>Science of the Total Environment</i> 145.1 (1994): 29-53. ; and Ruelas-Inzunza, J., and F. Páez-Osuna. Distribution of Cd, Cu, Fe, Mn, Pb and Zn in Selected Tissues of Juvenile Whales Stranded in the SE Gulf of California (Mexico). <i>Environment International</i> 28.4 (2002): 325-329.</p>	
455	Pruett (Sea Shepherd Legal)_7-27-15	<p><b><u>The Makah Do Not Have a Subsistence Need To Hunt Whales</u></b></p> <p>The argument that the Makah have a subsistence need is similarly a fallacy. By definition, subsistence is "the action or fact of maintaining or supporting oneself at a minimum level."<sup>57</sup> The Makah do not require whale meat, blubber or other whale products to maintain or support themselves. NMFS has not shown that the Makah require access to whale meat or blubber to subsist. Indeed, NMFS cannot point to a single shred of evidence that the Makah have suffered from or have in any way been adversely impacted by failing to have access to whale products. As noted above, the Makah have access to boundless resources to ensure that they will not only subsist - but thrive.</p>	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
456	Pruett (Sea Shepherd Legal)_7-27-15	<p><sup>57</sup> Concise Oxford English Dictionary 1438 (12th ed. 2011).</p> <p><b><u>The Makah Cannot Show that Any Alleged "Cultural Need" Exists</u></b></p> <p>As noted above, the Makah have neither a nutritional need nor a subsistence need to hunt whales. Lacking either one of those required criteria is enough to affirmatively state that the Makah do qualify for an the ASW exception. While a cultural need alone is not a sufficient basis for an ASW quota, we address this claim as well.</p> <p>The Makah stated that "[w]haling and whales are central to Makah culture. The event of a whale hunt requires rituals and ceremonies which are deeply spiritual. Makah whaling the subject and inspiration of Tribal songs, dances, designs, and basketry."<sup>58</sup> Historically, "the process of dividing up the carcass was a community affair [for the Makah], with all sharing in the work and bounty. . . the entire village turned out to divide up the carcass."<sup>59</sup></p> <p>In 1999, the Makah killed and landed a whale in an allegedly legal hunt using modern assault weaponry.<sup>60</sup> Captured on film, it became immediately clear that no one in the tribe knew how to render a whale. Indeed, an Inuit member of an Alaskan tribe was recruited to assist with the slaughter. Left alone to butcher the whale by himself after the Makah had gone home, the Inuit man proclaimed "[w]here are my Makah brothers?! Where I live we butcher our own whales!" Footage showed that traditionally used whale parts, including meat and blubber were wasted and left to rot.<sup>61</sup></p> <p>As the evidence suggests, with much of the historical knowledge of the process lost, the actual killing of a whale is clearly not a cultural necessity.</p> <p><sup>58</sup> Makah website <a href="http://makah.com/makah-tribal-info/whaling/">http://makah.com/makah-tribal-info/whaling/</a> (Last visited July 31, 2015).</p> <p><sup>59</sup> Collins, Cary C. Subsistence and Survival: The Makah Indian Reservation, 1855–1933. Northwest Quarterly 87:4 (Fall 1996): 180-193</p> <p><sup>60</sup> <a href="http://makah.com/makah-tribal-info/whaling/">http://makah.com/makah-tribal-info/whaling/</a></p> <p><sup>61</sup> DVD titled, Butchering of Gray Whale; Neah Bay, WA; May 18, 1999; © Erin O’Connell.</p>	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
457	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>3. The Makah Do Not Have a Continuing Traditional Dependence on Whaling and the Use of Whales</b></p> <p>When originally seeking a quota from the IWC for the Makah, the U.S. relied upon the following functional definition of "Aboriginal Subsistence Whaling"</p> <p>[W]haling for purposes of local aboriginal consumption carried out by or on behalf of aboriginal, indigenous or native peoples who share strong</p>	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		<p>community, familial, social and cultural ties related to a continuing traditional dependence on whaling and on the use of whales.<sup>62</sup></p> <p>The Makah do not fit within the ASW definition because they do not have a "continuing traditional dependence on whaling and on the use of whales." While whaling may have been a regular part of the Makah culture over 150 years ago, any "dependence" on whaling had nearly completely died out by 1860, when the Makah turned to the more economically lucrative and socially equitable practice of sealing. Indeed, by 1875, sealing had become the Makah's principal source of income.<sup>63</sup></p> <p>A "continuing" activity is one that is enduring and uninterrupted. Here we are, more than a century after the Makah's whaling activities nearly completely ceased, faced with the claim that the tribe has a "continuing traditional dependence" on whaling. The argument is ludicrous. NMFS' reference to the short-lived and minor resurgence in whaling activity between 1916 and 1920 does not change that, nor does the one inappropriately authorized hunt in 1999.<sup>64</sup> As the Makah concede, there simply is not a "continuing cultural dependence" on whaling or the use of whales. For example, after the 1999 hunt, a young fisherman pointed out, "[i]t's not like we have a bunch of favorite recipes to work with . . . this may be an ancient tradition, but it's all new to us."<sup>65</sup> Similarly, an elder opposed to whaling noted that, with the passage of time since whaling ceased, "none of us knows what it tastes like or likes what it tastes like."<sup>66</sup></p> <hr/> <p><sup>62</sup> G.P. Donovan, The Ad Hoc Committee Working Group on Development of Management Principles and Guidelines for Subsistence Catches of Whales by Indigenous (aboriginal) Peoples, International Whaling Commission and Aboriginal/Subsistence Whaling: April 1979 to July 1981, Special Issue 4 (1981).</p> <p><sup>63</sup> U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Services, Draft Environmental Impact Statement for Proposed Authorization of the Makah Whale Hunt. May 2008. (2008 DEIS), 3-235.</p> <p><sup>64</sup> DEIS at 3-306.</p> <p><sup>65</sup> Interview of Richard Markishtum, fisherman and member of the Makah tribe. After the Hunt, Bitter Protest and Salty Blubber. May 19, 1999. Sam Howe Verhovek. New York Times.</p> <p><sup>66</sup> Interview of Makah Elder, Alberta Thompson. Elder Opposed to Whaling Finds Resistance at Home. October 04, 1998. Peggy Anderson, Associated Press.</p>	

Sort #	Commenter Code	Comment	Response
458	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>4. Alternatives to Simultaneously Honor Makah Cultural Traditions and Protect Whales</b></p> <p>A purely ceremonial hunt - without the bloodshed, without the risk of extirpation of whole whale populations, and without the certain ensuing public outcry against the Makah - could readily supplant and restore the associated traditional practices. The Makah could still honor whales and their whaling heritage through "rituals and ceremonies," much as they once did. These ceremonial hunts could still be "deeply spiritual" and remain "the subject and inspiration of Tribal songs, dances, designs, and basketry."<sup>67</sup></p> <p>From an economic and social standpoint, a purely ceremonial hunt - particularly one open to the public - would be lucrative. Rather than undermining the source of critical tourist dollars, and risk being boycotted by the public, the Makah would be heralded for showcasing their inherent respect for nature and humanity's place in nature. If its DEIS, NMFS fails to even consider this possibility, similarly dismissing whale watching - a \$2.1 billion dollar industry across 120 countries<sup>68</sup> - as a lucrative alternative for the Makah.</p> <p>The Makah could follow the laudable path taken by their neighbors, the Quileute Tribe, who have abandoned whaling traditions and found great spiritual and cultural enrichment in celebrating the lives of whales. In 1988, the Quileute passed a resolution to end all whaling. A tribal member strongly supporting this move commented:</p> <p>Our tribe fully supports our Makah neighbors in their treaty rights. But our Quileute elders have made a different decision. Even though we and other tribes along the coast have the same treaty rights to hunt, our elders have chosen to support the gray whale. For thousands of years, this whale has been valuable under subsistence, but now the value is in its life. The gray whale is more valuable to the Quileutes living than hunted. We must begin the healing here in our village and hope it can help others, as well. We Quileutes would like to offer a new vision and a different model for other tribes, as well as peoples."<sup>69</sup></p> <p>Appalled by the needless slaughter of the whale targeted in the 1999 Makah hunt, the First Nations Environmental Network issued the following press release:</p> <p><b>Press Release: May 18th, 1999.</b></p> <p>Re: The Killing of a Grey Whale by Makah at Neah Bay, Washington, U.S.A. on May 17th, 1999. <b>NOT ALL INDIGENOUS PEOPLE SUPPORT MAKAH WHALING</b></p> <p>We are deeply concerned and saddened by the killing of a whale at Neah Bay, Washington by members of the Makah Nation. There are many implications</p>	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
		<p>involved in this and we cannot support this action due to the following: 1) The International Whaling Commission meets this month to determine what is acceptable globally to the world's whale populations and this will have a negative impact on their decision. 2) Japan, Norway, Iceland and other countries are working towards getting commercial whaling approved once again. The Japanese have been lobbying First Nations Peoples on the West Coast and around the world to open the door on 'cultural whaling' which they also claim as a 'right'. 3) The Makah Nation is divided within, with many elders and others speaking against this 'return to Traditional Practices' and their voices are being ignored and suppressed. 4) While we respect Treaty Rights, this is a political reason being used for killing and not a true meaning of need when it comes to the taking of another being's life. Using 'Treaty Rights' in this way may set dangerous precedents. At this point in human history, we feel that spiritually and morally, the act of killing whales cannot be justified.</p> <p>For All Our Relations, Steve Lawson FNEN Representative on West Coast<sup>70</sup>  NMFS completely disregards the sentiments and guidance of the Makah's indigenous neighbors.</p> <hr/> <p><sup>67</sup> Makah website. <a href="http://makah.com/makah-tribal-info/whaling/">http://makah.com/makah-tribal-info/whaling/</a> (last visited July 26, 2015).</p> <p><sup>68</sup> R. McLendon, <i>supra</i> n. 11.</p> <p><sup>69</sup> Kim, Claire Jean. <i>Dangerous Crossings</i>. Cambridge University Press, 2015, citing Peterson, Brenda and Linda Hogan, <i>Sightings: The Gray Whales' Mysterious Journey</i>, Washington DC: National Geographic 2002, 121.</p> <p><sup>70</sup> Kim C. J. at 241. According to its website (<a href="http://www.fnen.org/">http://www.fnen.org/</a>), the First Nations Environmental Network is a Canadian national organization of individuals, non-profit groups and Indigenous Nations who are actively working on environmental issues. It is an affiliate network of the Canadian Environmental Network.</p>	
459	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>C. If Permitted, the Hunt Will Set a Dangerous Precedent</b></p> <p>The court in <i>Anderson v. Evans</i> expressed a grave concern that the actions taken by the U.S. to rely on a self-fashioned and implemented "cultural whaling" exception would set a dangerous precedent for other countries to claim a subsistence need.<sup>71</sup> The court stated: The 1997 IWC gray whale quota, as implemented domestically by the United States, could be used as a precedent for other countries to declare the subsistence need of their own aboriginal groups, thereby making it easier for such groups to gain approval for whaling. If such an</p>	Comments noted. Please also see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
		<p>increase in whaling occurs, there will obviously be a significant impact on the environment.<sup>72</sup></p> <p>The validity of the court's concern had been established long before this ruling. As the First Nations Environmental Network noted in the press release above, these nefarious machinations were already well underway.<sup>73</sup> Countries such as Japan, Norway and Iceland had been lobbying Pacific Coast tribes for years in an effort to encourage the development of the "cultural whaling" exception.<sup>74</sup></p> <hr/> <p><sup>71</sup> Anderson, 371 F.3d 475 at 493.  <sup>72</sup> Id.  <sup>73</sup> Kim, C. J. at 241.  <sup>74</sup> Id.</p>	
460	Pruett (Sea Shepherd Legal)_7-27-15	<p>There is no doubt that if NMFS approves the Makah's proposal to whale it will create a new form of ASW based solely on purported "cultural needs." There is clear and present danger that this precedent could open the door to whale hunting by other coastal tribes and aboriginal populations that have preserved hunting (or even fishing) rights in their treaties.</p>	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
461	Pruett (Sea Shepherd Legal)_7-27-15	<p>NMFS inaccurately claims that Japan has not yet attempted to propose an amendment to the IWC Schedule to allow for small-type coastal whaling.<sup>75</sup> On the contrary, Japan has tried to get on the "cultural needs" bandwagon on multiple occasions - most recently in May 2014, when it proposed a new kind of "small-type coastal whaling," which it alleges should be treated like aboriginal subsistence whaling.<sup>76</sup> Japan claims that the "nutritional, subsistence and cultural needs" of small-type coastal whaling in some of its communities should be recognized, given that "Japanese have utilised whale meat as one of the principal sources of protein since ancient times."<sup>77</sup></p> <hr/> <p><sup>75</sup> DEIS at 4-266.  <sup>76</sup> 2014 Report of the International Whaling Commission Scientific Committee (2104) IWC/65/Rep 1. Available at <a href="http://www.iwc.int">www.iwc/int</a>  <sup>77</sup> Government of Japan, (1986) Small-Type Coastal Whaling in Japan's Coastal Seas, (IWC) TC/38/AS2.</p>	This comment mischaracterizes the analysis in the DEIS. The DEIS page cited does not make the claim attributed to NMFS in the first sentence of this comment, nor could we find such a claim elsewhere in the DEIS. Rather, the DEIS states: "Japan's argument that small-type coastal whaling is similar to aboriginal subsistence whaling is an example of how an IWC party might use Makah whaling to support its desired whaling operations." The comment also mischaracterizes Japan's 2014 proposal, which would have allowed small-type coastal whaling through an exemption to the moratorium on commercial whaling and not through an ASW catch limit (IWC 2014).



Sort #	Commenter Code	Comment	Response
462	Pruett (Sea Shepherd Legal)_7-27-15	<p>The Anderson Court expressed further disquiet about NMFS' claim that bad precedent was improbable given that only the Makah hold a treaty right to whale. On this point the court stated:</p> <p>[W]e cannot agree with the agencies' assessment that because the Makah Tribe is the only tribe that has an explicit treaty-based whaling right, the approval of their whaling is unlikely to lead to an increase in whaling by other domestic groups. And the agencies' failure to consider the precedential impact of our government's support for the Makah Tribe's whaling in future IWC deliberations remains a troubling vacuum.<sup>78</sup></p> <p>The court was clearly not persuaded by NMFS' position - nor should it have been. Surprisingly, NMFS does not appear to have taken the court's concerns seriously; it continues to take the same unsupportable and speculative position.</p> <p><sup>78</sup> Anderson, 371 F.3d 475 at 493.</p>	Pursuant to the court's direction in Anderson v. Evans, the DEIS takes a hard look at the potential precedential domestic effect of the action alternatives (Subsection 4.17, Regulatory Environment Governing Harvest of Marine Mammals).
463	Pruett (Sea Shepherd Legal)_7-27-15	<p>NMFS also claims that "[i]f a Makah hunt were to have a precedential effect on whaling regulations, it is likely such an effect would have manifested following approval of a U.S. request for a catch limit on the Makah Tribe's behalf."<sup>79</sup> This statement is absurd for at least two reasons. First, the U.S. never received approval of a request for a catch limit "on the Makah Tribe's behalf." As noted above, the U.S. request for the Makah was denied outright. Just because the U.S. pursued a spurious plan to share a quota with Russia does not change this fact. Again, the U.S. is unilaterally applying its designated catch quota to benefit the Makah, without the required finding by the IWC that the Makah qualify under the ASW exception.</p> <p><sup>79</sup> DEIS at 4-269.</p>	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
464	Pruett (Sea Shepherd Legal)_7-27-15	<p>Second, it is not even remotely logical to assume that the mere request for a catch limit would trigger a multitude of new claims for ASW quotas. The threat of a dangerous precedent would not become patent until NMFS follows through on its ill-fated mission to allow the Makah to hunt whales under an unsupportable "cultural whaling exception."</p>	We disagree and stand by the analysis we report in DEIS Subsection 4.17 (Regulatory Environment Governing Harvest of Marine Mammals).
465	Pruett (Sea Shepherd Legal)_7-27-15	<p>The Anderson Court conveyed the following additional concerns about potential dangerous precedent in speculating whether tribes with only "fishing" rights might also be able to claim a whaling right:</p> <p>If the MMPA's conservation purpose were forced to yield to the Makah Tribe's treaty rights, other tribes could also claim the right to hunt marine mammals without complying with the MMPA. While defendants argue that the Makah Tribe is the only tribe in the United States with a treaty right expressly</p>	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
		<p>guaranteeing the right to whale, that argument ignores the fact that whale hunting could be protected under less specific treaty language. The EA prepared by the federal defendants notes that other Pacific Coast tribes that once hunted whales have reserved traditional "hunting and fishing" rights in their treaties. These less specific "hunting and fishing" rights might be urged to cover a hunt for marine mammals. Although such mammals might not be the subject of "fishing," there is little doubt they are "hunted."<sup>80</sup></p> <p>As of July 9, 2015, the Anderson Court's dire predictions may be one step closer to reality. In U.S. v. State of Washington, the U.S. District Court for the Western District of Washington concluded that the term "fish" in the Treaty of Olympia was intended to include sea mammals such as whales and seals. Thus, the Quinault and Quileute tribes, as signatories to the Treaty of Olympia, could be said to have a right to take whales and seals.<sup>81</sup></p> <p>If the Makah hunt is permitted, the court's decision in U.S. v. State of Washington could set the stage for a rapid-fire onslaught of claims for further cultural whaling privileges.</p> <hr/> <p><sup>80</sup> Anderson, 371 F.3d 475 at 499.  <sup>81</sup> Findings of Fact Conclusions of Law and Memorandum Order, U.S. v. State of Washington, 2:70-cv-09213, subproceeding 09-01. July 9, 2015.</p>	
466	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>D. NMFS Has Doomed the PCFG Gray Whales to Certain Extirpation</b></p> <p>Two general themes emerge from NMFS' analysis of PCFG whales in the DEIS: uncertainty concerning their conservation status and risk that their populations, especially in the Makah U&amp;A, will be decimated by any of the proposed action (whaling) alternatives. SSL is disturbed and amazed by these circumstances given that the Anderson court made it very clear that PCFG whales should be one of the cornerstones of the EIS:</p> <p><b>The crucial question . . . is whether the hunting, striking, and taking of whales from this smaller group could significantly affect the environment in the local area.</b> The answer to this question is, we are convinced, both uncertain and controversial within the meaning of NEPA. No one, including the government's retained scientists, has a firm idea what will happen to the local whale population if the Tribe is allowed to hunt and kill whales pursuant to the approved quota and Makah Management Plan. There is at least a substantial question whether killing five whales from this group either annually or every two years, which the quota would allow, could have a significant impact on the environment.<sup>82</sup></p> <p>The same dire state of affairs described by the court exists today. In its DEIS, NMFS repeatedly (but dismissively) acknowledges the risks to the PCFG</p>	Please see the response to frequent comment # 13 regarding risks to PCFG whales.

Sort #	Commenter Code	Comment	Response
		<p>occasioned by any degree of whale hunting and admits that a great deal of uncertainty remains as to whether e.g. PCFG whales are within their optimal sustainable population (“OSP”). Yet, in the face of this risk and uncertainty, the agency attempts to hide any concerns within a linguistic maze while actively promoting the whale hunt. NMFS’ actions are, again, arbitrary and capricious and will certainly lead to the eventual extirpation of these unique, fascinating and much appreciated resident whales in the very near future.</p> <hr/> <p><sup>82</sup> Anderson, 371 F.3d 475 at 490.</p>	
467	Pruett (Sea Shepherd Legal)_7-27-15	<p>As a threshold matter, one chief concern is NFMS’ decision to proceed with this DEIS without first determining whether the PCFG should be designated as a stock under the MMPA. Throughout the DEIS, the agency repeatedly notes that it “does not recognize the PCFG as a ‘population stock’ as [it] interpret[s] that term under the MMPA, but [it] [has] stated that the PCFG seems to be a distinct feeding aggregation and may warrant consideration as a distinct stock in the future.”<sup>83</sup> NMFS further discloses that it convened a task force in 2012 to consider gray whale stock structure, including whether the PCFG was a distinct stock.<sup>84</sup> The workshop ended with no consensus and a recommendation of continued research in the future.<sup>85</sup></p> <p>Despite this uncertainty, NMFS has elected to proceed with this consideration of the Tribe’s proposed hunt. This decision is potentially dire for the PCFG whales in light of their acknowledged small population – approximately 188 animals in the PCFG survey area<sup>86</sup>, 152 in the OR-SVI area,<sup>87</sup> and 33 in the Makah U&amp;A.<sup>88</sup> As discussed below, the Makah’s preferred Alternative 2 will likely result in the extirpation of the local U&amp;A population. Additionally, the admitted impacts to the PCFG whales of permitting hunting under any of the action alternatives are likely to have significant consequences for the small PCFG population as well as the considerably larger ENP gray whale population. Accordingly, NMFS should adhere to the precautionary principle, as required under the MMPA, and suspend this NEPA process until there is a final decision on the PCFG stock status. In fact, a recent study, partially authored by one of the Tribe’s own marine biologists, recommends caution on the face of uncertainty surrounding the PCFG:</p> <p>Although uncertainty remains, our results indicate that it is plausible that the PCFG represents a demographically independent group and suggest that caution should be used when evaluating the potential impacts of the proposed Makah harvest on this group of animals.<sup>89</sup></p> <hr/> <p><sup>83</sup> DEIS at 5-1, 3-36, 3-130, &amp; 5-36.</p>	<p>We disagree with the comment. NMFS has made a decision and does not recognize the PCFG as a stock. Please see the response to frequent comment # 5 regarding the stock status of the PCFG.</p>

Sort #	Commenter Code	Comment	Response
		<p><sup>84</sup> Id. at 3-129.  <sup>85</sup> Id. at 3-130.  <sup>86</sup> Id. at 3-145 n.40.  <sup>87</sup> Id. at 3-155.  <sup>88</sup> Id.  <sup>89</sup> Lang, A. R. et. al. (2014). Assessment of genetic structure among eastern North Pacific gray whales on their feeding grounds. Marine Mammal Science, 30(4), 1473 –1493.</p>	
468	Pruett (Sea Shepherd Legal)_7-27-15	<p>NMFS openly admits that all of the action (whaling) alternatives pose a danger to the small PCFG population, with the worst impact from Alternative 2: "All action alternatives are likely to increase the risk of adverse impacts on gray whales using local survey areas. Alternative 2 would likely have the most impact ...." Alternative 2 is particularly problematic for a multitude of reasons, which are summarized in the following chart:</p>	Comment noted.
469	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>Makah Proposal</b> - Only whales in Cascadia Research Collective’s photo-identification catalog that have been seen in at least 1 year are used for determining whether a harvested whale is a PCFG whale and therefore counts against a bycatch or mortality limit.<sup>90</sup>  <b>Issue</b> - Given that some whales seen in year 1 may not be seen in year 2, this method artificially inflates the abundance measure of PCFG whales used in calculating the Potential Biological Removal (“PBR”).</p> <hr/> <p><sup>90</sup> DEIS at 2-7.</p>	Comment noted.
470	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>Makah Proposal</b> - The allowable bycatch limit for PCFG whales does not count whales that were struck but not landed toward the bycatch limit, which is set according to the Tribe’s PBR calculation of the PCFG.<sup>91</sup>  <b>Issue</b> - The requirement that the PCFG be landed allows for a larger number of PCFG whales to be killed than would be permitted if the Allowable Bycatch Limit counted struck but not landed whales.</p> <hr/> <p><sup>91</sup> Id. at 2-8 &amp; 2-9.</p>	The comment is correct. The other action alternatives vary this element, including an assumption that all struck and lost whales are PCFG whales.
471	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>Makah Proposal</b> - In calculating PCFG PBR, the Tribe will use the same recovery factor (currently 1.0) that NMFS uses to calculate PBR for the ENP stock as a whole.<sup>92</sup>  <b>Issue</b> - The recovery factor should be no greater than 0.4-0.5, which is the range used for threatened or depleted species, and for stocks of unknown status. Given the small PCFG population, it is possible that the range for endangered species or stocks known to be declining (0.1-0.3) should be used.</p>	While the tribe's proposal relied on a recovery factor of 1.0, other action alternatives explored in the DEIS used a recovery factor of 0.5 (or lower) which is consistent with the current MMPA stock assessment report for ENP gray whales.

Sort #	Commenter Code	Comment	Response
472	Pruett (Sea Shepherd Legal)_7-27-15	<p><sup>92</sup> Id. at 2-9.</p> <p><b>Makah Proposal</b> - The PCFG minimum abundance is calculated using the OR-SVI.<sup>93</sup></p> <p><b>Issue</b> - The minimum abundance should be calculated using the Makah U&amp;A because this will be the site of the hunt. Using the much larger population numbers from the OR-SVI overinflates the PBR.</p> <hr/> <p><sup>93</sup> Id.</p>	The Makah U&A abundance estimates would be inappropriate to use in a PBR calculation because such estimates only address a portion of the whales making up the PCFG. The SAR notes that a separate PBR is calculated for PCFG whales as a means to assess local depletion, but it does not suggest that a PBR is appropriate for some smaller unit/geographic area.
473	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>Makah Proposal</b> - Other sources of human-caused mortality not considered when setting the allowable bycatch limit for PCFG whales.<sup>94</sup></p> <p><b>Issue</b> - "In its comments on the 2008 DEIS, the Marine Mammal Commission questioned this approach."<sup>95</sup> A 2013 IWC Implementation Review of PCFG used a precautionary estimate of non-hunting human caused mortality: 2.0 PCFG.<sup>96</sup></p> <hr/> <p><sup>94</sup> Id. at 2-10.</p> <p><sup>95</sup> Id.</p> <p><sup>96</sup> Id. at 5-37.</p>	While the tribe's proposal (Alternative 2) does not propose to account for other sources of human-caused mortality, DEIS alternatives 4 and 6 do. The agency's current MMPA stock assessment report (which undergoes public and scientific peer review) monitors the status and trend of ENP gray whales - and more recently PCFG whales - and concludes that total annual human-caused mortality of PCFG gray whales during the period 2008 to 2012 includes deaths due to commercial fisheries (0.15/yr), and ship strikes (0.1/yr), or 0.25 whales annually..
474	Pruett (Sea Shepherd Legal)_7-27-15	<p>The above-identified issues with Alternative 2 will likely have serious consequences for the PCFG. Using the Tribe's proposed numbers yields a PBR of 3.0, which corresponds to a PCFG allowable bycatch of 3 whales. When combined with the failure to count struck but lost PCFG whales, the potential number of PCFG whales killed each year is 6 (3 struck but not landed and 3 bycatch).<sup>97</sup> In the likely event that all 6 whales are from the Makah U&amp;A, then there is a possibility of a loss of 18 whales in only three years and 30 whales in 5 years. In light of the fact that there are only estimated to be 33 PCFG whales in the Makah U&amp;A, the proposed hunt represents a significant threat to this small whale population.</p> <hr/> <p><sup>97</sup> Alternative 2 allows 3 whales to be struck and lost. See DEIS at 2-10.</p>	Comments and assumptions noted.

Sort #	Commenter Code	Comment	Response
475	Pruett (Sea Shepherd Legal)_7-27-15	<p>Although Alternative 2 presents the greatest risk to PCFG survival, given the level of uncertainty associated with these whales, the loss of even a single PCFG whale presents an unacceptable level of risk – one that NMFS is apparently prepared to accept. One key piece missing with respect to the PCFG is whether the population is within OSP. This should be a significant issue for NMFS in fulfilling its management obligations under the MMPA. The regulations implementing the statute clearly mandate that “marine mammals should be managed “to obtain an optimum sustainable population [OSP] keeping in mind the carrying capacity of the habitat.”<sup>98</sup> Yet, as acknowledged in the DEIS, the IWC has concluded that it is currently not possible to determine if PCFGs are within OSP.<sup>99</sup> Under these circumstances, it is unclear how NMFS could even contemplate authorizing whaling in the Makah U&amp;A – when there is such great potential (of unknown proportions) for permanently harming the PCFG.</p> <p><sup>98</sup> 16 U.S.C. § 1361(6). See id. § 1361(2).  <sup>99</sup> DEIS at 3-158.</p>	<p>We disagree that the loss of even a single PCFG whale presents an unacceptable level of risk. In addition, the PCFG is not recognized as a population stock under the MMPA and determining OSP is not a requisite for our consideration of the tribe’s request. Regardless, we did initiate research on this topic and the DEIS discusses the PCFG analysis of Punt and Moore (2013). They concluded “it was not possible to draw a definitive conclusion as to whether the PCFG is within OSP.” Their other conclusions are reviewed in Subsection 3.4.3.4.4, PCFG Status, Carrying Capacity, and Related Estimates.</p>
476	Pruett (Sea Shepherd Legal)_7-27-15	<p>NMFS proposes other action alternatives allegedly designed to minimize the risk to the PCFG, but also admits that the true level of risk from the taking of only one or a few PCFG whales is not presently known. For example, in NMFS’ own words:</p> <ul style="list-style-type: none"> <li>• "If one PCFG whale was killed in a year it would represent a 0.5% reduction in the current abundance estimate of 209 PCFG whales . . . This would represent a small decrease in abundance...Over time it is uncertain to what extent the death of one PCFG whale per year might decrease the abundance of the PCFG whales."<sup>[100]</sup></li> <li>• "[I]t may take a long time to detect if the proposed action is affecting gray whales as expected under current harvest models. In addition, killing even a few animals per year [especially over an extended period of time] from the relatively small PCFG could have long-lasting impacts for a group of whales whose population dynamics are not well understood."<sup>[101]</sup></li> <li>• "Under current conditions, 2.3 Makah U&amp;A whales, or 2.6 OR-SVI whales might be killed per year. It is unclear whether killed whales would be replaced in the same year in which they were killed or in subsequent years because of the uncertainties regarding PCFG recruitment. It is also unclear whether the intensity of unsuccessful harpoon attempts [14 to 16 per year] or approaches</li> </ul>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>[117 to 131 per year] would result in more than a temporary disturbance of whales using local survey areas." [102]</p> <hr/> <p><sup>100</sup> Id. at 4-92.  <sup>101</sup> Id at 5-3.  <sup>102</sup> Id. at 4-277.</p>	
477	Pruett (Sea Shepherd Legal)_7-27-15	<p>The third quote above highlights one particular area of uncertainty that NMFS goes to great lengths to marginalize: the effect of the admittedly high frequency of predicted disturbances on PCFG distribution. This issue is especially relevant to the small population of PCFG whales in the Makah U&amp;A. For example, NMFS notes the uncertainty concerning the effect of unsuccessful strikes on PCFG whales in the OR-SVI or Makah U&amp;A.<sup>103</sup> The agency then dismisses any concerns about the potential negative effect upon PCFG whale distribution on two highly speculative grounds:</p> <ul style="list-style-type: none"> <li>• Many new whales are seen in the Makah U&amp;A and OR-SVI every year and there is significant interchange with whales from other adjacent areas in the PCFG range . . . Thus, even if some whales do abandon the area as a result of hunting disturbance, new whales that had not previously been exposed to hunting might come into the area.<sup>[104]</sup></li> <li>• The example of gray whales hunted by Chukotka Natives may be instructive in trying to predict whether there would be a change in gray whale use of the Makah U&amp;A and OR-SVI survey areas. Scores of whales have been hunted and killed by Chukotka Natives over several years (Table 3-52), yet whales continue to be available for harvest, suggesting that hunt-related activities have not resulted in major changes in gray whale numbers, distribution, or habitat use in that area.<sup>[105]</sup></li> </ul> <p>As to the first point, Dr. James Sumich, a prominent whale scientist, has a different opinion.<sup>106</sup> SSL asked Dr. Sumich to review the statement in Anderson that “[I]t remains a reasonable possibility that removals of resident whales would deplete their presence in specific areas from which they would require an extended time period to recover.” Agreeing with that statement, Dr. Sumich explained:</p> <p>I know of no evidence to indicate that the individual whales are randomly distributed within the PCFG range or that they move randomly within that range. Consequently, it seems meaningless to focus on the total population size when the removal effort will be concentrated in a very localized area. The available evidence on individual whale site fidelity does not support the idea that removed whales will necessarily be replaced by ‘fill-ins’ from other</p>	<p>The comment mischaracterizes the analysis in the DEIS. The DEIS does not dismiss concerns about PCFG whales abandoning the hunt area in response to disturbance from hunting, stating “there is a risk that the killing or disturbance of whales caused by a Makah hunt could result in decreased numbers of whales using these survey areas during the summer period” (Subsection 4.4.3.2.4, Change in Numbers of Gray Whales in the Makah U&amp;A and OR-SVI Survey Areas). The DEIS does not assert that the distribution or movement of whales in the PCFG area is random. Rather, the DEIS concludes “The best available information indicates that feeding aggregations (the whales) and feeding areas (the prey) are dynamic, with both small- and large-scale changes over time and space. Gray whales change location and habitat to exploit the optimum prey species at any one time, based on abundance, density, size, caloric content, and predation pressure. Such factors may vary by season and year, depending on environmental variability and the population dynamics of prey” (Subsection 3.4.3.1.4, Feeding Ecology and Role in the Marine Ecosystem).</p>

Sort #	Commenter Code	Comment	Response
		<p>portions of the PCFG range. Therefore, I agree with the court’s statement . . . .<sup>[107]</sup></p> <p>A recent PCFG study, not cited in the DEIS, offers a similar opinion concerning the absence of random movement, thus further undercutting NMFS’ replacement theory:</p> <p>[W]hile some whales are known to move throughout the range of the PCFG, sightings of other whales are concentrated within subareas (Calambokidis et al. 2012), suggesting that individual gray whales may not use the range of the PCFG randomly.<sup>[108]</sup></p> <hr/> <p><sup>103</sup> Id. at 4-87–4-88.  <sup>104</sup> Id. at 4-88 (emphasis added).  <sup>105</sup> Id.  <sup>106</sup> Dr. Sumich is the author of a best-selling textbook on marine biology and co-author of the widely adopted “Marine Mammals: Evolutionary Biology.” He has taught at the college and university level for more than four decades and has conducted research on gray whales from British Columbia to Baja California.  <sup>107</sup> Dr. Sumich, personal communication, July 27, 2015.  <sup>108</sup> Lang, supra n. 89, at 1485.</p>	
478	Pruett (Sea Shepherd Legal)_7-27-15	<p>NMFS’ second basis for minimizing the likely effects of disturbances on PCFG behavior is even more fanciful. Even assuming the accuracy of the referenced example, it does not follow that ENP whales occupying a distinctly different habitat in Russian waters with likely very different feeding regimes (e.g. less distinct feeding areas with greater population dispersal over a wider area) will react in the same manner as PCFG whales in the e.g. Makah U&amp;A. Additionally, while subject to some uncertainty, there is evidence that matrilineally directed fidelity plays a role in the PCFG.<sup>109</sup> NMFS presents no similar evidence concerning the ENP whale populations that are subject to the Chukotka hunts. There is simply no basis for drawing a parallel between the two groups, much less one to support a theory concerning the degree of replacement in PCFG feeding areas.</p> <hr/> <p><sup>109</sup> Id. at 1486.</p>	<p>The DEIS does not dismiss concerns about PCFG whales abandoning the hunt area in response to disturbance from hunting, stating “there is a risk that the killing or disturbance of whales caused by a Makah hunt could result in decreased numbers of whales using these survey areas during the summer period” (Subsection 4.4.3.2.4, Change in Numbers of Gray Whales in the Makah U&amp;A and OR-SVI Survey Areas). While we are not aware of genetic studies pertaining to matrilineal fidelity in whales subjected to Russian harvest, we are also not aware of evidence to suggest that gray whales in the Makah U&amp;A would react differently to a hunt from those in Chukotkan hunting areas. DEIS</p>



Sort #	Commenter Code	Comment	Response
			Subsection 4.4.2.3 (Change in Abundance and Viability of PCFG Whales) provides our analysis of replacement- and recruitment-related aspects of the PCFG.
479	Pruett (Sea Shepherd Legal)_7-27-15	<p>NMFS engages in yet more flights of fancy in attempting to deemphasize the potential harm to the ENP whales from the possible loss of PCFG whales under Alternative 2. The agency begins by recognizing the likely importance of the PCFG to the ENP whale population: “If PCFG whales are uniquely adapted to exploit feeding areas in the southern portion of the ENP summer range, and that adaptation were lost if the PCFG were compromised, Alternative 2 has the potential to affect the long-term viability of the ENP stock as a whole.”<sup>110</sup> NMFS then backs off from this observation – claiming that the maximum removal rate of PCFG whales will likely be 2.8 rather 5 individuals.<sup>111</sup> The agency bases this assertion upon the dubious assumption that a smaller number of PCFG whales will be present during the hunting season than the total number that have been observed in the area of the hunt.<sup>112</sup> However, NMFS next predictably retreats from that position as well in admitting that it is unclear whether even this smaller removal rate will not adversely affect the PCFG.<sup>113</sup> NMFS then resorts to its speculative replacement (through external recruitment) theory again, while also acknowledging that the PCFG abundance trend is “flat.”<sup>114</sup> The agency’s final fallback position is that a study by the IWC Scientific Committee suggests that the PCFG would remain viable under Alternative 2 if there is a bycatch limitation and a monitoring program.<sup>115</sup> Nevertheless, for reasons discussed previously, the bycatch limitation is hopelessly flawed.<sup>116</sup> As to the proposed monitoring, there are numerous challenges to obtaining accurate sighting records. In the end, it is clear that NMFS’ conclusion regarding the viability of the PCFG under Alternative 2 is beset by uncertainty and based upon speculation.</p> <p>Despite NMFS’ attempt to muddy the waters in its over 1200 page DEIS, one very clear and undeniable truth emerges from the depths: there is an unacceptably strong likelihood that PCFG whales will be severely impacted by all of the proposed action alternatives.</p> <hr/> <p><sup>110</sup> DEIS at 4-82.  <sup>111</sup> Id. at 4-83.  <sup>112</sup> Id. at 4-14.  <sup>113</sup> Id. at 4-83.  <sup>114</sup> Id. at 4-84.</p>	This comment takes excerpts from the DEIS out of context and mischaracterizes the analysis. The DEIS explicitly considers the impact of actions on the PCFG feeding aggregation, even though it is not an MMPA stock, in part because of the possibility that actions affecting the PCFG may affect the ENP as a whole. The DEIS does not suggest the PCFG could be “sacrificed” without affecting the ENP stock. To the contrary, the DEIS links these two elements of the environment.

Sort #	Commenter Code	Comment	Response
		<p><sup>115</sup> Id.  <sup>116</sup> Id. 117 Kokechik, 839 F.2d 795 at 802.</p>	
480	Pruett (Sea Shepherd Legal)_7-27-15	<p>In light of the additional fact that OSP cannot presently be determined for this population, NMFS should strongly reconsider its rejection of the Marine Mammal Commission’s (“MMC”) entreaty that the agency look to the Kokechik decision. As held by the court, no taking could be authorized for any marine mammal stock because of the virtual certainty of taking marine mammals from stocks for which an optimum sustainable population determination could not be made.<sup>117</sup> Precisely the same circumstances exist here. The MMC was not inviting the agency “to assert legal opinions or conclusions,” but rather reminding NMFS of its obligation under the MMPA to manage marine mammals in a manner that allows them to attain or maintain their OSP.</p> <hr/> <p><sup>117</sup> Kokechik, 839 F.2d 795 at 802.</p>	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
481	Pruett (Sea Shepherd Legal)_7-27-15	<p>E. NMFS' Analysis of WNP Gray Whales Is Fatally Deficient</p> <p>The population of the WNP gray whale stock is extremely small – numbering no more (and likely less) than 140 animals.<sup>118</sup> The WNP stock is also listed as “endangered” under the Endangered Species Act (“ESA”) and as “depleted” under the MMPA.<sup>119</sup> Despite these dire circumstances, NMFS provides very little analysis in the DEIS of the potential effects of the action alternatives on the WNP stock.</p> <p>NMFS’ abject failure to meaningfully address WNP whales is especially troubling given its admissions that the WNP stock is present in the Makah U&amp;A and will likely be negatively affected by the proposed hunt. The following are a few examples of the agency’s numerous admissions concerning the WNP stock:</p> <ul style="list-style-type: none"> <li>• “The limited sighting data available on WNP migrations and movements suggest that it is most likely that whales from this stock could be encountered in the vicinity of the Makah U&amp;A during the hunting season proposed by the Tribe . . . .”<sup>120</sup></li> <li>• “[T]here is a high probability that during a 6-year period a WNP whale would be pursued or approached by Makah hunters [a probability of 0.98 to 1.0].”<sup>121</sup></li> <li>• “The probability of an attempted strike on at least one WNP in 6 years was still fairly high...[35%] and the chance of actually striking at least at least one WNP whale in 6 years was relatively low but non trivial” [7%].<sup>122</sup></li> <li>• “PBR values for the WNP stock are estimated to range “from 0.07...to .033, with uncertainty in these values being driven by uncertainty in the fraction of WNP animals migrating in ENP areas.”<sup>123</sup></li> </ul>	We disagree that the DEIS analysis of WNP whales is inadequate. The DEIS analyzes the best available information regarding the implications of the various alternatives on WNP gray whales, as reflected in the citations provided in the comment. In addition, we convened a Task Force to review North Pacific gray whales and this effort resulted in NMFS releasing an MMPA stock assessment report for the Western North Pacific stock of gray whales in January 2015. Agency scientists also modeled the expected impacts on WNP gray whales of various actions under the DEIS alternatives (i.e., Moore and Weller, 2013).

Sort #	Commenter Code	Comment	Response
		<ul style="list-style-type: none"> <li>• The loss of a single whale, particularly if it were a reproductive female, would be a conservation concern for this small stock."<sup>124</sup></li> <li>• "It is unclear how natural mortality may be influencing WNP whales. High incidence of orca tooth scars, small size and limited number of reproductive females, and relatively low calf survival, are likely to be key factors limiting potential population growth. They are likely more susceptible to changes in mortality, natural or human caused."<sup>125</sup></li> </ul> <hr/> <p><sup>118</sup> DEIS at 3-67.  <sup>119</sup> Id at 3-66.  <sup>120</sup> Id. at 3-93.  <sup>121</sup> Id.  <sup>122</sup> Id.  <sup>123</sup> Id. at 3-93.  <sup>124</sup> Id. at 4-83.  <sup>125</sup> Id. at 5-29.</p>	
482	Pruett (Sea Shepherd Legal)_7-27-15	<p>What additional evidence does the agency need to take the next logical step to conclude that, in light of the WNP stock's precarious biological status and the high likelihood of, at the very least, extremely stressful encounters with the Makah hunters, absolutely no hunting should be permitted? The answer is of course that the agency has preordained that tribal whaling, in one form or another, will take place in the Makah U&amp;A. NMFS makes that intent clear in its statement of purpose and need and in its summary dismissal of the no action alternative and the non-whaling action alternatives.</p>	<p>We disagree that we have a predetermined outcome. We have undertaken two environmental reviews to ensure adequate information is available for decision-makers. The first DEIS was terminated because among other things we wanted to provide new and best available science regarding the WNP for review. The present DEIS explores risks to WNP gray whales (e.g., Subsection 3.4.3.2.4, WNP Status, Carrying Capacity, and Related Estimates, and Subsection 4.1.2.3, Potential Number of ENP and PCFG Whales Killed; Likelihood of Striking a WNP Whale; Likely Number of Whales Harvested), including the extremely low likelihood of the tribe striking such a whale. Further we did not identify a preferred alternative to ensure a full range of comments on all the</p>

Sort #	Commenter Code	Comment	Response
			alternatives. Finally any proposed decision we make on a waiver informed by this DEIS will be reviewed by an administrative law judge during formal rulemaking.
483	Pruett (Sea Shepherd Legal)_7-27-15	<p>To conceal this agenda, NMFS again raises the specter of scientific uncertainty – adopting the mantra throughout the DEIS that "[t]here are very limited data for WNP whales in the project area to inform this analysis."<sup>126</sup> Yet, the agency should be well-aware of its NEPA obligations when it seeks to invoke scientific uncertainty as a basis for its actions (or inaction).</p> <p>NEPA requires agencies to ensure the “professional integrity, including scientific integrity,” of the discussions and analyses that appear in EISs.<sup>127</sup> When an agency claims that the information is unavailable or incomplete, and that “the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known,” then it must follow certain steps to ensure full transparency.<sup>128</sup> To that end, the agency must make every attempt to obtain and disclose data necessary to their analysis.<sup>129</sup> Agencies are further required to identify their methodologies, indicate when necessary information is incomplete or unavailable, acknowledge scientific disagreement and data gaps, and evaluate indeterminate adverse impacts based upon approaches or methods “generally accepted in the scientific community.”<sup>130</sup> While repeatedly acknowledging scientific uncertainty in the face of reasonably foreseeable significant adverse impacts to the WNP stock, NMFS fails to comply with its NEPA obligations – choosing instead to erect the alleged uncertainty as a barrier to further scrutiny of its actions (or inaction). Such conduct by an agency – charged with the duty of ensuring the biological integrity of marine mammal populations – is arbitrary, capricious, and contrary to law.</p> <p>One example of NMFS’ grossly deficient approach to alleged scientific uncertainty is its assessment of the effects of the admittedly high probability of an “approach” by a Makah hunting party and strong likelihood of an attempted strike on a WNP gray whale.<sup>131</sup> For each of the action alternatives (except 4), the agency downplays the likely impact on the whale with the following statement:</p> <p>It is uncertain how whales would react to unsuccessful harpoon attempts, but the reaction may be similar to that observed in whales that are tagged or biopsied (i.e., a dramatic but temporary change in behavior).<sup>[132]</sup></p>	Comments noted. The commenter provides no additional scientific information we did not consider in the DEIS . We did initiate and report on an analysis by Moore and Weller (2013) regarding the probabilities of various types of encounters (approaches, strikes, and unsuccessful strike attempts) with WNP gray whales during a Makah hunt. Please also see the response to frequent comment # 10 regarding the response of gray whales to being hunted.

Sort #	Commenter Code	Comment	Response
		<p>Aside from speculation, NMFS provides no scientific basis for this blanket statement, thus violating its NEPA obligations when faced with alleged uncertainty or incomplete information. Additionally, from a common sense point of view, the statement defies reality. Although not described in the DEIS, the tagging process presumably involves considerably less stress for the whale than a group of whale hunters hurling harpoons or firing guns at a retreating whale. Moreover, NMFS utterly fails to address the likely indirect effects of these highly stressful encounters that may occur long after the hunt if the whale survives the initial attack.<sup>133</sup> This deficiency is especially egregious in light of the agency’s admission that: “The loss of a single whale, particularly if it were a reproductive female, would be a conservation concern for this small stock.”<sup>134</sup></p> <p><sup>126</sup> See, e.g., id. at 4-14.  <sup>127</sup> 40 C.F.R. § 1502.24.  <sup>128</sup> See 40 C.F.R. § 1502.22(b). “Reasonably foreseeable” impacts include “impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.”  <sup>129</sup> Id. 130 40 C.F.R. §§ 1502.22(2), (4), 1502.24.  <sup>131</sup> See, e.g., DEIS at 4-83.  <sup>132</sup> Id. Action Alternative 4 is specifically tailored to allegedly avoid the WNP stock migration period, but times the hunt to coincide with the period in which PCFG whales will allegedly be present in the hunt area.  <sup>133</sup> NMFS’ analysis cannot simply be limited to direct effects, i.e., effects that occur at the same time and place as encounters with the hunting party. 40 C.F.R. § 1508.8(a). It must also take into account the activity’s indirect effects, which, though reasonably foreseeable, may occur later in time or are further removed. 40 C.F.R. § 1508.8(b).  <sup>134</sup> DEIS at 4-83.  <sup>135</sup> 40 C.F.R. § 1502.14(f).</p>	
484	Pruett (Sea Shepherd Legal)_7-27-15	<p>NMFS further fails to make a meaningful attempt to identify sufficient mitigation measures (if such are even possible) for the WNP stock.<sup>135</sup> In this regard, the agency repeats the following simplistic statement for each action alternative: “To mitigate for the possibility of a Makah hunt killing a WNP whale, regulations governing a hunt could require a suspension of the hunt if a WNP whale were killed.”<sup>136</sup></p> <p>This statement is astounding in view of the agency’s admission that even the loss of a single whale would be a conservation concern. NMFS also neglects</p>	In addition to the hunt suspension noted in this comment, the DEIS does explore a summer/fall hunt alternative (Alternative 4) and a split-season alternative (Alternative 5) designed to avoid hunting impacts on WNP gray whales.

Sort #	Commenter Code	Comment	Response
		to explain the parameters of any required suspension. Accordingly, there is no question that the agency has failed to make any meaningful attempt to provide for mitigation measures protecting the WNP stock.	
485	Pruett (Sea Shepherd Legal)_7-27-15	<p>Finally, the same considerations under the Kokechik decision discussed with respect to the PCFG apply with even more force to the smaller population of endangered WNP gray whales. In the DEIS, NMFS acknowledges that OSP has not been assessed for this population.<sup>137</sup></p> <hr/> <p><sup>136</sup> DEIS at 4-83. <sup>137</sup> Id. at 3-162.</p>	Comments noted.
486	Pruett (Sea Shepherd Legal)_7-27-15	While obscured behind a wall of alleged scientific uncertainty, it also seems a virtual certainty that a WNP whale will be taken during a Makah hunt – further driving the stock toward inevitable extinction.	It is unclear whether the commenter intends in this statement to equate “take” with mortality. If so, it is an inaccurate statement, as the chances of the Makah Tribe killing a WNP whale under Alternative 2, the Tribe’s proposal, are about 7 percent over 6 years. If the suggestion is that an approach by a Makah canoe will “driv[e] the stock toward inevitable extinction,” it is an overstatement unsupported by any evidence.
487	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>F. NFMS Failed To Comply with the Endangered Species Act</b></p> <p>Although not explicitly addressed in the DEIS, the Tribe’s MMPA waiver only applies to the ENP stock, not the WNP stock. In order to engage in an activity with the potential to affect an ESA listed species, the Tribe would have to obtain an incidental take permit. There are, however, many steps that must be completed before such a permit could even potentially be secured.</p> <p>As an initial matter, under Section 7 of the ESA, NMFS must conduct an internal consultation for any agency action that “may affect” a listed species or its critical habitat.<sup>138</sup> The ESA defines “action [s]” requiring consultation broadly to include “the granting of permits.”<sup>139</sup> Further, “may effect” has been interpreted broadly to mean that “any possible effect, whether beneficial, benign, adverse, or of an undetermined character,” triggers the consultation requirement.<sup>140</sup> ESA regulations additionally define “effects” as:</p> <p>[T]he direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated or</p>	The DEIS describes the ESA status of WNP gray whales and other listed species. We will undertake relevant consultations once there is a proposed action under the ESA.

Sort #	Commenter Code	Comment	Response
		<p>interdependent with that action, that will be added to the environmental baseline.<sup>141</sup></p> <p>Following formal (in this case, internal) consultation, NMFS must produce a biological opinion (“BiOp”) that analyzes whether the proposed action is likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat.<sup>142</sup> If the BiOp concludes that the action is not likely to jeopardize the species, but is likely to result in some take, NMFS will include an incidental take statement (“ITS”) with its BiOp.<sup>143</sup> An ITS specifies the impact (e.g. the “amount or extent”) of the incidental take on the listed species, contains terms and conditions designed to minimize the impact, and, in the case of marine mammals, specifies measures that are necessary to comply with Section 101(a)(5) of the MMPA.<sup>144</sup> Take that complies with the terms and conditions of an ITS is not a prohibited take under ESA Section 9.<sup>145</sup></p> <hr/> <p><sup>138</sup> 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.14(a).</p> <p><sup>139</sup> 50 C.F.R. § 402.02(c).</p> <p><sup>140</sup> See 51 Fed.Reg. 19926, 19949 (June 3, 1986). There are additional standards applicable to the Section 7 process that come into play once a “may affect” determination has been made. However, SSL does not reach those standards at this stage given NMFS’ failure even to acknowledge the applicability of the Section 7 process. SSL reserves the right to further address NFMS’ Section 7 obligations in the future.</p> <p><sup>141</sup> 50 C.F.R. § 402.02.</p> <p><sup>142</sup> 16 U.S.C. § 1536(b)(3)(A); 50 C.F.R. § 402.14(h).</p> <p><sup>143</sup> 50 C.F.R. § 402.14(i).</p> <p><sup>144</sup> 16 U.S.C. § 1536(b)(4); 50 C.F.R. § 402.14(i)(1).</p> <p><sup>145</sup> 16 U.S.C. § 1536(o)(2); 50 C.F.R. § 402.14(i)(5).</p>	
488	Pruett (Sea Shepherd Legal)_7-27-15	<p>NMFS does not address any of the above-outlined procedural steps in the DEIS and has not attempted to comply with its mandatory ESA obligations. Projecting that there is, at the very least, an extremely high probability that the Makah will approach (chase) a WNP gray whale (e.g. 97% for Alternative 2) and a significant chance of an actual attempt, the DEIS clearly spells out circumstances demonstrating the hunt “may affect” the WNP stock. Accordingly, NMFS must suspend the current EIS process pending its compliance with ESA Section 7.</p>	<p>NEPA does not require the agency to address ESA processes prior to issuing a DEIS. Moreover, there is no agency proposed alternative at this time that would form a basis for consultation. We will undertake ESA consultation as appropriate after NMFS has completed its decision making under the MMPA.</p>

Sort #	Commenter Code	Comment	Response
489	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>G. NMFS Failed To Adequately Consider Cumulative Impacts</b></p> <p>Under NEPA, it is not enough for NMFS to simply consider the impacts of the proposed hunt. Rather, NMFS must also consider the “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.”<sup>146</sup> Two points emerge clearly from this regulatory definition: (1) the identity of the acting party is of no relevance to the analysis; and (2) the action need not be guaranteed to occur – it must be only “reasonably foreseeable.”</p> <p>It is well-established that “a cumulative impacts analysis must include ‘some quantified or detailed information’ since without such information it is not possible for the court or the public to be sure that the agency provided the hard look that is required of its review.”<sup>147</sup> In a cumulative impact analysis, “general statements about possible effects and some risk do not constitute a hard look. . . . The cumulative impact analysis must be more than perfunctory; it must provide a ‘useful analysis of the cumulative impacts of past, present, and future projects.’”<sup>148</sup> Moreover, a cumulative impact analysis must be timely; “it is not appropriate to defer consideration of cumulative impacts to a future date when meaningful consideration can be given now.”<sup>149</sup> “If the agency did not present this detailed information and analysis it will be found to have violated NEPA unless it provides a convincing justification as to why more information could not be provided.”<sup>150</sup></p> <p>When judged by these standards, NMFS’ cumulative impacts analysis is woefully inadequate. While the analysis is generally perfunctory, SSL focuses its attention on three categories: (1) Military Exercises; (2) Marine Energy and Coastal Development; and (3) Climate Change.</p> <hr/> <p><sup>146</sup> 40 C.F.R. § 15807.1. See also Kern v. BLM, 284 F.3d 1062, 1078-79 (9th Cir. 2002).</p> <p><sup>147</sup> Soda Mountain Wilderness Council v. Norton, 424 F. Supp. 2d 1241 (E.D. Cal. 2006).</p> <p><sup>148</sup> Muckleshoot Indian Tribe v. U.S. Forest Serv, 177 F.3d 800, 810 (9th Cir. 1999).</p> <p><sup>149</sup> Neighbors of Cuddy Mountain, 137 F.3d 1372 at. 1380.</p> <p><sup>150</sup> Id. (citing Ocean Advocates v. Army Corps of Eng’rs, 402 F.3d 846, 868 (9th Cir. 1998)).</p>	Comment noted and addressed in other responses specific to the issues raised.
490	Pruett (Sea Shepherd	<b>1. Military Exercises</b>	The DEIS accurately reflects the likely impacts of military exercises.



Sort #	Commenter Code	Comment	Response
	Legal)_7-27-15	<p>In its discussion of the potential cumulative impacts of military activities throughout the range of the ENP gray whales (thus, including WNP and PCFG whales), NMFS concentrates on the training activities conducted by the U.S. Navy. Among the possibly deleterious impacts addressed are underwater noise and pressure waves and ship strikes.<sup>151</sup> Not surprisingly, the agency concludes that gray whales will not be impacted by the naval activities. In reaching this conclusion, NMFS largely relies upon its BiOP submitted in connection with the Southern California Range (“SOCAL”) Complex and the Navy’s EIS for the Northwest Training Range (“NWTR”) Complex.</p> <p>As SSL pointed out in its previously submitted oral comments, in <i>Conservation Council for Hawaii v. NMFS</i>, a federal court recently found that NMFS’ approval of a Navy training and testing plan violated multiple requirements of the MMPA and ESA.<sup>152</sup> The court ruled that nearly 9.6 million underwater assaults on whales and dolphins were improperly assessed as “negligible” by the agency. NMFS not only takes the same dismissive approach here, but also employs many of the same tactics that the court held violated NEPA, the MMPA, and the ESA.</p> <p>At issue in the <i>Conservation Council</i> case was the Hawaii-Southern California Training and Testing (“HSTT”) Study Area, which includes the SOCAL Complex that is discussed in the DEIS. NMFS stated in its BiOP that it did “not expect any western North Pacific gray whales to be involved in a ship strike event” because of “the low number of western North Pacific gray whales in the HSTT Study Area.” Rejecting this contention, the court held:</p> <p>But if Western North Pacific gray whales are so scarce in the area, why does NMFS proceed to authorize mortalities for that species and on what basis does NMFS conclude that those mortalities in an area where the species is low in number “would not appreciably reduce the Western North Pacific gray whales’ likelihood of surviving and recovering in the wild”? . . . The “no jeopardy” finding is rendered further perplexing by the recognition within the Biological Opinion itself that “[t]he death of a female of any of the large whale species would result in a reduced reproductive capacity of the population or species.”<sup>[153]</sup></p> <hr/> <p><sup>151</sup> See, DEIS, at 5-11 – 5-13.</p> <p><sup>152</sup> See SSL oral comments submitted during public comment session held in Seattle, Washington, April 29, 2015; see also May 31, 2015 Amended Order (Docket #98) filed in <i>Conservation Council for Hawaii v. NMFS</i>, 1:13-cv-00684-SOM-RLP.</p> <p><sup>153</sup> <i>Conservation Council for Hawaii v. NMFS</i>, at 50.</p>	<p>Consultations under the MMPA and ESA of such exercises provide more detailed, threshold-based assessments that can help inform our cumulative effects analysis. A final EIS will consider any new information such as new environmental reviews (including that resulting from court decisions such as cited in this comment) bearing on cumulative effects.</p>

Sort #	Commenter Code	Comment	Response
491	Pruett (Sea Shepherd Legal)_7-27-15	<p>The court further criticized NMFS' "Species-Specific Analysis" in the BiOp for including "a subsection on 'mysticetes' that mentions 'humpback, blue, Western North Pacific gray, fin, and sei whales' without including a separate discussion of the effects on the population of each."<sup>154</sup> Similarly, NMFS discussed the "potential effects of impulsive and nonimpulsive sound sources and vessel strike on marine mammals, but [did] not examine, with specific reference to the Navy's proposed activities, what impact those potential effects may have on annual rates of recruitment and survival of affected species and stock."<sup>155</sup> On this issue, the court observed:</p> <p>[A]n agency may have a basis for assuming that members in different stocks of that species will react similarly . . . That does not mean, however, that the analysis of population effects may be grouped, as it is unlikely that different stocks of the same species will share the same population numbers, or have identical sex, age, and reproduction statistics such that the effects of an activity on the different stock populations can be assumed to be identical . . .</p> <p>NMFS provides record references to only general discussions with little, if any, relevance to the population-level effects on specific species and stock, and to conclusory statements that no such effects are expected.<sup>[156]</sup></p> <p>Significantly, the court then concluded that "NMFS' failure to explain the bases of its conclusion with respect to all species and stocks affected renders its 'negligible impact' findings arbitrary and capricious."<sup>157</sup></p> <hr/> <p><sup>154</sup> Id. at 24.  <sup>155</sup> Id. at 25.  <sup>156</sup> Id. at 25-26.  <sup>157</sup> Id. at 29.</p>	Comment noted; The commenter offers an interpretation of the referenced Biological Opinion and court decision but does not offer comments on the DEIS.
492	Pruett (Sea Shepherd Legal)_7-27-15	<p>In addition to finding fault with the agency's failure to consider population level effects, the Conservation Council court rejected NMFS' slavish reliance on the Navy's conclusion that time and area restrictions were impractical:</p> <p>NMFS cannot just parrot what the Navy says. If NMFS is accepting the Navy's position, NMFS must articulate a rational basis for that decision. NMFS does not meet the "least practicable adverse impact" requirement when it just repeats the Navy's position.<sup>[158]</sup></p> <p>Turning to the DEIS at issue here, the same precise issues identified by the Conservation Council court are present in the cumulative impacts analysis. First, with respect to WNP gray whales in the NWTR Complex, NMFS repeats the Navy's claim that "it does not anticipate encountering WNP gray whales during</p>	The DEIS accurately reflects the likely impacts of military exercises and that consultations under the MMPA and ESA of such exercises provide more detailed, threshold-based assessments that can help inform our cumulative effects analysis. We note that for our review of the Tribe's request we undertook our own analysis of risk associated with the hunt on WNPs (Moore and Weller 2013). A final EIS will consider any new information

Sort #	Commenter Code	Comment	Response
		<p>training or testing activities, as their presence is very rare in the study area.<sup>159</sup> In this statement, NMFS is committing two of the same errors identified in Conservation Council: (1) assuming that WNP whales will not be affected because of their small numbers in the operational area and (2) parroting the Navy’s conclusions as a basis for a finding of no impact. NMFS similarly concludes that WNP whales in the SOCAL complex will not be affected because of their small numbers.<sup>160</sup> NMFS’ conclusions based on small numbers of whales is equally specious as its finding for the HSST area given its similar determination here that “[w]hile the chances of killing a WNP whale are low . . . the loss of WNP whales, particularly reproductive females, from this small stock could be a conservation concern.”</p> <p>The second area of overlap with the Conservation Council case concerns NMFS’ extrapolation of the anticipated effects of training activities on other whale species to gray whales without considering population level effects. As explained by NMFS’:</p> <p>We did not specifically analyze gray whales in that Biological Opinion because at the time recent sightings of WNP gray whales in the ENP were still being investigated to determine whether or not those sightings were anomalies . . . However, we did analyze other ESA-listed baleen whales, including humpback, fin, blue, and sei whales. Our analysis did not identify situations where the proposed training activities are likely to indirectly affect ESA-listed species by disrupting marine food chains or by adversely affecting the predators, competitors, or forage base of endangered or threatened species. In addition, we concluded that endangered or threatened individuals that are likely to be exposed to the Navy’s activities in the NWTR Complex are not likely to experience reductions in fitness. In light of the expected impacts on other whale species analyzed in that Biological Opinion, we believe it is reasonable to conclude that any stress responses or disruptions of normal behavior patterns of gray whales would not continue long enough to have fitness consequences for individual animals.<sup>[161]</sup></p> <p>This quote illustrates the extent to which NMFS provides “only general discussions with little, if any, relevance to the population-level effects on specific species and stock” and, based on these generalities, makes “conclusory statements that no such effects are expected.” As held by the Conservation Council court, by doing so, NMFS acted arbitrarily and capriciously.</p> <hr/> <p><sup>158</sup> Id. at 44.  <sup>159</sup> Id. 5-13.</p>	<p>(including that resulting from court decisions such as cited in this comment) bearing on cumulative effects.</p>

Sort #	Commenter Code	Comment	Response
		<p><sup>160</sup> Id. at 5-11.  <sup>161</sup> Id. at 5-13.</p>	
493	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>2. Marine Energy and Coastal Development</b></p> <p>The DEIS is also flawed for failure to consider the cumulative impacts of a proposed phosphate mine off the coast of Mexico. If approved, this suction-dredging “mine” (known as the “Don Diego Project”) would wreak havoc on lagoons used by gray whales for birthing and rearing calves.<sup>162</sup> When the impacts of this reasonably foreseeable project are added to the baseline – as they must be under NEPA – the impacts of the Makah hunt become much more serious.</p> <p>NMFS cannot ignore the Don Diego Project simply because it is sponsored by a private enterprise and subject to approval by the Mexican government. And where, as here, the project is “reasonably foreseeable,” NMFS cannot turn a blind eye on the grounds that the project is speculative.</p> <p>Publicly available documents, including documents filed with the Mexican government, establish the following:</p> <ul style="list-style-type: none"> <li>• The Don Diego Project is an initiative by Odyssey Marine Exploration, Inc. (“Odyssey”), a U.S. company based in Tampa, Florida, in conjunction with Mexican affiliate Exploraciones Oceánicas.<sup>163</sup></li> <li>• The Don Diego Project is set to take place in the Gulf of Ulloa, a region of Baja California Sur characterized by a high level of biodiversity, including various species of whales, sharks, rays, lobster, shrimp, and sea turtles.<sup>164</sup></li> <li>• The Don Diego Project calls for the use of marine dredges to rip phosphatic sand from the ocean floor and to load the sand onto barges.<sup>165</sup></li> <li>• According to statements made by Mexican affiliate Exploraciones Oceánicas, “The objective for the dredging project is the extraction of 7 million tons of phosphatic sand every year over 50 years . . . to produce 350 million tons of phosphatic sand . . . as a final product. The dredging and pumping of material to the barge will be a continuous process, 24 hours per day, 7 days per week, 52 weeks per year.”<sup>166</sup></li> <li>• The Don Diego Project is far from speculative. Through a concession from the Mexican government, Odyssey already has rights to the phosphate located in the Don Diego deposit, estimated at over 327 million tons.<sup>167</sup></li> <li>• The area to be dredged is 91,000 hectares in size.<sup>168</sup></li> <li>• Odyssey has filed an environmental impact statement that is several hundred pages in length. Given the scope and unprecedented nature of this project, the length of this document is hardly surprising.<sup>169</sup></li> </ul>	<p>Comments noted. We will monitor this prospective project and determine whether it warrants evaluation and inclusion in any FEIS. However, on April 11, 2016, Odyssey Marine Exploration, Inc. (“Odyssey”) announced that the Mexican Secretary of Environment and Natural Resources (SEMARNAT) had notified the company that it was denying Odyssey’s application regarding the “Don Diego” project (apparently due to concerns over sea turtles), so it is unclear whether Odyssey will pursue a new application (see <a href="http://ir.odysseymarine.com/releasedetail.cfm?ReleaseID=964396">http://ir.odysseymarine.com/releasedetail.cfm?ReleaseID=964396</a>).</p>

Sort #	Commenter Code	Comment	Response
		<ul style="list-style-type: none"> <li>• The work area is in close proximity to coastal lagoons that serve as nurseries for Pacific gray whales, whales that migrate up the west coast of the United States to Alaska and beyond. The lagoons at issue are San Ignacio and Ojo de Liebre Lagoons.<sup>170</sup></li> <li>• San Ignacio and Ojo de Liebre Lagoons are located within the Whale Sanctuary of El Vizcaino, a UNSECO World Heritage Convention site. “The lagoons are recognized as the World’s most important place for the reproduction of the once endangered Eastern subpopulation of the North Pacific Grey Whale.”<sup>171</sup></li> <li>• The proposed mining technique is Trailer Suction Hopper Dredging. Odyssey proposes to dredge millions of tons of sediment from the ocean floor, collect the phosphate, and dump the spoils back into the ocean.<sup>172</sup></li> <li>• According to Exploraciones Oceánicas, “seabed sediments are removed by a process that is essentially similar to a ‘vacuum cleaner.’<sup>173</sup></li> <li>• As Exploraciones Oceánicas acknowledges, this mining process is associated with the release of highly toxic substances, including uranium.<sup>174</sup></li> <li>• In addition, the mining process will produce dangerous levels of noise pollution. Gray whales depend on sound to communicate, stay together, and track down food. The dredging involved in the Don Diego Project will disrupt the whales’ ability to use echolocation. Odyssey’s own environmental assessment acknowledges as much, stating that the mine “could create a “modification of vocal behavior or surprise reaction” in the whales.<sup>175</sup></li> <li>• The process of dredging the ocean floor will change the topography of the seabed, upending mineral and organic matter that forms the basis of the local marine ecosystem. This, too, is acknowledged by Odyssey and Exploraciones Oceánicas.<sup>176</sup></li> <li>• As Exploraciones Oceánicas candidly admits, “[f]ew if any of the seabed organisms that are removed under the path of the draghead are likely to survive the dredging process.”<sup>177</sup></li> <li>• Perhaps of most concern, the dredging and discharge process will produce massive sediment plumes.<sup>178</sup></li> <li>• Scientists report that such sediment plumes “would smother habitats and flora and fauna and, depending on their origins and composition, could result in the exposure of benthic communities to heavy metals and acidic wastes.”<sup>179</sup></li> <li>• Moreover, “[i]t is likely to be impossible to restrict impacts of sedimentation . . . to a local mining area due to current movements and the unconstrained</li> </ul>	

Sort #	Commenter Code	Comment	Response
		<p>nature of the oceans. Depending on the scale of mining, impacts could spread between ocean basins, far away from original mine sites . . . .”<sup>180</sup></p> <ul style="list-style-type: none"> <li>• In fact, the contemplated mining process is so fraught with risk and uncertainty that the government of Namibia imposed an 18-month moratorium on off-shore phosphate mining pending further study.<sup>181</sup></li> <li>• Citing “significant and permanent adverse effects,” New Zealand has likewise recently rejected a bid for offshore phosphate mining.<sup>182</sup></li> </ul> <p>With these facts in mind, NMFS’ failure to analyze the Don Diego Project as a source of cumulative impacts is unacceptable. The Don Diego Project is reasonably foreseeable; it entails the use of a highly destructive process – laden with uncertainties and unknown risks – on an unprecedented scale; and it is set to take place in a fragile ecosystem that serves as a critical nursing ground for gray whales. The Makah hunt for these whales cannot properly be analyzed without taking this project into account.</p> <hr/> <p><sup>162</sup> See generally Anna Cederstav, Underwater Mining in Mexico Threatens Gray Whale Nursery, EARTHJUSTICE (June 11, 2015), at <a href="http://earthjustice.org/blog/2015-june/underwater-mining-in-mexico-threatens-grey-whale-nursery">http://earthjustice.org/blog/2015-june/underwater-mining-in-mexico-threatens-grey-whale-nursery</a> (last visited July 30, 2015).</p> <p><sup>163</sup> See “Don Diego” Project Achieves Important Milestone, ODYSSEY MARINE EXPLORATION (Sept. 9, 2014) at <a href="http://ir.odysseymarine.com/releasedetail.cfm?ReleaseID=869839">http://ir.odysseymarine.com/releasedetail.cfm?ReleaseID=869839</a> (last visited July 30, 2015); see also Advierte ONG Afectaciones a Ballena Gris por Proyecto Minero Don Diego (NGO Warns of Impacts to Gray Whales from Don Diego Mining Project), BAJA CALIFORNIA SUR NOTICIAS (describing relationship between Odyssey and Exploraciones Oceánicas) (in Spanish) (last visited July 30, 2015).</p> <p><sup>164</sup> See generally Estudio Sobre La Caracterización Socioeconómica y Pesquera del Área Golfo de Ulloa (Study Regarding the Fishing and Socio-economic Characteristics of the Gulf of Ulloa Area), COMISIÓN NACIONAL PARA EL CONOCIMIENTO Y USO DE LA BIODIVERSIDAD, available at <a href="http://www.conabio.gob.mx/institucion/proyectos/resultados/HQ003_Anexo5_Carac_Socioeco_Golfo_Ulloa.pdf">http://www.conabio.gob.mx/institucion/proyectos/resultados/HQ003_Anexo5_Carac_Socioeco_Golfo_Ulloa.pdf</a> (last visited July 30, 2015) (in Spanish).</p> <p><sup>165</sup> Carlos Ibarra, Exploraciones Oceánicas Presenta ante la Semarnat Proyecto Minero para el Golfo de Ulloa (Exploraciones Oceánicas Presents Gulf of Ulloa Mining Project to the Secretary of Environment and Natural Resources), BAJA CALIFORNIA SUR NOTICIAS (Sept. 4, 2014), at</p>	

Sort #	Commenter Code	Comment	Response
		<p><a href="http://www.bcsnoticias.mx/exploraciones-oceanicas-presenta-ante-la-semarnat-proyecto-minero-para-el-golfo-de-ulloa/">http://www.bcsnoticias.mx/exploraciones-oceanicas-presenta-ante-la-semarnat-proyecto-minero-para-el-golfo-de-ulloa/</a> (last visited July 30, 2015) (in Spanish).<sup>166</sup> Id.</p> <p><sup>167</sup> See “Don Diego” Project Achieves Important Milestone, ODYSSEY MARINE EXPLORATION (Sept. 9, 2014) at <a href="http://ir.odysseymarine.com/releasedetail.cfm?ReleaseID=869839">http://ir.odysseymarine.com/releasedetail.cfm?ReleaseID=869839</a> (last visited July 30, 2015).</p> <p><sup>168</sup> Id.</p> <p><sup>169</sup> See Manifestación de Impacto Ambiental, Modalidad Regional para el Proyecto “Don Diego” (Environmental Impact Assessment, Regional Modality for the “Don Diego” Project) (filed with the Mexican Secretary of Environment and Natural Resources), available at <a href="http://app1.semarnat.gob.mx/dgiraDocs/documentos/.../03BS2014M0007.pdf">app1.semarnat.gob.mx/dgiraDocs/documentos/.../03BS2014M0007.pdf</a> (in Spanish) (last visited July 30, 2015).</p> <p><sup>170</sup> See Anna Cederstav, Underwater Mining in Mexico Threatens Gray Whale Nursery, EARTHJUSTICE (June 11, 2015), at <a href="http://earthjustice.org/blog/2015-june/underwater-mining-in-mexico-threatens-grey-whale-nursery">http://earthjustice.org/blog/2015-june/underwater-mining-in-mexico-threatens-grey-whale-nursery</a> (last visited July 30, 2015).</p> <p><sup>171</sup> UNESCO, Whale Sancturay of El Vizcaino, at <a href="http://whc.unesco.org/en/list/554">http://whc.unesco.org/en/list/554</a> (last visited July 31, 2015).</p> <p><sup>172</sup> See “Don Diego” Project Achieves Important Milestone, Odyssey Marine Exploration (Sept. 9, 2014) at <a href="http://ir.odysseymarine.com/releasedetail.cfm?ReleaseID=869839">http://ir.odysseymarine.com/releasedetail.cfm?ReleaseID=869839</a> (last visited July 30, 2015).</p> <p><sup>173</sup> Exploraciones Oceánicas, Environmental Impact Assessment, Non-Technical Executive Summary, Don Diego Project: Feeding the Future, at 4, available at <a href="http://www.rockphosphate.co.nz/s/Oceanica-Non-Technical-Summary.pdf">www.rockphosphate.co.nz/s/Oceanica-Non-Technical-Summary.pdf</a> (last visited July 31, 2015).</p> <p><sup>174</sup> Id. at 14.</p> <p><sup>175</sup> Manifestación de Impacto Ambiental, Modalidad Regional para el Proyecto “Don Diego” at 229 (Environmental Impact Assessment, Regional Modality for the “Don Diego” Project) (filed with the Mexican Secretary of Environment and Natural Resources), available at <a href="http://app1.semarnat.gob.mx/dgiraDocs/documentos/.../03BS2014M0007.pdf">app1.semarnat.gob.mx/dgiraDocs/documentos/.../03BS2014M0007.pdf</a> (in Spanish) (last visited July 30, 2015); see also Mario Sánchez Castro and Haydée Rodríguez, Comentarios Adicionales Acerca de Afectaciones por Ruido al</p>	

Sort #	Commenter Code	Comment	Response
		<p>Ecosistema Marina (Additional Commentary Regarding Sound Impacts on the Marine Ecosystem) (submitted to Mexican government by AIDA-Americas) (June 2, 2015) (in Spanish) (on file with Sea Shepherd Legal).</p> <p><sup>176</sup> Exploraciones Oceánicas, supra n.11, at 4.</p> <p><sup>177</sup> Id. at 6.</p> <p><sup>178</sup> Id. at 7-11.</p> <p><sup>179</sup> M. Allsopp, et al., Review of the Current State of Development and the Potential for Environmental Impacts of Seabed Mining Operations at 12, Greenpeace Research Laboratories Technical Report (2013), available at <a href="http://www.greenpeace.to/greenpeace/.../seabed-mining-tech-review-2013.pdf">www.greenpeace.to/greenpeace/.../seabed-mining-tech-review-2013.pdf</a> (last visited July 30, 2015).</p> <p><sup>180</sup> Id. at 13.</p> <p><sup>181</sup> Phosphate Mining Banned, The Namibian (Sept. 19, 2013), at <a href="http://www.namibian.com.na/index.php?archive_id=114235&amp;page_type=archive_story_detail&amp;page=1">http://www.namibian.com.na/index.php?archive_id=114235&amp;page_type=archive_story_detail&amp;page=1</a>.</p> <p><sup>182</sup> See Jamie Morton, EPA Rejects Second Seabed Mining Bid, The New Zealand Herald (Feb. 11, 2015), at <a href="http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&amp;objectid=11400171">http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&amp;objectid=11400171</a> (last visited July 30, 2015).</p>	
494	Pruett (Sea Shepherd Legal)_7-27-15	<p><b>3. Climate Change</b></p> <p>Finally, there is NMFS' "analysis" of the potential cumulative effects of climate change. This section requires little analysis by SSL because NMFS provides virtually none. NMFS devotes about a single page to this complex topic – filling that page with generalities about e.g. global warming, sea level rise, ocean acidification, and the trophic plasticity of some (unnamed) marine species. NMFS makes no mention of gray whales and reaches the resounding conclusion that "it is speculative to predict how those changes will affect marine food webs."<sup>183</sup></p> <p>NMFS' reliance on generalities without making population specific findings, again, echoes its rejected approach in Conservation Council. Further, the agency, again, abdicates its NEPA obligation to address alleged uncertainty and incomplete information rather than using it as a shield.<sup>184</sup> Thus, NMFS has, again, acted arbitrarily, capriciously, and contrary to law.</p> <hr/> <p><sup>183</sup> DEIS, at 5-29 – 5-30.</p> <p><sup>184</sup> 40 C.F.R. §§ 1502.22.</p>	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
495	Pruett (Sea Shepherd	<p><b>H. SSL Strongly Supports the No Action Alternative</b></p> <p>SSL concludes by strongly urging NMFS to reverse its apparent course and approve the No Action Alternative. As discussed above, the agency fatally</p>	Comments noted.



Sort #	Commenter Code	Comment	Response
	Legal)_7-27-15	<p>marginalizes this, the only non-whaling, alternative by finding it to be contrary to the narrowly drafted statement of purpose and need that preordains the approval of some degree of whaling. One of the agency's chief criticisms of this alternative is that, if the Makah do not use the allocated portion of the Chukotkan quota, it will just be allocated back to the Russian natives – with the result that gray whales will not benefit from a denial of the Makah hunt.</p> <p>The agency's assessment is flawed. If the No Action Alternative receives approval, the WNP and PCFG gray whales, who do not travel to the icy arctic waters of the Chukotka natives, will certainly benefit handsomely. They will be permitted to continue feeding, playing and rearing their young in their ancestral waters without being chased and harpooned or shot. These small populations of magnificent, social and highly intelligent beings will be given the gift, sought by all sentient life on the planet, to live out their lives in peace. SSL cannot conceive of a better outcome.</p>	
496	Reichgott (Environmental Protection Agency)_7-31-15	<p>Dear Mr. Stelle,</p> <p>We have reviewed the National Oceanic and Atmospheric Administration's February 2015 Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales (EPA Region 10 Project Number: 08-030-NOA). Our review was conducted in accordance with the EPA's responsibilities under the National Environmental Policy Act and Section 309 of the Clean Air Act. Section 309 specifically directs the EPA to review and comment in writing on the environmental impacts associated with all major federal actions. Our review of the DEIS prepared for the proposed action considers expected environmental impacts and the adequacy of the EIS in meeting procedural and public disclosure requirements of the NEP A. We are rating the DEIS "LO" (Lack of Objections) because we have not identified any potential impacts requiring substantive changes to the proposal. A copy of our rating system is enclosed. Project summary The DEIS considers various alternatives to the Makah Indian Tribe's proposal to resume treaty-based hunting of eastern North Pacific gray whales for ceremonial and subsistence purposes. The Tribe proposes to harvest up to 24 whales over a 6-year period, with no more than five gray whales harvested in any single year.</p>	Comments noted.
497	Reichgott (Environmental Protection Agency)_7-31-15	<p>Adaptive management In our July 2012 scoping comments we noted NOAA's interest and effort to plan for effective adaptive management. We stated that your adaptive management efforts were appropriate, in part because of substantive scientific issues such as potential problems with population estimates for eastern North Pacific gray whales, genetic evidence of a population</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
	Agency)_7-31-15	substructure that may warrant consideration as a separate management unit, and whale tracking data indicating that some members of the endangered western stock of gray whales migrate into the Makah hunting area. To assist your adaptive management efforts, we recommended consideration of two documents from the Council on Environmental Quality the 2003 NEPA Task Force Report, "Modernizing NEPA Implementation" and CEQ's "Guidance for Mitigation and Monitoring." The DEIS is responsive to our scoping comments because all of the action alternatives' harvest limits are based on current conditions and could change based on updated information.	
498	Reichgott (Environmental Protection Agency)_7-31-15	While all of the action alternatives adaptively manage harvest limits, Alternative 6 provides the most meaningful opportunity to adaptively manage the method for calculating harvest limits, as well as hunt timing and hunt area. Alternative 6 provides the most meaningful additional opportunity for adaptive management because it is the only alternative where NOAA's waiver of the Marine Mammal Protection Act take moratorium would expire, and because the term of any hunt permit would be relatively shorter than the other action alternatives. We believe there is a larger opportunity for adaptive management with Alternative 6, and that it would be environmentally preferable because it provides a more meaningful opportunity to consider updated information on scientific issues and certain environmental consequences, several of which are characterized in the DEIS as having mixed beneficial and adverse impacts.	Comments noted.
499	Reichgott (Environmental Protection Agency)_7-31-15	In the interest of further developing Alternative 6 in regards to the unique element of limited duration for regulations and permits, we recommend that the Final EIS include additional supporting information for the proposed waiver and permit expiration periods (10 and 3 years respectively), and that it identify: <ul style="list-style-type: none"> <li>• reasons why NOAA believes 10 years is a reasonable amount of time to develop additional information about stock structure as well as any other reasons why 10 years would be an appropriate duration limit for the waiver; and,</li> <li>• concern(s) about a 5 year permit period that could be addressed with a 3 year permit period.</li> </ul> To the extent that additional information supports altering the proposed duration limits for regulations and permits, we would expect to see those alterations reflected in the FEIS. Enclosure: EPA Rating System for Draft Environmental Impact Statements	Comments noted. We appreciate the advice regarding issues to address in an FEIS.
500	Sedlacek (Humane Society of the	Dear Mr. Stone: The Humane Society of the United States ("The HSUS") asked our members and supporters to submit comments on the Draft Environmental Impact Statement Regarding the Makah Tribe's Request to Hunt Eastern North Pacific Gray Whales.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
	US)_COVER_7-29-15	<p>80 Fed. REg. 14,912 (March 20, 2015). Over 21,000 individual sent comments directly to The HSUS and we are submitting them to you here on one disc. We understand that these comments will be uploaded to your website and considered by the Agency in its review process. The disc contains a folder labeled "The HSUS Comments". The HSUS Comments folder contains a total of 21,479 comments. The comments are divided between ones that have been edited (1,309) and the ones that have not been edited (20,170). Attached is an example of the unedited comment letter. Thank you for providing our supporters the opportunity to weigh in on the Draft Environmental Impact Statement Regarding the Makah Tribe's Request to Hunt Eastern North Pacific Gray Whales. If you have any questions or need any further information or materials, please do not hesitate to contact me.</p> <p>Sincerely, Keisha Sedlacek Regulatory Specialist, Federal Affairs The Humane Society of the United States 2100 L St. N.W. Washington, D.C. 20037 ksedlacek@hsus.org Tel: (202) 955-3661 [Name] [Address] [Date] Whaling is an archaic practice that has no place in today's society.</p>	
501	Sedlacek (Humane Society of the US)_COVER_7-29-15	The methods used to hunt these whales are cruel,	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
502	Sedlacek (Humane Society of the US)_COVER_7-29-15	and if even one of the endangered western Pacific gray whales were killed, it would be devastating for their recovery.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
503	Sedlacek (Humane Society of the US)_COVER_7-29-15	Tradition should not serve as an excuse for the slaughter of these animals-- especially when that tradition hasn't been practiced legally in nearly one hundred years.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
504	Sedlacek (Humane Society of	Instead of returning to whaling, the Makah Tribe should rely on non-lethal ceremonial celebrations of these creatures that traverse their waters. Please	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
	the US)_COVER_7-29-15	deny the Makah Tribe's request to resume the hunting of whales off the west coast. Sincerely, [Name]	
505	Young (Humane Society of the US)_7-30-15	<p>Dear Mr. Stone:</p> <p>On behalf of the members and constituents of The Humane Society of the United States (The HSUS), I am writing to express our opposition to the U.S. government's proposal to waive the Marine Mammal Protection Act's (MMPA) moratorium allowing the Makah tribe to re-initiate whaling for Pacific gray whales—a practice that largely ceased close to a century ago.<sup>1</sup> The HSUS has opposed the Makah proposal to re-initiate whaling since it was first suggested in the 1990's shortly after Eastern North Pacific (ENP) gray whales were de-listed from the Endangered Species Act (ESA), an action in which the tribe itself was involved.<sup>2</sup></p> <p>Our opposition has several bases. First, the Makah tribe's request has never fit within the definitions and requirements of domestic and international management regimes</p> <hr/> <p><sup>1</sup> See Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales (DEIS), at I-6 available at <a href="http://www.westcoast.fisheries.noaa.gov/publications/protected_species/marine_mammals/cetaceans/gray_whales/makah_deis_feb_2015.pdf">http://www.westcoast.fisheries.noaa.gov/publications/protected_species/marine_mammals/cetaceans/gray_whales/makah_deis_feb_2015.pdf</a>.</p> <p><sup>2</sup> 58 Fed. Reg. 3,121 (Jan. 7, 1993).</p>	The introductory comments in 504 to 510 are noted; specific responses are provided below.
506	Young (Humane Society of the US)_7-30-15	and creates a novel category of "ceremonial" whaling at the international level that, all too easily, could be used by other nations to justify killing more whales.	
507	Young (Humane Society of the US)_7-30-15	In addition, it may lead to requests from other native tribes to seek similar authority to kill marine mammals based on long-abandoned whaling practices.	
508	Young (Humane Society of the US)_7-30-15	The methods proposed are arguably inhumane.	.

Sort #	Commenter Code	Comment	Response
509	Young (Humane Society of the US)_7-30-15	Further, there is risk to other smaller populations of gray whales that is not properly mitigated in various alternatives proposed in the Draft Environmental Impact Statement (DEIS).	
510	Young (Humane Society of the US)_7-30-15	Moreover, the action alternatives provided are inappropriately limited and are therefore inadequate. Although the National Marine Fisheries Service (NMFS) presents a “no action” alternative and five additional action alternatives; it also should have provided an additional option, as discussed in more detail below, that combines the more conservative aspects of action alternatives 3-6 such that the hunt would be maximally constrained to limit adverse impacts on whales and on the social environment.	
511	Young (Humane Society of the US)_7-30-15	<p>Finally, not all impacts of the hunt have been thoroughly analyzed as required.</p> <p>We support the “no action” alternative, as this hunt cannot be justified as a true subsistence hunt and the MMPA provides no basis for granting a quota for a “ceremonial” hunt.</p>	
512	Young (Humane Society of the US)_7-30-15	<p><u><a href="#">The Makah Proposal Does Not Constitute Aboriginal Ceremonial and Subsistence Whaling As It Is Said to be Cultural Whaling</a></u></p> <p>As noted earlier, the Makah tribe was among those petitioning to remove gray whales from the protection of the ESA in the 1990’s. At the time of the delisting, NMFS stated it is:</p> <p>unclear at this time whether they would be interested in pursuing open-boat whaling or could satisfy subsistence and/or cultural needs by other means. For any Native American group to begin harvesting large whale, they would need to demonstrate a subsistence need and request (through the Bureau of Indian Affairs) the U.S. Commissioner to the IWC to petition that body for a portion of the subsistence quota for gray whales. Such a scenario is considered unlikely at this time.<sup>3</sup></p> <p>Almost immediately after the de-listing, the tribe expressed a desire to resume whaling. The agency was apparently mistaken in its perception of the tribe’s interest.</p> <p>In any case there is no support for the notion that this is a subsistence hunt, as the Makah do not have an unbroken tradition of hunting this species and, in fact, have not hunted gray whales since the 1920’s—almost a century ago.</p>	Please see the response to frequent comment # 3 regarding the Makah Tribe’s cultural or subsistence need for whale products.

Sort #	Commenter Code	Comment	Response
		<p>NMFS avers that the Makah wish to reinitiate whaling for “ceremonial and subsistence” purposes. We noted in our comments on the 2008 DEIS that the Makah proposal to reinitiate whaling did not conform to international standards for aboriginal subsistence whaling and has de facto proposed to create a new category of whaling—cultural whaling—which does not reflect a true subsistence need. Those comments are incorporated here by reference.</p> <p>The DEIS provides a definition of “aboriginal subsistence whaling” in its glossary that references the International Whaling Commission’s (IWC) adoption of a description of subsistence whaling.<sup>4</sup> The IWC definition of subsistence use is vague and defines “aboriginal subsistence whaling” as:</p> <p>(1) The personal consumption of whale products for food, fuel, shelter, clothing, tools, or transportation by participants in the whale harvest;</p> <p>(2) The barter, trade, or sharing of whale products in their harvested form with relatives of the participants in the harvest, with others in the local community or with persons in locations other than the local community with whom local residents share familial, social, cultural, or economic ties....</p> <p>(3) The making and selling of handicraft articles from whale products, when the whale is harvested for the purposes defined in (1) and (2) above.<sup>5</sup></p> <hr/> <p><sup>3</sup> Id.</p> <p><sup>4</sup> DEIS, at iv.</p> <p><sup>5</sup> The Treaty of Neah Bay, which forms the basis of the Administration’s support for this proposed activity stipulates in Article XIII that the Makah “agree not to trade at Vancouver Island or elsewhere outside the dominions of the United States.” This would appear to preclude distribution of products of the hunt outside of the general area of Neah Bay and, should NMFS approve this hunt; this stricture should be clearly stated in conditions regarding the fate of any dead whales.</p>	
513	Young (Humane Society of the US)_7-30-15	<p>However, we also point to the common understanding of the meaning of the word “subsistence” in America English as contained in the Merriam-Webster Dictionary. In the dictionary, subsistence is defined as “the amount of food, money, etc., that is needed to stay alive.”<sup>6</sup> Because the tribe’s last truly legal gray whale hunt took place in the 1920’s, it is clear that the Makah individually and collectively have stayed alive and their numbers have increased despite not being able to kill and eat or otherwise utilize whales. Killing whales is not necessary for the members of the Makah tribe to subsist.</p> <hr/> <p><sup>6</sup> See <a href="http://www.merriam-webster.com/dictionary/subsistence">http://www.merriam-webster.com/dictionary/subsistence</a></p>	Please see the response to frequent comment # 3 regarding the Makah Tribe’s cultural or subsistence need for whale products.

Sort #	Commenter Code	Comment	Response
514	Young (Humane Society of the US)_7-30-15	<p>In a 2002 review of global aboriginal subsistence whaling, Reeves<sup>7</sup> wrote that the people of Chukotka and Northern Canada have a long history of whaling for gray whales and he contrasts that hunting tradition with that of the Makah. He wrote that, in the case of hunting by the Chukotka and northern Canada, their hunting tradition:</p> <p>has remained intact, obviating the need for significant reorientation, provisioning and training in seamanship. The Makah, in contrast, have needed literally to recreate a culture in which whaling and whale products are tangible features. This has meant, among other things, learning how to construct and operate traditional whaling boats and weapons, getting instruction from experienced northern whalers on how to butcher whales and process whale products, and even developing a taste for whale meat and blubber. In view of these factors, it is difficult to see how Makah whaling can be made to fall within any credible definition of 'subsistence'. It is less a resumption than an initiation, and in this fundamental respect Makah whaling deserves to be judged as something different in kind from other whaling initiatives."<sup>8</sup></p> <hr/> <p><sup>7</sup> Dr. Randall Reeves, the author, is the current chair of the International Whaling Commission's Cetacean Specialist Group.</p> <p><sup>8</sup> Reeves, R. 2002. The origins and character of 'aboriginal subsistence' whaling: a global review. Mammal Review. V.32, No.2, pp 71-106 (emphasis added). Available at: <a href="http://onlinelibrary.wiley.com/doi/10.1046/j.1365-2907.2002.00100.x/full">http://onlinelibrary.wiley.com/doi/10.1046/j.1365-2907.2002.00100.x/full</a>.</p>	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
515	Young (Humane Society of the US)_7-30-15	We find it peculiar that the Makah wish to re-initiate whaling as a means to reclaim their culture when many of their traditions are non-lethal and celebrate life in a manner that does not require killing whales,	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire for cultural or subsistence whale hunts.
516	Young (Humane Society of the US)_7-30-15	particularly when the death may fall on a small stock that could be put at risk at the population level.	Please see the response to frequent comment # 13 regarding risks to PCFG whales.
517	Young (Humane Society of the US)_7-30-15	Further, it is also worth noting that, when whaling was a significant part of the Makah's culture and tradition, it was the Makah elite, not commoners or the tribe's slaves that conducted the hunt. <sup>9</sup> This hunt does not appear to be structured to preserve that very exclusive cultural and ceremonial aspect of the hunt with regard to who is allowed to participate as a hunter.	The charter of the Makah Whaling Commission states that "The Commission is an organization of traditional heads of Makah families which will: (a) advise the Council

Sort #	Commenter Code	Comment	Response
		<p><sup>9</sup> Narayan 1997 quoted in vanGinkel, R. 2004. The Makah Whale Hunt and Leviathan's Death: Reinventing Tradition and Disputing Authenticity in the Age of Modernity. ETNOFOOR, XVII(1/2) pp.58-89. At: <a href="http://www.jstor.org/stable/25758069?seq=1#page_scan_tab_contents">http://www.jstor.org/stable/25758069?seq=1#page_scan_tab_contents</a>. See also references to slavery in Fn.10</p>	<p>regarding the administration and management of treaty ceremonial and subsistence whaling, including the adoption and enforcement of rules and regulations and the certification of whaling captains and whaling team members; and (b) conduct educational programs and research relating to ceremonial and subsistence whaling." Thus, it emphasizes "traditional heads of Makah families" playing a key role in ceremonial aspects of the hunt.</p>
518	Young (Humane Society of the US)_7-30-15	<p>The DEIS states that the Makah wish to reinitiate whaling "to sustain and revitalize the ceremonial, cultural, and social aspects of its whaling traditions."<sup>10</sup> While we respect the desire to preserve longstanding cultural traditions, we see no justification contained in the IWC regulations or other international agreements that either define or justify this "ceremonial" purpose as a legitimate basis for killing a public trust resource. Indeed, there are many outmoded traditions in native American cultures in the U.S. that are now outlawed including animal fighting and the taking of slaves.<sup>11</sup> There are times when societal norms and mores must supersede a desire to return to some traditional practices now considered cruel or abhorrent.</p> <hr/> <p><sup>10</sup> DEIS at 1-27.</p> <p><sup>11</sup> In common with other tribes in the Pacific Northwest at the time, the Makah captured slaves in the wake of warfare or purchased them from other tribes. See: "Non- Indians and the Makah: 1788-1855. Available at: <a href="http://nativeamericannetroots.net/diary/1526">http://nativeamericannetroots.net/diary/1526</a>. In 1855 the U.S. government inserted into the Treaty of Neah Bay an article prohibiting slavery on the Makah reservation to ensure consistency with actions prohibited to other Americans. Page 247 in C.J. Kim. Dangerous Crossings. Cambridge University Press. 2015. 342 pages. Excerpts at: <a href="https://books.google.com/books?id=eOJwBwAAQBAJ&amp;pg=PA221&amp;lpg=PA221&amp;dq=gray+whale+delisting+petition+tribal&amp;source=bl&amp;ots=ZelfUZqx5&amp;sig=hTt8aEQm4laI4XZlYaQmaZdbDMw&amp;hl=en&amp;sa=X&amp;ved=0CB4Q6AEwAGoVChMIuIHMa3xxgIVhZUNCh1vPgZM#v=onepage&amp;q=gray%20whale%20delisting%20petition%20tribal&amp;f=false">https://books.google.com/books?id=eOJwBwAAQBAJ&amp;pg=PA221&amp;lpg=PA221&amp;dq=gray+whale+delisting+petition+tribal&amp;source=bl&amp;ots=ZelfUZqx5&amp;sig=hTt8aEQm4laI4XZlYaQmaZdbDMw&amp;hl=en&amp;sa=X&amp;ved=0CB4Q6AEwAGoVChMIuIHMa3xxgIVhZUNCh1vPgZM#v=onepage&amp;q=gray%20whale%20delisting%20petition%20tribal&amp;f=false</a>.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>



Sort #	Commenter Code	Comment	Response
519	Young (Humane Society of the US)_7-30-15	<p>In 1855, the Treaty of Neah Bay granted the Makah “[t]he right of taking fish and whaling and sealing at usual and accustomed grounds and stations [and]is further secured to said Indians in common with all citizens of the United States...”<sup>12</sup> At that time in U.S. history, the Treaty simply sought to give the Makah (and other tribes at that time) many of the same privileges and rights as non-natives residing in the United States. At that time in history, whaling was a common practice of citizens of the United States, and the 1850’s, when the treaty was signed, were the peak of commercial whaling in this country.<sup>13</sup> The last commercial whaling ship in the U.S. fleet was sailed from New Bedford, Massachusetts in the 1920’s.<sup>14</sup> The Makah themselves gave up whaling in the 1920’s. Just as the other “citizens of the United States” no longer have the right to whale, neither should the Makah.</p> <p><sup>12</sup> See Article 4 of the 1855 Treaty with the Makah; see also DEIS, at 1-8.</p> <p><sup>13</sup> US Bureau of the Census, 1960, Historical Statistics of the United States, Colonial Times to 1957, p.445.</p> <p><sup>14</sup> “But one ship left in whaling port” In: Sausalito News, Volume XXXVIII, Number 36, 3 September 1927. At: <a href="http://cdnc.ucr.edu/cgi-bin/cdnc?a=d&amp;d=SN19270903.2.24">http://cdnc.ucr.edu/cgi-bin/cdnc?a=d&amp;d=SN19270903.2.24</a> And New Bedford timeline 1602-present. at: <a href="http://www.whalingmuseum.org/learn/research-topics/timeline-1602-to-present">http://www.whalingmuseum.org/learn/research-topics/timeline-1602-to-present</a>.</p>	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
520	Young (Humane Society of the US)_7-30-15	Whaling is not necessary for either the tribe or its members to “subsist” (in contrast to the situation for Inuit hunters near the Arctic circle)	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
521	Young (Humane Society of the US)_7-30-15	nor need they return to practices that were abandoned almost a century ago and that are no longer in common with those of other citizens of the United States.	Please see the responses to frequent comments # 3 regarding the Makah Tribe’s desire for to revive its whaling tradition and # 8 regarding the Treaty of Neah Bay.
522	Young (Humane Society of the US)_7-30-15	This hunt does not qualify as an aboriginal subsistence hunt under the IWC as it is not an unbroken tradition nor is there a subsistence dependence on whale meat as is demonstrated by the more than 80 years during which the tribe has subsisted without it.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
523	Young (Humane	Creating a new category of whaling for “cultural” reasons, based on a long-abandoned practice, sets a dangerous precedent. Moreover, allowing the Makah	Please see the response to frequent comment # 4 regarding the

Sort #	Commenter Code	Comment	Response
	Society of the US)_7-30-15	tribe to resume whaling for cultural purposes could signal an opportunity for aboriginal or coastal peoples who hunted whales in the past but no longer do so to seek to resume their own historic traditions.	precedential effect of a waiver internationally and domestically.
524	Young (Humane Society of the US)_7-30-15	<p><b>Some of the Alternatives Presented Propose Amending Significant Aspects of the NMFS Gray Whale Stock Assessment and NMFS Guidelines Regarding Maximum Allowable Anthropogenic Mortalities, Simply to Suit the Purposes of a Single Special Interest</b></p> <p>In the presentation of Alternative 2 (the Makah’s proposal)<sup>15</sup> NMFS discusses an alternative means of calculating a Potential Biological Removal level (PBR).<sup>16</sup> Amending the proposal to redefine the basis and use of the required elements of calculating PBR, could increase the PBR and thus the upper limit on the Makah hunt or, alternatively, perhaps propose an entirely separate PBR that would apply only to the tribal hunt. In its proposal, as described in the DEIS, the tribe would use a 4% per year maximum net productivity level (MNPL) in the PBR formula rather than half of the MNPL 6.3% used in the NMFS Stock Assessment Report (SAR). The tribe also proposes to calculate an abundance of the Pacific Coast Feeding Group (PCFG) estimate using only a subset of the range of the PCFG that was defined in the official NMFS SAR.<sup>17</sup> According to the DEIS, this re-calculation results in a projected “bycatch limit” of the PCFG of 3.0 per year. This is higher than the current final SAR’s PBR for the PCFG gray whales of 2.7 and the equal to the entire PBR of 3.1 for the WNP proposed in the draft 2014 SAR. The NMFS SARs have been peer-reviewed by its MMPA-mandated Scientific Review Groups and have undergone public comment prior to being finalized. It would be inappropriate to re-calculate a PBR solely to suit the desire for this proposed hunt. NMFS should rely on and apply the PBR calculated in the final SAR for gray whales.</p> <p><sup>15</sup> DEIS, at 2-9.</p> <p><sup>16</sup> 16 U.S.C. § 1362(20) (the term “potential biological removal level” means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammals stock while allowing that stock to reach or maintain its optimum sustainable population.”).</p> <p><sup>17</sup> Elements of the SARs are described in 16 U.S.C. 1386 §117 and The NMFS Guidelines for calculating elements used in the PBR formula are provided in NMFS. 2005 Revisions to Guidelines for Assessing Marine Mammal Stocks. 24 pp. Available at : <a href="http://www.nmfs.noaa.gov/pr/pdfs/sars/gamms2005.pdf">http://www.nmfs.noaa.gov/pr/pdfs/sars/gamms2005.pdf</a>.</p>	Comments noted. The Tribe initially submitted its proposal in 2005, before NMFS had calculated a PBR for the PCFG in its SAR. Alternatives 3 through 6 in the DEIS include management regimes that would rely on the PBR as calculated in the SAR.
525	Young (Humane	The DEIS also states that the Makah do “not propose to account for other sources of human-caused mortality when setting the allowable bycatch limit for	Comments noted. Alternatives 3 through 6 explore other methods of

Sort #	Commenter Code	Comment	Response
	Society of the US)_7-30-15	<p>PCFG whales.”<sup>18</sup> Since the NMFS stock assessment documents that there is also fisheries-related mortality and mortality originating from other anthropogenic sources,<sup>19</sup> and the PBR is intended to inform the “maximum number of animals” that can be removed while still meeting the goals and objectives of the MMPA; NMFS should not allow the tribe to kill the entire (or exceed the) PBR as calculated in the final NMFS SAR. Under no circumstances should an alternative method of calculating PBR be used, nor should the tribe be permitted to lethally remove the entire PBR for the PCFG (or other) stock when there are in fact other sources of mortality that must be accounted in assuring recovery to or maintenance of the optimum sustainable population.</p> <hr/> <p><sup>19</sup> See NMFS draft SARs for both gray whale stocks at <a href="http://www.nmfs.noaa.gov/pr/sars/pdf/pac2014_draft.pdf">http://www.nmfs.noaa.gov/pr/sars/pdf/pac2014_draft.pdf</a></p>	accounting for PCFG mortality. Please also see the response to frequent comment # 7 regarding calculation and use of PBR for a PCFG mortality limit.
526	Young (Humane Society of the US)_7-30-15	<p>Similarly, Alternative 4 proposes an alternative to the use of the current PBR when setting a mortality limit for the PCFG; proposing to lower the recovery factor used in calculating PBR to 0.35 rather than the 0.50 that is currently used in calculating PBR for the PCFG whales.<sup>20</sup> The rationale is that this would result in an annual limit of 1 whale and would allow the PCFG to equilibrate at 80 percent of its carrying capacity over a 200-year period. Again, we point out that the PBR in the SARs have undergone peer- review and public comment to assure that the elements of the PBR and the resultant mortality limits are consistent with the goals and purposes of the MMPA. It would be inappropriate to change the peer-reviewed elements of the PBR formula or to, in some way, subdivide and apportion some part of the PBR solely to the Makah tribe.</p> <p>NMFS cannot arbitrarily choose to alter the elements of the PBR in its SAR in order to suit the needs of a group seeking intentional removals of otherwise protected marine mammals.</p> <hr/> <p><sup>20</sup> In both the 2013 final SAR and the draft 2014 SAR, the PCFG is “lumped” into discussions of the ENP gray whales although separate PBRs are calculated for each. In the draft SAR for 2014 (which is still not final as of the date these comments are written), the recovery factor for the ENP whales is 1.0 but for the PCFG it is 0.5.</p>	Comments noted. Alternative 4 proposes a management regime, not an alteration of the SAR.
527	Young (Humane Society of the US)_7-30-15	<p><b><u>Methods Proposed Are Arguably Inhumane</u></b></p> <p>The MMPA requires that taking of marine mammals must be humane, defined as inflicting the least possible degree of pain and suffering practicable.<sup>21</sup> The DEIS indicates that the tribe plans to use “both traditional and modern methods for hunting whales to balance the preservation of traditional cultural methods with safety and the need for increased hunting efficiency.”<sup>22</sup> Choosing a</p>	Please see the response to frequent comment# 1 regarding the humaneness of a whale hunt

Sort #	Commenter Code	Comment	Response
		<p>method that would be most humane was apparently not in the tribe’s consideration of “balance” although there is a nod given to the need to meet “MMPA permit requirements.”</p> <p>With the exception of alternative 3, which would not use canoes, hunting would be done from two canoes, each manned by eight tribal members, including a harpooner. These canoes would be accompanied by one or more “chase” boats and the captain of the hunt could be on any of these vessels. Each chase boat would be manned by a pilot, diver, rifleman, backup harpooner, and at least one other crew member serving as a safety officer. NMFS acknowledges that the chase boat may not itself be capable of towing a dead whale to shore for butchering and, in that instance, there would need to be an additional vessel with that capability.</p> <p>Under the proposed method of killing, if the canoe-based harpooner can pierce the whale with the toggled harpoon and affix floats, a rifleman in the chase boat would then shoot the whale with a “high powered rifle” (defined as .50 caliber) with the intent of hitting the whale with a lethal shot to “its central nervous system.” This appears to be similar to the method originally proposed by the tribe and used in its killing of a gray whale in 1999 in which the whaling crew struck a young female gray whale with a cold harpoon and then fired four .50 caliber bullets from a rifle into her body. NMFS acknowledges in the DEIS that approximately eight minutes elapsed from the first harpoon strike until she ceased moving after firing the fourth bullet.</p> <hr/> <p><sup>21</sup> 16 U.S.C. § 1362(4); 50 C.F.R § 216.3.  <sup>22</sup> DEIS, at 2-12.</p>	
528	Young (Humane Society of the US)_7-30-15	<p>Citing its own veterinary expert, the NMFS states in the DEIS that the success or failure of the hunt depends on rifles being tested for their effectiveness before they are used in a hunt. The NMFS expert is quoted as expressing grave reservations about the use of a .50 caliber in the confined space of a boat.<sup>23</sup> Yet NMFS apparently dismisses these reservations (except suggesting a .577 caliber rifle as an alternate method in Alternative 3). The NMFS expert states: “importantly, the 3-shot magazine of the .577 clearly makes the .577 the more suitable weapon for humanely dispatching gray whales...”<sup>24</sup> NMFS only proposes use of this weaponry in Alternative 3. NMFS cites the fact that the tribe’s .577 rifle, intended for use in the initial hunt, was lost during the manifestly illegal hunt in 2007 and NMFS inexplicably asserts that the tribe may not be able to replace this rifle and, further, obtaining this ammunition is more difficult so the tribe will “most likely use” a .50 caliber weapon. This passive</p>	<p>The expert cited in these comments did express reservations about the .50 caliber rifle, especially its weight and shot capacity relative to a .577 caliber rifle. However, he did not conclude that it would be an ineffective weapon for the hunt. The commenter fails to note that the DEIS also observes that gun manufacturers continue to modify the .50 caliber and there are currently models available that are as light or lighter than the .50 caliber rifle tested during preparation for the 1999 hunt,</p>

Sort #	Commenter Code	Comment	Response
		<p>acceptance of a .50 caliber rifle is not an acceptable rationale for choice of weapon when the use of higher caliber weapon and ammunition, as advised by the NMFS' own expert, is more humane. That said, while we adamantly oppose use of the .50 caliber rifle and ammunition and believe NMFS should only consider weaponry with increased firepower; we believe that the most humane means of attempting to kill a gray whale is requiring a darting gun that fires an explosive projectile into the whale, a method which is proposed and discussed in other action alternatives and is used in other extant aboriginal hunts.</p> <hr/> <p><sup>23</sup> DEIS, at 3-170. <sup>24</sup> Id.</p>	<p>have multi-round magazines, and modern muzzle break or silencer systems that may reduce blast and noise concerns. The DEIS evaluates a .577 caliber rifle as an alternative rifle to kill a whale and, as recommended by the commenter, a darting gun (with penthrite grenades) as an alternative to strike and kill a whale.</p>
529	Young (Humane Society of the US)_7-30-15	<p>NMFS has proposed an alternative method wherein the tribe would be required to use a hand-held darting gun capable of firing an explosive projectile attached to a toggled harpoon with floats that would assist in recovering a dead whale. While the efficacy of this method in insuring an immediate kill is not certain (i.e., NMFS also stipulates that if it fails to kill the whale, additional explosive grenades would be delivered using either a smooth-bore, eight-gauge shoulder gun or a darting gun), nonetheless, this method requiring the use of penthrite grenades appears more likely to result in a quicker kill and it is used in native subsistence hunts elsewhere in their pursuit of bowhead and fin whales. The DEIS reports that, in the "Alaska bowhead hunt in 1988 [it was] reported that seven of the eight whales struck with penthrite grenades died from the first grenade thrown"<sup>25</sup></p> <p>Under the guidelines of the IWC, humane killing is "[d]eath brought about without pain, stress, or distress perceptible to the animal. . . . Any humane killing technique aims first to render an animal insensitive to pain as swiftly as technically possible. In practice this cannot be instantaneous in a scientific sense"<sup>26</sup> Indeed, in 1999, using the same essential methods proposed by the tribe, even with a higher caliber rifle, it took 8 excruciating minutes for the whale to die. NMFS provides no assurance in the scenarios it proposes that the whale would be rendered instantaneously insensible let alone killed. One study of commercial whaling, in which even more efficacious methods are used, including deck mounted cannons, found that "[f]ewer than one in five whales were killed instantaneously and the average time to death for the remaining whales was around 10 min."<sup>27</sup></p> <hr/> <p><sup>25</sup> DEIS. at 3-168. <sup>26</sup> IWC Resolution 2004-3.</p>	<p>Please see the response to frequent comment # 1 regarding humaneness of a whale hunt.</p>

Sort #	Commenter Code	Comment	Response
		<p><sup>27</sup> Gales, N., R. Leaper and V. Papastavrou. 2008. Is Japan's Whaling Humane? Science Direct., V. 32, issue 3, pages 408-412 Available at: <a href="http://www.ifaw.org/sites/default/files/Is%20japan%20whaling%20humane.pdf">http://www.ifaw.org/sites/default/files/Is%20japan%20whaling%20humane.pdf</a>.</p>	
530	Young (Humane Society of the US)_7-30-15	<p>Killing whales appears inhumane regardless of method; however, if NMFS permits this hunt, it must require the use of weaponry with the highest possible likelihood of rendering a whale insensible and causing almost immediate death. We strongly object to allowing use of a .50 caliber weapon as being inappropriate to either of these outcomes. NMFS should heed the advice of its own veterinary expert who concluded this proposed weaponry was not humane. The slow death of a sentient species is something we do not accept in farm animal slaughter and it should not be permitted to happen in the killing of a sentient aquatic species such as gray whales. Thus, if NMFS grants the permit, and does not require the use of weaponry with penthrate grenades, we request that NMFS mandate the use of a .577 rifle that its expert concluded was more humane.</p>	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt
531	Young (Humane Society of the US)_7-30-15	<p><b>Gray Whale Stock Status and the Impact of a Hunt</b></p> <p>NMFS essentially recognizes three gray whale stocks that may be affected: Eastern North Pacific (ENP) gray whales that are the intended target, Western North Pacific (WNP) gray whales that are listed as endangered under the ESA and a Pacific Coast Feeding Group (PCFG), a distinct and seasonally resident population numbering only approximately 173 individuals. In the DEIS, NMFS acknowledges that the IWC found the PCFG to be "a demographically distinct feeding group" and NMFS itself determined in its stock assessment report that the PCFG may warrant consideration as a distinct stock, and the agency has established a separate PBR level for this stock within ENP gray whales.<sup>28</sup> The co-occurrence of these different gray whale stocks at certain times in the area where the hunt poses risk at the population level for some of the stocks.</p> <p><b><u>There Is a Risk of the Makah Taking a Whale from the Endangered Western North Pacific Stock</u></b></p> <p>Citing work by Lang and colleagues, the most recent NMFS stock assessment for ENP gray whales acknowledges that "[t]agging, photo-identification and genetic studies show that some whales identified in the WNP off Russia have been observed in the ENP, including coastal waters of Canada, the U.S. and Mexico. In combination, these studies have recorded a total of 27 gray whales observed in both the WNP and ENP."<sup>29</sup> The DEIS itself acknowledges that some of these WNP gray whales travel to the "coastal waters off the west coast of the United States during winter and may transit the Makah [proposed whaling</p>	Comments noted. Note that NMFS recognizes one ENP stock and one WNP stock and does not recognize the PCFG as a stock.

Sort #	Commenter Code	Comment	Response
		<p>area].”<sup>30</sup> In 2015, research was published documenting trans-Pacific travels of satellite tagged WNP gray whales originating in Russia. One of them visited all three major ENP reproductive areas before returning to the western Pacific the following year, resulting in the authors speculating that there is wide mixing of the stocks.<sup>31</sup> Despite the trans-oceanic travels of WNP gray whales, the WNP and ENP whales show significant mtDNA and nuclear DNA differences.<sup>32</sup></p> <p>The risk of taking a whale from this small<sup>33</sup>, endangered population cannot be as lightly dismissed as the agency might wish.<sup>34</sup> The DEIS acknowledges that there is overlap in time and space with the ENP and PCFG whales (generally between December-May) and up to 19% of identified WNP whales have been seen in the ENP.<sup>35</sup> In some of the alternatives in the DEIS, NMFS attempts to address this concern, though how it proposes to do this differs significantly amongst the various alternatives, some of which suggest alternative timing for the hunt, which is likely to be more precautionary than the Makah proposal.</p> <p>In its ruling in <i>Anderson v. Evans</i>, the court concluded that NMFS must consider not just effects to the PCFG whales, but effects to the smaller group of whales frequenting the Makah tribe’s usual and accustomed area, stating that “...the summer whale population in the local Washington area may be significantly affected. Such local effects are a basis for a finding that there will be a significant impact from the Tribe’s hunts.”<sup>36</sup> Given the mixing of ENP whales with those from the small PCFG and the endangered WNP stocks in the area in which a hunt may occur, this impact is not trivial. If NMFS opts to permit this hunt to occur it must choose an alternative with the lowest possible risk of taking a WNP gray whale in this area where mixing may occur and whales would almost surely be indistinguishable.</p> <hr/> <p><sup>28</sup> DEIS, at 3-30.  <sup>29</sup> See also DEIS, at 3063.  <sup>30</sup> DEIS, at 1-5.  <sup>31</sup> Mate, B., VY Ilyashenko, A. Bradford, V. Vertyankin, G. Tsidulko, V. Rozhnov and L. Irvine. 2015. Critically endangered western gray whales migrate to the eastern north Pacific. <i>Biol. Lett.</i> 11:20150071. At: <a href="http://dx.doi.org/10.1098/rsbl.2015.0071">http://dx.doi.org/10.1098/rsbl.2015.0071</a>.  <sup>32</sup> DEIS, at 3-63.  <sup>33</sup> The DEIS, citing Cook et al. (2013), states that there are an estimated 140 WNP gray whales. DEIS, at 3-67. The most recent (2014) NMFS draft stock, provides a minimum population estimate of 135 from which the PBR would be calculated. See: Caretta et al. 2014. Gray Whale: Western North Pacific Stock. In: U.S. Pacific</p>	

Sort #	Commenter Code	Comment	Response
		<p>Marine Mammal Draft Stock Assessments: 2014. NOAA-NMFS SW Fisheries Science Center. Draft at:  <a href="http://www.nmfs.noaa.gov/pr/sars/pdf/pac2014_draft.pdf">http://www.nmfs.noaa.gov/pr/sars/pdf/pac2014_draft.pdf</a></p> <p><sup>34</sup> The DEIS indicates that, under the tribe’s proposed action, modeling predicts only a 7% chance of hunters striking at least one WNP gray whale in 6 years. However, the DEIS also acknowledges on p. 3-91 that up to 19% of these individuals (thus approximately 1 in 5 whales from this stock) have been seen in the range of the ENP. This should concern the agency.</p> <p><sup>35</sup> See DEIS, at chapter 3.4.3.2.2.</p> <p><sup>36</sup> See DEIS, at 3-121.</p>	
532	Young (Humane Society of the US)_7-30-15	<p><b><u>There is a Risk of Taking a Whale from the Pacific Coast Feeding Group</u></b></p> <p>This is a small stock of approximately 188 gray whales that occurs within the range of the ENP. The DEIS itself defines the PCFG as an assemblage of ENP whales observed in 2 or more years between June 1 and November 30 between latitudes 41°N to 52°N. Citing work by Calambokidis in its most recent stock assessment, NMFS states that, for the PCFG, the “high rate of increase” seen in the 1990’s and early 2000’s has not continued and the population...has been relatively stable since 2003 <sup>37</sup>. Given the acknowledged uncertainties in the SAR for the PCFG, NMFS calculates a PBR for the PCFG of 3.1 per year in its most recent draft SAR.<sup>38</sup> The agency also states that the PCFG “appears to be a distinct feeding aggregation and may warrant consideration as a distinct stock.”<sup>39</sup></p> <p>The DEIS discussed various theories regarding internal recruitment (via maternal site fidelity) versus immigration and NMFS cites a recent study by Calambokidis that concluded that “abundance estimates have been fairly stable since 2002, indicating that recruitment may currently be offset by losses (either whales dying or permanently emigrating).”<sup>40</sup></p> <p>Fishery-related mortality is calculated in table 3-6 of the DEIS. It is not clear from this whether these mortalities were within the time/area usage by PCFG whales. The most recent draft SAR for the PCFG stipulates that, only 4-13% of gray whales that die are found and reported. In this most recent SAR, NMFS reports that three gray whales (including one death and two serious injuries) were detected in California waters during the known PCFG season, but were south of the area recognized by the IWC as the PCFG management area. It is possible that some of these whales could be PCFG whales, but the SAR acknowledges that there were no photographic identifications available to establish their identity. Given the lack of a clear determination of stock origin, these deaths and serious injuries were included in ENP gray whale serious injury</p>	<p>DEIS Table 3-6 does not separate out PCFG whale mortality/injury estimates but instead addresses all such estimates for the entire ENP stock as reported in the SARs. As noted in this comment, Alternative 4 includes a management measure that would count all struck and lost whales as PCFG whales. This is because hunting would be authorized in the summer, when most whales present are likely to be PCFG whales.</p>



Sort #	Commenter Code	Comment	Response
		<p>and death totals in the SAR. NMFS should apply a similarly conservative rationale in attributing a kill to the smallest stock if the stock-origin of the animal cannot be definitively determined (either because it is struck and lost or could not be photographically identified); that is, unless it can be otherwise confirmed, NMFS should assume that an unidentified struck whale is counted as a take of an animal from the PCFG stock. This is proposed in some of the alternatives.</p> <p><sup>37</sup> Caretta et al. 2014. Gray Whale: Eastern North Pacific Stock and West Coast Feeding Group. In: U.S. Pacific Marine Mammal Draft Stock Assessments: 2014. NOAA-NMFS SW Fisheries Science Center. Draft at: <a href="http://www.nmfs.noaa.gov/pr/sars/pdf/pac2014_draft.pdf">http://www.nmfs.noaa.gov/pr/sars/pdf/pac2014_draft.pdf</a>.</p> <p><sup>38</sup> Id.</p> <p><sup>39</sup> Id.</p> <p><sup>40</sup> DEIS, at 3-128.</p>	
533	Young (Humane Society of the US)_7-30-15	<p><b>The Suite of Action Alternatives is Inappropriately Limited.</b></p> <p>In addition to discussing each alternative in various portions of the text, Table ES-1 in the DEIS summarizes impacts of the various alternatives. It is clear from this terse summary alone that each has distinct advantages or disadvantages with regard to minimizing risk to PCFG or WNP whales, limiting the overall number of whales killed for what is clearly a ceremonial and not subsistence need, and/or reducing the likelihood of a protracted death when an animal is struck. NMFS should combine the most precautionary aspects from each alternative to construct a seventh action alternative that, if NMFS permits a hunt, would assure that it has minimal impacts on animals and the environment. We will discuss aspects of this missing alternative following a discussion of the Alternatives that were provided in the DEIS.</p>	As noted in this comment, the DEIS analyzes an array of provisions across the five action alternatives. It would not be practicable to analyze all possible combinations of provisions. Moreover, NEPA does not preclude the agency from selecting a preferred alternative that contains provisions from different alternatives (as the commenter suggests).
534	Young (Humane Society of the US)_7-30-15	<p><b>Discussion of the Action Alternatives</b></p> <p><u>Alternative 1</u> is the ‘no action’ alternative and is the alternative we support.</p>	Comments noted.
535	Young (Humane Society of the US)_7-30-15	<p><u>Alternative 2</u> contains the Makah proposal and many of its provisions are held in common in all the action alternatives. As such, many of the action alternatives share similar failings. We agree with NMFS’ analysis that this alternative is the most risk prone with regard to marine wildlife (including all three stocks of gray whales) and, its impact analysis contains the greatest number of impacts yielding “mixed” results.<sup>41</sup> For this reason alone, we strongly oppose it.</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<sup>41</sup> See summary in DEIS Table ES-1.	
536	Young (Humane Society of the US)_7-30-15	<p>Under this alternative, the Makah could harvest up to five whales in any one year, and up to 24 over a six-year period. The tribe also proposes to allow up to three strikes each year in which the whale was ultimately lost. It is unacceptable—and almost unprecedented—to permit a struck/loss ratio in which close to half the struck whales would be lost (i.e., 3 losses per year out of a total of 8 whales struck). For example, in the last ten years of calculating efficiency measures in the bowhead hunt, in the struck loss ratio has averaged 77% landed.<sup>42</sup> Further, hunting of gray whales by Russian aboriginals was said to be 2 lost and 126 struck in 2003, the most recent year for which we were able to find data.<sup>43</sup> The Makah proposal for the number of struck and lost whales is excessive.</p> <p><sup>42</sup> See in Bowhead Whale Final EIS, at 66 (bowhead whale struck and lost). NOAA/NMFS Alaska Region. January 2013 at: <a href="https://alaskafisheries.noaa.gov/protectedresources/whales/bowhead/eis0113/final.pdf">https://alaskafisheries.noaa.gov/protectedresources/whales/bowhead/eis0113/final.pdf</a>.</p> <p><sup>43</sup> Id. at 47.</p>	Comments noted. The comment misrepresents the provisions of Alternative 2, which would allow for 7 strikes rather than 8, but the comparison remains valid, that the Makah Tribe’s proposed provisions would allow for a rate of struck and lost whales that is higher than other ASW hunts. In the DEIS analysis we analyze total mortality from a Makah tribal hunt when considering impacts to PCFG whales.
537	Young (Humane Society of the US)_7-30-15	<p>With regard to the impact of this alternative on WNP gray whales, the DEIS cites several studies supporting the conclusion that “data available on WNP migrations and movements suggest that it is most likely that whales from this stock could be encountered in the vicinity of the Makah U&amp;A during the hunting season proposed by the Tribe...”<sup>44</sup> If a WNP female was killed from this population of barely more than 100 whales, it would be, as NMFS says in its understated prose, “a conservation concern.”<sup>45</sup> Because there is the possibility of accidentally killing a whale from this ESA-listed and highly imperiled stock (which NMFS states is “non-trivial”<sup>46</sup>), the timing of a hunt proposed under this alternative is clearly risk-prone and untenable.</p> <p><sup>44</sup> DEIS, at 3-93.</p> <p><sup>45</sup> Id.</p> <p><sup>46</sup> Id.</p>	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
538	Young (Humane Society of the US)_7-30-15	<p>For the purpose of determining whether a harvested whale is a PCFG whale (i.e., it counts against a bycatch or mortality limit), this alternative would include a whale that was cataloged and seen in at least 1 year, while the other action alternatives in the DEIS would only include cataloged whales seen in 2 or more years or at least once in the prior 4 years.<sup>47</sup> Photographs of any landed whale would be taken by a “Makah Fisheries Management Observer” and provided to NMFS to determine whether or not the animal was one of the animals in a photo-archive maintained by Cascadia Research Collective and this</p>	Comments noted. DEIS alternatives 3, 5, and 6 include the provision that all struck but not landed whales count as PCFG whales in proportion to the presence of PCFG whales in the hunt area.

Sort #	Commenter Code	Comment	Response
		<p>alternative stipulates that the tribe “proposes to stop hunting when a predetermined number of cataloged whales (sighted at least once in the PCFG range from June 1 through November 30) are landed.” It is not clear how long it will take to photo match an animal to the extant gray whale catalog to determine whether or not it is from the PCFG but, based on this author’s experience with photo-identifying and matching whales, it would not be immediate and one presumes the hunt would be permitted to continue until such time as a match could be made—a process that could take days or weeks and result in the death of another PCFG animal. This is not an acceptable conservation measure. Further, the tribe does not propose to count whales struck but not landed against the “allowable bycatch limit” of PCFG whales unless they can be definitively identified as from the PCFG—something that would almost surely not be possible for an animal struck and lost (and likely to die and sink at sea).<sup>48</sup> This too is risk-prone and unacceptable. We have previously discussed the inappropriate proposal for calculating an alternate PBR for PCFG whales and reiterate that is it unacceptable.</p> <hr/> <p><sup>47</sup> DEIS, at 3-122.  <sup>48</sup> DEIS, at 2-9.</p>	
539	Young (Humane Society of the US)_7-30-15	<p>With regard to the Makah desire to hunt between December 1 and May 31, the DEIS (citing Calambokidis 2014) states that “a hunt conducted in spring (March to May) potentially could take whales from the PCFG.”<sup>49</sup> Further, Scordino’s (2013) analysis, cited in the DEIS, found that 31% of whales in the Northern Washington Area between December and May were PCFG whales. Given the acknowledgement in the DEIS that WNP gray whales are also in the area at that time, this argues strongly against allowing a hunt to take place during the times indicated by these researchers (i.e., it should not occur between December and the end of May).</p> <p>We strongly oppose this alternative, which has the greatest risk of adverse impacts to whales of the alternatives provided.</p> <hr/> <p><sup>49</sup> DEIS, at 3-140.</p>	Comments noted.
540	Young (Humane Society of the US)_7-30-15	<p><u>Alternative 3</u> (offshore hunt) would retain many of the provisions of the Makah’s preferred Alternative 2, regarding numbers of ENP whales struck, total allowance of struck and lost, and harvested; seasonal restrictions; and regulatory conditions including the number of ENP animals that can be struck and lost although it prevents initial strikes within 5 miles of shore, which would be more precautionary in reducing disturbance to nesting birds and coastal marine</p>	Comments noted; to clarify, the calculated limited of 1.6 female PCFG whales are part of the overall limit on PCFG whales (i.e., not in addition to the calculated limit of 2.7 males).

Sort #	Commenter Code	Comment	Response
		<p>mammals. This alternative also requires the use of a .577 rifle and assumes only motorized vessels would be used. As previously noted, if NMFS chooses an alternative that does not require the use of more potent weaponry utilizing penthrite grenades, the higher caliber rifle suggested in this alternative is preferable for increasing the likelihood of a humane kill although other aspects of this proposed alternative are more risk prone.</p> <p>With regard to possible impacts on the PCFG, the total allowable mortality would be equal to the stock's PBR of 2.7 (or 3.1 based on the updated calculations in the draft 2014 SAR). The allowable mortality of females would be one-half of the PBR. NMFS states that “[u]nder present circumstances, this calculation would result in an annual mortality limit of approximately 2.7 PCFG whales total, with an additional limit of approximately 1.6 female PCFG whales.”[emphasis added] This wording makes it unclear whether the 1.6 female PCFG whales are in addition to or part of the overall kill limit of the PBR of 2.7 (or 3.1). NMFS should clarify this.</p>	
541	Young (Humane Society of the US)_7-30-15	Further, if a whale is struck and lost, the lack of sexual dimorphism will make it difficult to impossible to identify whether it was a female and that determination in turn affects the management of the “quota” and any resultant restrictions on the hunt. The loss of a female, particularly if from the WNP or PCFG stocks, would result in a significant and unacceptable impact to either of these stocks. This calculation of a mortality limit is not acceptable.	Under Alternative 3, struck and lost whales would be counted as female in proportion to their presence in the hunt area. The tribe has not sought a waiver for WNP gray whales and would not be authorized to harvest WNP gray whales.
542	Young (Humane Society of the US)_7-30-15	<p>We cannot support this alternative. Many of the concerns we raised with Alternative 2 pertain here as well, particularly with regard to the number of strikes and animals struck and lost. Allowing a kill equal to the PBR means that any fishery-related incidental mortality would result in anthropogenic impacts exceeding the PBR, and could result in a potentially adverse impact on commercial fisheries that may then be required to reduce their fishery-related mortality to compensate.<sup>50</sup></p> <p><sup>50</sup> PBR is considered the “maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimal sustainable population. 16 U.S.C 1362 § 3(20). Implementing regulations under the MMPA stipulate that a fishery that takes up to 50% of a stock’s PBR (in this case, approximately one animal) becomes a category I fishery (60 Fed. Reg. 45,086 (Aug. 30, 1995)) and, when a stock suffers mortality in excess of the PBR, Category I and II fisheries are required to reduce mortality to below PBR and further to achieve the Zero</p>	Comments noted. Alternative 3 would set a mortality limit for PCFG whales that accounts for other sources of human-caused mortality.

Sort #	Commenter Code	Comment	Response
		Mortality Rate Goal which is 10% of the PBR (or .27 per year in this case). 16 U.S.C. § 1387 § 118 (f)(2).	
543	Young (Humane Society of the US)_7-30-15	<p><u>Alternative 4</u> (summer/fall hunt) has many of the same conditions as Alternative 2 except it would reduce the time in which a hunt can be conducted to a six month period from June 1 through November 30 as an attempt to reduce the risk of unintentionally killing a PCFG or WNP gray whale. However, as NMFS acknowledges, this proposed time period for the hunt still occurs during the period of residency that helps define membership in the PCFG, so the time period chosen does not entirely address that risk.</p>	The comment mischaracterizes the intent of Alternative 4, which was to effectively eliminate risk to WNP whales, not PCFG whales. On the contrary, most whales present in the hunt area would be PCFG whales.
544	Young (Humane Society of the US)_7-30-15	<p>NMFS proposes to require avoidance of female gray whales. This would appear to restrict takes to male gray whales; however, as is the case with most baleen whales, there is little sexual dimorphism in this species. Males are slightly smaller than females<sup>51</sup> but this is not definitive, particularly when an animal is alone, making its relative size is more difficult to gauge or, similarly it could be difficult to differentiate a male from a juvenile female. Because of this lack of obvious dimorphism, a requirement to avoid females is insufficient to assure that a female will not be taken and is thus a meaningless condition. It is highly likely that the sex of the whale could not be determined until it is already dead and would not be known at all if it is struck and lost and the carcass unrecovered. It seems likely that a female would be killed in this hunt under this and most other options.</p> <p><sup>51</sup> Gray Whales at:  <a href="http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/graywhale.htm">http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/graywhale.htm</a>.</p>	Alternative 4 would only target known males, i.e., whales for which we had photographic information as well as genetic data demonstrating the animal's sex as male.
545	Young (Humane Society of the US)_7-30-15	<p>As was previously discussed, this alternative also inappropriately considers an alternate means of calculating PBR for PCFG whales that is risk prone and certainly should not be done simply to permit lethal removal by a special interest. Determining the stock origin (ENP or PCFG) of a dead, landed whale would likely be difficult since not all gray whales are photo-identified and confirming a photo-match takes time even if a whale is landed. As a precautionary measure, this alternative would presume that all whales struck and not landed would be members of the PCFG. This is more appropriately precautionary than some other alternatives. The hunt would only be disallowed "if the PCFG mortality limit for a single year is less than 0.5. The purpose of this provision is to prohibit a hunt if the PCFG declines to half its current abundance or if PCFG whales are killed in unexpected numbers by other sources of human-caused mortality." The most recent NMFS draft (not finalized) SAR indicates that the estimate of fishery-related mortality in the PCFG season averages 0.75</p>	The method of calculating PBR in Alternative 4 is the second most conservative of the 5 action alternatives. The reasons this alternative presumes all whales struck and lost would be PCFG whales are: (1) hunting occurs during the summer feeding period, when most whales struck would be PCFG whales and (2) hunters would be targeting known PCFG males and would have made an ID prior to striking a whale that was then lost.

Sort #	Commenter Code	Comment	Response
		<p>whales per year for the prior 5 year period. However, this level of mortality fluctuates and the final 2013 SAR indicates that, during the 5 year period of review for that SAR, mortality averaged 1.75 per year for the PCFG. As we discussed in our comments under Alternative 3, it is not clear how a mortality resulting from the Makah hunt would affect commercial fisheries that also have annual mortality and serious injury of this stock.</p> <p>We assume that any whale struck and lost would be counted as “seriously injured” (i.e., likely to die) since it would have a penetrating wound, though this scenario was not specifically envisioned in the NMFS own Guidelines for Assessing Serious Injury.<sup>52</sup> If the mortality and serious injury of a presumed PCFG whale is combined with that of commercial fisheries and the sum exceeds the PBR, this may require the affected fisheries to reduce their incidental mortality, even if that mortality would have otherwise been less than the PBR.</p> <p><sup>52</sup> See Criteria L5a: “Deep laceration” –serious injury. Any incision or tearing that potentially penetrates the body cavity or cuts into the skeletal structure, or a deep laceration at the insertion of the flippers or flukes where major arteries are near the skin surface, is counted as a serious injury. In NOAA/NMFS 2015. Process for Distinguishing Serious from Non-Serious Injuries of Marine Mammals. At: <a href="http://www.nmfs.noaa.gov/pr/pdfs/serious_injury_procedure.pdf">http://www.nmfs.noaa.gov/pr/pdfs/serious_injury_procedure.pdf</a>.</p>	<p>As noted in the DEIS, the DEIS analysis assumes that a struck and lost whale will die of its injuries. Regarding other sources of human-caused mortality, the mortality limit in a tribal hunt under Alternative 4 would take other sources of human-caused mortality into account.</p>
546	Young (Humane Society of the US)_7-30-15	<p><u>Alternative 5</u> (split season hunt) again contains many of the same conditions as Alternative 2 but would instead provide two short hunting seasons of three weeks each (December 1-21 and May 10-31) rather than a single longer season. The DEIS notes that the period in which detections for WNP whales are lacking tends to be between early May and late December, when there would be a reduced likelihood of their being encountered during a hunt.<sup>53</sup> These two shorter hunting seasons are said to further reduce the chance of killing a WNP whale or a PCFG gray whale so would be preferable to a single longer season. This alternative’s seasonal limit appears more precautionary. Under this alternative, the annual mortality limit for PCFG whales would be 0.27, which is 10 percent of the PBR (equivalent to the Zero Mortality Rate Goal in the MMPA which seeks to insure that anthropogenic mortality has a “negligible impact”<sup>54</sup>). We find this mortality limit for an intentional kill preferable to other alternatives, as it furthers the MMPA goals.</p> <p>Under this alternative, if a PCFG whale is killed (or presumed killed), then no other could be killed for the next 4 years in order to assure that PBR is not exceeded. Any whale struck but not landed would be considered to be a PCFG gray whale “in proportion to the observed presence of PCFG whales in the Makah</p>	<p>Comments noted. Hunts under all of the alternatives would be halted when the PCFG mortality limit is reached.</p>

Sort #	Commenter Code	Comment	Response
		<p>hunt area during that season.” With regard to the proportion of the presence of PCFG whales in the hunt area, the DEIS states that the difficult sighting conditions in December through February and the limited number of whales sighted during studies “prevent making informed estimates of the proportion of PCFG whales present during the winter months.”<sup>55</sup> To say the least, this is troubling for the proposed December time period. Although the summary discussions of this alternative in Chapter 2 of the DEIS do not make this entirely clear, we presume that the hunt would be halted when the annual limit on mortality and serious injury for PCFG whales is reached.</p> <hr/> <p><sup>53</sup> DEIS, at 3-91.  <sup>54</sup> 64 Fed. Reg. 28,800 (May 27, 1999).  <sup>55</sup> DEIS, at 3-140.</p>	
547	Young (Humane Society of the US)_7-30-15	<p><u>Alternative 6</u> (different limits on strikes and PCFG, and limited duration of regulations and permits) has the same conditions as the Makah’s preferred alternative (Alternative 2) with the exception of the time span of the hunt authorization. This alternative would limit strikes to seven over a 2 year period and the PCFG mortality limit would be limited to the PBR in the NMFS SAR (minus other anthropogenic mortality). This limit on authorizing takes to assure they remain under the PBR is a more conservative approach to preventing excessive take than is proposed in other alternatives (with the exception of Alternative 5) and, unlike Alternative 2, it acknowledges that they are also taken in commercial fisheries. The take moratorium would expire in 10 years, and a take permit would be limited to 3 years. Further, all whales struck and not landed would be considered PCFG whales “based on their proportional presence during the season they were struck and lost.” We prefer the shorter authorization period to those in the other alternatives and believe it is imperative that the Makah takes do not result in combined anthropogenic mortality exceeding the PBR.</p>	Comments noted.
548	Young (Humane Society of the US)_7-30-15	<p><b>NMFS has not included an Adequate Suite of Alternatives</b></p> <p>Although there are 5 action alternatives, each has different suites of possible limits or mitigation that include proposing differences in season, area, weapon used, the proposed calculation of a conservative harvest quota and specifying the term limit of a waiver and so forth. As a result, each alternative has certain possible conservation advantages but most offer only minor variations on the Makah’s preferred Alternative 2 that often do little to mitigate the disadvantages of the more risk-prone aspects of each proposal.</p> <p>NMFS should have constructed a seventh alternative (a sixth action alternative) that would be maximally protective of the WNP and ENP populations</p>	As noted in this comment, the DEIS analyzes an array of provisions across the five action alternatives. NEPA does not require that we combine the most conservative elements into a single alternative, nor does it preclude us from selecting a preferred alternative in a Final EIS that incorporates elements from different alternatives Because the purpose of NEPA is to

Sort #	Commenter Code	Comment	Response
		<p>and would incorporate a combination of the greatest conservation or humanitarian benefits from each of the other 5 action alternatives. For example, NMFS indicates that Alternative 4 is the most risk averse with regard to minimizing risk to WNP gray whales. It indicates that Alternative 5 is more risk averse with regard to minimizing risk to PCFG gray whales and is preferable for minimizing disturbance to other marine mammals.</p> <p>Construction of another action alternative that is a more cohesively conservative alternative would require the use of penthrite grenades in making a kill as is suggested in several alternatives. With regard to the hunt timing, it would stipulate a split season, as in Alternative 5 to minimize impacts on WNP and PCFG whales. The hunt area would be limited to an area 5 miles from shore (as stipulated in Alternative 3) to minimize impacts on other coastal animals. The limit on harvested, struck and lost ENP whales would be the same as in Alternative 6 (i.e., up to 4 harvested and 7 in two years with the same limit on struck and lost). Additional limits on harvest or mortality of PCFG whales would be similar to Alternative 5 which limits mortality to 10% of the PBR or approximately one whale killed in a 4 year period and animals struck but not landed would count as a PCFG whale in proportion to their presence in the area at the time of the hunt. With regard to the duration of the waiver, the waiver period would end after 10 years with permits granted for 3 years as is stipulated in Alternative 6.<sup>56</sup> It would be useful, if not imperative, to provide an additional action alternative that combines the various precautions (e.g., limiting permit length, counting strikes not landed, providing the shortest possible season or prescribed area to reduce likelihood of killing a PCFG or WNP gray whale and so on). As NMFS has already considered these various aspects of a hunt in its NEPA analysis, the agency would not be required to reinitiate the public process in creating a new alternative that incorporates these aspects.</p> <hr/> <p><sup>56</sup> The various strictures under each Alternative are summed in DEIS Table 2-1 which also references more detailed descriptions in the narrative under each alternative presented in that chapter.</p>	illuminate relevant effects and impacts of alternatives to inform decisionmaking.
549	Young (Humane Society of the US)_7-30-15	However, we reiterate our support for the No Action alternative which avoids all adverse conservation and welfare-related impacts on the whales and other animals in the marine environment.	Comments noted.
550	Young (Humane	<b>There Are Adverse Impacts that were not Adequately Considered</b> <u>Aesthetics</u>	DEIS Subsection 4.12 (Aesthetics) did consider the effects on observers who



Sort #	Commenter Code	Comment	Response
	Society of the US)_7-30-15	<p>In discussion of possible impacts, NMFS discusses whether or not whale watching or tourism might be affected and incur fiscal costs and this risk is largely dismissed as trivial; however, in the discussion in Chapter 5 of “aesthetics” there is an even more blithe dismissal of human impacts from the hunt, saying merely that there may be “some temporary aesthetic effects” to people viewing the hunt on media or from local vantage points.</p> <p>Although NMFS predicts that there will be animals struck and lost, we were unable to find a discussion of impacts on members of the general public if they are on the water either in a commercial whale watching boat or a private vessel and are not intending to view the hunt but are subjected to the sight of a harpooned and dying gray whale that was struck and lost as it fled to an area outside of the immediate hunt area and into an area where the public would not be expecting to see such a sight. The public has a well-documented and visceral response to seeing stranded or entangled whales. In those cases, the public often immediately seeks help for the whale that they perceive as suffering. In the case of an intentional hunt in which a whale is struck and lost and swims off injured, the public may well be subjected to seeing a harpooned whale that is injured and likely dying.<sup>57</sup> The U.S. Coast Guard photograph below is of the whale that was illegally harpooned in 2007. One can readily imagine the horror of the public encountering such a sight. The visceral reaction of the public is likely to affect their image of the Makah tribe when they learn the reason for the animal’s suffering. This impact to members of the public who had not wished to view the hunt or its lethal consequences and to the resultant adverse public perception of the tribe was not considered. [photo of harpooned whale in motion on the surface of the water; see p. 15 of the letter]</p> <hr/> <p><sup>57</sup> Figure 5-3 in the DEIS shows a plethora of whale watching ports ringing the potential hunt area, all well with the range in which a seriously injured whale may attempt to flee.</p>	may be present at sites with direct views of a whale hunt (including views of a whale dying, being towed to shore, and/or being butchered), as well as observers who may see such images through various media outlets. Also, numerous comments received on the DEIS express concern about such impacts and these will be considered when we identify a preferred alternative in the final EIS.
551	Young (Humane Society of the US)_7-30-15	<p><u>Costs to U.S. Taxpayers</u></p> <p>NMFS acknowledges that hunt protests are likely and the agency estimates a cost of \$5.5 million for security over a 60 day period—most of it falling to the U.S. Coast Guard (USCG)—which would need to address the security of hunters in the presence of passionate hunt protesters. There are at least two concerns here that do not appear to be considered. First, a cost of this magnitude has almost surely not been budgeted by the Administration. As such, the multi-million dollar security cost of facilitating the hunt are likely to be borne at the expense of other USCG enforcement programs (e.g., USCG fishery enforcement,</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>drug interdiction or other important enforcement functions) or, alternately, supplemental funds will have to be allocated to this hunt. The cost of security surrounding any hunt should be borne by the tribe, not the U.S. taxpayer as it is the tribe and not the taxpayer who wishes to see whales killed. Nor should these costs come at the expense of other aspects of the USCG enforcement mission which is a fiscal impact not considered.</p> <p>Further, these costs incurred in protecting the hunt, if borne by the American taxpayer, would be borne by a public that, by and large, does not support killing whales for any reason.<sup>58</sup> Thus, taxpayers are being asked to subsidize the Makah hunt at a cost of over 5 million dollars, even though most members of the public would almost surely not support their tax dollars being used to enable such an enterprise.</p> <hr/> <p><sup>58</sup> Several different surveys of the whale watching public have been conducted. A California survey, found that 75% of those surveyed responded that it was 'morally wrong' to kill whales; a survey in Vancouver using a scale of 1-5 with 5 being "strongly agree" had a score of 4.47 given to the statement "it is wrong to kill whales" and a survey of New England whale watchers found 83% agreed it was 'morally wrong' to kill whales regardless of the reason. Cited in: Hoyt, E. and G. Hvenegaard. 2002. A Review of Whale-Watching and Whaling with Applications for the Caribbean. Coastal Management. 30: 381-399. Available at. <a href="http://www.cetaceanhabitat.org/pdf_bin/cmng-p381-399.pdf">http://www.cetaceanhabitat.org/pdf_bin/cmng-p381-399.pdf</a>.</p>	
552	Young (Humane Society of the US)_7-30-15	<p><b>Cumulative Impact Analysis</b> azimpacts to affected gray whale populations that include population level impacts from global climate change that may affect prey resources and individual reproductive fitness; impacts from mortality resulting from commercial fishing and shipping; adverse effects from intense sound generated in Defense Department-related activities; and the potential risk from oil and gas exploration and extraction. However, though the effect of each of these impacts is assessed individually in the DEIS; there appears to be no attempt to look at their cumulative impact. This is of particular concern for the ESA-listed WNP whales that venture into the area or the smaller stock of PCFG whales where cumulative impacts to these stocks may push them past a tipping point and away from recovery.</p> <p>Chapter 5 of the DEIS acknowledges that, "given the small size of the WNP stock and the very limited data on the occurrence of whales observed in the WNP in the analysis area, it is speculative to predict whether appreciable effects would be expected from any of the activities assessed in Subsection 5.1.3, Past,</p>	<p>In our cumulative effects analysis we asses each of the affected resources and provide a conclusion regarding impacts. For example, for Marine Energy and Coastal Development Projects (DEIS Subsection 5.1.3.6) "...we conclude that marine energy and coastal development projects are reasonably foreseeable future actions that could impact gray whales in localized areas of their range in the ENP. However, it is speculative to predict the likely extent or impacts from most of these types of projects. Oil and gas exploration and development are the most likely</p>

Sort #	Commenter Code	Comment	Response
		<p>Present, and Reasonably Foreseeable Future Actions.”<sup>59</sup> But, indeed, that is what this analysis is supposed to do: speculate on the cumulative effects.</p> <p>In any case, although Chapter 5 provides a fairly thorough analysis of the past, present and reasonably foreseeable future actions, the impacts are viewed individually and we see nowhere that these are summed in a truly cumulative impact analysis.</p> <hr/> <p><sup>59</sup> DEIS, at 5-36.</p>	<p>activities, but impacts would depend on the location, timing, and magnitude of disturbances (e.g., construction noise or accidental oil spills).</p>
553	Young (Humane Society of the US)_7-30-15	<p><b>Impact on the Regulatory Environment</b></p> <p>As NMFS acknowledges in its impact analysis, some Northwest Indian tribes traditionally harvested and used products from seals, sea otters, and other marine mammals. Northwest Indian tribes have, in the past, expressed an interest in harvesting marine mammals. This is true of other tribes outside of the northwest as well, though these other tribes and areas were not mentioned in the analysis.<sup>60</sup> NMFS also acknowledges that authorizing a Makah hunt may prompt other requests by Indian tribes for a similar waiver of the MMPA. The agency says that the outcome of future requests would depend on the specific facts presented. Authorization of this hunt has significant precedential impacts that are glossed over in a discussion of impacts of the hunt.</p> <hr/> <p><sup>60</sup> In 1998, in the midst of a fishery management dispute, the Passamaquoddy tribe of Maine killed several harbor porpoises in Canadian waters and subsequently met with U.S. officials asserting “a sacred right” to hunt harbor porpoise off the coast of Maine. This dispute remains unresolved. See the Passamaquoddy tribal resolution at: <a href="https://atlanticalive.wordpress.com/2008/05/04/passamaquoddy-tribes-stand-on-porpoise-hunting/">https://atlanticalive.wordpress.com/2008/05/04/passamaquoddy-tribes-stand-on-porpoise-hunting/</a></p>	<p>Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.</p>
554	Young (Humane Society of the US)_7-30-15	<p><b>Conclusion</b></p> <p>We can only support the No Action Alternative.</p>	<p>The concluding comments in #553 through # 559 are noted. Responses were provided above.</p>
555	Young (Humane Society of the US)_7-30-15	<p>The hunt as proposed by the Makah tribe, and even in most of the action alternatives, contains a real and not-insignificant risk of an endangered WNP or remnant PCFG gray whale or a female being unintentionally killed.</p>	
556	Young (Humane Society of	<p>Much of the weaponry proposed is likely to result in a prolonged and inhumane death.</p>	

Sort #	Commenter Code	Comment	Response
	the US)_7-30-15		
557	Young (Humane Society of the US)_7-30-15	In all but Alternative 5, there is an excessive struck/lost ratio.	
558	Young (Humane Society of the US)_7-30-15	NMFS failed to offer an action alternative that combined the more conservative aspects incorporated in some but not all other action alternatives;	
559	Young (Humane Society of the US)_7-30-15	further, not all non-whale impacts of the hunt were properly considered.	
560	Young (Humane Society of the US)_7-30-15	<p>Importantly, the proposed gray whale hunt is not a subsistence hunt, but is proposed for “cultural” reasons by a tribe that has not legally hunted gray whales in almost a century. This proposed ceremonial hunt is a far cry from the true subsistence hunts that occur in Alaska and, if approved, will set a dangerous national and global precedent for proposing and approving similar take of otherwise protected animals largely on the basis that a native tribe used to hunt them a century or more ago.</p> <p>Sincerely,  Sharon B. Young  Marine Issues Field Director  The Humane Society of the United States  syoung@humanesociety.org</p>	
561	AWI_3-2-15_-_Final_Letter_to_Steve_Stone_NMFS_Makah_Whaling_EIS_3-2-15.pdf	<p>Re: Impending release of Draft Environmental Impact Statement on whaling by the Makah Tribe</p> <p>Dear Mr. Stone:</p> <p>On behalf of the undersigned organizations, I am writing to request that the National Marine Fisheries Service delay the publication of its notice announcing the availability of the Draft Environmental Impact Statement (DEIS) on whaling by the Makah Tribe until upcoming meetings relevant to the gray whale are concluded and any information from these meetings can be</p>	On March 5, 2015, we notified AWI that we would be monitoring and participating in the meetings noted and would proceed with our scheduled release of the DEIS. These meetings occurred and information developed has been incorporated into NMFS SAR process and will be

Sort #	Commenter Code	Comment	Response
		<p>incorporated into the DEIS. Specifically, the undersigned organizations are aware of two upcoming meetings that will discuss gray whales, their status, and their management. The first, scheduled for April 1-3, 2015 in La Jolla, California is a technical workshop (the second such workshop) organized by the International Whaling Commission's Scientific Committee (IWC SC) to perform a range-wide review of the population structure and status of the North Pacific gray whale. The second, to be held in San Diego, California from May 20 to June 4, 2015, is the annual meeting of the IWC SC where gray whale conservation and management will be a topic of discussion. Considering that both of these meetings may produce data and evidence directly related to the analysis contained in the DEIS, it is difficult to understand why NMFS would publish the DEIS ahead of these meetings instead of waiting to integrate relevant information from these meetings into the analysis. The undersigned organizations understand that the Makah Tribe and others may be eager to have the DEIS published for public review. However, considering the years taken to prepare this DEIS, waiting a few additional months to publish a more complete document that includes the most recent and relevant gray whale information from these upcoming scientific meetings is warranted and justified.</p> <p>Thank you in advance for considering this request. Should you have any questions about this request or should you elect to provide a response, you can contact me at <a href="mailto:susan@awionline.org">susan@awionline.org</a>. Sincerely, Susan Millward Executive Director</p> <p>cc: Ms. Eileen Sobeck, Assistant Administrator for Fisheries, National Marine Fisheries Service  Mr. Russell Smith, United States Commissioner to the International Whaling Commission and Deputy Assistant Secretary for International Fisheries, National Oceanic and Atmospheric Administration  Ms. Donna Darm, Assistant Regional Administrator, Protected Resources Division, National Marine Fisheries Service  Dr. Rebecca Lent, Executive Director, Marine Mammal Commission  On behalf of: Australians for Animals California Gray Whale Coalition  Cetacean Society International  Dolphin Connection  Green Vegans/The New Human Ecology  Humane Society International  In Defense of Animals International  Marine Mammal Project of Earth Island Institute  Peninsula Citizens for the Protection of Whales  Whale and Dolphin Conservation</p>	<p>incorporated into future decision-making on the Makah Tribe's request.</p>
562	AWI_3-27-15_-_Final_Letter_to_NMFS_Requesting_	<p>Dear Mr. Stone:</p> <p>On behalf of the undersigned organizations representing members and constituents in the United States and internationally, I am writing to request a 60-day extension in the deadline for public comments on the Draft Environmental Impact Statement (DEIS) on the Makah Tribe Request to Hunt</p>	<p>Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.</p>

Sort #	Commenter Code	Comment	Response
	Extension_in_Makah_DEIS_Comment_Deadline_3-27-15.pdf	<p>Gray Whales. As further explained below, the undersigned organizations believe that this request should be granted to ensure that all stakeholders, regardless of their perspective on this issue, are provided sufficient time to fully evaluate the DEIS, the referenced studies, and new information in order to produce substantive and informed comments for consideration by the National Marine Fisheries Service. Should this request be granted, the new deadline for public comments on the DEIS would be on August 10, 2015.</p> <p>The undersigned organizations assert that this request should be granted for the following reasons: 1. Public participation is fundamental to the National Environmental Policy Act (NEPA). The Council on Environmental Quality’s regulations implementing NEPA emphasize the role and value of the public’s participation in the NEPA decision-making process both to ensure that the public is aware of the government’s activities but also to provide the public with an opportunity to review and evaluate the environmental impacts of the government’s actions. Specifically, NEPA requires federal agencies to: NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. 40 CFR §1500.1(b). Furthermore, NEPA mandates that federal agencies “encourage and facilitate public involvement in decisions which affect the quality of the human environment. Id. at §1500.2(d). Similarly, the National Oceanic and Atmospheric Administration’s Order 216-6 on implementing NEPA specifies that “public involvement is essential to implementing NEPA” noting that agency officials “must make every effort to encourage the participation of affected Federal, state, and local agencies, affected Indian tribes, and other interested persons throughout the development of a proposed action and to ensure that public concerns are adequately considered in NOAA’s environmental analyses of a proposed action and in its decisionmaking process regarding that action.”<sup>1</sup> While the undersigned recognize that the existing 90-day comment period is often standard for Environmental Impact Statements, given the importance of this issue, the inherent controversy, and for other reasons articulated herein, an additional 60 days is essential to satisfy the clear intent of the public participation provisions under NEPA.</p> <p>2. The length of the DEIS warrants providing additional time for its review. The DEIS is 1,230 pages in length and includes over 1,300 references. The length and content of the DEIS reflects the complexity, controversy, and</p>	

Sort #	Commenter Code	Comment	Response
		<p>seriousness of the action under review. As NMFS is aware, this controversy is not fabricated but reflects genuine legal (domestic and international) and scientific disputes over the Makah Tribe's interest in whaling and whether the action is permitted by treaty, can be authorized under federal law, is consistent with international treaties, and what effect whaling could have on the Eastern North Pacific (ENP) gray whale (migratory population), the Pacific Coast Feeding Aggregation of ENP gray whales, and Western North Pacific gray whales. Consequently, to properly review all relevant legal, scientific, and other information, including information that is not referenced in the DEIS, additional time beyond the present 90 day comment period is required.</p> <p>3. The DEIS comment period overlaps with the upcoming International Whaling Commission's Scientific Committee meeting. The current deadline for public comments on the DEIS is June 11, 2015 which is only seven days after the IWC's Scientific Committee's meeting in San Diego, CA will end. Some of the scientists attending the IWC's Scientific Committee meeting are also interested in and intend to participate in the review of the DEIS. Among non-governmental organizations, Dr. Naomi Rose of the Animal Welfare Institute is one scientist who will be attending the IWC's Scientific Committee meeting while also participating in the review and preparation of comments on the DEIS. Undoubtedly there are other scientists affiliated with non-governmental organization, universities, government agencies (US and foreign), the Makah Tribe, and private research institutions that intend to participate in the DEIS decision-making process. Considering the time necessary for these individuals to prepare for the IWC Scientific Committee meeting not to mention the two weeks consumed by the meeting itself, it is unfair to these individuals and antithetical to facilitating their ability to participate in the decision-making process by requiring comments on the DEIS to be due only seven days after the IWC Scientific Committee meeting ends. By providing an additional 60 days, NMFS will facilitate such expert participation in the decision-making process.</p> <p>4. The DEIS does not include new information relevant to gray whales that will result from upcoming scientific meetings. As NMFS is aware, in addition to the IWC's Scientific Committee meeting an IWC intersessional workshop on gray whales will be held in La Jolla, CA from April 1 to April 3, 2015. Both the La Jolla workshop and the IWC's Scientific Committee meeting will result in reports that contain new findings, conclusions, or information relevant to the analysis of the environmental impacts contained in the DEIS. While the undersigned organizations recognize that NMFS intends to incorporate such information into</p>	

Sort #	Commenter Code	Comment	Response
		<p>its decision-making process, NEPA requires that such information be available for the public to consider and evaluate as they prepare substantive and informed comments on the DEIS. To accommodate public review of the results of these scientific meetings, extending the comment deadline by 60 days is essential. An additional 60 days would be sufficient to ensure that the public will have sufficient time to evaluate both the results of the La Jolla intersessional workshop and the report of the IWC's Scientific Committee meeting and to incorporate any relevant information into their comments on the DEIS.</p> <p>5. Providing the requested extension will not harm any party and will serve only to improve and strengthen the decision-making process. Extending the comment deadline on the DEIS for 60 days as requested will not harm the Makah Tribe or any other entity that may support the tribe's request. Nor will such a delay adversely affect NMFS or any other governmental entity. Indeed, as is clear from the DEIS, the NEPA process is only one of several decision-making processes that need to be completed before any final action can be taken. An extension in the comment deadline, however, would benefit every interested stakeholder by providing the additional time required to properly and comprehensively evaluate the environmental impacts associated with allowing the Makah Tribe to whale. The NMFS, in particular, would benefit by ensuring that it receives substantive and informed comments from the public, including scientists, which will only strengthen its decision-making process. For the foregoing reasons, the undersigned organizations respectfully request that the NMFS extend the comment period on the DEIS on the Makah Tribe's Request to Hunt Gray Whales by 60 days until August 10, 2015. Thank you in advance for considering this request. Should you have any questions about this request or to reply to this correspondence, please contact me at <a href="mailto:susan@awionline.org">susan@awionline.org</a> , by telephone at 202-446-2123, or by mail at the address provided below. Respectfully, Susan Millward, Executive Director Animal Welfare Institute 900 Pennsylvania Avenue, SE Washington, DC 20003 Cc: Ms. Eileen Sobeck, Assistant Administrator for Fisheries, NOAA Fisheries Ms. Donna Darm, Associate Deputy Regional Administrator, NOAA Fisheries, West Coast Region Dr. Rebecca Lent, Executive Director, Marine Mammal Commission On behalf of: Australians for Animals California Gray Whale Coalition Cetacean Society International Dolphin Connection Green Vegans/The New Human Ecology Grupo de los Cien, Mexico Heart and Paws Animal Healing The Humane Society of Canada In Defense of Animals International Marine Mammal Project of Earth Island Institute Liferorce Foundation, Canada Marine Connection NY4Whales.org OceanCare Ocean</p>	



Sort #	Commenter Code	Comment	Response
		Friends, WA Origami Whales Project Peninsula Citizens for the Protection of Whales reEarth Voice for Animals Humane Society Whale and Dolphin Conservation The Whaleman Foundation World Animal Protection 1 NOAA Administrative Order Series 216-6 May 20, 1999 ENVIRONMENTAL REVIEW PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (available at: <a href="http://www.nepa.noaa.gov/NAO216_6.pdf">http://www.nepa.noaa.gov/NAO216_6.pdf</a> )	
563	Bell_4-29-15.pdf	As long as the gray whale is not listed as an endangered species and the request has time limits as to its duration so that any change in the gray whale population can be reconsidered, I believe that the Makah treaty should be honored to allow them to hunt whales. They as a tribe should be allowed to monitor their own ethical and spiritual rituals regarding the details of the hunt. As a culture and people, they have been doing this in regards to their food sources for thousands of years. I do not believe non-Makahs have a right to comment on the value of this cultural tradition to them as a people.	Comments noted.
564	Bowen_4-29-15.pdf	NOAA NMFS Does not address in any portion of the DEIS the impact to safety infrastructure, such as the lack of availability of police, EMT, emergency services to the local communities because those services have to be retasted to support the exercise of the hunting rights. We are left out in the cold and it's the NOAA NMFS obligation to solve this.	Subsection 4.14 (Public Services) analyzes the potential for a whale hunt and hunt-related activities to impede the ability of law enforcement to maintain order, and medical professionals and facilities to treat injuries. Subsection 4.13 (Transportation) discusses the potential for the alternatives to have transportation related effects on access by emergency vehicles.
565	Capozzelli_6-2-15	RE: Please Deny the Makah Tribe's Request to Resume Hunting Whales I am writing to ask the NMFS not to allow a whale hunt in U.S. waters. The Makah Tribe located in Washington State has requested to resume hunting of eastern North Pacific gray whales, an act they have not done legally since the 1920s. Whaling is an archaic practice that has no place in today's society. The methods used to hunt whales are cruel. Whaling is inherently inhumane, with whales being harpooned from a moving vessel on a moving ocean. But even the most advanced whaling methods cannot render the animals insensitive to pain prior to death. (Some whalers use harpoons fitted with penthrate grenades, which penetrate the whale's body and then explode, releasing claw-like protrusions to rip into the flesh.)	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
566	Capozzelli_6 -2-15	The Tribe has requested that it be allowed to hunt up to five whales per year, and there is no way to ensure they will not take a whale from the endangered western Pacific stock of gray whales. If even one of the endangered western Pacific gray whales were killed, it would be devastating for their recovery.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
567	Capozzelli_6 -2-15	Tradition should not serve as an excuse for the slaughter of these animals, especially when that tradition has not been practiced legally in nearly one hundred years. Though there are things which may be considered "tradition," it is in human nature to shed past traditions that become barbaric in light of advancements in knowledge and ethics. It has been wisely said, "... laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors."	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
568	Capozzelli_6 -2-15	Instead of returning to whaling, the Makah Tribe could rely on non-lethal ceremonial celebrations of these amazing creatures that traverse their waters, celebrating life instead of killing. Please deny the Makah Tribe's request to resume the hunting of whales off the west coast. Thank you for your help on behalf of our ocean's whales. Yours truly, J. Capozzelli 1 315West90" Street New York, NY 10024	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
569	Capozzelli_7 -17-15	I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. I support Alternative 1, the no-action alternative. I respect the Makah and the tribe's culture, but I am strongly opposed to the proposed hunt because: the Makah do not have a nutritional and subsistence need for whales the hunt could further imperil both the resident and Western North Pacific gray whale populations the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS the proposed hunt is inherently cruel I agree with the following comments I have read: The Makah do not have a nutritional and subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why the NMFS should deny the Makah's proposal.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
570	Capozzelli_7-17-15	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by the NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
571	Capozzelli_7-17-15	The NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is one of several deficiencies in the DEIS. The NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative like whale watching would enable the Makah to reconnect to the gray whale without killing, would bring revenue to the tribe, would provide additional employment to Makah tribal members, and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	The DEIS provides a detailed analysis of impacts on gray whales and other species. Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
572	Capozzelli_7-17-15	The NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats are most serious and include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, fishing bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just several of the activities that impact or will impact gray whales. None of these threats was adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
573	Capozzelli_7-17-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, the NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding humaneness of a whale hunt.
574	Capozzelli_7-17-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed,	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
575	Capozzelli_7-17-15	and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
576	Capozzelli_7-17-15	Though some things may be considered "tradition," it is in human nature to shed past traditions that become barbaric in light of advancements in knowledge and ethics. It has been wisely said, "... laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors." Thank you for your consideration. Yours truly, J. Capozzelli New York, NY	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
577	Chamblin_6-2-15	Hello distinguished guest, council, and community. I am Ba' Ba' Sit – my English name is Carlton Chamblin. I am the oldest grandson of the late Clifford Johnston Sr., whom was the oldest grandson of Ba Ba' Sit Andrew Johnston whom killed the last whale in 1907 and signed the Treaty of Neah Bay. While I was in college in 2010 I developed a legal paper that set forth the argument that the Makah Indian Reservation was established to create a more efficient whaling economy, – and it set forth the argument that Winters Waters Rights are applicable to the Makah whaling issue. Under Winter Water Law, users of water are assigned appropriation dates when they began utilizing a water resource or regulating a water resource. In this light the Marine Mammal Protection Act (MMPA) would have an appropriation date as of the date of enactment – 1972. The MMPA is a competing user, as it seeks to prevent whaling. The Makah Treaty has an appropriation date of 1859—when our treaty was ratified by the U.S. Senate. Because the Marine Mammal Protection Act has a subordinate or newer appropriation date in relation to the Makah treaty the strictures contained within the MMPA do not apply to Makah whaling. The MMPA is an ambiguous Act, in one sentence it purports to protect endangered mammals while granting Alaska Natives an exemption to harvest the same mammals it's supposed to protect. Alaskan Natives sold out their aboriginal rights in the Alaska Land Claims Settlement Act and when they realized this they re-negged on the deal. Hurriedly Congress/Senate passed a quasi-restoration act in the form of the MMPA. The Makah never sold out or relinquished our whaling – and under Winters Water Law Makah whaling is not lost to non-use. Alaskan whaling is allowed under	Comments noted. The purpose of the DEIS is to analyze potential impacts of alternatives, to inform decision making under the MMPA and the WCA not to explore or resolve legal debates.

Sort #	Commenter Code	Comment	Response
		Executive Order, and they have no constitutional support. Makah whaling on the other hand is buttressed by the U.S. Constitution. Article 6, Clause 2 of the Constitution holds that treaties are the Supreme Law of the Land. In U.S. v. Washington the U.S. Supreme Court acknowledged this fact and reminded state legislators “that when you regulate a right that is protected by the Constitution that it must be narrowly tailored and sparingly applied. The NOAA process falls short of these requirements: The Makah Treaty according to the U.S. Constitution is superior to the MMPA and through the prism of the Winter Water Law: the MPA is subordinate. I presented this to my tribal council several times – to no avail. So now I present this to you on behalf of my family, myself, and all Makah whales. Lastly I would like to say for the record that when Justice Arnold told the whalers in the “illegal hunt” they could not cite either spirituality or the treaty right as an affirmative defense it was because of this white judges efforts to diminish our treaty whaling right that I created this argument on behalf of Makah whaling. Klecko-Klecko Carl Chamblin P.O. Box 10 Neah Bay, WA 983571) Minutes of Treaty of Neah Bay 12 stat 939	
578	Comment from Alicia Godreau	There are many reasons to protect ALL whales; among those reasons are: (1) Whales play a very important role in the biodiversity of their environment;	The DEIS evaluates the impacts of each alternative on the marine environment, including pelagic and benthic habitats and species (see Subsection 4.3.3, Evaluation of Alternatives).
579	Comment from Alicia Godreau	(2) Whales are among the most cognitively developed species living in the oceans.	Comments noted.
580	Comment from Alicia Godreau	(3) Protecting them because they are living beings;	Comments noted.
581	Comment from Alicia Godreau	Therefore, tradition and culture must not be a basis for slaughter, more so, when it is not necessary for sustenance. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
582	Comment from Alicia Godreau	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
583	Comment from Alicia Godreau	There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
584	Comment from Alicia Godreau	In conclusion, whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely.	Comments noted.
585	Comment from Anonymous Anonymous	Thank you for the opportunity to comment on the Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales. I would like to urge you to adopt Alternative 1 No Action for the following reasons:1.The Treaty of 1855 states the that the Makah reserve the right to whale and fish in usual and accustomed places in common with all citizens of the United States. The last portion of that sentence tends to be left out of written descriptions regarding this issue, but it is an important one to consider. It implies that the Makah share the same rights as other U.S. citizens when it comes to whaling and the United States is not currently a whaling nation.	The purpose of the DEIS is to analyze potential impacts of alternatives, to inform decision making under the MMPA and the WCA not to explore or resolve legal debates.
586	Comment from Anonymous Anonymous	2. Gray Whales are the focus of an enormous ecotourism industry along the entire coast of North America from Alaska to Baja California. In the breeding lagoons of Mexico, gray whales are known to be friendly and approach boats soliciting interaction with humans. As someone who works in the ecotourism industry in Baja I have frequently heard visitors express their concern about the threat of hunting these whales who have been become so trusting of humans, and that perhaps they shouldn't be taking part in whale watching for that reason. A renewed gray whale hunt could jeopardize the whale watching industry along this migratory corridor, and this should be taken into consideration.	The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching Industry.
587	Comment from Anonymous Anonymous	3. The Pacific Coast Feeding Aggregation (PCFA) of gray whales numbers in the low hundreds and previous research has suggested that it may be a genetically distinct sub-population. Likewise, the Western Pacific gray whale population numbers only approximately 130 individuals and is also thought to be genetically distinct. The taking of a whale from either of these populations could be devastating and is unacceptable. While the status of the Western gray whale has recently been called into question due to new research results, it is imperative that more research be conducted on both of these populations before a hunt is considered or authorized. 4. There is no way to plan timing of a hunt in such a way that will ensure that a whale from either the PCFA or the Western Pacific population will not be harmed. Since we still know so little about the Western gray whale it is impossible to determine which months they might be passing by	Comments noted; hunt observers are a common element under all action alternatives as described in DEIS subsection 2.3.2.2.12 (Other Environmental Protection Measures)

Sort #	Commenter Code	Comment	Response
		Washington State. Likewise, limiting a hunt to the spring and fall months when the PCFA is not likely to be present, will instead target migrating whales, including potentially pregnant females and Western gray whales. The only way to ensure that this doesn't happen is to have an expert gray whale researcher on board the whaling vessel to identify every whale being targeted by the Makah, and that does not seem feasible or likely.	
588	Comment from Anonymous Anonymous	5. The area where the Makah will be hunting also happens to be habitat for endangered Southern Resident killer whales and humpback whales as well as other marine mammal species protected by the Marine Mammal Protection Act. It is unacceptable to allow the use of a high powered rifle in an area that could pose to a threat to any of these animals especially the critically endangered Southern Residents which were just listed as one of the 8 species most likely to go extinct.	Comments noted. Subsection 4.5.2.1.1, "Marine Mammals (Excluding Gray Whales)," discusses the impact of the alternatives on marine mammals, including ESA-listed mammals such as Southern Resident killer whales and humpback whales.
589	Comment from Anonymous Anonymous	6. There is no way to kill a whale quickly and humanely. Even with a high caliber rifle that is meant to decrease time to death, these sentient mammals take several minutes to hours to die and it is most certainly an agonizing, painful and terrifying death.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt
590	Comment from Anonymous Anonymous	7. When the treaty of 1855 was written, whales were thought of as little more than large fish species that were only valuable for human use and consumption. Since then we have learned much more about whales and their intrinsic value, not as a resource but as sentient intelligent animals. Their social structures and communication abilities are still poorly understood but could be very complex. They have large well developed brains and possess the ability to feel pain, loss and grief.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
591	Comment from Anonymous Anonymous	While I am supportive of indigenous peoples trying to regain their culture and sense of community in general, I feel very strongly that it is wrong to knowingly cause a sentient animal pain and terror and to take its life simply for the sake of culture. There is much we still need to learn about every aspect of gray whale life and social structure before we can and should consider the proposal to resume whaling. I understand that you chose not to consider the alternatives brought forth by individuals during the last comment period. But I strongly urge you to reconsider that and to encourage and help the Makah Nation to establish a whale watching business using a traditional whaling canoe. In this way they can revive and teach visitors about the customs and culture of whaling without harming the whales. Thank you for your consideration.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
592	Comment from Barb	Dear NOAA, I am writing in opposition to your granting the Makah a waiver, and a permit to hunt gray whales off the Coast of Washington State. You cannot go	Please see the response to frequent comment # 3 regarding the Makah

Sort #	Commenter Code	Comment	Response
	Schmidt (posted 5/12/15)	around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington, Oregon, California Coastlines on their way to the birthing bays. In 2015 there is no need to kill whales. The Makah Tribe has access to food, clothing and traditional history. Tradition is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	Tribe's desire to revive its whaling tradition.
593	Comment from Barb Schmidt (posted 5/12/15)	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Comments noted.
594	Comment from Barb Schmidt (posted 5/12/15)	If you allow the Makah whalers to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the lively-hood of whale watching companies, and tourism for an outdated tradition that has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon, Washington and California Coastlines.	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. Subsection 4.6.3.2.3, Whale-watching Industry, of the DEIS explains that it is unlikely that gray whales would respond to a Makah tribal hunt by avoiding whale-watching vessels.
595	Comment from Barb Schmidt (posted 5/12/15)	In closing I want to reiterate that I oppose any permit to allow the Makah whalers to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason. It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. Sincerely, Barb Schmidt	Comments noted.
596	Comment from Barb Schmidt (posted 7/20/15)	These are 12 reasons I oppose the killing of the whales by the Makah...1. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.



Sort #	Commenter Code	Comment	Response
597	Comment from Barb Schmidt (posted 7/20/15)	2. The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to Frequent Comment # 8 regarding the Treaty of Neah Bay.
598	Comment from Barb Schmidt (posted 7/20/15)	3. If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
599	Comment from Barb Schmidt (posted 7/20/15)	4. If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
600	Comment from Barb Schmidt (posted 7/20/15)	5. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
601	Comment from Barb Schmidt (posted 7/20/15)	6. The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
602	Comment from Barb Schmidt (posted 7/20/15)	7. There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.

Sort #	Commenter Code	Comment	Response
603	Comment from Barb Schmidt (posted 7/20/15)	8. If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.
604	Comment from Barb Schmidt (posted 7/20/15)	9. The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
605	Comment from Barb Schmidt (posted 7/20/15)	10. Sea Shepherd notes that there are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
606	Comment from Barb Schmidt (posted 7/20/15)	11. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
607	Comment from Barb Schmidt (posted 7/20/15)	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
608	Comment from Barb Schmidt	12. Whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely. I think the picture I attached shows how much they respect	Comments noted.

Sort #	Commenter Code	Comment	Response
	(posted 7/20/15)	the whales. Shameful. How do I keep fighting the slaughter in other countries of whales when my own country might let people do the same thing. I will keep fighting them/us all, but it does not look like USA is any farther ahead than the other whale killing nations. Help us fight all the killing, and let the whales rebound and live.	
609	Comment from Bernice Curtis	please save these grey whales. this is outrageous. The whales must be saved!	Comments noted.
610	Comment from Brenda Robinson	I think it is disgusting that they are thinking of whaling all of a sudden; I am sure it is because they think they can make money like the Japanese do from killing whales. I hope these native respect the whales and do not start killing them. Respect the wishes of your dead elder who said you should respect the whales.	Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.
611	Comment from Calle Skidmore	The whales must be protected. It's that simple!	Comments noted.
612	Comment from Caroline Hobbs	To Whom it May Concern: The Makah people have utilized the seas as a significant aspect of their food and culture for thousands of years. The Treaty of Neah Bay, which was signed in 1855 gave the Makah the legal right to harvest whales in exchange for a portion of their land. It is clear that the Makah people respect the land and are sensitive to the scarcity of whales, they stopped hunting on their own for years. The revival of their tradition of hunting whale to be wholly utilized and treasured by their community has been very healing and an experience that has connected many Makah closely and tangibly back to their heritage. This connection is significant and unobtrusive. It is spiritual in a way that preserves their tribes culture and promotes connection and happiness. It is upsetting to me that the Makah Tribe has been forced to jump through so many loops when their Treaty rights clearly state that they have the right to take whales in exchange for land, land that was seized by the US government over 100 years ago. The Makah people have held up their end of the deal. It is unfair for the US Government to continuously wiggle around their end of this agreement by forcing the tribe to confront and resolve numerous legal obstacles. The scale of	Comments noted.

Sort #	Commenter Code	Comment	Response
		whaling proposed by the Makah tribe is insignificant in the larger context of whaling issues. Commercial whaling is immensely destructive and poses much more of threat to environmental safety and security than the Makah tribes proposed take. The Makah utilize every aspect of a whale in a rare and utterly sustainable way. In fact they hold this animal sacred and respect it and its needs in ways we cannot know. The NMFS should by all means waive the take moratorium of the Marine Mammal Protection Act and allow for treaty right hunting of eastern North Pacific gray whales. And furthermore, the Makah should be exempt from the legal battle that has zeroed in on them in an unjust way. The focus around whale protection should be centered on International commercial whaling issues, where there is more than enough room to add and improve regulations and protect animal rights. Sincerely, Caroline Hobbs	
613	Comment from Catherine Vade Bon Coeur	This is not 1815, it is 2015, and tradition is not a good reason to hunt and kill whales any more than it is a good reason to kill elephants and rhinos for their horns. It is time for all people to stop destroying our planet and it's inhabitants in the name of tradition.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
614	Comment from Cheryl Rorabeck	Dear NMFS, The fact that researchers have recently discovered that the severely endangered Western Gray Whales travel across the Pacific and utilize the area that the Makah claim are their huntings grounds, is enough to warrant the only choice of action as Alternative 1. Aside from the fact that a whale suffers a long and painful death at the hands of man, the Makah, if allowed to hunt, would be at risk of killing a race of whale that is nearly extinct. I encourage you to look at the research, and to consider the vast amount that we still do not know about these whales. Sincerely, Cheryl Rorabeck	Please see the response to frequent comment # 12 regarding risks to WNP whales.
615	Comment from Daniel Tham	Please do not allow the Makah Tribe to hunt whales.	Comments noted.
616	Comment from Denise Foster	Dear NOAA, Today I am writing in opposition to your granting the Makah a waiver and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington and Oregon Coastlines. In 2015 there is no "need" to kill whales. The Makah Tribe has access to food, clothing	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		and traditional history. "Tradition" is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	
617	Comment from Denise Foster	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today (and always, actually!) the goal should be to protect and celebrate their existence not harm.	Comments noted.
618	Comment from Denise Foster	If you allow the Makah to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the livelihood of whale watching companies, and tourism for an outdated tradition has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon and Washington Coastlines.	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. Subsection 4.6.3.2.3, Whale-watching Industry, of the DEIS explains that it is unlikely that gray whales would respond to a Makah tribal hunt by avoiding whale-watching vessels.
619	Comment from Denise Foster	In closing I want to reiterate that I oppose any permit to allow the Makah to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason. It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. Sincerely & Respectfully, Denise Foster	Comments noted.
620	Comment from Diana Marmorstein	It is possible to preserve a culture and a people without retaining its every tradition. Many cultures have had traditions that today are considered unethical, unjustifiable, or cruel. One example is the Mayan tradition of human sacrifice. Another anachronistic tradition that is also cruel and ecologically reckless is the killing of gray whales by the Makah.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
621	Comment from Diana Marmorstein	The Makah have not even maintained this tradition for nearly a century, so it is clear that they will not starve without whale meat.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
622	Comment from Diana Marmorstein	On the contrary, with all the persistent pollutants that marine mammals have absorbed in their bodies, the Makah would jeopardize their health by eating whale flesh.	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.
623	Comment from Diana	Some members of the Makah seek to kill whales again not for subsistence reasons; but only to revive this old tradition that has no place in modern society. There are many other elements of Makah tradition and society which can be	Please see the response to frequent comment # 3 regarding the Makah

Sort #	Commenter Code	Comment	Response
	Marmorstein	maintained without any controversy: language, architecture, crafts, boat building, etc. NOAA must put the welfare and survival of the gray whales ahead of an unnecessary, outdated tradition of a few people.	Tribe's desire to revive its whaling tradition.
624	Comment from Diane Loveless	Please dont let the Makah Tribes start hunting the grey whales ....they are still recovering their numbers ans its a tradition of these tribes that should belong in the past along with other outdated and unnecessary traditions and cultures that do not belong in our modern world , Humans are now educated and do not live in the stone age,	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
625	Comment from Diane Loveless	they do not need whale meat to live on, this is the thing of the past before they were modernised into western ways, they have other things they can eat that can provide enough protein to survive.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
626	Comment from Diane Loveless	To allow this to re start again is going against the World views and will only stir up hatred for these people let them join in with this new age and rejoice of the wonder and beauty of the whales, if its for money which I guess it is then whale watching is the way to go, perhaps help them get started in tourism along their shores thats where the money is and that is really what they want.... they are now modernised and their culture is long gone let the whales live in peace...Diane Loveless	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
627	Comment from Eva Kronen	To Whom it May Concern, I would like to comment against allowing the Makah Tribe to resume killing Grey Whales off the coast of Washington. I have been fortunate enough to visit the birthing grounds of these whales and have experienced the phenomenon of some of the whales coming up to the boat I was in and appearing quite curious about us and seemingly wanting to have contact. These whales exhibit an intelligence that can be compared to humans. These whales would be hunted.	Comments noted.
628	Comment from Eva Kronen	Whales, all whales, still risk an uncertain future: global warming, acidification of the oceans, human pollution, all take their toll. The recent oil spill is Santa Barbara Ca. is an example of the constant threats to these creatures.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
629	Comment from Eva Kronen	I respect the Makah's wish to resume their ancient tradition. However, cultures in order to continue to thrive need to be responsive to changing times.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
630	Comment from Eva Kronen	Although these whales may be off the threatened list, they are still threatened and there is no way to know which Gray whale is going to be harpooned and tortured until it dies.	NMFS has concluded that ENP gray whales no longer warrant designation as a threatened species under the ESA. There is a low likelihood (0.02%) of lethal take an ESA-listed WNP gray whale.
631	Comment from Eva Kronen	I believe that your organization can support the Makah to become stewards of these majestic creatures, teach their history and share it with the world. They can start whale watching businesses instead of killing them. They can be the stewards, not the slaughterer. Thank you for your consideration of my comment, Eva Kronen	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
632	Comment from Gayle Geren	Please do not allow this tribe to hunt Eastern North Pacific Gray Whales! The whales now trust humans, and tourism to see them is flourishing. It would be a travesty to turn on the whales now and allow them to be killed. There is no valid reason to allow them to be hunted, and every reason to protect them.	Comments noted.
633	Comment from James Duff	I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt as (1) the Makah do not have a nutritional and subsistence need for whales,	The introductory comments in # 632 through 635 are noted; specific responses are provided below.
634	Comment from James Duff	(2) the hunt could further imperil both the resident and Western North Pacific gray whale populations,	
635	Comment from James Duff	(3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and	
636	Comment from James Duff	(4) the proposed hunt is inherently cruel. Consequently, I support Alternative 1, the no-action alternative.	
637	Comment from James Duff	I am also very opposed to this hunt because I believe in allowing animals to live on the planet they share with humans. It is my belief that no one knows how many whales existed before the whaling industry began exterminating to the point of extinction concerns. The worlds populations of whales has not ever recovered from 250 years of hunting them down in every ocean on Earth. Before man started killing animals with high-powered weapons there was a balance of nature on Earth, not this constant slaughtering we have been performing to the point of complete extinction of many species. Man's hunting of whales in these modern times makes no sense and shows nothing but total disregard and	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.

Sort #	Commenter Code	Comment	Response
		contempt for nature. I am protesting the Makah whale hunting on principles of compassion for animal life on Earth and to show our children respect for animal life. Scientific analysis should incorporate factual data that shows a tangible value for Mercy, Compassion and Respect for Whales as living beings. I have an article link below that supports science value of Compassion and how it relates to the positive well being of human behavior. I have also included for review the 1980 United Nations World Charter For Nature below.	
638	Comment from James Duff	The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
639	Comment from James Duff	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
640	Comment from James Duff	NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	The DEIS provides a detailed analysis of impacts on gray whales and other species. Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
641	Comment from James Duff	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the



Sort #	Commenter Code	Comment	Response
		noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these threats were adequately evaluated in the DEIS.	ENP gray whale population in the face of climate change and other threats.
642	Comment from James Duff	I believe the proposed hunt is inherently cruel, dangerous and unnessesarily shows others it is okay to harm injure and kill whales in modern civilized society. I disagree and think we should be world leaders in saving whales populations. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale.	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt, # 3 regarding the Makah Tribe's to revive its whaling tradition, and 4 regarding the precedential effect of waiver internationally and domestically.
643	Comment from James Duff	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
644	Comment from James Duff	We have enough food and do not ever need to eat whale products. Thank you for considering my views. Sincerely, James Duff 22498 Yerba Santa Rd Sonora, CA 95370-8251 Compassion Article: <a href="http://www.psychologicalscience.org/index.php/publications/observer/2013/may-june-13/the-compassionate-mind.html">http://www.psychologicalscience.org/index.php/publications/observer/2013/may-june-13/the-compassionate-mind.html</a> The United Nations 1980 World Charter For Nature; <a href="http://www.un.org/documents/ga/res/37/a37r007.htm">http://www.un.org/documents/ga/res/37/a37r007.htm</a> Undersea Phosphorus mining in whales nursery grounds; <a href="http://www.bajainsider.com/environment/underwatermining.html#.VaQXn0V40fn">http://www.bajainsider.com/environment/underwatermining.html#.VaQXn0V40fn</a>	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
645	Comment from jean public	the makah tribe needs to stop killing whales. what existed in this world in 1700 or some such previous time does not mean it can continue in 2012. we live in a world where such species are under extreme stress. they are killed by ships, by commercial fish profiteers who say they eat fish so they want them dead, etc. its time to stop the killing of whales by everybody in america. everybod. the makah tribe needs to move into 2012. the whales are gone for everybody. nobody should be killing them any more.	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
646	Comment from Kathy Carr	I am in opposition to the waiver of the marine mammal protection act for Makah whalers. Please do not pass this waiver. I just visited these same gray whales in Baja, CA, where the gray whale mothers were bringing their babies to the boats for people to touch and kiss. After whalers hunted these magnificent and	Comments noted.

Sort #	Commenter Code	Comment	Response
		intelligent creatures to near extinction, the whales are regaining trust in humans again. There is no reason to permit whaling in this day and age. We have done enough damage to these whales.Kathy	
647	Comment from Kirsten Massebeau	Dear NOAA, I am writing in opposition to your granting the Makah a waiver and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington, Oregon and California Coastlines. In 2015 there is no "need" to kill whales. The Makah Tribe has access to food, clothing and traditional history. "Tradition" is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state. Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
648	Comment from Kirsten Massebeau	If you allow the Makah to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the livelihood of whale watching companies, and tourism for an outdated tradition has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon, Washington and California Coastlines.	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. Subsection 4.6.3.2.3, Whale-watching Industry, of the DEIS explains that it is unlikely that gray whales would respond to a Makah tribal hunt by avoiding whale-watching vessels.
649	Comment from Kirsten Massebeau	In closing I want to reiterate that I oppose any permit to allow the Makah to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale who have come to trust us, and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason protection from harm! It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. Sincerely, Kirsten Massebeau	Comments noted.
650	Comment from Larry Heady	An honorable nation keeps its promises -- and that includes promises made to Indian Nations many years ago; promises made to secure the Euro-American land to settle on, to build on, to raise families and crops on. These promises were made both individually and collectively to Indian Tribes and their descendants for all time. They cannot be set aside for convenience or to assuage the conscience of the elect few. These treaties are not some old, antiquated documents relegated to history. They are living documents, as real as the deed to your	Comments noted.

Sort #	Commenter Code	Comment	Response
		house. In exchange for millions upon millions of acres of Indian lands and waters in North America, promises were made in treaties that must be honored so long as the United States and Indian Tribes exist here in North America. These treaties and the promises contained therein are payment on the mortgage of North America. There should be no further discussion about whether it is right or wrong to allow the Makah Nation the right to its own marine fisheries. These rights are inherent. These fisheries were not given to the Makah--they were retained by the Makah as their own, derived only from the Creator. These treaties stand as contracts that in exchange for Indian land, the marine fisheries would remain their own as they were from the beginning of time. There should be absolutely no interference with the Makah Nation's intent and ability to manage its own whaling. No agencies other than those of the Makah's own making should manage the harvest of Makah resources. Again, AN HONORABLE NATION KEEPS ITS PROMISES. Do not violate the terms of the Makah Treaty of 1855.	
651	Comment from Lisa Andrews	No whale hunting, ever, by anyone, period.	Comments noted.
652	Comment from Magnus Petersson	As a supporter of native rights I support this wholeheartedly. The Makah people has hunted and eaten whales for thousands of years and the whales are not endangered, so let them do it.	Comments noted.
653	Comment from Maris Sidenstecker	To Whom It May Concern: The Makah Tribe has no standing to ask for an exception to whale. First of all, it will not help the Indian tribe, they can find other and better ways of finding their way.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
654	Comment from Maris Sidenstecker	By machine gunning a whale who is friendly to the tribe the trust is broken and cannot be replaced. The gray whales have accepted humans and it is our duty to accept them. Can you imagine the shock a whale would feel to be peacefully swimming only to be hunted and killed. This is what they did previously and want to do again. It is not acceptable on any terms and the Makah have not shown any remorse over the unlawful killing of a gray whale. The killing of one whale, let alone five, must be denied. Maris Sidenstecker 478 Argos Circle Watsonville, CA 96076	Comments noted. The DEIS describes the NMFS investigation of the illegal hunt (see Subsection 1.4.2, Summary of Recent Makah Whaling--1998 through 2014). The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's

Sort #	Commenter Code	Comment	Response
			evaluation of the seriousness of their conduct.
655	Comment from Michael Ives	Dear Mr. Stelle,I am sending my disapproval of any change in status quo as it relates to the taking of north Pacific gray whales by the Makah tribe as being considered within the "Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales." My primary concern is the inability to satisfy the most basic of animal welfare requirements and regulations. The Humane Methods of Slaughter Act 7 U.S.C. 1901 requires all meat producers to render all farm animals insensible to pain prior to slaughter. There is simply no way that the killing of a large whale can consistently meet this most basic tenet of humane slaughtering. In fact, it would be a rarity that the gray whales killed in this proposed hunt would be killed in such a way that basic animal welfare requirements would be met. It is true that whales are wild animals and are not farm animals. However the intent of 7 U.S.C 1901 is to reduce animal suffering and your adoption of any alternative that results in whales (far more sentient and intelligent than farm animals) being needlessly slaughtered in a very inhumane way is both immoral and inconsistent with general animal welfare regulations.	Please see the response to frequent comment # 1 regarding humaneness of a whale hunt.
656	Comment from Michael Ives	It is also true that the Makah tribe has not demonstrated any genuine nutritional need to hunt and kill the gray whale.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
657	Comment from Michael Ives	A suitable alternative not explored by the U.S. government is the alternative of whale hunt re-enactment which would still provide a cultural experience to the tribe but would not result in the needless suffering of sentient animals nor risk the inadvertent killing of endangered west Pacific gray whales.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
658	Comment from Michael Ives	I am also deeply concerned of the precedent setting implications of accepting any of the action alternatives. At a time that the world is trying desperately to reign in rogue whaling countries like Japan, Norway and Iceland, you would inadvertently be sending the wrong message that whale hunting in the 21st century is a totally acceptable path forward. It is with a heavy heart that I see the Makah tribe lacks any vision or concern on this very point.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
659	Comment from Michael Ives	For these reasons I implore you to reject all action alternatives and to accept Alternative 1 as the only logical alternative in light of the issues I have raised.Regards, Michael Ives	Comments noted.
660	Comment from	This comment is in regards the proposed gray whale hunt. This tribe has needed this for years for survival. With world whale populations being low on every great whale species.	Comments noted.

Sort #	Commenter Code	Comment	Response
	Michael Vanderhorst		
661	Comment from Michael Vanderhorst	It is not right or Humane to let this tribe start a hunt once again. What message would be sending around the world if this is allowed. Please do what is right for the fellow Earthlings and respectfully deny this request.	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
662	Comment from Michele Jankelow	Please do not permit the application to go through for the Makah Tribe to hunt whales. This is opportunistic and tragic.	Comments noted.
663	Comment from Michelle Hayward	I am totally against the resuming of hunting grey whales by the Makah Tribe. Whilst the whale population may have recovered, this does not justify the killing of these magnificent animal for traditional reasons. Tradition is an excuse used by many nations; from Japan to Spain; to kill animals in barbaric ways for an unnecessary cause.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
664	Comment from Michelle Hayward	Whilst I am sure the Makah Tribe would use every scrap of the animal, they have managed for many years to survive without participating in such a brutal harvest. One look at the faroe Islands whale hunt shows the long drawn out deaths involved in such hunts. This should not be resumed under any circumstances.	Please see the responses to frequent comments # 1 regarding the humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
665	Comment from Mollie Baldwin	Dear NOAA, I am writing in opposition to your granting the Makah a waiver, and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington, Oregon, California Coastlines on their way to the birthing bays. Please do not allow this hunt to occur. I appreciate your attention. Mollie Baldwin	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
666	Comment from Nicholas Schomburg	I oppose the Makah Tribe's request to hunt Eastern North Pacific gray whales. Although the species has recovered well it still faces many threats such as entanglements, ship strikes and predation by orcas. Grey whales are also a valuable resource for whale watching.	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
667	Comment from Nicholas Schomburg	In addition allowing any whaling practice in the United States would be contradictory to its own policies. No whaling should be allowed at all within the United States or its territories. Other countries observe the actions of the United	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
		States and allowance of whaling would make policies seem weak and make it appear that whaling is okay.	
668	Comment from Nicholas Schomburg	This tribe has gone many years without the need to kill grey whales and has shown it can continue without using grey whales. The tribe has plenty of alternate food sources and killing grey whales would not significantly benefit their culture. Just because something is called culture it doesn't mean its okay or should be done. DENY the proposal to allow hunting of grey whales by the Makah tribe.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
669	Comment from Patrick Fowler	I am opposed to the Makah tribe's request because I feel that the eastern north pacific gray whales are very valuable and intelligent living creatures. They should no longer be killed by the Makah tribe.	Comments noted.
670	Comment from Patrick Fowler	I believe that the tribe can find better ways to sustain themselves that do not involve killing these highly intelligent animals.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
671	Comment from R Goodfellow	I am opposed to resumed whaling by the Makah Tribe for several reasons. First of all, the tribe fails to demonstrate a subsistence or nutritional need for whaling or whale products. Therefore, they do not qualify for an aboriginal subsistence whaling quota from the International Whaling Commission and should not be granted permission for this hunt by the United States government.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
672	Comment from R Goodfellow	The proposed hunt could potentially harm two populations of gray whales: the resident Pacific Coast Feeding Aggregation and the Western North Pacific, which number only 209 and 140 animals, respectively.	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
673	Comment from R Goodfellow	While the main Eastern North Pacific gray whale population is much larger (nearly 21,000 animals), they and their habitat are subject to threats like climate change, contaminants, ocean noise, ship strikes, and net entanglement throughout their summering, wintering, and incredibly long migratory range and shouldn't be subject to a new threat posed by a hunt.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
674	Comment from R Goodfellow	Whaling is inherently cruel. In this case, given the inexperience of Makah whalers using harpoons or 50 mm shells, there is even less chance that any whale will be quickly or humanely killed.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
675	Comment from R Goodfellow	Allowing the Makah to resume whaling will effectively establish a new form of Aboriginal Subsistence Whaling with significant precedential impact to gray and other species of whales if other US Native American tribes or other aboriginal groups around the globe express interests in whaling.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
676	Comment from R Goodfellow	The Makahs cultural need to whale is questionable since there is no evidence that a single whale needs to be killed in order for the Makah to continue to celebrate its historical connection to whales and whaling. Aboriginal people around the world continue to honor their past traditions without actually engaging in the practices which may no longer be socially acceptable, legal, or culturally appropriate. The Makah is a modern tribe by all appearances.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.
677	Comment from R Goodfellow	I do favor a nonlethal use alternative such as the development of Makah-operated whale-watching tours would allow the Makah to humanely reconnect to the gray whale, bring revenue to the tribe, educate visitors about whales and marine conservation, and introduce visitors to the culture and traditions of the Makah Tribe. The Makah Tribes historic use of whales and the significance of whales to the tribes culture is important and should be acknowledged, but times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah Tribes relationship with gray whales should change to one of humane, nonlethal use.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's cultural and subsistence need for whale products and # 9 regarding non-lethal alternatives.
678	Comment from Roel Neijboer	Acknowledgments: For millions of years there have been living creatures on this Planet Earth, evolved out of the Oceans her hart and her veins. The twoleggeds, all fourleggeds, creatures of the waters, those that fly in the air, and those that crawl: I call you friends....."Everything as it moves, now and then, here and there makes stops. The bird as it flies stops in one place to make its nest, and in another to rest in its flights. A man when he goes forth stops when he wills. So the god has stopped. The sun which is so bright and beautiful, is one place where the god has stopped. The moon, the stars, the winds he has been with. The trees, the animals, are all where he has stopped, and the Indian thinks of these places and sends his prayers there to reach the place where the god has stopped and win help and a blessing", those are words from an old Lakota Wiseman (1890) and I thank him for them.Born shortly after World War-Two, April 18,1948, in the lands of the rivers in Holland, where the ebb- and flood tides of the sea still had their influences, I just had to reach out and nature was there. I made my first friends. To live on this planet is a mere blink of an eye in relation of the timescale but I'm grateful. If I were to list all who and what I would like to acknowledge it would be another book and I would regret overlooking or forgetting someone. For this reason I only mention my lovely daughter Tanja and my fine son Olivier, who from their birth have provided the inspiration of my life.My relatives and friends, please accept my love and gratitude for being a part of my life. April 18, 1998 roel neijboer.	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>Preface: Going into the 21st century means to witness the last battle. The last battle in the war to conquer our mother Earth, which started in the 13th century. Nowadays there are excellent earth warriors against those forces which are responsible for the unprecedented genocide, ecocide and biocide. Captain Paul Watson, founder and president of Sea Shepherd Conservation Society, an all-volunteer society, is the most determined, most active and most effective defender of our Oceans and biodiversity. A pre-eminently Noble Man, he personifies nobility : a man able to resign his titles, his possessions and his rights, but never his duties, in the past 25 years of his life. His and our opponents are the pro-whaling forces, who managed to imprison him in Holland on false charges in 1997, Norway and Japan, in their battle to overturn the 11-year-old moratorium on commercial whaling, exploiting the base of our existence: the bio-mass in the Oceans. Ruining this bio-mass means ending 70% of the oxygen production. It means the end of Planet Earth. Worldwide there are 40,000 all-volunteer warriors under the flag of Sea Shepherd who are taking action. Worldwide there are millions who sympathize. Worldwide there are billions of people who are able and ready to join us. This essay is meant to be a contribution ; to our children and grand-grand children to let them know that it was a battle through the years in history. For me personally it is a response : I won't let it slide : J'accuse. Freedom is the right to be wrong, not to do wrong: In ancient times European people slowly came to act like an opportunistic virus: conquering, ruining, plowing up and pulling down, slaughtering anyone and everything. They had only one goal: to become a monoculture of one human species, or so it seems. Whatever this human species takes with one hand, he throws away with the other; eager to take the next mouthful. They became very successful changing their faces, their clothes and vocabulary as well. Their actions still are the same: in the name of freedom they do wrong! Biological Meltdown: "Gone forever are the European elephant, lion and tiger. The Labrador duck, giant auk, Carolina parakeet will never again grace this planet. Lost for all time are the Atlantic grey whales, the Biscayan right whales and the Stellar sea cow. Our children will never look upon the California condor in the wild or watch the Palos Verde blue butterfly dart from flower to flower. Each year, more than 20,000 unique species disappear from this planet forever. This represents more than two species per hour. More plant and animal species will go through extinction within our generation than have been lost thorough natural causes over the past two hundred million years. Our single human generation, that is, all people born between 1930 and 2010 will witness the complete obliteration of one third to</p>	



Sort #	Commenter Code	Comment	Response
		<p>one half of all the Earth's life forms, each and every one of them the product of more than two billion years of evolution. This is a biological meltdown, and what it really means is the end to vertebrate evaluation on planet Earth". (Sea Shepherd's Captain Paul Watson, essay 1995.)</p> <p>One-fourth of the world's species of Mammals are threatened with extinction and half of that number may be gone in a decade. (Report IUNC World Conservation Union, October 4th, 1996).Individual humans are for the most part insulated from the reality of species loss. Alienated from the natural world, wrapped in a cocoon of material pleasures, guided by anthropocentric attitudes, the average human being is unaware and non-caring about the biological holocaust that is transpiring each and every day. (Paul Watson, "The Politics of Extinction", essay, 1995.)</p> <p>Native Indian views: 1) A long time ago humans were vegetarians but once there was some point they had to take the life of a certain animal for food. After eating the humans started getting illnesses such as deer sickness and fish sickness.A council got together with all fourleggeds, creatures of the waters, and those that fly in the air. The natives gave them offerings and told them,"My relatives, we have great need for you in order to live.When we hunt, we'll try to kill you quickly so that you will not suffer. In time, our bodies will lie down inside this Mother Earth and something will grow there so that our animal relatives can sustain their own lives. A cycle will be formed, an exchange, for the continuation of all lives".....Children were not allowed to hunt until they became skilled with their weapons. They were taught the anatomical structure of each animal and exactly where to hit so it would die quickly and not suffer more than it had to. Offerings were made to honour the animal. Certain parts were buried at the base of a tree.So everything was based on generosity and respect. (lit.: The Wind is my Mother, Molly Larkin, Clarkson Potters, New York, 3/96, pp 21-23.)2) When we Indians kill meat, we eat it all up.When we dig roots we make little holes. When we built houses, we make little holes. When we burn grass for grasshoppers, we don't ruin things. We only use dead wood. But the White people plow up the ground, pull down trees, kill everything. (The old Wintu woman from Dorothy Lee, Freedom and Culture, Prenticr hall, Englewood Cliffs, 1959, pp. 163-164.)3) I can remember when the bison were so many that they could not be counted, but more and more Wasichus came to kill them until there were only heaps of bones scattered where they used to be. The Wasichus (White men) did not kill them to eat; they killed them for metal that makes them crazy, and they took only the hides to sell. Sometimes they did not even take the hides, only the tongues; and I have heard that fire-boats came down the Missouri River</p>	

Sort #	Commenter Code	Comment	Response
		<p>loaded with dried bison tongues. You can see that the men who did this were crazy. Sometimes they did not even take the tongues; they just killed and killed because they liked to do that. When we hunted bison, we killed only what we needed. (Black Elk Speaks, pp. 8, 9, 62, 217.). (note: Hehaka Sapa, or Black Elk, the great Sioux chief, over sixty and nearly blind, reflects upon the invasion, between 1863 and 1890 and sadly recounts the treatment of the buffalo).( T.C.McLuhan.)In only two years, between 1872 and 1874, the White invaders killed about 3.000.000 buffalos (3 millions). Ten years later the southern population was extincted and only 1000 bisons, from which two-third in Canada, were left.(Prariewolf en Raaf, Time-Life, Duncan Baird Publicers, p 10, 1997)4) Curly Chief, a Pawnee, relates one of the early contacts between his people and the Europeans, between 1800-1820: The Chief said, "Will not my arrow kill? I do not need your guns",.....(George Bird Grinnell, Pawnee Hero Stories and Folk Tales, Forest and Stream Publishing Company, New York, 1889. New Edition: University of Nebraska Press, Lincoln, 1961, pp. 268-269.)5) "Yes - we know that when you come, we die."(Chiparorai, an old Yuma Indian, The Indian's Book, p. 569.)6)"The great sea has send me a drift. It moves me as the weed in a great river. Earth and the great weather move me; have carried me away. And move my inward parts with joy."( Uvavnuk, an Eskimo woman shaman, Knud Ramussen, Intellectual Culture of the Iglulik Eskimos, Report of the fifth Thule expedition, 1921-1924, vol. 7, nos. 1-3, Copenhagen, 1930, pp. 122-123)7)"We, the saami, have lived in our land - Sápmi - for thousands of years. In order to survive the artic climate we have made use of the gifts of nature; the reindeer has given us food and clothing, the birch has given us wood for our fire and material for our skis. We have always seen the unity of man and nature as obvious. How could we even think about conquering mother earth - our source of life?" (Talma Tourism, formed by the Talma saami village, Kattuvuoma, S-981 29 Kiruna 1996.)8)The Amazon - rain forrest - native tribe "The Invisibles" called the white invaders "The Ant People", because they were so many and became more and more and ruined everything.....About "deer sickness and fish sickness":Nowadays the bio-industry has nothing to do with generosity and respect for the animal. The exploitation of animals is unprecedented. When Japanese people want the spawn of a herring, tons and tons are slaughtered to take the spawn out and the herrings are buried under a 10 cm. layer of earth in Canada: the male-herrings intact and the females mutilated. Just thrown away, nothing more.When you visit one of the many "Seafood Companies"on the coasts of the Gulf of Mexico you see the results of the kill and harvest of "scallop"</p>	

Sort #	Commenter Code	Comment	Response
		<p>shells: two thirds of the bio-mass, dead animals, ends on the rubbish-dump. (St. Joe Bay, march 16, De Zee, Unieboek b.v., Houten, The Netherlands, 1990. p.96) On the port of Arecife, on the Isle of Lanzarote, we may learn that the catch of sardines before the African coast ends in a slimy, bloody, dripping transport of fish-pulp containing eyes, tails, inward parts and scales which are within 24 hours transformed in fish-meal. The loss of nutrients is 90%. (de Zee, 1990, pp 25-26.) Animals are fed with recycled animals. No wonder that diseases come from animal upon humans: BSE disease from cows out of England did cost the lives of humans and millions of cows were slaughtered in revenge. In the Netherlands millions of pigs were destroyed due to "pigs-pestilence" and in Hong Kong millions of chickens were slaughtered because the poor animals transmitted a virus to humans. And this just happened in the year 1997! So an animal can infect humans, but after that the virus can't be transmitted from one person to another. However it only takes one mutation and billions of people will die. Pollution of our Oceans also plays a role. After hunting the most intelligent (fellow) creatures of this planet, the whales, to the edge of extinction, Norwegians and Japanese still want to eat them. PCB and DDT will get them in the end however. It's a boomerang. The Minamata disease, caused by eating mercury-poisoned fish, occurred between 1956 and 1970 from Minamata to the North of Japan. Innocent people have always paid the price: tremors, barking like dogs, eye-sight became concentric, not being able to speak and motoric disturbance. Babies were infected through the placenta. Even cats had the same symptoms after eating the fish. Their suffering however did end with the "Cat-Kamikaze": they jumped in the sea and drowned. (The drama of the oceans, Harry N. Abrams, Incorporated, New York, 1975, Dutch translation 1996, p. 217.) Right now, Norway wants to export up to 100 tons of mercury contaminated Whale blubber for human consumption. A gigantic environmental bomb, packed full of the poison PCB, with levels measured between 5 and 15 parts per million. ("Letter to Hillary Clinton", Lisa Distefano, International Director SSCS, March 3, 1998, p.2.) 1998-2004: SARS has been the reason for slaughtering millions of chickens if not billions. The pig pestilence did cost the lives again from millions of pigs. And the bird pestilence gave reason for killing millions of birds, chickens, turkeys, geese etc, etc. It is the only Human answer. There were bureaucrats saying the best thing to do should be killing off all migration birds. About "a cycle will be formed": When the salmon (salmonids) are going to their breeding grounds, high up the rivers, a cycle will be formed: Out of the sea where they have to endure pollution and the overkill by humans, they come to the</p>	

Sort #	Commenter Code	Comment	Response
		<p>mounding of a river. The first natural predator they have to overcome are the sea lions and seals (pennies). On the way up the grizzly bears are waiting and at last they have to swim for their lives from the fishing eagles. After that they come in quiet waters to lay their eggs and to die. It is all a matter of survival of the fittest. Sick or wounded salmonids are taken out; the best will breed. The young grizzly have to practice and gain weight to overcome the winter and the weakened fall out. The same for the eagles. A common (human) question is: "Why don't the predators catch their fish at the place where they die? Calm waters, just taking them out?". The answer is simple: the cycle of survival of the fittest would be broken not only for the salmonids, but also the pinnipeds and grizzlies and eagles as well. The quality of food would be less, because a salmon with eggs gives far more than one without. But the main reason is that by giving their lives the rotten bodies of the salmonids attracts insects to feed their descendants: A cycle is completed. The United States National Marine Fisheries Service (what's in a name?), facing a decrease in the number of salmonids, (available for consumption of course), are planning to reduce the number of sea lions and harbor seals in Washington state. (Michael Kundu, Sea Shepherd Pacific Northwest Coordinator reports 26 June 1997.) In 1998 Newfoundland Fisheries Minister John Efford desires to kill several millions of Canada's harp seals in order to preserve commercial fish stocks. That is exactly what not is meant by "a cycle will be formed" between humans and the creatures of the waters. Pollution and the overkill have to be stopped. About our Oceans: In the sea there is a treasure bigger and richer than all the ships that have sunk to the bottom with gold, silver and what ever. It is a world on its own. Able to produce 70% of the oxygen we need, able to absorb the CO2. The treasure is called plankton. Without the oceans there is no life possible. The enormous biodiversity is almost beyond our capacity to comprehend. (The Sea, Rob Bijnsdorp, United Nautical Publishers, Basel 1990 pp 25 -33) We, the homo sapiens sapiens, evolved out of the sea and before being born we live in the placenta's fluids of our mother, which are exactly the same as the sea. We make a great mistake to think that evolution goes as far as human beings. Speaking about intelligence, we want to place ourselves at the hundred percent rate under the almighty God. (dogs 15%, a monkey 35% and we 100%). In our Oceans, however, the whales are estimated to be on an intelligence level from 200-2000%, having the biggest brains on earth (9 kg. for a sperm whale). Instead of two brain-lobes they have four. Able to sonar communicate from the north to the South Pole, probably able to visualize images from one to another and even able to speak the human language (dolphins can). Those fellow</p>	

Sort #	Commenter Code	Comment	Response
		<p>creatures became endangered because they were hunted so heavily that the populations were severely reduced and some of them were extinct forever. During the 19th century, whales were primarily hunted for oil and baleen. Before the advent of electricity, many American homes were lighted with whale oil. As recently as twenty years ago, products from whales were used for everything from machine oil to women's cosmetics. Because of the passage of the Marine Mammal Protection Act in 1972, it became illegal to import products containing materials from whales.(Office of Protected Resources Cetaceans, January 15, 1995.)Norway and Japan still are determined to drive the whales to extinction. Japan probably is the best example for what a virus can do. They are on the top of the hill in copying bad behaviour, as well as cars, computers chips etc. Able to use high-tech in order to mark the last whale and scientifically use the biggest animal on earth to explore and kill off one of the smallest: the krill. In 1990 they already did harvest 600 000 - 800 000 tons a year. (De Zee, 1990, pp. 100-101.) Like a virus, they are opportunistic and eat on both sides of the food-chain, drift-netting the middle part completely out. So far this is nothing new, except that they disregard the fact that a virus needs a host. Without our Oceans there will be none left.This Kamikaze behaviour has to be stopped .Pollution: A Dutch Government report (1987): Use of the North Sea: each year: 420 000 ship-movements 3 000 000 000 kg. fish-catch 165 000 000 tons oil production 85 000 million m3 gas By 160 drill-platforms and 8000 km. pipe-lines The North Sea as a dumping place for chemical waste Dumping total 67 million tons each year: In which heavy metals: zinc: 12 000 tons copper: 3100 tons nickel: 3 000 tons lead: 2 500 tons chrome:1 700 tons arsenic: 99 tons mercury: 68 tonsThe rest contains hundreds of non-specified chemicals.This measuring was done in 1985. Independent researches estimate the dumping is 1,5 to 3 times higher.( The Sea, Rob Bijnsdorp, 1990.)In the last months of 1997 16 Sperm whales landed on the beaches of Holland and Denmark. Only one survived.No one seems to know why -About pollution and Asian aphrodisiacs: Nowadays, after the 17th- and 18th-century premature exhaustion, the Artic continent and the Artic ecosystem are severely threatened by human chemical pollution. Especially the polychloricbiphenyls (PCBs) are dangerous. The atmosphere transports big amounts to the North Polar area which results in contamination of the Oceans and accumulation in the plankton. This bio-mass passes the PCBs on from ocean to animals resulting in an even bigger accumulation in the top of the food-chain. PCBs and other toxic agents accumulate in the fat-tissues of humans and animals. Species from the Polar area show big fluctuations in their fat-reserves. In times of</p>	

Sort #	Commenter Code	Comment	Response
		<p>shortages those fat-reserves are used and the accumulated toxic agents come in big amounts in the bloodstream. Toxic agents in the body may produce biologic effects in their original form or after to be transferred in other products (metabolics). The cyto-chromium-P450 enzymesystem (CYP), which exists out of tens specialized enzymes, is responsible for the metabolism from intrinsic- and extrinsic chemicals in the body. They change the PCBs mostly in even more toxic metabolics due to a very active CYP which is present in mammals as the seals. The enzyme composition from the CYP is very different in every species and so is the PCB-metabolism different in any creature. However it results in disorders of the female genital organs, the immune-system, the vitamin- and hormone management. Researches in laboratory on animals (another killing field) confirm this. Uterus occlusions are a sample of what pollution can do: From the two upper horns of the uterus one or both become blocked by a membrane. Sometimes there are tumours around the uterine tubes. Professor Helle from the Finlands Institute of Fisheries estimates that less than one-third of the adult female population of seals is still able to give birth anymore in the Baltic Sea. A recent investigation in Ny Alesund in Spitsbergen showed uterus occlusions in two out of thirty young seals. This is very uncommon as the pollution in Spitsbergen is not as much as in the Baltic Sea and the seals were young instead of adult. The effects of PCBs are not reserved for animals. Eskimo's have ten-times higher PCBs concentrations than non sea-mammals eating groups. Big amounts of PCBs are passed by to mother-milk drinking children, which explain their much higher infection incidence. The PCBs concentrations in Canada are not as high as in the Polar region, still the reproduction in polar bears is decreasing. Probably this has to do with their ability to metabolise most PCBs. (PCBs in the Polar Area, Hans Wolters, Arts en Auto, annual 64, March 1998, the Netherlands, pp. 25 -28.).Recently in Belgium there was found a high-incidence in young human female genital organ disorders which seems to be similar and also pollution related. As 50% of the produced PCBs are still in use we may expect higher PCBs concentrations in the future instead of less.It is believed that Canadians killed 500.000 seals in1997 and in 1998. The strongest case which can be made for the 500.000 figure was in 1996. This was when a DFO inspector leaked out that seal boats were bringing back all male pelts, with penises attached, though equal numbers of male and female seals were being killed. (SSCS, Andrew Christie, 1998).With a fleet of helicopters, two Canadian Coast Guard icebreakers and an army of Royal Mounted Police they tried to protect the 1998 holocaust of slaughtering innocent seals in the Gulf of St. Laurence. The</p>	

Sort #	Commenter Code	Comment	Response
		<p>primary economic incentive for the sealers is the demand in Asian markets for seal penises, used in "aphrodisiacs". From a medical standpoint this is absurd, now it is obvious that PCBs are responsible for severe disorders in the genital organs in mammals and humans as well. The Future will tell if this Asian aphrodisiac is a birth rate reducing agent .The Oceans are talking back: Poisoned marine wildlife is now teaching us, again and again, what had to be learned earlier. Sickened and dying animals have long been harbingers of the effects of toxics in the environment.At the time of the Minamata poisonings science held that the womb was a protected environment capable of screening out harmful substances. But in Japan, many women who ate contaminated fish without becoming obviously ill, gave birth to children with severe retardation and physical deformities. It all happened in the early 1950s.In the 1970s scientists did discover widespread mercury contamination throughout the Upper Midwest and in the fishing grounds of the Texas Gulf Coast.PCBs were already responsible for the "Yu-Cheng" or oil disease in Taiwan, 1979. PCB-contaminated cooking oil caused the first three years after the accident that many human newborns died outright, and others developed blotchy patches of dark skin and deformities of their fingernails and toenails. Later on they developed hyperactive and behavioural problems. Even kids born as late as 1985 were still affected as much as the kids born in 1979. This is due to the fact that toxics cumulate in the fat and women mobilize their fat-reserves during pregnancy.In milk from species from Beluga whales to diary cows scientists have measured concentrations of chemicals including dioxins, PCBs and various pesticides. Along the west coast of Florida, in stable populations of bottlenose dolphins near Sarasota, nearly all firstborn calves die before they separate from their mothers between the ages of three and six. In 1987, more than 700 bottlenose dolphins, half of the migrant Atlantic population, washed up on beaches from New Jersey to Florida. The scientist Grasman says, "We are finding the same pollutants in our birds--PCBs and organ chlorides that have been found in seals, dolphins, humans and other species with similar T-cell immune problems". (National Wildlife Federation, Children at risk, 1997.)These poisons creep up on you. Early effects of pollution initially occur at the lower levels: changes in your genes, cells, tissues, body chemical processes and basic body function.But when you give birth, your children are at risk. AndWhen your children give birth, your grand children will be .About politics and business: Children of whale meat eating mothers are exposed to mercury in the womb and later on will suffer from subtle impairment of their cognitive and motor skills and higher blood pressure to 14 points in systolic and</p>	

Sort #	Commenter Code	Comment	Response
		<p>diastolic pressures which are predispositions for cardiovascular diseases in their future. (New Scientist, June 12 –1999 , study P . Grandjean, Odense University , Denmark , study in the Farao Islands )Again prenatal exposure is responsible and again has been showed that the womb is not an all-round barrier against toxic agents The dangers of ( dimethyl) mercury are known already fifty years . So is cadmium by the Itai Itai disease. About 4 years ago the Mainichi Daily Newspaper in Japan reported that there were mercury detections in whale product up to 1.600 times above the government-permitted level. Large amounts of cadmium also were found .Even when those poisons do not harm directly, years later when woman mobilize their fat-reserves during pregnancy, children will be damaged as the mercury and cadmium will be passed on by the blood-stream .Harbingers in this new century already have been found :Fire preventing materials produce a new generation polychlorics , more toxic and more quickly penetrating the deep of our oceans . The sperm-whales are already the first victims in accumulating those gifts of Human intelligence.Businessmen in Belgium are responsible for genital disorders in their children by putting used motor oils in animal food. Again and again .In the United Kingdom it did appear that business men dumped BSE infected product in baby food. Offal for babies. Norwegians, Japanese – and Faroese people deliberately are trading in whale meat, knowing the effects. Calculating their so called scientific investigations and offering their poisoned dishes to their wife and children.And the main reason is money; it makes them crazyThe biggest treasure of the Oceans: As mentioned before plankton is the biggest and most valuable biomass of the sea. Without it there are no life forms possible on our planet. Two-thirds of planet earth consist of the oceans. Plankton is responsible for 70% of the oxygen production and at the same time for absorbing CO2. Most of the plankton are too small to see. Plankton is the general term for all drifting animal- and vegetable organisms which independently go their own way.The vegetable segment is the biggest part. As plankton is both part of the food-(N-cycle)-chain and oxygen-(C-cycle)-chain, it has to be regarded both ways. Speaking about the food-chain, many want to take the short cut and harvest the krill as the whales do. However fishing all animals of the oceans, as is practiced to-day, will lead to there not being any plankton. There is nothing for them to eat, and in that way we end the production of oxygen. At the same time our knowledge of what would be the result of harvesting relatively small amounts krill, as the whales do, is inadequate to oversee; there is a difference if we, instead of the whales, take the krill out, where and how. We don't know the influence of UVB except that it shrinks the mass of phyloplankton. We are</p>	



Sort #	Commenter Code	Comment	Response
		<p>unaware what would be the influences when we fish an isolated krill stock out. A general stock collapse could follow. However, if it would turn out that krill, or krill related life forms, are the nutrients for phytoplankton, a collapse will mean a collapse of the plankton mass. And that would mean the end of human existence by the collapse of oxygen production. Moreover, the immediate danger from shrinkage of the plankton mass is to the krill, as phytoplankton are nutrient for krill. A collapse of the plankton mass would mean a collapse of krill.....and the rest of the food chain. So it works both ways .Recent studies show that the massive killing of marine vertebrates , including whales and other mammals, is responsible for functional changes in the coast ecosystems .Mostly a massive collapse of ecological communities is the result of that and it is happening worldwide. More over the absorbing ability of the Oceans are weakened. A recent study in Nature reviles that 90% of the big fishes of prey are lost in the world ocean since the industrialized fishing methods. The by catch of seabirds, sea turtles and sea mammals will ruin our oceans for ever. ( Matthew Gianni , in depended ocean advisor , reports for the IFAW )In the name of traditional cultural arguments:In October 1997, a United States government delegation travelled to the International Whaling Commission meeting in Monaco to ask permission to kill Gray whales in the waters of Washington State. The request was made on behalf of the Makah Tribe of Neah Bay. The request was made on traditional-cultural grounds. That's how the pro-whaling forces are gearing up to overturn the 11-year-old moratorium on commercial whaling and try to have their hands free to bring the whole Ocean to the edge of extinction. A Gaspesian (now Micmac) Indian chief, in 1676, already criticizes a group of French captains in Nova Scotia: "And whilst feeling compassion for you in the sweetness of our repose, we wonder at the anxieties and cares you give yourself, night and day, in order to load your ships". "It is true that we have not always had the use of bread and of wine which your France produce; but, in fact, before the arrival of the French in these parts, did not the Gaspesian live much longer than now? And if we have not any longer among us of those old men of a hundred and thirty to forty years, it is only because we are gradually adopting your manner of living". (Father Chrestien LeClerq, New Relation of Gaspesia, with the Customs and Religion of the Gaspesian Indians, translated and edited by William F. Ganong, The Champlain Society, Totonto, 1910, pp. 104-106.) Lionel de Montigny (Métis) wrote: " Much of their (the Indians) present economy is based upon reaction and adjustment to racism". And that is exactly how it is today! When the IWC permits the Makah Tribe to hunt Gray whales on cultural grounds we ought</p>	

Sort #	Commenter Code	Comment	Response
		<p>to know exactly what the outcome will be, based on recent history:In the 13th century, when the climate became much colder and the little Ice Age began, the Inuit Indians left the farthest north or died out. All except the Inuits of the Thule region. For about 500 years they lived in total isolation.As a piece of wood even was rare to them they depended totally on the catch of narwhals. The tusk took the place of wood.The IWC permitted them to harvest 542 whales. A study in 1979 however, near Pond Inlet, reports the inefficient hunting and estimated a 50% lost of all killed whales. In another study the lost is much higher: at least 1500 or 2000 whales were killed each year. Many hunters shoot at long range. They kill or wound a lot of whales and only retrieve a few. One study shows that 42% of all narwhals in the Pond Inlet region are bullet scarred. The people do not keep the meat, they don't like it, and have no sled dogs to feed. The Canadian Inuit had chosen the modern way: They hunt the whales in summer with high-powered boats and shoot them with high-powered rifles. Whales are shot first and then, if possible, harpooned. Many sink and are lost or, severely wounded, escape and die later.(The Narwhal, Fred Breummer,First published in Canada by Key Porter Book Limited, pp 79-85, 129)</p>	
679	Comment from Roel Neijboer	<p>The Makah propose to use military .50 assault rifles.("... a .50-caliber, copper jacket-jacketed, lead-core, hollow-point round with a mass of 600-700 grains, fired at high velocity with a muzzle velocity of 3,000 feet-per-second and muzzle energy of 14,000 foot pounds"(Quote from a letter by Makah tribal Chairman Hubert Markinshtum, Sea Sheperd report, Juli 30, 1997)Now, the 14-member Nootka Alliance (6,000 members) of Canada's First National People on Vancouver Island have indicated that they will kill up to 25 Gray whales from the eastern Pacific if the Makah recieve their quota.( SSCS, 1997).</p>	<p>Comments noted. Please also see the response to frequent comment # 4 regarding precedential effect of a waiver internationally and domestically.</p>
680	Comment from Roel Neijboer	<p>Who's next? "A good killer is a good man " ( quote Hans Hermansen in Faroe Islands , Guardian Newspaper , July 19/2000 )The real Holocaust:Being "human-like" or "more intelligent" is considered a poor guide to whether an animal experiences suffering (Dawkins 1980). Even in recent history humans have proven to be able to make themselves guilty of genocide just by negation.In racism the only thing you have to do is to deny that someone is human.Behavioural and physiological evidence are more reliable otherwise suffering may be overlooked because it does not wear a human face.(Margaret Klinowska, Research Group in Mammalian Ecology and Reproduction, Physiological Laboratory, Cambridge University). From a medical standpoint we have to admit that in spite of our capacities in neurosurgery we don't know that much about even the human brain. From a psychiatric point of view we know</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>that certain medicaments work but not how.We are able however, with our knowledge of the anatomical and histological structures, to assume that the billions of electrochemical interactions within the complex whale-brain define consciousness, awareness, emotion, personality and intelligence.(Paul Watson,The Paragnon of Animals, reflections on the human perception of intelligence, Autumn 1997 issue of Ocean Realm). More evidence of self-awareness in dolphins we may find in the studies of Dr. Ken. Marten and Suchi Psarakos.(Self-awareness in Animals and Humans: Developmental Perspectives,edited by Sue Taylor Parker, Robert W. Mitchell and Maria L. Boccia.,Chapter 24, pp. 361-379. New York: Cambridge University Press, 1995).Each year hundreds of thousands of dolphins die from human greed in drift netting, fishing, from shot as crab bait or from pollution. Each and every-one a member of the same exclusive club of humans and primates.That is the definition of a holocaust. The geno – biocide of self – consciousness "Heard from a Portuguese fisherman: Suddenly there was a knock at the side of the ship. It was a dolphin. He circled and pushed again and again. Every time he swam away in the same direction. My son said:"He wants something from us". So we followed him. After 15 minutes sailing we did see another dolphin in the water. It was a dying female, dying from severe injuries on her back. My son said: "We have to finish her off". "No" I said,"We can't. The other would not understand why we do that". There was nothing we could do, we couldn't sail away. It would be treason. So we waited there the rest of the day till late in the night. Than the female dolphin died and the other swam away".(Quote from The Sea, Rob Rijnsdorp, 1990.)</p>	
681	Comment from Roel Neijboer	<p>The last orchestra: The American biologist V.B.Scheffer wrote: From the moment of its birth every whale hears the endless orchestra of life around its massive frame, day and night, until his final hour.The scientist B.Mohl believes that the shrill and alien sounds of motor noises may block communications between whales "more than 100 m apart". He further suggests the noise levels may result in temporary or possible permanent hearing damage and in nausea induced by infra-sound.It is expected that soon great fleets of tankers will ply the famous Northwest Passage, the region of migration routes and breeding places of the whales.The great fleets of tankers will be led by even more than thirty 150,000 horsepower icebreakers, plowing ice 10 feet thick, creating noise levels unprecedented, a disturbance of domestic peace which would bring every creature to suicide.In world war-two American bomber-pilots used whales as practice targets. Now, March 1998, the U.S. Navy has commenced testing of its</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>Low Frequency Active (LFA) sonar system near the newly designed Humpback Whale National Marine Sanctuary off Hawaii's Kona coast. The noise pulses at full deployment, a level not even tested in Hawaii, are 1.000 times louder than a 747 jet engine on takeoff, making whales and dolphins deaf miles from the sound source. And a deaf whale is a dead whale .It's savage and uncompromising. Recent whale deaths and strandings associated with the use of high intensity sonar: Greece, Kyparissiakos Gulf (12-13-May 1996) Stranded : 12 beaked whales . Killed 8 Bahamas, Northwest Providence Channels (15-15 March 2000) Stranded: 17 of multiple species. Killed : at least 7 There is evidence that the entire population of beaked whales in this area was killed or displaced Canary Islands, Fuerteventura and Lanzarote ( 24th September 2002 ) Stranded : 14 beaked whales ( various species ) Killed 11 At least six of eight previous cases of beaked whale strandings in the Canary Islands ( since 1985 ) coincided with military exercises</p>	
682	Comment from Roel Neijboer	<p>Final questions: We suffer from a lack of insight by norm setting politicians as it goes for contaminating effects of radiation, mercury , cadmium, DDT, PCBs, and organo-chlorics . However we do know that years after contamination effects will be there . We do know that psychological, psychiatric and physical deformities occur after prenatal contamination. We are aware that many now-a-days children have hyperactive and behavioural problems. We see that young male adults in France are committing suicide in a not common incidence. We have learned that schizophrenic diseases are occurring in Asia where it never did occur in history. We could have know that genital disorders are there for both men and women . In Japan is arising the highest suicide level in the world among young people. It is cause of death number six . Only the Japanese police did register 34.427 cases in the passed year An increase of 20% in humans under the age of 22 and an increase of 60% in children of basic and high schools . Those are scary figures . " A good killer is a good man " ( quote Hans Hermansen , Farao Islands , Guardian newspaper , July 19/2000 )</p>	Comments noted.
683	Comment from Roel Neijboer	<p>There are Oceans of hope: People talk about healing Mother Earth, but there is no one powerful enough on this planet to heal Mother Earth. We can help to preserve and replenish some of the good things on Earth, but to heal her, that's something else. She continues to heal us and give energy. (Quote from Bear Heart.) When you have a little garden, for example, just plant a tree and make a little pond or puddle. Someday a bird will rest in its flights in your tree. He may not sing a song for you but after drinking some water at least he will leave you some shit. Be grateful for that. In the shit may be hidden some seeds and a</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>plant will grow on the border of your puddle. Don't call it a weed because it will flower and attract an insect and something that crawls. That will attract another bird and another plant will grow and before you know it the singing and nestling of birds will be around you. Even the dung alone will allow the growing of a depending specie of a plant. Smell the air of flowering; you will not be the only one. Of course, planting a tree in the circumpolar area will take about a hundred years or more to grow, so don't pull them down, but in other parts of the world it will only take some years. Take care of biodiversity and the first four legged will visit you. Your children will have the love of nature at their birth. Every child does. Cherish them and learn from them when you teach them the lessons of life and how to live. For our Oceans, the source of life, we can do so much to preserve and replenish. The main thing is to let her be. We all ought to have learned the lessons in history in conquering the Lands of Hope. Some want to conquer our oceans but when something goes wrong with your puddle it only costs a year to heal itself. Plundering our oceans will mean something else. So when I'm pleading for the Oceans it is an appeal for the whales to begin with. To stop drift netting. To make an end to the 20,000,000 tons of by-catch of fish. To end pollution. It is not that difficult for us to do. There are oceans of hope, don't forget that. It's worth fighting for. So join us, before we have to watch those "Virus People" scratch the slime of the rocks out of frustration. 2004 : The by-catch is estimated at 27,000,000 tons , excluded vertebrates as seabirds , different whale species , sea turtles and others. Concluding remarks: It is a disgrace of the worst kind that, after the genocide of native people world-wide, the descendants of those who were responsible for that want to speak about native traditional-cultural arguments in order to continue to conquer this planet earth in their last battle to destroy the Oceans, Her heart and Her veins. After Rousseau (Révenons a la Nature ) and Voltaire ( Man proposes but Nature disposes ), we may use the sturdy piece of prose that seems to be of worldwide application: "Obviously there is a certain amount of "misconstruction" going on by lack of insight into biologic, climatic and topographic conditions which differ from the experiences of norm-setting bureaucrats". ( Quote from the papers from the international symposium at Lulea, Sweden, June 28-30, 1971, Ecological Problems of the Circumpolar Area, Norbottums Museum, Lulea, 1974) Now we may call it a solid piece of prose. For The Oceans.</p>	
684	Comment from Sandra Abels	I strongly encourage NOAA/NMFS to not allow the Makah a waiver to hunt whales at all. There is NO way to determine which gray whales are from the main Eastern Pacific population, the residents or the highly endangered Western	Please see the responses to frequent comments # 12 regarding risks to WNP

Sort #	Commenter Code	Comment	Response
		Pacific population. Killing a whale from the resident whale or Western Pacific population could prove catastrophic to those populations. They don't wear name tags. There is no way to tell them apart!!	whales and # 13 regarding risks to PCFG whales.
685	Comment from Sandra Abels	Climate change is having a huge impact in the Arctic. Since the grays "summer" in the Bering Sea to feed, it would be short sighted to allow whaling when the effects of climate change on the grays hasn't been reviewed.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
686	Comment from Sandra Abels	Whaling off the coast greatly impacts whale watching. I was on a trip in Puget Sound and I heard a woman ask the Captain to avoid Neah Bay because she didn't want to see a whale killed in front of her. Whale watching is a huge industry and allowing whaling off the coast of Washington destroys aesthetics visually and emotionally.	The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching Industry.
687	Comment from Sandra Abels	The Makah maintain this is about culture. NOAA knows as well as I do that this is a lie. We still have the documents that were sent to NOAA about the Makah's intent to open a whaling processing plant so they can sell whales to Japan.	Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.
688	Comment from Sandra Abels	The EIS needs to address the global impact of the U.S. allowing aboriginal coastal whaling. We all know Japan wants this and by the Makah doing so with the U.S.'s blessing opens pandora's box. NO WHALING ANYWHERE! EVER! FOR ANY REASON!!	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
689	Comment from Sandra Abels	The Makah have proven they can't be trusted! In 2007 the Makah killed a gray whale after their permit was revoked. Given the sensitive populations of grays involved, the Makah can not be trusted to follow regulations.	The DEIS describes the NMFS investigation of the illegal hunt (see Subsection 1.4.2, Summary of Recent Makah Whaling--1998 through 2014). The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct.

Sort #	Commenter Code	Comment	Response
			Subsection 2.3.2.2.12, Other Environmental Protection Measures, describes enforcement measures that are common among the action alternatives. If a hunt is authorized, possible enforcement measures under the permit would include criminal sanctions (e.g., fines and imprisonment) and barring violators from exercising treaty fishing, hunting, and/or whaling rights for at least 3 years. The Makah have a whaling ordinance that, among other provisions, addresses enforcement, permits, violations, penalties, training/qualifications, monitoring and reporting, and whaling administration. Refer to Subsection 1.4.2, Summary of Recent Makah Whaling – 1998 through 2014, and Appendix B of the DEIS.
690	Comment from Sandra Abels	The benefits of evolving beyond whaling and the positive impacts to the tribe for finally walking away from such a barbaric practice needs to be studied. NOAA has never demonstrated or evaluated the benefits to the tribe for not going forward. NMFS needs to end their bias towards the Makah and deal with real science.	As required by NEPA, the DEIS does evaluate a No Action alternative that would result in no authorized hunting of gray whales by the Makah Tribe.
691	Comment from Sandra Bryce-Borthwick	This murder must stop now!	Comments noted.
692	Comment from Sarah Queener-Plourde	I fully support Makah traditional whaling practice, which is their 1855 treaty right. The benefits of tribal cultural healing will far outweigh the ecological impact of the whale population. As elder Mary McQuillen, Makah hereditary lineage told me, "whales come in response to our songs and ceremonies." Everything about the Makah Nation centers around the whale, its significance is measurable and demonstrates subsistence harvesting of the purest form.	Comments noted.

Sort #	Commenter Code	Comment	Response
693	Comment from Shari Farmer	We cannot allow this to happen again. This is a HUGE step backwards for man and mammals! This opens a whole new door for those rogue countries that still hunt whales against the moratorium. PLEASE stand up for the whales. This day and time, they do not need to be slaughtered!	Comments noted.
694	Comment from Shelia Jons	just because something has been going on in a society for a long time does not automatically validate its continuation.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
695	Comment from Susan Hicks	Please save the Gray whales from this!	Comments noted.
696	Comment from Susanna Minacheili	killing whales should be banned for everyone...whales are already in great danger with navy guns, big ships, noisy oceans ,japan's poachers, ocean's pollution ,plastic paches in the oceans,r adiation from fukushima..the dangers are too many.....no one should be allowed to kill an.. endangered species .with so many threats around to his life.....if we dont protect them now they will disappear for ever..please protect them	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
697	Comment from Suzanne Rulifson	Using Howitzers and 50 caliber weapons by commercial hunters to shoot at stressed, polluted and diseased whales struggling to survive in dramatically collapsing oceans, while abandoning the bodies when inconvenient to complete the kill (yes this happened, I saw it) is NOT subsistence hunting. Harassing the elders who dared to speak these words is not the path. You know this. If Makah feel they must eat bits of whale blubber to insist that this is cultural subsistence, then please be true to the culture. Shooting and maiming a whale whose entire carcass is riddled with pollution and plastic debris is not 'one with the whale.' This is a lie. You know this. You perpetrate a myth for gun happy fools, at best, commercial hunting at worst. Knowing and being at peace with these stressed oceans means cleaning your beaches of the tons of plastic flotsam (I have done this for you), and HELPING the creatures whose cultures collapse before your eyes. Look to the future. You are wrong to shoot up nature. She needs your help, not your lies.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
698	Comment from Suzanne Rulifson	This entire proposal only perpetrates this cultural subsistence myth, but the imported white hunters and your devices and ammunition purchased at stores on the freeway is a LIE. STOP. You are exposed. Your elders have told you this but you harassed and belittled them. STOP lying. Your lies are exposed for the world to see.	Comments noted.



Sort #	Commenter Code	Comment	Response
699	Comment from Veronica Slootsky	Dear NOAA, I am writing in opposition to your granting the Makah a waiver, and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington, Oregon, California Coastlines on their way to the birthing bays. In 2015 there is no need to kill whales. The Makah Tribe has access to food, clothing and traditional history. Tradition is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
700	Comment from Veronica Slootsky	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Comments noted.
701	Comment from Veronica Slootsky	If you allow the Makah whalers to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the livelihood of whale watching companies, and tourism for an outdated tradition that has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon, Washington and California Coastlines.	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. Subsection 4.6.3.2.3, Whale-watching Industry, of the DEIS explains that it is unlikely that gray whales would respond to a Makah tribal hunt by avoiding whale-watching vessels.
702	Comment from Veronica Slootsky	In closing I want to reiterate that I oppose any permit to allow the Makah whalers to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason. It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. Sincerely, Dr. Veronica Slootsky, MD	Comments noted.
703	Comment from William Davis	There are some cases where no amount of money, politics, or even tradition can stand up to the fact that threatened species need to be protected. Nobody, including the Makah, should be able to hunt the gray whales.	Comments noted. ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994, and their current estimated population is well over 20,000 animals. See

Sort #	Commenter Code	Comment	Response
			Subsection 1.1.3, Summary of Gray Whale Status.
704	Dennis_4-29-15	I'm against killing animals, no matter what, so I am against the whale hunt. Why should innocent animals suffer and die for no good reason. No whale killing. Thank you.	Comments noted.
705	e_Abbott_3-6-15	<p>In my humble opinion, if this is a ceremonial tradition, to have a hope of having it be accepted by the general public, the Makah people need to use the original ceremonial traditional methods and tools/weapons only. This is the only way their hunting of the whales will be tolerated. I'm sure more than 1 aboriginal person was killed during these hunts in the past and unfortunately, that could be the consequence but that is part of the risk of this historical ceremony isn't it? I believe they should be licensed / controlled and they should carry out the deed exactly as their ancestors did using the same equipment and number of people as is outlined on their web page: <a href="http://makah.com/makah-tribal-info/whaling/">http://makah.com/makah-tribal-info/whaling/</a> and part of which quoted here: To get ready for the hunt, whalers went off by themselves to pray, fast and bathe ceremonially. Each man had his own place, followed his own ritual, and sought his own power. Weeks or months went into this special preparation beginning in winter and whalers devoted their whole lives to spiritual readiness. Men waited for favorable weather and ocean conditions and then paddled out, eight in a canoe. They timed their departure so that they would arrive on the whaling grounds at daybreak. Paddling silently, whalers studied the breathing pattern of their quarry. They knew from experience what to expect. As the whale finished spouting and returned underwater, the leader of the hunt directed the crew to where it would next surface. There the men waited. When the whale rose, the paddlers held the canoe just to its left, their speed matched to that of the animal. As the back broke the surface, the harpooner struck and the crew instantly paddled backward, putting all possible distance between the canoe and the wounded prey so as to avoid the thrashing tail flukes. A hit in the shoulder blade interfered with use of the flippers and slowed the whale. Floats of sealskin blown up like huge balloons were attached to the harpoon line to slow down the whale. Harpoons weren't intended to kill the whale, but to secure the sealskin floats to them until they tired themselves and could be fatally lanced. Shafts of yew wood measured 12 to 18 feet long. The heavy wood added to the harpooner's thrust to help the blade pierce deeply. Splices in the shaft deadened the springiness to permit for further penetration. They also let the shaft break rather than hit the canoe repeatedly if the whale rolled. Additionally, they allowed for a clean break</p>	Please see the response to frequent comment # 15 regarding the use of modern weapons.

Sort #	Commenter Code	Comment	Response
		<p>rather than splintering making them easy to repair. Shafts fell away once the harpoon head had been set. In a whale, the head of the harpoon turned partly sideways. Barbs of elk antler helped to keep it from pulling out. Each one made of mussel shell was placed on each side of the blade. Spruce pitch was used to smooth the head. This was confirmed when discoveries at Ozette revealed the pitch to be still pungent after 500 years within the earth. Whale sinew was plied into rope and bound with wild cherry bark to attach the harpoon head to as much as 40 fathoms of additional rope. This line, which consisted of twisted cedar boughs, was carried coiled within the baskets so that it would play out easily and wouldn't entangle the canoe's occupants. A telltale float at the end of the line acted as a marker so that the whalers could follow their prey, setting additional harpoons and staying out overnight if it was merited. Eventually the time came for the final kill which was done using a specialized lance. The next step was to tow the whale home. Hopefully, the distance would only be a few miles if its spirit had heeded prayers to swim for the beach. If not, the distance could be up to 10 miles or more. To prevent the whale from sinking, a diver would lace the mouth shut. This kept water from flooding into the stomach, weighing the carcass down and complicating the tow. Songs eased the paddling and welcomed the whale to the village. The songs welcomed the returning hunters and praised the power that made it all possible. Sincerely, Susan Abbott</p>	
706	e_Abels_7-26-15	<p>I firmly believe there should be no whaling at all. Climate Change: As you know phytoplankton is one of the first steps in the food chain of the ocean. As NOAA states there was a large die off in Antarctica due to the decrease in general health of oceans. Pelagic species depend on water temperatures and were profoundly affected by El Nino and La Nina which was characterized by increased water temperatures. During that time there was an "unusual mortality event" in gray whales. Most looked like it was due to "starvation related to climatically based decline in prey availability.." NOAA further states that "regional climate can have a dramatic affects on its flow (current). Currents affect productivity." El Nino with increased water temperatures and decreased productivity 1997-1998 "profoundly affected the productivity and marine ecology of the region". In an article Ocean Warming's effect on Phytoplankton/NASA satellite Data Show How Global Climate Change Hurts Marine Food Chain by Jane Kay, "Decrease phytoplankton consume less CO2, aggravating a cycle that can lead to even more warming." The EPA website shows NOAA data that ocean temperatures have steadily increased and "will continue". Temperatures have been highest in last 30 years than ever before. One graph shows temperatures increased 0.5-1 degrees</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>

Sort #	Commenter Code	Comment	Response
		<p>on the West Coast from 1901-2014. During the same time frame in the Bering Sea an increase of 1.5-2 degrees. National Geographic article by Christine Dell'Amore- "Since 1970's, the ice has retreated by 12% per decade worsening after 2007, according to NASA. May 2014 represented the third lowest extent of sea ice during that month in the satellite record, according to the National Snow and Ice Data Center." "Ice loss is accelerated in the Arctic because of a phenomenon known as the feedback loop: Thin ice is less reflective than thick ice, allowing more sunlight to be absorbed by the ocean, which in turn weakens the ice and warms the ocean even more, NASA says." National Snow and Ice Data Center states, "Arctic sea ice extent for June 2015 was third lowest in the satellite record. June snow cover for the Northern Hemisphere was the second lowest on record..." "Ice extent remains below average in the Barents Sea as well as in the Chukchi Sea continuing the pattern seen in May. Air temperatures were above average over much of the Arctic Ocean (2-3 degrees). June snow cover was especially low over Alaska and Western Canada due to changes in the jet stream." U.S. Geological Service Ice Projections: mid to late 21st century Chukchi Sea will be ice free 5 months of the year and the Bering Sea will be ice free 8.5 months of the year. The DEIS states that grays are opportunistic feeders, but with a decrease or elimination of one food source means more competition for remaining food resources for other species. The DEIS refers to the grays increase diet of small crustaceans. It also states, "the increase acidification cause changes in abundance and types of shell-forming organisms- important part of grays diet." In the DEIS, "Organisms will continue to live in the oceans wherever nutrients and light are available, even under conditions arising from ocean acidification. However, from the data available, it is not known if organisms at the various levels in the food web will be able to adapt or if one species will replace another. It is also not possible to predict what impacts this will have on the community structure and ultimately if it will affect the services that the ecosystems provide. Without significant action to reduce CO2 emissions into the atmosphere, this may mean that there will be no place in the future oceans for many of the species and ecosystems that we know today. This is especially likely for some calcifying organisms." The DEIS states that increased ocean acidification has an impact on ocean noise resulting in a decrease in sound absorption resulting in a "noisier" ocean. Decreasing sea ice will likely increase human activity in the arctic resulting in more noise in their feeding ground. As NOAA states grays are sensitive to sounds associated with oil and gas exploration. NOAA also states this increase in activity "means more oil spills and ship strikes" in their feeding</p>	

Sort #	Commenter Code	Comment	Response
		<p>grounds. Oil will also kill their prey species. The one thing that struck me repeatedly in reading the DEIS, other government websites and news articles was 4 little words “from the data available”. Warming oceans, shrinking ice and ocean acidification pose great and immediate threats to not only gray whales, but the ocean itself. You state in the DEIS the grays have changed their feeding ground from the Bering Sea to the Chukchi Sea. Where do they go when that area can’t support them? The DEIS also speculates that with the shrinking ice the grays could repopulate the Atlantic Ocean. If they do make that move what does that mean for the population in the Pacific? NOAA has to know with all the fires in the West and no change in human behavior these next few years will probably demonstrate an increase in ocean temperatures. Given the clear unknowns here that even NOAA demonstrates I think it would be short sighted and dangerous to allow the killing of any whales, but particularly the greys since their feeding grounds are in the Arctic. It also seems that much more research is needed on the health of the ocean and it’s food chain. A side note is, given the incredibly small population of bowhead whales, how can you possibly say it is ok to hunt them?? Whales can’t change their behaviors, diet or where they live. Humans can change their behaviors, adapt to a changing environment and evolve! Sometimes they just need a nudge in the right direction.</p>	
707	e_Abels_7-26-15	<p>Economic Impact: The DEIS quotes the Makah as stating their hotel bookings increased during the whale hunt. Clallam County also saw an increased activity during the whale hunt season. Also the DEIS states that it was due to reporters and protesters. IT WAS NOT TOURISM. People avoided the area due to the whaling. Webster defines tourism as: “the practice of traveling for recreation, the activity of traveling to a place for pleasure.” None of us were there for pleasure I can tell you that!!! You can’t use this “boost in tourism during the hunt” as your argument!! Especially, when NOAA themselves say the uptick was due to reporters and protesters. Delete this part of your argument. The DEIS states that there were a “few” people there to observe the hunt. When whale watching is a billion dollar industry, can you seriously use this as part of your argument???? People want to see live happy whales, not whales being repeatedly harpooned and shot.</p>	<p>While we do not define tourism per se in the DEIS, our analysis is not restricted to the recreation-based definition asserted in this comment but can include visitations based on interest (e.g., reporters and protesters) as evidenced by DEIS Subsection 3.6.3.2.4 (Contribution of Tourism to the Local Economy), which notes that "Persons visiting the Makah Reservation for tourism and recreational purposes generate revenues for businesses in Neah Bay...". The DEIS also notes that any tourism-related economic effects are likely to be short-term, minor, and may diminish as more hunts occur.</p>

Sort #	Commenter Code	Comment	Response
708	e_Abels_7-26-15	<p>The DEIS also stated that people were disgusted with the news stations for showing the footage on TV. Again, if people were complaining about seeing it on TV how can you argue that people would show up to see it in person???? The DEIS states that visiting and fishing permits in Neah Bay increased from 6405-10,678 from 2007-2011. Can I point out the fact that there was no sanctioned whaling then?? The DEIS states "Many people travel to the coast to watch the annual migration of California Gray Whales," Yes, at La Push where they have a welcoming ceremony for the whales and show the whales respect. The DEIS states the attractions in Neah Bay are: Makah Museum, Sport fishing and guided tours, vehicle sightseeing tours, beach activities, camping (attendance 2341 in 1999 7206 in 2011 again no whaling), hiking is popular for wildlife viewing (live happy wildlife not wildlife being tortured and killed)..” Can you reasonably argue that these activities won’t be affected by whaling? Whaling itself will be a deterrent, but the collateral effect of protesters will make people think again about going out to Neah Bay. The DEIS states that tourism accounts directly for 8% of the employment. What is the indirect employment from tourism? Sport fishing is a big part of the Makah tourism income. “Sport fishing mostly offshore in whale hunt zone.” The DEIS states that it would be infrequent brief interruptions to the sports fishermen. These disruptions may be enough to encourage them to go elsewhere.</p>	<p>The DEIS does not assert that whaling would have no impacts on the activities identified in this comment but instead reports that all of the action alternatives are likely to have a mix of beneficial and adverse impacts on tourism and on-scene and media observers. Section 4 of the DEIS notes that "[g]iven the likely influx of visitors coming to Neah Bay to observe, protest, or report on the hunt, or to participate in tribal ceremonies and celebrations, it is reasonable to expect there would be a short-term increase in tourist-related business activity associated with these visitors. Any short-term effect is likely to be minor, and may diminish as more hunts occur" and that "[o]ver the long term, there is no information suggesting that the hunts in 1999 and 2000 had any lasting effect on tourism in Clallam County or Neah Bay. Thus, while a whale hunt might attract visitors to the Neah Bay area, it is likely that any positive effect would be short-term and minor."</p>
709	e_Abels_7-26-15	<p>The DEIS states that the cost of law enforcement was \$91,670 PER DAY including the Coast Guard. Why are taxpayers being burdened with the cost of the Makah’s hunt???? Where is the cost of NOAA going through litigation and doing this DEIS?? These tax dollars would be better spent elsewhere. These costs should be paid by the Makah. They want to kill whales, let them pay for it. No taxpayer funded whale hunts.</p>	<p>The purpose of the DEIS is to analyze potential impacts of alternatives, not the history of federal funding or conjecture about how those funds should be or could have been used.</p>
710	e_Abels_7-26-15	<p>The DEIS states “fluctuations in the reservation’s natural resources, commercial fishing, tourism and sport fishing continue to present challenges to the Tribe’s ability to ensure reliable incomes..” First this speaks to their inability to manage their resources. There are no deer on the reservation, because they killed them</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		all without allowing the population to recover. They logged their land with reckless abandon. Whaling isn't going to improve any of these challenges and they can't be trusted to manage their whaling activities. They proved that when they had an unauthorized hunt that killed, likely, a resident whale since they killed it in the Strait. It would be interesting to compare tourism to La Push against tourism in Neah Bay. One pro whale the other pro whaling. I can say that all the people I know who go to the Olympic Peninsula I give them the same speech, "You will love the Hoh Rainforest and if you want ocean and whales go to La Push. Stay out of Neah Bay."	
711	e_Abels_7-26-15	False Claims and Inaccuracies: The DEIS quotes Keith Hunter (not a Makah tribal member), "all dissent regarding whaling was healed the day the whale was killed." Where do I begin? Alberta Thompson was a courageous and honorable Makah Elder. I will always have great respect for her. She frequently told us how she was threatened and bullied while on the reservation. The day the whale was killed there was "no opposition by tribal members" because Alberta was thrown off the reservation and forced to live elsewhere. Many other Makah members came to us and discussed their opposition to the hunt, but were intimidated into silence. One afternoon staying at Snow Creek, a Makah member stood on an overlook above the campground and fired their .22 over our campers. The police were called and the shell casings were found. At the public hearing in Port Angeles several activists were threatened. My impression is that the pro whaling faction can be pretty intimidating.	Comments noted.
712	e_Abels_7-26-15	The DEIS states that many tribes support the Makah. They support their "right" not whaling. Many tribes asked them to not go whaling.	Comments noted. Because of the lack of supporting information we cannot evaluate this claim.
713	e_Abels_7-26-15	The DEIS blames "antiwhaling activists for targeting Muckleshoot, Puyallup and Tulalip tribes for supporting the Makah hunt." Once and for all this was a protest about the action of whaling, not against the Makah. I was one of the many protesters who was in the area regularly and involved regularly. There was 1 person who suggested going after tribal casinos. It was immediately shot down because we were about stopping the action of whaling. Going after other tribes or their assets was inappropriate, unnecessary and counterproductive. This person was separated from the antiwhaling community. The DEIS also blames the antiwhaling activists for death threats to a tribal school?? This is news to me. The DEIS can't hold the antiwhaling activists accountable for all the wingnuts in society. So don't paint us with the same brush. This does speak to the "negative social affects" the hunt has had and will have. The antiwhaling protesters went to	The DEIS does not seek to assign blame but to present information. It cites a Seattle Times article by Janet Burkitt (1999) titled "Sound Tribes Feel the Impact of the Hunt" which states "Yesterday, the Puyallup Tribe's Chief Leschi School was evacuated after an unidentified caller claimed that a bomb had been planted there in retaliation for the tribe's support of the Makahs' whale hunt."

Sort #	Commenter Code	Comment	Response
		great lengths to monitor and censor words and actions on our side. To be respectful even in the face of some very harsh words and physical threats. We have no control over other members of society who do have inappropriate thoughts and decide to express them.	
714	e_Abels_7-26-15	International Impact: In the DEIS the only argument against the precedent setting effect of the Makah hunt to Japan's proposed coastal/cultural whaling was that if they haven't done it yet they aren't going to. Really?? Did it cross your minds at any point that maybe they are waiting for all the litigation to settle to see where it all shakes out? I found it interesting the day the Makah killed the whale that there were multiple cars heading to Neah Bay with Japanese passengers.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
715	e_Abels_7-26-15	Given the Makah were offered money by Japan to kill whales and FOIA documents showing they wanted a processing plant to sell the whale meat, there is more to this than NOAA appears ready to disclose (or admit to).	Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.
716	e_Abels_7-26-15	NOAA/NMFS bias: There is an inherent bias by NOAA/NMFS towards the Makah. FOIA documents demonstrated that NOAA gave the EA to the Makah first to edit, change the science and then put out for public comment. This bias was a pivotal argument in our lawsuit. I look at NMFS in Neah Bay as having Stockholm Syndrome. They only hear one side of the argument repeatedly over a protracted period of time and they start to believe it and accept it as fact. It's human nature, you can't avoid it. I look at NOAA as the Republican Party. If you tell a lie often enough it starts to sound true. NOAA repeatedly goes to the IWC and argues on behalf of the Makah to obtain a quota. So if NOAA/NMFS argue on behalf of the Makah and change the science for the Makah then you believe it and agree with it. So any outside argument against it will be automatically dismissed. It was interesting that the Makah (and non-Makah) who favor whaling are quoted in the DEIS, but no quotes from the antiwhaling community and sadly Alberta passed away so her voice is silent. You will probably argue that this whole DEIS was because of the antiwhaling activists. Our perspective was never put in the DEIS, especially, with regards to the criticisms and accusations against the antiwhaling activists. We weren't given equal time. We were also misrepresented in the DEIS and accused of things we didn't do. Again, demonstrates bias.	The DEIS notes that many people beyond the reservation do not support whaling, and protests were common during the 1999 and 2000 hunting periods (Subsection 1.4.2, Summary of Recent Makah Whaling – 1998 through 2007, and Subsection 3.15.3.4, Behavior of People Associated with the Hunt). The DEIS seeks to present factual information, relying on available sources, such as news reports.



Sort #	Commenter Code	Comment	Response
717	e_Abels_7-26-15	<p>Some final thoughts: In 2000 I had several Congressmen and Senators, local and federal, who were willing to cede Makah traditional land back to the Makah in exchange for not whaling. There would have been no amendments to their Treaty, just an agreement to not whale. The Makah just had to say yes and the deal would have gone to the appropriate committees to be finalized. Assistance was offered to the Makah repeatedly to start ecotourism and to start a whale watching operation which, as stated in the DEIS, is a \$2 billion industry. We offered many ideas to promote the Makah and increase tourism. If the Makah had offered a whale watching trip that incorporated a “mock” whale hunt and ceremony, I would be all over that. Take the canoe out and throw a non-lethal harpoon at the whale then wish it well on its journey, I would pay good money to see that!! The DEIS speaks to the Makah’s continued challenges for reliable income. First, welcome to our crappy economy. Second, whaling isn’t going to help that. Third, the antiwhaling activists stand at the ready to help the Makah if they abandon whaling.</p>	<p>Comments noted. Please also see the response to frequent comment # 9 regarding non-lethal action alternatives.</p>
718	e_Abels_7-26-15	<p>In 1979 Congress found, “marine mammals have proven themselves to be resources of great international significance, aesthetic and recreational as well as economic.” Congressional Record, V. 147, Pt. 9, June 26, 2001 to July 16 2001 refers to whales as “among the most intelligent animals on Earth, and they play an important role in the marine ecosystem...The right policy is to protect whales around the globe...” The link below is a great example of the intellect of whales: <a href="http://www.goodhousekeeping.com/life/a33456/beluga-whale-boy-funny-video/">http://www.goodhousekeeping.com/life/a33456/beluga-whale-boy-funny-video/</a></p>	<p>Comments noted.</p>
719	e_Abels_7-26-15	<p>I’ve been to the breeding lagoons in San Ignacio. We were in a small boat, shut off the engine to float and watch whales. It wasn’t long that we were approached by a mother and calf. The calf wanted to stay away, but the mother nudged the whale towards the humans. Of course, we were quite animated in our excitement. The mother rolled on her side and watched the goofy humans go nuts over the calf. The calf seemed to enjoy being rubbed by the humans. A little while later the mother nudged the calf away from us and moved off. Kind of struck me like the Mom was saying, “Ok junior, we have things to do. Time to go.” Another adult spy hopped next to the boat. She was so huge and was leaning over our boat. She started to drop down back into the water. I was terrified that she was going to take us out. However, she gently moved over, glided down and missed us. She had an awareness of us. Another juvenile came over and gently pushed our boat then spy hopped next to us. Then nudged us and spy hopped. Again, she seemed to have an awareness of how fragile we were and seemed to respond to our squeals of delight. What other animals in the wild “play” with</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		humans? What other animal in the wild “encourage” their young to interact with humans?? For all we are doing to the whales, they continue to show us a humanity humans don’t deserve! Sandra Abels Please do not publish my contact information.	
720	e_Ahern_5-5-15	Dear NOAA, I am writing in opposition to your granting the Makah a waiver and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington and Oregon Coastlines. In 2015 there is no “need” to kill whales. The Makah Tribe has access to food, clothing and traditional history. “Tradition” is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
721	e_Ahern_5-5-15	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Comments noted.
722	e_Ahern_5-5-15	If you allow the Makah to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the livelihood of whale watching companies, and tourism for an outdated tradition has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon and Washington Coastlines.	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. Subsection 4.6.3.2.3, Whale-watching Industry, of the DEIS explains that it is unlikely that gray whales would respond to a Makah tribal hunt by avoiding whale-watching vessels.
723	e_Ahern_5-5-15	In closing I want to reiterate that I oppose any permit to allow the Makah to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason. It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. Sincerely, Deborah Ahern	Comments noted.
724	e_Ahern_7-20-15	Dear NOAA, It is not right to approve the Makah tradition of hunting whales. This will surely open up a can of worms.	Comments noted.
725	e_Ahern_7-20-15	We can not base tradition as a reason to hunt them. As an American citizen I whole heartedly disapprove this request. I respect the first people; indigineous. They have a respect for the environment and their culture is rich with insight,	Comments noted.

Sort #	Commenter Code	Comment	Response
726	e_Ahern_7-20-15	but it is not necessary to kill whales who's intelligence is well documented.	Comments noted.
727	e_Ahern_7-20-15	This tradition is old as many barbaric traditions. Whales deserve protection and to respect them is to keep them free to travel the oceans unharmed.Sincerely, Deborah Ahern 3 Kendall Park Norton Ma 02766	Comments noted.
728	e_Alba_3-10-15	Dear Representatives of the NOAA, As tax-paying Americans, we are asking that you continue to protect whales and other marine mammals in our U.S. waters. Please DO NOT allow the Makah to hunt whales. The whales are having a hard enough time with pollution, climate change, and shrinking food sources. Sincerely, Lindsay Autio and Victoria Alba	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats..
729	e_Alfaro_7-19-15	Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
730	e_Alfaro_7-19-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
731	e_Alfaro_7-19-15	Whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely. Thank you! Marietta W. Alfaro	Comments noted.
732	e_Amiri_3-13-15	To whom it may concern; I am writing to ask that the you deny the request by the Makah to hunt whales. The IWC specifically allows aboriginal whaling only where there is an unbroken tradition and when it's necessary for subsistence purposes. The Makah do not qualify because not only did they voluntarily break tradition, they have no need for whale meat for food.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
733	e_Amiri_3-13-15	The treaty that is often referenced by the Makah's was, in fact, effectively abrogated in 1946 when the USA joined the IWC. Whaling law, therefore, falls under international law and permission cannot be granted by the USA.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
734	e_Amiri_3-13-15	If the Makah establish a quota of gray whales, they will seek to establish a quota for other whales including humpbacks, minke, and orcas in the future. This is a certainty because gray whale meat is not considered to be palatable as food. The Makah's have previously admitted to having this objective in seeking additional quotas. The Makah's are using the Gray Whale to open the door for whale hunting in general.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
735	e_Amiri_3-13-15	If the Makah determine a quota and are given permission to kill whales by the USA, it will encourage tribes on Vancouver Island, Canada to seek whaling plans of their own. Thirteen native communities on Vancouver Island have expressed interest in whaling if the Makah's are given permission. We cannot afford to kill more of our oceans and its inhabitants. If the Makah determine a quota, it will strengthen the positions of Japan, Norway, and Iceland to continue and even escalate their illegal whaling activities and will weaken the USA's international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
736	e_Amiri_3-13-15	Finally, tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity to justify these killings in modern times.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
737	e_Amiri_3-13-15	The treaty that the Makah use to make the argument that they have the right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. Therefore, when whaling was outlawed for all Americans, it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. To grant the Makah a privilege denied to all other citizens of the United States is tantamount to special rights for a group based on race and /or culture and is contrary to the guarantee of equality under the law as guaranteed by the United States Constitution. For all of these reasons, I am asking the NOAA to deny the Makah permission to hunt Gray Whales. Thank you, Shab Amiri Phoenix, Arizona	The purpose of the DEIS is to analyze potential impacts of alternatives to inform decision making under the MMPA and WCA, not to explore or resolve legal debates.
738	e_Ammdouglas_3-6-15	Please, leave the whales alone, you are the Environment's last protectors!	Comments noted.
739	e_Andersen_6-4-15	This discussion is so missing the point. So called native Americans are immigrants too. They immigrated to America just as the rest of us did. They only arrived in America a little sooner than we. So what? Now the rest of us are here, so get over it. Indians should not be allowed to hunt whales. If they are allowed to hunt	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		a whale then so should I. Giving special consideration to people based on the color of their skin is blatant discrimination.	
740	e_Anderson_4-24-15	Dear NOAA-I am writing to oppose the hunting of whales off our coast by the Makah Indians. Whales are killed too frequently by our freight ships and other accidents at sea. There are still too many countries that allow whaling, and we should be doing everything we can to protect our marine mammals.	Comments noted.
741	e_Anderson_4-24-15	Allowing the Makah Tribe to hunt whales re-opens the argument for others to do the same. I respect the intent behind the International Convention for the Regulation of Whaling and the 89 countries that have signed on to it. I want to see more countries sign on, rather than losing ground in this fight to protect our oceans and the species that live there.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
742	e_Anderson_4-24-15	I formerly lived in Davenport, California and saw far too many bloody whale photos. I stood along the cliff where whalers tied off the dead whales on the beach below. The cement pad and huge metal hoop where they tied off the whales is still mounted on the edge of the cliff. It was, and still is, a very sobering spot to stand. Whaling was a way of life on the California coast 100 years ago. I saw a lot of that history in photos as I grew up. It was very sad. I was comforted, however, in knowing that those days were a thing of the past. In the decade before I was born, the United States decided it was wrong to hunt whales and signed on to the Convention. Now, when you visit the California coast, the whaling you see is very different. It's all about whale watching tourists—respecting the huge animals that live in our oceans, being humbled by their enormity and grace. These tourists stimulate the economy by admiring nature, not killing it. Allowing the hunting and killing of whales by any of our citizens is reprehensible, period. Since 1946, we've been a leader by example in regulating whaling. We've followed our conscience, and we've become a better society for it. Whaling is not a legacy we want to pass on to our children. In fact, how could we even justify it? Respectfully submitted, Barbara Anderson	Comments noted.
743	e_Anderson_5-11-15	Dear Sir/Madam, I am writing to protest the Makah killing whales and ask you to please stop this senseless destruction of a species already besieged by human activity. The following twelve points counter arguments put forth by the Makah. 1. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
744	e_Anderson_5-11-15	2. The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
745	e_Anderson_5-11-15	3. If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
746	e_Anderson_5-11-15	4. If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
747	e_Anderson_5-11-15	5. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
748	e_Anderson_5-11-15	6. The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
749	e_Anderson_5-11-15	7. There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
750	e_Anderson_5-11-15	8. If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.

Sort #	Commenter Code	Comment	Response
751	e_Anderson_5-11-15	9. The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
752	e_Anderson_5-11-15	10. Sea Shepherd notes that there are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
753	e_Anderson_5-11-15	11. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing. Thank you for taking the time to read this. Sheila Anderson, Chatham, Ontario, Canada.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
754	e_Andrews_4-29-15	To whom it may concern, I reject all arguments rationalizing the unnecessarily cruel, and altogether unnecessary killing of any and all whales of any type in perpetuity.	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
755	e_Andrews_4-29-15	All cultures can look to their own histories for previously rationalized killing that are no longer committed for myriad reasons. Tradition does not justify unnecessary killing. Population does not justify unnecessary killing. Unnecessary killing cannot be justified in this era among peoples who do not require it for survival. Veneration of any creature through its murder is nonsense. I cannot believe that 40 years after I first uttered "Save the whales" that I must still implore anyone in this nation to do so. We have matured beyond this. Please stop this institutionalized cruelty now. Respectfully, Lisa Andrews 1 6825 SE 3rd PI Bellevue, WA 98008	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
756	e_Andries_4-11-15	Dear Sir, Whales are facing major threats. Due to the increase in the population the Makah Tribe in Washington State would soon re-visit their efforts to resume whaling, claiming their Treaty rights gave them the authority to kill Gray Whales. Literally, the day after the Coalition returned from Guerrero Negro to San Diego, a new request was applied by the Makah for a waiver under the Marine Mammal Protection Act. The DEIS acknowledges that if the Makah hunt is	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
		authorized, it may lead to future regulatory changes that would in turn lead to increased hunts of whales or other marine mammals.	
757	e_Andries_4 -11-15	The DEIS is unable to ensure that the highly endangered Western Gray Whale will not be killed. Only genetic analysis would allow identification of a whale as either Eastern North Pacific, Western Pacific Whale or a member of the Pacific Coast Feeding Group. It is impossible to ID these whales as they all look alike.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
758	e_Andries_4 -11-15	The DEIS lacks important published research on the extent of Orca predation which has been estimated at 35% of calves. Given the increase in numbers, and the ability of transient Orcas to move deeper into Gray whale habitat in the Arctic as the ice melts, the rate of predation is likely to be as high or higher than 35%. No current Russian figures or current research have been included in the DEIS.	The commenter does not identify the published research allegedly lacking from the DEIS. The DEIS includes updated and relevant material in the following Subsections: 3.4.3.1.2, Global Distribution and Population Structure; 3.4.3.1.4, Feeding Ecology and Role in the Marine Ecosystem; 3.4.3.1.6, Natural Mortality; 3.5.3.1.1, ESA-listed Marine Mammal Species (Killer Whale); 4.5.2.2, Prey Availability; 5.1.3.8, Natural Mortality.
759	e_Andries_4 -11-15	The precedent set by granting a waiver will : - Set an unholy precedent at IWC, particularly as Japan is attempting to have its coastal communities given the same rights as the US is seeking for the Makah Tribe. - Set the wheels in motion for the killing of Humpback Whales as efforts are being made to delist the Northern Humpback Whale from the Endangered Species List. The Tribe has indicated its desire to kill Humpbacks. - Set a precedent for a significant number of Native American Indian Tribes to claim discrimination and seek the same whaling rights as the Makah.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
760	e_Andries_4 -11-15	The Bowhead whale quota for Alaskan Inuits is a source of great controversy at IWC and within the conservation community. If a waiver is granted to the Makah, the US will have cemented its position as a whaling nation. A total reversal of a proud record of whale conservation. The Tribe proposes killing a maximum of five Gray whales per year on average and up to 24 whales in a 6 year period. The number of whales struck (and not killed) would be no more than 42 over the six year period.	Comments noted.
761	e_Andries_4 -11-15	The Makah Tribe claims hunting gray whales is a treaty right. The Tribe says the exercise of its treaty whaling rights will provide a traditional subsistence resource to the community and sustain and revitalise the ceremonial, cultural, and social aspects of its whaling traditions. An Indian magazine carries an article which	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe, # 3 regarding the Makah Tribe's desire to



Sort #	Commenter Code	Comment	Response
		demonstrates the battle those of us who want to protect whales are facing. Killing whales in the 21st Century has no place in any culture. A dead whale is a dead whale. If a waiver is granted by the Federal government, then the IWC will have to accept a new whale killing category – healing over 200 years of cultural disruption. Sincerely: Anna Brewer-Andries, Tina Beurtels; John Summers; Henry T.; Vickey Osborn; Teddy Miller Texas Amanda Fields; Jurgen Sorens; Rita Suffolk; Mary Dalton; Joseph Pritchard; Kimberley Fields; Simon Sears; Beverly Woods; Anita Brewer; Daniel Russel; Petra Stafford; Kim Wright; Daphne Harlington, New Mexico; Kathy Stafford, Joan Bu erfield, Kenneth Lawson, Myrthe Low, Diane Bremer, US	revive its whaling tradition, and # 4 regarding the precedential effect of waiver internationally and domestically.
762	e_Any_7-15-15	Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales for survival. There is no survival necessity today to justify such a slaughter Please let these beings alone. Isn't it enough that man is slaughtering all animals at an unprecedented rate. They are not ours to take when we want to. Please stop I would love for my son to see these creatures when he gets older not just read about them in books. Margaret Andy	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
763	e_Angel_7-30-15	Please do not allow the so called "tradition" of whaling in our lovely United States .. We love and value all our cetaceans and please do not do this. It is barbaric and cruel.. Mammals have feelings live in families feel (proven) .. Please do not do this Thank You,, J'aime Angel	Comments noted. Please also see the responses to frequent comments # 1 regarding the humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
764	e_Anonymous1_6-2-15	Dear Mr. Stone: After reviewing the Draft Environmental Impact Statement concerning the Makah Tribe's request to resume their tradition of harvesting gray whales, I am concerned by the alternatives proposed in the document that allow for the continuation of whaling practices. I recommend that NOAA should proceed with Alternative One, which is the NoAction Alternative and would not allow for a Makah gray whale hunt. My concerns stem from the following	Comments noted.
765	e_Anonymous1_6-2-15	Humanitarian issues regarding the slaughter of North Pacific gray whales in the northwest region of the United States, as the methods used during a hunt can result in a drawnout and painful death to these highly intelligent marine mammals.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
766	e_Anonymous1_6-2-15	The numbers allowed for strike and loss, as requested by the Makah tribe, make it possible for great harm to be inflicted upon the whales at no benefit to the subsistence of the tribe.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
767	e_Anonymous1_6-2-15	The uncertain affiliation of groups of gray whales, as the Western North Pacific gray whale population would not be able to suffer many losses from whaling while their numbers remain close to extinction. Although the Makah tribe places great cultural value on the whale hunts by the Makah tribe, the risks to recognized and putative stocks of gray whales near extinction must take precedence over unsustainable human traditions.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
768	e_Anonymous1_6-2-15	Whaling has evolved to greatly favor humans through the use of speedboats and mechanized harpoons, so the argument for such customs is marred by modern techniques.	Please see the response to frequent comment # 15 regarding the use of modern weapons.
769	e_Anonymous1_6-2-15	The moratorium set by the International Whaling Commission recognizes the differences between commercial and subsistence whaling, but harvesting gray whales is no longer necessary to provide food for the Makah people.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
770	e_Anonymous1_6-2-15	Along with other countries that value the protection of endangered species, those with the power to establish and enforce protective measures must set a conservation precedent. The various alternatives proposed in the DEIS do not address some concerns surrounding the uncertain affiliation of groups of gray whales, as the Western North Pacific gray whale population would not be able to suffer losses from whaling while their numbers remain close to extinction. Based on these concerns, I conclude that NOAA should not grant an exception for the Makah tribe to practice whaling for subsistence or cultural reasons, as it puts the endangered western stock of gray whales at further risk and cannot be completed in a humane way.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
771	e_Anonymous1_6-2-15	Barring a group of people from a tradition that holds spiritual value does not come without ethical dilemmas, as the decision is being made by those from a different culture who may not understand the full scope of the practices. As outlined in the DEIS, the Makah tribe appears to have been a whaling community for about 1,500 years. The 1855 Treaty of Neah Bay, which signed away most of the land previously occupied by the Makah people, allowed for the hunting of whales and seals. Clearly, however, the whales taken for subsistence purposes did not have the same detrimental effects as the whaling practices seen in the early 1900s. The settlers of the Pacific Northwest used whales for subsistence as well, but in unprecedented numbers that decimated the population to the extent that it warranted a place on the list of endangered species. It is the fault of the people immigrating to the west coast that the gray whales were driven to near extinction, but it is also through human interaction that they were able to make a recovery and at least the Eastern North Pacific stock has been delisted. The	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>Makah tribe should not be unfairly punished for the mistakes of my predecessors, but with the current scientific data available I do not think that the alternative should be that the whales suffer the consequences either. With other moral questions surrounding current environmental issues, I think we should take cultural value into account if it does not come at the price of that which we are trying to protect. In South America, the destruction of the rainforest benefits local economies and provides an opportunity for developing countries to compete in world markets. Due to the fact that we did not fully understand the consequences of harvesting large swaths of old growth forests, such as disrupting fragile ecosystems and processes that still need to be further studied, there is demand for stricter controls on these practices. Rainforests also act as carbon sinks, becoming increasingly vital in our modern battle against excessive greenhouse gas emissions. We must therefore ask ourselves if it is acceptable to curb the degradation and removal of these rainforests, as the poor countries that will benefit the most from widespread forestry practices are being held to different standards than the developed nations that benefitted in the past. In moving forward with legislation involving ecological protection, however, I believe it is necessary to establish policies that take into account the most uptodate research and to learn from the misguided actions of our ancestors. In regards to the atrocities committed by the United States Federal government upon Native Americans, including settling the land formerly occupied by the Makah Tribe, I do not believe we should try to make amends by allowing for another kind of devastating act.</p>	
772	e_Anonymo us1_6-2-15	<p>I concede that I am trying to put constraints on a culture that I do not fully appreciate or understand, but the controversy here can be simplified into conflicting values. It is evident that the Makah tribe has a spiritual and an economic interest in whaling, as the ceremonial process surrounding a whale hunt provides a traditional experience that allows for members of the tribe to identify with their quickly “westernizing” culture. In the past few centuries, incoming settlers have tried to diminish tribal rights and force integration of foreign beliefs through unjust methods and a pattern of breaking treaty agreements. The ban on whaling practices does not fall under these past wrongs for several reasons, and I do not feel that expecting compliance with antiwhaling laws diminishes the Makah tribe’s cultural traditions enough to warrant the killing of gray whales at the requested numbers. The ban on killing gray whales comes from a place of respect for a species negatively impacted by human intervention. As a society, we have deemed it necessary to conserve this marine</p>	<p>Comments noted. The Makah Tribe is pursuing a waiver of the MMPA take moratorium through legal means, pursuant to the Court’s decision in <i>Anderson v. Evans</i>, and as allowed for in Section 101(a)(3)(A) of the MMPA. For more information, see Subsections 1.2.3.3 and 3.17.3.1 of the DEIS.</p>

Sort #	Commenter Code	Comment	Response
		<p>mammal to the point that they are able to fully recover from previous detriments, a move that I think was necessary and commendable. The Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) force compliance not only by tribes along the west coast, but also by fishermen and other profiting industries. The Boldt Decision of 1974, concerning fishing rights in Washington State, saw the return of traditions that had been impeded by outside policies. In this case, treaty rights were being violated to give precedence to other fishermen. With whaling, however, there are no rights being taken away from the Makah tribe only to be given to an undeserving party, as the regulations established by the MMPA and the ESA must be followed by everyone who interacts with the gray whales. We place enough value on the preservation of this species to warrant strict protection, and I believe that this value is just as relevant in the decision as the value derived from killing the whales. Although their practices have been established for thousands of years, is it now more important to look to the future and determine if those methods are sustainable for another thousand years. It is unfair to assume that the benefit the Makah people receive from continuing their whaling practices is more important than the enjoyment others get from protecting the gray whale.</p>	
773	e_Anonymo us1_6-2-15	<p>The intelligence of large marine mammals such as the gray whale may not be reason enough for some people to denounce whaling practices, but I do not think it is inherently permissible for the Makah Tribe to claim sovereignty in whaling practices for the sole reason of tradition. Our laws frequently denounce the traditions of our past and of other cultures, as we have determined that they no longer represent our current society. There are many other legal impositions placed on tribes that have influenced their culture, and it is clear that unnecessary whaling is not a practice that we will tolerate by any group. Since my values are rooted in appreciating whales that are alive, I can see that these moral standards clearly oppose one another. I know that comes from my individual experiences and not an omniscient determination of what is moral or not.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
774	e_Anonymo us1_6-2-15	<p>I still do not think there should be exceptions made for the Makah tribe, however, due to the importance of conservation of the endangered populations of gray whales that could be harmed by whaling practices off of Washington's coast. If this were merely a humanitarian issue involving the act of slaughtering a gray whale, then I would accept that the Makah culture is allowed to have a different set of beliefs and may support their request for subsistence whaling. The proposed whaling is not for such purposes, as the tribe has successfully survived without such practices and will continue to do so if NOAA were to</p>	<p>Comments noted. Please also see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.</p>

Sort #	Commenter Code	Comment	Response
		choose Alternative 1. We should not allow the destructive practices of the past dictate our present and future relationship with these intelligent creatures, but instead we should foster value in the appreciation of their protection and continued existence.	
775	e_Anonymo us1_6-4-15	Dear Mr. Stone: After reviewing the draft Environmental Impact Statement of the Makah Tribe's request to hunt gray whales, I recommend that NOAA issue the Makah Tribe permits to hunt the eastern North Pacific (ENP) gray whales. Of the alternatives included in the existing draft, I recommend that NOAA select alternative 5 as the preferred alternative for the issuance of permits. While I think that alternative 5 is the current best available option, I also think that it should be modified. I recommend the following requirements be included in the issued permit: ▶ Increase protections for Pacific Coast Feeding Group (PCFG) and western North Pacific (WNP) gray whales ▶ Define “take” using the Marine Mammal Protection Act (MMPA) definition ▶ Increase protections for sensitive age/sex classes of the populations ▶ Increase hunt observer coverage and authority ▶ Decrease the total number of whales that can be approached ▶ Implement restrictions if the “take” quota is met or exceeded ▶ Require research and development of whaling methods ▶ Minimize the impact on surrounding environments ▶ Minimize the impact on the non-target whale populations The Makah Tribe deserves the appropriate gray whale hunting permits due to significant cultural and historical precedence established by the 1885 Treaty of Neah Bay. The International Whaling Commission (IWC) and by the National Oceanic and Atmospheric Administration (NOAA) have recognized the importance and granted the same opportunity to other tribal entities. It is not appropriate to entirely limit the Makah's ability to hunt whales in a population that is not threatened or endangered when other groups are allowed to hunt from similar populations.	Opinion noted. We will consider the suggested refinements to hunt provisions in future decision-making.
776	e_Anonymo us1_6-4-15	▶ Increase protections for PCFG and WNP gray whales I do not support any permitted action that includes an allowable bycatch limit for the PCFG whales. This is a case where the cumulative impact of all human actions on the population should be considered. The total population of PCFG whales is quite small, so the human caused mortality of a single animal has a greater impact than it would on a different, more populous stock. Ship strikes and fishing activities are existing types of human-caused mortality; these activities already remove or harm enough individuals and there is no additional tolerance for additional mortality from whaling activities. Any whale that is taken, under the definition	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>from the MMPA, and cannot be identified definitively as a part of the ENP or WNP stocks should be assumed to be a PCFG whale. Such take would cause the Makah to exceed their annual limit for take of PCFG whales and should halt the hunt for the year. This would provide the Makah the time needed to reassess their hunting practices and modify them accordingly to avoid this happening again. I also do not support the allowance of carry over of unused portions of the WNP bycatch limit into a subsequent year.</p>	
777	e_Anonymous1_6-4-15	<p>▸ Define “take” using the MMPA definition I recommend that all hunt-related take, as defined by the MMPA and not the IWC, count towards the total limit on bycatch. Dividing the impact of hunting activities into smaller categories, such as struck versus struck and lost, does not properly account for the impact that these activities have on the whale populations in question. If a whale is injured from an attempted strike or strike and loss, it makes no real difference to the whale exactly how it was injured, just that it was injured. I believe that any hunting activities will have impacts and to subdivide these impacts ignores the fact that the overall impact is quite similar.</p> <p>As such, I think the definition of “take” from the MMPA is a much more accurate representation of the true impacts and should be used in the Makah's permit. I prefer that a “take” quota be established for each type of whale that the Makah could potentially impact in their hunt rather than the current subdivided set up.</p>	<p>Our decision regarding the tribe's request for a waiver of the MMPA take moratorium would rely on that statute's definition of 'take,' and any regulations associated with such a waiver would define terms needed to clarify elements of a hunt, including strikes. We disagree that all hunting activities have similar impacts, e.g., harpooning and killing a whale would have a much greater impact - at both the individual and the population scale - than merely approaching one in a canoe.</p>
778	e_Anonymous1_6-4-15	<p>▸ Increase protections for sensitive age/sex classes of the populations I recommend that the striking or striking and loss of a mother or calf, of any of the populations in questions, immediately halt the hunt for the current year and result in a penalty of no hunt allowed for two additional years or until the end of the permit, which ever is longer.</p>	<p>Comments noted.</p>
779	e_Anonymous1_6-4-15	<p>▸ Increase hunt observer coverage and authority I support the requirement in alternative 4 that would only allow the approach of a whale that had been identified as an ENP male by a trained observer on board. This requirement is essential to ensure that the WNP gray whales and PCFG gray whales are not negatively impacted by the activities of the Makah. Limiting the allowable hunt to male whales should decrease the impact that hunting activities would have on to the ENP, including the possibility that the stock would fall below its optimum sustainable population.</p>	<p>Comments noted.</p>
780	e_Anonymous1_6-4-15	<p>I recommend that the Makah's permit require that all public safety measures be solidified as conditions of hunt and the year's hunt be suspended if they are not</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		upheld. I also want this to be a condition that, if not met, would justify postponement all future hunt activities.	
781	e_Anonymous1_6-4-15	I request that additional data be gathered by the Makah about how they use the whales and how much of each whale that they land is used. If, over the course of the six-year permit, NOAA finds that the whales being landed are not being used for subsistence purposes, NOAA should deny any future permits to hunt. If the whales that are hunted are wasted and this problem is identified during the course of the current permit, I recommend that the hunt for the remaining duration of the permit be halted so that the true value of the hunt to the Makah can be reevaluated.	Comments noted.
782	e_Anonymous1_6-4-15	As a stipulation of the Makah's permit, I recommend requiring that the National Marine Fisheries Service (NMFS) assess the overall impacts of hunting activities halfway through the permit. This assessment would allow for the more frequent NMFS reviews that are a part of alternative 6 but in a less binding way, so that this lengthy environmental review process does not need to be undertaken as frequently.	Comments noted.
783	e_Anonymous1_6-4-15	▸ Decrease the total number of whales that can be approached According to the Makah's self reported data from the 1999 and 2000 hunts, the ratio of unsuccessful attempts to capture a whale and successful attempts is 6:1. This means that for each of the 4 ENP gray whales that the Makah are currently allowed to hunt annually, up to an additional 24 whales will be in some way pursued. That means that roughly six times as many whales would be taken, under the MMPA definition, than are currently allowed for in alternative 5 for the total duration of the permit. Bearing these facts, the total number of whales allowed to be taken should be lowered to ensure that all populations are able to grow to or remain above their optimum sustainable population.	Comments noted.
784	e_Anonymous1_6-4-15	▸ Implement restrictions if the "take" quota is met or exceeded I recommend requiring that if the annual "take" quota, which would include all whales successfully hunted and also those whales struck and lost, is met or exceeded, the Tribe must stop hunting and reevaluate techniques and address the identified problems. If during the six years of the permit, the Tribe meets their struck and lost quota twice or if in consecutive years the quota is met, NOAA should not allow the Makah to hunt for the remaining duration of the permit. Such an occurrence should also be grounds for withholding a new permit until the problems with their process are identified and corrected.	We note the recommendation of a regulatory limit on non-lethal forms of take and will consider it in future decision-making.

Sort #	Commenter Code	Comment	Response
785	e_Anonymo us1_6-4-15	<p>▸ Require research and development of whaling methods I believe a part of the permit should require the Makah Tribe to conduct research and development (either alone or in partnership with a state/federal agency, such as NMFS, or local university) to refine and update the equipment and methods of whaling with the goal of improving safety, effectiveness, and humanness of the hunt process. I would then request that any future permits be based on this research, and if the research is not at least begun by the end of the current six-year permit, no future permit be issued.</p>	<p>Comments noted. The United States also participates in the IWC workgroup on whale killing methods.</p>
786	e_Anonymo us1_6-4-15	<p>To gather the best data for said research, NOAA should require a NMFS (or other, non-tribal) observer on the chase boat for all hunt attempts. This observer would act in multiple capacities. During the hunt, they should fulfill an advisory role and help the Makah in the hunting boats avoid targeting WNP, PCFG or sensitive sex/age classes of whales. This observer should attempt to identify, in whatever method is determined to be the most useful by the research team, every whale that is not landed that the boats come in contact with during the hunt. These observations should be added to the data gathered from the successfully hunted whales. At the completion of the hunt, the observer would be responsible for reporting back to the enforcement agency about the hunt and whether or not any infractions had taken place.</p>	<p>All of the action alternatives include provisions for observers and enforcement as described in Subsection 2.3.2.2.12, Other Environmental Protection Measures.</p>
787	e_Anonymo us1_6-4-15	<p>▸ Minimize the impact on surrounding environments I recommend initially requiring a buffer of a meaningful distance be established around Tatoosh Island and White Rock during any month as in alternative 4. This would be a condition that could be renegotiated halfway through the permit timeframe if the Makah Tribe can prove that it is preventing them from hunting successfully. If renegotiated, NOAA should require that the buffer be observed during the May hunt but hunt activities would be allowed closer to these islands during the December hunt. I do not think that the geographic limit on hunting area should necessarily be required and would elect to rather have the Makah make their own decisions about where to hunt so long as there was no allowance for the populations of concern (PCFG, WNP, and sensitive age/classes of whales) to be taken.</p>	<p>Comments noted regarding buffers around Tatoosh Island and White Rock. This comment appears to support hunting in the Strait of Juan de Fuca. The Makah Tribe did not propose the Strait as a hunt area and none of the alternatives examine it.</p>
788	e_Anonymo us1_6-4-15	<p>▸ Minimize the impact on the non-target whale populations I support a modified schedule for hunts to decrease the likelihood of killing WNP or PCFC whales. Of the options proposed in the various alternatives in the draft environmental impact statement, alternative 5 offers the best solution. I think it is reasonable to limit the hunt seasons to prevent the accidental take of whales that are not a</p>	<p>Comments noted. Please also see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.</p>



Sort #	Commenter Code	Comment	Response
		part of the ENP target stock. It is important to me that tribal hunt is managed to avoid PCFG whales and also minimizes the chance of taking a WNP whale.	
789	e_Anonymo us1_6-4-15	I do not support the requirement that a 0.577 caliber rifle be used. I think this could potentially increase the probability of an unsuccessful attempt and would prefer to minimize those as much as possible. To reiterate, I support that issuance of a permit to the Makah Tribe to hunt gray whales specifically from the ENP population. I do so under the condition that my above recommendations are considered and as many as possible are integrated into the final permit. Thank you for your consideration.	Comments noted.
790	e_Anonymo us2_6-2-15	Dear Mr. Stone: After evaluation the draft EIS for the Makah tribe wanting to continue whale hunting I would recommend no action. The main things to consider for using this alternative is: <ul style="list-style-type: none"> <li>● Culture vs. Conservation vs. Humanitarian</li> <li>● Struck and Lost</li> <li>● Uncertain Affiliation</li> </ul> My rationale for this alternative is following.	Comments noted.
791	e_Anonymo us2_6-2-15	Culture vs. Conservation vs. Humanitarian Clearly the biggest dispute causing the necessity of the EIS is the culture vs. conservation conflict. Historically, Native Americans are some of the most culturally repressed people in the United States, if not the most. Whaling, especially in the Pacific Northwest by the Makah tribe is an integral part to the culture. However, since the environmental movement of the 1970s there has been a massive paradigm shift in our country towards conservation, especially when it comes to species. The Makah tribe historically have used the gray whale for everything. From cultural rituals to food, they have always made the most of this resource. However, during the 19th and 20th centuries, extreme whaling practices by the United States pushed the gray whale to the brink of extinction and forced the Makah tribe to take a hiatus from their whaling practices. For nearly 100 years the Makah did not hunt a single whale. Because of the recent rebound of the whales, the Makah wish to begin hunting again. I think that it is also important to realize that cultures change throughout time. With the Makah taking a 100 year hiatus on hunting gray whales, their culture has largely shifted away from requiring the need to hunt gray whales. This is also where the humanitarian aspect of the argument comes in. Do the Makah really need to hunt the whales now? Can't they perform rituals and honor the still living whales? These are important questions that we need to consider. In my eyes, the Makah do not actually need to hunt whales for cultural reasons. This was fairly apparent when the last whale was illegally hunted and most rituals of the practice of whale hunting were largely ignored. It was also suspect that much of	Please see the response to frequent comments # 1 regarding the humaneness of the hunt, # 2 regarding the ASW status of the Makah Tribe, # 3 regarding the Makah Tribe's desire to revive its whaling tradition, and # 9 regarding non-lethal action.

Sort #	Commenter Code	Comment	Response
		the whale that was hunted was not actually used. This brings much doubt into the claims of importance of actually killing these whales for cultural reasons.	
792	e_Anonymo us2_6-2-15	It is also important to realise the power that these whales have in the movement towards conservation. The nation as a whole is largely divided when it comes to the environment, however more and more we seem to be trending back towards an environmentally focused populace. Setting conservation standards for these whales is hugely important in this revitalized movement because they are what would be considered a charismatic megafauna. Just as elephants and rhinos inspire people towards conservation, so do whales. This idea of them being charismatic megafauna has much power over the media and population as a whole. Just as past environmentalist used species such as the spotted owl to protect our forests, we can do the same with the gray whale to help protect the ocean. Setting a precedent that we have moved on from needless killing of this animals and instead towards conserving our planet as naturally as we are able to would protect far more species than just the gray whale.	Comments noted.
793	e_Anonymo us2_6-2-15	These flaws, largely our lack of understanding of the migration patterns of the Pacific Coast Feeding Group, specifically the Western population. While the Eastern population has been discovered to be stable, the Western still remains at extreme risk. With the new found information that some whales of the Western feeding group have been found to migrate all the way to North America, the tribe can not hunt with certainty that they are not impacting the Western population. While cultural preservation is important, culture has the ability to not only change and adapt, but also to be rebirthed. Species do not have this luxury. It takes thousands if not millions of years to adapt, and once they are gone there is no chance of ever bringing them back. Because of the uncertainty of what whales the Makah would be hunting, there should be no whaling taking place. Struck and Lost The second point to my reasoning is determined by struck and lost. Alternative 2 proposes that five whales can be hunted, and another three can be struck and lost. The fact that you can lose nearly 40% of whales that you target does not only bring in a conservation argument but also a humanitarian one. From a conservation standpoint, using this alternative you could potentially kill 8 whales in a year. If these whales all were to be from the Western population, which is estimated to be only around 150, you would be losing nearly 5% of the population, which is hardly sustainable for a marine mammal population. While other alternatives propose hunting during different seasons to combat hunting the Western population, there is still so little known about migration patterns that it is too risky to hunt the whales.	This comment mentions PCFG whales but appears to be largely about WNP whales. The commenter incorrectly asserts that under Alternative 2, 8 whales could be struck each year and all 8 could be WNP whales. The tribe's proposal, captured in Alternative 2, would limit a hunt to 7 strikes per year (not 8). More significantly, it is extremely unlikely a tribal hunt would result in the strike of a WNP whale even if all 7 strikes were made per year. The DEIS reports that under Alternative 2 there is a 7 percent chance of tribal hunters striking a WNP whale over a 6-year period if all 7 strikes are made every year (Subsection 4.4.3.2.2, Change in Abundance and Viability of the WNP Gray Whale stock..

Sort #	Commenter Code	Comment	Response
794	e_Anonymo us2_6-2-15	The struck and lost also brings a humanitarian aspect to it. The fact that you can kill 3 whales and get absolutely nothing from them brings to question the humanity of whaling. When the argument for culturally hunting these whales largely hinges on actually successfully capturing the whale and using every single usable piece of it, having such high struck and lost counts is unacceptable. This is because in essence you are killing these whales for no reason. There are many risks that people would not take if the chances are at 40% failure, and most of those risks have little to no impact in terms of the scale that we are dealing with. But in this case, you are gambling with not only the lives of individual whales, but also populations of a species that we could never bring back.	Comments noted.
795	e_Anonymo us2_6-2-15	Uncertain Affiliation As I have touched on before, the third and one of the more important reasons why we shouldn't hunt these whales is the uncertainty of affiliation. We do not know for certain what whales are being hunted in alternatives 2-6 and anyone of these whales killed could be a reproductive female from the Western population. There should never be any reasoning in valuing money or culture over the preservation of a species.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
796	e_Anonymo us2_6-2-15	Not only do we not understand the impacts fully of hunting the whales on their own population, but we do not understand what other species would be affected. We are already affecting the ocean ecosystem in ways we will never fully understand and be able to control. From ocean acidification, plastic waste, over-fishing, and many more impacts, we largely cannot fix or change these problems. However in this case, we have the opportunity to practice a precautionary principle and protect the whales. This is important because then we will not have to deal the the uncertainty and impacts of the whales being removed from the ecosystem as a whole. Just as one of the environmental trail blazers, Aldo Leopold, pointed out in short; ecosystems are so intricate and reliant on every species that we will never fully understand the impact that we have when we remove a population from an ecosystem.	Comments noted. Subsection 4.3, Marine Habitat and Species, analyzes the impact of the alternatives and Subsection 5.3, Marine Habitat and Species analyzes the cumulative effects of the alternatives on the resources mentioned in this comment.
797	e_Anonymo us2_6-4-15	Dear Mr. Stone: After reviewing the draft environmental impact statement (DEIS) concerning the Makah tribe's request for resumed whaling I recommend the following: Adhere to the listed alternative number five, with the modification of only allowing the take of one to two whales, with a struck and loss allowance of two whales total. Considering the health of the grey whale species beyond a human (cultural) context, the whales should not be put under further pressure. o Ideally, an EIS has the purpose of being focused on environmental issues, that purpose should remain in tact and focused on. Consider if the subsistence hunting of grey whales is even still relevant in this current era. o Is the need of	These introductory comment are noted; specific responses are provided below.

Sort #	Commenter Code	Comment	Response
		<p>whales still present for the Makah and others who wish to hunt them, or have they successfully moved on from the time when they relied on them so heavily. And finally/ subsequently Consider, given the point above, if the cultural claims of the Makah even make for a valid argument to resume whalingo In the current global setting, which choice would have the most impact, protecting the whales and thinking environmentally, or supporting the Makah and supporting our treaty and their culture?Each of these points has been made as they are of personal interest to me and I believe them to be of significance in the creation of the Environmental Impact Statement (EIS). Shortly I will address my rational for making each of them, however before I do so, a note. In making these points, I attempt to be as objective as possible. My personal history and persuasion leads me to be a supporter of alternative one, where the Makah are denied the right to hunt whales. However, in this letter I made as complete an effort as possible to be open minded to both sides of this issue. All of that being said, I believe my points to be without bias and worthy of consideration both individually and as a whole. Additionally, as an overall recommendation, my points lead me to supporting the listed alternative number five. With, however, the modification of limiting the take rate to one or two whales ceremonially.</p>	
798	e_Anonymo us2_6-4-15	<p><b>The health of the affected gray whale population</b> As it stands, the status of the affected grey whale population is doing much better than it was a few decades ago. I am aware of this, however my point is that there are more stressors than ever before on them now, so they may not be able to recover as they have in the past. For that reason I am lead to support alternative #5, as it protects the status of the population in a thorough fashion. My rational for my point above follows. As I'm sure you're aware, the collective population of grey whales in the pacific is split up into three groups, the eastern North Pacific group (ENP), the western North Pacific group (WNP), and the Pacific Coast feeding group (PCFG) (Calambokidis). As I stated above, the status of these whales is better than it used to be. Whereas the grey whales were once considered an endangered species, they have made a remarkable recovery; ENP group has nearly reached its carrying capacity in some models (Punt). The migrating PCFG however, is not nearly as large. It is estimated to have only around thirty potential mothers (Punt). This means that the populations potential for reproduction, and consequently resilience is extremely low. Furthermore, the migration pattern of this group, from California to Alaska, runs very near to where the ENP group resides. This is also where the Makah plan to resume whaling. For this reason, I recommend a lower take allowance and strict regulations on hunting seasons.</p>	<p>As described in the DEIS, we recognize two stocks of North Pacific gray whales – the ENP and the WNP. We do not recognize the PCFG as a stock but rather consider it to be a feeding aggregation (Carretta et al. 2019). Please also see the responses to frequent comments # 5 regarding the stock status of the PCFG, # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.</p> <p>The recommendation to adopt Alternative 5 is noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>Whales of the PCFG are found to frequently visit the area of the proposed Makah hunt ground. In fact, a good amount of the whales viewed in the northwest area were seen in or near the Makah's usual and accustomed hunting ground after June 1st (Punt). That being said, I support alternative five as I believe it adequately sets up hunting seasons in which this more endangered group of whales is less likely to be affected. Makah hunters are not likely to know which group the whale they are taking belongs to. Therefore it makes the most sense to only enable limited hunting when the whales most at risk are least likely to be present.</p>	
799	e_Anonymo us2_6-4-15	<p>Essentially, the issue that is most prevalent at hand here is determining whether or not resuming subsistence hunting of the affected species would pose a threat to affected populations. As I stated earlier, this is an environmental impact statement. I understand how the Makah make claims of cultural needs, but due to the nature of this document I think those are secondary. It is quite possible that if the Makah follow the guidelines and limitations for hunting the whales, or in other words, if everything goes as planned, then the whale population would not face a major threat. However, I believe alternative five would be the best option to achieve this outcome. However the very real question remains; what if things do not go as planned. As much as it is a possibility that the hunting could go on without endangering the population of the grey whales, it is also very possible that something could go wrong. It is worth considering, especially due to the critical situation of the PCFG group, what could happen to this whale population. If one of the whales from either the WNP or PCFG group is stuck and dies, that is another whale out of an already small population. If that whale is a female, then that is a loss in reproduction capacity for that group. Hunting comes with an inherent amount of risk and uncertainty. One of these said uncertainties and risks is the possibility that the Makah will hunt and kill something they would not have intended to. Therefore, if hunting of the grey whale population is to be allowed again, I believe it would be important to, at the very least, put up stringent regulations to avoid the accidental killing of a member of the western grey whale population. I doubt whether that population possesses the resiliency to survive if they encounter any hunters whatsoever.</p>	<p>Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.</p>
800	e_Anonymo us2_6-4-15	<p>Furthermore, since this is an environmental impact statement, and the general health of the whales is being considered, I believe it would be pertinent to take into account the overall environment of the whales. Humans are contaminating the oceans more than ever. Increased levels of atmospheric carbon dioxide has</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the</p>

Sort #	Commenter Code	Comment	Response
		<p>lead to a rise in the oceans acidity near 8ph (Orr). We're putting more pollutants into the ocean than ever, including heavy metals, untreated wastewater, and nitrogen runoff (GRID-Arendal."). In addition to these known risks, there are other factors making the state of the oceans less sound. Oil drilling has remained a threat to the health of the oceans, even with new methods being developed. Sonar testing by the navy and boat usage should also be taken into consideration of the overall global marine environment. Both have likely either increased or remained constant, and overall contribute to a cumulative supposed cumulative negative affect on marine life such as cetaceans (Calambokidis). Overall, I think it is clear that the environment of the whale populations has changed since the whales first had to make their recovery. In fact, it is still changing, with more oil drilling platforms, sonar technology, and cruise ships than have been seen in the past. This negative impact could all have the potential to harm the whale species. Individually, these increases in threats may not seem to pose a risk. However, together these combined factors have a cumulative affect that presents a harsher environment for the whales. It is not certain that allowing hunting to resurface after its long hiatus would put the grey whale population back at risk. However, it would be another stressor to the species to add on to the overall affect. As a species, the whales recovered once. However, that was under different conditions than are currently in play. I urge that resiliency needs to be considered. Simply put, it is not a question of whether or not the whales would again be put at risk, but whether or not they can survive being pushed back to that point. In this new harsher environment, I think the ability to recover, as a population in this environment has been severely addled.</p>	<p>ENP gray whale population in the face of climate change and other threats.</p>
801	e_Anonymo us2_6-4-15	<p><b><u>Legitimacy of subsistence hunting.</u></b> It is true that the Makah tribe hunted grey whales for generations to survive. However, it is my belief that this is no longer necessary. Other objects and substances have been found to replace what used to be supplied by grey whales. Therefore, if whaling were to be resumed by the tribe, it would no longer be in the nature of subsistence. However, the Makah have a legitimate concern towards their culture. Whaling became and is a major part of it. That is why I recommend the allowance of one to two whales to be hunted, for ceremonial purposes. No more than that should be necessary for their needs. My rationale for the point above follows. I am well aware of the Makah's previous reliance on whales. Parts from grey whale used to provide up to 80% of the Makah diet (Miller). In addition to this, the oils, bones, and skins of the whales were used in everything from construction, to crafts and games. It is clear that the whale was once of great importance to the Makah people,</p>	<p>Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>

Sort #	Commenter Code	Comment	Response
		<p>however it is worth it to ask if it still is. The fact remains that the Makah stopped whaling nearly a century ago (Miller). Elders who can still remember the taste of whale are gone, and none of the current youth know anything of the whale and its uses despite what they have heard in stories. All previous uses of the whale have also been replaced. It is obvious in some cases, where oils were once used to make butters, now modern mixes exist. Likewise has fish replaced whale meat in the Makah diet, along with other things.</p>	
802	e_Anonymo us2_6-4-15	<p>So, the question is worth asking, “Do the Makah really need the whale for subsistence purposes”? Makah make claims that the whale meat and seafood protein is necessary and its lack has been a cause of worsening diets within the tribe (Jasanoff). However, I would argue that a good deal of the world enjoys fair health well without seafood protein, thus, so can the Makah. Potentially they could use the parts of the whale commercially, and gain from it that way. However, this is forbidden from them except in the form of selling cultural craft made from parts of the whale. I am not aware of the kind of profit that can be made from such an endeavor, but it is likely not as large as simply selling the whale commercially. It is also worth considering if anyone alive in the Makah tribe is still able to make such craft while whale parts. In a sense, if the Makah were to revert back to their whaling culture and practices, they could very easily come to rely on the whale again as they once did. But do they really have to? Considering the current conditions of the earths ecosystems and environment, is such a subsistence culture really still relevant? Personally, I do not believe it is.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.</p>
803	e_Anonymo us2_6-4-15	<p>Additionally, I would hope that decision making powers do not believe that what the Makah plan to do is subsistence hunting either. Simply because I believe that there is the potential that if that Makah are allowed to carry out their whaling under the claim of subsistence hunting, then that would aid in broadening the term ‘subsistence’. This, in tern, could make it easier for larger whaling groups to get away with excessive whaling under the newly broadened claim of subsistence. The Makah people have moved on from the whale, and because of that, I believe that whaling has become obsolete to them. This is speaking in a subsistence sense, the terms of culture is a different situation.</p>	<p>Please see the response to frequent comment # 4 regarding the precedential effect of waiver internationally and domestically.</p>
804	e_Anonymo us2_6-4-15	<p><b>Makah whaling and its cultural significance</b> As I mentioned previously, due to its long held history and significance, both the whale and the act of whaling hold cultural significance to the Makah. This is the root of their claim to require the reallocation of whaling, to revitalize a dimming culture. I argue that this is a legitimate request, but should not be taken too far. As it is accepted that the Makah are hold whaling to be culturally significant, they must accept that act</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.</p>

Sort #	Commenter Code	Comment	Response
		<p>may no longer be culturally relevant in a broader sense. That is why I argue that along with adhering to alternative number five, only one to two whales be allowed to be taken a year. This would allow for the Makah to satisfy an old cultural practice, without expunging a now relevant and emerging global value. I am aware that the culture surrounding whaling was very strong for the Makah. In fact, whaling used to permeate nearly every aspect of Makah life. On one level, they had numerous traditions, songs, rituals, etc. surrounding both the whales and the act of hunting them. There were traditions for the first whale of the season, casting off to go get a whale, coming back with a whale, preparing the whale meat, and many others (Robert J. Miller). Hunters who went out to bring in the whales were of course some of the most important people in the tribe, and the art of whale hunting was a very important, if not sacred practice (Robert J. Miller). Parts of the whales brought back would decorate longhouses, and gifts of whalebone would be common at potlatches with the Makah (jester self). With all this, it is extremely clear that the whales were spiritually, culturally, and practically significant to the tribe. All that being said, it is understandable how the Makah look onto those past days with envy. Today, the Makah are nothing like they once were. For one there numbers have dropped significantly (Miller). Poverty runs commonly among the tribe, and as the old grow more incapable of taking care of themselves, the youth are stricken with drug and alcohol abuse (Robert J. Miller). With this in mind it could be very fair to say that the Makah tribe is gradually dissipating. Logically however, the tribe could save itself by investing into strongly into its collective culture. A strong unifying cause is just what might save the tribe from disappearing altogether. It makes sense then why the Makah would request to be allowed to resume whaling. Bringing back something that used to be so key to their culture is an obvious choice for quickly injecting some life back. The elders of the tribe could have purpose as advisors, and the youth could be steered back towards the earnest effort of learning to hunt whales. All this is true and has already likely been considered. What I would then urge for an additional consideration is if this claim of whaling as a culture for the Makah is even still legitimate. It is very true that the Makah used to be whalers. Therefore the mindset likely exists that they should be allowed to return to that culture. However, problems with the public arise when they see that the Makah are using rifles to kill the whales instead of their traditional spears (Miller). Here arises the challenge of are the Makah actually reviving their [INCOMPLETE SENTENCE IN LETTER] Global issues around whaling are without a doubt dynamic. As those hoping to start or continue whaling find arguments for</p>	



Sort #	Commenter Code	Comment	Response
		<p>their cause, anti-whaling campaigns become more vocal. It is my assertion that in this equilibrium, whaling is become less and less popular a practice. In this way, I would say that the global, westernized culture is shifting towards disapproving of whaling in general. This same westernized culture has already begun to be accepted by the Makah in other terms. They utilize its technology; the language it uses, and many other aspects of it. In this way, the Makah are letting their isolated culture start to participate in a larger, surrounding culture. By doing this, they aren't becoming any less Makah. They are doing what they need to do to survive in this modern world. However, I argue that the Makah need to accept that this larger culture that they are letting themselves be a part of views whaling as an obsolete and unnecessary practice. If they are choosing to accept westernized culture, they must adhere to some parts of it that they may not necessarily agree with as well.</p>	
805	e_Anonymo us2_6-4-15	<p>To further drive this point, there is also a very obvious global culture surrounding whaling. Many other countries and nations participate in whaling. Some of these whalers do so in an extremely wasteful manner and have the potential to cause great harm to various cetacean populations. With this in mind, it stands to reason that if a small group like the Makah are allowed to resume whaling, then it will only be harder to not allow other parties to as well. Letting the Makah resume whaling to an excessive amount would then essentially weaken all anti-whaling arguments in the future.</p>	<p>Please see the response to frequent comment # 4 regarding precedential effect of a waiver internationally and domestically.</p>
806	e_Anonymo us2_6-4-15	<p>Considering all these factors, I would recommend a compromise be made. The Makah should be allowed to ceremonially hunt a maximum of two whales a year. This would make progress for them culturally, as they would be allowed to resume whaling, but would also send the message that whaling is only acceptable in very limited quantities. By taking this action, and allowing whaling to resume to a limited degree the culture of the Makah would be assisted. However, the Makah culture would also be further integrated into its surrounding westernized culture (through the strict limit on the number of whales allowed to be taken and the allowance of modern weaponry in the hunting process). This way, conflict around cultural stereotyping would be minimized. Thus, I again recommend an emphasis on alternative number five with the alterations of only allowing the take of up to two whales a year (with a maximum struck and loss of two whales total).This ends my recommendations for the Environmental Impact Statement of the Makah tribe's request to resume hunting of the grey whale.Thank you for your consideration.CitationsCalambokidis, Joh, and Jeffrey L Laake. "Abundance and Population Structure of Seasonal Gray Whale Populations in the Pacific</p>	<p>Recommendation noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>Northwest, 1998-2008.” 1-14. Web. 2 June 2015.  <a href="https://swfsc.noaa.gov/uploadedFiles/Divisions/PRD/Programs/Photogrammetry/SC-62-BRG32.pdf?n=2361">https://swfsc.noaa.gov/uploadedFiles/Divisions/PRD/Programs/Photogrammetry/SC-62-BRG32.pdf?n=2361</a>. “GRID-Arendal.” What Is Marine Pollution and How Does It Affect Marine Life. Web. 2 June 2015. Jasanoff, Shelia. Earthly Politics: Local and Global in Environmental Governance. Illustrated ed. MIT, 2004. 256-281. Print. Miller Beatrix D. The Pacific Northwest Quarterly, Neah Bay: The Makah in Transition Vol. 43, No. 4 (Oct., 1952), pp 262-272 Published by: University of Washington  <a href="http://www.jstor.org/stable/40487845">http://www.jstor.org/stable/40487845</a>  <a href="http://www.jstor.org/stable/40487845">http://www.jstor.org/stable/40487845</a> Miller Robert J. American Indian Law Review, Exercising Cultural Self-Determination: The Makah Indian Tribe Goes Whaling Vol. 25, No. 2 (2000/2001), pp 165-273 Published by: University of Oklahoma College of Law  <a href="http://www.jstor.org/stable/20070661">http://www.jstor.org/stable/20070661</a>  <a href="http://www.jstor.org/stable/20070661">http://www.jstor.org/stable/20070661</a> Orr, James C. “Anthropogenic Ocean Acidification over the Twenty-first Century and Its Impact on Calcifying Organisms.” Nature 437 (2005): 681-86. Nature. Web. 2 June 2015.  <a href="http://www.nature.com/nature/journal/v437/n7059/full/nature04095.html">http://www.nature.com/nature/journal/v437/n7059/full/nature04095.html</a>  I. Punt, A. E. “Population Status of the Eastern North Pacific Stock of Gray Whales in 2009.” NOAA Technical Memorandum NMFS-AFSC-207 (2010): 1-16. U.S. Department of Commerce. Web. 2 June 2015.  &lt;<a href="https://swfsc.noaa.gov/uploadedFiles/Divisions/PRD/Programs/Photogrammetry/NOAA-TM-AFSC-207.pdf?n=6349">https://swfsc.noaa.gov/uploadedFiles/Divisions/PRD/Programs/Photogrammetry/NOAA-TM-AFSC-207.pdf?n=6349</a>  <a href="https://swfsc.noaa.gov/uploadedFiles/Divisions/PRD/Programs/Photogrammetry/NOAA-TM-AFSC-207.pdf?n=6349">https://swfsc.noaa.gov/uploadedFiles/Divisions/PRD/Programs/Photogrammetry/NOAA-TM-AFSC-207.pdf?n=6349</a>&gt;.</p>	
807	e_Anonymous_3-13-15	I do not believe they should be allowed to hunt any whales. Traditions aside... It is cruel & It is not necessary!	Opinion noted.
808	e_Anonymous3_6-2-15	<p>Dear Mr. Stone, After reading the draft environmental impact statement (DEIS) regarding the Makah Tribe Request to Hunt Gray Whales, I recommend that the National Marine Fisheries Service (NMFS):</p> <ul style="list-style-type: none"> <li>- Acknowledge the importance of humane whaling techniques</li> <li>- Diligently research the most humane and efficient whale hunting techniques and establish requirements for humane and efficient hunting practices</li> <li>- Be precautionary by imposing strict limits that deter the taking of whales of uncertain affiliation</li> <li>- Require strict measures to avoid wasteful take and struck and lost whales</li> <li>- Adopt Alternative 5 with the following elements: <ul style="list-style-type: none"> <li>o Hunting season May 1- June 30, November 1- December 30</li> <li>o Assume all struck and lost are from the Pacific Coast Feeding Group (PCFG)</li> <li>▪ Limit the taking of PCFG whales to 10% of that group’s potential biological removal level</li> </ul> </li> </ul>	<p>Recommendations noted. A number of the commenter’s suggestions are included in various DEIS action alternatives. Please also see the response to frequent comment # 1 regarding humaneness of the hunt.</p>

Sort #	Commenter Code	Comment	Response
		<p>(PBR) which is 0.277 whales ▪ Impose a PBR-based limit for taking of PCFG females at 0.1385 whaleso Require the presence of a third party observer for all huntso Require the use of floats and other devices which reduce likelihood of losing a struck whaleo Require the use of marked harpoon and other weaponry to track liability o Provide tissues for scientific sampling and research Humane whaling techniques For over 70 years the Makah have been barred from hunting grey whales for a variety of reasons, including the banning of the pelagic fur seal hunt, governmental interference and federal legislation such as the 1934 Indian Reorganization Act. There is a vast amount of evidence showing the importance of hunting gray whales in the Makah culture. That said, NMFS must ensure that if it reinstates this right for the Makah that it will be carried out correctly in the most humane and efficient way possible. Traditionally the pre-contact Makah whalers had two methods of obtaining whales: hunt them or use whales which have died and drifted ashore (3-297). When the Chief chose to hunt the whales the eight man hunting crews would use a 30-foot cedar canoe and mussel-tipped harpoons. The DEIS explains that a whale would take several hours to die using only pre-contact methods, which is inhumane and could lead to higher counts of struck and lost and thus wasted whales. As mentioned in the DEIS, a public comment suggested that if the Makah are given the right to hunt grey whales, they must use ‘traditional’ hunting practices. However, I feel this is not only highly inefficient for the Tribe it is also highly inhumane and the MMPA has set regulations against this. As quoted in the DEIS, “The agency [NMFS] may only issue a permit to take a marine mammal upon a determination that the manner of taking that which the Marine Mammals Protection Act (MMPA) describes as “the least possible degree of pain and suffering practicable” (16 USC 1362(4)). Another, more realistic option presented in the DEIS is the use of a traditional wood canoe, with harpooner and crew, accompanied by a motorized chase boat, which a rifleman and observer, with one of the vessels carrying the whaling captain. The whalers would use a hand-thrown toggle point harpoon, meaning it has barbs that aid in keeping the harpoon in the whale’s flesh, attached to a line and floats. The rifleman in the chase vessel would kill the whale by using a .50 caliber or larger rifle aimed at the central nervous system (3-164). If NMFS agrees to grant the Makah hunting rights they must establish a requirement for mandatory use of no smaller than a .50 or .577 caliber rifle and should research the humanity of using explosive projectiles.</p>	
809	e_Anonymo us3_6-2-15	The Whaling Convention Act (WCA) regulations also require that hunting not be conducted in a wasteful manner, which “means a method of whaling that is not	If hunting is permitted, the tribe would be subject to the requirements

Sort #	Commenter Code	Comment	Response
		likely to result in the landing of a struck whale or that does not include all reasonable efforts to retrieve the whale” (50 CFR 230.2) (2-29). Under this WCA regulation NMFS should establish mandatory use of floats, to reduce the number of stuck and lost whales. Before NMFS makes its decision it must ensure that the best available science is leading to the development of the most humane and efficient whale hunting equipment and that these techniques and technologies are being used and used correctly, or the hunt should not be reestablished.	of the MMPA and the WCA regarding the issues raised in these comments. Please also see the response to frequent comment # 1 regarding humaneness of the hunt.
810	e_Anonymo us3_6-2-15	I am also concerned about the findings presented by the United Kingdom at the 2003 International Whaling Commission (IWC) Workshop on Killing Methods, which suggested that whales experience stress as a result of being pursued and can exhibit stress related symptoms such as impaired immune defense, reduced fecundity, failure to grow, and a disease called exertional myopathy (3-166). Although, this has not been documented with gray whales, there has not been any research into this subject. It would be ignorant to assume they would not experience stress from being pursued, as any animal does while being hunted; and that this stress would adverse effects on the whales in their critical habitat. Before a decision is made on the Makah right to hunt, we should research all adverse effects whaling may have, including emotional, reproductive, and the potential cumulative effects of all of these.	Recommendation noted.
811	e_Anonymo us3_6-2-15	<b>Uncertain Affiliation WNP, ENP, PCFG</b> NMFS must be able to ensure that it can determine the gray whale stock to be affected by Makah hunting and their conservation status. According to the best scientific data available there are currently two, potentially three, different groups of whales which migrate through the Makah Tribe’s usual and accustomed fishing areas (U&A). However NMFS only recognizes two of these groups as stocks: the eastern North Pacific (ENP) gray whale stock and the western North Pacific (WNP) stock. As stated in the DEIS, commercial whaling drove the population of the ENP stock nearly to extinction by the early 1900s. After being placed on the endangered species list it rebounded to a population totaling over 18,000 individuals. I see no need to ban the Makah from hunting gray whales from the ENP because even taking the highest proposed limit 24 over a 6-year period will have an almost negligible impact. However, the WNP stock also occurs within the same area. The distribution and migration patterns of the WNP are not well understood. According to recently collected scientific data, some WNP individuals may transit the Makah U&A during feeding season. This is a concern because there are currently an estimated 140 individuals in the WNP group (excluding calves), which is why this group is currently listed as critically endangered under the ESA	Commenter asserts there is “a high likelihood of the Makah whalers striking a WNP animal.” According to the analysis in the DEIS, under the tribe’s proposal, Alternative 2, there is a 7 percent chance of a WNP whale being struck over 6 years of hunting if all 7 strikes occur per year. Please see the response to frequent comment # 12 regarding risks to WNP gray whales.

Sort #	Commenter Code	Comment	Response
		<p>and depleted under the MMPA (p.3-92 DEIS). As stated in section 3.4.3.2.2 of the DEIS, scientists have identified 27 cases of whales from the WNP within the ENP population's range, this is equivalent to 19 percent of the total WNP population. All precautions should be taken when there is the potential for harming an endangered population; as stated in section 7 of the ESA. The analysis by Moore and Weller (2013) as described in the DEIS calculated the potential biological removal limit for the WNP to range from 0.07 whales (with a recovery factor of 0.1) to 0.33 whales (with a recovery factor of 0.5). With the currently limited amount of data on this WNP group, there appears to be a high likelihood of the Makah whalers striking a WNP animal, and any loss to this population would greatly reduce their chance of recovering to a pristine level. The DEIS states that the probability of an attempted strike on at least one WNP individual within a 6-year period is fairly high and that 'the loss of even one whale, particularly a mature reproductive female, would be a conservation concern (3-93) (Consultations FAQs 2013).'</p>	
812	e_Anonymo us3_6-2-15	<p>Along with the endangered WNP group there is an additional group of gray whales within the Makah U&amp;A that warrants further research before any action is decided upon. The DEIS states that there is at present an estimated minimum population size of 173 animals in the Pacific Coast Feeding Group (PCFG) (1-6). This is not considered a population stock (3-129). The IWC states it is 'plausible' that the PCFG population is a separate feeding group, but the DEIS cites considerable evidence of cohabitation or intermingling with ENP whales, including during a proposed hunting season of December 1 to May 31. After reviewing section 3.4.3.4.2 on seasonal distribution, migration and movements of the PCFG, it appears that much more research is required before we will have enough information to decide if these whales are in danger because their range overlaps with that of the ENP. NMFS has an obligation to adhere to the precautionary principle while making their decision on the Makah's request to hunt grey whales and the data we have currently on the PCFG is not sufficient enough to rely on. Once NMFS has adequate research on the PCFG migration patterns, critical habitat and their interactions with the WNP and ENP whale groups, will they be able to make an informed decision regarding Makah whale hunting.</p>	Please see the response to frequent comment # 13 regarding risks to PCFG whales.
813	e_Anonymo us3_6-2-15	<p><b>Wasteful Take/Struck and Lost</b> Considering the scientific uncertainty regarding overlapping critical habitat between the ENP, WNP and PCFG whale groups, and the fragility of the WNP and PCFG groups; NNFS must pay special attention to regulations involving wasteful take, and stuck and lost. As stated in the DEIS in</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		regards to the WNP population ‘the loss of even one whale, particularly a mature reproductive female, would be a conservation concern’. This should extend to the PCFG group as well until research data indicates otherwise. The DEIS suggests that there is ample evidence showing there is a high chance of the Makah striking an individual from the WNP or the PCFG; thus, NMFS must take all precautions to ensure that the Makah whaling will not affect either of the smaller populations. Any whale that is struck and lost is a complete waste and would serve as a huge negative impact to either of the smaller populations. As indicated in the WCA regulations against wasteful take, the whalers must take all steps against hunting in a wasteful manner and since the Makah hunting may affect a critically endangered group of gray whales this rule must be stressed.	
814	e_Anonymo us3_6-2-15	Alternative 5 Alternative 5 suggests a split hunting season, including two 3-week seasons occurring in May and December, would minimize the chance of the Makah striking an individual from WNP or PCFG. I suggest, however, that instead of the first 3-week hunting seasons lasting from May 10 to May 31, that it is held from early May to late June, and the second lasting from early November to late December. This approach would extend each of the hunting seasons, giving the Makah more time to hunt for ENP members while reducing the likelihood of striking a member from the WNP stock or the PCFG. This alternative would keep the annual PCFG mortality limit at 10% of the PBR (0.27 PCFG whales), and	Recommendations noted.
815	e_Anonymo us3_6-2-15	would count any whale struck but not landed as a PCFG whale in proportion to the observed presence of PCFG whales in the Makah U&A during that season. In addition the PBR for PCFG in general, there should be a more conservative limit for PCFG females, similar to the limit set in alternative 3.	Recommendations noted.
816	e_Anonymo us3_6-2-15	With a lower allowable take limit and struck and lost limit comes the risk of undocumented struck and lost whales. To reduce the chances of undocumented struck and lost NMFS must require a third party observer to accompany all hunts for accountability purposes. Along with a third party observer, the whale hunters should be required to adhere to strict regulations regarding markings on harpoons and equipment used to hunt gray whales. By marking an individual’s whaling gear with a unique marking, it will be easier to identify and track how many whales have been struck and by whom. In the case of a struck and lost whale which washes ashore it will be easier to identify who killed it and if it part of the allowable take limit. Along with a third party observer, marked whaling gear, whaling groups must make use of floats to avoid losing a struck whale. Any action which can be taken to reduce the amount of struck and lost whales must be taken. I hope that as NMFS deliberates on whether or not it will reinstitute the	Recommendations noted. All of the action alternatives include provisions for observers and enforcement as described in Subsection 2.3.2.2.12, Other Environmental Protection Measures.

Sort #	Commenter Code	Comment	Response
		<p>hunting of grey whales by the Makah tribe, it will take into account the items discussed above. It is of the utmost importance to abide by ESA and MMPA regulations when dealing with threatened and endangered species populations. We have fought to bring the ENP population to a recovered level, but this should not drive the WNP population and PCFG to extinction. NMFS must consider the threat that permitting whale hunting places on the critically endangered WNP whale group and the vastly unstudied PCFG stock. Thank you for considering my comments regarding the Makah request to hunt gray whales. Works Cited - "DEIS on Makah Tribe Request to Hunt Gray Whales." (2015): n. pag. National Oceanic Atmospheric Administration. NOAA, Feb. 2015. Web. Mar. 2015. &lt;<a href="http://www.westcoast.fisheries.noaa.gov/publications/protected_species/marine_mammals/cetaceans/gray_whales/makah_deis_feb_2015.pdf">http://www.westcoast.fisheries.noaa.gov/publications/protected_species/marine_mammals/cetaceans/gray_whales/makah_deis_feb_2015.pdf</a>&gt;.- "Consultations FAQs." Endangered Species Program. U.S. Fish and Wildlife Service, 15 July 2013. Web. 3 Apr. 2015. &lt;<a href="http://www.fws.gov/endangered/what-we-do/faq.html#4">http://www.fws.gov/endangered/what-we-do/faq.html#4</a>&gt;.- Krogstad, Jens M. "One in Four Native Americans and Alaska Natives Are Living in Poverty." Pew Research Center. Pew Research Center, 13 June 2014. Web. 15 Mar. 2015. &lt;<a href="http://www.pewresearch.org/fact-tank/2014/06/13/1-in-4-native-americans-and-alaska-natives-are-living-in-poverty/">http://www.pewresearch.org/fact-tank/2014/06/13/1-in-4-native-americans-and-alaska-natives-are-living-in-poverty/</a>&gt;.</p>	
817	e_Anonymous3_6-4-15	<p>Dear Mr. Stone: After reviewing the 2015 Draft Environmental Impact Statement of the Makah Tribe's request to hunt gray whales (<i>Eschrichtius robustus</i>) I'd like to express my concerns regarding The significance of preserving cultural traditions, and The importance of understanding the status of the Pacific Coast Feeding Group and determining the best approach to protection. Preserving Culture It can be difficult to understand the significance of cultural traditions from the perspective of an outsider looking in. I am no expert on the Makah Tribe and their culture. However, I strongly believe in culture as an expression of the relationship a community has with its surrounding environment and an important resource to consider. The Makah Tribe's argument for resuming gray whale hunting is based on reviving cultural practices rather than a necessity for subsistence. Other indigenous groups that exercise rights to hunt whales live in remote areas and rely on whales as a food source. The traditions involved with preparing for, carrying out and celebrating a whale hunt positively impact the Makah Tribe and keep alive valuable indigenous knowledge. This proposal provides an opportunity to examine the value of culture and how it's perceived. Regardless of the outcome, it will set a precedent and influence the protection of cultural diversity going forward. The Makah people rely mainly on oral and</p>	Comments and recommendation noted.

Sort #	Commenter Code	Comment	Response
		<p>experiential learning to share knowledge with one another. This type of knowledge system is common among many indigenous cultures, but differs from the reading and writing based system that dominates most of the western world. In a culture with such deep ties to the surrounding environment there is a unique understanding of local ecology built into Makah traditions and language. Whale hunting would provide the opportunity for tribe members to practice skills, apply ecological knowledge, tell stories, teach younger generations, use the native language, and participate in the spiritual and ceremonial aspects of the hunt. These learning experiences are invaluable and without them, the traditions become irrelevant and the knowledge is lost. Studies done on the 1999 and 2001 Makah whale hunts show overwhelming support for and participation in the hunts and resulting activities. There were a variety of opportunities for people to partake in the action. Most of the meat and blubber was consumed at the community feast following the hunt and the remains were distributed amongst households. Although many members of the tribe expressed an interest in using the whalebones for traditional crafts, the entire skeleton was given to the nearby public school. Approximately sixty students participated in preparing the bones and reassembling the skeleton for display in the Makah Cultural and Research Center. It is my opinion that opportunities for learning, particularly environmental education, justify the take of a whale. Indigenous groups often have a much different approach to environmental education because of their spiritual and cultural interaction with the environment. Whale hunting would provide a huge opportunity for the Makah Cultural and Research Center to expand their efforts in preserving the language and ecological knowledge of the Makah people for educational purposes. Turning down the Makah Tribe's request to hunt whales could certainly be an easier way to ensure the conservation of all groups of gray whales. However, promoting environmental education through cultural traditions could have more positive and long-term effects for environmental conservation on all fronts. After a long recovery, delisting the eastern North Pacific (ENP) gray whale under the Endangered Species Act in 1994 was cause for celebration. Today, the stock is managed for aboriginal hunting with a catch limit that is allocated between Russia and the United States. I believe the Makah people deserve the opportunity to hunt some of these whales. If the Makah Tribe's request is turned down, their portion of the catch will likely be reallocated to Russia. This means that the same number of ENP gray whales could be taken from the stock regardless of the outcome. Denying the Makah people the opportunity to practice their culture's traditions will not necessarily</p>	



Sort #	Commenter Code	Comment	Response
		save any gray whales. However, there is potential for whale hunting to impact the unique ecology of this region.	
818	e_Anonymo us3_6-4-15	<p>Protecting the Pacific Coast Feeding Group My main concern is how to ensure protection for the smaller populations of gray whales that may not be purposely targeted by the Makah Tribe, but are a significant part of the local environment and at risk. A solid definition and understanding of these whales is critical for determining the necessary and appropriate conservation measures to take. Recently, there has been much debate over whether to consider the Pacific Coast Feeding Group (PCFG) gray whales as its own separate stock, as opposed to a subset of the ENP stock. There is sufficient evidence for both sides of the argument and plenty of uncertainty in between. My concern is that choosing not to recognize the PCFG as a stock could put the population at risk in the future. Research shows that characteristics of behavior, population dynamics and ecological interactions of the PCFG differ significantly from the ENP gray whales. Designation as a stock would guarantee regularly conducted, in depth research and analysis of the population, which might provide a more comprehensive understanding of how to manage impacts on the PCFG. The Makah Tribe's proposal and action alternatives offer different methods of restricting the take of PCFG gray whales, including bycatch or mortality limits. These limits are most effective when calculated with data and a formula based on current dynamics of the population. Using data from the ENP stock assessment may not be accurate. The PCFG gray whale population has unique characteristics like a constantly fluctuating abundance as whales immigrate and emigrate. Researchers are still learning about how gray whales are recruited to the population. One cannot expect accurate data calculations to come from such vague knowledge of the PCFG population status to begin with. A stock assessment focused on PCFG gray whales alone could contribute to a more informed decision on how to calculate a bycatch or mortality limit. As of now, the lack of understanding of the PCFG population status compels me to encourage more conservative limitations on allowable PCFG gray whale take. If the scientific evidence alone cannot prove the PCFG gray whales as a separate stock, perhaps the added risk factor associated with the Makah whale hunt should be taken into account.</p>	Please see the responses to frequent comments # 5 regarding the stock status of the PCFG and # 13 regarding risks to PCFG whales.
819	e_Anonymo us4_6-2-15	Dear Mr. Stone: Based on my review of the subject draft environmental impact statement (DEIS) I recommend that NOAA grant whaling rights as set forth in Alternative 2, with the modification of total allowed struck and lost whales lowered to two annually, the limit on struck summer feeding group individuals set at one annually, and a provision established for continued monitoring of the	Comments and recommendations noted.

Sort #	Commenter Code	Comment	Response
		<p>Western North Pacific (WNP) gray whale population. 1. Treaty Rights The Makah Tribe holds expressed rights to hunt gray whales based on the 1855 Treaty of Neah Bay. I believe that the U.S. government must uphold their trust responsibilities and recognize those rights. If the treaty actions undermine the conservation efforts of the U.S. government, or fail to satisfy cultural needs, U.S. Supreme court precedence allows for the regulation and restriction of treaty rights. However, based on the information available, the Makah’s request to hunt Eastern North Pacific (ENP) gray whales appears to meet both conservation and cultural requirements. That being the case, the Makah should be granted their right to hunt ENP gray whales. 2. Conservation The Makah Tribe’s request to hunt includes only the ENP gray whale stock. The International Whaling Commission’s (IWC) schedule – approved by all signatory states, the U.S. included – has approved a five-year harvest quota of 640 ENP gray whales, and an annual harvest quota of 140. At present the entire approved harvest quota goes to the Chukotka Natives of the Russian Federation. Therefore, regardless of whether or not the Makah Tribe is granted their treaty right to whale, the ENP gray whale population will be hunted, and impacted, based on the ICW quota limits. The only difference is who will hunt the whales and thereby benefit. Therefore, the question is whether Makah whale hunting is more detrimental to the conservation of the ENP gray whale than hunting by Chukotka Natives. If carried out responsibly, I see no reason that hunting by the Makah will have a more detrimental effect on the ENP gray whale population. Number of Harvested Whales: Alternative 2 - Proposed The ENP stock of gray whales was delisted as an endangered species in 1994, and now numbers about 18,000 individuals. Populations of this size can withstand the loss of some minimum number of individuals. The National Marine Fisheries Service (NMFS) uses the Potential Biological Removal (PBR) level defined in the Marine Mammal Protection Act to indicate the number of tolerable human- caused losses. Given the ENP gray whale’s current abundance, its PBR is calculated to be 417 individuals annually. To properly evaluate the possible threat to the ENP gray whales the cumulative impact of all human-caused risk factors must be considered. If the Makah and the Chukotka Tribes both take gray whales for subsistence purposes, the total number taken under the IWC allocation would be an annual average of 124 individuals. The DEIS identifies additional threats to ENP gray whales to be ship strikes, incidental fishing operations, and whales successfully hunted or stuck and lost by Chukotka hunting activities. The total number of takes from these activities is 141 gray whales per year. This number is only one whale over the</p>	

Sort #	Commenter Code	Comment	Response
		approved total annual harvest of whales and is about 33% of the annual PBR. Based on the cumulative impact and the PBR set forth in the EIA it is evident that the Makah's hunting activities will have an insignificant impact on the status of the ENP gray whale stock.	
820	e_Anonymo us4_6-2-15	<b>Number of Stuck, Struck and Lost: Alternative 2, 2/year</b> A shortcoming in the above line of reasoning is that it does not account for the number of whales that may be struck and lost by the Makah hunters. Struck and lost whales represent a considerable waste and a humanitarian concern because these whales may die for no reason or with no benefit realized by the hunters. Furthermore, hunting likely will entail the harassment of a number of whales. For all these reasons, I believe it is necessary to limit the number of whales that are struck and lost to two per year. For humanitarian reasons, the maximum annual struck number should be set equal to Alternative 2, but the number of struck and lost whales should be limited to two. This reduces the number of needlessly impacted whales by 10 fewer approaches and four fewer harpoon attempts. This reduction in struck and lost ENP gray whales should help appease the concerns of those who oppose the hunting of gray whales for humanitarian reasons. Yet, it also offers the Makah tribe more than one chance to land an ENP gray whale (as set forth in alternative 5).	Recommendation noted.
821	e_Anonymo us4_6-2-15	<b>Number of Identified Whale Takes: 1/Year</b> Hunting of gray whales in this region does present a conservation challenge with regard to whales identified as part of the Pacific Coast Feeding Aggregate (PCFA), and whales occurring in the Oregon Southern Vancouver Island (ORSVI) area. The PCFA and the ORSVI are summer feeding groups, and the Makah Tribe's proposal seeks to avoid the intentional and incidental harvest of these individuals by adjusting the timing of the hunt. These feeding groups have significantly smaller numbers than the greater ENP gray whale population. The PCFA is estimated to be about 170 individuals and the ORSVI population is an even smaller subset of the PCFA. These groups are being studied and identified using photographs and the best available science does not reveal any significant difference between the summer feeding groups and the ENP gray whale stock other than feeding locations. Some evidence indicates that whales in these groups may mix with ENP whales. Therefore, a small number of whales removed from these groups may be replenished naturally in subsequent years. However, to ensure that these populations are maintained, a specified limit on identified individuals struck should be set at one per year. Although this is a stringent limit, the small size of these groups justifies a low impact allowance, as these groups are more vulnerable to decline from human impacts. Hunting in	Recommendation noted.

Sort #	Commenter Code	Comment	Response
		the spring and winter is less likely to involve whales from the summer feeding groups and therefore is unlikely to hinder the success of the Makah hunts.	
822	e_Anonymo us4_6-2-15	Western North Pacific Gray Whale Population – Conditional ENP hunt approval: The final conservation concern is the Western North Pacific (WNP) gray whale population. This is a critically endangered group with a population of only 140 individuals. It is a unique population with distinct genetics and demographics. Any harvesting or taking of this group would have significant negative consequences. Whales from the WNP population do mix with whales from the ENP population, which makes them vulnerable to hunting. However, given the small area in which the Makah will hunt and the temporal limitations on hunting under this alternative (i.e., December 1 to May 31), it seems unlikely that their hunt will impact the WNP gray whale population. Although scientists are only recently exploring the mixture of these two groups, the best available science distinguishes the WNP and ENP groups as geographically and genetically separate. Consequently, without new results proving an overlap of migration, breeding, or feeding areas between the two groups, it does not appear that the WNP population will be in added danger with the approval of the Makah hunt. In a precautionary effort to protect the WNP gray whale population, the approval of the Makah hunt should include a mandate for continued monitoring by NOAA and NMFS of the WNP population and a provision to revisit conditions of the Makah hunt if the best available science indicates that Makah hunting does pose a substantial threat to the WNP population.	Recommendation noted. In response to the discovery of WNP gray whales in U.S. waters, NMFS initiated a SAR process specifically to monitor and report on the status of the WNP (Carretta et al. 2019).
823	e_Anonymo us4_6-2-15	<b>3. Cultural Significance</b> The Makah people have a long history of whaling and maintain a deep connection to their whaling traditions. Until 1999, the Makah Tribe had not hunted for many decades and some argue that they have moved past that aspect of the tribe’s culture. However, the gray whale has retained its symbolic significance and its image is used and seen through the tribe’s land, educational centers, homes, and sacred places. Although the Makah may not have hunted the whale for some time, hunting still appears to be an important tradition. Cultural Benefit – Social Although the whale symbol is still revered, the social connection with the whale has been diminished in the years without whaling. Prior to a hunt the whalers go through extensive and intensive training. As a result the whalers create a special bond between each other and a connection to their culture. Additionally, the Makah describe an increased sense of cultural identity and connection as a community when they have an actual hunt. Younger generations are interested in the whaling tradition and their interest increases when hunts take place and they are able to see, participate in,	Comments and recommendation noted.

Sort #	Commenter Code	Comment	Response
		<p>and benefit from them. In contrast, the more removed from the actual hunt tribe members become the less important or significant the whales and hunting become for them. Clearly, to regain a strong bond between tribe members and generations within the tribe, and to promote a stronger connection to the past and future, the Makah people need to hunt and harvest gray whales. Cultural Benefit – Subsistence Use and Economic Role A landed gray whale is not only culturally significant but is used as a resource as well. The whale is harvested and processed. After the processing, the blubber, meat and bone are distributed freely to the tribe members. The uses of the whale parts vary; they are mostly used for the creation of traditional crafts and goods, and consumed as food. When available, the Makah people are able to consume whale meat and blubber instead of food they would have to purchase. This allows many who do not have large incomes to maintain a healthy diet with less cost. Furthermore crafted bone products can be shared with family and friends and sold to those with economic ties to the Makah. Without the ability to hunt and harvest gray whales, the Makah have no means of obtaining these important whale products, which play a role in their basic health and wellbeing. Cultural Benefit – Traditional Ecological Knowledge The whaling practice of the Makah is not a written tradition. Rather it is a tradition passed down orally from generation to generation. The knowledge and skill of whaling is held in the minds of the men who learned from their fathers, who also learned from their fathers. As mentioned in the DEIS everything from training for the hunt and the harvesting and creation of craft goods is passed down orally from one generation to the next. Many components of the Makah language are used only in the oral teachings, techniques, rituals, etc. Such oral traditions become very difficult to maintain if the basis of that knowledge — the harvesting of the whale—no longer exists. The very language of the Makah people may lose significant elements if they are denied the right to hunt. To keep the deep knowledge of whaling alive, hunts must take place. It is only then that there is reason for the younger Makah members to listen and for the older experienced members to teach. To save the Makah’s centuries-old skill and knowledge, they must be able to hunt gray whales. Cultural Benefit – Spiritual Connection The whale is not only a subsistence product, or a cornerstone of Makah knowledge and understanding. For the Makah people the gray whale is also deeply spiritual. Tribe members and whaling families participate in pre-hunt rituals. They believe that if the hunt is done properly, the whale will give itself to the hunters. Through physical training and the actual hunt the hunters experience an enhanced spirituality. Their culture includes dancing, singing, and</p>	

Sort #	Commenter Code	Comment	Response
		<p>ceremonial activities, all of which have been well documented, and have deep spiritual roots. Some may argue that these rituals can be completed without actually killing a whale. However, as mentioned, the Makah believe a successful hunt comes from the proper implementation of spiritual rituals. Therefore, without the hunt, there is no real measure or value to the spiritual rituals since there is no successful or failed whale landing to reveal if the spiritual rituals were completed properly. Furthermore, not all rituals occur prior to the hunt; some take place after the hunt and harvest of the whale. The right to hunt is necessary for the Makah people to enact their religious traditions. Cultural Benefit – Environmental Justice The EIA sites Executive Order 12898, which establishes guidance for actions concerning environmental justice. The executive order restricts any action of the government to disproportionately effect minority communities. Neah Bay is an already fairly isolated community and consists mostly of Native peoples, the Makah being the largest single group of those people. Unemployment is higher within native communities than nonnative communities, and among native communities unemployment is the greatest among the Makah Tribe. As discussed in previous sections the Makah use the whale for subsistence, culture, and economic benefit. Those outside the Makah Tribe value the gray whale mostly for its existence value and possibly for whale watching, economic value, and scientific value. However, if the Makah people were barred from enacting their treaty right to whale, the burden would be significantly greater on the Makah people than would be the benefit to those outside the tribe. Considered in an alternative light, the harm created for those outside the Makah Tribe is smaller than the benefit the Makah people would experience if given their right to hunt. Consequently I believe it to be a violation of Executive Order 12898 to completely prohibit the hunting of the ENP gray whale by the Makah people. As mentioned earlier, precedence allows the denial of treaty rights only if conservation efforts are inhibited, or if the action of the treaty right does not meet cultural need. It is upon these two criteria that a decision about the Makah Tribe’s treaty rights to whale should be based. I believe that the information I have presented summarizes the significance of whaling in Makah culture, and the threat to the survival of their culture if they are denied the right to whale. Additionally, I believe, with the suggested modifications, Makah hunting of the ENP gray whale population does not impose a threat to the conservation efforts of the United States government. Both conservation and cultural standards are clearly satisfied. As a result the precedence to prohibit treaty rights does not hold and the Makah Tribe should</p>	

Sort #	Commenter Code	Comment	Response
		be granted their expressed right to whale. Thank you for considering my comments.	
824	e_Anonymo us4_6-4-15	<p>Dear Mr. Stone: After reading the DEIS on the proposed authorization of the Makah Tribe's whale hunting, and considering the complex nature of this issue, I recommend that NOAA:</p> <ul style="list-style-type: none"> <li>· Limit the number of gray whales that the Makah will be allowed to harvest each year, with four being the maximum</li> <li>· Limit harvest to a strict location and time frame that will not significantly impact the mating and feeding patterns of gray whales, as well as restrict the hunting of calves and whales accompanied by calves.</li> <li>· Require strict monitoring of incidental take of other marine mammals, as well as impacts to other marine species</li> <li>· Require continual monitoring of the use of gray whales in the Makah Tribe so that it is consistent with traditional subsistence levels of whaling and with the definition of subsistence use set forth by the IWC</li> <li>· Monitor water and air quality changes that may occur due to whaling vessels, protest vessels, media vessels and aircraft, and modify existing requirements to ensure adequate response to spills</li> <li>· Keeping all previous points in mind, I recommend proposed action alternative 2</li> </ul> <p>Limitations on the number of gray whales that the Makah will be allowed to harvest each year, with four being the maximum</p> <p>Limitations on the number of gray whales that the Makah will be allowed to harvest each year, with four being the maximum</p> <p>This topic is discussed at length in the DEIS and I believe it is a critical point to keep in every alternative, and ultimately the action itself. None of those whales must be from the western North Pacific (WNP) gray whale population. NOAA Fisheries has listed the WNP gray whale population as endangered under the U.S Endangered Species Act. This means that the removal of any individuals from this population may have drastic impacts.</p>	Comments and recommendation noted.
825	e_Anonymo us4_6-4-15	<p>The DEIS states that under the proposed action as many as 43 percent of the four whales could be struck and lost. This highlights the fact that whales struck and lost must be included in the same category as a successful harvest. A cap on whales struck and lost would be important to limit the number of whales killed but not harvested. Although the Makah will be using a mix of modern and traditional equipment, there is still high chance that whales will be struck and lost. Such outcomes must be tracked and controlled. Strict limits on gray whale takes are important as these animals have been driven to extinction in the North Atlantic, and nearly driven to extinction in the North Pacific by ill-managed whaling. It is also important to acknowledge that the Chukotkan people (Russian Federation) hunt 124 gray whales annually on average, meaning the no-action alternative only restricts the small number that would be assigned to the Makah</p>	Comments noted. The Makah Tribe's proposal, reflected in Alternative 2, does set a limit on struck and lost whales, as do the other action alternatives. The DEIS does report on the struck and lost record in the Chukotkan hunt.

Sort #	Commenter Code	Comment	Response
		<p>tribe. Under the Chukotkan hunts, only 5 percent of whales are struck and lost, compared to the 43 percent that is predicted under the Makah hunt.</p>	
826	e_Anonymo us4_6-4-15	<p>Limit harvest to a strict location and time frame that will not significantly impact the mating and feeding patterns of WNP gray whales, and prohibit the hunting of calves and whales accompanied by calves Gray whales reach sexual maturity around eight years of age. Females undergo oestrus from November to early December, which is believed to be the major breeding season. Much like other mammals, gray whales have a long gestation period. For gray whales it is approximately 13.5 months, with a large number of calves being born during a six-week period in January. Births typically occur in warm, shallow lagoon waters. I believe it is key to the health of the gray whale population that special attention is paid to the reproductive habits of gray whales and that these mating grounds be designated as off limits to the Makah hunters. Although it is uncommon to see late in pregnancy females near the hunting grounds of the Makah, it is still important to take into account the reproductive patterns to avoid depleting any of the populations. A further concern is that the Makah must not hunt individuals that are accompanied by calves. This is an important concern that must be addressed as it can often be difficult to identify if an individual is indeed pregnant or accompanied by a calf. Careful attention and regulations by both the Makah tribe and the action agencies will be needed to circumvent this issue. This could be done with the requirement that an expert in the field that could better identify pregnant whales and whales accompanied by calves be present during the hunts. The time restriction for hunting gray whales being from December 1st to May 31st seems to contradict the mating patterns, but birth and mating tends to happen outside of the hunting grounds of the Makah. Having a time restriction on hunting seems to be the best course of action as it allows the whales to safely migrate, yet may still cause some issues with hunting pregnant mothers. I recommend that marine ecologists and biologists from either the Makah tribe or the action agencies be present during the hunt to further avoid these issues. These experts could further identify pregnant individuals, and would serve as a last safeguard during the hunt for protecting calves and pregnant whales.</p>	<p>None of the action alternatives would allow the tribe to hunt calves or animals accompanying a calf. While pregnant females could be hunted, in DEIS Subsection 4.1.2.1 (Potential Timing of a Hunt and Number of Hunting Days) we note that most hunting would likely occur during the spring months after females have given birth, i.e., there are very few suitable hunting days in the November through January timeframe.</p>
827	e_Anonymo us4_6-4-15	<p>I also believe that protection of the most common feeding grounds is key to the health of the species. Gray whales tend to feed in fairly shallow waters, although offshore feeding has been observed as well. As the whales migrate they tend to feed when they can rather than seeking out specific grounds. I believe that the buffer zone around the rocks and islands would be a helpful safeguard in protecting the feedings grounds. Along with the already specified buffer zones,</p>	<p>Recommendation noted. It could be impractical to protect feeding areas as these tend to be dynamic and change over time. See Subsection 3.4.3.1.4, Feeding Ecology and Role in the Marine Ecosystem</p>



Sort #	Commenter Code	Comment	Response
		<p>the most used feedings grounds should be identified and included in the protected lands as well. This will allow the whales a safe area to feed and will not put unneeded stress on the population. On a less significant scale these buffers will allow for the protection of the whales primary food stock, which tends to be amphipods and crustaceans. Not allowing any hunting vessel to disturb the habitat of the whales' food source is a small but needed step to protect the feeding patterns of the gray whales.</p>	
828	e_Anonymo us4_6-4-15	<p><b><u>Strict monitoring of incidental takes of other marine mammals as well as impacts to other marine species</u></b> Although this was addressed in the summary of effects of the various alternatives table, I feel that this issue is an important one to consider further. The risk to shellfish beds is thought to negligibly increase due to the risk of landed whale carcasses, as well as possible spills from all vessels associated with the Makah hunt. Although this risk may be negligible, it is important to protect these beds as they are an important part of the ecosystem. Similarly the effects on pelagic species due to the Makah hunting is thought to be short lived and small, but these may have greater impacts on both the whale and other species populations. This should be closely observed, along with the benthic population levels. The DEIS also goes into the effects on other marine mammals and determined that these would be short-lived and temporary. This project will increase the number of disturbances for all marine mammals which can have long-lasting effects. I think it is important that these populations are closely monitored and observed to determine if any long term effects may occur. Although the proposed area is small, it will be an important step for other species of marine mammals. All incidental take rates of marine mammals should be closely observed, and the plan should be tweaked if this becomes an issue. This would be accomplished by an expert in the field accompanying the Makah on the hunts.</p>	<p>Recommendations noted. NMFS does monitor all marine mammal populations through the SAR process, as described in Subsection 3.4.2.1.6 Stock Assessment Reports.</p>
829	e_Anonymo us4_6-4-15	<p>Continual monitoring of the use of gray whales in the Makah Tribe so that it is consistent with traditional subsistence levels of whaling and with the definition of subsistence use set forth by the 2004 meeting of the IWC The Makah tribe has a unique status under the MMPA, as it can claim treaty rights that would not be considered for other individuals or groups. This however does not and should not allow for sweeping disregard of the law and regulations we have set recently. This relates to the proposed action as they have a right to their culture which involves subsistence whaling as set in the treaty of Neah Bay. Although this treaty and right must be respected, so must the integrity of the gray whale species as a whole. I believe it is important that this whaling be solely for subsistence</p>	<p>Recommendation noted. We will consider in future decision-making the appropriateness of monitoring the tribe's use of harvested whales.</p>

Sort #	Commenter Code	Comment	Response
		<p>purposes, and that this must be strictly regulated and monitored. Although this is a very controversial and difficult subject to pin down, these issues must be worked out before the action takes place. This could be accomplished by the presence of an observer after a successful hunt to ensure the proper use is occurring. Again, this is a very complicated issue, but this is my recommendation. As we have seen in the past, some tribes have abused the idea of traditional subsistence use to make large profits. This goes against both the cultural and scientific standards of the tribe, and humans as a whole. The IWC reviewed in depth aboriginal and native subsistence whaling in their 2004 annual meeting. This included different analyses on North Pacific gray whales, although they did not specifically address the Makah request. Subsistence use is a very difficult idea to pin down, but it must be in line with traditional use, and must not seriously increase risks to the species in question.</p>	
830	e_Anonymo us4_6-4-15	<p>Monitor water and air quality changes that may occur due to whaling vessels, protest vessels, media vessels and aircraft, and modify existing spill response to compensate Although the DEIS goes into the issue of water and air quality and deemed it insignificant, I think it is an important issue to consider fully. The influx of both marine vessels and aircraft will have an impact on both air and water quality, however small or insignificant, and I think it is important to monitor these effects over a long period of time. The proposed action also increases the risk of spills from vessels, meaning the spill response needs to be modified to fit the increased risk. This could include educating hunting vessels on first response to spills caused by an increased presence in the hunting area.</p>	Recommendation noted.
831	e_Anonymo us4_6-4-15	<p><b>Conclusion</b> I agree with much of the proposed action alternative (Do you mean alternative 2. If so, you should say so.), but I am hopeful that a large amount of monitoring will be done when and if the action is implemented. I respect the fact that the Makah tribe has deep cultural roots in the area and that it is wrong to prevent them from activities they have been doing for much longer than our government has even existed. I also recognize that we have a duty to protect gray whales in every way possible. I believe that the DEIS does a good job at analyzing every impact and comes to a fair conclusion. Taking all of my previous points and recommendations into account, I recommend that alternative 2 with my previous recommendations be followed. This is because it respects the rights of both the Makah and gray whales as a species. Although it is not perfect, with my recommendations and those of others, I prefer alternative 2. Thank you for your time, and for considering my recommendations on this issue. It is a very important issue, and I await the final decision on the matter.</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
832	e_Anonymo us5_6-2-15	Upon reviewing the EIS draft on the Makah Tribe Request to Hunt Gray Whales, I recommend NOAA examine the following before proceeding: -Use of new technology versus preserving traditions-No accommodation for changes in whale behavior -Unclear rule enforcement strategies-Is there even a need to hunt the whales? -Will the tribe actually use enough to justify the kill? These topics and questions, along with many others, I find to be shrouded in uncertainty. Although the alternatives may present reasonable options regarding the tribe’s right to hunt, many concerns need to be more fully addressed before any sort of permission is granted. I focus my comments on the above points. One of the differences among many of the alternatives involves the specific types of tools used to hunt the whales and the hunting process. If you allow any hunting at all, it makes sense to require the safest technology. Nonetheless, the safest technology is inconsistent with the Makah Tribe’s hunting traditions. Aside from safety, new technology could help make the hunt more precise, which in turn would decrease the number of whales struck and lost.	These introductory comment are noted; specific responses are provided below.  Please see the response to frequent comment # 15 regarding the use of modern weapons.
833	e_Anonymo us5_6-2-15	On the other hand, only one whale has actually been hunted and harvested by the Makah tribe in about 100 years. The culture today, while still based on the same traditions, surely has also evolved to incorporate other means of maintaining culture besides the killing of whales. Due to this, I see the potential burdens of a whale hunt heavily outweighing any benefit it may present for the tribe. Although preserving traditions is arguably an important duty, we have to weigh it in this instance with the health and viability of the Pacific Coast Feeding Group whales. Will the number of struck and lost whales stay low enough to ever justify the hunting? Especially considering that the PCFG population is small and vulnerable and the Western North Pacific population is struggling to survive.	Please see the responses to frequent comments # 3 regarding the Makah Tribe’s desire to revive its whaling tradition and # 13 regarding risks to PCFG whales.
834	e_Anonymo us5_6-2-15	Moreover, how much of the whales will be used? It is important to identify an amount in order to justify any hunt.	Comments noted. The DEIS summarizes the amount of whale meat and blubber consumed from the gray whale taken during the 1999 hunt (see Subsection 3.10.3.5.1, Makah Whaling).
835	e_Anonymo us5_6-2-15	One of the suggested strategies had the tribe perform all the aspects associated with the hunt, except for the actual killing of a whale. Why isn’t this seriously considered further? Although the tribes do have treaty rights to hunt the whales, the viability of the whale population needs to be discussed more in full before decisions are made. As the EIS points out on page 117, “... the right of fishing and whaling or sealing was secured by the Makah through the 1855 Treaty of Neah	Please see the responses to frequent comments # 8 regarding the Treaty of Neah Bay and # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
		<p>Bay, which was written when fishing and whaling or sealing conveyed the opportunity to take animals lethally from each of these categories". While I do not wish to invalidate the Makah's traditions or rights under the treaty, it is important to note that what is considered appropriate in terms of hunting/whaling has changed significantly since 1855. Such allowances should be re-evaluated to fit current values and understandings of environmental impacts.</p>	
836	e_Anonymo us5_6-2-15	<p>I am also skeptical about gray whale hunting because the future is so unknown. As climate change continues to impact oceans, marine animals are forced to adjust to their surroundings. This could mean that feeding/breeding patterns change, or that the population suffers in numbers significantly more than first thought. This document does not give sufficient attention to the potential for such changes, given the uncertainty. Regarding future conditions, and decisions made should include buffers against unanticipated change. Those buffers should include collections of better information regarding many of the uncertainties surrounding this controversial request.</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>
837	e_Anonymo us5_6-2-15	<p>Another important aspect to consider is regulation of the hunts and effective rule enforcement strategies. The enforcement section on page 112 of the EIS describes repercussions for hunting outside of the restrictions, but includes little information on the actual enforcement strategy. Besides those involved in the actual hunting, who will make sure that the rules are followed? The enforcement approach simply put is unclear.</p>	<p>Various DEIS subsections (e.g., 3.14.3.1, Coast Guard; 3.14.3.2, Police; 3.15.2.2, Weapons Safety Regulations and Authorities) describe the various enforcement entities and costs involved in enforcing a Makah hunt. We agree that if a hunt is authorized it will be important for enforcement agencies to have an effective enforcement strategy as the agency and federal family implemented during the last authorized hunt(s). The Tribe has also enacted an Ordinance to ensure appropriate Tribal enforcement.</p>
838	e_Anonymo us5_6-2-15	<p>I also believe that a clearer distinction needs to be made among the different groups of whales before any hunting is considered. Regarding alternative 4 on page 115, the EIS states, "any whale struck would be presumed to be a PCFG whale, even if it were landed and did not match a known PCFG whale. Although some portion of the whales sighted in the west coast feeding areas during this period never return and are not considered PCFG whales, the majority of whales present during this period are PCFG whales." Better steps need to be addressed</p>	<p>The quoted passage from the DEIS describes a precautionary measure included in Alternative 4. There is no uncertainty about the fact that some whales identified feeding in the PCFG survey areas are never observed again (Subsection 3.4.3.4.2, PCFG Seasonal</p>

Sort #	Commenter Code	Comment	Response
		to avoid killing whales from the WNP population. Otherwise the efforts to regulate which population can be hunted will be rendered useless. Not only does this quote show the uncertainty in the hunt, but more generally the current uncertainty in the gray whale's migration patterns and in the North Pacific. With the EIS conceding that other gray whales sometimes swim through the area where hunting would occur, not enough research has been done to determine how to avoid them during hunting.	Distribution, Migration, and Movements. Please also see response to frequent comment # 12 regarding risks to WNP whales.
839	e_Anonymo us5_6-2-15	I do not believe enough information has been documented to allow for the killing of any whales. However, if hunting is authorized I would suggest requiring whale researchers and experts to accompany the hunts to collect vital information about the whales and their interactions with the hunters.	Comments and recommendation noted. All of the action alternatives include provisions for observers to accompany hunts.
840	e_Anonymo us5_6-2-15	I also would support shorter permit lengths. Due to the nature of the hunts and struggles in whale populations, permits should start off to be re-evaluated each year. If the behavioral patterns of the whales are, in fact, found to be different and the hunting to put more pressure on the populations than first expected, a shorter permit period would lead to quicker management adjustment. The shorter permit time would allow for the government, scientists and tribe to sit down more often to discuss the effects of hunting and adapt the management strategy accordingly.	Recommendation noted. We will consider whether shorter permit times are appropriate in future decision-making.
841	e_Anonymo us5_6-2-15	Aside from basic concerns I have about the actual hunting methods and effect that the hunt will have on the gray whale populations, I would also like to bring up the issue of health and safety for the Makah community. If the tribe were required to use as much of the carcass as possible, the community members would potentially be eating a lot of whale. Because whales are near the top of the food chain and contain startling amounts of pollutants within their bodies, I am concerned about the health implications that eating the whales will have on community members. Although the request in question does not pertain to tribal health, it is an important topic to address, especially if it means the community members in the future will not in fact, be actually eating the whale. If the Makah tribe were to avoid eating the whale, then it would appear that the actual killing is not necessary. For the past century, the Makah tribe has continued to practice their traditions revolving around the gray whales with almost no whale hunting involved. Despite the tribe's legal right under the treaty to hunt, does it justify unnecessary killing, particularly if it should involve a member of the endangered WNP population?	Please see the responses to frequent comments # 11 regarding health risks of consuming gray whale products and # 12 regarding risks to WNP whales.
842	e_Anonymo us5_6-2-15	In my opinion, cultural equality is of utmost importance. However, I do not believe that cultural traditions should override specific laws that protect species	Please see the response to frequent comment # 3 regarding the Makah

Sort #	Commenter Code	Comment	Response
		<p>on the brink of extinction. The Makah tribe has successfully maintained their culture and whale-focused traditions throughout history, even when prohibited from actually hunting gray whales. While cultural preservation is certainly important, I question whether the Makah tribe's culture is significantly suppressed if they are unable to hunt the whales. Moreover, as we progress into the future where hunting is less and less accepted and species protection is of ever-growing importance, I argue that both the Makah's right to hunt gray whales and to maintain their culture do not outweigh the importance of maintaining the health of gray whale populations.</p>	<p>Tribe's desire to revive its whaling tradition.</p>
843	e_Anonymo us5_6-2-15	<p>By reading these points, I wish for you to assess the current alternatives and if nothing else, to add stricter regulations and enforcement during the hunt to mitigate the potential extinction of WNP gray whales. The killing of gray whales, while an old tradition for the Makah Tribe, is not necessary for them to maintain all their cultural values as proven for the past century in which whaling was forbidden. Therefore, I suggest that either killing be prohibited or, if any, have the hunt use new technology to reduce the risk of excess killing and whales lost while increasing the safety of the hunt. Thank you for considering my recommendations.</p>	<p>Please see the responses to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 15 regarding use of modern weapons.</p>
844	e_Anonymo us_6-3-15	<p>Dear Mr. Stone: My review of the Draft Environmental Impact Statement (DEIS) on the Makah Tribe's appeal to hunt gray whales has led me to recommend that the Makah Tribe be granted a conditional permit to resume their practice of whaling for ceremonial and subsistence reasons. The Makah Tribe deserves at a minimum the opportunity for some degree of whaling for two main reasons: The Makah Tribe is uniquely guaranteed whaling rights by treaty, for which exceptions can be made in national and international law. The Makah Tribe have proved their ability to moderate their whaling practices, with a long history of sustainable whaling before colonial interference. I recommend that the Makah whaling permit be approved with the inclusion of the following stipulations: The Makah Tribe must incorporate the permit restrictions into their tribal law and take responsibility for preventing any illegal whaling from within the Tribe. The cultural interests and values of all Makah Tribe members must be protected through an anonymous vote among Tribe members on whether or not the whaling will take place each year. The definitions of key terms must be clarified and uniformly adopted to reduce the number of gray whales in at-risk groups or populations that can be struck and lost, or wasted. Alternative 5 is the option that should be used as the model for the aforementioned whaling permit. I recommend that these stipulations be applied as amendments to Alternative 5 as</p>	<p>Recommendation noted.</p>

Sort #	Commenter Code	Comment	Response
		described in the current DEIS. The following alterations address areas of concern that have not been properly addressed in the DEIS and in Alternative 5 as they currently stand.	
845	e_Anonymous_6-3-15	The following text outlines my reasoning and specific recommendations corresponding to each of the above point's letter or number: A) The Makah Tribe must be granted some sort of whaling permit. The current text of the DEIS states that the 1855 Treaty of Neah Bay made between the Makah Tribe and the United States (U.S.) federal government "expressly secures the Makah Tribe's right to hunt whales." For this right, the Makah forfeited much of their inland territory to the U.S. government and were relocated to a coastal reservation. This was the only treaty the U.S. government ever made with a native tribe that specifically protects whaling rights, adding to the "historic importance" of this agreement, as stated in Anderson v. Evans (2004) <sup>1</sup> . For the government to deprive the Makah of the legally agreed-upon right of whaling on a national level would be nothing short of breach of contract and land robbery. Beyond the U.S., the International Whaling Commission (IWC) and international regulations govern the whaling industry. The IWC grants exceptions to the international whaling moratorium for aboriginal peoples who have a history of whaling, like the Makah. This exception is for the purpose of "regulated aboriginal subsistence" whaling of certain whaling stocks, such as the eastern North Pacific (ENP) gray whale population that the Makah wish to hunt. With these clearly defined legal provisions in support of the Makah's native whaling rights, it would be culturally offensive and arguably illegal to deny the Makah some degree of regulated whaling rights.	Comments noted.
846	e_Anonymous_6-3-15	B) Beyond their legal right to whale, the Makah have proved that their people can whale in a sustainable, long-term, non-deleterious fashion. The Tribe practiced sustainable whaling for centuries before European colonizers arrived. These colonial powers were the ones that depleted the whale stocks so heavily in the 1800s. The Makah have proved that they can whale responsibly, and the origin of the conservation issues afflicting the specific whale populations now are not the fault of the Makah, but the fault of the nation now attempting to regulate the Makah whaling practices. This ironic situation should not be perpetuated, and the Makah must be allowed to whale in compliance with international law and conservation efforts.	Comments noted.
847	e_Anonymous_6-3-15	In my assessment, it is imperative that the Makah have some sort of permit to legally whale. This renders Alternative 1 unacceptable, and leaves Alternatives 2-6 as options on which to build conditions for regulating Makah whaling. While the Makah whalers are pushing for Alternative 2, Alternative 5 presents the most	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>realistic compromise in terms of legality and conservation concerns. Alternative 5 is similar to Alternative 2, but it varies from Alternative 2 in crucial ways. Alternative 5 bolsters conservation efforts by establishing two three-week hunting seasons at times that minimize the chance of taking a western North Pacific (WNP) or Pacific Coast Feeding Group (PCFG) gray whale, both of which have miniscule population numbers (estimated at under 170 whales each) compared to the targeted ENP population, which is estimated to be around 18,000 in number, as noted in the DEIS text. Furthermore, Alternative 5 counts, in relation to confirmed population numbers, PCFG whales that are struck and lost (in relation to the group's confirmed numbers) against the Makah's allotted quota. To further safeguard the small PCFG whale numbers, Alternative 5 sets a mortality limit of 10% of the annual potential biological removal (PBR) of the species. This PBR limit includes all whales killed that year by any industry or manner, and would set a mortality limit of about 0.27 PCFG whales per year. Alternative 5's provisions for safeguarding the PCFG whales make it attractive in conservation terms, as the Makah's small-scale whaling poses no threat to the ENP stocks of gray whales, which would be targeted. These regulations frame the plan more in accordance with Whaling Convention Act (WCA), Marine Mammal Protection Act (MMPA), and IWC.</p>	
848	e_Anonymo us_6-3-15	<p>However, as mentioned in the introduction, Alternative 5 leaves some problematic gaps in regulation. Here are my explanations for the aforementioned amendments to Alternative 5 to fill those gaps. 1) I strongly recommend that the Makah Tribe be held accountable for the actions of their tribal members. In 2007, five rogue Makah Tribe members took part in an illegal whale hunt not sanctioned by the tribe or the U.S. government. Illegal hunts by tribal members render any permit agreements effectively pointless, can cause undue harm to whales, and detract legitimacy from the Makah's whaling practices. This past behavior is cause for concern that isn't fully addressed in the DEIS as it is. That is why I suggest requiring the Makah Tribe to incorporate into tribal law the permit restrictions outlined in the modified version of Alternative 5 proposed in this commentary. This should include revocation of tribal membership from any individual that participates in an illegal whale hunt, stripping these individuals of any title that allowed them to claim a right to whale. If the tribal council and law enforcement agency fail to keep the rogue illegal whalers in line, the whaling permit should be revoked from the Tribe for a minimum of one year, or until the Tribe officials can provide adequate reassurance that a similar breach of conduct won't be allowed to happen, or if it does, won't go unpunished.</p>	<p>The DEIS describes the current tribal enforcement and judicial system (Subsection 3.1.2, Makah Management of Reservation and U&amp;A Areas). Regardless of the efficacy of that system, the convictions of Makah tribal members involved in the unauthorized hunt demonstrate that the United States has mechanisms in place that are effective in enforcing the MMPA.</p>



Sort #	Commenter Code	Comment	Response
849	e_Anonymo us_6-3-15	<p>2) One fundamental mistake in the general approach to the issue of allowing the Makah Tribe to whale is assuming that the Makah are uniform in their desire to whale and in their support of tribal whaling practices. In reality, there have been reports that a core group supports the whaling, but that dissenting tribal members have been intimidated into silence with accusations of disloyalty and undermining the tribe, even culminating in threats of banishment of the dissenting individuals from the tribe. Cultural identity of the Makah Tribe is listed as an explicit concern in the current DEIS. While failing to grant any sort of whaling permit could likely erode the cultural identity of the Makah Tribe, approving the Tribe’s request or any of the actionable Alternatives also risks the cultural interests and influence of dissenting individuals. While it isn’t possible to entirely satisfy the concerns of every tribal member, the prevailing attitudes of the people who constitute the Makah Tribe should be what determine the cultural identity of the Tribe, rather than having whaling be automatically and legally assumed as part of the tribal identity. I recommend that the renewal of the Makah Tribe’s modified Alternative 5-based whaling permit be contingent on the outcome of a vote taken anonymously by all Makah tribal members. I suggest that if more than one third of the Tribe votes against whaling any given year, the Tribe will not be permitted to conduct their whale hunt that year. This method grants tribal members control over the path of their culture’s identity and allows dissenting tribal members to safely express their views in an actionable way. In summary, my recommendation for the voting system removes the current inherent conflation of the Makah people with pro-whaling values. While many Makah do seek to exercise their unique tribal right to whale, it must be recognized that there is not unanimity within the tribe, and this must be respected in the process.</p>	<p>The Makah Tribal Council, which is the elected government of the Makah Tribe, submitted a waiver request on behalf of tribal members. The purpose of the DEIS is to analyze the potential impacts of the tribal government’s request, and a reasonable range of alternatives, not to evaluate individual tribal members’ level of support for whaling. The DEIS describes the household surveys of Makah Tribe members and reports that not all tribal members support a resumption of whaling (Subsection 3.8.3.1, Makah Tribal Members). If the Makah Tribe is granted a waiver to hunt gray whales, it will be up to the tribe, as a sovereign nation, to decide whether to exercise its treaty rights.</p>
850	e_Anonymo us_6-3-15	<p>3) If whaling is allowed, there is little disagreement of the fact that it should be done in an efficient, respectful, and humane manner. Among the biggest concerns are wasted whales and struck but lost whales. How both of these factors count towards hunting limitations, quotas, and permit renewal must be addressed more comprehensively in the amendment of Alternative 5. Inconsistencies in definitions of key terms make the enforcement of restrictions difficult. The IWC has a more permissive view of what “strikes” and “takes” are than does the MMPA. These key terms need to have concrete, universal definitions that account for the true impact of an attempted hunt or killing of a whale. While the IWC constitutes a “taking “ with a requirement of physical contact with the whale<sup>2</sup>, the MMPA definition of a “taking” counts and attempt</p>	<p>The commenter notes distinctions between IWC legal authority and the MMPA. These legal authorities are described in the DEIS Subsection 3.4.2, Regulatory Overview. Future decision-making will comply with applicable laws. We disagree that all hunting activities have similar impacts, for example, harpooning and killing a whale would have a greater impact – at both the individual and the</p>

Sort #	Commenter Code	Comment	Response
		<p>to “harass, hunt capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal” (16 U.S.C. 1362). The MMPA definition goes so far as to include “the negligent or intentional operation of an aircraft or vessel” and “the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal”<sup>3</sup>. The MMPA definition addresses the full range of impacts that a whale hunt can have on the whale, even if the whalers never officially strike the whale. I recommend adopting the MMPA definition of “taking as the universal definition in the case of the Makah permit in order to make a more uniform body of regulation and further protect the whales from undue harm that could go uncounted in quotas otherwise. In summary, I encourage the deliberating parties first to acknowledge the Makah Tribe’s right to whale for the legal and historical reasons I presented. Once in agreement on allowing some degree of Makah whaling, I ask that you consider my proposal of using Alternative 5 on as a starting point for further regulating the permitting of Makah whaling. Finally, I encourage you to examine my outlined critiques of what I see as problems not adequately addressed in the DEIS as it currently stands, and ultimately to amend Alternative 5 based on these critiques and their accompanying recommendations. I thank you for your work on the Makah Whaling DEIS and for taking the time to consider my commentary. Works Cited (Other than the DEIS) 1) "ANDERSON v. EVANS." Findlaw. N.p., n.d. Web. 31 May 2015. &lt;<a href="http://caselaw.findlaw.com/us-9th-circuit/1054441.html">http://caselaw.findlaw.com/us-9th-circuit/1054441.html</a>&gt;. 2) "International Whaling Convention." Fishery Management McHugh/Fishery Management Lecture Notes on Coastal and Estuarine Studies (1984): 94-112. Congressional Research Service. Web. 30 May 2015. &lt;<a href="https://www.fas.org/sgp/crs/row/R40571.pdf">https://www.fas.org/sgp/crs/row/R40571.pdf</a>&gt;. 3) "Protected Resources Glossary." NOAA Fisheries. NOAA, n.d. Web. 1 June 2015.</p>	<p>population scale – than merely approaching one in a canoe.</p>
851	e_Anonymo us6_6-2-15	<p>Dear Mr. Stone, After reading and reviewing the draft EIS, I recommend choice alternatives in the following order... Alternative 1: No Action Alternative Alternative 7: Combination (Alternatives 4&amp;5) Alternative 5: Split Season Conservation In choosing alternatives 1, 7, or 5 NOAA fisheries would be successfully reducing if not eliminating the risks involved to the Pacific Coast Feeding Group (PCFG) and the Western North Pacific (WNP) population. Although only the WNP population is considered highly endangered, it is part of the precautionary principle to reduce the risk towards the PCFG seeing as the status of the population is uncertain. It was written in the DEIS that, “In 1994, ENP gray whales were delisted under the U.S. Endangered Species Act (ESA) (59 Fed. Reg. 31094, June 16, 1994). The current estimated minimum population size is 18,017</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		animals (Carretta et al. 2014).” Considering that the ENP population is well established, conservation should not be an issue for this population.	
852	e_Anonymo us6_6-2-15	The Makah tribe proposes to take to no more than 24 whales over a six year period. Although this is a relatively small number, the risks on the breeding individuals of the WNP population would be significant should one be struck or harvested. The population itself consists of only 140 individuals, which means that taking even one reproducing female could be detrimental to population recovery. If half of the individuals are likely to be female, it is likely that less than half are likely to be capable of breeding. It is also important to consider that the Pacific Coast Feeding Group only consists of 170 individuals, which is not a large difference numerically. The statement includes that NOAA fisheries’ new law will, “avoid the intentional harvest of gray whales identified as part of the Pacific Coast Feeding Group,” which I know to be only guaranteed by the no action alternative.	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
853	e_Anonymo us6_6-2-15	Alternative 2 proposes that 3.0 PCFG whales could be “landed and identified” before the hunt is ceased. This is not good enough protection of the PCFG or the WNP population as it does not qualify as avoiding intentional harvest of gray whales as it does not account for struck and lost individuals.	Comments noted. Alternatives 3 through 6 evaluate methods of accounting for struck and lost whales. Please also see the response to frequent comment # 12 regarding risks to WNP whales.
854	e_Anonymo us6_6-2-15	Seeing as alternative 5 allows for the smallest number of PCFG individuals to be harvested, it would be the closest to satisfying the stakeholders involved. However, alternative 5 does not protect the WNP population.	As noted in the DEIS, Alternative 5 was designed "...to avoid killing a WNP whale and to minimize the chance of killing a PCFG whale."
855	e_Anonymo us6_6-2-15	Proposed alternative 7 includes a mix of alternative 4 and alternative 5. Alternative 4 reduces the risk associated with the harvesting of the WNP population by limiting the hunt based the migration patterns of this particular gray whale population. As mentioned in the DEIS, the WNP population is absent from June to November. Alternative 7 proposes that the Makah Tribe be allowed to hunt for a split season from June 27th-30th and November 1st-4th. In the last successful hunt of the Makah tribe in 1999 landed a gray whale in only four days with constant interference from protestors as mentioned by the statement. Seeing as it has already been proven that a whale could be harvested in this time, this alternative should meet requirements if the intent for harvest is for cultural and traditional subsistence purposes. The rest would be the same as alternative 5, especially the part about counting each struck but not landed as a PCFG whale. From a conservation standpoint, this alternative would be the most effective.	Recommendation noted. We will consider combining elements of different alternatives in future decision-making.

Sort #	Commenter Code	Comment	Response
856	e_Anonymo us6_6-2-15	<p>Humanitarianism Alternative 1 results in the least amount of injury and/or death of gray whales. If this alternative were to be chosen than there would be 42 less gray whales swimming around in the ocean with harpoons sticking out of their backs. Alternative 2 stipulates that four whales would be harvested in a one year period on average, and no more than five per year. In the statement it is written, "Alternative 2 (under which up to 7 whales may be struck annually, 42 exposed to unsuccessful harpoon attempts, and 353 approached)." Approaching 353 individuals with the intent to harvest is an excessive amount, and is unacceptable from a humanitarian standpoint. The National Marine Fisheries Service (NMFS) defined wasteful manner at 50 CFR 216.3. as "Any taking or method of taking which is likely to result in the killing of marine mammals beyond those needed for subsistence, subsistence uses, or for the making of authentic native articles of handicrafts and clothing, or which results in the waste of a substantial portion of the marine mammal and includes, without limitation, the employment of a method of taking which is not likely to assure the capture or killing of a marine mammal, or which is not immediately followed by a reasonable effort to retrieve the marine mammal." Approaching 353 gray whales and exposing 42 to unsuccessful harpoon attempts to successfully harvest 7 whales is counterintuitive according to this definition. If the population of the PCFG is about 170, and the WNP population is 140 then the risks to these populations should be mitigated to all possible extent under the law.</p>	<p>As noted in the DEIS, the best available information indicates that whales approached by a hunting party may react in a variety of ways but that such reactions are likely to be short-lived and not have lasting effects (e.g., Subsection 4.4.3.2.3, Change in Abundance and Viability of PCFG Whales).</p>
857	e_Anonymo us6_6-2-15	<p>The DEIS includes, "Although some have speculated that recently detected mixing between the WNP and ENP populations (refer to Subsection 3.4.3.2.1, WNP Seasonal Distribution, Migration, and Movements) signifies a lack of gray whale population structure (Bickham et al. 2013), the results of the aforementioned genetic comparisons represent the best available science and clearly demonstrate that significant mitochondrial and nuclear genetic differences exist between whales sampled in the ENP and those sampled on the feeding ground off Sakhalin Island in the WNP (Lang et al. 2011a)" (page 3-59). Since when did the best available science on gray whale population structure turn out to be significance based on speculation? If the populations are truly genetically distinct as described, then the risk to the WNP population is substantial, which should call for protective policy if we are basing it on the best available science. If the populations are truly genetically distinct, then the best option for the protection of the species is in fact the no action alternative. This much is beyond speculation.</p>	<p>Please see the response to frequent comment # 12 regarding risks to WNP whales.</p>

Sort #	Commenter Code	Comment	Response
858	e_Anonymo us6_6-2-15	Purpose/Need The purpose of this request, which is to fulfill the promises of the United States government, seems to be a legitimate request. By all means the government should keep its promises to this sovereign Native American tribe. However, the need implied by the statement is as follows, "The Makah Tribe's need for the action is to exercise its treaty whaling rights to provide a traditional subsistence resource to the community and to sustain and revitalize the ceremonial, cultural, and social aspects of its whaling traditions." The aspects of this need are symbolic in nature; symbolic ceremonies should be enough to satisfy these conditions.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.
859	e_Anonymo us6_6-2-15	With this in mind, I would again suggest the no action alternative but the United States must keep its word to the sovereign Native American tribes if we as a nation are to maintain our integrity. That being said, many of the alternatives provided are inadequate at properly protecting the WNP population and PCFG as designated by the NMFS. If whales are to be harvested, then alternative 7 (which ensures protection of the WNP population) would cover the bases as well as reducing the total amount of effected gray whales.	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
860	e_Anonymo us6_6-2-15	Conclusion My final comments are as follows: seeing as the incident in 2007 allowed for five members of the Makah tribe to go virtually (the charges being dropped after a year) unpunished for the illegal harvesting of a gray whale in a grossly inhumane manner, I do not personally find the request for the harvesting of the gray whales to be significant. It might seem unreasonable to some, that the opportunity of the many other members of the Makah tribe to pursue traditional subsistence patterns should be restricted by the mistakes of the few. However, since the offense went unpunished, the authority of NOAA fisheries and all of the following future policies to be established become merely symbolic themselves. The law should not be taken broken without punishment. When the law is broken, requests for exactions allowing more activity of the same nature should not be taken lightly. If the Makah tribe can bring down a gray whale in four days under much media scrutiny and protestors, then two four day sessions should be more than enough. If that is not good enough or the rules cannot be followed, then nothing should be allowed. Alternative 1 would be my first choice in responding to this request. If a compromise were to be made, then alternative 7 would be preferable as it protects both the WNP population and PCFG.	Comments noted. The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct.
861	e_Anonymo us7_6-2-15	Dear Mr. Stone: After reviewing the draft environmental impact statement (DEIS) regarding the Makah Tribe's request to resume hunting of gray whales, I recommend that NOAA adopt a management strategy that combines elements from several alternatives. Specifically, I recommend that NOAA set the strike limit	Comments noted. We will consider the appropriateness of combining elements of different alternatives in future decision-making.

Sort #	Commenter Code	Comment	Response
		<p>at no more than 10% of the PBR annual limit; prohibit all hunting of females; use split shorter seasons and all other measures needed to avoid hunting the whales that are a part of the western North Pacific (WNP) gray whale population or the Pacific Coast Feeding Group; prohibit hunting in all of areas described in the DEIS (White rock, Tatoosh, etc.), including within 5 miles of shore, and require the use of modern hunting technology and equipment. Strike limit I would argue that the proposed killing of 24 whales over a 6-year period is too high and cannot be justified. Overall, I believe that the catch rate is much too high to justify. Since the Makah people are now able to get sustenance from other food sources, whale hunting is mostly for cultural practices. Taking away this privilege altogether is not justifiable, but is it should be done in moderation. The North Pacific gray whale, although no longer in danger, was once a protected species and I see no need to kill so many of them. I do understand that there is a cultural aspect of the Makah hunt that needs to be respected. To address both of these concerns I believe that the hunting should be allowed, it should just be reduced to a limit of one or two whales each year, with the taking of two whales not allowed in any two consecutive years.</p>	
862	e_Anonymo us7_6-2-15	<p>To ensure that the hunt is done according to these restrictions there will definitely have to be someone present to hold the tribe accountable and make sure that they are following the rules that are outlined for them. Similarly, someone should be in charge of making sure that the take rate remains at the allowed level and that the whale is used almost in its entirety. A suggestion would be to take away hunting permission permanently or for a period of months/years to show the importance of a healthy ecosystem not only to the tribe but to the rest of the community.</p>	<p>All of the action alternatives include provisions for observers and enforcement, as described in Subsection 2.3.2.2.12, Other Environmental Protection Measures</p>
863	e_Anonymo us7_6-2-15	<p><b>No hunting of females</b> The age and sex restrictions also are important considerations regarding the effects of whaling. Female whales and calves should be protected to the fullest extent possible because they represent the population's reproductive capacity. Limits placed on the annual take should include smaller limits on the number of females that can be taken. Calves and whales with calves should not be taken, as those whales are likely females. Since it is difficult to tell if a whale is a male or female just by looking at it, the tribe should not hunt any whale that is with a calf because it is most likely female. If the Makah do happen to hunt a female whale, then they should not be able to hunt any more whales for the rest of the year. However, if they capture a male they should be able to capture one more whale for the year. There should be</p>	<p>Alternative 3 has mortality limits that restrict the take of female whales (see Subsection 2.3.3, Alternative 3 [Offshore Hunt]), and all alternatives prohibit the striking of a whale calf or any whale accompanied by a calf.</p>

Sort #	Commenter Code	Comment	Response
		some sort of supervisor that is not a part of the tribe to determine if the whale is a male or female to see if hunting can continue.	
864	e_Anonymo us7_6-2-15	<p><b>Hunting seasons</b> The use of split shorter hunting seasons will help to avoid hunting whales that are still protected such as whales that are a part of the Western North Pacific (WNP) gray whale group and the Pacific Coast Feeding Group (PCFG). During specific seasons these two groups travel through what may possibly be the hunting area for the Makah Tribe. However, during other parts of the year these two groups do not travel through the area; therefore, decreasing the risk of accidentally hunting a whale from the wrong group. If a whale is hunted that is from either the WNP or PCFG then the hunting for the year should cease. This rule should be in place because it would ensure that another whale from either of the groups would not get killed as well. If a member of one of these groups is still struck even with the split hunting seasons it would give reason to believe that the whales migration pattern is off and that there may be more from those groups. The area where the Makah would be hunting for Gray Whales is surrounded by national land, sanctuaries and reservations. These lands are considered to be highly productive and pristine environments that are important to species of fish, birds, and marine mammals. Regardless of the important land that surrounds the hunting range, there are endangered and threatened species that migrate through the area that the Makah would be hunting. There is no way to know exactly how each alternative will play out and how it will affect the environment, but it is a governmental concern to do everything possible to protect endangered and threatened species, thus making split seasons more appealing.</p>	Comments noted.
865	e_Anonymo us7_6-2-15	<p><b>Protected areas</b> Protected areas are important because it would not allow the Makah tribe to hunt within a 5 miles of shore which would help to protect the whales that are resting or feeding near shore. This would also help to protect nesting seabirds along the shore. Since the Makah tribe only wishes to hunt grey whales it is important to make sure that other animals and sea life is protected.</p>	Recommendation noted. Subsection 4.5.3, Evaluation of Alternatives, explains how the different alternatives would affect wildlife besides gray whales, such as marine birds.
866	e_Anonymo us7_6-2-15	<p>Hunting technology and equipment In the DEIS the hunting method is described as using “traditional methods.” Does this allow the use of canoes? Canoes and other quiet boating vehicles are often worse for whales because they are not given the warning that there is something coming towards them. The whales are often are startled and will stop going in the direction they were headed (often to eat or rest), which could make them fatigued or distressed. It is also important to make sure that the whales do not suffer from a slow and painful death. The Makah tribe should be required to use a type of gun that would automatically kill</p>	Please see the response to frequent comment # 15 regarding the use of modern weapons.

Sort #	Commenter Code	Comment	Response
		the whale. Taking these precautions are also important to make sure that none of the hunters get hurt. If a whale is struck with a weapon that kills it slowly, it could get very upset and start to knock the boat around. Thus, making it important that the Makah also use a larger boat that they can haul the whale back on instead of the traditional canoe.	
867	e_Anonymous7_6-2-15	The area where the Makah would be hunting for Gray Whales is surrounded by national land, sanctuaries and reservations. These lands are considered to be highly productive and pristine environments that are important to species of fish, birds, and marine mammals. Regardless of the important land that surrounds the hunting range, there are endangered and threatened species that migrate through the area that the Makah would be hunting. There is no way to know exactly how each alternative will play out and how it will affect the environment, but it is a governmental concern to do everything possible to protect endangered and threatened species. This protection will need to take form in making sure that the Makah do not hunt the gray whales or that they do not overhunt them, making this decision so important.	Pursuant to NEPA, the DEIS predicts and analyzes impacts of alternative actions on gray whales as well as an array of ESA-listed and non-listed species.
868	e_Anonymous7_6-2-15	Conservation and consumption concerns become pitted against each other in an issue like this because there are rarely circumstances where outcomes are favored by both parties. The Makah tribe has rights to hunting whales in their area. This only became an issue when the whale population started to decline and resulted in endangerment. Even though they are no longer on the list it is still important for their population to be observed. If the environmental concerns weight too heavily, than it is clear that the choice has to be favorable of the environment. This is a tricky decision none the less since the populations are at a healthy level again. We have nothing to compare this case to because the gray whale is the first species to actually return to healthy levels to the point where it could be removed from the endangered species list. The environmental health is the most important aspect to consider because there is no chance that the western or pacific coast feeding group could bounce back to the levels they are at now (or even higher) if they have a portion of their population killed.	Comments noted. Please also see the response to frequent comment # 12 regarding risks to WNP whales.
869	e_Anonymous7_6-2-15	Wasteful Take I would also like to bring to your attention the amount of the whale that will actually be used by the Makah Tribe. In order for it to be worth taking a species out of the environment I would suggest that at least 90% of the body should be used for subsistence purposes. Uses such as food, instruments, tools, clothing, etc. would seem like reasonable uses and would be worth the sacrifice of a whale. However, if most of the whale is either immediately disposed	Comments noted.



Sort #	Commenter Code	Comment	Response
		of, or left in a freezer until it is no longer good enough then the sacrifice would not be justified.	
870	e_Anonymo us7_6-2-15	The Makah tribe has a deep root in whaling culture; however, they have not hunted regularly for decades. Is it still important to their culture to bring back this practice? Would one whale be enough to just serve the cultural and ceremonial part of their traditions since they are now able to purchase clothing and food from the store? I would argue that if their main reason for wanting to be able to hunt the gray whale again, that one whale each year would justify these needs. I am also curious to know if they count on these whales for their economic gain. If so, the percentage of wealth that they receive from bone carvings, etc. would have to be well worth the sacrifice as well.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
871	e_Anonymo us7_6-2-15	One rising concern with consumption is something that is affecting populations all over the world. Are the whales really good enough to eat? There have been studies that show that seafood contains high levels of contaminants and are linked to causing birth deformities and cancer if enough is consumed. We also have to take into consideration that a captured whale may be diseased and deemed unsafe to eat. If such whales are killed and cannot be consumed then the sacrifice of these whales would certainly not be worth taking them out of their natural habitat. I would like to thank you for your consideration and taking the time to read my comments.	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.
872	e_Anonymo us8_6-2-15	Dear, Mr. Stone: After reviewing this draft environmental impact statement regarding the Makah request to resume gray whale hunting (DEIS) I recommend: Allowing alternative five for the Makah Tribe without the killing of western North Pacific (WNP) and Pacific Coast Feeding Group (PCFG) gray whales and redefining struck and lost. Struck and lost whales should be counted as mortally wounded. All hunts be monitored by a third party observer rather than a member of the Makah Tribe. Acknowledge that alternative three has very little cultural significance for the tribe. To avoid wasteful take, the annual harvest be set at one whale for the first year and then adjusted thereafter depending on the extent to which each whale is used for subsistence purposes. Harvesting of whales from the PCFG and WNP population be avoided. Preferred Alternative The no action alternative makes a lot of sense mainly because the Makah Tribe has not hunted gray whales for about 15 years. However, I feel that they should have some right to hunt whales for the cultural aspect as well as some subsistence reasons. I feel that four whales per year is very excessive and should only be about one or two whales. Struck and lost classification should be altered so that any whale hit by a harpoon counts as a struck and lost whale if the whale is not recovered. I prefer	These introductory comment are noted; specific responses are provided below.

Sort #	Commenter Code	Comment	Response
		<p>alternative five because it gives the tribe a chance to practice their tradition of whale hunting and it will provide plenty of whale meat for subsistence purposes. This alternative avoids the killing of WNP and PCFG gray whales, the former being listed as endangered. Using two different short hunting seasons will minimize the impact on those two small populations. This alternative also counts whales that are struck and lost toward the number of whales harvested per season.</p>	
873	e_Anonymo us8_6-2-15	<p><b>Struck and Lost</b> The number of whales that could be struck but lost is a major part of this proposal by the Makah Tribe. According to the definition of struck and lost in the DEIS, the harpoon must stick into the whale for it to count as being struck. This definition leaves room for considerable harm to a whale that is not harvested but is still not counted as struck. A whale could be wounded by a harpoon but not counted if the harpoon falls away from the whale. I believe that the definition is not sufficient any whale that is physically hit by a harpoon, whether it sticks in the whale or not, should be counted as struck and lost. Counting these whales as struck and lost also would provide incentive for the Makah to be careful and effective in their hunting practices. Other than the no action alternative each alternative would allow up to three struck and lost whales per year and 18 over six years. The tribe is also requesting to harvest up to 24 eastern North Pacific (ENP) gray whales in a six year period with the average of four whales per year harvested. Considering that the maximum number they would be able to harvest is five in a year, three whales struck and lost per year is very high. A high number of struck and lost whales indicates their hunting methods are not effective and that too many whales are suffering needlessly. To be precautionary, any whales struck and lost should be considered mortally wounded and counted towards the harvest quota. This would give the tribe more of an incentive to pursue any whale that has been struck. Struck and lost ENP gray whales would not be a conservation issue for the ENP population because this population is at a healthy level. However the WNP population is endangered and PCFG is poorly understood, struck and lost whales would have a major impact on those populations. Therefore, I recommend changing the definition of struck and lost to include whales that have been hit by a harpoon, regardless of whether it sticks, and lowering the struck and lost quota to reduce the total number that are injured or killed. Under the current definition whales may be seriously injured, if not killed, and still not count toward the Makah's limit of struck and lost whales in a season. There should also be a way to have little to no struck and lost whales during these hunts. Ideally, every whale they attempt to harvest would be harvested. In alternatives five and six the DEIS states that</p>	<p>Consistent with these comments, except for the tribe's proposal (Alternative 2), all of the action alternatives count struck and lost whales against the calculated limits on PCFG whales.</p>

Sort #	Commenter Code	Comment	Response
		whales struck and lost count towards the tribe's annual harvesting limit. I agree with this idea in the fullest. If we cannot find a way to eliminate struck and lost whales then whales that have been stuck and lost must count towards the harvested count.	
874	e_Anonymo us8_6-2-15	<p><b>Monitoring and enforcement of the Makah Tribe whaling activities</b> Monitoring and enforcement, such as recording struck and lost whales, number of whales harvested, the days allowed to hunt, and staying inside their authorized hunting zones will be a challenge. According to the DEIS the Makah Tribe will designate a whaling captain who will be in charge of enforcement of whaling operations. Designation of a tribal whaling captain should promote traditional practices. However, having a member of the tribe serve as the enforcement officer during these whale hunts should not be allowed. Such a situation would provide an incentive for that tribal member to not record a struck and lost whale if it would benefit the tribe as a whole that is, that person is subject to an unreasonable conflict of interest. It seems irresponsible to have a member of the Makah tribe be in charge of both the whaling process and enforcement. I recommend NOAA or the National Marine Fisheries Service (NMFS) designate a third party enforcement officer to ensure whaling operations are objectively and fairly regulated. I agree with the punishment of tribe members who do not follow permit guidelines, as described in the DEIS. Fines and criminal sanctions seems fair and appropriate when violations occur. Punishments must be strict to establish a firm precedent and send a clear signal that violations will not be tolerated.</p>	Recommendations noted. All of the action alternatives include provisions for observers and enforcement as described in Subsection 2.3.2.2.12, Other Environmental Protection Measures. If hunting is authorized, possible enforcement measures under the permit would include criminal sanctions (e.g., fines and imprisonment) and barring violators from exercising treaty fishing, hunting, and/or whaling rights for at least 3 years.
875	e_Anonymo us8_6-2-15	<p><b>Culture</b> Culture is a major reason why the Makah Tribe has requested authorization to resume gray whale hunting. To this tribal community the whale has considerable traditional and sentimental value. Of the alternatives given in the DEIS, alternative three does not appear to meet the Makah Tribe's cultural needs. This alternative would break away from the traditional method of whale hunting that has been passed down from generation to generation by the tribe. It would require the use of motor vessels for the hunt, and therefore would not be meeting the tribes request to hunt these whales for traditional ceremonial purposes. Motorized vessels may help reduce the number of whales struck and lost, but it also might increase the number of vessel-whale collisions. Still the two reasons for hunting these whales are subsistence and ceremonial practices. With this alternative only the subsistence reason would be achieved. For that reason alternative three should not be adopted. Whale hunting may be more acceptable to the public if traditional hunting methods are used. In contrast if the tribe is</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		allowed to hunt whales but only in a way that has little to no traditional or ceremonial value, the use of motor vessels, could cause the public to be less willing to accept such hunting. Overall I believe that this alternative has some good qualities but is not culturally consistent with the tribe's request to harvest gray whales for traditional purposes.	
876	e_Anonymo us8_6-2-15	<b><u>Subsistence needs and wasteful take</u></b> Subsistence is a second main reason why the Makah Tribe wants to resume hunting gray whales. They are asking to harvest 24 whales in six years with an average of four whales per year. This seems like a high number of whales to harvest. This tribe has not used a whale for subsistence purposes in about 15 years. Allowing them to harvest four whales per year could lead to massive amounts of wasteful take. The Makah Tribe has been able to feed themselves with other forms of food other than whales for some time now. If they harvest four whales a year, much of those whales may be wasted.	Comments noted.
877	e_Anonymo us8_6-2-15	My idea for reducing wasteful take while still allowing the whaling to occur would be to set up some sort of regulation that allows them to harvest only one whale the first year and then monitor how long it lasts throughout the year. Such monitoring should NOAA/NMFS more accurately determine the number of whales needed for the tribe per year. They may find that they do not need four whales every year one or two may be sufficient. This approach would allow the tribe to practice its traditional methods and still provide subsistence for the tribe while avoiding any wasteful take.	Recommendation noted.
878	e_Anonymo us8_6-2-15	I do support some of the subsistence regulations that are described in this DEIS. The DEIS indicated that the meat from the whales would stay in the Makah Tribe community. I strongly support this measure because it means that all of the meat from the whale will be used within the tribe's boundaries , which is a very good idea and will also better help to reduce wasteful take.	Comments noted.
879	e_Anonymo us8_6-2-15	<b><u>Conservation of whale populations</u></b> Conservation of the gray whale populations is a main issue of the Makah's request to hunt whales. There are three main groups of gray whales that occur in the waters in which the Makah Tribe would like to hunt. They are the ENP, WNP, and PCFG gray whales. The WNP is classified as an endangered species. The ENP gray whale population has recovered and is at a very manageable level. Harvesting from this subspecies is not a major conservation concern in terms of sustaining the population. In contrast, hunting the WNP and PCFG populations could pose serious risks to them because of their small population sizes . The alternatives in the DEIS differ with regard to the level of protection provided for the WNP and PCFG populations. Alternative two would	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>allow an average of three PCFG gray whales to be harvested annually. That is a very high number for this small, poorly known group of whales. Taking three PCFG whales would likely not sustain the total population and could have negative ramifications. Alternatives two, three, four, and six all average around two to three PCFG whales being harvested. I prefer alternative number five because it provides more assurance that WNP and PCFG gray whales are not harvested. Having two, three week hunting periods during the time the WNP and PCFG gray whales are not normally in the hunting zone is a much better approach than the other alternatives that would allow for hunting during times of the year when the WNP and PCFG gray whales are frequenting the hunting zone. Hunting whales that are listed as endangered should not be allowed, but harvesting a small number of the healthy population would be permissible as long as the tribe stays within its permitted rights granted by the Secretary. Allowing for the take of an endangered species also could set a negative precedent. Thank you for considering my recommendations.</p>	
880	e_Anonymo us9_6-2-15	<p>Dear Mr. Stone: After reviewing the Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales, I recommend that NOAA— 1.) Implement Alternative 12.) Place greater value on conservation than on re-establishment of a neglected tradition 3.) Consider the adverse health risks associated with whale consumption4.) Uncertain affiliation The hunting of gray whales entails many risks, both to the environment and to the tribe itself. The most significant problem in this draft environmental impact statement (DEIS) is how to ensure the sustainability of the potentially affected gray whale populations. Although the eastern North Pacific (ENP) stock was recently removed from the List of Threatened and Endangered Species, the western North Pacific (WNP) still remains at extremely low levels. Implement Alternative 1 Legally the Makah have the right to hunt, but they must realize that times have changed and they must change as well. Conservation of a depleted species is the important part of this issue. While the alternatives are developed based on the most recent scientific data and are intended to allow take a small number of whales from the ENP stock, there are still too many uncertainties associated with gray whales to allow the Makah tribe to continue hunting. The uncertainty of the actual number of gray whales within the different groups (WNP stock, WNP stock, Pacific Coast Feeding Group (PCFG)), how they intermingle, and externalities of other sources of human-caused whale mortality calls for the utmost protection. Based on my analysis, I recommend alternative 1 to both maintain the health of the Makah Tribe and the health of the affected gray whale</p>	<p>These introductory comments are noted; specific responses are provided below.</p>

Sort #	Commenter Code	Comment	Response
		populations. Until there is an abundance of gray whales, untainted by contaminated waters, hunting should not be allowed to protect both the Makah people and the population of gray whales.	
881	e_Anonymo us9_6-2-15	Culture vs. Conservation The big conservation question this DEIS puts forth is whether cultural needs should come before conservation efforts if hunting might affect the endangered WNP population or the PCFG. The Makah Tribe stresses their need for hunting these whales for cultural purposes, and proposed how they would prefer to go forward. Since whales from both the WNP population and PCFG intermingle with whales from the ENP population, Makah whaling poses a potential threat to these smaller populations.	Please see the responses to frequent comments # 3 regarding the Makah Tribe’s desire to revive its whaling tradition, # 12 regarding risks to WNP gray whales, and # 13 regarding risks to PCFG whales.
882	e_Anonymo us9_6-2-15	The Makah Tribe’s hunting methods deviate from past tradition, which leads to the question of whether cultural hunting can be justified if they are using modern weapons and motor boats rather than canoes and spears. Since they are not adhering to the traditional ways, justifying the hunt as a tradition is not permissible. That being the case “cultural” rationale for the hunt is not completely accurate or reasonable.	Please see the response to frequent comment # 15 regarding use of modern weapons.
883	e_Anonymo us9_6-2-15	The Animal Welfare Institute (AWI) has consistently held that the Makah Tribe does not qualify for an aboriginal subsistence whaling (ASW) quota by the International Whaling Commission (IWC) and, therefore, there is no legal basis to engage in this National Environmental Policy Act (NEPA) decision-making process” (AWI1-1). In the past the Makah Tribe ceased hunting for 80 years, not “solely due to declining gray whale numbers but also [because of the]... increased economic profits available to them by working on a sealing boat” (AWI1-2). In essence, the Makah did not demonstrate a commitment to continuing their tradition, which is one of the standards that must be met to receive an AWS quota. Nor do they meet the “local aboriginal consumption” standard, which again means that their cultural reasons are unacceptable. Thus, the existing evidence does not support the cultural argument used by the Makah to justify their request for authorization to resume whaling. For that reason, I recommend that NOAA place greater value on conservation than they do on re-establishment of a neglected culture.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
884	e_Anonymo us9_6-2-15	Health Risks The argument as to whether resumption of a whaling culture is worth the health risks of consuming whale meat and blubber is an important part of this issue. Since gray whales are higher in the food chain and they are bottom feeders, they carry large amounts of toxins or contaminants with potential adverse effects, as stated in the DEIS. As the chemical industry continues to manufacture products ranging from pesticides to pharmaceuticals, these	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.

Sort #	Commenter Code	Comment	Response
		<p>products eventually end up in our oceans from runoff and sewage treatment centers. Science isn't able to assess the thousands of chemicals being released into our environment, and therefore we cannot fully understand the risks associated with them. Keeping with tradition does not justify putting a population of people at risk of adverse effects, especially when the existing data is insufficient to assess that risk. The DEIS stated that "it is not possible to discern precise risk levels based upon the existing best available information addressing the rate of consumption and method of cooking fresh whale tissues by Makah tribal members" (4-257). The consumption of drift whales raises the same issue, because these whale may have higher amounts of contaminants and are clearly in poor health or dead. The tribe knows of the risk associated with drift whales, which is why in alternatives 2 through 6 would allow hunting only of whales at least 5 miles offshore. Nonetheless, "whales that appear to be healthy can have contaminant levels higher than those found in stranded animals" (4-257). Since each individual species can carry and live with different amounts of chemicals, it is difficult and expensive to determine the contaminant levels and level of risk associated with whale consumption. Keeping a healthy human population is more important than keeping a tradition alive, especially when the risks extend to the next generation. If the future generation is not healthy, there may not be a tradition to maintain, which the Makah Tribe must keep in mind. One of the chemicals at the top of discussion is PCB's, which accumulate rapidly in marine species. PCB's have been known to cause a number of adverse effects, including cancer, immune effects, reproductive effects, neurological effects, endocrine effects, and other non-cancer effects (EPA.gov). The question for the Makah tribal members is whether re-establishing a tradition justifies consumption of a product rife with toxins with known adverse health effects.</p>	
885	e_Anonymo us9_6-2-15	<p>Uncertain Affiliation There is great uncertainty about the intermingling of gray whales in the North Pacific.. Although research and observations are helpful, the scientific community cannot describe, fully and with confidence, the extent of that intermingling. Granting a permit to hunt gray whales is controversial because of their recent history and the vulnerability of several populations. The sustainable number of gray whales that may be killed is estimated mathematically, but not with complete certainty. The sustainability of this species is of the utmost importance, and because of the uncertainty, granting a permit could possibly push several of the populations towards extinction. The draft EIS indicates that "alternative 2 has the highest impact while alternative 5 would have the least impact" (ES-4). But the key word used in the executive</p>	<p>Please see the response to frequent comment # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.</p>

Sort #	Commenter Code	Comment	Response
		summary is “likely” because of uncertainty regarding the possible effects on the populations involved. With such uncertainty it is imprudent to grant a permit to the Makah Tribe, especially a permit based on alternative two with the most significant impact. Until certainty can be guaranteed, hunting should cease for the betterment of the whale population. Thank you for considering my recommendations.	
886	e_Anonymo us10_6-2-15	Dear Mr. Stone: After reviewing the Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales (DEIS), I recommend that NOAA should: Set smaller limits on the number of struck and lost whales. Ensure observes monitor all gray whale hunt. Make every effort to ensure that the whales hunted are from the Eastern North Pacific population only and do not include those whales that are part of the Pacific Coast Feeding Group. Acknowledge Makah Tribe traditions and culture, which value the hunting of whales. Set and enforce strict regulations on wasteful take; to ensure that the whales that are killed are well used. Implement alternative 5. Set smaller limits on the number of struck and lost whales. As stated in the DEIS Executive Summary, alternative 2, “The number of whales that could be struck 24 would be limited to no more than seven in any calendar year and no more than 42 over Makah Whale Hunt DEIS ES-1 February 2015 Executive Summary 1 the 6-year period, while the number of whales struck and lost would be limited to three 2 annually and 18 over the 6-year period.”. These numbers are excessive and should be lowered. This is major concerns because we will never know if struck and lost whales recovered or died. Under alternative 2, the total of struck and recovered and struck and lost whales could be 42 per-six year period, which is unnecessarily high. In fact, there would be no value gained from the injury on death of nearly half of them. If you reduce the number of struck and lost whales, whale hunters will have to become more efficient. This will encourage the Makah people to send their best experts and professionals on their whale hunting trips and will make them work harder to catch any whales that they strike This is much better than allowing a struck whale to swim away, and suffering and possibly dying needlessly from the injuries.	Recommendation noted.
887	e_Anonymo us10_6-2-15	Ensure observes monitor all gray whale hunt. My second major point, is aimed at ensuring compliance with all rules. Observation is necessary to monitor accurately the number of whales being struck and recovered plus the number being struck and lost by the Makah tribe during their hunting trips. In fact, the only way to know the numbers of whales being injured or killed is through such monitoring. Furthermore, this will ensure that NOAA representatives responsible	Recommendations noted. All of the action alternatives include provisions for observers and enforcement as described in Subsection 2.3.2.2.12, Other Environmental Protection Measures.



Sort #	Commenter Code	Comment	Response
		<p>for conserving the affected populations have accurate data on hunting effects. To ensure observation the Makah tribe should be required to notify NOAA in advance of any hunts to provide them with all necessary data. At least two NOAA agents should accompany every hunting boat to observe and monitor the hunting activity. I recognize such requirements may be expensive, but I also believe that NOAA must observe the Makah Tribe whale hunting trips to gain a better understanding of the hunting activities and tools and collecting accurate data on the numbers of whales killed and struck and lost. In my view, the benefits that will be gained from observing the hunting process exceed the costs.</p>	
888	e_Anonymo us10_6-2-15	<p>Ensure whale population sustainability It is important to sustain healthy gray whale populations, which benefits the ecosystems in which they live. Gray whale populations that are small and at higher risk of extinction should be given extra protection by laws and regulations imposed on any people that hunt them. The Western North Pacific (WNP) population of gray whales could face extinction in the near future because of human’s activities that affected them. Seasonal restrictions on hunting should help prevent the killing of WNP whales. Whales should not be hunted in breeding seasons, and hunters should avoid female whales. Females’ are essential to sustain the population. To reduce the chance of killing a female the hunters must avoid taking whales that are swimming with calves.</p> <p>In fact, every effort should be made to protect the WNP population and the Pacific Coast Feeding Group. Whales have low birthrates, which makes it harder for them to recover when depleted. They also threatened by multiple human activities. For those reasons, NOAA should impose a smaller limit on the number of whales that can be killed each year. Makah Tribe hunters should be aware that any whale that is swimming with a calf is likely a female, and must be avoided. In fact, unsustainable whaling practices carried out now can only limit whaling opportunities in the future.</p>	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
889	e_Anonymo us10_6-2-15	<p><b>Respect Makah Traditions and culture</b> The Makah Tribe hunted whales for hundreds of years, which indicate that such hunting was essential for them. Such traditions and culture warrant respect. Undoubtedly, this history makes it hard to impose new regulations and laws to stop or reduce their hunts. Nonetheless, the Makah Tribe has the right to hunt whales in accordance with the 1855 Treaty of Neah Bay. As stated in the Makah Whale Hunt DEIS Executive Summary, “The Tribe’s proposed action stems from the 1855 Treaty of Neah Bay, which expressly secures the Makah Tribe’s right to hunt whales.” (p. ES-1). This rights to continue hunting whales, must be reconciled with efforts to set new laws and regulations</p>	Comments noted. Please also see the response to frequent comment # 15 regarding the use of modern weapons.

Sort #	Commenter Code	Comment	Response
		to lower the number of whales being hunted in the North Pacific. Notably, modern and traditional hunting methods are not the same. Modern ways to hunt whales are not the same as those used in the past, which raises the question of whether the requested opportunity to hunt is consistent with Makah culture. Nonetheless, modern ways to hunt are much safer and efficient, and for those reasons may be more appropriate. Therefore, modern ways of hunting should be used in the hunting trips.	
890	e_Anonymo us10_6-2-15	<b>Prevent/ avoid wasteful take Prevent/ avoid wasteful take.</b> The Makah believe that whale hunting benefits their community because it provides whale oil, meat, and bone. Those products demonstrate the importance of whale hunting by the Makah. Not using the products of whale hunting would be wasteful. Therefore, NOAA should introduce and enforce regulations on gray whales to prevent wasteful take. Those regulations should describe the difference between a wasteful take and non-wasteful take, based on whether the whale meat, bones etc., are being used fully, partially, or not at all. To enforce this regulation, observers must monitor the process of consuming/using the whale to determine if it was a wasteful take or not. Full use of the whales taken helps justify continued Makah whaling. In contrast, killing but not using all of a whale is wasteful and does not justify continued whale hunting. To prevent and avoid wasteful take, NOAA establish strict laws and regulations regarding the amount of whales that must be used. Whale hunting is inhumane if all of the whale is not consumed or used.	Recommendation noted. We will consider in future decision-making the appropriateness of monitoring the tribe's use of harvested whales.
891	e_Anonymo us10_6-2-15	<b>Implement alternative 5</b> I found alternative 5 to be the best. Alternative 5 is similar to alternative 2, which allows Makah Tribe to take up to 24 whales' per-six year period, including four ENP gray whales each year. Alternative 5 has 2 hunting seasons, 3 weeks each. The first season runs from December 1 to December 21, the second season runs from May 10 to May 30. I believe that those hunting seasons are important to help ensure high-risk gray whale population or groups are sustained over time. Those seasons will also facilitate NOAA efforts to monitor and observe the hunts, which is vital to have accurate data on how many gray whales are caught and killed, as well as the number of whales that are struck and lost. These hunting seasons are intended to avoid or reduce the chances of killing WNP whales and PCFG whales, which are more vulnerable to whaling. Alternative 5 also states that female whales should be avoided, which I believe is critical. Alternative 5 also should include an education component to help Makah people understand the importance of female whales so that they avoid them. The loss of WNP and PCFG gray whales could irreversibly	Comments noted.

Sort #	Commenter Code	Comment	Response
		alter their ecosystems. With that concerns in mind, the Makah must assume responsibility for the effects of their hunting if they are to continue their longstanding tradition in the future.	
892	e_Anonymous11_6-2-15	Dear Mr. Stone: After reviewing the Draft Environmental Impact Statement for Proposed Authorization of the Makah Whale Hunt (DEIS), I recommend that NOAA: Drastically decrease the allowance for struck and lost numbers Address the issues of human health caused by consuming whale meat and/or blubber More fully assess the cultural significance of traditional Makah whale hunting Insure third party monitoring and enforcement of all regulations associated with this whaling authorization, if granted I have reviewed your alternatives and remain concerned about the lack of protection for the endangered western North Pacific (WNP) gray whale population and for the Pacific Coast Feeding Group (PCFG). I believe that the struck and lost mortality limits are dangerously high. I prefer the fifth alternative, modified to limit the harvest to one male whale per year (i.e. avoid harvesting females to the greatest extent possible) to conserve the various populations of gray whales in the region while still preserving the culture of the Makah Tribe.In addition, I recommend reducing the struck and lost numbers to the absolute minimum; limiting the hunt to a short, seasonal hunting schedule; and including stringent regulations to ensure conservation of all gray whale populations, with special focus on the WNP population and the PCFG. I recognize the importance of Makah Tribe culture, but culture is a man-made construct, subject to modification, while the environment is an essential construct for the continuation of life on Earth. In short, without nature we have no culture. We must respect the rights of the Makah, as described in the 1855 Treaty of Neah Bay, but only after protecting the greater good of the environment at large. As a collective society, we must support the conservation efforts to protect the gray whale.	Comments noted.
893	e_Anonymous11_6-2-15	Drastically decreasing the struck and loss numbers According to the DEIS, the eastern North Pacific (ENP) gray whale population recovered because of a suite of international and national protections (Section 3.4.3.2.2, Historic Status of the Gray Whale Population, Protection and Recovery after Commercial Exploitation) (Rughetal.2005).The population was delisted in 1994 under the Endangered Species Act (ESA) (59 Federal Register 31094, Jun. 16, 1994) and is currently composed of about 20,110 animals (Rugh et al. 2008) (Chapter 1, page 5). A small harvest (one or two animals) would not affect the viability of the Eastern North Pacific population, but it could seriously affect the viability of the WNP population or the PCFG. The measures being taken to protect these smaller	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.

Sort #	Commenter Code	Comment	Response
		<p>populations are insufficient. One way to increase their protection is to ensure that the number of whales struck and lost is at an absolute minimum. These populations are too fragile to tolerate any hunting-related deaths, and the consequences would be even worse if whales from these populations were struck and died, but neither recovered nor associated correctly with their population. Looking at this issue through a humanitarian lens, I believe that hunting the whales is an injustice to their species. In my mind, the goals of the humanitarian and the conservationist are similar: to protect the health, safety and wellbeing of the gray whale populations. Many conservation groups are fighting to protect these populations and to avoid waste and unnecessary death.</p>	
894	e_Anonymo us11_6-2-15	<p>Human health issues from consuming whale meat and/or blubber According to the DEIS, “concentrations of PCBs (1,200 µg/kg wet weight) and DDTs (520 µg/kg wet weight) in blubber of the whale caught by the Makah Tribe in 1999 were higher than the mean levels reported in stranded gray whales or in those hunted in the Bering Sea” (Chapter 3, page 302). If the whale meat and/or blubber is laden with contaminates, there is no reason that natives should eat it. The health of the Makah is a major consideration that needs to be addressed more fully. The reality is that contaminant levels may have increased over time due to our polluting behaviors. There are health consequences when someone eats fish that is contaminated with DDTs and PCBs. It does not make people sick right away. The effects bio-accumulate, meaning that the more contaminated fish or seafood that is eaten, connects to the greater amount of chemicals that is built up in the system of the person eating it over time. The health problems associated with an increased exposure to these chemicals include cancer, liver disease and developmental effects, as well as effects on the immune and endocrine systems. During pregnancy and lactation, mothers can pass DDTs and PCBs on to their infants. Those chemicals affect development; children through adolescence, elderly people and women of childbearing age are more sensitive to the harmful chemicals and should be especially careful. With that being said, “further analysis indicated that fish accounted for 55 percent of meat and seafood in the Makah diet, a figure that highlights the cultural significance of marine resources when compared to the average 7 percent of meat and seafood that occupy the diet of other Americans” (Sepez 2001 – Chapter 3, page 248). Fifty-five percent is a significant number and must be acknowledged. In addition, whale is found to have Vitamin E and Selenium that protect against the “toxicity of certain seafood contaminants like mercury” (Arnold and Middaugh 2004 – Chapter 3, page 248). These nutrients are understood to be beneficial to our health. However, the high</p>	<p>Please see the response to frequent comment # 11 regarding safety of gray whale products for human consumption.</p>

Sort #	Commenter Code	Comment	Response
		DDT and PCB levels found in gray whales outweigh the benefits that whale meat and blubber present. My view is that no hunting should be authorized if the whale meat and blubber are not sufficiently safe for consumption.	
895	e_Anonymous11_6-2-15	Acknowledging the cultural significance of traditional Makah whale hunting For thousands of years, the Makah traditionally hunted whales. But, in the current historical context, they had no part in the recent massive commercial slaughter that brought so many whale species to the brink of extinction. The Makah received no benefits from the slaughter that threatened the whales they depended on for subsistence. Instead, they hunted whales to sustain their economy and culture. The whale hunt is a way to perpetuate their culture and traditions. The importance of the gray whale hunting is reflected in their values, legends, and stories. In the “hunting practices” section of the DEIS, the Makah, who are seeking to maintain their culture, propose to use hunting methods that are traditional yet quick to satisfy the Makah tribe, conservationists, as well as humanitarians. My recommendation is that if the Makah are allowed to hunt gray whales that they are allowed to use traditional weapons, as stated in the DEIS, but while considering the thoughts of humanitarians (by killing quickly without struggle), as a means of improving the fifth alternative.	Comments noted.
896	e_Anonymous11_6-2-15	Implementing a method to monitor or enforce while whaling If the Makah are granted the right to hunt gray whales, then all pertinent rules and regulations must be enforced to ensure conservation of the affected populations. Third party enforcement could simply follow the tribe’s boat, but, in my opinion, the Makah deserve more dignity than having a third party following their hunts. Another proposal would be to hire a gray whale biologist from the Makah tribe to serve as an observer. The Makah biologist can be sympathetic to the traditional whale hunt while still performing their job. While the Makah are hunting for a whale, the biologist would be on board to monitor all hunting activities. Such monitoring seems essential to ensure that the Makah comply with all regulations and thereby help ensure that the gray whale populations continue to grow and thrive. Thank you for considering my recommendations.	
897	e_Anonymous12_6-2-15	Dear Mr. Stone:After reviewing the Draft Environmental Impact Statement (DEIS) on the Makah Tribe Request to Hunt Gray Whales, I recommend that NOAA adopt the no-action alternative. I also believe that before any hunting is allowed, NOAA needs to take a harder look at— The needs of the different gray whales populations The significance of whaling in Makah culture The sustainability of proposed whaling practices The current provided alternatives do not meet the	Comments noted.

Sort #	Commenter Code	Comment	Response
		biological needs of the whales, do not promote sustainability, and may result in the killing of more whales than is necessary to meet cultural needs.	
898	e_Anonymo us12_6-2-15	Biology of Gray Whales The DEIS includes some provisions to maintain healthy and increasing gray whale populations. It states that no female whales are to be purposefully hunted and killed by the Makah. This provision is questionable because, from the view above water, it is not impossible to distinguish female from male whales unless the female is accompanied by a calf. Otherwise, there are no differences between females and males that allow the Makah to make such a distinction. Because of the importance of females to maintaining gray whale populations, the killing of a female should have adverse consequences for the hunters. I recommend that if a female gray whale is killed, that all whale hunting be stopped for the rest of the year. The loss of a female should be considered a critical violation of any hunting authorization.	Comments noted.
899	e_Anonymo us12_6-2-15	Alternatives 2, 4 and 5 include hunting season provisions to avoid hunting western North Pacific (WNP) whales and whales from the Pacific Coast Feeding group (PCFG). The DEIS overlooked when mating and birthing seasons occur. The peak mating season is November to December and the peak birthing season is in January. Hunting under alternatives 2, 4, and 5 would overlap with these seasons and may have population effects not anticipated. For example, the number of females may be in the Makah hunting area during the November-January season, which increases the chances of killing a female. For the same reason, NOAA should consider limiting the hunting season to the period from early March and late June. Because a number of gray whale males remain within the Makah hunting grounds during this period, the Tribe is more likely to take males. Again, the purpose of hunting during this time is to avoid migrating female whales.	None of the action alternatives would allow the tribe to hunt calves or animals accompanying a calf. While pregnant females could be hunted, in DEIS Subsection 4.1.2.1 (Potential Timing of a Hunt and Number of Hunting Days) we note that most hunting would likely occur during the spring months after females have given birth, i.e., there are very few suitable hunting days in the November through January timeframe cited in these comments.
900	e_Anonymo us12_6-2-15	In addition, the American Cetacean Society noted that mothers and calves tend to travel close to shore near the Strait of Juan de Fuca. Some alternatives include a restriction on hunting within 5 miles of shore. This is a preventative measure to protect mother and calf gray whales. I support this restriction.	Comments noted.
901	e_Anonymo us12_6-2-15	Cultural Needs and Significance There are many traditions relating to the hunting of gray whales in Makah history and culture and they are important for understanding the intent of the proposed hunts. For over 3,800 years, this tribe has had their culture and communities shaped by the hunting of these whales. Makah tradition requires training, both spiritual and physical, to prepare for whale hunting. The Makah request to hunt gray whales is heavily influenced by religious, economic, and subsistence needs of the tribe. Traditional rituals	The DEIS addresses the concern that the Makah's proposal adds a new category of "cultural whaling." The United States offered a detailed explanation of its determination that the Makah Tribe's request met the IWC standards for aboriginal

Sort #	Commenter Code	Comment	Response
		<p>conducted in preparation of gray whale hunting have been significant to this culture and, at one point, about 80% of the subsistence needs of the Makah Tribe were fulfilled by gray whale hunting. The practice of hunting and preparing whales was thought to physically and spiritually purify the men. Gray whales provided many products in this culture, including oil, meat, bone, sinew, and guts for storage containers (Olson 2015). In Makah history, all whale parts were used. However, when whale hunting for the Makah Tribe was legal briefly in the early 2000's, the gray whale taken was so toxic from the contaminants that the Makah Tribe used very little to none of the whale. This creates a dilemma. While hunting gray whales satisfies an important cultural need, there is very little value in hunting these whales for subsistence purposes. Why should the Makah Tribe hunt 4-5 whales per year if little of the whales is used for subsistence purposes?</p>	<p>subsistence whaling (Subsection 1.4.1.2.2, Overview of Requests for ENP Gray Whales on Behalf of the Makah). The DEIS also cites the document the United States prepared and presented at the 2007 meeting of the Aboriginal Subsistence Whaling Group that details the factors supporting the United States' conclusion that the Makah Tribe's request met the requirements for an aboriginal subsistence whale hunt (Subsection 1.4.1.2.2, Overview of Requests for ENP Gray Whales on Behalf of the Makah).</p>
902	e_Anonymous12_6-2-15	<p>I also question whether the Makah desire to hunt gray whales is influenced by economic or spiritual needs. According to Diane Eck in her research project, there has been a gradual Makah disinterest in religious rituals and increase in poverty since the 1900's. At one point, the Makah Tribe stopped whaling to keep up with economic demand for seal furs. This implies that the tribe was driven more by economic needs than spiritual needs.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
903	e_Anonymous12_6-2-15	<p>None of the alternatives provided adequate guidance as to how a whale could be used in the Makah community. The Makah Tribe may have a desire to religiously reinvigorate their culture, but they are not likely to maintain the cultural tradition of using the whale in its entirety. If whaling is authorized, NOAA needs to provide clear guidance on the use for these hunted whales. The DEIS does not adequately describe how these hunts are to be regulated and how the whales can be used by the Makah Tribe. Can the Makah Tribe hunt up to 5 whales per year simply for economic benefit? For religious rejuvenation? For subsistence purposes? In addition, the tribe also provides very little information regarding how whales will be distributed and used. The Makah Tribe has argued that hunting is for spiritual and subsistence purposes, but it should be required to describe just what that means. In my view, hunting the whales for economic benefit is morally wrong.</p>	<p>The DEIS describes various aspects of whaling and whale use on the Makah community (e.g., Subsection 3.8, Social Environment; Subsection 3.10, Ceremonial and Subsistence Resources). The Tribe's application also (DEIS Appendix A) describes cultural and nutritional components of whale hunting. Regulations governing a Makah hunt would include requirements for the possession and transfer of whale parts and handicrafts.</p>
904	e_Anonymous12_6-2-15	<p>The DEIS also fails to describe how the Makah Tribe plans to dispose of a whale if it is too toxic to use for subsistence purposes. The extraction of toxic whale parts is expensive and hazardous. Does this responsibility belong to the Makah Tribe,</p>	<p>The tribe would be responsible for the disposition of whale parts.</p>

Sort #	Commenter Code	Comment	Response
		who are killing the whales, or to the government, which is responsible for regulating the hunting of gray whales?	
905	e_Anonymo us12_6-2-15	Sustainability of Hunting Practices I also must question how these whales will be hunted. Traditionally speaking, gray whales were hunted by small groups of Makah Tribesmen in canoes and using spears to kill the whales. Today, there are many alternatives that are more effective for killing whales. While the Makah Tribe should be allowed to grow culturally, can they do so if they hunt with non-traditional methods? Under alternative 3, the DEIS states that no whales shall be hunted within 5 miles of land. This ordinance indirectly impacts Native American culture because it would require a motorized boat to hunt gray whales instead of a canoe. This is because rowing a canoe that far out, catching a whale, and bringing it back to shore is an excessive amount of work. The alternatives also allow for guns, grenades, and other new technologies to be implemented to hunt whales. To me, it is a contradiction to use updated hunting technology to maintain a cultural practice. NOAA should provide more guidance on what weapons can be used to catch these whales. No grenades or guns should be allowed. This is a competitive advantage that is not needed if the Makah Tribe is allowed to use motorized boats to hunt these whales.	Please see the response to frequent comment # 15 regarding the use of modern weapons
906	e_Anonymo us12_6-2-15	The sustainability of the proposed hunting also will depend on what gray whale populations are affected. A major issue with granting Makah Tribe permission to hunt gray whales is whether gray whales will be taken from the WNP population (about 140 whales) or PCFG (about 175 whales). Those populations are small and highly vulnerable to whaling. The WNP gray whale population is also listed as an endangered species under the Endangered Species Act. Given the vulnerability of these populations, I believe NOAA must set stricter regulations than the alternatives provide to preserve these populations.	Please see the responses to frequent comments # 12 regarding risks to WNP gray whales and # 13 regarding risks to PCFG whales.
907	e_Anonymo us12_6-2-15	As mentioned before, it is very difficult to distinguish between male and female whales from a boat. The accidental killing of female whales could be a serious blow to a small population. The death of a single female whale may eliminates the opportunity for that whale to reproduce up to 18 times (Henry 2015). I recommend that if a female is killed, that the tribe is unable to hunt whales the rest of the year. I also would not want the hunted female whale to be used for subsistence purposes. Furthermore, if two female whales were killed in a four-year period, then NOAA should impose a ban on the Tribe to prohibit hunting for four years. Such measures would encourage caution and awareness in the Makah Tribe. This will also be a reasonable amount of time for the population to recover from the unnecessary loss of 2 females, and up to 4 additional calves.	Comments noted.



Sort #	Commenter Code	Comment	Response
908	e_Anonymous12_6-2-15	I also must question the takings clauses presented in all of the alternatives. The DEIS does not explain how the accidental killing of whales, both from strikes and losses, will be regulated and how the Makah Tribe will be held accountable for such events. There also needs to be more regulation to ensure accurate accounting of the number of takes. Someone should be with the Makah Tribe during all whale hunts to count how many whales are taken, the gender of the whales, and whether there were successful strikes or strikes and losses.	The Makah Tribe's waiver request includes accommodations for both a Makah Fisheries Management Department observer and a NMFS observer to accompany the whaling team in the chase boat(s). These observers would observe the hunt, photograph and document the physical characteristics of any whale landed, and possibly take biological samples from any landed whale. For more on enforcement, see Subsection 2.3.2.2.12, Other Environmental Protection Measures. For information on the monitoring of struck and lost whales, see Subsection 2.3.2.2.5, Number of Whales Struck and Lost (Annual and 6-year).
909	e_Anonymous12_6-2-15	I also disagree with the number of whales per year that the Makah Tribe is requesting. There is very little reasoning behind the Makah decision for 4-5 whales per year. The argument of using whales for subsistence purposes, as discussed earlier, is not a valid reason to take these whales because the Makah Tribe is unable to use the entire whale due to the number of toxins within the whales.	Comments noted.
910	e_Anonymous12_6-2-15	For these reasons, I do not believe that the current alternatives are adequate. Although ENP gray whales are no longer on the endangered species list, their population grows slowly and is sensitive to changes in the environment. It is very difficult to properly regulate which whales are valid to hunt. It is also very difficult to use the whale in its entirety, as Makah tradition calls for, because of the accumulation of chemicals within these whales. If the Makah Tribe are authorized to hunt whales, a new alternative should be created to better accommodate gray whales instead of the Makah Tribe. It is important to consider the Makah culture, but the tribe's efforts to maintain its culture must not significantly impact the whale populations. To do this, the number of whales the Makah Tribe may take should be 3 or less per year, with a total of 15 whales over 6 years. This number is reflective of both the slow reproduction rate and population growth rate of the populations. This will satisfy a cultural and religious	The Makah Tribe's proposed action would limit the number of harvested whales to prevent the Eastern North Pacific stock from falling below its optimum sustainable population (OSP). See Subsection 2.3.2.2.2, Numbers of Whales Harvested (Annual and 6-year), and 3.4.2.1, Marine Mammal Protection Act Management, which explains the OSP concept.

Sort #	Commenter Code	Comment	Response
		need for gray whales in the Makah culture while also not significantly impacting the whale populations.	
911	e_Anonymo us12_6-2-15	<p>Furthermore, a representative from the NOAA and a marine biologist should observe and record every whale hunt to determine the number of takings and strikes and losses. This is a preventative measure to properly estimate how many whales are killed and injured in the Makah hunts. I also believe there should be consequences for striking and striking and losing too many whales. Such consequences provide a means for holding the Makah Tribe accountable for its actions and encourage better hunting practices. If the Makah Tribe takes too many whales, there should be a hold on whale hunting for four years to allow for whales to regenerate populations. I believe this is a more suitable option than levying a fine to the tribe. Thank you for considering my recommendations. Works Cited <a href="http://makah.com/makah-tribal-info/whaling/">http://makah.com/makah-tribal-info/whaling/</a>&gt;. Henry, Alison. "Giants of the Ocean: Whale Facts." Overview of Gray Whales. World Wildlife Fund, 12 Feb. 2015. Web. 4 May 2015.</p> <p>&lt;<a href="http://www.worldwildlife.org/stories/giants-of-the-ocean-whale-facts">http://www.worldwildlife.org/stories/giants-of-the-ocean-whale-facts</a>&gt;. Olson, Brittany. "The Makah Whaling Tradition." Makah Tribal Info. Makah Tribe. Web. 4 May 2015.</p>	All of the action alternatives include provisions for observers and enforcement as described in Subsection 2.3.2.2.12, Other Environmental Protection Measures.
912	e_Armlin_7-31-15	I am writing to you because of my concern for the whales and the planet I live on. I strongly believe that allowing this hunt to take place will be detrimental to our oceans and the family of whales left behind after this senseless slaughter! The early ancestors of the Makah hunted whales for survival. There is no need to hunt whales in our century, especially for survival! There is no justification for this.	Comments noted.
913	e_Armlin_7-31-15	The need to hunt for cultural reasons is absurd to me in this day and age. What cultural reason is there to kill an innocent intelligent sentient animal? How can tradition and cultural be a basis for slaughter? Slavery was a tradition and it was wrong and was abolished! Not every tradition should carry into the future, especially one of needless, senseless slaughter.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
914	e_Armlin_7-31-15	When you steal, kill from the oceans or anywhere for that matter, you steal from the entire world. Our oceans and seas are in peril along with earth! The oceans and it's inhabitants are connected to us and our earth! We need to protect it, not kill it off! All this senseless killing of whales and other cetaceans is killing our oceans and our planet!	Comments noted.
915	e_Armlin_7-31-15	Whales should not be slaughter anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely. I urge you to protect them. Do the right thing! Do right by	Comments noted.

Sort #	Commenter Code	Comment	Response
		the whales and everyone living on this planet! Do not allow this hunt to take place. thank you for your attention in this matter. Karen Armlin Jackson, NJ "Our task must be to widen our circle of love and compassion to embrace all living creatures." Albert Einstein	
916	e_Armon_6-29-15	Please do not permit Makah gray whale hunting. Best available scientific data is showing distinct population segments of many cetacean species, and Eastern Pacific Gray Whales. Gray whales are difficult to identify individuals or members of a distinct population segment, even in daily research observations and photo identification, such as at San Ignacio Lagoon- a well documented mating and birthing lagoon of the Eastern Pacific Gray Whale. Best available science is also showing Western Pacific Gray Whales- an endangered distinct population segment- are migrating to the eastern pacific coast- and in the proposed hunting area. Best available science is also showing a 'Resident'- distinct population segment of gray whales in the proposed hunting area. How will the Makah hunters identify and distinguish between the many distinct population segments of gray whales? And not hunt the endangered, resident, or 'friendly' gray whales?	Please see the responses to frequent comments # 5 regarding the stock status of the PCFG, # 12 regarding risk to WNP whales, and # 13 regarding risk to PCFG whales.
917	e_Armon_6-29-15	People of the Makah themselves are divided and not all support, particularly the elders do not support resuming gray whale hunts.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
918	e_Armon_6-29-15	The overriding issue is sovereignty and independence, and that the Makah Treaty rights supersede the Olympic Marine Sanctuary & Marine Mammal Protection Act. The Treaties need to be renegotiated. The Makah traded their land for this right to hunt. Giving the Makah land, renegotiating the treaty, and supporting ecotourism needs to be considered.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
919	e_Armon_6-29-15	What are our current definitions and management of a "Marine Sanctuary" and the "Marine Mammal Protection Act"? Issuing a hunting permit is not a sanctuary or protection for the gray whale. Sincerely, Caroline Armon Marine Educator, Naturalist, Science Research Volunteer Salish Sea and San Ignacio Lagoon	Regulations governing the Olympic Coast National Marine Sanctuary are located at 15 Code of Federal Regulations (CFR) Part 922, Subpart O. Subsection 3.1.1.1.2 of the DEIS, Designation and Regulatory Overview, explains that these regulations prohibit taking any marine mammal, sea turtle, or seabird in or above the sanctuary, except as authorized by the MMPA, the ESA, and the Migratory Bird Treaty Act, or pursuant to any treaty with an Indian tribe to which

Sort #	Commenter Code	Comment	Response
			the United States is a party (15 CFR 922.152(6)). The Makah Tribe is pursuing a waiver of the MMPA take moratorium through legal means, pursuant to the Court's decision in Anderson v. Evans, and as allowed for in Section 101(a)(3)(A) of the MMPA. For more information, see Subsections 1.2.3.3 and 3.17.3.1 of the DEIS. Pursuant to the National Marine Sanctuary Act, NMFS must consult with the Sanctuary if regulations authorizing a hunt are issued.
920	e_Arnett_7-21-15	To whom it may concern, Please stop the hunting of whales by the Makah Tribe. Tradition and ceremony is not a valid reason to continue to hunt an animal by itself. Thank you, Bill Arnett	Comments noted.
921	e_Ashton_7-20-15	Dear decision makers, This is taken from (YOUR) NOAA's information on Grey Whales @ <a href="http://www.fisheries.noaa.gov/pr/species/mammals/whales/gray-whale.html">http://www.fisheries.noaa.gov/pr/species/mammals/whales/gray-whale.html</a> ~In contrast, the Western North Pacific population remains highly depleted and its continued survival is questionable. This population is estimated to include fewer than 100 individuals. Threats Historical threats included primarily commercial whaling, which severely depleted both the eastern and western populations between the mid-1800s and early 1900s Current threats include: collisions with vessels entanglement in fishing gear habitat degradation disturbance from ecotourism and whale watching disturbance from low-frequency noise possibility that illegal whaling or resumed legal whaling will remove animals at biologically unsustainable rates.	Comments noted.
922	e_Ashton_7-20-15	The eastern stock, due to their annual migration along the highly-populated coastline of the western U.S., as well as their concentration in limited winter and summer areas, may make them particularly vulnerable to: impacts from commercial/industrial development local catastrophic events	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
923	e_Ashton_7-20-15	I stand by every word and reason as laid out by Sea Shepherd Conservation Society here: ~Sea Shepherd has 12 primary reasons for opposing the plan to slaughter whales by the Makah: 1. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	
924	e_Ashton_7-20-15	2. The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
925	e_Ashton_7-20-15	3. If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
926	e_Ashton_7-20-15	4. If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
927	e_Ashton_7-20-15	5. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
928	e_Ashton_7-20-15	6. The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
929	e_Ashton_7-20-15	7. There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.

Sort #	Commenter Code	Comment	Response
930	e_Ashton_7-20-15	8. If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.
931	e_Ashton_7-20-15	9. The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
932	e_Ashton_7-20-15	10. Sea Shepherd notes that there are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
933	e_Ashton_7-20-15	11. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
934	e_Ashton_7-20-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
935	e_Ashton_7-20-15	12. Whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely. Sea Shepherd is dedicated to the objective of ending the killing of all whales in all the world's oceans forever. In this effort, we speak for the whales as citizens of the Earth whose right to live and survive on this planet must be defended. These animals had enough threats imposed upon them daily...with out adding direct human hunting into the mix.I implore you to decide	Comments noted.

Sort #	Commenter Code	Comment	Response
		LIFE for these whales, now and into the future. Sincerely, Rebecca Ashton Seattle, Wa.	
936	e_Aven_7-13-15	Please don't allow the Gray Whale hunt to happen. Bambara Aven	Comments noted.
937	e_Aylesbury_5-28-15	Dear NOAA or whom it may concern, Please do not follow through with the Makah whale hunt. We are loosing species on this planet at a rapid rate and even as I type this email to you, and as you read it. We do not need this senseless killing! Please, please say "NO!" to the Grey Whale Hunt! I am one of many trying to be the voice for the voiceless. Will you join me and speak up for these beautiful creatures and save their lives!Thank you for your time, Meagan Aylesbury	Comments noted.
938	e_Baechler_3-8-15	Normally I support indigenou peoples in all things, but I am urging you to say NO to the Makah Tribal Whale Hunt. The whales are sentient beings, as intelligent as we are. They have families, intelligent communications, loving relationships.	Comments noted.
939	e_Baechler_3-8-15	They are not necessary now for the Makah people's survival.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
940	e_Baechler_3-8-15	Our oceans are endangered; the world climate is changing rapidly, and it may be a miracle if whales survive at all. (The traditional foods of the whales are at risk too, with ocean warming). These whales are Critically Endangered, and should be spared any hunting at all. I urge that there be substantial fines and jail time for hunting them. Thank you, Mary Baechler Yakima, Wa. 509-961-2792	Comments noted. ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994. See Subsection 1.1.3, Summary of Gray Whale Status. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
941	e_Bagylos_7-16-15	Please do not allow the tribe to hunt whales. These whales should be considered endangered. Besides the health issues for themselves, our oceans and it's lives have been meddled with enough.	Comments noted.
942	e_Bagylos_7-16-15	There are plenty of other food sources and the whales should not be a food source for them. thank you Paulette Baglyos Cleveland, OH	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
943	e_Barbara_3-7-15	To the Makah Tribe When it comes to hunting whales, it is time to bury that tradition. We have learned more about whales and how they cherish their pod. They feel pain, they mourn when one is lost, just as every other mammal on this blessed earth mourns. I can't see any positives in whale hunting at all in this world we live in.	Comments noted.
944	e_Barbara_3-7-15	Times change, whale hunting needs to be abolished forever. Step up and do the right thing. We don't need more unrest in this world we live in. This will be horrific for all the world if you don't leave this tradition in the past where it belongs. Not all traditions are good ... some evil. Let the whales live their lives free and unharmed. Do you really want to do this? It seems appalling that you even want to think about this. Where are your hearts? This is not a peaceful act. This is my opinion on the subject, and it will be a very sad day for humanity if this whale hunting idea is not put to rest forever. Spread peace .. give thanks, and please live your life in peace and honor. Sincerely, Barbara M Sequim, WA	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
945	e_Beaone_7-16-15	No, No, please no. With a growing imbalance of sea creatures, plus the pollution of our waters, it makes no sense to turn to killing still another of our precious creatures. Did you know they have discovered whales can actually talk to people, just as dolphins can? Is this a resource you really want to waste for what? We are past the days when we can afford to let one more animal, on land or in the seas, be subjected to slaughter, especially one with such promise and need to keep this planet alive. Did you see the huge whale slaughter on Faroe Island last week, or the Japanese slaughter of dolphins, both where the water ran red with their blood. Did you know they cut off the shark's fins and tail and leave the shark alive, dumping it back into the water to die?	Comments noted.
946	e_Beaone_7-16-15	We simply have to stop the killing and pray for some return of balance to the earth and the ocean life without which we are all dead. Please do not allow this to happen. Bea Manderscheid Tucson, AZ	Comments noted.
947	e_Beatty_4-6-15	No to any resumption of whale hunting. Apart from the cruelty involved in hunting these amazing mammals it then sets a very very bad precedent which other nations will use to legitimise their own so called "traditional" hunting for whales and dolphins or other animals- e.g. Taiji dolphin hunt.	Please see the response to frequent comments # 1 regarding the humaneness of a whale hunt and # 4 regarding the precedential effect of a waiver internationally and domestically.
948	e_Beatty_4-6-15	For another thing we now live in the 21st century and while I appreciate that many tribal and indigenous peoples want to retain their cultural identity I do not believe it should be at the suffering of other sentient, highly developed, emotionally and biologically complex animals such as whales or anything else for	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.



Sort #	Commenter Code	Comment	Response
		that matter. It's about as logical as proposing that Fijians should be allowed to resume cannibalism as that was once a very strong part of their culture. Any culture, ethnic group or nation that can only define itself or retain its sense of worth and identity by killing things doesn't deserve to continue. There is so much more that defines us, that honours us. Ann Beatty Sydney Australia	
949	e_Becker_3-12-15	Dear Makah tribe, Isn't it time we, as a species, STOP this sort of thing? Do we not want to leave our marine friends in peace? What would anyone want with a whale in these modern times? I don't think this is what mother earth has in mind. Please do the right thing and listen to your conscience. No whaling. Thank you for reading, Erin Becker	Comments noted.
950	e_Becker_5-3-15	Please do not allow the Makah to hunt whales. There is no subsistence need. Whales should be allowed to live free in the wild without being killed by humans. I support option 1, to not allow Makah whale hunting. Thank you, Brandon Becker Cary, NC	Comments noted.
951	e_Bergeron_3-9-15	This is unexceptable!	Comments noted.
952	e_Bernstein 1_3-28-15	I am firmly against changing the 2004 moratorium under the Marine Mammal Protection Act as the Ninth U.S. Circuit Court of Appeals stated. The Makah have no argument to start hunting whales on the bases of ancestors actions. If this was agreed too than all the Hungarians in the US should return to impaling anyone who they deem enemies without legal actions - My ancestors were vicious but we have moved into the modern era and see that action was wrong. Today's Makah eat pizza, use electricity, dress in modern clothes, use motorized vehicles and boats and use US currency etc. They must go into the future or totally return to primitive ways of life. Take all the comforts of modern living from them and truly return to primitive ways.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
953	e_Bernstein 1_3-28-15	They should join in on protecting and valuing Whales as they wish us to do to them. I live on the Olympic Peninsula and anyone here who see's a whale is full of wonder and excitement. They have a dam difficult time surviving. Hungar and Rosemary Bernstein. Beaver, Wa	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
954	e_Bernstein 2_3-28-15	I AM FIRMLY AGAINST CHANGING the 2004 moratorium under the Marine Mammal Protection Act in a decision by the Ninth U.S. Circuit Court of Appeals. The Makahdo not live as their ancestors in any form. They use electricity, US. currency, dress in modern clothes, eat pizza go to school in state institutions and have decided in every way to be modern people. No one gets to return to ancestors actions against modern laws. If so I could return to impaling anyone I	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		felt was an enemy as my Hungarian ancestors did. But we do not look for ancient behavior to guide us in these times we now know those actions were wrong. I live on the Olympic peninsula near the Makah and they want their neighbors and the world to respect them but they must drop this barbaric Idea. They need to respect whales and protect them. Rosemary and Hungar Bernstein, Beaver, Wa	
955	e_Bertano_5-20-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a nutritional and subsistence need for whales, (2) the hunt could further imperil both the resident and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. Consequently, I support Alternative 1, the no-action alternative. The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.	The introductory comment are noted; specific responses are provided below.  Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
956	e_Bertano_5-20-15	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
957	e_Bertano_5-20-15	NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members;	The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
		and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	
958	e_Bertano_5-20-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these threats were adequately evaluated in the DEIS.	Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
959	e_Bertano_5-20-15	The proposed hunt is inherently cruel: It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale. I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. Thank you for considering my views. Sincerely, Silvia Bertano Corso Rosselli 123/8 Torino, Italia 10129	Please see the responses to comments # 1 regarding the humaneness of a whale hunt and # 3 regarding the desire of the Makah Tribe to revive its whaling tradition.
960	e_Best_5-15-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a nutritional and subsistence need for whales, (2) the hunt could further imperil both the resident and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. Consequently, I support Alternative 1, the no-action alternative. The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.	The introductory comment are noted; specific responses are provided below.  Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
961	e_Best_5-15-15	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the responses to frequent comment # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
962	e_Best_5-15-15	NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.
963	e_Best_5-15-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these threats were adequately evaluated in the DEIS.	Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
964	e_Best_5-15-15	The proposed hunt is inherently cruel: It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale. I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. Thank you for considering my views. Sincerely, Rudy Best 50 Wheeler Ave Salem, NH 03079-3441	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
965	e_Blankenship_3-21-15	Shooting a whale from a motor boat with a high caliber rifle is hardly a First Nation cultural activity. I respect the First Nations, but the Makah do not have a reasonable cultural claim for a whale-killing permit. Sincerely Barbara Blankenship UCLA	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 15 regarding the use of modern weapons.
966	e_Bollo_4-25-15	The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
967	e_Bollo_4-25-15	The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
968	e_Bollo_4-25-15	If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minke, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
969	e_Bollo_4-25-15	If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
970	e_Bollo_4-25-15	If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
971	e_Bollo_4-25-15	The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt

Sort #	Commenter Code	Comment	Response
			for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
972	e_Bollo_4-25-15	There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
973	e_Bollo_4-25-15	If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives include provisions to limit impacts to PCFG whales.
974	e_Bollo_4-25-15	The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
975	e_Bollo_4-25-15	Many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
976	e_Bollo_4-25-15	Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
977	e_Bollo_4-25-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution. <sup>12</sup> .	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
978	e_Bollo_4-25-15	Whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished. Thank you. Michele Bollo 1692 Burgundy Rd. Encinitas, Ca 92024 760-840-0414	Comments noted.
979	e_Bookless_4-22-15	To whom it may concern, The Macah Tribe has requested permission to resume killing whales citing their Tribal tradition. If their request is granted, then I believe that they should be required to take whales using the traditional method. They should carve dugout canoes, paddle them out themselves, spear the whale, and then tow it back themselves. They should not be allowed to use power boats and rifles like they did last time. They should be informed that they will not be allowed to call The Coast Guard or 911 if they capsize or are injured, because they certainly did not have those facilitates, traditionally. Undoubtedly, several tribal members will be injured, and perhaps killed, during the hunt, and that is traditional, as well. Also, before they take a whale, they should provide written, specific details about what they plan to do with the whale. The last time they took a whale, they were towed out to sea by a powerboat, they paddled around a bit, and threw a spear, and then they killed the whale with a .50 caliber rifle. Then a powerboat towed them back to shore. When they arrived at the shore, it was revealed that only one tribal member was still alive who had ever eaten whale, and no one alive had any recipes or plans on what to do with it. Frankly, that is complete nonsense. If I go hunting or fishing, I eat what I take. I don't just kill things because my ancestors did. In fact, my ancestors were vikings, but I am not petitioning to raid coastal villages. The Macah request is disingenuous because they are not asking to use traditional methods, and they have no idea what to do with a whale if they get one. Their request should be denied. Tod Bookless Tukwila, WA	Please see the response to frequent comment # 15 regarding the use of modern weapons
980	e_Booz_3-21-15	I am against issuing any permits to kill grey whales by anyone, native American tribe or whoever. This is not acceptable. The whales are part of the ecological community we live in here on Earth and they should be left alone to live their lives as they have always done.	Comments noted.
981	e_Booz_3-21-15	No one "needs" to hunt whales any longer! Martha Booz 3823 Valley Lane El Sobrante, CA 94803 mlbooz@calnatives.com	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
982	e_Boschen_3-20-15	To whom it concerns! Please oppose the plan to slaughter whales by the Makah: The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	
983	e_Boschen_3-20-15	If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
984	e_Boschen_3-20-15	There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
985	e_Boschen_3-20-15	The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
986	e_Boschen_3-20-15	Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
987	e_Boschen_3-20-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.



Sort #	Commenter Code	Comment	Response
		Constitution. Some of the reasons why the plan to slaughter whales by the Makah is not right! Regards Marianne Boschen	
988	e_Boschen_3-31-15	Dear Sir or Madam, please oppose the plan to slaughter whales by the Makah: The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
989	e_Boschen_3-31-15	If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
990	e_Boschen_3-31-15	If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
991	e_Boschen_3-31-15	The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation. Thank you for your consideration. Sincerely Marianne Boschen	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
992	e_Bradow_4-29-15	I, Evan Bradow, A citizen of Clallam County, support the Makah Tribe in their treaty rights to hunt whales. As long as the whales are not in danger of becoming extinct. I think Sea Shepherd Conservation society need to focus on more important issues. The Makah tribe gave up enough of their rights to modern society. The focus should be on saving Makah culture.Evan bradow 4614 S. Fey road Port Angeles, Wa 98363	Comments noted.
993	e_Brennan_and_Whittall_4-29-15	We are NOT in favor of a gray whale hunt by the Makah Tribes. This is NOT the 1800's; the hunt doesn't appear to mean much to the younger generations (who we understand don't even like the meat); there is NO value to them hunting these majestic mammals. It is a waste of the time and effort put into recovery of	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		the species to allow their slaughter for what amounts to something that is no longer relevant in modern times.	
994	e_Brennan_and_Whittall_4-29-15	It would be one thing if they hunted with weapons like they used before they acquired firearms, but they don't. It is not the hunt of the past, but purely a blood sport. Lana Brennan Lanny Whittall PO Box 1936 Allyn, WA 98524	Please see the response to frequent comment # 15 regarding the use of modern weapons
995	e_Broschart_1_3-21-15	Dear Mr. Stelle: Please accept my comments in favor of Alternative 2 -- the Makah Tribe's Proposed Action Alternative contained in the 2015 DEIS. It is my understanding that DEIS Alternative 2 will allow for both adequate protection of Eastern North Pacific gray whales and responsible use by the Makah Tribe of Washington State for their cultural and subsistence needs. This seems to be a reasonable solution. I encourage you to pursue this course of action. Furthermore, I support the Federal Government's and the people of the United State's responsibility to the Makah Tribe and their treaty. I urge you to expedite the approval process since 10 years is far too long to make this Tribe wait for a fair decision from our government. Respectfully submitted, Sarah Broschart, Secretary Nancy Broschart, Chief Financial Officer Reed Broschart Broson Pacific Corporation Ventura, California	Comments noted.
996	e_Broschart_2_3-21-15	Dear Mr. Stelle: Please accept our comments in favor of Alternative 2 -- the Makah Tribe's Proposed Action Alternative contained in the 2015 DEIS. As owner and operator, respectively, of the commercial F/V Creature based in Ventura, CA, we fully appreciate the need for balancing wise-use and conservation of our marine resources. We understand that DEIS Alternative 2 will allow for both adequate protection of Eastern North Pacific gray whales and responsible use by the Makah Tribe of Washington State for their cultural and subsistence needs. This seems to us to be a fair and balanced approach to the situation. We encourage you to pursue this course of action. Furthermore, we support the Federal Government's responsibility to the Makah Tribe and their treaty. We ask that you expedite the approval process since 10 years is far too long to make this Tribe wait for a fair decision from our government. Respectfully submitted, Ron Broschart, owner Dalton Davison, Captain F/V CREATURE	Comments noted.
997	e_Brown_5-5-15	In regard to the Makah tribe's requests to resume whaling, I would like to comment against allowing such exploitation. I am an anthropologist who has worked with representatives of many different tribes and also worked for a southwest tribe for over 8 years. I am a strong proponent, in principle, of Native American tribes retaining and strengthening their cultures. I do not believe, however, that allowing the Makah to resume killing whales will do anything to preserve their culture. In order for the tribes' cultures to persist, they must	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		<p>evolve and adjust to their environment, as they have done for thousands of years. When they try to freeze their cultural practices at one point in time while their languages, economics, educational system, and living environments change radically, the preservation effort is guaranteed to fail. Whaling will not preserve the Makah culture, it will only kill whales which are already in short supply. It may also result in killing members of the Makah tribe, losses that may be counterproductive for tribal preservation. Do the Makah propose using traditional methods to hunt whales?</p>	
998	e_Brown_5-5-15	<p>Do they propose hunting in small boats with hand-thrown harpoons, or do they wish to use power boats and high-powered rifles to demonstrate their manliness? This would not be cultural preservation, but more enacting scenarios they have learned from movies, TV, and the internet. The Makah must evolve as a people, a culture, and as citizens of the USA and the world. If they wish to have any credibility among themselves and with the larger culture around them, they cannot isolate themselves on their Reservation and pretend that they are living in the 19th Century when it comes to whaling, and then drive pickup trucks, watch TV and use the Internet like everyone else around them. Killing animals with overwhelmingly superior weapons is not brave, not manly, and definitely not in the interest of preserving their culture. The young generation of Makah will not be inspired by whaling to learn the language and customs of the tribe, nor to continue to keep these attributes alive and in use. Perhaps if the Makah learn that to truly respect life and the whales, they must preserve the whale population, a value that will greatly enhance efforts to preserve their own culture. I strongly recommend that whaling permits be denied to the Makah tribe, permanently. Geoffrey Brown Bellingham, WA</p>	<p>Please see the response to frequent comment # 15 regarding the use of modern weapons</p>
999	e_Brown_7-21-15	<p>Dear Mr. Stone, I am writing to urge you to deny the request by Makah Tribe for a gray whale hunt permit. With the exception of a single gray whale killed in 1999 and another whale killed illegally in 2007, the Makah have not hunted whales for nearly 90 years. Consequently, the tribe cannot demonstrate a subsistence or nutritional need for whaling or whale products.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1000	e_Brown_7-21-15	<p>The proposed hunt could jeopardize two imperiled populations of gray whales: the resident Pacific Coast Feeding Aggregation and the Western North Pacific, which number only 209 and 140 animals, respectively.</p>	<p>Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.</p>
1001	e_Brown_7-21-15	<p>While the main Eastern North Pacific gray whale population is much larger (nearly 21,000 animals), they and their habitat are subject to threats like climate change, contaminants, ocean noise, ship strikes, and net entanglement</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the</p>

Sort #	Commenter Code	Comment	Response
		throughout their summering, wintering, and incredibly long migratory range (from Alaska to Mexico), and shouldn't be subject to a new threat posed by a hunt. Sincerely, Alex brown	ENP gray whale population in the face of climate change and other threats.
1002	e_Brown_7-26-15	Dear Mr. Stone, I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a nutritional and subsistence need for whales, (2) the hunt could further imperil both the resident and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I am also concerned that human safety could be jeopardized by the whale hunts, because of the planned weaponry and the hunts taking place so close to shore and in a populated area. Consequently, I support Alternative 1, the no-action alternative. The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.	Please see the response to frequent comments # 2 regarding the ASW status of the Makah Tribe and 3.
1003	e_Brown_7-26-15	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1004	e_Brown_7-26-15	NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members;	The DEIS provides a detailed analysis of impacts on gray whales and other species. Please also see the response to frequent comment # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
		and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	
1005	e_Brown_7-26-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these threats were adequately evaluated in the DEIS.	Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1006	e_Brown_7-26-15	It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1007	e_Brown_7-26-15	The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1008	e_Brown_7-26-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. Tradition and culture must not be the basis for slaughter.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1009	e_Brown_7-26-15	The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1010	e_Brown_7-26-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	
1011	e_Brown_7-26-15	The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the desire of the Makah Tribe to revive its whaling tradition.
1012	e_Brown_7-26-15	The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1013	e_Brown_7-26-15	There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC. Thank you for considering my views. Sincerely, Wendy Brown -- Our greatest glory is not in never falling, but in rising every time we fall. Confucius	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1014	e_Brown_7-30-15	Dear Sir, Ms., I guess I cannot understand why if you feel such a strong connection to the whales - why do you feel you have to kill them? Your ancestors had to kill the whales to survive and it probably hurt them to kill such beautifully magnificent creatures. They are much more intelligent and their brain is much larger than ours. The karma always comes back to you and if you kill these beings it will come back to you in such pain that you will suffer a terrible life and your true spirit knows this to be true. Celebrate the life, let them live and admire their grace and beauty. Realize that your ancestors had to kill to live and they are forgiven by their true karma. You could create a new tradition to honor these beautiful creatures and watch them flourish. Your spirit will flow with goodness and life will be renewed. This much I know it true. Thanks for your reading and	Comments noted.

Sort #	Commenter Code	Comment	Response
		consideration. Sincerely, Wendy Brown-- Our greatest glory is not in never falling, but in rising every time we fall. Confucius	
1015	e_Bunn_5-16-15	This comment is submitted on behalf of Verna Bowechop Bunn a Makah Tribal Elder, 86 years old. I do not believe the Makah Nation of whalers should be penalized for the deplorable condition of the present ocean pollution (environment) as they continue their quest to return to their God given rights of treaty whaling and fishing! Verna R Bowechop Bunn Makah Tribal Elder, 86 years old	Comments noted.
1016	e_Burkhart_3-16-15	To whom it may concern, I am writing you to ask that you please deny the request to hunt 5 Gray whales off the coast of Washington State. Though the Makah tribe is trying to share their culture with the younger generations, this act was done by the tribes to be able to provide enough food for their families. Today, there is no need to hunt whales to provide nourishment.	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
1017	e_Burkhart_3-16-15	The West Northern Pacific Gray whale population is listed as endangered on the NOAA website, and should be protected from the threat of human endangerment. With human boat traffic, toxins, and pollution already a threat to these whales, we should take this ESA listing seriously, and prevent further threat to this species. Thank you for your consideration, Kelsi Burkhart	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1018	e_Burr_3-22-15	No killing of whales! We need their intelligent presence in the oceans of the world! Betsy B. Burr 9 Canterbury Way Morristown, NJ 07960	Comments noted.
1019	e_Buslot_4-11-15	Dear Sir, Whales are facing major threats. Due to the increase in the population the Makah Tribe in Washington State would soon re-visit their efforts to resume whaling, claiming their Treaty rights gave them the authority to kill Gray Whales. Literally, the day after the Coalition returned from Guerrero Negro to San Diego, a new request was applied by the Makah for a waiver under the Marine Mammal Protection Act. The DEIS acknowledges that if the Makah hunt is authorized, it may lead to future regulatory changes that would in turn lead to increased hunts of whales or other marine mammals.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1020	e_Buslot_4-11-15	The DEIS is unable to ensure that the highly endangered Western Gray Whale will not be killed. Only genetic analysis would allow identification of a whale as either Eastern North Pacific, Western Pacific Whale or a member of the Pacific Coast Feeding Group. It is impossible to ID these whales as they all look alike.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1021	e_Buslot_4-11-15	The DEIS lacks important published research on the extent of Orca predation which has been estimated at 35% of calves. Given the increase in numbers, and the ability of transient Orcas to move deeper into Gray whale habitat in the Arctic as the ice melts, the rate of predation is likely to be as high or higher than 35%. No current Russian figures or current research have been included in the DEIS.	The commenter does not identify the published research allegedly lacking from the DEIS. The DEIS includes updated and relevant material in the following Subsections: 3.4.3.1.2,

Sort #	Commenter Code	Comment	Response
			Global Distribution and Population Structure; 3.4.3.1.4, Feeding Ecology and Role in the Marine Ecosystem; 3.4.3.1.6, Natural Mortality; 3.5.3.1.1, ESA-listed Marine Mammal Species (Killer Whale); 4.5.2.2, Prey Availability; 5.1.3.8, Natural Mortality.
1022	e_Buslot_4-11-15	The precedent set by granting a waiver will : - Set an unholy precedent at IWC, particularly as Japan is attempting to have its coastal communities given the same rights as the US is seeking for the Makah Tribe. - Set the wheels in motion for the killing of Humpback Whales as efforts are being made to delist the Northern Humpback Whale from the Endangered Species List. The Tribe has indicated its desire to kill Humpbacks. - Set a precedent for a significant number of Native American Indian Tribes to claim discrimination and seek the same whaling rights as the Makah.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1023	e_Buslot_4-11-15	The Bowhead whale quota for Alaskan Inuits is a source of great controversy at IWC and within the conservation community. If a waiver is granted to the Makah, the US will have cemented its position as a whaling nation. A total reversal of a proud record of whale conservation. The Tribe proposes killing a maximum of five Gray whales per year on average and up to 24 whales in a 6 year period. The number of whales struck ( and not killed) would be no more than 42 over the six year period.	Comments noted.
1024	e_Buslot_4-11-15	The Makah Tribe claims hunting gray whales is a treaty right. The Tribe says the exercise of its treaty whaling rights will provide a traditional subsistence resource to the community and sustain and revitalise the ceremonial, cultural, and social aspects of its whaling traditions. An Indian magazine carries an article which demonstrates the battle those of us who want to protect whales are facing. Killing whales in the 21st Century has no place in any culture. A dead whale is a dead whale. If a waiver is granted by the Federal government, then the IWC will have to accept a new whale killing category – healing over 200 years of cultural disruption. Sincerely, Chantal Buslot Belgium	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe, # 3 regarding the Makah Tribe’s desire to revive its whaling tradition, and # 4. Regarding the precedential effect of a waiver internationally and domestically.
1025	e_Caretti_4-29-15	Given the fact that the political climate in this country will assuredly allow the Makah to wrongfully hunt gray whales, there are additional considerations to fully honor the sacred traditions of the tribe. They are: 1. The hunt must be allowed only from traditional, human powered vessel. 2. The hunt must not be assisted in any way by mechanical, technical means, or equipment not available to the tribes at the time of the treaty signing. 3. Government assistance or	Please see the response to frequent comment # 15 regarding the use of modern weapons.



Sort #	Commenter Code	Comment	Response
		protection (taxpayer paid) must not be provided. If the tribe is truly committed to the "Tradition" and not the commercial aspect of the hunt, they should be proud to DEMAND the same conditions stated above. Louis and Donna Caretti and Family Port Orchard, WA	
1026	e_Carling_7-31-15	The murder of whales should be prohibited without exception. Hunting whales is just as offensive as hunting humans. I oppose the Makah Tribe's request to murder whales.	Comments noted.
1027	e_Carling_7-31-15	The number of whales in the oceans is about 10% of the number needed for a healthy oceanic ecosystem. It would be environmentally irresponsible and morally reprehensible to allow the murder of any whales. Prof. M Carling	Comments noted. For information on the current estimated population of Eastern north Pacific gray whales, see Subsection 1.1.3, Summary of Gray Whale Status.
1028	e_Carlson_7-16-15	Leave them be. cruelty and suffering just to kill a whale or two for what? John Carlson	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1029	e_Caruso_7-21-15	I support the NO-ACTION ALTERNATIVE, Alternative 1.	Comments noted.
1030	e_Caruso_7-21-15	As a resident of the state of Washington, I have some familiarity with the Makah Tribe which does not have a subsistence need for whales. This is one reason that their request to hunt gray whales should be denied. The Makah Tribe would not qualify for an aboriginal subsistence whaling quota from the International Whaling Commission because this tribe is unable to demonstrate either a nutritional or subsistence need for whale meat and other whale-related products and the tribe is unable to demonstrate a continual traditional dependence on whales and whaling. In order to maintain consistency and clarity with past determinations and future requests regarding aboriginal subsistence whaling, the United States government should recognize that the Makah Tribe does not meet sufficient criteria for an International Whaling Commission aboriginal subsistence whaling needs statement. Certainly, these circumstances provide insufficient foundation for granting an unprecedented waiver to The Marine Mammal Protection Act.	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
1031	e_Caruso_7-21-15	There is no evidence that the Makah Tribe needs to kill whales in order to promote or maintain the Tribe's culture and historical connection to whales and whaling. The 1855 Treaty of Neah Bay to which the Makah Tribe turns to claim whaling rights was of a time in history and human relationship to animals and	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.

Sort #	Commenter Code	Comment	Response
		<p>marine life which does not compare with the evolution of laws and the contemporary views of an expanding proportion of United States citizens. The United States government was a party to the treaty and in looking to provisions of that treaty today, the United States government must take into consideration the living citizens of this nation and the applicable laws that they abide by.</p>	
1032	e_Caruso_7-21-15	<p>To maintain and strengthen their cultural connection to whales, the Makah Tribe can uniquely add to numerous examples offered on the North Olympic Peninsula of educational programs that center on whales. I work in the hospitality field in Port Townsend and through two of the hotels that I work at, I help arrange whale watching tours with Puget Sound Express. Families and individuals are excited to take these tours and an example of one woman’s experience was expressed to me during the past week when she spoke of her visit to the North Olympic Peninsula during which she saw gray whales, minke whales, orcas and a humpback whale. This woman was in awe of these whales. Alive, these whales inspire a spiritual connection that the Makah Tribe can choose to respect in people in general and to build upon with understandings of their history and culture. All the resources that have been and are continuing to be expended in pursuit of the whaling rights provision of the Treaty of Neah Bay could have been and should be channeled into alternatives that provide resources needed by the tribe to promote their culture alongside the United States of today and in objectively valuing and therefore abiding by the Marine Mammal Protection Act. The Marine Science Center at Fort Worden State Park near downtown Port Townsend also uses education to focus on the ocean environment and its impact on whales through the Orca Project. Thirteen years ago, a female Orca was discovered stranded on the North Olympic Peninsula. After her death, the toxic chemical levels measured in her body were the highest such levels thus far found in a marine mammal. Local children named this Orca “Hope”. In 2011, Marine Science Center employees and volunteers, including children, assembled a skeleton of Hope which is now on exhibit as part of an educational program regarding Orca Whales and the challenges they face to survival.</p>	<p>Comments noted. Please also see the response to frequent comment # 9 regarding non-lethal action alternatives.</p>
1033	e_Caruso_7-21-15	<p>This inspiring example of connecting with the whales that are near at hand in this part of the world is in stark contrast to the photograph reprinted in the "Peninsula Daily News" in March of this year which shows two members of the Makah Tribe “celebrating” on the body of a gray whale that died slowly in a Makah Tribe whale hunt in 1999. Seeing that picture is worth everyone’s effort to view. The behavior exhibited in that photograph would not be considered</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		<p>celebratory to many people.  <a href="http://www.peninsuladailynews.com/article/20150307/NEWS/303079992">http://www.peninsuladailynews.com/article/20150307/NEWS/303079992</a></p>	
1034	e_Caruso_7-21-15	<p>That whale was killed in May 1999 by several shots from a 0.50 caliber elephant gun fired by a whaler in a chase boat after initially being harpooned by a canoe crew of the Makah Tribe. Where is the humane treatment of animals in this? What subsistence or nutritional need did that whale meet by being eaten by 1,800 guests who were invited to feast at the tribe's community center? And this is not to speak of a second gray whale that was illegally killed by use of a 0.50 caliber machine gun by five members of the Makah Tribe in 2007. The whale was shot at 9:30 AM and not until evening did this whale disappear beneath the water's surface; not to ever surface again. Being a vast and diverse nation, I live on the North Olympic Peninsula which is made richer by containing Olympic National Park and being partially bordered by Olympic Coast National Marine Sanctuary. Yet, I was born in central New York and exposed to the traditions of the Haudenosaunee Confederacy of Nations. In considering this Makah Tribe whale hunting request, I was reminded of the words spoken by a Haudenosaunee elder: "Choose your allies wisely". In the context that this elder made this statement the allies that he was referring to are the trees. The ally that I choose is the whale, not the hunter. The Makah Tribe has the spiritual opportunity to make this choice as well and the prohibition of whaling must be maintained under The Marine Mammal Protection Act. There are other ways that could be explored and developed that would address an outdated treaty provision without violating well established law.</p>	<p>Comments noted. Please also see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1035	e_Cash_5-26-15	<p>I can't imagine what the trade off would be to even make you consider this but it's wrong.....do not do this.....this isn't the 19th century or back before then....this is just an image play and a mistaken one.....this is so wrong and horrible I can't even believe it's on the table.....do not do this..... who's in charge of this.....it will be stopped if this goes through so don't do it now thank you, you will hear from me again Penny Cash, Psychotherapist Seattle,</p>	<p>Comments noted.</p>
1036	e_Chalfant_7-29-15	<p>To Whom it My Concern - My family and I received word that NOAA is considering giving the Makah permission to resume hunting of Gray whales. Let me say, we are adamantly against such move and fully support Alternative 1, No Action. For more than 90 years, with the exception of one year where a whale was illegally killed, the Makah have not hunted whales, why start now? The Makah obviously do not need to hunt whales for subsistence, they have been managing fine w/o killing whales.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.</p>

Sort #	Commenter Code	Comment	Response
1037	e_Chalfant_7-29-15	The populations of whales closest to the location of the Makah are struggling, to say the least. These animals are highly intelligent, very social and family oriented. I state this because we were blessed to have had the opportunity to spend several weeks with the Gray Whales in Mexico.	The DEIS discusses the status of PCFG whales at length; contrary to this comment the best available information indicates that the PCFG is not struggling and has been relatively stable for more than a decade.
1038	e_Chalfant_7-29-15	We directly interacted with them, it was an incredible experience, and I would go so far as to say it was a spiritual experience. The first day we all went into the bay, immediately a baby whale approached our vessel, the mother was a short distance away. The baby came to the side of the boat and raised its head for us to engage in contact, which we did. This was the first of many, many experiences that exceeded our expectations and understanding of these magnificent creatures; they are amazing! Mothers would be trusting enough to leave their babies at the side of our boats and take off for a period of time, we ended up babysitting! There is no question the social connection these animals made with us, and they showed us time and again their degree of intelligence. Performing next to the boat with incredible moves, as if, and they were, entertaining us. The final day a mother came to our boat and opened her mouth for us to stroke her baleen!!!If killing were to resume, this would most definitely affect their behavior and such tourism would suffer.	The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching Industry.
1039	e_Chalfant_7-29-15	We are shocked and dismayed in this day and age when we know so much about the whales, our own government would be considering opening a window of slaughter. With warming oceans becoming more acidic, with sonic, deafening blasts occurring in their waters, pollution, impact with ships, do we really need to slaughter these poor creatures again - of course not! They have every right to live a life as do we. They do not threaten us, just live their lives. Who are we to open the gated of hell once again on these peaceful creatures?	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1040	e_Chalfant_7-29-15	The National Marines Fisheries has not examined alternatives. How about the Makah offering whale watching tours? They will have the ability to make money and attract the admiration of people. Should you give permission to kill, the Makah will become the pariah of the West Coast. Believe me, people love whales! Let's see some progressive thinking, not regressive thinking! A LOUD "NO!" from our family to giving the Makah permission to slaughter whales - it's horrifically cruel, unjustifiable and outdated. Thank-you. Skip Chalfant and family	Please see the response to frequent comment # 9 regarding non-lethal alternatives to a hunt.
1041	e_Chilson_4-27-15	It is not my intention today to suggest that the Makah lose treaty rights or that their deep connection to the ocean and its resources should not be recognized. My intention today is to defend the whales. Whales that for decades lived	Comments noted.

Sort #	Commenter Code	Comment	Response
		peacefully in their world with momentary interactions with humans that did not make them fear for their lives—interactions that were born out of curiosity and celebrated their majesty as seen through the lens of a camera and not the sites of a rifle. In the year 2015, no intelligent mammal should be hunted down at the hands of a human in the name of ancient, unpracticed tribal customs and subsistence. Decades of subsistence without whale meat or byproducts have proven it is being done.	
1042	e_Chilson_4-27-15	Tribal customs should celebrate the lives of the whales and their role in our current ecosystem. Just because they are no longer on the endangered species list does not mean we should strive to put them back there. The reality is that technology and the sheer passage of time has changed the fabric of tribal traditions and should help rewrite the future. Their adoption of this technology not only makes this an unfair fight, but also blurs the line between what should be held onto as critical customs and hypocrisy.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire and # 15 regarding the use of modern weapons.
1043	e_Chilson_4-27-15	The whales have families, social structure, great intelligence, and a level of comfort with humans that make them so vulnerable to the very people that have an incredible opportunity to create new customs based on ancient traditions.	Comments noted.
1044	e_Chilson_4-27-15	NOAA needs to take a stand to protect marine mammals and recognize the world as it is now where it is impossible and unfortunate that things cannot go back to the way they were and the only way to maintain integrity in one's history is to recognize that although it would be incredible lucky to live out our lives in seclusion with out influence from others to upset the ways of our ancestors, we are all humans on one planet that desperately needs to coexist with the other intelligent life forms on it, not kill them.Thank you.Jennifer Engles-Klann	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1045	e_Clark_3-17-15	Please do not let the makah hunt whales. Their actions were disgraceful last time and there is no reason to allow the hunt.	Comments noted. The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct.
1046	e_Clausen_5-26-15	Subject: RE: Whaling In The USA I'm strongly opposition Whaling In The USA. Sincerely, nina clausen	Comments noted.
1047	e_Cocking_5-2-15	It is my understanding that NMFS is considering a cultural exemption to the Marine Mammal Protection Act by allowing the hunting of five grey whales per year as part of a response to a historical precedent. I do not favor this exemption.	Please see the response to frequent comment # 4 regarding the

Sort #	Commenter Code	Comment	Response
		Let's say that 10 other indigenous groups from Washington to Alaska make the same request. In order to not be discriminatory, they would also have to be given permission. This yields a 50 per year harvest. Over ten years 500 whales would be taken and 5,000 per century. In the meantime, global climate change is likely to affect the population and it's health causing further impact. It is hard to argue that this is in line with the goals of the Marine Mammal Protection Act. In fact, granting the exemption would potentially have a unintended consequence of subverting it in a significant manner. Dean Cocking PhD Associate Professor Biology James Madison University Harrisonburg, Virginia	precedential effect of a waiver internationally and domestically.
1048	e_Coley-Ward_7-31-15	Dear Dr. Hogarth and Minister of NOAA Fisheries, I am writing to you in the 11th hour, to appeal to you to deny the Makah Tribe's request to pursue the hunt of our residential gray whales for the proposed purposes of satisfying tradition and a treaty composed in 1855, when our oceans and wildlife were not as compromised as they are today.	Comments noted.
1049	e_Coley-Ward_7-31-15	Since the ceasing of commercial whaling that nearly abolished our gray whale population, the relationship between man and cetacean has been on the mend, with new generations of whales learning to grow increasingly trusting of humans sharing their habitat. This allows for magnificent observations and a booming ecotourism industry as well advancements in environmental and marine research. Today we know more about cetacean intelligence and behaviour, as well as their vulnerability, than we did years prior when "harvesting" them was the norm. We've since learned that they imprint their young with what to fear and migration routes. Allowing gray whales that migrate through our coasts to be hunted, while appeasing the Makah Tribe's wishes, breaches the trust we've been earning back from whales through our arduous conservation efforts.	Comments noted.
1050	e_Coley-Ward_7-31-15	Waiving prohibitions to serve as a gesture to accommodate others' cultures, traditions and religions, only serves to separate us as a people as most of us fight to rightfully protect that which a small community wishes the right to destroy for the sake of preserving a tradition.	Comments noted. For an examination of the impacts of the authorization or denial of the Tribe's request on social relations, see Subsection 4.8, Social Environment.
1051	e_Coley-Ward_7-31-15	Together we are appealing to Iceland, Norway, Denmark and Japan to abide by International Whaling Commission's anti-whaling laws that to this day, they refuse to respect, how can we hope to successfully appeal to them if in the meantime, we are allowing whale hunts to take place in our own nations under the Aboriginal Subsistence Whaling exception? Every one of those countries refusing to abide by International anti-whaling laws use the very same argument: that they resume their whaling activities to preserve tradition. Traditions that	Comments noted.

Sort #	Commenter Code	Comment	Response
		have since fallen to the way side as more modern conveniences are accessed, and as we've since learned about the intelligence, importance and vulnerability of our cetacean populations.	
1052	e_Coley-Ward_7-31-15	The Makah Tribe make mention of Article 4 of the 1855 Treaty of Neah Bay with states: [Article 4]: The right of taking fish and of whaling or sealing at usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the United States... What is common amongst all citizens of the United States, with the exception of the Makah Tribe, is the willingness to abide by anti-whaling laws and respect that whaling activities have since been ceased for logical reasons, whether for conservation, ecotourism or in efforts to advance animal rights.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1053	e_Coley-Ward_7-31-15	Lastly, with the recent uproar surrounding the poaching of Cecil the lion, while the poacher's reason were different than that of the Makah Tribe, the result was the same; a magnificent creature paid with its life to satisfy an unnecessary purpose. Where does trophy hunting for sport end and hunting to satisfy a tradition begin; the sustenance argument no longer applies. I stand with other Americans and Canadians who believe there are other ways of honouring traditions without requiring the unnecessary death of a living creature. I place my faith in your good judgement. Warmly, Summer Coley-Ward Victoria, BC Canada	Comments noted.
1054	e_Collins_7-25-15	I strongly support the first alternative that continues to prohibit whaling by the Makah tribe. The Makah can honor their ancestors and culture without the killing of whales. Randall Collins Seattle, WA	Comments noted.
1055	e_Coons_5-11-15	Gentlemen, I am opposed to the killing of Grey Whales for any reason. To satisfy a treaty which is 160 years old and ignore the many changes in cultural behavior, environmental and sociologic conditions seems untenable.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1056	e_Coons_5-11-15	I empathize with the Makah and their traditions but do they have a "need" for the whale itself? If the whales will be sacrificed for survival, then let our government supply them with their essential needs. If the killing is for ceremonial and traditional reasons, and those reasons are compelling, may I suggest a compromise. Issue a permit to allow the Makah to approach the Grey Whales and "harpoon" a radio transmitter to the whale or whales. Provide the elders with means to track the tagged whales via the internet. Video the entire process and have a celebration at the end of the day. These ideas are obviously crude and suggested without full knowledge of the situation. Please...find a compromise which in part satisfies the desires and traditions of the Makah without the	Comments noted. A non-lethal hunt alternative was considered in the DEIS but eliminated from detailed analysis (see Subsection 2.4.1, Non-lethal Hunt) because its effect on the human environment would not be different from the No-action Alternative and its analysis would provide no additional information for the public or decision-maker.

Sort #	Commenter Code	Comment	Response
		unnecessary sacrifice of a majestic Grey Whale. Sincerely, Harold Coons, M.D. Escondido, CA	
1057	e_Cooper_6-4-15	I prefer the Alternative 1, NO HUNTING of whales.	Comments noted.
1058	e_Cooper_6-4-15	I sympathize with the Makah and their attempts to preserve these aspects of their culture, and to honor our treaty with them. But, whales are now known to be extremely intelligent, sentient beings and there is simply no need to slaughter and harass them for purely cultural reasons. This is just one of those old "customs" that needs to fade away forever. Many more people will be horrified at the slaughter of whales than will be uplifted. I want the whales to see humans not as enemies but as harmless companions at sea, and not be afraid of us (though I realize they are still being hunted by other countries). Sorry, Makah natives, the whales' right to live is greater in my mind than your treaty right to kill. Kathleen Cooper, Sequim, WA -- "The last word in ignorance is the man who says of an animal or plant: 'What good is it?'" - Aldo Leopold	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1059	e_Cushing_4-26-15	Please please do not allow the Makah to resume hunting grey whales. These beautiful animals should be honored with the gift of life and should not be sacrificed to tribal traditions. The Makah need to accept that this tradition is not the foundation of their culture and move forward. It is so wrong. Anne Cushing Post	Comments noted.
1060	e_Daniels_7-30-15	Dear Sirs, I understand that the whale hunt is a tradition, however, sometimes you need to let go of those traditions, and allow these animals to flourish in the wild.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1061	e_Daniels_7-30-15	The will become extinct, and it is our jobs as humans to see that they don't.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1062	e_Daniels_7-30-15	Please don't allow these "traditional" hunts, it is no longer necessary for these people to "survive" by killing whales. Rhonda Daniels	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1063	e_Darrell_5-7-15.pdf	Dear Trustee, Did the Makah People reserve their right to whale in their treaty with the U.S. Govt.? Did they voluntarily forego their whales for decades because of endangered populations, due to over-whaling by non-treaty holders? I'd say the answer whether Makah can whale as they've proposed, is clear. NOAA's job	Comments noted.



Sort #	Commenter Code	Comment	Response
		as a trustee to treaty-holding tribes, is to protect the tribe's treaty rights, not to ask the public if NOAA, and the rest of the Fed. Trustees, should uphold the tribe's treaty rights. The treaties are the "law of the land" as noted by case, and SCOTUS decisions. Darrell Phare	
1064	e_David_7-31-15	Dear Mr. Stone, This letter is to inform you that I wish to add my name to the list of people that want to deny the Grey Whale Hunt proposed by the Makah Tribe of Washington state. This tribe has only harvested one whale legally in 90 years. Why on earth would this be considered a traditional and current cultural trait of these members?	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1065	e_David_7-31-15	We need to protect our local Cetaceans and ensure they are protected from this proposed cull. In this day and age there is no need for Tribal members to kill these magnificent mammals. They should be honouring and protecting them.	Comments noted.
1066	e_David_7-31-15	A more proactive approach would be for the Makah tribe to provide cultural tours including whale watching. Thank you for your attention in advance. I hope you make the right decision. Sincerely Kathie David	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1067	e_Davidson_5-2-15	The killing of intelligent species, i.e. the gray whale, for a cultural bias seems to me as bad as forcing women to have a clitorectomy because their culture does not trust the sexuality of women. Cultures change, cultures adapt, we should not sacrifice our moral grounds to accommodate an outmoded cultural view. Please prevent the slaughter of any gray whales to meet outmoded cultural biases. Gary Davidson	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1068	e_Davis_4-24-15	I strongly object to the Makah hunting whales at any time! Whales are a sentient species and no sentient species should kill another. Thank you, Jean Davis Hoquiam, WA	Comments noted.
1069	e_Dee_7-31-15	First, I would very strongly urge you to please reconsider allowing gray whales to be killed by the tribe for subsistence purposes!	Comments noted.
1070	e_Dee_7-31-15	Second, there is absolutely no basis for the resumption of whaling since gray whales are endangered and the killing of just one would jeopardize the entire population which is still unknown due to two distant populations possibly merging into one. Studies should be conducted to better understand the entire population so that conservation measures can be made possible to protect the remaining gray whales.	ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994. See Subsection 1.1.3, Summary of Gray Whale Status.
1071	e_Dee_7-31-15	Third, the tribe's use of modern weaponry and equipment to kill gray whales truly implies that these people have all the modern conveniences needed to live a comfortable life. They absolutely do not need to have whale meat for sustenance! Like all cetaceans that live in the U.S. waters, gray whales do deserve to be protected via the Marine Mammal Protection Act [MMPA]. You must do	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		everything possible to ensure that all gray whales are completely protected instead of some being taken by the tribe for consumption! I do thank you so much for taking my message into complete consideration. LAURICE DEE, Ph.D.	
1072	e_Dennie_7-28-15	With all respect, The moratorium on hunting gray whales under the Marine Mammal Protection Act must be continued! Thank You Keisha L. Dennie	Comments noted.
1073	e_Derry_6-11-15	Dear NOAA,Thank you for giving the public a chance to comment.I am amazed that we are still having discussion about the Makah Nation's right to whaling. We are a country run by law, and their 1855 treaty is a law. The Makah have the right to whale. Certainly, times have changed, but the constitutional laws, including treaties with Indian Nations, enacted many years ago must remain valid if our country is to remain viable. I wonder how the public would respond if deer and elk hunting seasons were suddenly prohibited. Or if we suddenly dropped an important right guaranteed by the constitution.The Makah have shown great sensitivity in observing a moratorium on whaling when the gray whales were endangered and in waiting, waiting, waiting while courts and others make up their minds. Given their treaty, they should not have to be waiting.	Comments noted.
1074	e_Derry_6-11-15	I do favor an alternative which allows, at the most, 2 whales killed per year. Unless the Makah plan to establish a business, in which they sell whale meat to secure money for educational or other needs, most likely two whales per year will be plenty for their needs.	Comments noted.
1075	e_Derry_6-11-15	I hope that in good faith the Makah and NOAA can establish a plan which ensures that the most modern and humane killing methods will be used. Every effort should be made to actually kill the intended whale and not merely wound and lose it. Every effort should be made to protect mother whales with calves so that calves are not left abandoned. In the intervening years since the 1855 treaty, we have come to understand the social and emotional ranges of gray whales. Needless suffering is more than cruel.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1076	e_Derry_6-11-15	As I read through the alternatives listed in my local paper, I would certainly favor the alternative 5 idea with two 21-day hunting seasons. Such a plan gives whales a chance to understand that they will not always be hunted.However, if NOAA cannot come to an agreement with the Makah, I still believe they have the right to whale, as established by their 1855 treaty. Probably, this right would not even be questioned, had European-Americans and Japanese not hunted whales practically to extinction. Those who hunt in a wanton manner need restrictions. My sense is that the Makah do not fall into this category.Sincerely yours,Alice Derry 1862 Deer Park Rd. Port Angeles, WA 98362	Comments noted.

Sort #	Commenter Code	Comment	Response
1077	e_Deutsch_3-10-15	I was very distressed to read that the Makah tribe might be allowed to kill gray whales. We are in the 21st century, how can this be contemplated. I am sure the tribe now enjoy many of the modern conveniences and entertainment options available in this country..	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1078	e_Deutsch_3-10-15	It is amazing that some actually think that killing these wonderful sentient whales will somehow restore honor. As you probably know there is no way to humanely kill a whale. To allow this to happen to a species that has been involved in close encounters with humans on whale watching trips is totally outrageous. In the past native americans used to count coup by touching an enemy warrior and escaping. I would suggest that the Macah people to do likewise. Touch the whale and then leave it be. If we want to keep the moral high ground when we fight animal cruelty in other nations, we must not allow any hunting of this gentle giant. Thank you for your consideration Jeffrey Deutsch DMD	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1079	e_Demlin_7-31-15	Docket ID: NOAA-NMFS-2012-0104Agency: National Oceanic and Atmospheric Administration (NOAA) Parent Agency: Department of Commerce (DOC)Document: Draft Environmental Impact Statement -- related to theSubject: Makah Tribe Request to Hunt Eastern North Pacific Gray WhalesRecommend: Deny Permission -- Choose Alternative 1 -- the No-Action Alternative I have reviewed NMFS' evaluation of the five action-alternatives as contrasted with the no-action alternative, which represents the current status: no hunting of gray whales. For ease of reference, the DEIS and related documents can be accessed at the following link: • <a href="http://1.usa.gov/1DGmhrH">http://1.usa.gov/1DGmhrH</a> Deny Permit -- Maintain Current Policy -- No Hunting of Gray Whales In too many respects, allowing a hunt under any of the action-alternatives would increase the risk of adverse impacts to the whales as well as to marine traffic, law enforcement, and safety. Beneficial impacts cited are few, even to the Tribe-members who have requested authorization for a hunt. I urge NMFS to choose Alternative 1 -- the No-Action Alternative. I urge you to deny the request to hunt gray whales.	Comments noted.
1080	e_Demlin_7-31-15	Treaty vs. Tourism -- Whale-Killing vs. Whale-Watching I respect the Makah's wish to enforce the treaty that gave them the right to hunt whales. Certainly, the United States has dishonored numerous treaties with Native Americans, to our great shame. Nevertheless, so much has changed in the world since that particular treaty was signed. I note that, with two exceptions, the Makah Tribe has not hunted whales for nearly a century. Thus, the rationale of needing to kill whales for subsistence purposes, or to maintain a cultural tradition, is not supported. Instead, this appears to be an effort to resurrect an obsolete activity	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.

Sort #	Commenter Code	Comment	Response
		that is economically unnecessary, ecologically contraindicated, and socially odious.	
1081	e_Devlin_7-31-15	The world-wide horror at the killing of Cecil the lion shows how controversial reinstating whaling would be. Imagine the bad public-relations impact when the bloodshed of a whale-hunt "went viral" on the Internet. Surely it would be better for the whales and the people alike if, instead of whale-killing, the Makah provided a whale-watching experience for tourists.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire and # 9 regarding non-lethal action alternatives.
1082	e_Devlin_7-31-15	Minimum Viable Population (MVP) -- Meta-Analysis Says ~ 5,000 I understand that two populations of gray whales -- both imperiled -- could be jeopardized by the requested hunt. They are the ... Pacific Coast Feeding Aggregation -- 209 resident whales -- and the Western North Pacific -- 140 whales. Nether population-segment has enough whales to be viable. Definitive conclusions regarding minimum-viable population (MVP) size arose from a meta-analysis of the scientific literature spanning the preceding 30 years. The researchers filtered hundreds of studies and selected 141 sources covering 212 unique species whose distribution was skewed toward heavier animals, particularly mammals. Across all species, the median MVP was 4,169. The "bootstrapped 95% confidence bounds" MVP for all species ranged from 3,577 to 5,129. With regard to mammals, the median MVP was 3,876. The "bootstrapped 95% confidence bounds" MVP for mammals ranged from 2,261 to 5,095. The meta-analysis authors stated: "... we recommend the upper 95% confidence limit of MVP ...." Hence, we get a rounded number -- a numerical threshold -- of approximately 5,000 to inform management practices. Therefore, conservation practitioners at NMFS should aim for an MVP of better than 5,000 for each of the two endangered gray-whale populations. Important: MVP reflects the minimum number necessary for a viable population. However, best management practices would call for an optimum population -- which would mean a level significantly higher than the minimum. The first link below takes you to an article discussing the meta-analysis' findings (including an interview with the lead author). The second link is to the report itself. <a href="http://www.americanscientist.org/issues/pub/a-magic-number/">http://www.americanscientist.org/issues/pub/a-magic-number/</a> <a href="http://coreybradshaw.files.wordpress.com/2011/03/traill-et-al-2007-biol-conserv.pdf">http://coreybradshaw.files.wordpress.com/2011/03/traill-et-al-2007-biol-conserv.pdf</a>	We reviewed the study referenced in this comment and note that it addresses minimum viable population sizes (MVPs) for entire taxonomic species. However, neither PCFG nor WNP gray whales are a separate species. Instead both populations, along with ENP gray whales, are part of a single taxonomic species ( <i>Eschrichtius robustus</i> ) that currently numbers well over 20,000 animals.
1083	e_Devlin_7-31-15	What About the Main Population of Eastern North Pacific Grays? I understand that the gray whale is the sole living species in the genus <i>Eschrichtius</i> , which in turn is the sole living genus in the family <i>Eschrichtiidae</i> . Thus, it is imperative that we-humans do everything possible to protect this unique species. While the main Eastern North Pacific gray whale population might appear adequate, it is already	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale

Sort #	Commenter Code	Comment	Response
		being subjected to numerous and increasing threats, such as ... Climate change, Pollution and toxic spills, Noise -- from commercial traffic, seismic surveying, and military-weapons testing, Ship-strikes, and Entanglement in fishing nets. Their long gestation-period and two-year breeding cycle make it difficult for the species to rebound unless strictly protected. Gray whales do not need the additional stress of being hunted. Deny Request to Hunt Gray Whales For the reasons discussed in this letter, I urge NMFS to choose Alternative 1 -- the No-Action Alternative. Please deny the Makah Tribe's request to engage in whale-killing. Help the Tribe, instead, to develop a whale-watching enterprise. Thank you. Sincerely, Marybeth Devlin	population in the face of climate change and other threats.
1084	e_DiDomenico_4-11-15	Dear Mr. Stelle: Please accept my comments in favor of Alternative 2 -- the Makah Tribe's Proposed Action Alternative contained in the 2015 DEIS. It is my understanding that DEIS Alternative 2 will allow for both adequate protection of Eastern North Pacific gray whales and responsible use by the Makah Tribe of Washington State for their cultural and subsistence needs. This seems to be a reasonable solution. I encourage you to pursue this course of action. Furthermore, I support the Federal Government's and your Agency's responsibility to the Makah Tribe and their treaty. I urge you to expedite the approval process, 10 years is far too long to make this Tribe wait for a fair decision from our government. Respectfully submitted, Greg DiDomenico	Comments noted.
1085	e_Draeger_5-26-15	Hello, I've read about the request to resume the hunting of Gray Whales in the North Pacific area. My opinion is that hunting of Gray Whales should be delayed until the population of the Western North Pacific Gray Whale population increases; it is currently only at 150 (estimated). I'm just worried that these could be hunted alongside other whale populations and this breed could go extinct. Thank you for your time. --Kailyn J. Draeger	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1086	e_Draeger_5-28-15	Hello, I've read about the request to resume the hunting of Gray Whales in the North Pacific area. My opinion is that hunting of Gray Whales should be delayed until the population of the Western North Pacific Gray Whale population increases; it is currently only at 150 (estimated). I'm just worried that these could be hunted alongside other whale populations and this breed could go extinct. Thank you for your time. --Kailyn J. Draeger	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1087	e_Dudgeon_7-16-15	To Whom It May concern;I oppose any effort to allow the gray whale hunt. Whaling is inherently cruel since it involves trying to kill (using harpoon and bullets) a large, moving animal from a moving boat on a rolling ocean by ( in this case ) individuals with little to no whaling experience-a sure recipe for cruelty and suffering. PLEASE, PLEASE, help these beautiful creatures by not letting them be	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.

Sort #	Commenter Code	Comment	Response
		hunted. Thank you. Kathleen Dudgeon 1544 Oakwood av Highland Park, IL 60035 Kathleen6671@att.net	
1088	e_Duncomb e_5-18-15	Dear Mr. Stone I would very much appreciate if you would extend the comment period for 60 days to allow us to read the 1300 page document.	Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.
1089	e_Duncomb e_5-18-15	Also I would appreciate if you took the following into consideration. 1-NMFS needs a complete EIS of the endangered Western North Pacific stock of which only 140 remain. It has been noted that at least 22 follow some of the same migration path as the Eastern North Pacific stock.	The DEIS conveys the best available information regarding the WNP stock and its relevance to the various alternatives analyzed in our review of the Makah's waiver request.
1090	e_Duncomb e_5-18-15	2- NMFS needs to complete an EIS of the 200 residents . These should be classified as two separate stocks.	For reasons described in the DEIS and the NMFS stock assessment reports, the PCFG is not recognized as a stock under the MMPA.
1091	e_Duncomb e_5-18-15	3-There is no longer a need to hunt for subsistence as the Makah stopped when the grays were nearly extinct for 70 yrs. Also the archaeological dig at Ozette reveals 80% of the bones were from a diet of Northern fur seals.	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
1092	e_Duncomb e_5-18-15	4-In April of `95 NMFS was notified by the Makah they had the option to build a processing plant & sell whale meat to markets outside US .	Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.
1093	e_Duncomb e_5-18-15	5-There are no enforcements or regulations of whale meat or handicrafts taken off the reservation.	Comments noted. We will consider the need for such provisions in future decision-making.
1094	e_Duncomb e_5-18-15	6-Treaties do not address climate change, toxic blooms, oil drilling or spills. Acidification, wave energy or vessel disturbance,	Comments noted.
1095	e_Duncomb e_5-18-15	7-NMFS does not address the protection of the same 33 whales in the U & A (usual & accustom area) in the marine sanctuary. This includes returning mothers & calves to nurse & rest.	DEIS subsection 3.4.3.4.3 (PCFG Abundance and Trends) notes that there are, on average, 33 gray whales identified in the Makah U&A per year.

Sort #	Commenter Code	Comment	Response
			These are not the same whales year after year, as is clearly stated in the DEIS.
1096	e_Duncombe_5-18-15	8-The 9th District Court of appeals states the treaty refers to 'in common' that establishes a relationship for our fair share that we choose for whale-watching, aesthetic values & that the whales must be of their fullest population potential.	The purpose of the DEIS is to analyze potential impacts of alternatives, to inform decision making under the MMPA and the WCA not to explore or resolve legal debates.
1097	e_Duncombe_5-18-15	9-In 2004 the Nat`l Congress of American Indians passed a resolution giving full support to the Makah hunt including other 'affected 'tribes. Many coastal tribes here & in Canada are watching closely. It is highly likely others will follow suit. This could expand internationally as well & set an unwanted precedence.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1098	e_Duncombe_5-18-15	10-In the Sept 8, 2007 hunt the whale bled to death over 20 hrs & sank. The Tribal Council was implicated by all 5 whalers yet no action was taken by the Tribal court. -- Sincerely sam Duncombe President reEarth Nassau Bahamas	The DEIS describes the NMFS investigation of the illegal hunt, including allegations of tribal council endorsement (see Subsection 1.4.2, Summary of Recent Makah Whaling-- 1998 through 2014). The tribal council cooperated with the agency as it conducted its investigation and analysis under NEPA. NMFS' Office of Law Enforcement did not find evidence that the tribal government sanctioned the unauthorized hunt. The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct.
1099	e_Dupont_3-9-15	Dear Noaa, I am writing in opposition to your granting the Makah a waiver and a permit to hunt gray whales off the Coast of Washington State. The Makah tribe does not rely on gray whale meat for subsistence. There is no reason to violate the Marine Mammal Protection Act.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1100	e_Dupont_3-9-15	These whales bring tourism to the Pacific NW. If they are hunted they will navigate other routes and this will hurt tourism. Sincerely, Doreen Dupont MD	Subsection 4.6.3.2.3, Whale-watching Industry, of the DEIS explains that it is

Sort #	Commenter Code	Comment	Response
			unlikely that gray whales would respond to a Makah tribal hunt by avoiding whale-watching vessels.
1101	e_Ebacher_3-10-15	Please let the Makah People hunt under their reserved treaty right. It is the right thing to do. Dr. Dominic Ebacher Belfair, WA 98528	Comments noted.
1102	e_Elfenbein_5-15-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a nutritional and subsistence need for whales, (2) the hunt could further imperil both the resident and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. Consequently, I support Alternative 1, the no-action alternative. The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.	These introductory comment are noted; specific responses are provided below.  Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1103	e_Elfenbein_5-15-15	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
1104	e_Elfenbein_5-15-15	NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members;	The DEIS provides a detailed analysis of impacts on gray whales and other species. Please see the response to frequent comment # 9 regarding non-lethal action alternatives.



Sort #	Commenter Code	Comment	Response
		and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	
1105	e_Elfenbein_5-15-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of which were adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1106	e_Elfenbein_5-15-15	The proposed hunt is inherently cruel: It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale. I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. Thank you for considering my views. Sincerely, Jake Elfenbein 6148 Brea Blvd. Las Vegas, NV 89118-1406	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1107	e_Ellern_7-26-15	Dear NOAA, I am writing in opposition to your granting the Makah a waiver and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington and Oregon Coastlines.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1108	e_Ellern_7-26-15	In 2015 there is no "need" to kill whales. The Makah Tribe has access to food, clothing and traditional history. "Tradition" is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1109	e_Ellern_7-26-15	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Comments noted.
1110	e_Ellern_7-26-15	If you allow the Makah to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies.To risk the lives	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. The DEIS discusses the likely impact of a whale

Sort #	Commenter Code	Comment	Response
		of the gray whales, and the lively-hood of whale watching companies, and tourism for an outdated tradition has no place in a modern world is wrong.	hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching Industry.
1111	e_Ellern_7-26-15	Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon and Washington Coastlines.	Subsection 4.6.3.2.3, Whale-watching Industry, of the DEIS explains that it is unlikely that gray whales would respond to a Makah tribal hunt by avoiding whale-watching vessels.
1112	e_Ellern_7-26-15	In closing I want to reiterate that I oppose any permit to allow the Makah to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason.	Comments noted.
1113	e_Ellern_7-26-15	It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. There is no need to revive a "traditional" whale hunt. None at all. How about a revival of hunting the white man if old traditions are being revived. Janet Ellern Seaside, Oregon	Comments noted.
1114	e_Elliott_4-28-15	Please don't do this. The whales belong to all cultures. Please consider changing so future generations can credit you as part of the reason we still have them. All cultures must change to grow. Think of the amazing things you can do to be a part of protecting them. I pray for wisdom and guidance. Will respect. Ta ma'ra J Elliott	Comments noted.
1115	e_Evenson_3-25-15	Please do not allow the Makah tribe to resume hunting Eastern North Pacific gray whales in the Northwest. There is a worldwide moratorium on whaling (altho Japan & Norway seem to be exempt). The Makah tribe should not be allowed to hunt them regardless of their tradition or culture.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1116	e_Evenson_3-25-15	Whaling is a cruel business with the animal suffering for hours & maybe days. There is not any quick way to slaughter a whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1117	e_Evenson_3-25-15	Many are endangered. The moratorium on whaling should apply to the Makah tribe. Thank you for listening to my comments. Marilyn Evenson Tacoma, WA	ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994. See Subsection 1.1.3, Summary of Gray Whale Status.
1118	e_Ewing_7-29-15	I am contacting in regards to the Makah tribe wanting to start whaling again. I am against this happening because they are wanting to hunt a whale that is endangered. They don't need the "food" and are only doing out of a "tradition" It	Comments noted. ENP gray whales are no longer listed as endangered. They were removed from the U.S.

Sort #	Commenter Code	Comment	Response
		is very discouraging knowing how native americans feel about animals and this tribe wanting to start killing endangered species mainly for a tradition.	Endangered Species List in 1994. See Subsection 1.1.3, Summary of Gray Whale Status.
1119	e_Ewing_7-29-15	Using a gun on these creatures? When did the native americans start using a gun on a marine mammal? Harpoons force a slow death. The animal suffers. Again this really surprises me that this native American tribe would be ok with this process when we know they usually respect the animals they have had to kill.	Please see the responses to frequent comments # 1 regarding the humaneness of a hunt, 3, and 18.
1120	e_Ewing_7-29-15	We are in the 21st century and traditions like this now need to become folklore. We are working to save our oceans, the life in the oceans which play a huge role in our existence. Please do not allow the Makah tribe to go back to "old ways". There are many forms of transportation to bring food as have been done since the whaling has stopped. They are attempting to use the native American status as an excuse to kill. Again not for food. but for a old tradition. Some traditions need to come to an end. and this is one of them For the animals, not for me, not for you, but for the animals and the existence of humankind we must have these whales. Please tell them NoRespectfully Christopher Ewing	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1121	e_Fairweather_7-15-15	I am writing to express my opposition to any resumption of whaling in the U.S. I believe that whales should not be slaughtered anywhere at any time as they are intelligent mammals, living in complex social groups,	Comments noted.
1122	e_Fairweather_7-15-15	whose populations have already diminished considerably and who are suffering the adverse effects of climate change, oceanic pollution and physical and social disturbance due to the noise of military and industrial operations at sea.	
1123	e_Fairweather_7-15-15	The IWC allows whaling by aboriginal peoples where there has been unbroken tradition and whale meat is needed for subsistence. This does not apply in the case of the Makah, who have stated that this is a cultural issue, and some of whose own people do not support whaling.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and #3 regarding the Makah Tribe's desire to revive its whaling tradition..
1124	e_Fairweather_7-15-15	The fact that such an activity is 'traditional' does not justify its continuation as society moves forward and there is ample scientific evidence of the stress and pain caused to sentient non-human beings when they are harassed and violently slaughtered - and suffer equally as their social group members are killed before them.	Please see the responses to frequent comments # 1 regarding the humaneness of a hunt, and # 3 regarding the Makah Tribe's desire to revive its whaling tradition..
1125	e_Fairweather_7-15-15	Whales are already illegally hunted by Japan, Iceland and Norway and allowing the Makah to establish a gray whale quota would encourage these countries to continue and extend such activities.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
1126	e_Fairweather_7-15-15	In addition the Makah are likely to wish to hunt other whale populations so allowing even limited hunting would set a dangerous precedent.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1127	e_Fairweather_7-15-15	Vancouver Island residents have expressed the wish to return to commercial whaling if the Makah are allowed to do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1128	e_Fairweather_7-15-15	This would reverse the advances made by the IWC over past years and weaken the position of the US as a strong voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1129	e_Fairweather_7-15-15	Whaling poses risks for humans also as harassed, distressed and possibly wounded whales could be dangerous for the increasing numbers of tourists participating in whale-watching voyages. Please do not allow any resumption of whaling. Thank you for your attention.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1130	e_Falch_3-9-15	Sir, Madam, I advise you to watch this short video of 4.51 minutes on the impact of whales on climate and the vital importance of their survival and propagation around the world <a href="https://www.youtube.com/watch?v=M18HxXve3CM">https://www.youtube.com/watch?v=M18HxXve3CM</a> Richard E Falch.	Comments noted.
1131	e_Farrell_3-6-15	I am absolutely outraged at the USA even considering allowing the Makah Tribe to hunt the endangered Gray Whale, this is an horrendous and cruel practise which in this day and age is definitely not necessary for food for this tribe. Please do not allow this to be passed, it is so very wrong and unnecessary. We need our whales for the oceans to survive, they do not need to be hunted to extinction or near extinction which has happened in the past! Regards Jools Farrell Avalon Beach, Sydney, Australia P.S: I would appreciate a reply to my email, thank you!	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1132	e_Feldi_5-16-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a nutritional and subsistence need for whales, (2) the	These introductory comment are noted; specific responses are provided below.

Sort #	Commenter Code	Comment	Response
		<p>hunt could further imperil both the resident and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. Consequently, I support Alternative 1, the no-action alternative. The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1133	e_Feldi_5-16-15	<p>The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.</p>	<p>Please see the responses to frequent comments # 12 regarding risks to WNP gray whales and # 13 regarding risks to PCFG whales.</p>
1134	e_Feldi_5-16-15	<p>NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.</p>	<p>The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.</p>
1135	e_Feldi_5-16-15	<p>NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>

Sort #	Commenter Code	Comment	Response
		that impact or will impact gray whales; none of of these threats were adequately evaluated in the DEIS.	
1136	e_Feldi_5-16-15	The proposed hunt is inherently cruel: It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale. I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. Thank you for considering my views. Sincerely, Katherine Feldi 7 River Rise Rd New City, NY 10956-5601	Please see the responses to frequent comments # 1 regarding the humaneness of a hunt, and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1137	e_Flum_3-12-15	noaa, It will be a tragic mistake if hunting of the Eastern North Pacific Whale is allowed. I urge NOAA to deny this hunting permit on the basis that tribal culture must allow for the sacred nature and intelligence of the Whale and ensure its life in this difficult time.	Comments noted.
1138	e_Flum_3-12-15	Food supplies, Navy sonar and many obstacles are harming the general whale population. Sincerely, Char Flum	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1139	e_Flynn_4-6-15	Please do not join Japan and the rest of the countries who hunt these beautiful gentle creatures. Do not shame your great nation who is already scrutinized for Seal Hunting. Do not hunt the whales please let them be. We have no right to take their lives to hunt them to own them. Leave them be. The world is watching. Thank you Karen Flynn UK	Comments noted.
1140	e_Ford_7-27-15	With science to back, from all corners of the globe, consume whale or dolphin meat is extremely harmful to the health. Which part of health warnings, just to start are people not getting?	The DEIS discusses the presence of persistent and potentially toxic contaminants in whale meat and blubber and allowable consumption rates for humans, based on health concerns, noting that contaminant concentrations often are lower in freshly harvested whales than in stranded whales and also lower in baleen whales than in toothed whales because of their different food sources

Sort #	Commenter Code	Comment	Response
			(see Subsection 3.16.3.2, Environmental Contaminants in Gray Whales). The DEIS notes that under the action alternatives, individual tribal members would be exposed to higher levels of certain contaminants as a result of eating more whale products (Subsection 4.16.3.2, Alternatives 2 through 6).
1141	e_Ford_7-27-15	What is it about age old traditions? Is it the act of killing that empowers men? Or is it the ego that drives man to behaviour that is so devolved spiritually that it actually has no meaning to what the origins were. There were no shot guns - as our last mad men used. What kind of heroic example are we setting for the next generations? Do we not understand what a Sentient being means? Honestly, think of what evolution is and if we must involve God, what would the answer be? We are all here on this earth to learn, so maybe someone needs to teach someone something before all is lost! FFS.	Comments noted.
1142	e_Ford_7-27-15	Throw the book of science at them. Whale consumption should be made illegal. It costs tax payers more money in the long run from the effects of mercury poisoning...and they are going to reproduce??? JESUS! Lyndal From Old Canada - where we were proud to be Canadian	Comments noted.
1143	e_Foster_5-29-15	To all those concerned, Please continue to prohibit the Makah tribe from hunting grey whales. I am therefore asking you to choose Alternative 1- No action. I am completely opposed to the hunting of whales, or any other animal. Just because these whales are not endangered, this does not they should be cruelly hunted and killed. They have a right to live. Regards, Joanna Foster (UK)	Comments noted.
1144	e_Frech_4-8-15	To whom it concerns! Please oppose the plan to slaughter whales by the Makah: The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
1145	e_Frech_4-8-15	If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1146	e_Frech_4-8-15	There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1147	e_Frech_4-8-15	The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1148	e_Frech_4-8-15	Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1149	e_Frech_4-8-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution. Some of the reasons why the plan to slaughter whales by the Makah is not right! Regards Luise Frech	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1150	e_Freund_5-1-15	dear sir/madam my name is nancy freund. i currently live in seattle washington. i was raised in oak harbor, washington. and i am 65 years old. in addition, i have visited san ignacio, mexico to watch the gray whale population in the lagoon; and i have just finished reading: "sightings: the gray whales' mysterious journey"; coauthored by Linda Hogan (chickasaw) and Brenda Peterson (a nature writer	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.



Sort #	Commenter Code	Comment	Response
		living in seattle). although i am sympathetic to the native desire to resume whaling in an effort to preserve their rich heritage; i suggest you do not support this desire. I believe there are activities, other than whaling, through which the makah tradition can be sustained, enriched and enlivened. The efforts of the Quileute tribe to turn their whaling canoes into whale-watching boats is an excellent example of survival through adaptation.	
1151	e_Freund_5-1-15	i would also like to quote "Sightings" "The gray whales dredge up the sea bottom, creating richer silt, a more sunlit plankton. When exposed to sunlight the plants bloom. Through photosynthesis, they not only support the life of the ocean but provide 80 percent of the Earth's oxygen." The gray whale plays an important part in our ecosystem, as well as an important part in the makah tradition. I encourage you to help the makah tribal members envision communal efforts that will preserve humans, whales and traditions. thank you for your consideration nancy freund 3609691800	Comments noted.
1152	e_Gabernowitz_8-1-15	We say N O to the Gray Whale Hunt!!! Regards E. Gabernowitz	Comments noted.
1153	e_Garland_5-5-15	Sorry, Not really buying the main thrusts of the Makah in the Needs Statement. The nutritional argument is bogus.	Comments noted.
1154	e_Garland_5-5-15	The ceremonial aspects can be covered/incorporated through ceremony. No need to kill whales. That aspect is clearly a cultural relic that can be left behind without any long-term damage to the psyche, and, social order of the Makah. Steve Garland 5615 24th Ave NW- #63 Seattle WA 98107	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1155	e_Garrett_4-26-15	It's a different time and a different word. They need to get over it.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1156	e_Garrett_4-26-15	There is nothing traditional about what these men do. Shooting whales with 50 Cal rifle is not traditional. Especially since they can go down to the local supermarket and buy dinner these days. Why don't they make money for themselves and whale watch instead of killing peaceful creatures that us washingtonians love to watch and are lucky to have.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1157	e_Garvey_7-31-15	The Sea Shepherd Conservation Society has collated what I consider to be a fairly thorough list of valid arguments against the proposal. Doubtless you have seen this list many times by now, and I see no point in simply regurgitating it here. I include a link to this list for reference, in case you wish to review it again. <a href="http://www.seashepherd.org/news-and-media/2005/08/26/twelve-reasons-to-oppose-the-plans-by-the-makah-whalers-to-murder-whales-951">http://www.seashepherd.org/news-and-media/2005/08/26/twelve-reasons-to-oppose-the-plans-by-the-makah-whalers-to-murder-whales-951</a> I have a few	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		<p>objections to add to this, however. First, we cannot justify a "yes" on the grounds of respecting treaty or traditions. That would be cruelly ironic given the recent betrayal of the Apache by our government's surrender of their sacred grounds to a mining company. If we are to claim respect for treaty and tradition of Native People's, we must do so with proper regard to a) cultural significance and b) adjustment to the criteria of the modern age. The Apache sacred grounds clearly play a greater and more positive cultural role than a whale hunt, but mining profits apparently justify desecration. Certainly, maintenance of a "clean" stance on abstinence from whaling ... a noble objective ... provides a better basis for breaking with tradition or treaty. Have some decency, US government! My ancestors (Celts) traditionally dispatched folk by burning them in giant wicker men, a fine tradition clearly out of step with modern times. The Mayans and Aztec of Central and South America performed human sacrifice, but we would never consider enabling that tradition today. Given what we now know about the cognitive capabilities of whales and the complexities of their social structures, whale hunting can be said to approximate human sacrifice in barbarism.</p>	
1158	e_Garvey_7-31-15	<p>But I DO appreciate the cultural value of indigenous tradition. If any Makah wants to get in a traditional leather boat and traditionally paddle out to take on Moby Dick with a traditional bone tipped spear, I will not stand in his way. Clearly, a man that steeped in tradition and that ballsy is not to be trifled with! But they don't do that. They use powered vessels, and modern weapons, and there is nothing traditional about any of that.</p>	<p>Please see the response to frequent comment # 15 regarding the use of modern weapons</p>
1159	e_Garvey_7-31-15	<p>So we can dispense with tradition easily enough. Now we have to consider the health of the tribe. Heavy metal concentrations, especially mercury, in whale meat are typically alarming high, and in my view no American citizen should be exposed to those levels of toxicity. If we are to allow the taking of whales for meat, then that meat must be tested and inspected before being distributed in any way to any American citizen. Any meat that does not test within acceptable limits must be destroyed. Given the uncertainty of radio isotope distributions in the Pacific due to the ongoing Fukushima catastrophe, a higher level of caution is required. Any plan to enable whale hunting by the indigenous must rigorously address the food safety issue. Any agency that approves a whaling plan that does not address the relevant food safety issue is, quite frankly, irresponsible and derelict in its execution of its duties. Sincerely yours, I remain irrevocably opposed to this and any whale hunt, Robert C Garvey</p>	<p>Please see the response to frequent comment # 11 regarding safety of gray whale products for human consumption.</p>
1160	e_Geer_3-6-15	<p>There is no reason for hunting whales. Many cultures had traditions and customs that are no longer practiced, as times changed. Using cultural tradition as an</p>	<p>Please see the response to frequent comment # 3 regarding the Makah</p>

Sort #	Commenter Code	Comment	Response
		excuse to hunt and kill whales is not valid. The moratorium under the marine mammal act should be permanent – “A no-action alternative would not authorize a whale hunt. It would continue a moratorium under the marine mammal act.” Jean Geer	Tribe’s desire to revive its whaling tradition.
1161	e_Geer_3-7-15	Greetings Neighbors, A policy of allowing certain "indigenous" peoples to hunt otherwise protected whales for local use to satisfy their cultural needs is totally ludicrous in the 21st century. Should "indigenous" peoples whose ancestors practiced head hunting or human sacrifices be allowed for cultural reasons?	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1162	e_Geer_3-7-15	Whale hunting belongs to the past. All products obtained from whales are replaceable. Furthermore there is obviously no economic benefit in the killing of whales. The Makah drive cars, shop at Wal-Mart and go to the grocery store like their “non-indigenous" neighbors, who by a vast majority abhor the thought of the Makah hunting whales.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1163	e_Geer_3-7-15	The vast majority of the people living in Clallam County believe that whaling is an inhumane practice that should be stopped permanently. What benefit is there to the Makah people to alienate the vast majority of its neighbors just because a few individuals need to kill whales to make themselves relevant. To their neighbors, killing whales won’t make them relevant – it makes them pitiful relics of a past that is long gone.	Comments noted. The DEIS acknowledges that whale hunting under the action alternatives would inspire a wide range of feelings among persons and groups who oppose the hunt, including sorrow, frustration, and anger (see Subsections 3.8.3.3 and 4.8.2.3, Other Individuals and Organizations).
1164	e_Geer_3-7-15	Some Makah have argued that there is no principled difference between eating whale and eating beef or chicken. The deployment of this argument to defend the practice of whaling because of cultural tradition makes the entire argument superfluous. Since there are substitute foods and products readily available, then there is no justification or economic benefit for the killing and processing whales. Whale watching eco-tours is the alternative to any economic excuse for hunting whales. There may be many who disagree with me but the rights of a species to survive on this planet take absolute precedence over the "rights" of a cultural practice or tradition by groups of humans. Whale hunting must be stopped permanently! Regards, Jack "Imagine a world in which we are all enlightened by objective truths rather than offended by them." - Neil deGrasse Tyson	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1165	e_George_6-7-15	Don't allow the Makah tribe to injure and kill whales. They hadn't done whale hunts since the 1920s, until 1999 when they senselessly killed a whale and didn't know what to do with it, wasting it's life. So they don't rely on whales for subsistence.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1166	e_George_6-7-15	Protect whales. Whales already face enough problems. Don't allow their senseless killing. - Karen George an American citizen	Comments noted.
1167	e_Gerritsen_4-11-15	In this day and age it is no longer necessary for these folks to kill whales. It is as out-dated as it can be	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1168	e_Gerritsen_4-11-15	and these folks have access to other food sources. No whale slaughter! Sincerely, Liz Gerritsen	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1169	e_Giese_5-27-15	Please end the Makah whale hunt. Please protect whales. Thank you. --Mark M Giese 1520 Bryn Mawr Ave Racine, WI 53403	Comments noted.
1170	e_Giovane_5-14-15	We would like to give our support to allowing the Makah Tribe to continue hunting whales for subsistence and ceremonial purposes as guaranteed in the treaty between the Tribe and the US Government. Personally, we believe that whales, and all cetaceans, are unique and worthy of protection; there should be a world-wide ban on all commercial harvesting of them. However, in the case of the Makah's right to continue the whale hunt, I am strongly in favor of allowing this practice to continue based on the following. As archeology students, we had the opportunity to work at the Ozette site in 1975 and 1976. Just prior to our working there, House 1 had been excavated. In that house, many artifacts attributed to whaling were uncovered. One such artifact, the whale saddle (which, from what we understand, was never meant to be seen by the uninitiated), was the first bit of physical evidence showing us how important whaling was to the Makah. This was more than just hunting to "put meat on the table", so to speak: whaling was a sacred and vital part of the entire community. At Ozette, gray whales pass by on their seasonal migrations to and from the Baja Peninsula---we remember seeing them ourselves and can imagine, in pre-contact times, what it must have been like to go out on a hunt. We saw the evidence that all parts of the whale were utilized by the Makah, with whalebone being used for clubs and for incorporation into the drainage systems between the houses. We learned that to successfully complete a hunt, all the members of the crew, their wives and families had to undergo many rituals beforehand to insure success. To guarantee that the harpooned whale would be easily returned to the village (and not swim out to sea), the whale was considered as an honored guest which would sacrifice itself for the good of the community---again much ritual was involved in this important aspect. During the voluntary ban on whaling, and at	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>the time gray whales were on the endangered species list, members of the Tribe kept these traditions alive in the hopes that someday the hunts could resume. As nonnatives, our understanding of all of this is very limited, but we can see how spiritually significant whaling is to the Makah people. We also had the privilege of being teachers at Neah Bay for over twenty years. The students that we taught were (and still are) like family to us. In the past, the school had a negative impact on the kids--we heard stories of students being punished for speaking Makah in school. We're happy to know that today many of the teachers are Makah, and that Makah language and culture are promoted school-wide. Growing up in Neah Bay presents many challenges for the kids. Our educational system is very future-oriented. We tell the kids, learn this stuff and some day it will help you go to college or you will use it in your job. However, to go off to college, kids must leave their families and community, and risk being forced to make a choice between two different cultures. As for work, unemployment is extremely high on the west end of the Olympic Peninsula. The time-honored occupations of fishing and working in the woods are still some of the only ways to make a living. Many kids feel that there is nothing to do, and so it's easy to fall into the trap of drugs and alcohol. However, strong cultural ties—like the canoe club and Tribal Journeys—provide a way to travel another course. We were teaching the year “the whale” was taken after whaling was allowed to resume. It was an amazing experience! Our principal, Bill Pearl, released the students to go down to the beach in the village to await its coming in. He didn't want any of them to miss this historic event—and they would have gone anyhow. We went ourselves after school was over, to see the beach covered in people, in the rain, singing the whale ashore. This was a momentous day, not only for the Makah, but for all indigenous people in the country—a country that has historically broken its treaties with native peoples. Here, the treaty was honored and the Makah could once again experience this integral part of their culture—of “who they are”. We also witnessed the threats and abuse the Makah people had to take from Sea Sheppard and others. Most nonnatives just don't have a clue as to how important cultural traditions are to native people. In truth, the U.S. has become the “melting pot” it wanted to be, and so many of us have lost our own language, culture, and traditions. Hunting whale to the Makah is so much more than just hunting or fishing. It is the thread to generations past, it is what gives the Makah their unique identity, and because of this, we would like to strongly give our support to its continuation. We would like to give our support to: Alternative 4 would limit the hunt to June 1-Nov. 10 to avoid killing endangered Western</p>	

Sort #	Commenter Code	Comment	Response
		Pacific gray whales — a population distinct from resident whales — and limit mortality to one member of the Pacific Coast Feeding Group that ranges from Northern California to northern Vancouver Island. Thank you very much for allowing us to respond to this very important issue. Gary A. Giovane Leigh S. Giovane La Conner, WA	
1171	e_Glass_4-20-15	It appears that the Makah tribe would be prime candidates to run whale watch tours rather than participate in the controversial and divisive practice of whale killing. Although I support treaty rights in most arenas and sympathize with our Native People, I am strongly opposed to the killing of gray whales by any organization. Thank you for allowing me to comment on this important issue. Sincerely, Gail D. Glass	Comments noted. Please also see the response to frequent comment # 9 regarding non-lethal action alternatives.
1172	e_Gleason_et_al_5-14-15	The Pacific Sámi Searvi, an organization of Sámi, Sámi-Americans and allies living in the Pacific Northwest, urges the NOAA and any other involved US federal agencies to remove all obstacles to Makah hunting of Pacific grey whales. Since the species has recovered from its mid twentieth century population crisis, and since the IWC has approved a limited, sustainable hunt for the Makah, the only objections that can be made to the tribe resuming the hunting that they voluntarily suspended in the 1930s are objections based on what opponents believe to be the proper way for humans and grey whales to co-exist. These arguments are derived from values that are specific to colonial, settler culture. Makah culture has its own understandings of what the proper way for humans and grey whales to coexist is, and these understandings are every bit as valid as those of their opponents. Furthermore, the Makah reserved their right to hunt these whales in the Treaty of Neah Bay. Our Indigenous Makah brothers and sisters are a sovereign nation, and are not obligated to restrict their legally protected practices based on the foreign sensibilities of other cultures and newcomer groups. The Pacific Sámi Searvi fully supports their rights—both legal and spiritual—to resume this practice that is so central to their way of life, and we wish them good hunting. Signed by the Pacific Sámi Searvi Board of Directors Lynn Gleason - President Renee McAdams - Vice-President Amy Swanson King - Secretary Sylvia Murray - Treasurer Mary Brandt Rose Edwards Chris Eggo Mary Williams Troy Storfjell	Comments noted.
1173	e_Gomer_5-4-15	The Makah tribe has a treaty right to hunt whales in their usual and accustomed places. If it is decided not to honor that treaty right, the US government has two possible courses of action: (1) Declare the treaty invalid, and return to the tribe all the land that was ceded under the treaty. (2) Negotiate compensation to the tribe for the loss of the right to hunt whales. If negotiations are unsuccessful,	Comments noted.

Sort #	Commenter Code	Comment	Response
		request that the United Nations appoint an arbitrator with the right to impose appropriate compensation. If the US government simply denies the permit without compensation, we become a rogue nation that does not honor its treaty commitments. -- Gomer Thomas 9810 132nd St NE Arlington, WA 98223-8850	
1174	e_Good_3-6-15	Hi Folks. Here's my input on the matter under consideration. I truly appreciate the need to celebrate what is and was important to this community and reaffirm their spirituality. I feel however that this can be still done without harvesting from this aquatic community. Its a community that we all now growing to understand in new and greatly different ways than any understanding from our relationships with them in the past; however deep they might have been. By all means they should celebrate their relationship with whales. Perhaps we all should. But with respect to both communities, I feel a token harvest has no place in today's world. So rather I see this an opportunity to change and celebrate whales in new ways even if as simply as just champions for the aquatic communities that are part of who they are. But I imagine there are other ways to celebrate as well. I look forward to hearing them. Best Regards, Dan Good 1-204-367-4945 in Manitoba, Canada	Comments noted.
1175	e_Goodman_3-11-15	Although I deplore what our government has done to Native American tribes, messing with treaties and land, I do not believe that killing another species will contribute to their well being and longevity. My understanding is that under aboriginal clauses of the international whaling commission you cannot kill whales for aboriginal subsistence purposes, unless there is an unbroken tradition and a proven subsistence necessity. I don't feel that these situations are met. Also, as our resources dwindle, killing whales is not an effective solution. Be creative, create more fish nurseries, and find another option. Thank you, Alice Alice Goodman 206-551-7721	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
1176	e_Gorter_7-31-15	Dear Sir or Madam: Thank you for providing us with an opportunity to comment on the Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales (2015). The American Cetacean Society–Puget Sound Chapter (ACS/PS) understands and appreciates the Makah Tribe's legal right to hunt gray whales under the 1855 Treaty of Neah Bay. ACS/PS also understands and respects the cultural significance of whaling as an important part of the Makah Tribe's history and identity. However, as a whale and dolphin conservation group we naturally oppose any resumption of whaling. While perhaps not commercial in nature, the Makah gray whale hunt does not seem to meet the same definition of a pure subsistence hunt as is currently practiced by native people in Alaska and the Canadian Arctic.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1177	e_Gorter_7-31-15	Although gray whales of the Eastern North Pacific stock were delisted from the ESA 1994, this population continues to be highly vulnerable. Unusual mortality in 1999 and 2000 highlight the fragile nature of their recovery.	The die-off of ENP gray whales between 1998 and 2000 remains a concern, though the recovery of the population from that event is encouraging. The DEIS describes that event and reviews the scientific literature analyzing that event (Subsection 3.4.3.1.7, Strandings). It is difficult to draw inferences about future abundance trends based on the die-off. The DEIS evaluates potential scenarios for the future of the population in the discussion of cumulative effects (Subsection 5.4, Other Environmental Protection Measures).
1178	e_Gorter_7-31-15	The effects of climate change will likely be a continued threat to gray whale populations in the North Pacific.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1179	e_Gorter_7-31-15	Listed as Endangered under the ESA, and critically endangered by the IUCN, the Western North Pacific Population is still not quite understood. Increased sightings and satellite tagging suggests that individuals belonging to this beleaguered population travel down the coast of North America. Without DNA analysis it would be nearly impossible to identify a Western gray whale from a North Eastern Pacific individual, if one would come in sights of a Makah whaling vessel. More research into the definition of current gray whale stocks or population would seem to be warranted before granting a waiver under the MMPA.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
1180	e_Gorter_7-31-15	If and when the Makah Tribe is granted a waiver under the MMPA to hunt gray whales, we would be terribly concerned that this would open future requests by other tribes (e.g., Quilleute, Nu-Chaa- Nulth) with similar whaling traditions. We sincerely hope the Makah will reconsider their quest and decide not to exercise their treaty right. Yours truly, Uko Gorter Uko Gorter, president American Cetacean Society – Puget Sound Chapter P.O. Box 2174 Kirkland, WA 98083-2174 <a href="mailto:acspsinfo@acspugetsound.org">acspsinfo@acspugetsound.org</a> <a href="http://www.acspugetsound.org">www.acspugetsound.org</a>	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.



Sort #	Commenter Code	Comment	Response
1181	e_Grace_4-6-15	I say NO. there are not enough whales to hunt. Leave the whales alone. Thank you. Please deny the permit to the Makah tribe to hunt whales again.Janelle Grace	Comments noted. ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994, and their current estimated population is well over 20,000 animals. See Subsection 1.1.3, Summary of Gray Whale Status.
1182	e_Graham_5-5-15	Dear NOAA,I am writing in opposition to your granting the Makah a waiver and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington and Oregon Coastlines. In 2015 there is no “need” to kill whales. The Makah Tribe has access to food, clothing and traditional history. “Tradition” is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1183	e_Graham_5-5-15	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Comments noted.
1184	e_Graham_5-5-15	If you allow the Makah to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the lively-hood of whale watching companies, and tourism for an outdated tradition has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon and Washington Coastlines.	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching Industry.
1185	e_Graham_5-5-15	In closing I want to reiterate that I oppose any permit to allow the Makah to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason.It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. Sincerely, Mrs Julie Graham	Comments noted.
1186	e_Griffith_5-14-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe’s whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as (1) the	These introductory comment are noted; specific responses are provided below.

Sort #	Commenter Code	Comment	Response
		Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I support Alternative 1, the no-action alternative. During the 1920's the Makah tribesmen had to paddle their boats at least 25 miles offshore just to find a whale to kill that is how close to extinction the resident gray whales along with Western North Pacific gray whale was at that time. The Makah didn't eat the whales they killed they rendered the whale down for oil and sold it door to door to housewives for their lamps. What a terrible waste of a whales life.	
1187	e_Griffith_5-14-15	The Makah do not have a subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
1188	e_Griffith_5-14-15	The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1189	e_Griffith_5-14-15	NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal	The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
		history and culture. Such a solution would be beneficial to all involved, including the gray whales.	
1190	e_Griffith_5-14-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1191	e_Griffith_5-14-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1192	e_Griffith_5-14-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1193	e_Griffith_5-14-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances, ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, Barbara Griffith 3734 HST NE Apt-2 Auburn, WA 98002-1348	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
1194	e_Grove_6-17-15	I would like to comment on the proposed resumption of the Makah Gray Whale Hunt. I am opposed to the killing of gray whales by the Makah Tribe in NW WA state. The idea that the killing of gray whales is needed to preserve the cultural heritage of the Makah Tribe does not make sense in the 21st Century. It is important to honor and respect ones cultural heritage. However, as times change and knowledge increases some cultural practices become obsolete in present day society. Killing of gray whales is one of these. The Makah do not need to kill gray whales to honor their past . Please do not allow the resumption of the killing of gray whales. Thank you, Dan Grove 950 E Snowline Dr Port Angeles, WA 98362	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1195	e_Hamann_3-8-15	To whom it may concern, Should the Makah tribe be allowed to hunt the gray whale, or any whale for that matter? My answer is a resounding NO. There is no legitimate reason to kill a whale in these modern times. None. These beautiful and intelligent creatures deserve to be left in peace to live their lives. Nobody's "traditions" can trump that. I can't believe that in 2015, we are still debating this. Some things from the past should remain in the past. They have no place in a compassionate world. Respectfully, Sue Hamann Blaine, WA	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1196	e_Hamblin_7-31-15	To Whom it May Concern, I would like to comment against allowing the Makah Tribe to resume killing Grey Whales off the coast of Washington. I have been fortunate enough to visit the birthing grounds of these whales and have experienced the phenomenon of some of the whales coming up to the boat I was in and appearing quite curious about us and seemingly wanting to have contact. These whales exhibit an intelligence that can be compared to humans.	Comments noted.
1197	e_Hamblin_7-31-15	Whales, all whales, still risk an uncertain future: global warming, acidification of the oceans, human pollution, all take their toll.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1198	e_Hamblin_7-31-15	I respect the Makah’s wish to resume their ancient tradition. However, cultures in order to continue to thrive need to be responsive to changing times. Although these whales may be off the threatened list, they are still threatened with other environmental challenges as mentioned.	Comments noted.
1199	e_Hamblin_7-31-15	I also have serious doubt the Makah, in these modern times, will prefer whale as sustenance over current food options available today. Perhaps there are other ways they can acknowledge this piece of their culture rather than the killing of beautiful, intelligent beings. I believe that your organization can support the Makah to become stewards of these majestic creatures, teach their history and	Comments noted. Please also see the responses to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
		share it with the world. They can be the stewards, not the slaughterer. Thank you for your consideration, Codi Hamblin	
1200	e_Hampton_7-29-15	While I personally would never kill a whale, I SUPPORT THE MAKAH PROPOSAL (Alternative 2). It is sound from a conservation biology perspective, posing no risk to the health of the whale population. Furthermore, the Makah are guaranteed this right by treaty and should not have to defend why they want to do it, why it's important to them, what the community benefits are, how they do it (within reasonable parameters), what clothes they wear while they do it, how they celebrate it, how efficient they are with the meat, or a dozen other questions that the ambient white culture has the privilege of not answering when practicing their customs. Thank you, -- Steve Hampton Davis, CA	Comments noted.
1201	e_Haney_4-22-15	To whom it may concern: I can't believe that we would even consider letting the Makah's continue whale hunting. There is nothing that is needed from a whale that can not be found via other substances. Makah's are not using gray whales to sustain life.	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
1202	e_Haney_4-22-15	This is a barbaric act! It takes a 36 ton whale days to die from harpoons. It would be like killing a grown man with toothpicks.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1203	e_Haney_4-22-15	Actions that occurred in 1855 do not still occur today, we don't ride horses to work or churn butter or hang road kill out to dry in the front yard (well at least I and my neighbor's don't). I am disgusted in the thought this this is even up for consideration. I am a property owning, tax paying, full time employed mother. I am sending out as much information about the meetings on social media as I can. I hope to stop this hunt. All over the world people fight to save whales and other animals from cruel acts, how can we even consider this action here in Washington state? There must be a political motivation? You will be hearing from me again. Thank you. Tammy Haney 2435 South 121 place Seattle, Wa. 98168	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1204	e_Hanson_7-30-15	To Whom it May Concern; Thank you for the opportunity to comment on the Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales. I would like to urge you to adopt Alternative 1 – No Action for the following reasons: The Treaty of 1855 states that the Makah reserve the right to whale and fish in usual and accustomed places 'in common with all citizens of the United States'. The last portion of that sentence tends to be left out of written descriptions regarding this issue, but it is an important one to consider. It implies that the Makah share the same rights as other U.S. citizens when it comes to whaling and the United States is not currently a whaling nation.	The purpose of the DEIS is to analyze potential impacts of alternatives, to inform decision making under the MMPA and the WCA not to explore or resolve legal debates.

Sort #	Commenter Code	Comment	Response
1205	e_Hanson_7-30-15	Gray Whales are the focus of an enormous ecotourism industry along the entire coast of North America from Alaska to Baja California. In the breeding lagoons of Mexico, gray whales are known to be 'friendly' and approach boats soliciting interaction with humans. As someone who works in the ecotourism industry in Baja I have frequently heard visitors express their concern about the threat of hunting these whales who have been become so trusting of humans, and that perhaps they shouldn't be taking part in whale watching for that reason. A renewed gray whale hunt could jeopardize the whale watching industry along this migratory corridor, and this should be taken into consideration.	The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching Industry.
1206	e_Hanson_7-30-15	The Pacific Coast Feeding Aggregation (PCFA) of gray whales numbers in the low hundreds and previous research has suggested that it may be a genetically distinct sub-population. Likewise, the Western Pacific gray whale population numbers only approximately 130 individuals and is also thought to be genetically distinct. The taking of a whale from either of these populations could be devastating and is unacceptable. While the status of the Western gray whale has recently been called into question due to new research results, it is imperative that more research be conducted on both of these populations before a hunt is considered or authorized. There is no way to plan timing of a hunt in such a way that will ensure that a whale from either the PCFA or the Western Pacific population will not be harmed. Since we still know so little about the Western gray whale it is impossible to determine which months they might be passing by Washington State. Likewise, limiting a hunt to the spring and fall months when the PCFA is not likely to be present, will instead target migrating whales, including potentially pregnant females and Western gray whales. The only way to ensure that this doesn't happen is to have an expert gray whale researcher on board the whaling vessel to identify every whale being targeted by the Makah, and that does not seem feasible or likely.	Please see the responses to frequent comments # 12 regarding risks to WNP gray whales and # 13 regarding risks to PCFG whales.
1207	e_Hanson_7-30-15	The area where the Makah will be hunting also happens to be habitat for endangered Southern Resident killer whales and humpback whales as well as other marine mammal species protected by the Marine Mammal Protection Act. It is unacceptable to allow the use of a high powered rifle in an area that could pose to a threat to any of these animals especially the critically endangered Southern Residents which were just listed as one of the 8 species most likely to go extinct.	Comments noted. Subsection 4.5.2.1.1, Marine Mammals (Excluding Gray Whales), discusses the impact of the alternatives on marine mammals, including ESA-listed mammals such as Southern Resident killer whales and humpback whales.
1208	e_Hanson_7-30-15	There is no way to kill a whale quickly and humanely. Even with a high caliber rifle that is meant to decrease time to death, these sentient mammals take	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.

Sort #	Commenter Code	Comment	Response
		several minutes to hours to die and it is most certainly an agonizing, painful and terrifying death.	
1209	e_Hanson_7-30-15	When the treaty of 1855 was written, whales were thought of as little more than large fish species that were only valuable for human use and consumption. Since then we have learned much more about whales and their intrinsic value, not as a resource but as sentient intelligent animals. Their social structures and communication abilities are still poorly understood but could be very complex. They have large well developed brains and possess the ability to feel pain, loss and grief.	Comments noted.
1210	e_Hanson_7-30-15	While I am supportive of indigenous peoples trying to regain their culture and sense of community in general, I feel very strongly that it is wrong to knowingly cause a sentient animal pain and terror and to take its life simply for the sake of culture. There is much we still need to learn about every aspect of gray whale life and social structure before we can and should consider the proposal to resume whaling. I understand that you chose not to consider the alternatives brought forth by individuals during the last comment period. But I strongly urge you to reconsider that and to encourage and help the Makah Nation to establish a whale watching business using a traditional whaling canoe. In this way they can revive and teach visitors about the customs and culture of whaling without harming the whales. Thank you for your consideration. Cindy Hansen	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1211	e_Hansen_7-30-15	To Whom it May Concern; Thank you for the opportunity to comment on the Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales. I would like to urge you to adopt Alternative 1 – No Action for the following reasons: The Treaty of 1855 states that the Makah reserve the right to whale and fish in usual and accustomed places ‘in common with all citizens of the United States’. The last portion of that sentence tends to be left out of written descriptions regarding this issue, but it is an important one to consider. It implies that the Makah share the same rights as other U.S. citizens when it comes to whaling and the United States is not currently a whaling nation.	The purpose of the DEIS is to analyze potential impacts of alternatives, to inform decision making under the MMPA and the WCA not to explore or resolve legal debates.
1212	e_Hansen_7-30-15	Gray Whales are the focus of an enormous ecotourism industry along the entire coast of North America from Alaska to Baja California. In the breeding lagoons of Mexico, gray whales are known to be ‘friendly’ and approach boats soliciting interaction with humans. As someone who works in the ecotourism industry in Baja I have frequently heard visitors express their concern about the threat of hunting these whales who have become so trusting of humans, and that perhaps they shouldn’t be taking part in whale watching for that reason. A	The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching Industry.

Sort #	Commenter Code	Comment	Response
		renewed gray whale hunt could jeopardize the whale watching industry along this migratory corridor, and this should be taken into consideration.	
1213	e_Hansen_7-30-15	The Pacific Coast Feeding Aggregation (PCFA) of gray whales numbers in the low hundreds and previous research has suggested that it may be a genetically distinct sub-population. Likewise, the Western Pacific gray whale population numbers only approximately 130 individuals and is also thought to be genetically distinct. The taking of a whale from either of these populations could be devastating and is unacceptable. While the status of the Western gray whale has recently been called into question due to new research results, it is imperative that more research be conducted on both of these populations before a hunt is considered or authorized. There is no way to plan timing of a hunt in such a way that will ensure that a whale from either the PCFA or the Western Pacific population will not be harmed. Since we still know so little about the Western gray whale it is impossible to determine which months they might be passing by Washington State. Likewise, limiting a hunt to the spring and fall months when the PCFA is not likely to be present, will instead target migrating whales, including potentially pregnant females and Western gray whales. The only way to ensure that this doesn't happen is to have an expert gray whale researcher on board the whaling vessel to identify every whale being targeted by the Makah, and that does not seem feasible or likely.	Please see the responses to frequent comments # 12 regarding risks to WNP gray whales and # 13 regarding risks to PCFG whales. We agree that it may be difficult to identify pregnant females during certain times of the year.
1214	e_Hansen_7-30-15	The area where the Makah will be hunting also happens to be habitat for endangered Southern Resident killer whales and humpback whales as well as other marine mammal species protected by the Marine Mammal Protection Act. It is unacceptable to allow the use of a high powered rifle in an area that could pose to a threat to any of these animals especially the critically endangered Southern Residents which were just listed as one of the 8 species most likely to go extinct.	Comments noted. Subsection 4.5.2.1.1, Marine Mammals (Excluding Gray Whales), discusses the impact of the alternatives on marine mammals, including ESA-listed mammals such as Southern Resident killer whales and humpback whales.
1215	e_Hansen_7-30-15	There is no way to kill a whale quickly and humanely. Even with a high caliber rifle that is meant to decrease time to death, these sentient mammals take several minutes to hours to die and it is most certainly an agonizing, painful and terrifying death.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1216	e_Hansen_7-30-15	When the treaty of 1855 was written, whales were thought of as little more than large fish species that were only valuable for human use and consumption. Since then we have learned much more about whales and their intrinsic value, not as a resource but as sentient intelligent animals. Their social structures and communication abilities are still poorly understood but could be very complex.	Comments noted.



Sort #	Commenter Code	Comment	Response
		They have large well developed brains and possess the ability to feel pain, loss and grief.	
1217	e_Hansen_7-30-15	While I am supporttive of indigenous peoples trying to regain their culture and sense of community in general, I feel very strongly that it is wrong to knowingly cause a sentient animal pain and terror and to take its life simply for the sake of culture. There is much we still need to learn about every aspect of gray whale life and social structure before we can and should consider the proposal to resume whaling. I understand that you chose not to consider the alternatives brought forth by individuals during the last comment period. But I strongly urge you to reconsider that and to encourage and help the Makah Nation to establish a whale watching business using a traditional whaling canoe. In this way they can revive and teach visitors about the customs and culture of whaling without harming the whales. Thank you for you consideration. Cindy Hansen	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1218	e_Hart_6-3-15	Steve, First off the Makah Tribe does not need to hunt whales for subsistence period! If they are willing to give up their hamburgers, steak and other meats then I would agree with that statement of subsistence. Ceremonial I have no problems with if the alternatives are modified.	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.
1219	e_Hart_6-3-15	As a professional biologist I don't agree completely with all the alternatives presented other than no action, which I know will not be chosen so I will address the other alternatives. If I had to choose an alternative I would choose alternative number 5 with some modifications. The Makah Tribe would have to use only wooden canoes and primitive weapons to hunt and this would strongly support the ceremonial request of the EIS. This methodology would also reduce or minimize the impact to the WNP and PCFG population. If a whale is struck it counts against the total for the 5 year period. With writing many EIS's over my career I know that none of the suggestions above will be used or even considered as that is the purpose of the EIS to tell the public about the impacts and how the plan is made to minimize impact as much as possible. I fully understand the Makah's treaty rights and none of the above suggestions go against that treaty. Thanks for listening. V/R George Hart 16158 NW Church RD Seabeck, Wa 98380	Comments noted.
1220	e_Hasbrouck_6-6-15	Killing of whales should be prohibited. Whales need protection. There are many examples of things humans once did, which in this day and age no longer make sense. Killing whales is one of those things. Alisa Hasbrouck Port Angeles, WA	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1221	e_Haut_5-9-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as (1) the	These introductory comment are noted; specific responses are provided below.

Sort #	Commenter Code	Comment	Response
		<p>Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I support Alternative 1, the no-action alternative. The Makah do not have a subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1222	e_Haut_5-9-15	<p>The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.</p>	<p>Please see the responses to frequent comments # 12 regarding risks to WNP gray whales and # 13 regarding risks to PCFG whales.</p>
1223	e_Haut_5-9-15	<p>NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.</p>	<p>The DEIS provides a detailed analysis of impacts on gray whales and other species. Please see the response to frequent comment # 9 regarding non-lethal action alternatives.</p>
1224	e_Haut_5-9-15	<p>NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the</p>

Sort #	Commenter Code	Comment	Response
		noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	ENP gray whale population in the face of climate change and other threats.
1225	e_Haut_5-9-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1226	e_Haut_5-9-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1227	e_Haut_5-9-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances, ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, Lisa Haut 463 orange Street New Haven, CT 06511-3817	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.
1228	e_Hayward_7-14-15	Dear Sir / Madam, Whaling is a disgusting practice. There is no quick and painless way to kill a whale. Japan has faced worldwide criticism for continuing to hunt whales and the US have been one of their biggest critics. Why on Earth would the US even contemplate whale hunting? Please rule out whale hunting once and for all. Join compassionate countries and realise the cruelty caused to these majestic, intelligent animals. Yours sincerely, Michelle Hayward	Please see the responses to frequent comments # 1 regarding the humaneness of a hunt and 3.

Sort #	Commenter Code	Comment	Response
1229	e_Henault_3 -6-15	The Makah are a great people. Great people do not need to kill great animals to recreate their ancestral ways. Time has moved on. They have many other choices for subsistence living, if that's what they choose to do.	Comments noted.
1230	e_Henault_3 -6-15	Please, do not allow the Gray Whale hunt by the Makah. Whales have so much to overcome to live their lives the way nature means whales to live.	Comments noted.
1231	e_Henault_3 -6-15	The method used to hunt whales is cruel and painful to the whale. This is not about the numbers of Gray Whales being able to absorb the loss of whales by hunting...this is about the life of one whale, the whale they will try to kill. Thank you. Jan Henault Brookings, Oregon	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1232	e_Hendershott_7-15-15	To Whom It May Concern: I would like to talk about the California gray whales. They are unable to speak for themselves, at least not in a human language. Every spring, in Laguna San Ignacio, Baja California, people participate in viewing and interaction with California gray whales in their mating and birthing areas. Whale mothers and their calves hear the sound of the small boat motors and respond by coming to the boat in anticipation of the love and affection from the people onboard. The boat and the sound of the motor lure them to approach to interact with people who mean them no harm. I know this because I have been there with them. I have also swum amongst humpback whales and know whales to be highly intelligent and respectful toward people. They stopped the movement of their fins and tails to avoid hurting us when currents drew us close to them. When these gray whales migrate toward Alaskan waters, along the Washington coast, they have not forgotten the friendship that the boats and the sound of motors meant in Mexico. They come directly to the boats, expecting communication with friendly people. During the last approved Makah whale hunt, the whale came right to the hunters' boat and, instead of receiving friendship, received a harpoon. Many people, including my own family and friends, wept for the cruelty of this betrayal followed by an easy kill.	Comments noted.
1233	e_Hendershott_7-15-15	The most recent illegal killing of a resident gray whale by Makah tribal members was cruel and brought great sorrow to those who knew that the whale suffered for hours before sinking to its death. These whales are members of a whale family. They are bonded and highly communicative. When a member is taken, it is felt by the others.	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1234	e_Hendershott_7-15-15	Doing something in the name of tradition is not a valid reason. Some traditions have proven to be immoral and have been left behind in history. Slavery is a good example. In the case of the Makah hunt, the hunt is much different than the hunt of their ancestors. In part, the whale is spoiled by a large boat for the hunters in the smaller boat. I have heard from a reliable source that the last legal whale	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		killed by the Makah was not appreciated and treated in a respectful manner by all members of the tribe. If this is true, this would be even more cause to discourage future whaling by the tribe. There is no good reason for this hunt. It is not necessary for the lives or health of tribal members. It is unfair and immoral in light of the socialization to people in Baja. We feel that whaling should be remembered as a tradition of ancestors, not of current tribal members. We strongly encourage a “no action” vote on this issue. Thank you.Tracy Hendershott Kirkland, WA	
1235	e_Hendren_3-16-15	With all respect this is NONSENSE. 12 primary reasons for opposing the plan to slaughter whales by the Makah: 1. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1236	e_Hendren_3-16-15	2. The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1237	e_Hendren_3-16-15	3. If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name “Yabis” (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1238	e_Hendren_3-16-15	4. If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1239	e_Hendren_3-16-15	5. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities	Please see the response to frequent comment # 4 regarding the

Sort #	Commenter Code	Comment	Response
		and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	precedential effect of a waiver internationally and domestically.
1240	e_Hendren_3-16-15	6. The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
1241	e_Hendren_3-16-15	7. There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1242	e_Hendren_3-16-15	8. If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.
1243	e_Hendren_3-16-15	9. The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1244	e_Hendren_3-16-15	10. Sea Shepherd notes that there are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1245	e_Hendren_3-16-15	11. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1246	e_Hendren_3-16-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	
1247	e_Hendren_3-16-15	<p>12. Whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely.</p> <p>On 3/13/15, 5:07 PM, "Jeff Fisher - NOAA Federal" &lt;jeff.fisher@noaa.gov&gt; wrote: Dear Marie, thank you for your e-mail and for sharing your concerns. I have forwarded them to the project staff that are handling NOAA Fisheries' recent release of the Draft Environmental Impact Statement (DEIS) regarding the Makah Tribe's request to hunt gray whales. The Makah tribe historically hunted gray whales for subsistence and ceremonial purposes, relying on their treaty right of whaling. In 2004, the U.S. Court of Appeals for the Ninth Circuit ruled that in order to engage in these hunts, the Makah must also comply with the subsistence take provisions of the Marine Mammal Protection Act (MMPA). The Makah are complying with the regulatory process under the MMPA. They have prepared a request to NOAA Fisheries to authorize these hunts under the Marine Mammal Protection Act, and NOAA Fisheries has now finished a draft environmental analysis of the potential impacts of granting that request. This draft EIS, prepared by NOAA Fisheries, evaluates several alternatives for action, including an alternative that would authorize the tribe to take up to five whales per year off the Washington Coast under certain limitations, and an alternative that would continue to prohibit the Makah from hunting gray whales. This draft EIS replaces a 2008 draft that NOAA Fisheries set aside in 2012 after new scientific information became available. The draft EIS is the first step in a robust public process that could eventually lead to authorization for the tribe to resume its ceremonial and subsistence hunts. This draft EIS is the public's opportunity to look at the alternatives that have been developed and let us know if NOAA Fisheries has fully and completely analyzed this action. Your comment e-mail has been added to the record. The next steps in the process that could lead to resumed tribal hunts include public meetings on the draft EIS, finalizing the EIS, and then rulemaking with public comment. Should you wish to track the issue moving forward, we have information posted on our website at: <a href="http://www.westcoast.fisheries.noaa.gov/protected-species/marine-mammals/cetaceans/whale-hunt.html">http://www.westcoast.fisheries.noaa.gov/protected-species/marine-mammals/cetaceans/whale-hunt.html</a> If you would like clarifying information,</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>please feel free to contact Steve Stone, who is cc'd on this response. Sincerely yours, -- Jeffrey P. Fisher, PhD WA Coast/Lower Columbia Branch Chief NOAA-NMFS 510 Desmond Drive SE Lacey, WA 98503-1263 (360) 534-9342 On Wed, Mar 11, 2015 at 8:52 AM, Marie Hendren Good day, I wasn't sure exactly who to send this to. If you aren't the right person please forward it. Wrote: The Mahak Tribe in NW Washington State is planning on harvesting 24 whales over a period of 6 years with the blessing of NOAA. <a href="http://www.upi.com/Science/News/2015/03/09/Washingtons-Makah-Indian-tribe-could-soon-hunt-gray-whales/6361425917545/">http://www.upi.com/Science/News/2015/03/09/Washingtons-Makah-Indian-tribe-could-soon-hunt-gray-whales/6361425917545/</a> This is not 100 years ago. Time does not move backwards and feeling guilty about the past does not make up for the future. These animals are under many forms of stress in their environment as I'm sure you are aware. In addition to the added stress of the Navy gearing up to take over the Washington Coastal waters it's hard enough for them to find enough to eat to survive. I have alerted various whale organizations and other animal activist groups to this issue. I am completely against trophy hunting in any form and hoping the Tribe is not looking to make this into an adventure profit making venture. It's really surprising the Makah Tribe is not more sensitive to the extreme issues marine animals are facing and doing something to help these creatures instead of killing them. Instead, the Tribe wants to roll back the present by attempting to recapture some romantic vision of their past. Marie Hendren A Concerned Citizen of Washington State -- Jeffrey P. Fisher, PhD WA Coast/Lower Columbia Branch Chief NOAA-NMFS 510 Desmond Drive SE Lacey, WA 98503-1263 (360) 534-9342</p>	
1248	e_Hight_4-27-15	Hello, I am a Washington State resident and I strongly oppose reopening of the Makah whale hunt. While I respect Native American culture, the killing of a highly sentient being for any reason is wrong.	Comments noted.
1249	e_Hight_4-27-15	I just visited Neah Bay a few weeks ago and visited their cultural museum. If they want to live a life of tradition, then they should do it 100%, not pick and choose what part of their tradition they wish to live. How traditional is it to use motor boats and machine guns? Please add my name to the list of opposers. I live in Everett, WA in a neighborhood where I can walk to a park overlooking Possession Bay, and if I'm lucky, (in the spring) I can see the blows of visiting Gray whales while they feed on shrimp. Sincerely, Shelby Fifield	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1250	e_Hill_3-13-15	To Whom It May Concern,I wish to express my opposition to the resumption of whale killing by the Makah tribe. I am frankly disgusted that NOAA does not simply have the courage to say NO to this barbaric practice once and for all. Every	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling



Sort #	Commenter Code	Comment	Response
		group of people, whatever their background, can point to customs and behaviors that have been abandoned as not suitable in the modern world. This “tradition” is one of those things that must be left in the past. The idea that resuming the killing of whales is some kind of panacea to cure all of the ills of Makah life, or that it is necessary in some spiritual way is, to be honest, a load of nonsense. All of the ceremonies and activities that are supposedly held in connection to the whale hunt could just as easily be held for a ceremonial hunt in which whales are not actually harmed, or for a whale watch.	tradition and # 15 regarding the use of modern weapons.
1251	e_Hill_3-13-15	The fact that they want to kill the animal rather than simply honor the tradition makes this whole thing feel like an elaborate ritual of animal sacrifice. A ritual made all the more sadistic given what we now know of the complexity and intelligence of the victims of this practice, the whales. The modern world cannot open the door to this kind of barbarism, NOAA cannot open the door to this kind of barbarism. The resumption of whale killing by the Makah is both an assault on the environment and an insult to anyone who cares about the environment. Makah whaling, just like Nantucket whaling, is now, and MUST forever remain, a thing of the past. Regards James Hill	Comments noted. Please also see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1252	e_Hinds_5-2-15	Do not grant any permits to kill any gray whales in US waters. The populations are too low to allow this in our waters. David Hinds Ph.D. Professor of Biology Emeritus CSUB	ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994, and their current estimated population is well over 20,000 animals. See Subsection 1.1.3, Summary of Gray Whale Status.
1253	e_Hopp_5-24-15	Regarding the 2015 Makah whaling DEIS: I support Alternative 2, the Tribe’s Proposed Action alternative, and I strongly urge rapid approval of whale hunting for Makahs in order to provide a normal healthy diet for Makah adults and for growing Makah children. The key issue, to me, is the as-yet unknown nature of Makahs’ requirement for nutritional components found in whale meat and blubber. It is clear from reading the scientific studies listed in this DEIS, that any Makah need for whale products in the diet is almost entirely unknown scientifically. While opponents of Makah whaling may wish to cite this lack of evidence as a reason to continue the moratorium on whaling, the opposite is true in any fair, scientific, and logical consideration of the facts: given a lack of information on the health effects of whale products in the Makah diet, it should be absolutely incumbent on decision-makers to allow Makah whaling until such time as it can be proven they do not need whale products. If we are to give the	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>benefit of the doubt one way or the other, we should favor human health over whales. The DEIS touches too lightly upon some points that need much more emphasis. In particular, the subject of “traditional subsistence” is inadequately defined. If subsistence means to eat a healthy diet, then Makahs may have been denied a healthy diet by the Ninth Circuit Court of Appeals 2004 decision, and are still suffering from that lack of healthy food for Makah adults and more importantly, Makah children. Furthermore, in several sections, the DEIS fails to adequately emphasize the key human health aspects of dietary whale meat and oil. For instance, Section 1.3.2 Need for Action, states: “The Makah Tribe’s need for the action is to exercise its treaty whaling rights to provide a traditional subsistence resource to the community and to sustain and revitalize the ceremonial, cultural, and social aspects of its whaling traditions.” However, the term “traditional subsistence” in this statement obscures the fact that what is at stake is a food Makahs have adapted to for thousands of years. It is unknown to what extent any Makah individual requires whale meat and oil to be healthy. However, differences between Makahs and Americans in general as regards diet and health are well established. For example, consumption of alcohol is tolerated by most non-Makah Americans and indeed can increase life expectancy for non-Makahs. For Makahs, however, alcohol in any amount is toxic. What if whale meat and oil are also differently metabolized by Makahs? If so, then Makahs may benefit from whale-based food in a way different from non-Makahs. The differences between Makahs and non-Makahs regarding alcohol metabolism have been scientifically documented at the DNA level, but any differences in needs for whale meat and oil are absolutely in the “unknown, to-be-determined” category. If eventually a clear need for whale meat and oil is established for Makahs, then someday the whaling moratorium now in effect will appear in a different light. It will represent a case of health-threatening discrimination against Makahs, and the anti-whaling advocates involved in the decision may be viewed as racist, and perhaps even genocidal. The aforementioned points are not peripheral to the debate over Makah whaling. They are central. We should not err on the side of whales. If we err at all, we should err on the side of human beings. If the Ninth Circuit Court and the anti-whaling advocates continue to have their way, then it is very possible that harm will be done to growing Makah children, by denying them the whale-based nutrition their bodies are adapted to. This decision by the court should be overturned immediately based on the human health issue of providing an adequate diet for a whale-eating people, the Makahs. I am an expert in these matters, and not just voicing conjecture. I have a</p>	

Sort #	Commenter Code	Comment	Response
		<p>PhD in Biochemistry from Cornell Medical College, one of the nation’s top schools studying human nutrition. I have decades of experience in DNA and molecular biology studies, and I was for years a Vice President in the biotechnology industry, taking pharmaceutical products through FDA approval and marketing them for human health needs. I understand human clinical research, and I know that the Makah need for whale products in the diet has not yet been studied in any significant or reliable way. Under the circumstances, I find it unconscionable that the Ninth Circuit Court saw fit to block a whale-eating people from eating whale. Above are my main points. Further detailed responses follow: Section 3.16.3.1 Nutritional and Health Benefits from Consuming Whale Food Products and Other Traditional Subsistence Foods, correctly states that: “Historically, whale oil and whale products were important nutritional components of the diet of the Makah Tribe.” In a lengthy discussion, this section lists what is known about the nutritional value of whale compared to other foods. However, at several points the discussion emphasizes that inadequate data exist, both from lack of testing, and from inadequately small sample sizes. Given that Makah health hangs in the balance, this inadequacy of data is unacceptable. Furthermore, the overall weight of evidence is in favor of whale consumption contributing to human health. What is missing from this discussion is whether there are other nutritional substances in whale meat and oil that have not even been discovered, let alone studied adequately. The discussion makes it clear that the study of nutrition in whale-consuming people is an almost untouched field of endeavor. Therefore, and notion that Makahs may substitute other seafoods for similar health benefits, is only just speculation and is not supported statistically. Furthermore, given our lack of knowledge, there is a real danger that denying Makahs whale food may be harming them on a current, ongoing basis. Section 4.16.3.1, in assessing the health effects of Alternative 1, No Action stated: “Overall, there is insufficient information to conclude that the lack of fresh whale products under the No-action Alternative would be expected to negatively alter current dietary conditions for any tribal member.” My point: what if future information proves lack of fresh whale products is indeed harmful to Makahs? This statement is then indefensible and harmful to Makahs. In the absence of information, it is essential to err on the side of humans over whales. Therefore, the No Action alternative is unacceptable, with an unmeasured level of risk to Makahs. Section 4.16.3.2 assessing the health effects of Alternatives 2, 3, 4, 5, and 6, stated: “It is impossible to predict the precise changes in [...] the nutritional composition of the Makah diet if they have the opportunity to</p>	

Sort #	Commenter Code	Comment	Response
		<p>consume freshly harvested whale products.” My point: this statement appears to accept the lack of information. The lack of information is unacceptable. Given the lack of information, it is absolutely incumbent upon decision-makers to err on the side of humans over whales and allow Makah whale hunting to assure that any unknown needs for whale nutrients are met. Finally, in my view, the current situation is the opposite to that which normally prevails in the American judicial system. Usually courts consider the preponderance of evidence before issuing a ruling. In this case, Makah rights have been taken away in a situation where their need for whale products in their diet is almost entirely unknown, and what little is known favors them. In that light, the entire EIS process is moving backwards. The No Action Alternative should be to allow whaling, with whaling bans only being considered based on clear evidence of a lack of harm to Makahs. But the Ninth Circuit Court set this backwards process in motion with its whaling ban. The framers of this document should, at the least, address this iniquity by including a strong statement of clarification. For instance: “Given that Makahs have consumed whale for thousands of years, the idea that they are adapted to a diet of whale and therefore have special needs for a diet of whale, is a very real concern. It is quite possible that the current ban on whaling is harmful to Makah health. Given the uncertainties and chance for harm to Makahs, their right to hunt whales should not be denied any longer.” Respec tfully, Thomas P. Hopp, PhD Seattle</p>	
1254	e_Horton_7-31-15	<p>To the Makah Tribe, Don't you respect our wildlife? They are not yours to take. They are not a natural resource. I can see where this tradition had a place at one time. It doesn't any more. These intelligent, sentient beings should not have to suffer at your hands because the Makah tribe will not adapt. Leave them alone! Its disturbing to think that anyone, especially in Washington state, should think it appropriate that they can hunt any whale. Haven't humans done enough damage? I'm sorry that you are paying for something that your tribe probably didn't do. The Europeans decimated certain populations and took others for the aquarium trade.</p>	Comments noted.
1255	e_Horton_7-31-15	<p>Even if the gray whale population is doing better, it is an act of savage brutality to hunt them, that should not be condoned.</p>	Comments noted.
1256	e_Horton_7-31-15	<p>To see such a great company such as NOAA even propose this makes me lose faith. Don't return to the dark days where we are the hunter and the whales are our prey. Move forward to a time where no whaling anywhere is condoned. Be a leader in the great movement and show the world what Washington State tribes set the bar at! The Makah Tribe would lose all respect in my eyes if this were to</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		occur. Thank you for your time, and your consideration. Most sincerely, Lindsey Horton	
1257	e_Howell-Owasso_3-13-15	I respect our Native Americans and realize they had many rights taken from them and the Treaties need to be honored. HOWEVER.. I think we need to offer alternatives to a hunt as they don't NEED the whales to sustain themselves. I respect culture.. I respect them. So, instead of saying NO to them, why not offer them an alternative way to to honor this culture instead? Educational storytelling? Lots of Native Americans don't DO all their culture anymore simply because times have changes, but they honor it still through other ways. Maybe showing them they can educate with whale watches from their reservation? They can still tell about their hunts and show how they did it.. but instead they can show respect of the animal in a conservation way. Not that I'm trying to tell tribes what and what not to do..	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1258	e_Howell-Owasso_3-13-15	I'm sure 160 years ago there were many more nutritious & 1000s more in #, now they would have plastics injestion, Mercury poisoning, probably safer not to eat them now!Save the WhalesTommy Howell-Owasso	Please see the response to frequent comment # 11 regarding safety of gray whale products for human consumption.
1259	e_Howerton_3-17-15	Executive Summary and the Purpose and Need: Summary of Proposed Action do not appear to agree on number of whales to be harvested, number per year to be harvested, and period of time to harvest. The Alternatives talk about 24 whales over a 6 year period and no more than 6 whales taken in any given year. The 1.0 Purpose and Need: Summary of Proposed Action talks about 20 whales over a 5 year period and no more than 5 whales taken in any given year. See also Table 1-1. Dr. BJ Howerton, MBA -- Dr. BJ Howerton, MBA Northwest Regional Office Environmental Services Mgr. 911 N.E. 11th Avenue Portland, OR 97232-4169 Telephone: (503) 231-6749 Fax: (503) 231-2275	Subsection 2.3.2.2.2 (Numbers of Whales Harvested (Annual and 6-year)) of the DEIS explains the basis for the transition from 5-year to 6-year catch limits.
1260	e_Hudnall_5-11-15	Comments given orally at the April 29th, 2015 Port Angeles meeting: James Hudnall speaking. I am a charter member of the Society for Marine Mammalogy, but I am not representing that organization in any way tonight. Please note that I am here to urge continuation of the DEIS No-Action Alternative which continues the moratorium established in 2004: Option 1. NMFS is asking us if everyone's wishes can be accommodated by allowing only a few offshore migrating whales to be killed. Multiple problems exist with this approach to the issue. First and foremost, there is an ethical issue, very similar to that which relates to the killing of African elephants, but in this case the whales don't trample and eat the local inhabitants' crops. The world has learned that elephants are too precious alive to be legally killed. Gray whales, like elephants, are large-brained sentient creatures	Comments noted.

Sort #	Commenter Code	Comment	Response
		also too precious alive to be killed, and they now comprehend a modern unwritten treaty between humans and themselves in which humans have agreed and demonstrated a will not to slaughter or harass. Violating this unwritten treaty will undermine and subvert the modern human global ethic.	
1261	e_Hudnall_5 -11-15	Ethics aside, there are several very serious scientific reasons why gray whales should not again be killed by humans. These fall generally under two headings: unknown future impacts on gray whales from rapid climate change and possible future population die-offs similar to the unexplained 1999 die-off of approximately one-third of the current population. Climate change is causing increasingly rapid changes in the seas and food supplies of the gray whale. As researchers Wayne Perryman and David Weller wrote in 2013: "The impacts of climate change in the Arctic environment are just beginning to be tracked, and are far from being understood. Projections into the future of how this ecosystem will continue to change are even more challenging. ...only continuous long-term research and monitoring will help us to understand possible population level effects." (Whalewatcher Magazine, Fall, 2013, p. 16.) We simply do not know enough about future impacts of rapid climate change to diminish the gray whale population by even a single whale.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1262	e_Hudnall_5 -11-15	The scientific problem related to possible future unpredicted gray whale die-offs is that no one can be sure if there will be enough gray whales in the future to adequately sustain a genetic stock without knowing what causes a gray-whale die-off. In 1999 NMFS declared an Unusual Mortality Event (UME) when the gray whale population crashed from just over 21,000 individuals in 1997-98 to under 16,500 whales in 2000-2001. Up to one-third of the adult gray whale population was lost without any forewarning by whale scientists. Subsequently, no satisfactory explanation of the die-off has ever been put forth. With so little human knowledge of the problems gray whales face, we should not allow one unnecessary gray whale death.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1263	e_Hudnall_5 -11-15	Aside from future potential problems the gray whales may face without any present human understanding, there is a current problem associated with the proposed kill which NMFS cannot resolve. The killing of any gray whale along this coast may cause the death of a "friendly" gray accustomed to approaching skiffs and people for play and touching, or at the very least, the killing of a gray whale which summer-feeds south of the Bering Sea. Some of these whales feed just across the Strait from Cape Flattery and up the coast of Vancouver Island. Referred to by NMFS as the "Pacific Coast Feeding Group (PCFG), these whales can be identified by photo, but NMFS cannot guarantee that in the heat of a hunt	Comments noted. All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.

Sort #	Commenter Code	Comment	Response
		such a whale will be recognized and spared. These whales are the ones which bring joy to summer visitors and money to the whale-watching industry.	
1264	e_Hudnall_5-11-15	In overview, we have learned about the sentient and intelligent nature of the large-brained elephants, but we are slower to recognize and respect the thinking processes of gray whales, perhaps because they are aquatic beings. From what we do know, they care for their young as carefully as we do, are very clever in their navigation, feeding and fighting strategies, and are quick to analyze bays and inlets for safety. Thank you. James Hudnall	Comments noted.
1265	e_Huelsbeck_7-28-15	Dear Mr. Stelle, I write in strong support of the Makah Tribe's preferred alternative. Whaling is a cornerstone of Makah Cultural identity. It is important in subsistence, in social organization, and in the spiritual life of the Makah People. Taking a limited number of whales per year will not affect the Gray Whale population. Any whales not harvested as part of the Makah quota can be harvested by the Chukota Natives. The probability of killing an endangered WNP whale is essentially zero. The probability of killing a PCFG whale is very small, too small to harm this potential population except in the most wildly speculative scenarios. However, should the extremely unlikely happen, IWC annual review and MMPA would prohibit the NMFS from issuing permits to the Tribe even if the waiver is granted. In short - much good for the Makah People will follow if alternative 2 is selected, with no risk to the Gray Whale populations. Alternative 1 perpetuates the attack on Makah Culture and Makah treaty rights. Alternatives 3, 4, 5, and 6 move whale hunting further away from traditional Makah Culture. Sincerely, David R. Huelsbeck	Comments noted.
1266	e_Huey_4-22-15	I fully support Traditional Hunting of Gray Whales by the Makah Tribe. Traditional Hunting is cedar canoes, handcrafted harpoon, wooden paddles, traditional clothing, and towing the carcass into shore without motorized assistance. Traditional Hunting is not checking the weather on the web before the hunt, wearing PFDs, clothing not made of materials available 200 years ago, cellphones, recovery beacons in case of capsizing, Coast Guard rescue, corrective eye glasses, hearing aids, etc. Thank you for the opportunity to comment.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1267	e_Huntington_5-2-15	I am writing to express my strong opposition to issuing the Makah a permit to kill up to five gray whales a year for "cultural reasons." As one who has had close contact with gray whales, touching them and looking them in the eye at very close range, I am aware that all humans have a "cultural" and moral responsibility to protect this species. Today there is unquestionably an incredible interspecies connection between humans and gray whales--call it cultural, if you will, on a grand scale. This should supersede any historical "cultural" relationship that your	Comments noted.

Sort #	Commenter Code	Comment	Response
		Makah may have had. Please, can't we humans demonstrate our intelligence by doing the right thing and denying this permit? If not, I will truly be embarrassed to call myself human. Sincerely, peace, Wendy ~~~~~ Wendy L. Huntington	
1268	e_Irwin_4-20-15	I see absolutely no justification for issuing permits to kill gray whales. I just returned from being in San Ignacio Lagoon, a breeding ground of these magnificent creatures. Anyone who has looked in the eyes of these gentle (and forgiving of humans) creatures will find it unconscionable to kill them.	Comments noted.
1269	e_Irwin_4-20-15	Furthermore, it is no longer essential to the way of life or sustenance of Native Americans or First Nations people to do so. Please deny any requests to hunt gray (or any other) whales. Sincerely, Carol Irwin	Comments noted.
1270	e_Irwin_4-27-15	I am writing to express my strong opposition to your issuing the Makah a permit to kill up to five gray whales a year for "cultural reasons." As one who has had close contact with gray whales, touching them and looking them in the eye at very close range, I am aware that all humans have a "cultural" and moral responsibility to protect this species. Today there is unquestionably an incredible interspecies connection between humans and gray whales--call it cultural, if you will, on a grand scale. This should supersede any historical "cultural" relationship that the Makah may have had. Please, can't we humans demonstrate our intelligence by doing the right thing and denying this permit? If not, I will truly be embarrassed to call myself human. Sincerely, Carol Irwin	Comments noted.
1271	e_Irwin_5-5-15	I have already submitted one comment to you on this issue, and would like to add the following. How many wrongs can make a right? Native Americans in the United States, as well as the First Nations in Canada and other indigenous peoples around the world, have been treated horrifically. How can anyone argue with that? But can we assuage our collective guilt by permitting the killing of gray whales by the Makah in 2015? That won't work for me, and I doubt that it will work for others. The pain I feel for what was done to native peoples runs too deep. It seems to me that we must come up with a 21st century solution, not driven by guilt but by science. Is it not true that Native Americans have long seen themselves as living in harmony with the natural world, as having a deep respect for the earth? For having this wisdom, they have been deeply admired. Native Americans have understood that people must use earth's resources wisely so they can be enjoyed by generations to come, and they practiced this belief by taking only what they needed from the earth. "Treat the earth well: it was not given to you by your parents, it was loaned to you by your children. We do not inherit the Earth from our Ancestors, we borrow it from our Children." Ancient	A non-lethal hunt alternative was considered in the DEIS but eliminated from detailed analysis (see Subsection 2.4.1, Non-lethal Hunt) because its effect on the human environment would not be different from the No-action Alternative and its analysis would provide no additional information for the public or decision-maker.



Sort #	Commenter Code	Comment	Response
		<p>Indian Proverb. Chief Seattle, There was a time when taking only what they needed from the earth was true for the Makah who hunted gray whales. I can't help but think, however, that a Makah child today, who is surely exposed to conservation issues in school and in the media that abounds, will be profoundly affected by the taking of a whale life, when they will be wise enough to know that it is not necessary for physical sustenance. Not now in 2015. Will the act of killing a whale to honor the Makah cultural tradition feed their collective souls? I doubt it. My dream would be that the Makah could transform their strong cultural connection to gray whales into a new paradigm in which they are stewards and protectors of this magnificent animal. If only they could be exposed to whales in a new way, they way some of us have had the luxury of being exposed. For example, if they could be involved in doing migration whale counts off the coast, or be taken out to see whales at close range. Whale watching rather than whale killing. Get the children involved and have them become spokespersons for this whale that has been such a part of their culture, not by killing it, but by protecting it. I know this sounds like pie-in-the-sky, but I have had some experience in teaching wildlife conservation and know that the way to achieve change is often through the children. This transformation would take some hard work and education and cooperation. "Humankind has not woven the web of life. We are but one thread within it. Whatever we do to the web, we do to ourselves. All things are bound together. All things connect." I think a first step would be to deny issuing permits to the Makah tribe to kill gray whales. Would NMFS or NOAA would be in any position to implement any of my suggestions for ways to re-direct the Makah tribe's involvement with gray whales? Most sincerely, Carol Irwin</p>	
1272	e_James_3-18-15	<p>The oceans and the sea creatures are under attack on so many levels today. Traditions can be taught and remembered. When it comes to killing and risking a species, traditions should not take precedence. Many cultures move on and recognize when a tradition is destructive. It appears that the Makah did move on for quite some time. They should tell stories, learn about how their ancestors lived, but they should not start up a tradition that has no place in this world today. The oceans are sick, they are polluted, and there are many that are over fishing the seas. All cultures must change with the environment or risk destroying their world.</p>	<p>Comments noted. Please also see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1273	e_James_3-18-15	<p>Culture does not outweigh the environment, the fact that most whale has high levels of mercury, and there may be a risk moving forward from the Japanese Nuclear Plant disaster. The fact that many of the grey whales species were over</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
		hunted and are extinct now or nearly depleted. The Eastern North Pacific grey whale is finally doing better. Let's not undo their recovery and lose our final species. They are facing a very hostile, unhealthy environment going forward. Hunting should not be allowed. Sincerely, Joy James Buffalo, NY 14217	
1274	e_James_5-26-15	The oceans and the sea creatures are under attack on so many levels today. Traditions can be taught and remembered. When it comes to killing and risking a species, traditions should not take precedence. Many cultures move on and recognize when a tradition is destructive. It appears that the Makah did move on for quite some time. They should tell stories, learn about how their ancestors lived, but they should not start up a tradition that has no place in this world today. The oceans are sick, they are polluted, and there are many that are over fishing the seas. All cultures must change with the environment or risk destroying their world. Culture does not outweigh the environment, the fact that most whale has high levels of mercury, and there may be a risk moving forward from the Japanese Nuclear Plant disaster. The fact that many of the grey whales species were over hunted and are extinct now or nearly depleted. The Eastern North Pacific grey whale is finally doing better. Let's not undo their recovery and lose our final species. They are facing a very hostile, unhealthy environment going forward. Hunting should not be allowed. Sincerely, Joy James Buffalo, NY 14217	Comments noted.
1275	e_Jenny_K_7-29-15	It is not necessary and we need to protect these beautiful animals!!!! Endangered is endangered, no matter who wants to hunt them .... Please stop The great pleasure of a dog is that you may make a fool of yourself with him and not only will he not scold you, but he will make a fool of himself too. - Samuel Butler A dog is not almost human, and I know of no greater insult to the canine race than to describe it as such. - John Holmes	Comments noted.
1276	e_Jensen_3-7-15	Please do not allow the tribe(s) to continue or reinstate hunting whales. It is an outdated practice. I don't think it matters that it is for subsistence and ceremony; those are such old needs and traditions.	It is up to the Makah Tribe, as a sovereign nation, to decide which traditions it continues or revives, within the bounds of the law.
1277	e_Jensen_3-7-15	Whales are so majestic and such an icon of the PNW. Animals cannot speak for themselves; we must be their voices. This practice is inhumane and unnecessary. Thank you, ~Jocelyn	Comments noted. Please also see the responses to frequent comments # 1 regarding the humaneness of a hunt and 3.
1278	e_Johnson_3-7-15	To Whom it Concerns @ NOAA.GOV: My name is Russell Johnson. I am a member of the Lower Elwha S'Klallam Tribe of Port Angeles Washington. I am on the Hunting Committee Board for our tribe and have been for 12 years now. I am 55	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>years old and have been hunting for the past 35 years. With that I am writing to you in regards to the Makah People of Neah Bay Washington. They are wanting to hunt Grey whales again off the coast of their land. As stated in a local paper the Makahs voluntarily gave up the right at the time to hunt whales because of the decline in population. The tribe was not responsible for the decline in the whale population at that time. White whalers of the time were decimating the population of all whales then. Since that time the grey whale population has recovered to an extremely healthy population that migrates still past the Makah's home. So, being a hunter and also being active on wildlife management with my tribe, I believe there is enough whale population to validate Action 2. There should be no problem harvesting 5 whales a year. It should be done the way it was in 1999. First strike out of a canoe by a tribal member then killed as humanly as possible and retrieved as fast as possible also. My opinion is that alternative 2 is the best choice for the Makah People. Please allow them to hunt once again and take pride in themselves and their culture. They are at the "End of the World" where they live and the Whale provides them with food, culture and a Spirituality that is a tremendous boost to the people there. Thank you for your time. I attended the celebration when the whale in 1999 was harvested and the Makahs celebrated with everyone what they had done. It was an Incredible experience and whale is a delicious meal. Russ Johnson PO BOX 1047 Kingston WA 98346</p>	
1279	e_Johnson_3-11-15	<p>This is an urgent message to stop the hunting of the grey whales!!! We simply have NO Right to massacre these creatures. We are to be stewards of the sea not destroyers!! Kathleen Johnson 5200 Lincoln Drive Minneapolis MN 55436</p>	Comments noted.
1280	e_Johnson_7-15-15	<p>Abysmal in this day and age I have to write emails to ask you to PROTECT AND NOT ENDANGER ANY LONGER....this is outdated and if it is called Tradition IT IS WRONG TRADITION ...HOW LONG DOES THE HUMAN RACE HAVE TO IGNORE POLICY THAT IS COMPLETELY OUTDATED AND DESTROY OUR EARTH AND EVERYTHING IN IT!!!!!!!!!!!!!!!!!!!!!!!!!!!!!! Sincerely Julie Johnson</p>	Comments noted.
1281	e_Karen_3-11-15	<p>STOP THE ASSAULT ON OUR PLANET! You will be held accountable, you can never escape YOUR karma.....</p>	Comments noted.
1282	e_Kastel1_7-18-15	<p>My family and I support Alternative 1, the no-action alternative. The Makah Tribe does not have a subsistence need for whales and, therefore, shouldn't be allowed to hunt gray whales. The Makah Tribe cannot demonstrate a continual traditional dependence on whales or whaling and cannot demonstrate either a nutritional or subsistence need for whale meat and other products and,</p>	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.

Sort #	Commenter Code	Comment	Response
		therefore, doesn't qualify for an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC).	
1283	e_Kastel1_7-18-15	If the United States allows the Makah to whale it will effectively establish a new form of Aboriginal Subsistence Whaling with significant precedential impact to gray and other species of whales if other US Native American tribes or other aboriginal groups around the globe express interests in whaling.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1284	e_Kastel1_7-18-15	The Makah's cultural need to whale is questionable since there is no evidence that a single whale needs to be killed in order for the Makah to continue to celebrate its historical connection to whales and whaling. Aboriginal people around the world continue to honor their past traditions without actually engaging in the practices which may no longer be socially acceptable, legal, or culturally appropriate.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.
1285	e_Kastel1_7-18-15	Any hunt that results in the potential killing of a resident or Western North Pacific gray whale— populations that are both imperiled—cannot be permitted. With only approximately 209 and 140 whales in these populations, respectively, the intentional killing of a single whale is unacceptable and could be disastrous for those populations.	Please see the responses to frequent comments 16 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
1286	e_Kastel1_7-18-15	All gray whales, including the Eastern North Pacific migratory gray whales, are subject to a gauntlet of threats in their summer feeding areas and throughout their migratory corridor from Alaska to Mexico. Such threats include climate change, ocean noise, oil and gas exploration and development, pollution, coastal development, contaminants, by catch, and ship strikes. As some of these threats, like climate change, are completely transforming Arctic ecosystems with unknown short and long-term impacts on gray whales, allowing the intentional killing of any gray whales by the Makah Tribe is biologically reckless.	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1287	e_Kastel1_7-18-15	Whaling is inherently cruel. To quickly kill a moving whale from a moving vessel in a moving ocean is nearly impossible. In this case, given the inexperience of Makah whalers using harpoons or 50 mm shells, there is even less chance that any whale will be quickly or humanely killed.	Please see the response to frequent comment # 1 regarding humaneness of a whale hunt.
1288	e_Kastel1_7-18-15	The National Marine Fisheries Service (NMFS) has failed to consider a reasonable range of alternatives in the Draft Environmental Impact Statement (DEIS). These alternatives include the development of a whale-watching operation and the provision of land, funding, or services that would permit the Makah to humanely reconnect to whales and provide for the social and physical needs of the Makah people.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
1289	e_Kastel1_7-18-15	A nonlethal use alternative such as the development of Makah-operated whale-watching tours would allow the Makah to humanely use and reconnect to the gray whale, bring revenue to the tribe, educate visitors about whales and marine conservation, and introduce visitors to the culture and traditions of the Makah Tribe.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1290	e_Kastel1_7-18-15	NMFS has failed to adequately evaluate the full range of threats to gray whales in the DEIS, as required by federal law. These threats include climate change impacts to their habitat (particularly in the Arctic); ship strikes; contaminants; bycatch (through net entanglements); pollution (including from oil spills and a proposed massive phosphorous mine in Mexico); and ocean noise (including seismic and sonar), in US, Canadian, and Mexican waters.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1291	e_Kastel1_7-18-15	NMFS has failed to properly consider in the DEIS the cumulative impact of past, present, and reasonably foreseeable actions undertaken by federal, provincial, or state agencies or individuals throughout the range of the gray whale, including various activities that NMFS has permitted throughout the gray whale's US range.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1292	e_Kastel1_7-18-15	The Makah Tribe's historic use of whales and the significance of whales to the tribe's culture is important and should be acknowledged, but times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah Tribe's relationship with gray whales should change to one of humane, nonlethal use. DIANE M. KASTEL AND FAMILY WHEATON, IL UNITED STATES	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1293	e_Kastel2_7-18-15	In March, the National Marine Fisheries Service (NMFS) initiated its latest effort to permit the Makah Tribe of Washington to hunt gray whales by releasing a Draft Environmental Impact Statement (DEIS) for public review and comment. This is an opportunity for you to express your thoughts on the DEIS and the government's efforts to allow the Makah the kill gray whales. We are advocating for the gray whales and opposing the proposed hunt. With the exception of a single gray whale killed in 1999 and another whale killed illegally in 2007, the Makah have not hunted whales for nearly 90 years. Consequently, the tribe cannot demonstrate a subsistence or nutritional need for whaling or whale products. Such a need is a requirement to secure approval from the International Whaling Commission to engage in aboriginal subsistence whaling, and should be a prerequisite for NMFS' approval of the hunt. Despite the absence of this need, this is the fourth attempt by NMFS to authorize Makah whaling since 1997. Previous efforts have either been scuttled by court rulings or terminated by the agency.	Please see the response to frequent comment # 3 regarding the Makah Tribe's cultural or subsistence need for whale products.

Sort #	Commenter Code	Comment	Response
1294	e_Kastel2_7-18-15	The proposed hunt could jeopardize two imperiled populations of gray whales: the resident Pacific Coast Feeding Aggregation and the Western North Pacific, which number only 209 and 140 animals, respectively.	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
1295	e_Kastel2_7-18-15	While the main Eastern North Pacific gray whale population is much larger (nearly 21,000 animals), they and their habitat are subject to threats like climate change, contaminants, ocean noise, ship strikes, and net entanglement throughout their summering, wintering, and incredibly long migratory range (from Alaska to Mexico), 'and shouldn't be subject to a new threat posed by a hunt.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1296	e_Kastel2_7-18-15	Furthermore, whaling is inherently cruel since it involves trying to kill (using harpoon and bullets) a large, moving animal from a moving boat on a rolling ocean by (in this case) individuals with little to no whaling experience—a sure recipe for cruelty and suffering. DIANE M. KASTEL AND FAMILY WHEATON, IL UNITED STATES	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1297	e_Kate_N_7-15-15	Good morning, It has come to my attention that NOAA is considering allowing whale slaughter to resume in response to a request by the Makah tribe. I am writing as a US citizen, to voice my opposition to allowing this practice to occur. Whaling is not only environmentally damaging and an example of extreme animal cruelty, but also entirely unnecessary. As I understand it, the premise for this request is that whaling is a tradition for the Makah tribe. Simply being a tradition does not in any way give merit to a cruel act. There are a myriad of examples in the world today, of "traditions" that are abhorrent and incomprehensible to most of us here in the US. I don't believe classifying an act such as whaling as "tradition" negates its inherently cruel nature. It is my opinion that whaling should not be permitted in the United States. Our oceans, and the animals in them deserve to be fiercely protected. I hope you will consider denyin'g the tribe's request to resume whaling. Thank you for your time. Respectfully, Kate N.	Please see the responses to frequent comments # 1 regarding the humaneness of a hunt and 3.
1298	e_Keacher_6-11-15	The Makah continue their pursuit to hunt gray whales for “subsistence and cultural” purposes. Gray whales’s have made a comeback from near extinction (due to a ban on whaling) however some populations are still endangered. In 1999 the Makah had permission to kill one gray whale and set out for their fist whale kill in 70 years. A juvenile female approached the boat expecting a pleasant social experience as she had experienced during her lifetime and was met with a harpoon ..... the from here is more graphic and disappointing as two 50 mm shots into the whale did not end her life quickly. Another whale was illegally killed in 2007. The Makah who killed that whale were ultimately charged	Comments noted.

Sort #	Commenter Code	Comment	Response
		with misdemeanors while steadfastly maintaining their right to hunt whales and demonstrating a violation of whaling laws. There is no doubt that First American's were given a 'bill of goods' in the treaties and taking of land that occurred at that time. It's the question of amends that stalemates everyone into a chicken or egg quandary and makes it difficult for anyone on either side to move forward.	
1299	e_Keacher_6-11-15	Our knowledge of gray whales and their behaviors has changed in the 160 years since the Makah treaty was enacted. Gray whales have close contact with humans at their birthing grounds in Baja California. People in both Baja and Puget Sound enjoy the presence of Gray's, such as Patch, who return to the same waters year after year. What we are facing is a culture clash were the Makah as whalers is being reenacted while the subsistence need no longer exists.	Comments noted.
1300	e_Keacher_6-11-15	Alberta Thompson, a Makah elder who opposed the 1999 whale hunt stated that very few of the cultural traditions of a hunt were in the 1999 kill. In fact, the Makah have many cultural requisites that maintain their culture including a continued presence on the ocean for fishing, a beautiful heritage museum and the isolated, but stunningly beautiful northwest coast. Lacking the subsistence necessity but pursuing the killing of gray whales presents the Makah with an economic backlash. In this age of technology the taking of these intelligent social creatures turns the marine sanctuary on the Olympic coast into a 21st century "Killing Coast" that will sabotage even the Makah's best efforts at 'culture' in the modern technological world. We know better ..... and so should they.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1301	e_Keacher_6-11-15	This is no longer a simple matter of a treaty right ..... it is an indication of whether you have the backbone to 'do the right thing' not just do what has been done before. This is especially true for the Makah, which have pinned all their arguments on a time gone by and in which they are no longer living. I support alternative 1 which is that no changes be made to Makah whaling in Washington's water ..... That whaling continue to be prohibited. Respectfully submitted, Susan Keacher good.day@isomedia.com Snohomish County, Washington	Comments noted.
1302	e_Keacher_6-11-15	P.S. As a personal comment, I believe this is already a "done deal." When the lead NOAA representative to the IWC is visiting the Makah on the night and time that public comment is being solicited in Seattle, it shows that the permit is mere inches away from handoff and this is just a process, not meant to mean anything in reality.	Comments noted.
1303	e_Keacher_6-11-15	If you allow whaling, then I suggest that you also verify and document the eating and usage of all whale meat to account for the 'need' as has been maintained by the Makah. This would require a full time non tribal affiliated person to	Regulations governing a Makah hunt would describe various enforcement-related aspects, including take

Sort #	Commenter Code	Comment	Response
		document and account for every part of every whale that is killed. If you are going to allow killing, then you are responsible for what is killed and how it is handled after death. This is the essence of marine management, to prevent waste or abuse of this permit and immediate and full prosecution of any permit violations.	authorizations, prohibited acts, and requirements for monitoring and reporting (including the disposition of whale products).
1304	e_Kenitzer_6-6-15	I support the Makah right to hunt whales. I prefer Alternative 3, since I feel Alternative 2 much and Alternatives 4 and 5 are too restrictive in hunting dates. Rolland D. Kenitzer 341 Hidden Valley Road Port Angels, WA 98362	Comments noted.
1305	e_Kew_4-7-15	to whom it may concern, I say no hunting of whales be allowed in our society. or the natives of Canada. Whales need not be killed to be eaten, or killed for research. whales can teach us what they know, and we can learn, not by eating them, or the natives, eating them, but by watching and learning through interaction, they can save The planet. thank you Donna Kew	Comments noted.
1306	e_Kinkead_3-21-15	For five years, I lived in far northern Alaska in small villages along side Native Inupiaq. These people have been whalers for thousands of years, and through the IWC, have maintained their right to harvest limited numbers of whales based on the size of their village (many around 300 people). In the village of Kaktovik located in ANWR, the Inupiaqs were permitted to harvest only three whales in the month of September as the bowhead were traveling to their summer waters. Humane hunting rules were required. These people ate nearly every part of the whale. I attended the Captain's Feast and witnessed the entire process for the hunt. Scientists were on hand to harvest the eyeball for age/health, along with other critical parts. The muktuk (blubber) and meat were harvested on the beach and delivered throughout the village to Elders, captain's family/crew, and all other villagers, who put this gift of food in permafrost ice cellars. This harvest sustained them through the year, used at Thanksgiving, Christmas and funerals and celebrations. When planes could not land with food, whale meat was their food. They follow strict traditional prayers of thankfulness. The bones and unusable parts are hauled to a 'bone yard' for polar bears, arctic fox, grizzly bear and wolves to gnaw on for their own survival (these scavenger animals were never hunted at the bone yard). Special prayers are offered to the whales who they believe 'gave themselves so humans might live' and whose spirits return to the waters. These people have never lost their need for and taste of whale. I have no problem with the Inupiaq people and their traditional ways. I do have a problem with the Makah's desire to whale. I was a school principal in Forks when the first whale was harvested in about 2003-4. It was a spectacle, not a reverence of life. People came from far and near to watch the slaughter. The whale meat	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.



Sort #	Commenter Code	Comment	Response
		was mostly wasted. The Makah do not have centuries' long history of continued whale eating, nor do they remember the traditional and appropriate ways to harvest (piluk) the whale using traditional tools as the Inupiaq do. That one harvest seemed more a ploy for tourism and a focus for physical activity than a harvest for much needed food.	
1307	e_Kinkead_3-21-15	I am opposed to any Makah whaling, No Action. If I had to choose a different Alternative, it would be have to be Alternative 5 for these reasons: Strictly limit the dates of whaling (I prefer only one 21-day opening just as the Inupiaq have from IWC)Total avoidance of endangered Pacific gray whales (many Makah will not know the difference in the blood-heat of the hunt)Allow only ONE whale whether struck or landed (the population of the Makah is small, and a senseless waste of food would be limited)Make sure scientific and governance observers are present on the boats and at the shore for all days of open huntingClose the tribal lands to all other outside visitors to avoid a spectacleRequire a 5 mile 'safe zone' from shore for initial strikes I hope this is helpful to NOAA and the NMFS who are overseeing this process. I felt a bit of background from my experiences in Alaska would make me seem a more reliable source of comment SHELE KINKEAD 360-374-6145 HOME	Comments noted.
1308	e_Klazmer_7-22-15	Dear NOAA,I am writing to advocate number 1, no whaling because there is not enough information in the deis with regards to ocean acidification, climate change, and how it will effect the whales food source.	Comments noted.
1309	e_Klazmer_7-22-15	Also, the Eastern North Pacific grey whale needs to be protected as a complete separate stock.	ENP gray whales are recognized as a population stock under the MMPA.
1310	e_Klazmer_7-22-15	There is not enough oversight if there are numerous strikes in the harvesting. This includes taking any by-products off the reservation. We do not want the state of Washington to be declared a whaling state or country.	All of the action alternatives include provisions for observers and enforcement as described in Subsection 2.3.2.2.12, Other Environmental Protection Measures.
1311	e_Klazmer_7-22-15	It will set a dangerous precedent as other First Nations are watching this closely as well as the rest of the world.Sincerely, Blake Klazmer	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1312	e_Klock_4-27-15	We would like to express our concerns on the Makah (gray) whaling proposal, we are strongly opposed to any whale hunting as we believe it is not necessary. It is not a essential food source for the Makah	Comments noted.
1313	e_Klock_4-27-15	and we fear if the Makah obtain the right to hunt it would open the potential of other nationalities wanting the same.	Please see the response to frequent comment # 4 regarding the

Sort #	Commenter Code	Comment	Response
			precedential effect of a waiver internationally and domestically.
1314	e_Klock_4-27-15	We who live here along the coast have seen the gray whale population go from the endangered species numbering 2,000 back in the early 1960's (by my husband and his father) to the now estimated 20,000 taking a full generation to recover. Now more than ever they are under pressure with the increased marine traffic and public use, let them be and let them live. We believe there is much money produced by the whale in tourism, benefitting the state of Washington and the costal communities from our state to California and Hawaii. We feel that this population could be hunted out within 4 to 5 years. The public would rather see them in whale watching and with scenic pictures instead of wholesale slaughter for other countries to purchase.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1315	e_Kohler_3-17-15	Dear Sir or Madam, please oppose the plan to slaughter whales by the Makah: The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1316	e_Kohler_3-17-15	If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minke, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young "whale" name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1317	e_Kohler_3-17-15	If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1318	e_Kohler_3-17-15	The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation. Thank you for your consideration. Sincerely Amala Kohler	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.

Sort #	Commenter Code	Comment	Response
1319	e_Kozlovich_3-14-15	Please do not grant the Makah tribe any whaling rights. "Culture" and "tradition" are often used as excuses to justify the subjugation and murder of women, minorities, and animals. I believe these are the facts in this case: 1. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the desire of the Makah Tribe to revive its whaling tradition.
1320	e_Kozlovich_3-14-15	2. The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1321	e_Kozlovich_3-14-15	3. If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1322	e_Kozlovich_3-14-15	4. If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1323	e_Kozlovich_3-14-15	5. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1324	e_Kozlovich_3-14-15	6. The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales The WCA and

Sort #	Commenter Code	Comment	Response
			MMPA prohibit commercial whaling by U.S. citizens.
1325	e_Kozlovich_3-14-15	7. There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe
1326	e_Kozlovich_3-14-15	8. If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.
1327	e_Kozlovich_3-14-15	9. The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1328	e_Kozlovich_3-14-15	10. Sea Shepherd notes that there are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1329	e_Kozlovich_3-14-15	11. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1330	e_Kozlovich_3-14-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
1331	e_Kozlovich_3-14-15	12. Whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely. Respectfully, Carol Kozlovich Redondo Beach, CA	Comments noted.
1332	e_Kraus_3-9-15	TWIMC at NOAA: I am writing in strong protest against any allowance of killing of gray whales, no matter what a tribal cultural tradition may have been. Historically the whale products were essential for survival, when tribes were isolated, which is no longer true, of course. Killing wasn't to honor, it was to use every body part for survival's sake. It is not a tradition essential to tribal identity, and I studied Pacific Northwest Aboriginal cultures in depth last year before a trip to Haida Qwaii.	Comments noted.
1333	e_Kraus_3-9-15	Additionally, scientific studies have now found that Cetaceans, the whale and dolphin family, are possibly or even probably as cognitively advanced as we are, merely limited in showing us this by their life in the sea. Studies to this effect are summarized in a recent book by Virginia Morell (a highly regarded National Geographic, Science, and Smithsonian science writer), ANIMAL WISE, Crown Publishing Group, 2013, which I highly recommend to you and to the tribal elders of all Pacific Northwest First Peoples. It may certainly change the way they think about this sadistic endeavor. As you may know, gray whales are unique in that they bring their young to boats of people visiting to see them in the lagoons of Pacific Baja Sud, Mexico. They demonstrate what can only be construed as curiosity and an eagerness to connect with mammals of another species in some way, to show and receive affection. It is an extremely moving experience, and one which you and some Elders might consider embarking upon someday (google: R.O.W. and look for Gray Whale Expeditions in Baja). I would make a contribution to an Elder's participation if it were with the understanding that it might impact their tribal position on this "cultural harvesting" of these magnificent and already stressed (by loss of the ice pack in the far North) mammals.	Comments noted.
1334	e_Kraus_3-9-15	The grey whale current numbers are deceptive, of course. Their food source will be dwindling without question, as the ice pack melts and undermines the plankton availability, and as such they are facing starvation conditions. Do not assume that their numbers are stable. Do not assume we can afford to kill any of them. Their breeding rate is slow, and perhaps a third or more of the young perish in their 5000 miles migration up to the Bering Straits. They are also imperiled by orcas, whose habit of killing the young is growing. With all of this in mind, the killing of any of this species, deliberately, is not only cruel, which it surely is, but highly unwise if we are to respect our own humanity and the state	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.

Sort #	Commenter Code	Comment	Response
		of the world. Respectfully, Jennifer Katze Kraus MD 4708 Keswick Rd. Baltimore, MD 21210-2323 410-235-7733	
1335	e_Kronen_3-27-15	My name is Eva Kronen. I live in Eugene, OR. I am opposed to the killing of gray whales by anyone and in this case, a few individuals of the Makah Nation. I believe that their culture and traditions will be stronger if they in turn become stewards of Mother Earth and protect the great whales from harm. They do not need whale meat for sustenance.	Comments noted.
1336	e_Kronen_3-27-15	I have done much reading and it appears that many Makah are also opposed to this hunt. Whaling is illegal yet continues. It is time that the US does what it is supposed to do in protecting these animals and the environment they live in. No to allowing the Makah to hunt the gray whale. Respectfully,Eva Kronen	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1337	e_Kronen_6-15-15	To Whom it May Concern,I would like to comment against allowing the Makah Tribe to resume killing Grey Whales off the coast of Washington.I have been fortunate enough to visit the birthing grounds of these whales and have experienced the phenomenon of some of the whales coming up to the boat I was in and appearing quite curious about us and seemingly wanting to have contact. These whales exhibit an intelligence that can be compared to humans. These whales would be hunted.	Comments noted.
1338	e_Kronen_6-15-15	Whales, all whales, still risk an uncertain future: global warming, acidification of the oceans, human pollution, all take their toll. The recent oil spill is Santa Barbara Ca. is an example of the constant threats to these creatures.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1339	e_Kronen_6-15-15	I respect the Makah's wish to resume their ancient tradition. However, cultures in order to continue to thrive need to be responsive to changing times.	Please see the response to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1340	e_Kronen_6-15-15	Although these whales may be off the threatened list, they are still threatened and there is no way to know which Gray whale is going to be harpooned and tortured until it dies. I believe that your organization can support the Makah to become stewards of these majestic creatures, show us how to protect their environment, teach the whales history and share it with the world.	Comments noted.
1341	e_Kronen_6-15-15	They can start whale watching businesses instead of killing them. They can be the stewards, not the slaughterer. Thank you for your consideration of my comment, Eva Kronen	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1342	e_Kuba_7-16-15	"tradition will reconcile people to any atrocity". George Bernard Shaw. To persecute, terrorize and murder any species of creatures for tradition or custom	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>is not different than the persecution of other humans because of their race, origin, etc. It is even more absurd and ridiculous to claim that such barbarism is for survival when many alternatives are available. Furthermore, It is inexcusable to continue the unnecessary and extremely violent blood shed of innocent creatures to whom we share the earth with to treat them in such disrespect and contempt. Whales have been hunted and murdered for centuries and for all kinds of human traditions and customs. It is time to put an end to such barbarism, it is time to evolve and seek and replace this savage and horrific acts with non violent, humane alternatives which exist. Please ban permanently the horrific and monstrous murder of whales by Makah tribes and any other tribes. The animals of the world don't belong to any exclusive tribe or people to do what they wish with them. The whales need protections from this and all others who wish to harm them. Do not allow or give any particular group or tribe, "special privileges" to harm and murder whales while the Majority of Americans oppose this savage atrocities. We no longer live in primitive times. Defend Animals Coalition Alfredo Kuba, President 650-965-8705 defendanimals@gmail.com</p>	
1343	e_Lam_5-4-15	<p>To whom it may concern, As a tax paying citizen of Canada, i am very concerned about the precedence that may be set in allowing special interest groups to kill whales. As you well know we narrowly avoided extinction of the species in question in the past. This needs to remain an issue of conservation and NOT of politics. All i can do is ask that you tell the NOAA Fisheries to issue a 'No-Action' ruling for the request from the Makah tribe to resume whaling. The deadline for public commenting is on the 11th of June! In then end this choice to preserve marine mammals will benefit everyone including the Makah tribe. Please think of everyone and not play favourites or cater to special interests, our environment is under constant attack and we have a duty to protect it. Kindest regards, a very concerned citizen of the earth and tax paying Canadian. o..</p>	<p>Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.</p>
1344	e_Lambert_3-13-15	<p>I am opposed to allowing the Makah tribal members a variance on the moratorium. I feel the reasons for actually killing a whale by the tribe have long since become untenable. If the tribal members feel they need to have a connection to hunting whales they could vary the outcome to a radio tagging expedition using traditional methods. this would be a win-win situation for both environmental interests and the Makah traditionalists. i do understand the perceived need to preserve traditions and culture but realize that an actual killing of numerous whales is not subsistence related. -- Ken Lambert</p>	<p>Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.</p>
1345	e_Larsen_5-26-15	<p>NO to the gray whale hunt!!! Bodil Hegnby Larsen, Rimini - Italy</p>	<p>Comments noted.</p>

Sort #	Commenter Code	Comment	Response
1346	e_Larson_5-27-15	Good evening. I attended the public meeting on the Makah's request in Port Angeles on April 29, 2015. I'm asking you to deny their request to hunt, and to adopt alternative 2.3.1, No Action.	Comments noted.
1347	e_Larson_5-27-15	There are too many moving parts in play now for hunting to be a safe and reasonable option; the effect of climate change and warming waters alone is an enormous unknown. The reasons behind the unprecedented gray whale deaths between 1999 and 2001 are still unknown, and could certainly come into force again. The health of the population seems tenuous and fragile; this doesn't seem like the right time to deliberately reduce it. Thanks for your attention. Kate Larson Port Angeles, WA 98363	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1348	e_Lee_4-30-15	Thank you for consideration of this appeal attached below, my testimony in-full from the April 29th Port Angeles hearing. Gary M. Lee 4-29 hearing.txt ** Aloha Ahihi to all the caring attendees & noble Administrators. My name is GARY MICHAEL LEE, and I voyage here ..... on this grand & wonderful day, from the Garden Island of Kauai, in the Ancient Kingdom of Hawaii. Holding only appreciation for your clean & peaceful forum, where even those of differing views, may assemble with intelligence, each having equal freedom to speak, and their passion be heard. As a visitor here, it is not my place to argue or to judge. I can however, offer an authentic experience, that you may find valuable? As the Honorary Konohiki, of the Auwai on the Delta of Wainiha, that it was in service to the Waters, that truly made a man of me. We struggled at the base of Waialiali for over a decade, transforming a mosquito-infested swamp into a lush botanical garden, efficient enough to not only restore irrigation to farmers, but a healthy enough habitat to support the return of critically-endangered species. Amongst those Akamai in Polynesia, the native peoples who hold themselves out as the great makaainanana, the "Caretaker's of the Land", do so without face. The claim now only be a pretence hoisted upon the mistakes made by their Ancestors. Long ago, when the Captains Vancouver & Cook engaged in the sandalwood trade through these very straights, it was with eager complicity by the Hawaiian tribes. The deal was, ... tropical trees in exchange for .... guns. And all the sanctimonious stewardship? .... be damned. They nearly entirely clear-cut their old-growth hardwood forests on every island, for weapons to advantage their in-fighting. Today when tourists visit expecting "paradise", they are shocked, and ask ..... "where is the teak, the Koa, what happened to the picture-postcard jungles?" A lonely Banyon stands in the town square, with young/brittle Albizia in the hills. Gone are the Ironwood, the Kukui, the Ebony and so many forgotten floral species. Mostly only skinny palms to be seen, all lined up in orderly rows. The few	Comments noted.



Sort #	Commenter Code	Comment	Response
		<p>giants of trees that were spared, are DEEP in the interior, ONLY because the early Hawaiians didn't have chainsaws &amp; tractors. THIS is the legacy that can never be undone with misleading stories &amp; false legends. I implore the First Nations of the Pacific Northwest to not make a similar mistake. Mahatma Gandhi so eloquently stated .... "The greatness of a Nation can be judged by the way it's animals are treated". Clans of sensitive Empaths around the globe are in a time of severe crisis. We reach out to the vestige of the natural world, to attempt a reconnection with our genuine humanity within. We can traditionally find this resonance via reminders from allied TOTEMS. For whatever particular reasons, the contemporary global consciousness has selected a handful of internationally-recognized creatures, to symbolize a focal point, in which we can collectively relate &amp; gather around, to revive our lost sense of qualities like strength, family, grace, and compassion. The Elephant, the Rhino, the Albatross, the Wolf, the Pangolin, the Eagle, the Turtles, the Dolphin, and , the Ancient Sacred Whales, embody the essential/elemental characteristics that may very well hold the guidance that saves US from extinction. THAT is but one of the reasons why it is SO VERY important, that the origination of respect for the lives and rights of the Animals, is drawn from the same well that quenches the thirst for respect, that we need foster in human affairs! NATURE is where TRUELY spiritual people LOOK &amp; LISTEN for inspiration &amp; light, when the all-around horrific behaviour of other faith-based beliefs tear our souls down into certain division and darkness. The very survival of endangered/loveing PEOPLE hinges upon being able to find respite &amp; harmony amongst majestic/old trees, pristine Waters, and precious wildlife. THIS preservation is the only hope for many. The befallen fate of even ONE on the iconic Totem, is a blow more egregious to worldwide sympathizers, than the now commonplace/daily reports of slaughter of COUNTLESS innocents in on-going wars. After all, that's just what primitive humans DO. Right? So why should we sever TRADITION? Views on the Cetaceans however, ..... have somehow risen to the position of "Chosen Animal". The Makah will NEVER AGAIN be able to stand tall with the integrity and respect you've long-n-hard EARNED, if you engage in a path of short-sighted blunder, without regard to the longer term consequences, same as your Hawaiian brothers &amp; sisters. Today, ALL things authentically Hawaiian lay in desecrated ruins. Plastic &amp; radiation in the surf. Sugar-cane &amp; pineapple plantations as far as the eye can see. Monsanto's ground-zero for GMO testing, and the Navy's sonar drills WITHIN the Humpback whale's sanctuary. No amount of ceremonial ritual comforts the tortured land &amp; creatures. Blessings serve only to pacify &amp; rationalize otherwise appalling</p>	

Sort #	Commenter Code	Comment	Response
		<p>perpetration's. I would never be so presumptuous as to tell ANYONE what they should do. The best I can do, is often to simply float a contemplative question. For when the wrong question is asked, all the wordy answers matter not. So in conclusion, I humbly pose that the question of the hour, is NOT "what are the numbers of Leviathans that can withstand a sustainable take", any more than a civilized culture would ask ..... "how many of our 1st-born children should we sustainably sacrifice?" I have no magical insight as to WHEN the magnitude of human-caused pain &amp; suffering will reach a tipping-point, only that it is obvious to those who are aware, that we collectively, ALL OF US, are teetering on the edge. I beg your thoughtful consideration ..... that the eras when ugly violence could go unseen &amp; unfelt, are now history. Today for example, the whole world sees, and lumps ALL the Japanese to shame for the "traditional cultural practice" that is the atrocity in the Taiji Cove. BECAUSE, the dolphin has risen to stature on the International Totem! Today, global boycotts are mounted against the Chinese for their hideous pursuit of ivory. BECAUSE, the Elephant is recognized as divine on the International Totem! When things once genuinely sacred, become commodified, as is whaleing, the rationale for plunder &amp; killing on EVERY front is given license to just go on and on with hardly any human pause or reflection. But the Earth reflects. I assure you, .... the Earth is reflecting. It is with righteous aspirations that the Makah Tribe , (or ANY peoples) want out from under ANY heavy hand of outside rule. But is the resumption of whale hunting, the best way to demonstrate your independence? Just because one is able, does not always mean the wisest choice, is that one should. I appeal to this august Board to sense your heart-of-hearts highest calling. Mahalo Nui Loa. And, I salute the valiant defenders of the gentle beings who's crys are drowned-out by brute force. Krup Jai LiLi Duhh. Chog Li Duhh . CHOG LI DUHH to evolved Kindreds &amp; the magnificent Natural World! Sincerely, Good Luck!</p>	
1349	e_Lee_7-31-15	<p>To whom it may concern: Please, honor the treaty and that allows the Makah tribe to hunt the hump-back whale. But should any whale be killed simply for the sake of killing such that the meat and/or carcass of any Makah harvested whale is left to rot; for such disrespect I would support reducing their self-imposed quota by one each upon each whale taken in waste. Please also be advised that this comment is coming from a US citizen who is also a citizen of the Cherokee Nation of Oklahoma. -- Stephen Lee</p>	Comments noted.
1350	e_Lemieux_5-18-15	<p>Dear Mr. Stone, We need more time to read the 1,300 plus pages for comments and digest the contents. Many thanks, ~Leah Lemieux I'm writing to urgently</p>	Please see the response to frequent comment # 16 regarding the amount

Sort #	Commenter Code	Comment	Response
		request a much needed 60 day extension on the comment period for the Makah DEIS.	of time allowed to comment on the DEIS.
1351	e_Lenton_3-10-15	Dear NOAA, My name is Ashley Lenton and I am a resident of Seattle. I'm begging you to spare the lives of the Grey Whales in our shared waters. Here is some information points that hope you will consider: 1.Tradition and culture must never be a justification for the killing of whales and dolphins or for violating international conservation law.	Comments noted.
1352	e_Lenton_3-10-15	2. In 1998, Sea Shepherd exposed documents released under the Freedom of Information Act that exposed negotiations between the Makah and the Japanese whaling industry that would have sold meat from the "traditional" hunt to the Japanese market (The Japanese did not sent their whaling fleet to the Antarctic this year).	Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.
1353	e_Lenton_3-10-15	3. As Makah Tribal Elder Alberta Thompson said at the time, "This is not tradition. It was part of our culture to weave baskets and to pick berries in the mountains. It was part of our culture to speak our language. No one want to weave baskets or to speak Makah. What they want to do is to kill a whale with an anti-tank gun and that has never been a part of Makah culture."	Comments noted.
1354	e_Lenton_3-10-15	So, in short....killing in the name of culture is still killing... and in this case, for profit. We all rely on the health of our Oceans to survive. By allowing the killing off those that inhabit the waters, we can ensure our own demise is not far off. Please ask yourselves this: Are the Whales not entitled to live out their lives as best they can like the rest of us ??? My answer to that question is, YES. No reason given will EVER justify a necessity to take an innocent life. Thank you and I know in your heart of hearts, YOU KNOW what the right thing to do is.Sincerely,Ashley Lenton	Comments noted.
1355	e_Leon_4-25-15	To whom it may concern. As a concerned American citizen, I am writing today in opposition to any future whaling by the Makah tribe. The International Whaling Commission specifically allows aboriginal whaling when tradition of whaling is "unbroken", which in the case of the Makah tribe, they have voluntarily broken their tradition.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1356	e_Leon_4-25-15	There is no longer a need for whale meat for food purposes.	Please see the response to frequent comment # 3 regarding the Makah

Sort #	Commenter Code	Comment	Response
			Tribe's desire to revive its whaling tradition.
1357	e_Leon_4-25-15	The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. This is not culture. The US cannot allow trade of whale meat to a country who is breaking international law by the continuation of whaling in the Southern Ocean. How can the Makah tribe consider this culture? We cannot join in with whaling nations such as Japan, Norway and Iceland. We need to be the voice of conservation, not the voice of slaughter.	Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.
1358	e_Leon_4-25-15	Whales should be protected not slaughtered for any reason whatsoever. These highly intelligent mammals need our continued protection as a precious gift to our Earth, not a resource to be used as we see fit. We have to evolve and realize that protection of these species should be of the utmost importance. I firmly oppose any future whale slaughter by the Makah tribe. Sincerely, Chemaine Leon	Comments noted.
1359	e_Levine_6-1-15	Please stop the whale hunt. Animals have a right to live on earth and in our oceans without being threatened, slaughtered/killed/hunted. People use religion and culture to kill, and slaughter animals, please stand up and be a voice to the gray whales who are part of our ecosystem and matter. Their life matters, please say no to the request of whoever wants permission to kill them. Murder is murder, life is what matters, and the gray whale has a right to live. Respectfully Submitted, Jacqueline Levine	Comments noted.
1360	e_Lewis-Smith_3-8-15	Whales should not be killed. I support option 1	Comments noted.
1361	e_Lopuszynski_3-14-15	Dear Sir or Madam, I would like to register my opposition to any level of gray whale hunting by the Makah tribe. I believe that all people in this century have the responsibility to protect wildlife and their habitats. There is no evidence that gray whales will have better conditions in the future without every possible protection, both for them and their habitat. There is evidence that gray whales have struggled for survival in the past. The Makah tribe should join the community of people trying to improve the whales' chances for future survival rather than trying to resurrect a practice that was only appropriate in the past, when whaling was tied to their diet and contributed to their sustenance. Many other tribes have demonstrated their willingness to actively protect the environment.	Comments noted.

Sort #	Commenter Code	Comment	Response
1362	e_Lopuszynski_3-14-15	Because there is evidence that the Western Pacific grays have been known to migrate to areas off the coast of Washington, any hunting could not guarantee that endangered whales would be protected. Allowing whale hunting will be bad for the whales and bad for the tribe. Thank you. Barbara Lopuszynski 812 Edgecliff Dr Langley, WA 98260	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
1363	e_Lord_5-6-15	It's sick and wrong! Times have changed. Those whales do not deserve to die. Especially not for "ceremonial" purposes.	Comments noted.
1364	e_Loucks_6-10-15	I am writing to express my total opposition to permitting Makah to kill grey whales in the Pacific Ocean off of Washington. Whaling has not been part of this culture for 90 years, which means that no Makah currently alive ever engaged in it as part of their tribal culture.	Comments noted.
1365	e_Loucks_6-10-15	It is the 21st century, and I am sure the Makah avail themselves of the conveniences of the day. They don't need to kill whales!	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1366	e_Loucks_6-10-15	They would benefit themselves much more economically if they pursued whale watching and other tourist friendly/educational activities related to their environment and history.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1367	e_Loucks_6-10-15	Two of the three populations of grey whales in the area suffer shrinking numbers. There is no way the Makah "hunters" could distinguish which are which.	Comment noted.
1368	e_Loucks_6-10-15	In addition, their illegal kill of a whale a few years ago resulted in prolonged suffering for the whale, plus they failed to even haul it in, proving that they lack skill, and that they would not only be killing these highly intelligent creatures, but would be causing horrendous suffering.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1369	e_Loucks_6-10-15	Whales are under threat, as are all marine mammals, from pollution, noise, and the effects of climate change. Adding another completely unnecessary source of stress for them is unconscionable. You are supposed to protect marine wildlife! Please do so! Cynthia Loucks Prescott, AZ	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1370	e_Lukins_7-8-15	Dear Steve Stone, I am writing in an effort to call attention to the great service our grey whales provide to the world we live in. These giants provide untold and un-understood value to the oceans that they live in and to the wider world. When the Makkah Tribe historically hunted these defenseless creatures, they had no idea of the wider impact that their killing had. We now have more knowledge. We should use this knowledge to ensure health to our whales, our oceans and our world. The killing should stop. It is time to develop traditions that harmonize	Comments noted.

Sort #	Commenter Code	Comment	Response
		with the modern world. Thank you and sorry that this email is past deadline. Most Respectfully Yours, Sue Lukins Bainbridge Island, WA	
1371	e_Mahina_7-30-15	Dear Noaa, "The greatness of a nation and its moral progress can be judged by the way its animals are treated." - Mahatma Gandhi I am adamantly OPPOSED to allowing the Makah tribe to hunt whales for any reason. I urge you to choose this: A no-action alternative - continue to prohibit whaling. On July 7, 2013, a group of scientists from The University of Cambridge declared non-human animals as conscious. For that reason, alone, we should allow these beings to live free and without human indignities (such as being hunted/slaughtered), and rather, take measures to protect them and their families to live out their lives in peace. <a href="http://fcmconference.org/img/CambridgeDeclarationOnConsciousness.pdf">http://fcmconference.org/img/CambridgeDeclarationOnConsciousness.pdf</a> We declare the following: "The absence of a neocortex does not appear to preclude an organism from experiencing affective states. Convergent evidence indicates that non-human animals have the neuroanatomical, neurochemical, and neurophysiological substrates of conscious states along with the capacity to exhibit intentional behaviors. Consequently, the weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness. Nonhuman animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates." Thank you, Jenna Mahina	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1372	e_Mann_4-18-15	Dear Mr Stelle, 2015 MAKAH DEIS I wish to strongly object to the Makah Tribe request to resume hunting gray whales. I understand there is a provision under the Draft Environmental Impact Statement not to authorize the Makah gray whale hunt, which is listed as Alternative 1. I have travelled on many occasions to the West Coast especially to witness the majesty of gray whales off the coasts of Mexico, California and Vancouver Island and fully appreciate that I am lucky to be able to do so after they so narrowly survived being hunted to extinction. The spectacle of the gray whale migration now forms the basis of a benign multi-million dollar whale watching industry. The proposed hunt by the Makah would be contrary to the Marine Mammal Protection Act and would add an unnecessary threat to the recovering gray whale population.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1373	e_Mann_4-18-15	In addition, there is the very real potential for an individual from the critically-endangered Western Pacific gray whale population, estimated to number fewer than 100, to be killed. The hunt would also threaten individuals from the rare Resident Pacific Coast Feeding Group population.	Please see the responses to frequent comments # 12 regarding risks to WNP gray whales and # 13 regarding risks to PCFG whales.

Sort #	Commenter Code	Comment	Response
1374	e_Mann_4-18-15	The Makah Tribe are invoking their Treaty of Neah Bay in order to start killing whales. Article 4 of the Treaty With The Makah 1855 allows for "The right of taking fish and of whaling or sealing at usual and accustomed grounds... in common with all citizens of the United States". Clearly the right to go whaling in 1855 then applied to all citizens of the United States, not just the Makah, however, whaling for almost all U.S. citizens has since been prohibited by the Marine Mammal Protection Act. In this case, in this day and age, the MMPA should also apply to the Makah.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1375	e_Mann_4-18-15	To put that in context, Article 13 of the Treaty states that "The tribe agrees not to trade at Vancouver's Island or elsewhere out of the dominions of the United States". I would find it hard to believe that, these days, the Makah do not trade with Vancouver Island just across the water, or even the wider outside world, despite it being forbidden by the Treaty. In other words the Treaty has been superseded. The Makah should not be allowed to resume hunting whales, gray whales should continue to be protected by the Marine Mammal Protection Act and whaling should remain outlawed. Yours sincerely, Robert Mann	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1376	e_Mar_et_al_7-21-15	Dear NOAA we vote for alt #1 for the following reasons;-1-NMFS needs a complete EIS of the endangered Western North Pacific stock of which only 140 remain. It has been noted that at least 22 follow some of the same migration path as the Eastern North Pacific stock.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1377	e_Mar_et_al_7-21-15	2- NMFS needs to complete an EIS of the 200 residents. These should be classified as two separate stocks.	Please see the response to frequent comment # 5 regarding the stock status of PCFG whales.
1378	e_Mar_et_al_7-21-15	3-There is no longer a need to hunt for subsistence as the Makah stopped when the grays were nearly extinct for 70 yrs. Also the archaeological dig at Ozette reveals 80% of the bones were from a diet of Northern fur seals.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1379	e_Mar_et_al_7-21-15	4-In April of '95 NMFS was notified by the Makah they had the option to build a processing plant & sell whale meat to markets outside US.	Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.

Sort #	Commenter Code	Comment	Response
1380	e_Mar_et_al_7-21-15	5-There are no enforcements or regulations of whale meat or handicrafts taken off the reservation.	All of the action alternatives include provisions for observers and enforcement as described in Subsection 2.3.2.2.12, Other Environmental Protection Measures.
1381	e_Mar_et_al_7-21-15	6-Treaties do not address climate change, toxic blooms, oil drilling or spills, acidification, wave energy or vessel disturbance,	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1382	e_Mar_et_al_7-21-15	7-NMFS does not address the protection of the same 33 whales in the U & A (usual & accustom area) in the marine sanctuary. This includes returning mothers & calves to nurse & rest,	DEIS subsection 3.4.3.4.3 (PCFG Abundance and Trends) notes that there are, on average, 33 gray whales identified in the Makah U&A per year. These are not the same whales year after year, as is clearly stated in the DEIS.
1383	e_Mar_et_al_7-21-15	8-The 9th District Court of appeals states the treaty refers to 'in common' that establishes a relationship for our fair share that we choose for whalewatching, aesthetic values & that the whales must be of their fullest population potential.	The purpose of the DEIS is to analyze potential impacts of alternatives, to inform decision making under the MMPA and the WCA not to explore or resolve legal debates.
1384	e_Mar_et_al_7-21-15	9-In 2004 the Nat`l Congress of American Indians passed a resolution giving full support to the Makah hunt including other 'effected 'tribes. Many coastal tribes here & in Canada are watching closely. It is highly likely others will follow suit. This could expand internationally as well & set an unwanted precedence.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1385	e_Mar_et_al_7-21-15	10-In the Sept 8, 2007 hunt the whale bled to death over 20 hrs & sank. The Tribal Council was implicated by all 5 whalers yet no action was taken by the Tribal court. Thank you for your time! DJ Mar, Blake Klazmer, Monica Reid , Veronica Smith, Phylis Chinn	The DEIS describes the NMFS investigation of the illegal hunt, including allegations of tribal council endorsement (see Subsection 1.4.2, Summary of Recent Makah Whaling--1998 through 2014). The tribal council cooperated with the agency as it conducted its investigation and analysis under NEPA. NMFS' Office of Law Enforcement did not find evidence that the tribal government



Sort #	Commenter Code	Comment	Response
			sanctioned the unauthorized hunt. The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct.
1386	e_Marks_3-21-15	<p>Dear Regional Administrator Stelle: Please accept the following comments on the Makah 2015 DEIS. A hard copy has also been submitted via first class mail. Respectfully submitted, Rick E. Marks &amp; Bradley D. Gilman Robertson, Monagle &amp; Eastaugh 1810 Samuel Morse Drive, Suite 202 Reston, VA 20190 Attachments: Makah 2015 DEIS Comments from Marks &amp; Gilman, ROMEA (FINAL).doc 41.0 KB March 19, 2015 ROBERTSON, MONAGLE &amp; EASTAUGH, PC Washington, DC and Virginia Office 1810 Samuel Morse Drive, Suite 202 Reston, Virginia 20190 (703) 527-4414 (office) (571) 313-1973 (fax) William W. Stelle, Jr. Regional Administrator National Marine Fisheries Service National Oceanic and Atmospheric Administration 7600 Sand Point Way, NE Building 1 Seattle, WA 98115-0070 via first class mail and email to Makah2015DEIS.wcr@noaa.gov RE: Comments on the Makah Whaling 2015 DEIS Dear Regional Administrator Stelle: Please accept the following comments for the 2015 DEIS on the Makah Tribe Request to Hunt Gray Whales. Our staff at ROMEA shares more than 50 years of experience with natural resource issues in Washington, D.C. and around the nation, much of that dealing with the Marine Mammal Protection Act. We also work closely with the Makah, both in Washington, D.C. and in Neah Bay, on various natural resource issues. We Support Alternative 2 – the Makah Proposed Action Alternative Alternative 2, the Tribe's Proposed Action Alternative, embodies a conservative, MMPA/WCA/ICRW-consistent approach that recognizes the Treaty of Neah Bay which expressly secures the Makah right to hunt whales. Specifically, Alternative 2 --</p> <ul style="list-style-type: none"> <li>• Protects Makah reserved rights to resume traditional hunting of gray whales</li> <li>• Protects gray whales as a functioning element of the ecosystem</li> <li>• Provides for public safety, enforcement, and observers</li> <li>• Enhances scientific data collection, monitoring, and gray whale management</li> <li>• Provides training, certification and permit processes for tribal whalers</li> <li>• Implements certain restrictions on gray whale product use/distribution</li> <li>• Strictly limits hunt time/area, protects mother/calf pairs, WNP, &amp; PCFG whales</li> <li>• Strictly limits the number of whales that may be struck &amp;</li> </ul>	Comments noted.

Sort #	Commenter Code	Comment	Response
		harvested ● Provides consistency with the IWC-approved gray whale catch limit ● Permits hunting of gray whales only and is designed to maintain OSP ● Will have negligible impacts on the overall marine environment	
1387	e_Marks_3-21-15	<p>We Recommend Summary Table ES-1 be Removed from the Document We are concerned that Table ES-1, included in the Executive Summary (pp. ES-4 to ES-8), does not accurately reflect the narrative contained in Section 4: Environmental Consequences. We consider the inclusion of this table an unforced error by the Agency and it should be removed from the document because it is misleading to the public. Specifically, we believe the Agency’s categorical statements contained in the “Impact and Magnitude Relative to No-Action Alternative” portion of the table are not accurate for three “Resources” categories – “Marine Waters”; “Pelagic Species and Communities”; and “Benthic Species and Communities”. In each of these cases, the Agency concludes that “all action alternatives are likely to increase the risk of adverse impacts” and in two of the cases that “Alternative 2 would likely have the most impact”. These over-simplified conclusions are misleading and provide no new information when compared to the actual content of the detailed narrative and thus, reflect poorly on the Makah Action Alternative 2. In the case of “Marine Waters” – the narrative contains the following conclusive statements (at p.4-43): “These effects would extend over a relatively short period (likely several hours) and would have a very low probability of affecting the marine environment in any detectable manner for more than a day or two” and “the expected impact to the marine environment from carcass disposal would be negligible in any given year or over a period of years.” In the case of “Pelagic Species and Communities” – the narrative contains the following conclusive statements: “Because any disturbance would be minor, localized and short term, it would be unlikely to result in an appreciable change in the presence, distribution, or abundance of fish and other pelagic species in the project area, compared to the No-action Alternative (p. 4-55); and “Given that consumption of pelagic prey by gray whales is not likely a significant factor in structuring pelagic communities, as described above, even this outcome would not affect pelagic communities in the project area.” (p. 4-56). Finally, for “Benthic Species and Communities” – the narrative contains the following conclusive statements: “the high capacity of these species for growth and recolonization suggests that hunt-related disturbance effects, if any, would be short-lived. Similarly, any direct disturbance to kelp rafts would likely be negligible relative to the background physical processes affecting the generation and distribution of kelp rafts in the project area.” (P. 4-56 to 4-57) Based the inconsistencies detailed</p>	<p>We disagree with the suggestion to remove the table and its characterization as an “unforced error.” CEQ regulations (e.g., sections 1502.14, and 1502.16) require an EIS to include a succinct summary of the differences in impacts among alternatives</p> <p>The specific sections highlighted by the commenter as misleading are in fact accurate – while Alternative 2 would have minor impacts on these resources, the impacts would be greater than under the other action alternatives.</p>

Sort #	Commenter Code	Comment	Response
		above we recommend the summary Table ES-1 be deleted, and readers directed to the more accurate and comprehensive Table 4-15. Summary of Effects of the Various Alternatives (pp. 4-274 to 4-296).	
1388	e_Marks_3-21-15	We Request Amending the DEIS Narrative to Accurately Reflect Passage of the Concurrent Resolution (H. Con. Res. 267) Expressing the Sense of Congress Upholding Makah Treaty Rights The DEIS as currently written does not reflect the bipartisan action taken by the full House Committee on Resources on October 19, 2005. At that time, the Committee voted 21 to 6 in favor of H. Con. Res. 267, "Expressing the Sense of the Congress Upholding the Makah Tribe Treaty Rights". This resolution was favorably reported to the full House of Representatives in the 1st Session of the 109th Congress. The omission of H. Con. Res. 267 in the narrative is particular disconcerting in light of the fact that the Agency does include reference to a prior 1996 action taken by the House Committee on Resources opposing Makah whaling (DEIS p. 1-31). We feel it is appropriate for the Agency to fairly, accurately and transparently reflect the current status of the Congress on this issue.	Comments noted. We will consider adding the information cited.
1389	e_Marks_3-21-15	We Urge You to Expedite the Initial Waiver Determination MMPA Section 101(a)(3)(A) provides your office with the authority to issue the initial waiver determination provided the decision meets specific criteria related to best scientific evidence, consultation with the Marine Mammal Commission (MMC), consideration of the needs of gray whales, and consistency with Section 2 of the MMPA. After 20 years of Makah and Agency efforts on this issue (including 10 years since the Tribe submitted the waiver request in February 2005), substantial revisions and a second DEIS specifically designed to reflect updated scientific information, input from the MMC, continued IWC approval of the aboriginal subsistence gray whale catch limit (most recently for the period 2013 to 2018), and federal trust responsibilities pursuant to the Treaty of Neah Bay -- it is abundantly clear you are on firm ground to issue an initial and favorable waiver determination. We urge you to take such action, consistent with MMPA Section 101, and as quickly as you possibly can. We appreciate the opportunity to comment on the Makah 2015 DEIS and look forward to your responses to our concerns. We also look forward to working with you and your staff to support the treaty-reserved whaling rights of the Makah people. Rick E. Marks Respectfully submitted, Bradley D. Gilman	Comments noted.
1390	e_Martinez_7-30-15	NOAA officials, I respectfully request that you allow ZERO whales to be killed by the Makah tribe. If this is not an option, then please choose the option with the	Comments noted.

Sort #	Commenter Code	Comment	Response
		permit that allows the least amount of whales to be murdered. Thank you, Jennifer Martinez Annandale, Va	
1391	e_Massebeau_3-7-15	Dear NOAA, I am writing in opposition to your granting the Makah a waiver and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington and Oregon Coastlines. In 2015 there is no "need" to kill whales. The Makah Tribe has access to food, clothing and traditional history. "Tradition" is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1392	e_Massebeau_3-7-15	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Comments noted.
1393	e_Massebeau_3-7-15	If you allow the Makah to kill whales you will be breaking a law, weakening the MMPA	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver.
1394	e_Massebeau_3-7-15	and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the livelihood of whale watching companies, and tourism for an outdated tradition has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon and Washington Coastlines.	The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching.
1395	e_Massebeau_3-7-15	In closing I want to reiterate that I oppose any permit to allow the Makah to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason. It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. Sincerely, Kirsten Massebeau	Comments noted.
1396	e_McCallum_3-7-15	It is my opinion that the hunting of gray whales by tribal people, or any other people, should not be resumed. It is a cruel and painful act for the whales, is beneath human dignity, and would contribute the vast and tragic marine crisis we find ourselves in today.	Comments noted. Please also see the response to frequent comments # 1 regarding the humaneness of a hunt and 3.
1397	e_McCallum_3-7-15	Further, it is not a sustainable process and is no longer nutritionally necessary in this day and age.	Please see the response to frequent comment # 3 regarding the Makah

Sort #	Commenter Code	Comment	Response
			Tribe's desire to revive its whaling tradition.
1398	e_McCallum_3-7-15	It would be as if the ritual slaughter of bears with arrows, as formerly practiced by the Ainu people of Japan, was reinstated. It may have been a spiritual practice for the Ainu, but the cruel and barbarous nature of the act denigrates both the animal and the humans involved, and its spiritual component does not justify the killing of the animals.	Comments noted. Please also see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1399	e_McCallum_3-7-15	Especially with the whales, there is also the question of their diminished population. We have had a long struggle to stop Russia and Japan from killing whales. If we open whale hunting back up to tribal people, other groups will be emboldened to press their case of resumption of whaling.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1400	e_McCallum_3-7-15	We are killing the oceans with carbon and toxins, the overall fishing industry is suffering due to over-fishing, and huge numbers of unintentional marine deaths occur as collateral damage. Approval of any measure that adds to this marine crisis should be stopped. Tracy Stephen McCallum Port Angeles, Washington	Comments noted.
1401	e_McCallum_4-22-15	Without wishing to disrespect native traditions, I feel it necessary to recommend that the permit be denied. All whales should benefit from a permanent moratorium on whale hunting by anyone. The Makah must realize that environmental conditions are such that the life of any single whale is important to the health of the marine world.	Comments noted.
1402	e_McCallum_4-22-15	The killing of whales is not at this time necessary for food, nor is it necessary to other purposes. Whales must be given the same protections as eagles and other threatened species. Tracy McCallum Port Angeles, WA	Comments noted.
1403	e_McEnerney_6-10-15	To NOAA, a governmental agency representing the citizens of the United States of America. It has been a struggle, as I have pondered what to write in this public comment letter regarding the reinstatement of allowing the Makah to begin whaling again. Knowing that this comment period is required by law, but wondering if what I say will make a difference (or even be read), I will simply forge on and compose my comment. America is NOT a whaling nation. America is a member of the International Whaling commission. These are the facts. In our country, people go whale watching and are awed by the spectacular displays seeing these gigantic mammals frolic in our waters. When whales wash up on beaches, people try to get them back into the waters so they will live. When a dead whale washes up, it is studied to find out what could have caused its' death. How do we then, think it is okay, for a tribe of Indians to kill them? Do they really have that right when they only want to do it because they "used too?"	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1404	e_McEnerney_6-10-15	From what I have read, the Makah elders are the ones who think it will make their children behave better if their culture is revived. I know from raising my own children that all children go through the 'terrible teens' when we think, as parents, that we'll not survive these years, but we do because they grow up and become responsible citizens, as the Makah children will and do. These behavior problems are certainly not unique to the Makah. So why, oh why, should whales have to lose their lives because of normal teenage behavior problems.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1405	e_McEnerney_6-10-15	When the Makah say it's also for the health of the tribe - obesity, diabetes is rampant in this entire country and eating whale meat is simply not going to solve these issues. Whale meat is not really fit for human consumption in our waters as in industrialized countries such as ours', we have polluted our oceans. We are killing and polluting our marine life. And it a known FACT, that when the Makah killed their first whale, they left it to rot on the beach because they didn't like the taste of it so why would like they like the taste of it now, one has to ask?	Please see the response to frequent comment # 11 regarding the safety of gray whale products for human consumption.
1406	e_McEnerney_6-10-15	The Makah tribe do not live in a remote area where the need to kill whales is necessary to sustain the survival of the tribe - that was then, this is now. They go to the grocery store and buy food. They adamantly do not need whale meat to survive, as they once did.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1407	e_McEnerney_6-10-15	I am a citizen of the these United States and I have the right to pursue happiness the same as the Makah, but seeing these wonderful mammals being killed for no logical reason vastly makes it impossible for me to be happy. The Makah can honor their culture by thanking the whales in tribal ceremonies for their contribution in sustaining them and cherish them by protecting them because the need to kill them no longer exists. It is time they 'gave back' to the whales! Now I am sure you have heard from people saying the same things I have, and do I think my words will make a difference, probably not. But they make a difference to me. So you can register my letter as a NO MORE WHALING, PLEASE, PLEASE, PLEASE. I know the government of the United States and your organization can find a way to say no. Please do it. Whaling is illegal in so many highly evolved countries and it should be illegal in the United States of America as well. Forward - Not Backward! Respectfully, Rebecca McEnerney 26421 Kingsview Loop NE Kingston, WA 98346	Comments noted.
1408	e_McLane_5-23-15	I support the NO ACTION op on. MMPA must hold for all marine mammals. The Tribe's argument for the cultural/traditional importance (of whale killing) is simply archaic. If applied universally, this cultural/traditional argument would logically justify slavery, men's exclusive right to vote, and other anachonistic policies. Democratic societies evolve, amend their constitutions, and with the	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		evolving social awareness of changing times develop new cultural norms. The Makah whale killing belongs to history, just as slavery and the men-only vote. I urge NO ACTION, no divergence from existing national policy on marine mammals. Laurene McLane	
1409	e_McLaren_5-31-15	Hello and thank you for taking the time to review my concerns regarding the Makah Tribe hunting the Gray Whales off the coast of Washington State. The National Marine Fisheries Service (NMFS) needs to conduct a complete Environmental Impact Statement (EIS) with regard to the Western North Pacific stock, of which there are an estimated 140 individuals remaining. A percentage (at least 22) of this vulnerable whale population follow the same migratory path as the Eastern North Pacific stock, which the Makah are seeking to hunt. An explanation of how the whalers will be educated to determine which whales they are hunting should be required as a part of this permit process. This will go towards ensuring that they are not taking a whale from a small population that needs protection.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
1410	e_McLaren_5-31-15	The NMFS also needs to complete an EIS of the 200 Gray Whales that are residents of our local Washington waters. These whales should be classified as two separate stocks, and should not be allowed to be hunted. Some of these individual whales are in long-term studies by local biologists, and they provide important data to help us understand them.	Please see the response to frequent comment # 5 regarding the stock status of PCFG whales.
1411	e_McLaren_5-31-15	There is increasing evidence (such as the recent findings in Qzette) that indicates that the ancestral Makah Tribe hunted Northern Fur Seals, which likely supported their culture at a much higher percentage than did the Gray Whales. As Americans, our history includes many things that we should not return to simply because our ancestors participated. Because, as a civilization, we can now see the errors of our ways, and can understand that these behaviors are no longer necessary for survival. There is no need for subsistence hunting for the Makah, and part of the evidence for this fact is that they ceased hunting the Gray Whales for 70 years while the whales were nearly extinct.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1412	e_McLaren_5-31-15	The USA should not support any group of people that violates the International Whaling Commission's regulations. There are no enforcements in place to prevent parts of the whale, or whale meat from leaving the reservation. The Commission's regulations clearly state that this is not allowed if it is to qualify as subsistence hunting: "The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or a Contracting Government on behalf of aborigines, and then only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines."	We agree that if hunting is authorized there would need to be measures in place to ensure appropriate possession, use, and distribution of whale products.

Sort #	Commenter Code	Comment	Response
1413	e_McLaren_5-31-15	Many environmental changes have occurred since the treaties were signed that impact the populations of whales, and their long-term survival rates. Climate change, toxic bloom increases, oil drilling and oil spills, acidification of the ocean and an increase in large vessel traffic. These all have the potential to greatly disturb the population, and quite frankly, could decimate the population of any species at any time. We cannot predict these changes in all cases, and so we should be cautious not to take more than we truly need. If there were only 10 Gray whales left would it be the right thing to do to continue to honor the treaty as it was written, without regard for future, unseen developments?	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1414	e_McLaren_5-31-15	The NMFS needs to address how they intend to protect the 33 whales in their Usual & Accustomed area in the marine sanctuary. This number includes mothers and calves returning to nurse & rest.	DEIS subsection 3.4.3.4.3 (PCFG Abundance and Trends) notes that there are, on average, 33 gray whales identified in the Makah U&A per year. These are not the same whales year after year, as is clearly stated in the DEIS.
1415	e_McLaren_5-31-15	I believe the US needs to set an example in how we handle requests such as these. Make no mistake, there are others watching and will make their own requests based on the outcome of this case. We should not set such a dangerous precedent, but rather be leaders and show that we recognize this is not a subsistence hunt, and is not required in any way for a modern society.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1416	e_McLaren_5-31-15	If there were to be a hunt, it should be required that the whale be killed quickly and humanely. In the illegal hunt that took place on September 8, 2007, this was not the case. The whale bled to death after 20 hours and then sank. This was a complete waste, and was cruel in the process as well. These whales are acclimated to humans, and many are the same whales that are greeted enthusiastically by people in Baja. They are not mindless objects, with no nerve endings that cannot feel pain. Respectfully, Justis McLaren Long time resident of the State of Washington	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1417	e_McLean_3-15-15	It is up to the Makah people when, where, how, and how many whales they wish to hunt in THEIR coastal waters. Joanna and Brian McLean, Hoko Ozette Road	Comments noted.
1418	e_McManus_7-31-15	Please for the love of life, community, humanity, conservation, civilisation and kindness to all peoples, do not allow a whaling permit for further slaughter of whales. These guys behave like triumphant oppressors not people who kill to feed families. Those who derive this pleasure from killing are not a service to the advancement of humane society. And that is before we even get to the whale	Comments noted.



Sort #	Commenter Code	Comment	Response
		issue which is blatantly apparent. Think before you act. HopefullyAnne -- anne mcmanus www.heartlovesart.com	
1419	e_McQuillen_5-1-15	I am writing to ask you to support the Makah's proposal to be allowed to return to whaling! Please approve your Alternative #2 for the Makah People. Terri McQuillen 269082 Highway 101 Sequim WA 98382	Comments noted.
1420	e_Miles_4-24-15	To whom it concerns: I am resubmitti ng a comment. I originally made an online comment on April 23rd at regulations.gov, but it does not appear. I'm afraid I don't have the tracking number, however the name and email address remains the same. Please consider this my final comment. · As a credentialed sociologist I have deep concerns about the so-called cultural subsistence aspect, this is not for subsistence but for a skewed view of 'culture,' please see below · Further concerns regarding the harassment of Makah elders and others opposing the hunt, and · Finally environmental and scientific concerns highlighted by NOAA's contemporaneous proposed whale humpback delistings. Culturally this is what we face: · Modern large caliber 50 caliber Howitzers, and ammunition easily-purchased, · Commercially available 'hunters' to kill the whales (more than one was killed last time, I saw the other dead one the day before the final kill, many people did but we were silenced ) · Plastic-ridden, diseased, struck whales struggling in a collapsing ecosystem, being harassed and shot at with large weapons (again many shots were fired last time and certainly 2 were maimed and killed) · Makah beaches piled high in plastic and toxic debris not cleaned up by the people, I have cleaned the beaches on occasion so feel able to observe, wouldn't protecting ocean life be mre in keeping with Makah beliefs and values?	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 15 regarding the use of modern weapons.
1421	e_Miles_4-24-15	· Makah speaking out against this falsity are harassed and threatened and have needed to seek protection; clearly this agenda is being pushed by some against the interests of the people	Comments noted.
1422	e_Miles_4-24-15	I fail to see where this provides cultural definition or continuity, and certainly not subsistence. This appears to be more of the modern American questionable 'sportsmans' culture than Makah.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1423	e_Miles_4-24-15	NOAA's concurrent proposed delisting of other baleen whales, not scientifically or ecologically sound, raises doubt as to the veracity of these proposals. I'm gravely disturbed by the Department of Commerce, the parent agency, and NOAA's proposals. Endangered species listing has been about the only environmental hope in my lifetime, and these cavalier proposals to claim population, biological, ecological, sociological and scientific dramatic policy shifts	Comments noted.

Sort #	Commenter Code	Comment	Response
		is – shifty. Please don't further embarrass my country on the global stage. We need to move forward as ecological and environmental leaders, not questionable unscientific proposals for apparent commercial ends. Thank you for this opportunity to comment, and best of luck,S Rulifson Miles MSC Sociology 1983	
1424	e_Milligan_4 -26-15	Whale hunting for any reason whatsoever must come to an end. Non-native citizens have stopped this hunting and so should the Makah. When the whales are completely extinct, the Makah Nation will have to give this right/ritual up, so they can give it up now in order to save the whale population. Just like the non-native citizens of the country, Makah nation has to adjust to the new realities. No whale hunting by any citizen or group ever again whatsoever -- there are enough other challenges such as climate change and pollution impacting marine animals. We can give them a chance for survival by forbidding any outright slaughter. Thank you for receiving my comment. Patricia Milligan Langley, Washington	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1425	e_Milliren_3 -24-15	Recognizing that I am not a tribal member, here is my personal opinion: I believe that the killing of a whale should be a sacred and uncommon privilege, one that one must work extraordinarily hard to be allowed to do, that one must hone oneself spiritually and physically to be able to do. Such an event should be prepared for over several years, and the killing should happen at most every 3-5 years (hence once a whale is sacrificed, another hunt would not occur for another 3-5 years). I support the idea of counting strikes as well as kills--it is a privilege. I recognize that the hunting periods might have to be changed according to whale migration (which could change with climate change?), but not by incidental weather. I support the hunting of whales ONLY as a sacred cultural activity for the Makah, but I also want to ensure that every bit of the sacrificed whale is used by the tribe--not sold for money. As I review the Alternatives in the PDN newspaper, it appears that Alternative 5 most closely fits my beliefs, with a limit of 0.27 whales a year, although I am not clear whether a hunt would be allowed both seasons and every year even if a whale were to be killed each season or year (I would not support this). Obviously I have not read the draft study. I appreciate being able to comment on this most difficult issue. Patricia A. Milliren 1703 W. 8th Street Port Angeles, WA 98363	Comments noted.
1426	e_Minachelli _7-16-15	Dear to whom it might concern please do all you can to stop whaling in usa and everywhere..please help to save the whales ..most of them are threatened species ..they keep the ocean healthy ..please help them to survive ..thank you sincerely susanna minacheili karakasi 80 greece	Comments noted.

Sort #	Commenter Code	Comment	Response
1427	e_Minahili_5-27-15	Dear to whom it might concern ,please protect the whales and please dont let anyone to hunt and kill them .in 2015 there is no reason to kill whales,please protect them sincerely susanna minacheili 54453 thessaloniki greece	Comments noted.
1428	e_Moore_3-23-15	Dear Mr. Stone: WEST COAST SEAFOOD PROCESSORS ASSOCIATION 1618 SW First Avenue Suite 318 Portland, OR 97201 503-227-5076 March 23, 2015 The following comments are submitted on behalf of the West Coast Seafood Processors Association (WCSPA) regarding the Request for Comments on a Draft Environmental Impact Statement Regarding the Makah Tribe's Request To Hunt Eastern North Pacific Gray Whales which was published in the March 20, 2015 Federal Register. WCSPA represents fish processing companies, fishermen, and associated businesses located on the west coast. Collectively, our members have worked with the Makah Tribe on a number of fisheries issues over the last 10 years. Aside from being good fishermen, the Makah Tribe takes pride in their conscientious use of natural resources. They, along with those of us in the non-tribal fisheries, take appropriate steps to avoid bycatch and refrain from overfishing. We see no reason that they should be arbitrarily constrained in their pursuit of their ceremonial and subsistence rights, especially given the record high numbers of grey whales that are present on the west coast. We fully support tribal alternative number 2 (Tribe's Proposed Action).	Comments noted.
1429	e_Moore_3-23-15	Further, we believe that there has been far too long a delay already and that NMFS should expedite the approval process. Thank you for your consideration of our comments. Sincerely, Rod Moore Executive Director	Comments noted.
1430	e_Moore_5-8-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I support Alternative 1, the no-action alternative. The Makah do not have a subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why	These introductory comment are noted; specific responses are provided below.  Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.	
1431	e_Moore_5-8-15	The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1432	e_Moore_5-8-15	NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1433	e_Moore_5-8-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1434	e_Moore_5-8-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.

Sort #	Commenter Code	Comment	Response
		authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	
1435	e_Moore_5-8-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1436	e_Moore_5-8-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances, ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, Bethany Moore 1628 Hilton Head Ct 2234 El Cajon, CA 92019-4519	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.
1437	e_Morin_3-7-15	ABSOLUTELY NOT!!! The Makah tribe is Americanized and have jobs (those within the tribe that choose to work for a living). They do not need to hunt the gray whale for food or ceremonial traditions. What happened to "NO IS NO". Whaling has been banned since 1986 to increase the whale population regardless of the 20,000 gray whale numbers. This is great news, and their numbers need to increase even more!	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1438	e_Morin_3-7-15	This should not even have come up for discussion/debate/comments and certainly not to bend the law "Just for the Makah Tribe".	Comments noted.
1439	e_Morris_7-14-15	I am born and raised in Washington and I do NOT support any whale hunt. I can't even believe this is coming up again. We are killing off so many species at an unfathomable rate it's a damn shame. I beg you to say no to the request to resume whale hunting. Sincerely, Michelle R Morris North Bend, WA. 98045	Comments noted.
1440	e_Morris_7-31-15	Dear NOAA: I want to quote a tribal elder of the Cowlitz tribe: "The ancient people of this land consider the next seven generations coming before making a serious decision." In the far past other coastal tribes hunted whales and now do not. They recognize that the need to kill the whale for subsistence is no longer necessary nor is it a strong unifying cultural tradition now or for the next seven generations. I urgently implore the Makah council to withdraw their request to	Comments noted.

Sort #	Commenter Code	Comment	Response
		chase, harpoon, and kill the gray whale. I oppose any effort to allow the gray whale hunt.	
1441	e_Morris_7-31-15	For decades the gray whale has only been peacefully watched from boats all a long the west coast from Baja north to Alaska. The whales' behavior has changed. They have even interacted with whale watchers. It is disheartening to think they may be subject to brutal chasing and long painful deaths. There is no way to kill a gray whale without extensive fear, pain, and suffering. In the Sept 8, 2007 hunt the whale bled to death over 20 hrs & sank. The five Makah whalers were implicated in this tragic death of the gray whale, yet no action was taken by the Tribal court.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1442	e_Morris_7-31-15	The Makah hunt has no place in today's world where human impacts upon the Earth are an increasing threat to gray whales and ecosystems. A treaty written in 1855 will not change this reality.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1443	e_Morris_7-31-15	There is too much change in the ocean environment: our oceans are seriously in danger of ecological collapse. Climate change, increased acidity, unpredictable food sources for marine species including the whales, and new disease threats to any population of whales are making population predictions speculative at best; the gray whale has distinct populations and all threats have not been addressed in the DEIS.	Comments noted, however it is unclear which specific threats the commenter recommends addressing in the DEIS.
1444	e_Morris_7-31-15	NOAA has totally failed, as well as the Makah people, to take into account the impact of the escalating Naval weapons training and new weapons experimentation off our west coast that will impact the gray whale populations as well as many marine species. This includes cumulative effects of Naval sonar along with other underwater noise, ship strikes, and subsequently increasing contamination of marine waters.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1445	e_Morris_7-31-15	The Makah people themselves should be very concerned about this escalation of weapons testing by the United States Navy rather than be concerned over a treaty from 1855, when an entirely different world and ecosystem existed. Today the oceans are under serious threat. To help save what we can will take concerted effort from all cultures including our own governmental agencies such as NOAA.	Comments noted.
1446	e_Morris_7-31-15	To reiterate: = Briefly from the DEIS, the National Marine Fisheries Service (NMFS) is failing to account for "takes" by harassment as defined by the Marine Mammal Protection Act (MMPA) during Makah whale-killing attempts. In the	The DEIS notes that the Makah's tradition of whale hunting dates back at least 1,500 years. It is unclear whether the commenter is referring to

Sort #	Commenter Code	Comment	Response
		DEIS, it is noted there is a clear history of the Makah chasing and harassing gray whales.	Makah hunters pursuing gray whales prior to the enactment of the MMPA in 1972 (when "take" was defined and prohibited) or during the 1999/2000 authorized hunts which were subject to a cooperative management agreement between NMFS and the Makah tribe or in relation to their proposed future hunt. In either case the DEIS addresses this issue, for example in Subsection 4.4.3.2.3, Change in Abundance and Viability of PCFG Whales; 4.4.3.2.4; Change in Numbers of Gray Whales in the Makah U&A and OR-SVI Survey Areas; and 4.4.3.2.5, Welfare of Individual Whales.
1447	e_Morris_7-31-15	= The Makah do not have a subsistence need to kill gray whales. The Makah tribe cannot demonstrate a subsistence or nutritional need for whaling or whale products. They have not whaled for over 90 years with the exception of the wasteful disastrous hunt of 1999 and the illegal hunt of 2007.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1448	e_Morris_7-31-15	= Regarding the executive summary of the DEIS, I support only Alternative 1, the No-action Alternative that would not authorize a Makah gray whale hunt.	Comments noted.
1449	e_Morris_7-31-15	= Whale watching is a meaningful and economically lucrative alternative that helps maintain the gray whale's iconic role in numerous cultures. Other Native American cultures along the Northwest coast support this endeavor instead of killing the gray whale.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1450	e_Morris_7-31-15	There should be a worldwide moratorium on killing whales. No culture can sustainably kill whales and at the same time truly recognize the current devastation of our oceans with all the threats facing the marine life and us. We must unite from the heart to face these environmental and societal induced threats. We need to heed the valued Native American wisdom of basing our decisions on how they will impact the next seven generations. Let us have a world free of killing whales regardless of culture.	Comments noted.
1451	e_Morris_7-31-15	Finally please consider that when traditions control us, they have out lived their reason to exist. All humanity needs to abide by a new tradition of the 21st century -- that the whales in the oceans live free of harassment and killing by	Please see the response to frequent comment # 3 regarding the Makah

Sort #	Commenter Code	Comment	Response
		humanity from any culture anywhere on the planet from now to the end of time. Thank you, Nancy Morris	Tribe's desire to revive its whaling tradition.
1452	e_Morrison_3-8-15	As a society's expectations have come to understand the sensitivity and intelligence of other creatures we share this planet with. We are the voices of those who cannot speak for themselves. We have evolved as a society and as such have done away with the notion of human and animal sacrifice. Whaling as a form of religious ceremony is animal sacrifice. Once any group is allowed to reinstate these practices, others are sure to follow. What other groups in the US wish to conduct sacrificial ceremonies? The thought is actually a truly sickening one. I hope this is considered long and hard, for the door it opens. In closing, I live on Puget Sound and can tell you, I do NOT want to witness anything like this!!! Thank you for the opportunity to give input. Anne M.	Comments noted. Please also see the response to frequent comment # 4.
1453	e_Mroczek_6-23-15	Please do not allow a waiver to the Makah tribe for hunting of gray whales. Please. Whales suffer greatly in what becomes slow death - how terrible!	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1454	e_Mroczek_6-23-15	Gray whales are already enmeshed in multiple perils.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1455	e_Mroczek_6-23-15	Some of their numbers are already too sparse.	ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994. See Subsection 1.1.3, Summary of Gray Whale Status.
1456	e_Mroczek_6-23-15	The whales can be confused with similar populations passing through the area that are critically endangered. Oh please There is no need in 2015 to hunt animals that have a very hard enough time as it is. Thanks, humans PLEASE HELP ANIMALS Nancy Mroczek PhD	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1457	e_Muckleshoot_6-9-15	RESOLUTION NO. 15-094 TO SUPPORT THE MAKAH INDIAN TRIBE'S EXERCISE OF ITS TREATY RIGHT TO HARVEST WHALE WHEREAS, the Muckleshoot Indian Tribal Council is the duly constituted governing body for the Muckleshoot Indian Reservation by the authority of, and is herein acting solely pursuant to, its constitution and by-laws approved May 13, 1936, by the Secretary of the Interior, as amended June 28, 1977, and not pursuant to its Indian Reorganization Act Corporate Charters; and, WHEREAS, in the mid-1850s the United States entered into five treaties with the Indians of Western Washington in which they ceded	Comments noted.



Sort #	Commenter Code	Comment	Response
		<p>most of theirs lands, reserving small reservation homelands and the right to continue fishing, hunting, and gathering outside of those reservations; and, WHEREAS, the Muckleshoot Indian Tribe is a successor in interest to certain tribes and bands that were party to the Treaties of Point Elliott and Medicine Creek which reserve such fishing, hunting, and gathering rights; and, WHEREAS, Makah Indian Tribe is a party to the Treaty with the Makah; and, WHEREAS, these Treaties, collectively known as the Stevens Treaties, are self-executing; and, WHEREAS, in the Treaty with the Makah, the Makah people expressly reserved the right to continue the harvest of whale; and, WHEREAS, the Makah Tribe has requested the National Marine Fisheries Service take action to support the exercise of the Makah Tribe's treaty right to harvest gray whales in the coastal portion of the Tribe's usual and accustomed fishing grounds; and, WHEREAS, there is no conservation reason to deny the Makah Tribe the limited harvest of gray whales that it has proposed; and, WHEREAS, the United States and its constituent agencies have a solemn trust responsibility to support the full exercise of the treaty rights of each of the Indian tribes that are party to the Stevens Treaties; NOW THEREFORE BE IT RESOLVED by the Tribal Council of the Muckleshoot Indian Tribe that the Muckleshoot Indian Tribe supports the Makah Indian Tribe's effort to exercise its treaty right to harvest gray whales and requests that the National Marine Fisheries Service fulfill its trust responsibility by approving the Makah Tribe's requests for authorization under the Marine Mammal Protection Act and the Whaling Convention in a manner consistent with the Treaty with the Makah. CERTIFICATION As Secretary of the Muckleshoot Indian Tribal Council, I hereby certify that the above resolution was adopted at a regular meeting of the Tribal Council on the 8th day of May, 2015, held on the Muckleshoot Indian Reservation, Auburn, WA, at which a quorum was present by a vote of 4 for, 0 against, and 0 abstentions. Charlotte Williams Secretary Virginia Cross Chairperson</p>	
1458	e_Murphy_7-29-15	<p>Mr. Stelle, I am writing to request that the Makah Tribe's request to resume hunting gray whales be denied. The hunting of gray whales is no longer necessary. The hunt should only be considered if there are no other viable options for meat or other resources. However, the tribe has plentiful other resources without the killing of gray whales.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1459	e_Murphy_7-29-15	<p>Gray whales are an important part of the local ecosystem. Approving this unnecessary hunting permit could potentially interrupt the balance of the entire ocean, especially if a limit of "take" is not set.</p>	<p>All of the action alternatives have a maximum limit for the number of harvested, struck, and struck and lost whales (see Table 2-1, Primary</p>

Sort #	Commenter Code	Comment	Response
			Differences Among Alternatives). The DEIS evaluates the impacts of each alternative on the marine environment, including pelagic and benthic habitats and species (see Subsection 4.3.3, Evaluation of Alternatives).
1460	e_Murphy_7-29-15	There is no reason why this permit needs to be approved. The hunt is an old tradition that is no longer necessary and hasn't been practiced in decades. Heather Murphy, Editor Ocean Advocate News <a href="http://www.oceanadvocatenews.com/">http://www.oceanadvocatenews.com/</a> Facebook Twitter	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1461	e_Nolte_3-8-15	I am totally against the Makah tribe being allowed to kill another whale just because it's part of their culture back in the 1800's when this law was written. Do you think the Department of Fish and Wildlife would allow them to go to Yellowstone Park and kill some buffalo? They used to do that too. It's 2015 and time we protect our wildlife. The 1800's agreement needs to be repealed. Please do not allow the Makah Tribe to do this. John M. Nolte Blaine, Washington	Comments noted.
1462	e_Okerlund_5-26-15	Please stop the Makah Whale killings this year. Thank you, Pat Okerlund 332 Bartell Drive Chesapeake Virginia 23322	Comments noted.
1463	e_Oliver_3-22-15	Please find attached my letter in favor of Alternative 2 -- the Makah Tribe's Proposed Action Alternative contained in the 2015 DEIS. Thank you! Jeanne Oliver Vesuvius, VA Attachments: MAKAH DEIS SUPPORT LETTER.docx 15.8 KB Dear Mr. Stelle: Please accept my comments in favor of Alternative 2 -- the Makah Tribe's Proposed Action Alternative contained in the 2015 DEIS. It is my understanding that DEIS Alternative 2 will allow for both adequate protection of Eastern North Pacific gray whales and responsible use by the Makah Tribe of Washington State for their cultural and subsistence needs. This seems to be a reasonable solution. I encourage you to pursue this course of action. Furthermore, I support the Federal Government's (and your Agency's...) responsibility to the Makah Tribe and their treaty. I urge you to expedite the approval process since 10 years is far too long to make this Tribe wait for a fair decision from our government. Respectfully submitted, Jeanne Oliver Vesuvius, VA	Comments noted.
1464	e_Olson_5-2-15	John Olson 741 Geissler Rd. Montesano, WA 98563 Please authorize the tribe to take up to 5 whales per year and research nordic seal skin & meat markets.	Comments noted.
1465	e_Owen_3-12-15	I would like to voice my objection to the Makah' idea of hunting whales. Life should not be taken for tradition- times change. Do the whales belong only to the	Comments noted.

Sort #	Commenter Code	Comment	Response
		tribe? Thank you for having this comment time where the public can be part of this discussion. Sincerely, Joan Owen P. O. Box 65301 Port Ludlow, WA. 98365	
1466	e_Padgett_3-9-15	Being part Native American I say to my Makah kin, if you want to hunt the Gray Whale that's all fine and dandy, but give-up living off of what you buy at Walmart, etc., home improvement centers, and hardware stores. Be true to your historical use of the whale, the whole whale: it fed you, clothed you, gave you components for building your shelters, tools and weapons; use the whole whale you kill in the same way as you traditionally used the whole whale, not some "cherry-picking" way that still allows you to go down to your local "7-11" afterwards for a beer where you meet some shady character from China or Japan and sell the carcass for white-man "wampum." No! Give-up your modern indian ways if you are going to sacrifice such a magnificent animals life for the sake of long not practiced traditions and start fully practicing your traditional use for the whale\$ you are now so anxious to kill. And woe unto any Makah found selling whale meat, parts, etc., for profit...that was not part of your traditional use of the Gray Whale!	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1467	e_Padgett_3-9-15	Hey Makah kinfolks, how about establishing a new tradition by reviving an old one: count coup! Using only traditional human power (paddles), in traditional native built canoes out of a single cedar log, not outboard motor driven, fiberglass boats, make your way out on the ocean, paddle like heck, like you traditionally had to do, up real close to your targeted mature Gray Whale, one that is not pregnant, or with a calf!, and touch the whale's flank (counting coup). OK, you can make it more dramatic by, first, using only traditional pigments, have the hand you are going to touch the whale with covered with fresh white, or red, "paint" so where you touch you leave your hand print, semi-permanently on the whale's side for all to see how brave you are...heck, the whole boat full of brave Makah warriors can each take a turn leaving their own hand print on the whale's side. This way everybody gets to go home with pride for the brave Makah deeds you've just done, the whale gets to live for another day...win-win situation. But, if behind all your clamoring for Native American Rights you carry a dark secret reality that the real reason you want to kill some whales is so you can sell their meat, and other parts for profit, you are a shame on the Makah name, and embarrassment to your Makah ancestors, and in truth nothing more than a profiteer masquerading as a Native American.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1468	e_Patton_3-14-15	To whom it may concern, I support the resumption of Makah whale hunts. The alternatives allowing for a hunt, including Alternative 2, are appropriate, responsible, and fair. In particular, the proposals take into account the health of	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>the specific whale population and include built-in safeguards and a commitment to keeping the population at a healthy level. I trust reasonable minds to arrive at the right decision on which alternative to pursue. Overall, based on the variety of numbers provided in the DEIS, the public outcry against the resumption of Makah whale hunting far outweighs the actual impact it would have. I realize this would not ring true for someone who finds it morally reprehensible to hunt a whale, but that's not the point we're being asked to comment on here. While I do fall on the side of the Tribe in giving weight to the cultural and spiritual impacts that could come from whale hunting, that's also beside the point. Respectful conversations about the meaning of the hunt are important, but this is not the venue, nor the question. There is a treaty. There is a process. Let's respect the former, continue to follow the latter -- and cut through all the noise to make a fair decision. Thank you, Melissa Slager Patton Everett, Wash.</p>	
1469	e_Pedersen_5-11-15	<p>My name is Heidi Pedersen. I attended and spoke at the Port Angeles meeting 4/29/15. I live in Port Angeles, WA. I consider myself an environmental conservationist. I have worked as a wildlife biological field technician for much of my life. I find it embarrassing that I have a right to comment on a subject that I believe should be decided between the Makah tribe and gray whale population experts. The Makah have a treaty right to hunt whales that should be honored given that the whale population is stable. I support the option 2, that the Makah proposed. What the Makah do with their rights is a decision that should be made by the tribe. There were comments about global threats to the gray whales and lack of understanding of their population dynamics. There is a Polar Pioneer oil rig in Port Angeles harbor on its way to drill oil offshore in the arctic as I write this. No one gave me the opportunity to comment about its potential danger to the gray whale population...and hundreds of other wildlife species. Makah tribal hunts are not a threat compared to this and yet, I, a citizen that knows nothing about treaty rights or whale population dynamics gets to have an official record of comments about my opinion of giving the Makah their right to hunt whales. My opinion is that the Makah do as they please with their rights and that we as a multicultural team of humans on the planet do more about more serious threats to the whales, like ocean acidification, shipping strikes, commercial hunting of whales, entanglement with marine debris, whale ingestion of toxins produced by humans, etc., etc. Thank you for reading and considering my comments. Heidi 211 E. Simmons Rd. Port Angles, WA 98362 360-461-0443</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
1470	e_Pendleton_4-6-15	Please do not kill whales. Humans are destroying everything that's good and pure about the planet. This behavior must stop before it's too late! Sincerely, Pam Pendleton Cincinnati, OH, USA	Comments noted.
1471	e_Phare_5-7-15	Dear Trustee, Did the Makah People reserve their right to whale in their treaty with the U.S. Govt.? Did they voluntarily forego their whales for decades because of endangered populations, due to over-whaling by non-treaty holders? I'd say the answer whether Makah can whale as they've proposed, is clear. NOAA's job as a trustee to treaty-holding tribes, is to protect the tribe's treaty rights, not to ask the public if NOAA, and the rest of the Fed. Trustees, should uphold the tribe's treaty rights. The treaties are the "law of the land" as noted by case, and SCOTUS decisions. Darrell Phare	Comments noted.
1472	e_Phipps_5-11-15	I oppose any permit to allow the Makah to hunt whales in any way. How dare humanity think so highly of ourselves amidst all of the slaughter? This exception for the Makah will be another chip-off in the weakening of the MMPA, and set a precedent which in the future will lead to the slaughter of all marine mammals around American shores. Greed, ignorance, self-serving individuals, and political correctness rule the day that find this hunt to be acceptable. Shame. NO to the Makah tribe request for waiver from the MMPA.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1473	e_Pieper_4-26-15	It is important that all of us protect the grey whales. I vote no on making an exception for anyone to kill the grey whales. Anne Pieper	Comments noted.
1474	e_Player_4-6-15	Please do not allow any whales to be killed by the Indians in Washington State or any place for that matter. There is so much peril for all whales in the oceans today, we do not need to let a tribe kill any of them. Please do not allow the killing of any grey whales by this group. They do not need to eat or kill them, they have other sources of food to live on. Sincerely, Ms. Shannon Player 337 f Avenue Coronado CA 92118	Comments noted.
1475	e_Pollard_5-18-15	Dear Mr. Stone, I note that June 11, 2015 is the deadline by which comments can be made regarding the Makah tribe's request to resume whaling and the proposal to take up to 24 gray whales in 6 years. I would like to request that the June 11 deadline be extended in order to allow more time to study the lengthy DEIS document. Regards, Sandra Pollard Author of Puget Sound Whales for Sale: The Fight to End Orca Hunting (The History Press) <a href="https://historypress.net/catalogue/bookstore/books/Puget-Sound-Whales-for-Sale/9781626196025">https://historypress.net/catalogue/bookstore/books/Puget-Sound-Whales-for-Sale/9781626196025</a>	Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.
1476	e_Pollard_5-22-15	To: NMFS (NOAA) With regard to the request by the Makah tribe to resume whaling and to take up to 24 gray whales over 6-years, I would like to comment as follows:- The DEIS document is a lengthy tome - I would like to request that	Please see the response to frequent comment # 16 regarding the amount

Sort #	Commenter Code	Comment	Response
		the comment period ending June 11, 2015, be extended for allow more people the opportunity to fully absorb the contents of the document.	of time allowed to comment on the DEIS.
1477	e_Pollard_5-22-15	The DEIS gives six options with regard to the Makah's request to resume hunting gray whales. Option 1 - No Action is my choice. Although there are estimated to be around 20,000 Eastern North Pacific gray whales and that this represents sufficient recovery to remove them from the list of threatened and endangered species, there is a small population of endangered Western North Pacific stock (only 140) of which at least 22 follow the same migration path as the Eastern North Pacific stock. How is a whaler going to be able to tell the difference between the Eastern and Western North Pacific stock? Not enough is known about the Western North Pacific stock to risk allowing them to be hunted along with the Eastern North Pacific stock. More study of this stock is needed.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
1478	e_Pollard_5-22-15	There is also the Pacific Coast Feeding Group and the Northern Puget Sound population of gray whales which frequent our local waters (I live on Whidbey Island, Washington State). These should be declared two separate distinct stocks. I have seen some of these regular visitors, which feed on the ghost-shrimp around Whidbey Island for around 2-months of the year from early March-early May, close to shore on many occasions. Some have names (e.g. Patch, Dubknuck, Little Patch) as well as official numerical designations. Their presence enhances our community and enriches the lives of many people, both local and visiting, providing educational and aesthetic pleasure. To risk losing any of these gentle giants to such an unnecessary and outdated tradition is pure sacrilege.	Neither of the groups of whales cited in this comment are recognized as stocks under the MMPA and the SAR process. Please see the response to frequent comment # 5 regarding the stock status of PCFG whales.
1479	e_Pollard_5-22-15	In this day and age of plenty, the Makah do not need to eat gray whales for subsistence. They have survived for many years without the gray whale in their diet, and an archaeological dig at Ozette showed that 80% of the bones which formed part of their diet came from the Northern fur seal.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1480	e_Pollard_5-22-15	If the hunt is allowed to proceed it risks dividing the tribe again (as happened previously), and provoking the wrath of environmentalists and animal rights' activists with potentially lethal consequences. I request that NMFS do not allow hunting of gray whale by the Makah, or any other tribe, to proceed. It would be far better for the Makah to follow the example of their neighbors, the Quileute tribe, and adopt whale watching instead of whale hunting. Sandra Pollard Author of Puget Sound Whales for Sale: The Fight to End Orca Hunting (The History Press)	For an examination of the impacts of the authorization or denial of the Tribe's request on social relations, see Subsection 4.8, Social Environment.
1481	e_Pruett_3-24-15	Please be advised that Catherine Pruett and Brett Sommermeyer of Sea Shepherd Legal will attend the April 27 and April 29, 2015 public hearings pertaining to the Request for Comments on Draft Environmental Impact	Comments noted.

Sort #	Commenter Code	Comment	Response
		Statement Regarding the Makah Tribe's Request To Hunt Eastern North Pacific Gray Whales. We appreciate the opportunity to participate in this matter. Catherine Pruett Executive Director Sea Shepherd Legal +011 541-418-1780 www.seashepherdlegal.org	
1482	e_Public_3-20-15	public comment on federal register - stop killing the whales 3 million whales were killed in twentieth century - a holocaust of huge magnitude the makah tribe are americans and all Americans have to adjust for changed conditions. this country and our ocean is not what it was in 1900. our ocenas are much less. no makah should get any right to kill any whales. none. nor should any other amrican citizen. and we should be urging the world to recognize the precariousness of this species. there should be zero exemptions and zero waivers from a no kill policy. this comment is for the public record. please receipt. jean public On Fri, Mar 20, 2015 at 9:20 AM, jean public wrote: its time to protct - the federal agencies use the word "conservation" to avoid protecting anything at any time - federal gancies are sneaks at language they try to fool the American public and that's dqangerous and disgusting.	Comments noted.
1483	e_Public_5-23-15	I AM WRITING TO THE US GOVT NOAA TO STOP THE PERMIT TO BE GIVEN TO MAKAH TRIBE TO KILL 42 WHALES BECAUSE OF SOME OLD TREATY. IT APPEARS TO ME THAT SINCE WE ARE ALL AMERICANS, NO AMERICAN SHOULD BE KILLING ANY WHALES AT ANY TIME.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1484	e_Public_5-23-15	WHEY ARE ENDANGERD. THEY NEED PROTECTION. NO AMERICAN INDIAN OR NOT SHOULD BE ISSUED ANY PERMIT TO KILL ANYWHALE SPECIES OF ANY KIND. NO GRAYS. NO ANY KIND AT ALL. THIS COMMENT IS FOR THE PUBLIC RECORD. PLESE RECEIPT. JEAN PUBLI	Comments noted. ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994. See Subsection 1.1.3, Summary of Gray Whale Status.
1485	e_Ratchford_5-3-15	To whom it concerns, my vote is, none of the alternatives are acceptable! the tribes premises is, it is our right through old treaty 's to take whales! to them it is a cultural thing, a tradition? we if we go on that course, let me point out other traditions that maybe should be reserected. It was widely known that many Indian tribes, would take scalps, Christians burned so called "witches and heretics at the stake! aboriginal natives would kill and eat their openents, to take on the enemys strength, I could go on and on! So, should we go back to those practices? we are (supposedly ) civilized today? I question that? the past is the past, the South had slaves, that was their right as they saw it, should we go back to slavery?.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1486	e_Ratchford_5-3-15	Today, with all of the federal government help, the casinos income, the tribe does not need the whale meat! it was widely reported, that the modern tribal members don't have a taste for blubber, and with last kill the majority of the meat was fed to the dogs, and discarded into, from w hence it came, this boils down to testosterone, young men showing the prowess and being the God over the lowly unassuming harmless whale.	Comments noted.
1487	e_Ratchford_5-3-15	My God we are destroying our planet in many ways, take for instance the Blue Whale, less than 3000 survive today, from 100 and thousands! because of man, and his poor practices, pollution, over fishing, mismanagement, do we want to hasten the demise of the gray whale species, for EGO?, I urge you to deny all permits for whaling,	Comments noted. ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994, and their current estimated population is well over 20,000 animals. See Subsection 1.1.3, Summary of Gray Whale Status.
1488	e_Ratchford_5-3-15	if you allow this other country's will find cultural reasons to start whaling again! but you should also consider, if the tribe feels it is their right to kill, we, the countries who are party to the anti whaling treaty, have rights too, and I think the overwhelming majority would agree that treaty certainly outweighs the Maka treaty! John Ratchford Port Townsend WA	DEIS Subsection 3.17.3.2.2 (Aboriginal Subsistence Whaling) and Subsection 4.17 (Regulatory Environment Governing Harvest of Marine Mammals) address the precedential issue raised in this comment.
1489	e_Ray_3-15-15	Thank you for taking public comments. It is very difficult for me to understand why the Makah Tribe may be granted rights to hunt whales. We know so much more than we once did about whales and whaling, their intelligence and awareness. Man y species were hunted recklessly in the past. That does not justify continuing doing what was done before. how does "subsistence" enter into the equation? We all have many choices about what we eat now. Eating whales is very unnecessary in our present time.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1490	e_Ray_3-15-15	The unauthorized hunt by the Makah where the poor whale took two and one hours to die is a horrible example of what can happen. What a terrible death, to slowly die in agony and terror. It is such a sad statement that anyone would even consider it. Customs can evolve over time and change for the better. Please let's not allow us to go backwards but move ahead to greater empathy for those who share this world. Sincerely, Valerie Ray	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1491	e_Read_3-17-15	To Whom It May Concern, I am not an expert, but I do read a lot and try to keep informed about whale populations, our oceans and our climate. I live in the Seattle area and I am absolutely opposed to allowing the Makah to begin killing whales again, The United States is an International voice for whale conservation;	Comments noted.



Sort #	Commenter Code	Comment	Response
		how can we then condemn the illegal and possible increased illegal actions of countries such as Norway and Japan if we allow this? BELOW are just a few of my reasons why we should NOT allow the slaughter of these socially complex, intelligent animals:	
1492	e_Read_3-17-15	*The Makah no longer have a tradition of killing whales for subsistence. The whale killed in 2007 largely went to waste in dumpsters, it does not taste good, they really didn't know what to do with it. Their main justification: INVALID and ILLEGAL because it is no longer a cultural tradition.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition. For a discussion of the Tribe's use of the whale harvested in 1999, see DEIS Subsection 3.10.3.5.1, Makah Whaling. The whale killed in an unauthorized hunt was not landed.
1493	e_Read_3-17-15	*The Makah have admitted in the past to wanting to increase quotas of killing more palatable whales, namely Humpbacks, Minkes and Orcas, and they have stated that allowing whaling of gray whales will open the door to killing of other whale species.	The request currently being considered by NMFS is a hunt only by the Makah Tribe and only of ENP gray whales (see Subsection 2.3.2.2, Gray Whale Hunt Details). Hunting of any marine mammal species other than ENP gray whales would require a separate rulemaking process. Before the Tribe could receive a permit to hunt any other species of whale, the United States would have to request a quota on behalf of the Tribe and present a needs statement to the IWC, which would have to approve a catch limit in light of that request.
1494	e_Read_3-17-15	* There may be 20,000 estimated gray whales, however, there are subgroups and the Western subgroup is less than 150 whales. They don't wear labels saying "I'm still a threatened population". Because we cannot protect this threatened group, easy answer: DO NOT ALLOW SLAUGHTER, it can not be regulated which sub group of whales they slaughter.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
1495	e_Read_3-17-15	* Because of global warming, the stresses upon all the whales will increase, we really don't know the outcome of this. It could cause the food supply and range to shrink, less food would cause unhealthy whales, and possible extinction.	The DEIS evaluates the implications of various hunt scenarios and uncertainties associated with climate change and ocean acidification, including changing climate and

Sort #	Commenter Code	Comment	Response
			conditions in the Arctic (see Subsection 3.4.3.6.11, Climate Change and Ocean Acidification).
1496	e_Read_3-17-15	*The whales already have other natural predators.	The DEIS evaluates potential scenarios for the future of the gray whale population in Subsection 5.4, Gray Whales, taking into consideration the cumulative effects of factors such as predation by orcas, as well as ship strikes, fisheries, increased vessel traffic (e.g., oil spills), oil and gas exploration, aboriginal harvest in Russia, military exercises (e.g., sonar), predation by orcas, and global climate change.
1497	e_Read_3-17-15	This list could go on. Really, how can you do this!!!! It is 2015, we know better, we know how many animal species are now threatened with extinction due to global warming and over-population and over-fishing. Your job is to be the guardians of these magnificent animals for the future generations. I hope you take a very deep look at why the Makah want to do this.	Comments noted.
1498	e_Read_3-17-15	I do not even think the treaty is legal anymore as whaling is outlawed so why should they have special privileges? PLEASE look at the long term welfare of everyone, not just the Makah, the world does not work like this anymore, there are too many factors that say THIS IS WRONG. Sincerely,Molly M Read 10416 129th Ave NE Kirkland, WA 98033	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1499	e_Reding_3-7-15	I am writing to favor the no-action alternative. We have been learning that whales are highly intelligent creatures, and this sort of hunt inflicts considerable pain on them. In addition, they are highly sociable, which means that killing or maiming one whale profoundly affects other whales in their social group.	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1500	e_Reding_3-7-15	I am sympathetic to aboriginal treaty rights, but only when the treaty right to a hunt is carried out using aboriginal methods. In this case, that would mean oar-driven aboriginal canoes and hand-thrown spears. But that is not the technique used by today's Makah, who instead use modern techniques - such as power boats and elephant guns. Modern methods do not even afford the whales a sporting chance, and involve none of the traditional human bravery that was part of the historic Makah culture. So I would recommend drafting an additional	Please see the response to frequent comment # 15 regarding the use of modern weapons

Sort #	Commenter Code	Comment	Response
		alternative, an alternative allowing hunts to resume only if they are constrained to aboriginal methods.	
1501	e_Reding_3-7-15	In addition, I recommend that whatever alternative is adopted exclude all whales that enter the Strait of Juan de Fuca. There is a small population of gray whales that summers in the vicinity of Whidbey Island. In the last (illegal) hunt, a group of Makah killed an individual in the Strait that was presumably from this group. Since the group is small to begin with, the loss of even a few individuals could threaten its continued existence, effectively removing gray whales from Puget Sound and the Salish Sea. There is no element of heroism or sport in targeting this small population of whales. They are merely targets of opportunity because they are easier to reach in the nearby and relatively calm waters of the Strait of Juan de Fuca, rather than having to brave the more challenging waters of the North Pacific to reach the Alaska migrants. Andrew Reding Senior Fellow, World Policy Institute (NY) Bellingham, WA	None of the DEIS alternatives contemplate a hunt in the Strait of Juan de Fuca. Cascadia Research Collective's website notes that "The North Puget Sound gray whales, also known as the "Sounders," represent roughly a dozen individual whales, part of the larger population of the Eastern North Pacific gray whales. They are also sometimes referred to as the Puget Sound Regulars of the Saratoga Grays. During their northern migration from Baja California, these individuals break off of the migration route to feed on ghost shrimp for 2-3 months each spring (approx. March-May) in the North Puget Sound waters. They then continue north to the Bering and Chukchi seas for summer feeding." [ <a href="http://komonews.com/news/local/gray-whales-make-annual-visit-to-puget-sound">http://komonews.com/news/local/gray-whales-make-annual-visit-to-puget-sound</a> ]. A report by CRC (Calambokidis et al. 2009) identified the whale killed in the 2007 illegal hunt as a member of the PCFG, however previous sighting locations of this whale do not indicate it was part of the "Sounders" as suggested by this commenter.
1502	e_Reis_7-13-15	Please stop the massacre of these beautiful, magnificent animals. They are intelligent and they feel emotion when not with their pods! Just stop the senseless killing! Stop being murderers and find your compassion! Thanks!	Comments noted.
1503	e_Reiss_6-19-15	I would like to add my voice to the protests against whale hunts, a cruel and prehistoric behavior.	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the

Sort #	Commenter Code	Comment	Response
			Makah Tribe's desire to revive its whaling tradition.
1504	e_Reitz_3-9-15	Dear sirs:I am voicing my opposition to the proposed whale hunt by the Makah tribe IN ANY FASHION! The fact that they were NOT hunting with any urgency or necessity prior to their first hunt in 1999 puts to rest their rights to renew doing so again. These whales are NOT the exclusive property of the tribe,	Comments noted.
1505	e_Reitz_3-9-15	are NOT necessary for the tribes sustenance, nor critical to any tribal operation. The fact that they shot one and lost it after many hours of agony for the creature belie their assertion of necessity and show complete disregard for the species. Demonstration of, or need for, activities to imbue the young members of the tribe with a sense of self, or manhood can be achieved in other ways, such as the canoe journeys intrinsic to many of the NW tribes. I urge you to deny their request now and in perpetuity. Diana Reitz resident of WA.	Comments noted.
1506	e_Renyard_3-22-15	To whom it may concern, I am emailing today to express my disgust regarding the Makah Tribe's proposed grey whale hunt. We should not allow the tribe to interfere with the grey whale population, regardless of their cultural arguments. We have allowed Native Canadian tribes to overfish sockeye salmon to the detriment of the species. Giving the same privileges to hunting grey whales (a creature that produces far fewer offspring and lives for many decades), would be a mistake.	Comments noted.
1507	e_Renyard_3-22-15	The hunt is NOT life sustaining, as the tribe has access to other traditional foods, and will only interfere in a wild marine species that should be wholly left alone. Please do not allow this horrible act to happen. We need to be responsible enough to preserve our beautiful marine environment for generations. Thank you, Amanda Renyard New Westminster, BC	Comments noted.
1508	e_Reppy_7-31-15	I strongly support alternative 1 of the DEIS – NO ACTION. The Makah tribe have no subsistence need for Gray whales.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1509	e_Reppy_7-31-15	Whale watching is the proper way for them to proceed to honor their tradition with Gray Whales. And Whale Watching has been shown to be the sustainable way and a more lucrative way, and the humane way to interact with gray whales.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1510	e_Reppy_7-31-15	The people of the Unites States no longer support killing whales. This is a relic of the past and deserves to be depicted in a museum, not in a cruel, bloody spectacle of killing on the water. Please make the proper decision on this issue, Thank you, Michael Reppy	Comments noted. The DEIS acknowledges that whale hunting under the action alternatives would inspire a wide range of feelings among persons and groups who oppose the

Sort #	Commenter Code	Comment	Response
			hunt, including sorrow, frustration, and anger (see Subsections 3.8.3.3 and 4.8.2.3, Other Individuals and Organizations).
1511	e_Reynolds_6-4-15	When the treaties were drafted whale-hunting was practiced by many societies, including the whites. Over the years consciousness has risen so that only a few societies, e.g. Japan & Iceland, continue this barbaric practice.	Comments noted.
1512	e_Reynolds_6-4-15	The Makah no longer need whales for subsistence, which was the original purpose of the treaty rights.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1513	e_Reynolds_6-4-15	Whales, and all marine life, are under increasing pressure from pollutants, including the disastrous and ongoing radioactive releases from Fukushima. We need to set an example for other nations of conscientious stewardship of Nature, not continued ruthless and bloodthirsty exploitation. The Makahs claim to be people of the whale can best be demonstrated by taking the lead in ending this horrific slaughter, and they can become the whales spokespeople, demonstrating their superior morals and ethics as an example to the world's few remaining whale killers. Seek the highest path, not the lowest common denominator. Rik Reynolds Joyce, WA -- Taking the road less traveled can provide a convenient excuse for being late.	Comments noted.
1514	e_Rik_3-7-15	The tribes historically practice slavery, and, reputedly, cannibalism. What's next in their tradition-recovery? Have they eaten all the last whale they killed, a friendly young female who approached them out of curiosity? They didn't use that meat for sustenance, but for putting on a big party to show all the other tribes what mighty hunters they are. They don't like the taste of whale anyway, and would prefer a steak or even salmon.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1515	e_Rik_3-7-15	It's not the absence of whale meat in their diet that causes so many health problems but the adoption of the Standard American Diet (SAD) with lots of wheat, processed and polluted foods. Whale meat is heavily contaminated with chemicals anyway, so they're not doing themselves any good. If they built community gardens with greenhouses for year-round harvest of organic veggies they'd be better off. Instead they'd rather buy the processed food that sickens the rest of us. Eating whale meat won't compensate for that and will likely make it worse.	Comments noted.

Sort #	Commenter Code	Comment	Response
1516	e_Rik_3-7-15	The lack of respect of doing back-flips off the dead young female's corpse, and the hypocrisy of "reestablishing traditional ways" while blasting away with a .50 caliber rifle from a high-powered boat is further hypocrisy. When they paddle out and have the guts to harpoon a whale at close range where the whale might actually strike back at them, then ride it until it tires, jump overboard to tie the mouth shut so it won't sink, and tow it back to the village under paddle-power alone then at least their claim of maintaining tradition will have some credibility. -- Taking the road less traveled can provide a convenient excuse for being late.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1517	e_Ringgaard_3-13-15	1. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1518	e_Ringgaard_3-13-15	2. The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1519	e_Ringgaard_3-13-15	3. If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1520	e_Ringgaard_3-13-15	4. If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1521	e_Ringgaard_3-13-15	5. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities	Please see the response to frequent comment # 4 regarding the

Sort #	Commenter Code	Comment	Response
		and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	precedential effect of a waiver internationally and domestically.
1522	e_Ringgaard_3-13-15	6. The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
1523	e_Ringgaard_3-13-15	7. There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse- trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1524	e_Ringgaard_3-13-15	8. If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.
1525	e_Ringgaard_3-13-15	9. The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1526	e_Ringgaard_3-13-15	10. Sea Shepherd notes that there are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1527	e_Ringgaard_3-13-15	11. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1528	e_Ringgaard_3-13-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution. Sincerely, Line Ringgaard	
1529	e_Ringgard_5-26-15	I'm strongly opposition Whaling In The USA. Sincerely, Line Ringgaard	Comments noted.
1530	e_Roberts_7-16-15	I am writing to urge that hunting gray whales be rejected. As a physician I am bound to end suffering and feel this duty extends to all sentient beings, including whales. Please do not allow this heinous activity to occur. Drucilla J. Roberts, M.D. Massachusetts General Hospital Department of Pathology 55 Fruit Street WRN 219 Boston, MA 02114	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1531	e_Rsiefken_3-9-15	To whom it may concern: I don't believe the Makah tribe should be allowed to "hunt" whales now or in the future. This is not a subsistence issue. They did without hunting whales for a number of years and did just fine. As for ceremonial, I'm sure they have other ceremonial practices that keep their culture alive for the next generation.	Comments noted.
1532	e_Rsiefken_3-9-15	The treaty was signed in 1865- many things that were allowed then aren't allowed now . The idea of whale hunting as acceptable in 2015 is antiquated and appalling!	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1533	e_Rsiefken_3-9-15	It's time we look after our oceans and the wildlife that live there-be better stewards and give all of our oceans time to recover from misuse.	Comments noted.
1534	e_Rucki_3-7-15	Hello, I believe that the tribes do have a right to the little that was granted to them after the contact period. I understand that with time, changes need to be made, and extinction threatens the whales in today's world, as it will in the future. However, considering the fact that if the Makah are not granted access to the whales the First Nations will gain access to these whales, the main point (saving the whales) will not be achieved. I believe that there needs to be increased international dialogue, and the tribes have every right to the whales, and they should not have to suffer the consequences of what seems to be a lack of communication between governments. Thank you! Sophie	Comments noted.
1535	e_Ruiz_7-22-15	Dear Mr. Stone, I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a nutritional and subsistence need for whales, (2) the hunt could further imperil both the resident and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not	These introductory comment are noted; specific responses are provided below.



Sort #	Commenter Code	Comment	Response
		adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I am also concerned that human safety could be jeopardized by the whale hunts, because of the planned weaponry and the hunts taking place so close to shore and in a populated area.	
1536	e_Ruiz_7-22-15	Consequently, I support Alternative 1, the no-action alternative.	Comments noted.
1537	e_Ruiz_7-22-15	The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.	Please see the response to frequent comments # 2 regarding the ASW status of the Makah Tribe and 3.
1538	e_Ruiz_7-22-15	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1539	e_Ruiz_7-22-15	NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	Chapter 4 of the DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1540	e_Ruiz_7-22-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species'	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the

Sort #	Commenter Code	Comment	Response
		migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these threats were adequately evaluated in the DEIS.	ENP gray whale population in the face of climate change and other threats.
1541	e_Ruiz_7-22-15	It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1542	e_Ruiz_7-22-15	The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1543	e_Ruiz_7-22-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1544	e_Ruiz_7-22-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1545	e_Ruiz_7-22-15	The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3

Sort #	Commenter Code	Comment	Response
		because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	regarding the Makah Tribe's desire to revive its whaling tradition.
1546	e_Ruiz_7-22-15	The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1547	e_Ruiz_7-22-15	There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC. Thank you for considering my views. Paola Ruiz 9207 Stone River Place Riverview, FL 33578 Par289@gmail.com	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1548	e_Rush_7-31-15	Hello, Please do not approve the permit to allow the Makah tribe to resume hunting Humpback whales. They do not need the whales to survive.	Comments noted.
1549	e_Rush_7-31-15	The whale meat is full of toxins and should not be consumed by humans. Thank you, Robin Rush	The DEIS discusses the presence of persistent and potentially toxic contaminants in whale meat and blubber and allowable consumption rates for humans, based on health concerns, noting that contaminant concentrations often are lower in freshly harvested whales than in stranded whales and also lower in baleen whales than in toothed whales because of their different food sources (see Subsection 3.16.3.2, Environmental Contaminants in Gray Whales). The DEIS notes that under the action alternatives, individual tribal members would be exposed to higher levels of certain contaminants as a result of eating more whale products (Subsection 4.16.3.2, Alternatives 2 through 6).

Sort #	Commenter Code	Comment	Response
1550	e_Russell_5-8-15	<p>Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I support Alternative 1, the no-action alternative. The Makah do not have a subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.</p>	<p>These introductory comments are noted; specific responses are provided below.</p>
1551	e_Russell_5-8-15	<p>The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.</p>	<p>Please see the response to frequent comment # 12 regarding risks to WNP whales.</p>
1552	e_Russell_5-8-15	<p>NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.</p>	<p>The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.</p>

Sort #	Commenter Code	Comment	Response
1553	e_Russell_5-8-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1554	e_Russell_5-8-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1555	e_Russell_5-8-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1556	e_Russell_5-8-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances, ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, Paulinha Russell 127 Sunnydale ST APT 405 Jacksonville, TX 75766-3366	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 10 regarding response of gray whales to being hunted.
1557	e_Russom_7-16-15	Please, WE MUST STOP DESTROYING OUR PLANET, AND THE CREATURES THAT LIVE HERE! I Urge NMFS to Deny Makah Permission to Hunt Gray Whales National Marine Fisheries Service! All gray whales, including the Eastern North Pacific	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the

Sort #	Commenter Code	Comment	Response
		migratory gray whales, are subject to a gauntlet of threats in their summer feeding areas and throughout their migratory corridor from Alaska to Mexico. Such threats include climate change, ocean noise, oil and gas exploration and development, pollution, coastal development, contaminants, bycatch, and ship strikes. As some of these threats, like climate change, are completely transforming Arctic ecosystems with unknown short and long-term impacts on gray whales, allowing the intentional killing of any gray whales by the Makah Tribe is biologically reckless. Respectfully, Rich Russom Concerned World Citizen Illinois, USA I Urge NMFS to Deny Makah Permission to Hunt Gray WhalesNational Marine Fisheries ServiceSome of the Issues To Address:I support Alternative 1, the no-action alternative.	ENP gray whale population in the face of climate change and other threats.
1558	e_Russom_7-16-15	The Makah Tribe does not have a subsistence need for whales and, therefore, shouldn't be allowed to hunt gray whales.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1559	e_Russom_7-16-15	The Makah Tribe cannot demonstrate a continual traditional dependence on whales or whaling and cannot demonstrate either a nutritional or subsistence need for whale meat and other products and, therefore, doesn't qualify for an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC).	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1560	e_Russom_7-16-15	If the United States allows the Makah to whale it will effectively establish a new form of Aboriginal Subsistence Whaling with significant precedential impact to gray and other species of whales if other US Native American tribes or other aboriginal groups around the globe express interests in whaling.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1561	e_Russom_7-16-15	The Makah's cultural need to whale is questionable since there is no evidence that a single whale needs to be killed in order for the Makah to continue to celebrate its historical connection to whales and whaling. Aboriginal people around the world continue to honor their past traditions without actually engaging in the practices which may no longer be socially acceptable, legal, or culturally appropriate.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.
1562	e_Russom_7-16-15	Any hunt that results in the potential killing of a resident or Western North Pacific gray whale—populations that are both imperiled—cannot be permitted. With only approximately 209 and 140 whales in these populations, respectively, the intentional killing of a single whale is unacceptable and could be disastrous for those populations.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1563	e_Russom_7-16-15	All gray whales, including the Eastern North Pacific migratory gray whales, are subject to a gauntlet of threats in their summer feeding areas and throughout	Comments noted. Please also see the response to frequent comment # 14

Sort #	Commenter Code	Comment	Response
		their migratory corridor from Alaska to Mexico. Such threats include climate change, ocean noise, oil and gas exploration and development, pollution, coastal development, contaminants, bycatch, and ship strikes. As some of these threats, like climate change, are completely transforming Arctic ecosystems with unknown short and long-term impacts on gray whales, allowing the intentional killing of any gray whales by the Makah Tribe is biologically reckless.	regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1564	e_Russom_7-16-15	Whaling is inherently cruel. To quickly kill a moving whale from a moving vessel in a moving ocean is nearly impossible. In this case, given the inexperience of Makah whalers using harpoons or 50 mm shells, there is even less chance that any whale will be quickly or humanely killed.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1565	e_Russom_7-16-15	The National Marine Fisheries Service (NMFS) has failed to consider a reasonable range of alternatives in the Draft Environmental Impact Statement (DEIS). These alternatives include the development of a whale-watching operation and the provision of land, funding, or services that would permit the Makah to humanely reconnect to whales and provide for the social and physical needs of the Makah people.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1566	e_Russom_7-16-15	A nonlethal use alternative such as the development of Makah-operated whale-watching tours would allow the Makah to humanely use and reconnect to the gray whale, bring revenue to the tribe, educate visitors about whales and marine conservation, and introduce visitors to the culture and traditions of the Makah Tribe.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1567	e_Russom_7-16-15	NMFS has failed to adequately evaluate the full range of threats to gray whales in the DEIS, as required by federal law. These threats include climate change impacts to their habitat (particularly in the Arctic); ship strikes; contaminants; bycatch (through net entanglements); pollution (including from oil spills and a proposed massive phosphorous mine in Mexico); and ocean noise (including seismic and sonar), in US, Canadian, and Mexican waters.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1568	e_Russom_7-16-15	NMFS has failed to properly consider in the DEIS the cumulative impact of past, present, and reasonably foreseeable actions undertaken by federal, provincial, or state agencies or individuals throughout the range of the gray whale, including various activities that NMFS has permitted throughout the gray whale's US range.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1569	e_Russom_7-16-15	The Makah Tribe's historic use of whales and the significance of whales to the tribe's culture is important and should be acknowledged, but times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah Tribe's	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		relationship with gray whales should change to one of humane, nonlethal use. -- Richard D. Russom	
1570	e_Ruth_5-26-15	Dear sir, Do not let the Makah Tribe resume hunting whales,,Killing is not tradition. it is murder of these majestic creatures!yours sincerely, susie syrignonakis	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1571	e_Ryerson_6-10-15	Dear Mr. Stelle I must write to express my absolute horror while reading the barbaric draft environmental impact statement prepared to address the Makah Indian Tribe's request to resume treaty based hunting of our gray whales. Not every tradition should be carried forward into the future. Certainly whale hunting must remain in the past where it belongs. In an attempt to spare you pages of outrage, suffice it to say that I adamantly oppose whale hunting of any kind. Please mark me down as choosing Alternative 1, the No-action Alternative. Sincerely, Charlene Ryerson 34625 183rd Ave. SE Auburn, Wa. 98092	Comments noted.
1572	e_Sala_3-13-15	Dear Sirs, I'm writing because my deep concern about the resumption of whaling by the Makah. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1573	e_Sala_3-13-15	Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1574	e_Sala_3-13-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1575	e_Sala_3-13-15	Whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely, cetacean have the status of person in India....this is called	Comments noted.



Sort #	Commenter Code	Comment	Response
		CIVILIZATION! Hope you'll take the right decision and will speak for these incredible intelligent sentient beings that have no voice for defend themselves. Thank you for your attention, kind regards Emanuela Sala	
1576	e_Sanchez_3-12-15	I am writing to inform you, my opposition to authorize Makah whale hunt The Makah had not killed a whale for nearly a century and they did not meet the International Whaling	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1577	e_Sanchez_3-12-15	Alberta Nora Thompson telling, that this was not about Makah culture, it was simply about a small group of young Makah wanting to kill whales and that it was instigated by the Japanese Whaling Industry.	The DEIS notes a discussion between the Makah Tribal Council and Sea Shepherd wherein the Council "reportedly assured Sea Shepherd that they did not intend to sell whale meat to Japan."
1578	e_Sanchez_3-12-15	An she alto tell this "Yes, my people once killed whales and yes the whale is important to us." She once told me. "But now it's time to repay the whales for what they gave to us in the past, now is the time to protect them, not to kill them. The whale was once the salvation of the Makah. We now need to be the salvation of the whale." Yours faithfully, Carmen Martinez Sanchez Spain	Comments noted.
1579	e_Saracini_4-7-15	To whom it may concern, I do not believe that the killing of gray whales can be justified. I think it would be a horrible infraction against the Marine Mammal Protection Act. These may even be some of the "friendlies" that swim up to the boats in Baja, CA. Please do not allow permitting to kill these gentle, intelligent creatures for any reason whatsoever. Thank you for considering this comment. Deborah Saracini Del Mar, CA	Comments noted.
1580	e_Sawastynowicz_7-22-15	Dear NMFS,I am greatly disturbed about the possibility of more hunts of the Gray Whales allowed by the Makah Tribe. I support Alternative 1, the no-action alternative.	Comments noted.
1581	e_Sawastynowicz_7-22-15	The Makah Tribe does not have a subsistence need for whales and, therefore, shouldn't be allowed to hunt gray whales.The Makah Tribe cannot demonstrate a continual traditional dependence on whales or whaling and cannot demonstrate either a nutritional or subsistence need for whale meat and other products and, therefore, doesn't qualify for an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC).	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1582	e_Sawastynowicz_7-22-15	If the United States allows the Makah to whale it will effectively establish a new form of Aboriginal Subsistence Whaling with significant precedential impact to gray and other species of whales if other US Native American tribes or other aboriginal groups around the globe express interests in whaling.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
1583	e_Sawastynowicz_7-22-15	The Makah's cultural need to whale is questionable since there is no evidence that a single whale needs to be killed in order for the Makah to continue to celebrate its historical connection to whales and whaling. Aboriginal people around the world continue to honor their past traditions without actually engaging in the practices which may no longer be socially acceptable, legal, or culturally appropriate.	It is up to the Makah Tribe, as a sovereign nation, to decide which traditions it continues or revives, within the bounds of the law.
1584	e_Sawastynowicz_7-22-15	Any hunt that results in the potential killing of a resident or Western North Pacific gray whale— populations that are both imperiled—cannot be permitted. With only approximately 209 and 140 whales in these populations, respectively, the intentional killing of a single whale is unacceptable and could be disastrous for those populations.	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
1585	e_Sawastynowicz_7-22-15	All gray whales, including the Eastern North Pacific migratory gray whales, are subject to a gauntlet of threats in their summer feeding areas and throughout their migratory corridor from Alaska to Mexico. Such threats include climate change, ocean noise, oil and gas exploration and development, pollution, coastal development, contaminants, bycatch, and ship strikes. As some of these threats, like climate change, are completely transforming Arctic ecosystems with unknown short and long-term impacts on gray whales, allowing the intentional killing of any gray whales by the Makah Tribe is biologically reckless...Thank you for your time and consideration.Sincerely, Maril Sawastynowicz	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1586	e_Sayre_7-25-15	Dear Official, Asserting that some behavior is a cultural tradition, is not adequate justification in and of itself to give it either legal or societal legitimacy. If that were a valid standard, then female genital mutilation, hunting of elephants for ivory and rhinos for horn, as well as Japanese dolphin hunts and north European whale hunting would all need to be accepted immediately, both by governments and by the societies they represent. Rather, there is a pertinent standard at issue, of objective need for the behavior, and of potential harm caused by it, both based on material fact. In this case, we are lucky that whale populations are slowly recovering from the decimation of the 19th and 20th centuries. It is time for the Makah to relegate the parts of their culture constituted by whale hunting to their history books. The fundamental rights of whales as living things, as well as their part in the ecosystem, are more important, and should be given priority in regulation. Thank you for your consideration, Johannes Sayre	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1587	e_Schaefer_3-11-15	Public comment regarding the Makah Whale Hunt; I believe Makah Tribal members should be granted a permit to hunt Gray Whales to honor the Treaty we signed with them. Makah have a unique marine heritage among Native	Comments noted.

Sort #	Commenter Code	Comment	Response
		Americans that all Americans should embrace and encourage. Thank you, Marsha L Schaefer 760 E Thornton Road, Shelton, WA 98584 360-432-2271	
1588	e_Schmidt_7-31-15	With the exception of a single gray whale killed in 1999 and another whale killed illegally in 2007, the Makah have not hunted whales for nearly 90 years. Consequently, the tribe cannot demonstrate a subsistence or nutritional need for whaling or whale products. Such a need is a requirement to secure approval from the International Whaling Commission to engage in aboriginal subsistence whaling, and should be a prerequisite for NMFS' approval of the hunt. Despite the absence of this need, this is the fourth attempt by NMFS to authorize Makah whaling since 1997. Previous efforts have either been scuttled by court rulings or terminated by the agency.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1589	e_Schmidt_7-31-15	The proposed hunt could jeopardize two imperiled populations of gray whales: the resident Pacific Coast Feeding Aggregation and the Western North Pacific, which number only 209 and 140 animals, respectively.	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
1590	e_Schmidt_7-31-15	While the main Eastern North Pacific gray whale population is much larger (nearly 21,000 animals), they and their habitat are subject to threats like climate change, contaminants, ocean noise, ship strikes, and net entanglement throughout their summering, wintering, and incredibly long migratory range (from Alaska to Mexico), and shouldn't be subject to a new threat posed by a hunt. Barb Schmidt USA	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1591	e_Schuette_3-8-15	Thank you for the opportunity to voice my opinion on this very important subject. I hope that the powers that be, continue to prohibit the hunting of any whales, for whatever purpose or ceremonial rites. This may be a tradition of the Makah, and other native American tribes, but we are now a much more advanced society. We now know the consequences of threatening a species, and how near extinction has happened in the past.	Comments noted.
1592	e_Schuette_3-8-15	I think allowing this killing of the majestic ocean wonders will just open a door that will be hard to close in the future. How can you allow one group to hunt whales and not allow all the native American tribes to do the same?	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1593	e_Schuette_3-8-15	We don't live in those barbaric times any more, where the killing of our fellow Earth inhabitants, for sustenance or for ritual, is a necessity. Please do not allow anyone to hunt our whales. Respectfully, Dianne Schuette	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1594	e_Schulz_5-9-15	<p>Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I support Alternative 1, the no-action alternative. The Makah do not have a subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.</p>	<p>These introductory comments are noted; specific responses are provided below.</p>
1595	e_Schulz_5-9-15	<p>The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.</p>	<p>Please see the response to frequent comment # 12 regarding risks to WNP whales.</p>
1596	e_Schulz_5-9-15	<p>NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.</p>	<p>The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.</p>

Sort #	Commenter Code	Comment	Response
1597	e_Schulz_5-9-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1598	e_Schulz_5-9-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1599	e_Schulz_5-9-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1600	e_Schulz_5-9-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances, ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, Maria Schulz Intrarea Sabine, nr.3 Timisoara, Outside US 300424	Please see the responses to frequent comments #3 and #10.
1601	e_Scott_3-7-15	To whom it may concern, I vehemently oppose the proposed reinstatement of any whaling by the Makah Tribe. After years of waving the banner of "practicing traditions and culture," the Makah whaling effort should be shown for what it	Please see the response to frequent comment # 15 regarding the use of modern weapons

Sort #	Commenter Code	Comment	Response
		is—the baseless, pointless slaughter of a mammal already facing myriad environmental challenges. If granted the opportunity to slaughter grey whales, the Makah do not and will not hunt whales in their stated traditional way. As stated in the recent PDN article, the last legal whale taken by the Makah had one harpoon thrown into the whale, followed by the use of a modern fishing boat and rifle to chase down and shoot the whale multiple times.	
1602	e_Scott_3-7-15	The guise of tradition and culture is propaganda and utter garbage. This is politics, with the slaughter of grey whales being used as pawns to achieve a political statement of defiance.	Comments noted.
1603	e_Scott_3-7-15	Humans, of all cultures and traditions, have survived because they evolved their ways of life to best fit the environment in which they exist. It's far past the time for the Makah to evolve their collective thinking on whaling. The Makah have zero plausible reasons to hunt whales and this effort is nothing but a matter of pride for the tribal members. The wounded pride of humans should not be rectified through the wanton slaughter of innocent mammals. Furthermore, the access to protein is plentiful on the Peninsula and in the surrounding waters. The Makah and the residents of the Peninsula are better than this.	Comments noted.
1604	e_Scott_3-7-15	With whale watching businesses and eco-tourism expanding in the area, the Peninsula and the Makah should not be scarred and soiled by the disgusting decision to allow whaling on the Olympic Peninsula. Please do not allow the Makah Tribe to selfishly indulge in their useless lust for slaughter simply to score a small political victory. This is not about food and this is not about culture or tradition—this is about the selfish resistance to federal regulations. Please do not indulge the Makah's willful ignorance by allowing them to pointlessly slaughter grey whales and tarnish the strong commitment to conservation shared by the majority of residents on the Peninsula. Thank you, Jared Scott Port Angeles, WA	Comments noted.
1605	e_Scroggins_4-30-15	Why is there such an uproar about a group of people doing what their ancestors have done. We are forced to recognize other cultures and religions throughout the US as this is the land of the free. This is their culture and should be allowed to practice, celebrate and cherish it!	Comments noted.
1606	e_Scroggins_7-16-15	Why does the NMFS keep trying to allow our grey whales to be killed by the Makah Tribe of Washington? They have not hunted whales for 90 years! Public sentiment has changed a lot in those intervening years. Whale watching has grown into a HUGE industry and each whale brings such joy to the many who are privileged to see it. I am opposed to your efforts to allow the Makah Tribe to start whaling again for the following reasons: 1) It cannot be justified for traditional, subsistence, or necessity reasons.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1607	e_Scruggs_7-16-15	2) Our grey whales are worth more alive than dead. Whaling is a dead (literally and figuratively) industry. The whale watching industry in the U.S. and Mexico is thriving. I love going whale watching in boats and from the coast and taking visitors to see wild whales. We cannot allow the Makah to return to the brutal past. They should be encouraged to tap into the wildly popular whale watching industry instead.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1608	e_Scruggs_7-16-15	3) Killing these intelligent, beautiful, social, sentient beings is morally wrong. These whales belong to all the people who live along their migration route and everyone else.	Comments noted.
1609	e_Scruggs_7-16-15	4) Whaling is one of the most brutal, cruel, sadistic actions that man has devised. Even with exploding harpoons, whales suffer horrifically--often for a long time--before they succumb to drowning in their own blood. Whatever tools and experience, or lack thereof, that the Makah's use, these beautiful gentle creatures will suffer an agonizing, slow death. Whaling needs to stay in the past--not sanctioned. Sincerely, Tena Scruggs PO Box 3131 Escondido, CA 92033	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1610	e_Seal_Arm_y_7-31-15	I strongly oppose the proposed Makah whale hunt. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1611	e_Seapy_3-21-15	I see absolutely no justification for issuing permits to kill gray whales. I just returned from being in San Ignacio Lagoon, a breeding ground of these magnificent creatures. Anyone who has looked in the eyes of these gentle (and forgiving of humans) creatures will find it unconscionable to kill them. Furthermore, it is no longer essential to the way of life or sustenance of Native Americans or First Nations people to do so. Please deny any requests to hunt gray (or any other) whales. Hopefully, the intent of this message has been repeated by many across the nation. Roger Seapy	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1612	e_Shelton_3-7-15	I am part of an ever-growing group of whale-watchers. We are blessed to have these majestic beings so close that we can watch them from shore. I have also enjoyed many whale watching trips and enjoyed viewing the gray whales. It saddens me to see that the Makah tribe has asked that this barbaric hunt be resumed. These whales face countless obstacles as it is! Ship strikes, pollution, noise, lack of food, and I can go on and on.	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1613	e_Shelton_3-7-15	Resuming the hunt will only encourage others to do the same.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
1614	e_Shelton_3-7-15	It is time to embrace these whales! Hunting and spearing whales has no place in our society today. It is barbaric and should never be started! Please say NO to the whale hunt! Tammy Shelton, Sea Shepherd Conservation Society, Seattle Chapter	Comments noted.
1615	e_Sickles_5-15-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a nutritional and subsistence need for whales, (2) the hunt could further imperil both the resident and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. Consequently, I support Alternative 1, the no-action alternative. The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.	These introductory comments are noted; specific responses are provided below.
1616	e_Sickles_5-15-15	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1617	e_Sickles_5-15-15	NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal	The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.



Sort #	Commenter Code	Comment	Response
		history and culture. Such a solution would be beneficial to all involved, including the gray whales.	
1618	e_Sickles_5-15-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these threats were adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1619	e_Sickles_5-15-15	The proposed hunt is inherently cruel: It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1620	e_Sickles_5-15-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. Thank you for considering my views. Sincerely, David Sickles 1337 E 342 Street Eastlake, OH 44095-3014	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1621	e_Sims_4-30-15	Please deny the request for a permit for the Makah people to again begin whaling. The past is past - long past - and there is no valid reason to resume this practice. They can honor their heritage in numerous other ways and not have to resort to killing these great animals. Thank you. Dr. Michael Sims Former Professor, Peninsula College 707-845-2605	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1622	e_Sinkakas_5-18-15	Dear Mr. Stone, I am respectfully requesting a 60 day extension on the comment period for the Makah DEIS. While I am enclosing my comments, a 60 day extension would allow others time to read the extensive 1,300 page document and then be able to submit proper comments.	Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.
1623	e_Sinkakas_5-18-15	NMFS needs a complete EIS of the endangered Western North Pacific stock of which only 140 remain. It has been noted that at least 22 follow some of the same migration path as the Eastern North Pacific stock. NMFS needs to complete an EIS of the 200 residents . These should be classified as two separate stocks.	The DEIS evaluates impacts of the alternatives on WNP whales (Subsection 4.4.3.2.2, Change in Abundance and Viability of the WNP Gray Whale Stock 82)

Sort #	Commenter Code	Comment	Response
1624	e_Sinkakas_5-18-15	There is no longer a need to hunt for subsistence as the Makah stopped when the grays were nearly extinct for 70 yrs. Also the archaeological dig at Ozette reveals 80% of the bones were from a diet of Northern fur seals.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1625	e_Sinkakas_5-18-15	In April of '95 NMFS was notified by the Makah they had the option to build a processing plant & sell whale meat to markets outside US.	Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling. The Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber.
1626	e_Sinkakas_5-18-15	There are no enforcements or regulations of whale meat or handicrafts taken off the reservation.	If a waiver is granted to the Makah to hunt gray whales, specific regulations regarding the sale or transfer of whale products (including enforcement) would be developed as part of the waiver process. The Makah Tribe's proposed action would limit the use of whale products to ceremonial and subsistence purposes and prohibit the commercial sale or offer for sale of any whale products, except for traditional handicrafts made from non-edible whale parts within the United States.
1627	e_Sinkakas_5-18-15	Treaties do not address climate change, toxic blooms, oil drilling or spills, acidification, wave energy or vessel disturbance. NMFS does not address the protection of the same 33 whales in the U & A (usual & accustomed area) in the marine sanctuary. This includes returning mothers & calves to nurse & rest.	DEIS subsection 3.4.3.4.3 (PCFG Abundance and Trends) notes that there are, on average, 33 gray whales identified in the Makah U&A per year. These are not the same whales year after year, as is clearly stated in the DEIS.
1628	e_Sinkakas_5-18-15	The 9th District Court of appeals states the treaty refers to 'in common' that establishes a relationship for our fair share that we choose for whale watching, aesthetic values & that the whales must be of their fullest population potential.	The purpose of the draft EIS is to analyze potential impacts of

Sort #	Commenter Code	Comment	Response
			alternatives, not to explore or resolve legal debates.
1629	e_Sinkakas_5-18-15	In 2004, the Nat'l Congress of American Indians passed a resolution giving full support to the Makah hunt including other 'effected' tribes. Many coastal tribes here & in Canada are watching closely. It is highly likely others will follow suit. This could expand internationally as well & set an unwanted precedence.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1630	e_Sinkakas_5-18-15	In the Sept 8, 2007 hunt the whale bled to death over 20 hrs & sank. The Tribal Council was implicated by all 5 whalers yet no action was taken by the Tribal court. Thanks so much for your time and attention to this important issue. I look forward to hearing back from you. Sincerely,Nora Sinkankas Oklahoma City, OK	The DEIS describes the NMFS investigation of the illegal hunt, including allegations of tribal council endorsement (see Subsection 1.4.2, Summary of Recent Makah Whaling--1998 through 2014). The tribal council cooperated with the agency as it conducted its investigation and analysis under NEPA. NMFS' Office of Law Enforcement did not find evidence that the tribal government sanctioned the unauthorized hunt. The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct.
1631	e_Sinner_8-2-15	Dear Sir or Madam, grey whales are majestic animals and should not be slaughtered in reasons of tradition!!! We all have to protect them! Pls. take care of them!!! Best regards Ilona Sinner	Comments noted.
1632	e_Slagle_5-4-15	I attended the April 29, 2015 meeting to review the "2015 Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Grey Whales in Port Angeles." My name is Roger Slagle and I live in Sequim, Washington. I am not affiliated with any organization or tribe. General comments: Most of us eat animals. We kill them by the millions; they are all sentient beings that want to live. To believe that one animal is less worthy than another according to our arbitrary values is as misguided as believing that one race is less valuable than another. A chicken is as much God's creature as a whale. It is hypocrisy to defend one while eating the other. A hundred and sixty	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>years ago the Makah signed a treaty with the federal government ceding their claim to 300,000 acres of prime timber land on the Olympic Peninsula in exchange for whaling and fishing rights. As was often stated at the meeting, if they don't get their treaty rights they want their land back. This is not unreasonable. Ninety five years ago they stopped hunting whale because the whale population was in decline. They responsibly stopped doing what they had given up their land for...to protect the whale. They suspended their birthright...to protect the whale. They are more concerned with the health and prosperity of the whale than many at the April 29 meeting. A thousand years from now they will still be advocating for the whale. Twenty one years ago these gray whales were removed from the endangered species list. As long as the gray whale population is prospering, there is no good reason the Makah should not be able to exercise their treaty rights, and resume whale hunting. You asked for feedback on the effect of this issue on people: It was clear at the meeting that the Makah are profoundly impacted by the impediments to resuming the whale hunt. The sorrow in that room was palpable and will endure over generations yet to come if the treaty rights are not restored. I am sure you are aware of the deep cultural and spiritual impact this issue has on them. The opponents to whaling are also very motivated and aroused by the issue, and I have no doubt of their sincerity. However, unlike the Makah, the outcome of this decision will have no direct impact on their lives. For them a setback on this one issue is somewhat akin to their team losing a run-up game, the social and cultural impacts are significantly less profound.</p> <p>My comments on the various alternative proposals: Alternative 1 is just a placeholder. No one can seriously suppose that doing nothing will support anyone's rights or the dignity of this nation. The only one that makes any sense is Alternative 2. All the others are designed to insure that there are no whales to hunt, or that the whales are so far offshore that if the tribe does get a whale that it will likely sink before they can get it to shore. Or limit the season to times of such dangerous sea conditions that there will be few days when anyone can safely to go to sea. All the other alternatives except 2 just allow claims that rights have been restored when in fact they have not. PCFG: Everyone, including the Makah, understands the importance of sheltering the less populated PCFG stock. And care should be exercised in hunting while PCFG are present. Perhaps an observer skilled in identifying these whales could be deployed in a separate boat. An observer in a separate boat would be less influenced by the passion on the hunt. Finally: This comment is not founded in the kind of quantifiable values that</p>	

Sort #	Commenter Code	Comment	Response
		<p>these decisions rely on. I am only offering it as food for thought. It is my experience that when complicated multi-alternative solutions are required it is often because the objective is incorrectly defined. It is worth contemplating that perhaps the reason the PCFG lingers on this coast that is populated by so many former whaling tribes is that there is the kind of symbiotic relationship that is observable at every level of the natural environment: A gift from God to provide sustenance for these people over a more prolonged period. General comments on the alternatives: The Makah should be allowed to use modern methods. As someone at the meeting pointed out “to require them to use methods in use at the time of the treaty would be like saying that the second amendment to the Constitution only refers to muskets.” Canoes are beautiful and poetic. But they are dangerous if the Makah are forced by a small window of opportunity to go to sea in hazardous conditions. And they are ineffective if they have to go far out to sea. Catch limits: I would like to think that there could be some kind of monitoring that could adjust yearly takes to support the sustainability of the stock. I hope that they will be allowed enough whale to share with other whale hunting tribes by any exchange suitable to them. There should be no sunset. The hunt should continue as long as the stock can support it and still prosper.</p>	
1633	e_Slayden_7-8-15	<p>I am writing in support of the “No-Action” alternative in the 2015 Draft Environmental Impact Statement concerning the Makah Indian Tribe’s request to hunt gray whales.</p>	Comments noted.
1634	e_Slayden_7-8-15	<p>The DEIS is a lengthy document and contains a great deal of scientific information about whale populations, the various sub-species, and the many impacts that a whale hunt may have. But I think that an important emerging worldwide cultural value has been lost in all that detail. I believe that any killing of intelligent wild animals is simply wrong and immoral. Whether it is poaching of elephants, slaughter of gorillas, or ceremonial hunting of whales, humanity is evolving towards a consensus that all of these actions are not compatible with the values of our global civilization. When you take the broad view of history and see how previously acceptable practices now seem impossibly barbaric, it is clear that future generations will look back on our era in amazement at how we treated our closest intellectual kin on the planet.</p>	Comments noted.
1635	e_Slayden_7-8-15	<p>In the year 1500, the Aztecs of Mexico practiced human sacrifice, and their Spanish conquerors inflicted brutal torture on non-Christians. It is of course unthinkable for either group to propose resurrecting these practices in the name of cultural tradition. I don’t think we are too far away from a future when killing whales, as proposed, may be viewed through a similar historical prism. I am</p>	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
		aware that the issue I am discussing is perhaps too broad and general for a DEIS-based decision making process. But I do hope that the decision makers at NOAA keep these kind of moral values in mind as this process continues. Greg Slayden Kirkland, WA	
1636	e_Slezinger_3-11-15	I am very concerned about the Makah's interest in whaling. We are at a juncture in humanity where we can no longer place 'traditions' before the survival of species teetering on the brink. It's time for us as a species to reevaluate our practices and priorities. Thank you! Gymi Slezinger	Comments noted.
1637	e_Smih_7-16-15	I am sorry that people, although it has not been the Makah, have killed off too many whales, sharks and other sea creatures through ignorance, over fishing, greed, pollution, too many vessels on the oceans dumping every kind of pollutant, pollution dumped into rivers that run to the ocean and on and on. STOP IT ALL NOW. The oceans and sea creatures have suffered greatly. Stop everything. They need a LONG rest, probably hundreds of years.	Comments noted.
1638	e_Smith_3-28-15	While I believe that the Makah are entitled to their beliefs and traditions, hunting whales in the 21st century is a horrible idea and should simply not be allowed.	Comments noted.
1639	e_Smith_4-22-15	If the Makah Tribe wants to maintain tradition, let them, but also let them truly maintain it by using non motorized vessels (includes towing the whale back to the beach), no use of modern weapons, using only traditional methods of killing whales, for craving up their prey, also the use of tools that were available to them during 1855. To allow them to hunt using modern methods, basically makes it a non-traditional hunt, hence violates their chief concerns of denying them their tradition. Allowing them to hunt in non-tradition basically nullifies their tradition. Thank you for your attention.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1640	e_Smith_7-26-15	At this time i am writing in support of alternative 1- no whaling. There has not been a complete DEIS of the Western North Pacific gray whale population from Sakhalin island off Kamchatka Russia.	Comments noted; the 2015 DEIS includes the best available information regarding WNP gray whales and the impacts on these whales under the various alternatives.
1641	e_Smith_7-26-15	There is insufficient data on how climate change will affect ocean acidification and their prey availability.	DEIS Subsection 3.4.3.6.11 (Climate Change and Ocean Acidification), Subsection 5.1.3.9 (Climate Change), and Subsection 5.2 (Water Quality) include our assessment of climate change impacts. In the DEIS we note that Bluhm and Gradinger (2008) examined the availability of pelagic

Sort #	Commenter Code	Comment	Response
			and benthic prey in the Arctic and concluded that pelagic prey is likely to increase while benthic prey is likely to decrease in response to climate change. They noted that marine mammal species that exhibit trophic plasticity (such as gray whales that feed on both benthic and pelagic prey) will adapt better than trophic specialists.
1642	e_Smith_7-26-15	There are no regulations in place for the distribution of whale meat and whale by-products.	If a hunt is authorized, specific regulations regarding the distribution of whale meat and whale by-products will be adopted by NMFS through a formal rulemaking process. Subsection 2.3.2.2.12, Other Environmental Protection Measures, describes enforcement measures that are common among the action alternatives. Possible enforcement measures under the permit would include criminal sanctions (e.g., fines and imprisonment) and barring violators from exercising treaty fishing, hunting, and/or whaling rights for at least 3 years.
1643	e_Smith_7-26-15	This also sets a terrible precedence as the rest of first nations around the world are closely watching.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1644	e_Smith_7-26-15	As they have just been de-listed from the endangered species list they have yet to reach a sustainable potential. - Veronica Smith -- Veronica Smith Artist - Astrologer 317.603.3950 www.soulmapmandalas.com 'It is the privilege of a lifetime to be one's self' - Joseph Campbell	ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994, and their current estimated population is well over 20,000 animals. See Subsection 1.1.3, Summary of Gray Whale Status.

Sort #	Commenter Code	Comment	Response
1645	e_Smith_7-29-15	Dear NOAA: Please deny the Makah tribe's request to resume whaling! In regard to the draft environmental impact statement, on behalf of innocent whales that should be protected under the marine mammal protection act, please choose: A no-action alternative I trust that you work on behalf of marine mammals and their protections, not just for the greedy desires of the hunters and fisheries. Sincerely, Nancy Smith	Comments noted.
1646	e_Smith_7-31-15	We are strongly against resuming whaling. The numbers of whales is not the issue. It is a highly inhumane practice and needs to be abolished once and for all in these times. We're having a hard enough time stopping Japan from whaling. It's appalling that this is even being considered. Sincerely, Suzanne Smith Director/Teacher	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1647	e_Smothers_et_al_6-10-15	I find it disheartening that I have to be writing on the actions of a people that used to be the protectors of both the earth and the creatures that live on it. The recent petition of the Makah tribe to continue the treaty right of hunting Pacific Gray Whales is abhorrent. This is not in the days when they needed to hunt for food and survival, this is merely for profit and that is shameful.	Comments noted.
1648	e_Smothers_et_al_6-10-15	These magnificent animals are already endangered along with countless others, need they hunt them into extinction and use for the excuse the treaty rights? The Japanese who are willing to pay them about a million dollars a whale have already overfished the waters in their area until there is nothing left. It isn't as if the native tribes don't have casinos from which they can gather income, must they lower themselves to the very standards they say was done to their tribes during the take over by the Europeans? It seems how quickly they have forgotten and lost the affinity and love of nature that set them apart from those people that have plundered this country. Regards, Sylvia Smothers, Maria Perez, Jamie Lockett	ENP gray whales are no longer listed as endangered. They were removed from the U.S. Endangered Species List in 1994, and their current estimated population is well over 20,000 animals (see Subsection 1.1.3, Summary of Gray Whale Status). Also, the Tribe's proposal does not include commercial sale of whale meat or blubber, and none of the alternatives in the DEIS contemplate commercial sales of whale meat or blubber. Both the MMPA and WCA prohibit commercial whaling. The U.S. position is that the Tribe may not engage in commercial whaling.
1649	e_Sneddon_4-23-15	Dear NOAA officials: There is no real need for the Makah to resume hunting gray whales. In 1855 when the treaty was signed giving them the right to hunt whales off their reservation, there was a need for the meat for subsistence. That need no longer exists and, in fact, it has been documented that many Makahs do not like whale meat. From Washburn's general store on the reservation to super markets	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.



Sort #	Commenter Code	Comment	Response
		<p>not far off the reservation, Makahs today have access to other sources of food. It's a long drive out to Neah Bay from Seattle, but this tribe is not really isolated like the Inupiat in Barrow, Alaska, who hunt the bowhead whale for subsistence. For the Makah, whale hunting is more of a misguided show of bravado. They can honor gray whales in their art, storytelling and other ways, but have no need to kill them. What they do need is a new role for the whale in their culture.</p> <p>Sincerely, Sharon Sneddon Edmonds, WA</p>	
1650	e_Sokol_3-9-15	<p>I got a sickening, sinking feeling in my stomach when I just read in the Seattle Times that an NOAA study could set the stage of Makah whaling to resume. I just spent 8 days on Magdalena Bay in the Baja going gray whale watching, petting the baby calves and their mothers, watching the living, breathing, caring mothers interact as humans do with their babies, and observing these magnificent, loving, and beautiful mammals. I am appalled to read that there is the possibility that that the waters may once again be bloodied with the "hunting" and killing of the Pacific gray whales for tribal purposes. I am BEGGING you to PLEASE NOT LET THIS HAPPEN!!! Do NOT authorize tribal "hunting" and killing of the gray whales!!!! Stacy and Mike Sokol 362 Tradewinds Avenue Naples, FL 34108</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1651	e_Sommer_3-10-15	<p>To the Makah Nation and NOAA. I am a resident of kitsap county and i am writing to request that NOAA deny any permits to hunt whales in the PNW. I make this request being aware of and respecting the Salish Culture and traditions. My reason is simple..there are so many studies with regard to the killing of large whales..and we know that there is just no humane way to kill or capture an animal of this size. With the science available regarding large cetaceans we know this. We are also learning that they have their own cultures and traditions and languages..just as people do..and this in and of itself makes it immoral and unethical.. With all due respect to traditional concerns..modern science must trump this.. I believe that if the Makah tribe considered the incredible pain and suffering and trauma these animals would endure, they would find another way to honor their culture and their spiritual connection to the great whales. This is not an easy position for me as my family is coast salish and i practice native teachings but i have never been taught that we need to be cruel in a modern world to honor our ancient cultures and traditions.. and in this modern world..the hunting of great whales and cetaceans of any kind is inherently cruel...and i believe Creator understands this.. if we wish the world to change from a cruel mindset to one of compassion and honor..than the actions of the people should reflect that. Haze Sommer POulsbo, wa 360.649.5291</p>	<p>Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>

Sort #	Commenter Code	Comment	Response
1652	e_Speer_5-26-15	It appears quite clear to me that the Makah have a treaty right to hunt whales. Our U.S. Courts have muddied the issue by requiring approval of NOAA to waive the MMPA. To do other than grant waiver of the MMPA is to continue a long history of inappropriate meddling and control by the U.S. Government over native peoples' culture. We have done enough damage. Let them hunt.	Comments noted.
1653	e_Spellman_7-20-15	I support Alternative 1, the no-action alternative.	Comments noted.
1654	e_Spellman_7-20-15	The Makah Tribe does not have a subsistence need for whales and, therefore, shouldn't be allowed to hunt gray whales.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1655	e_Spellman_7-20-15	The Makah Tribe cannot demonstrate a continual traditional dependence on whales or whaling and cannot demonstrate either a nutritional or subsistence need for whale meat and other products and, therefore, doesn't qualify for an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC).	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1656	e_Spellman_7-20-15	If the United States allows the Makah to whale it will effectively establish a new form of Aboriginal Subsistence Whaling with significant precedential impact to gray and other species of whales if other US Native American tribes or other aboriginal groups around the globe express interests in whaling. The Makah's cultural need to whale is questionable since there is no evidence that a single whale needs to be killed in order for the Makah to continue to celebrate its historical connection to whales and whaling. Aboriginal people around the world continue to honor their past traditions without actually engaging in the practices which may no longer be socially acceptable, legal, or culturally appropriate.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1657	e_Spellman_7-20-15	Any hunt that results in the potential killing of a resident or Western North Pacific gray whale—populations that are both imperiled—cannot be permitted. With only approximately 209 and 140 whales in these populations, respectively, the intentional killing of a single whale is unacceptable and could be disastrous for those populations.	Please see the responses to frequent comments # 12 regarding risks to WNP whales and # 13 regarding risks to PCFG whales.
1658	e_Spellman_7-20-15	All gray whales, including the Eastern North Pacific migratory gray whales, are subject to a gauntlet of threats in their summer feeding areas and throughout their migratory corridor from Alaska to Mexico. Such threats include climate change, ocean noise, oil and gas exploration and development, pollution, coastal development, contaminants, by catch, and ship strikes. As some of these threats, like climate change, are completely transforming Arctic ecosystems with	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.

Sort #	Commenter Code	Comment	Response
		unknown short and long-term impacts on gray whales, allowing the intentional killing of any gray whales by the Makah Tribe is biologically reckless.	
1659	e_Spellman_7-20-15	Whaling is inherently cruel. To quickly kill a moving whale from a moving vessel in a moving ocean is nearly impossible. In this case, given the inexperience of Makah whalers using harpoons or 50 mm shells, there is even less chance that any whale will be quickly or humanely killed.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1660	e_Spellman_7-20-15	The National Marine Fisheries Service (NMFS) has failed to consider a reasonable range of alternatives in the Draft Environmental Impact Statement (DEIS). These alternatives include the development of a whale-watching operation and the provision of land, funding, or services that would permit the Makah to humanely reconnect to whales and provide for the social and physical needs of the Makah people.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1661	e_Spellman_7-20-15	A nonlethal use alternative such as the development of Makah-operated whale-watching tours would allow the Makah to humanely use and reconnect to the gray whale, bring revenue to the tribe, educate visitors about whales and marine conservation, and introduce visitors to the culture and traditions of the Makah Tribe.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1662	e_Spellman_7-20-15	NMFS has failed to adequately evaluate the full range of threats to gray whales in the DEIS, as required by federal law. These threats include climate change impacts to their habitat (particularly in the Arctic); ship strikes; contaminants; by catch (through net entanglements); pollution (including from oil spills and a proposed massive phosphorous mine in Mexico); and ocean noise (including seismic and sonar), in US, Canadian, and Mexican waters.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1663	e_Spellman_7-20-15	NMFS has failed to properly consider in the DEIS the cumulative impact of past, present, and reasonably foreseeable actions undertaken by federal, provincial, or state agencies or individuals throughout the range of the gray whale, including various activities that NMFS has permitted throughout the gray whale's US range.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1664	e_Spellman_7-20-15	The Makah Tribe's historic use of whales and the significance of whales to the tribe's culture is important and should be acknowledged, but times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah Tribe's relationship with gray whales should change to one of humane, nonlethal use. Tara Spellman, PHR, SHRM-CP Staffing Manager Accomplish Therapy, LLC 1665 Palm Beach Lakes Blvd, Suite #100 West Palm Beach, FL 33401	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1665	e_Sreiber_4-11-15	Dear Sir, Whales are facing major threats. Due to the increase in the population the Makah Tribe in Washington State would soon re-visit their efforts to resume	Please see the response to frequent comment # 4 regarding the

Sort #	Commenter Code	Comment	Response
		whaling, claiming their Treaty rights gave them the authority to kill Gray Whales. Literally, the day after the Coalition returned from Guerrero Negro to San Diego, a new request was applied by the Makah for a waiver under the Marine Mammal Protection Act. The DEIS acknowledges that if the Makah hunt is authorized, it may lead to future regulatory changes that would in turn lead to increased hunts of whales or other marine mammals.	precedential effect of a waiver internationally and domestically.
1666	e_Sreiber_4-11-15	The DEIS is unable to ensure that the highly endangered Western Gray Whale will not be killed. Only genetic analysis would allow identification of a whale as either Eastern North Pacific, Western Pacific Whale or a member of the Pacific Coast Feeding Group. It is impossible to ID these whales as they all look alike.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
1667	e_Sreiber_4-11-15	The DEIS lacks important published research on the extent of Orca predation which has been estimated at 35% of calves. Given the increase in numbers, and the ability of transient Orcas to move deeper into Gray whale habitat in the Arctic as the ice melts, the rate of predation is likely to be as high or higher than 35%. No current Russian figures or current research have been included in the DEIS.	The commenter does not identify the published research allegedly lacking from the DEIS. The DEIS includes updated and relevant material responsive to the commenter's inquiries in the following Subsections: 3.4.3.1.2, Global Distribution and Population Structure; 3.4.3.1.4, Feeding Ecology and Role in the Marine Ecosystem; 3.4.3.1.6, Natural Mortality; 3.5.3.1.1, ESA-listed Marine Mammal Species (Killer Whale); 4.5.2.2, Prey Availability; 5.1.3.8, Natural Mortality.
1668	e_Sreiber_4-11-15	The precedent set by granting a waiver will : - Set an unholy precedent at IWC, particularly as Japan is attempting to have its coastal communities given the same rights as the US is seeking for the Makah Tribe.- Set the wheels in motion for the killing of Humpback Whales as efforts are being made to delist the Northern Humpback Whale from the Endangered Species List. The Tribe has indicated its desire to kill Humpbacks. - Set a precedent for a significant number of Native American Indian Tribes to claim discrimination and seek the same whaling rights as the Makah.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1669	e_Sreiber_4-11-15	The Bowhead whale quota for Alaskan Inuits is a source of great controversy at IWC and within the conservation community. If a waiver is granted to the Makah, the US will have cemented its position as a whaling nation. A total reversal of a proud record of whale conservation. The Tribe proposes killing a maximum of five Gray whales per year on average and up to 24 whales in a 6 year period. The	Comments noted.

Sort #	Commenter Code	Comment	Response
		number of whales struck ( and not killed) would be no more than 42 over the six year period.	
1670	e_Sreiber_4-11-15	The Makah Tribe claims hunting gray whales is a treaty right. The Tribe says the exercise of its treaty whaling rights will provide a traditional subsistence resource to the community and sustain and revitalise the ceremonial, cultural, and social aspects of its whaling traditions. An Indian magazine carries an article which demonstrates the battle those of us who want to protect whales are facing.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe, # 3 regarding the Makah Tribe’s desire to revive its whaling tradition, and # 4 regarding the precedential effect of waiver internationally and domestically.
1671	e_Sreiber_4-11-15	Killing whales in the 21st Century has no place in any culture. A dead whale is a dead whale. If a waiver is granted by the Federal government, then the IWC will have to accept a new whale killing category – healing over 200 years of cultural disruption. Sincerely, Andrea Sreiber Serbia	Comments noted. Please also see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1672	e_Stateler_e_t_al_7-31-15	To Whom It May Concern: We are First Nations whale conservationists and marine mammal stranding responders in Washington State. Regarding the Makah Tribe’s request to resume killing ENP Gray Whales, we urge NOAA Fisheries to implement the NO-ACTION ALTERNATIVE THAT PROHIBITS WHALING under the Marine Mammal Protection Act. As one tribal member stated at your hearing in Port Angeles, WA, “The government should return our land. We’re asking for our rights back.” We advise NOAA Fisheries and other government agencies to negotiate with the Makahs to exchange land or other resources of equivalent value, as determined by the tribe, to compensate for relinquishing the right to kill whales as specified in the 1855 Treaty of Neah Bay.	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1673	e_Stateler_e_t_al_7-31-15	The heinous poaching of a “resident” Pacific Coast Feeding Group Gray Whale in the Strait of Juan de Fuca by five rogue Makah whalers in 2007 thoroughly invalidated the tribe’s claim that killing Gray Whales is for traditional, spiritual, ceremonial, or subsistence purposes. That whale died a cruel, protracted death and sank. Those poachers desecrated their ancestral whaling legacy, compromising it beyond redemption.	The DEIS describes the NMFS investigation of the illegal hunt (see Subsection 1.4.2, Summary of Recent Makah Whaling—1998 through 2014). The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court’s evaluation of the seriousness of their conduct. For information on enforcement measures

Sort #	Commenter Code	Comment	Response
			that are common among the action alternatives, see Subsection 2.3.2.2.12, Other Environmental Protection Measures.
1674	e_Stateler_e t_al_7-31-15	In addition, any risk of killing a critically endangered Western North Pacific Gray Whale is utterly unacceptable. In 2015, our federal government should not be facilitating whale killing, now universally deemed antiquated and inhumane.	Please see the response to frequent comment # 12 regarding risks to WNP gray whales.
1675	e_Stateler_e t_al_7-31-15	Allowing a Makah Gray Whale hunt to resume would undermine US credibility at the IWC.	We disagree. At the request of the United States on behalf the Makah Tribe, the IWC has several times authorized a catch limit for gray whales and the United States continues to be a leader at the IWC. The comment does not explain the basis for a presumed loss of credibility.
1676	e_Stateler_e t_al_7-31-15	The time is overdue for Makah elders, culture bearers and tribal leaders to reassess the viability of whaling in the 21st century. Imperiled by climate change, habitat destruction, and other monumental threats, fragile whale populations will not endure for the next seven generations if only select groups of humans commit to protecting whales, while others persist in exploiting whales. Whales are our sacred brethren – not food. Sincerely, Ann Stateler (Choctaw/Five Tribes) Odin Lonning (Tlingit) Vashon Hydrophone Project -- Native-run whale research/education/conservation in Puget Sound Vashon Marine Mammal Stranding Response 206-463-9041	Comments noted.
1677	e_Stewart_5 -26-15	It would be a crime against nature if you allow the tribes to commence whaling again. Ceremonial or subsistence arguments are not valid, this is 2015. Allow this to happen and then you insist they live in wigwams and wear their traditional clothing Take away all gas driven boats and cars and powered harpoons.. You have a a duty to withhold the international treaty on banning whaling. We become the same as other countries that ignore the treaty if you allow this to commence. Martyn Stewart www.naturesound.org www.soundofcritters.com Redmond WA	Please see the responses to frequent comments # 3 regarding the Makah Tribe’s desire to revive its whaling tradition and # 15 regarding the use of modern weapons.
1678	e_Stokes_4- 14-15	Flying S Farm 2674 Dowans Creek Road Forks , WA 98331 April 6, 2015 360-374-2444 Steve Stone National Ocean and Atmospheric Administration Dear Mr. Stone, For four years I sat on the North Pacific Coast Marine Resource Committee along with representatives of the U&A tribes including the Makah. We reviewed and commented on a wide range of environmental issues. To me, the issue of	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.

Sort #	Commenter Code	Comment	Response
		modern whaling, by any Nation or ethnic group is off the table for environmental, as well as humanitarian issues. Though the full degree of Grey whales' sentence is not fully understood, they have language, protect their young and exhibit intelligence far beyond other denizens of the deep. Their capacity to feel pain and morn the loss of family is manifest.	
1679	e_Stokes_4-14-15	The Makahs associate the whale hunt with keeping their Native traditions in tact. But going out in modern vessels, wearing life jackets and killing whales with modern harpoon has nothing to do with the crazy, dangerous whale hunt with seal bladders, muscle shell harpoons and dug out boats that characterized their ancestors' hunt.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 15 regarding the use of modern weapons.
1680	e_Stokes_4-14-15	Tribal warfare with the Quileutes, taking slaves and cannibalism were other Makah traditions that would not be sanctioned today. The way back for the Makahs is their vast archeological connection through the Ozette dig and Makah Museum. The way back is through their oral history, studying their language, their basket weaving and in seeking out the wisdom of their living elders.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1681	e_Stokes_4-14-15	In Washington State, the Bolt decision makes a 50% allotment of all State fish to the tribes. The Makahs enjoy subsistence hunting rights in their Usual and Accustomed Areas. Previous whale hunts have led to wasted meat, since, the tribe has lost it's acquired taste for this peculiar flesh. Unlike yesteryear, not one First American in Neah Bay requires whale flesh to survive hunger. There is no legitimate reason to allow the Makah to disgrace their courageous ancestry by killing a highly intelligent and gentle species from a modern, safe gunship. The ONLY alternative that makes sense in light of modern facts is "No Action" (continue the 2004 protections of the Marine Mammal Protection Act). Thank you for this opportunity to comment. xxxxxxxx, chiggers stokes	Comments noted.
1682	e_Stonebraker_7-26-15	Please do not allow the Makah Whale Hunt that will kill grey whales to take place. Times are changing, they have so many threats for survival. They are subject to many ship strikes, their babies can be eaten by transient orcas plus some migrate 14,000 miles. Their numbers are dwindling and it will get worse as ocean waters change. Many organizations are trying to protect the whales and to allow this would only crush progress that has been made in convincing people that times are changing. The whale populations need to be protected, every one of them. Please don't allow the Makah Whale Hunt. Thank you, Marilyn Stonebraker Ocean Shores, Washington	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1683	e_Storey-Leonard_3-10-15	Please do not issue a permit for the Makah tribe to hunt & kill whales. If you look closely, and ask people on the reservation, the tribe's taste for whale meat	Subsection 3.10.3.5.1, Makah Whaling, explains that most of the meat and blubber from the gray whale killed

Sort #	Commenter Code	Comment	Response
		disappeared over 50 years ago..... when the whales were harvested in the 1990's the meat simply sat in the freezers not to be used.	during the 1999 hunt was consumed during a single community celebration. Some also was distributed to community households.
1684	e_Storey-Leonard_3-10-15	The method of killing was not in keeping with tribal customs with a simple harpoon & then a gunshot to the head.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1685	e_Storey-Leonard_3-10-15	In 1999 the Grandmothers from the tribe spoke out against this killing of whales, stating that this "right" no longer applied to their tribe. They went as far as to attend the IWC that year, asking them to never support the killing again.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1686	e_Storey-Leonard_3-10-15	I cannot speak to this time, but at that juncture, Japan had "bought off" the tribal council and people on the reservation knew this. The ones who paid the bribes were wanting the whaling to resume so they could point to the Tribe as an example of whale hunting going on outside of Japan to legitimize their own illegal behavior. Please deny the permit. Lyndia Storey Lyndia Storey-Leonard 831-251-6964 (Cell) 831-704-7369 (Office)	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1687	e_Stott_5-1-15	I am writing to express my strong opposition to your issuing the Makah a permit to kill up to five gray whales a year for "cultural reasons." If the permit is granted, will degrade the current global ethic against whaling while perhaps killing as many as 24 gray whales over a five year period. Sincerely, Richard Stott 4000 Rio Road #3 Carmel CA 93923	Comments noted.
1688	e_Sturt_5-22-15	These sentient beings do not deserve to be hunted and killed - no animal does - even if their numbers have come back from being hunted almost into extinction in the past. Each individual deserves to live his or her life.	Comments noted.
1689	e_Sturt_5-22-15	The tribe in question is not living in ancient times when hunting was necessary for survival. Things have changed. Thank you for listening. Sincerely, Pamela Fletcher Sturt	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1690	e_Sund_7-31-15	They shouldn't be able to use a gun. If they want their treaty rights they should use the technology of said treaty. I hear they say it's to be human. I don't buy it. It's an animal, for goodness sake. If they wish to use the rifle do it when death is evident. A rifle gives the tribe an advantage not foreseen in treaty right and is not in their tradition either.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1691	e_Sutkiewicz_5-5-15	Sorry.. this is a horrific idea. There was a time when we did not know what whales were and that they see each other as individuals and as family. If people have to be dragged into the current century.. so be it.	Comments noted.



Sort #	Commenter Code	Comment	Response
1692	e_Sutkiewicz_5-5-15	Slavery used to be a traditional form of getting work done, women as second class citizens in almost EVERY aspect of life used to be "tradition"... that ended because those minorities and others spoke up against and fought against what was happening. The difference now... these animals have N(O voice of their own, only we can speak for them. I am begging you to make the only rational compassionate decision a modern, intelligent, EDUCATED person would make. If you wouldn't whip another human being to do your laundry or tell a wife or daughter not to vote... you shouldn't tell a being we now know is capable of love and iintelligence... you have to be horrifically killed for outdated, primitive, superstitious NONsense. Stella Sutkiewicz Fruitland, MD	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1693	e_Swain_5-11-15	You must be joking, these people have too much time on their hands, perhaps better served by learning just how sentient, social, and family oriented these creatures really are. There is so much we do not know, but what we've learned is we are so fortunate to have these lovely creatures among us. NOT so we can run out and kill them, as unfortunately, we so easily seem to justify doing. This is a native tradition - as the last one ? Good heavens, they killed a baby whale, and did it with a 50 cal. gun for god's sake. None of it was traditional, certainly not their means to kill the baby whale.	Comments noted.
1694	e_Swain_5-11-15	Why ? What is the need for this whale hunt ? There's certainly no need for whale oil, or to eat their fat(s)/blubber, I wish to heaven these folks would wake up and understand how barbaric what they are trying to do (again) really is. These are creatures who harm no one, and were once hunted close to extinction. Leave them alone. There are enough man made threats out there already they have to deal with. And certainly, it's so insulting to hear anyone say they have any kind of "right" to kill these beautiful, intelligent creatures. No one has anything even close to a need to do this sort of thing, much less a "right" !!! Let's try to learn from them, not kill them.	Comments noted.
1695	e_Sweeney_5-3-15	For far too long our society has been selling hunting licenses to kill a host of diverse wildlife. As a teenager I too was involved in this slaughter, but having matured I have come to realize that my hunting and fishing was actually an expression of mental problems I was experiencing...actually a mental illness! My killing was shielded by a complex screen of historical cultural norms that are very out of date in the 21st century. Some humans have made such progress befriending the natural population of gray whales that these animals treat them with trust and respect. What must they be thinking when a group of humans like they have come to trust in other settings inflicts injury and pain? We need to educate the people in the cultures that represent our conflicted past, not issue	Comments noted.

Sort #	Commenter Code	Comment	Response
		permits for them to continue their lives of disrespect for nature. Randy Sweeney Science Educator <a href="http://sciencewonder.org">Http://science wonder.org</a> -- Randy Sweeney Science Educator, Los Angeles, California Owner of Blog: sciencewonder.org Email: The more I learn... The more I realize... That there is so much more to know!	
1696	e_Swesey_3-8-15	This email is in reference to the request for public input for the Makah Whaling Draft Environmental Impact Statement noted in the March 8th Peninsula Daily News. I wish to go on record as strongly opposed to further whaling by the Makah Tribe. Even though the Makah Tribe have claimed that whaling is for cultural "enlightenment" it is difficult to justify the painfully slow and brutal death an intelligent life for one's culture.	Please see the responses to frequent comments # 1 regarding humaneness of a whale hunt and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1697	e_Swesey_3-8-15	This is not subsistence hunting and is not a physical requirement for these natives	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1698	e_Swesey_3-8-15	nor would these whales be hunted in a "culturally traditional" manner. This would most likely be done in speed boats and high powered weapons.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1699	e_Swesey_3-8-15	The true nature of Makah intentions could be summarized in the illegal machine gun slaughter of the gray whale killed on September 8th, 2007. northeast of Neah Bay. This demonstrated that no uniform or culturally ordained relationship existed between the tribe and it's culture. The members involved claimed to be within their tribal rights and showed undeniable disrespect for the laws set up to protect these animals. The tribal members involved in the killing were given only misdemeanor charges and continue to remain as tribal members. The death of an intelligent creature has higher value than cultural "enlightenment." Mike Swesey Sequim, WA	The DEIS describes the NMFS investigation of the illegal hunt (see Subsection 1.4.2, Summary of Recent Makah Whaling--1998 through 2014). The tribal members who participated in the 2007 unauthorized hunt were prosecuted in federal court and all five tribal members received judicial sentences based on the MMPA and the court's evaluation of the seriousness of their conduct. For information on enforcement measures that are common among the action alternatives, see Subsection 2.3.2.2.12, Other Environmental Protection Measures.
1700	e_Swope_3-10-15	To whom it may concern, I am strongly in favor of honoring the Makah's whaling traditions and not violating their sovereign treaty rights, as long as their whale harvest is done sustainably. I have read arguments against the hunt saying that whale are sentient, intelligent creatures and that the hunt is cruel. This type of	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>argument against whale hunting is morally deficient if those making that argument consume red meat. I am not Makah or native. I have hunted mammals like elk and butchered animals like cows (which are sentient, intelligent creatures), and have watched them die. It is a deeply sad, spiritual, and connective act to shepard an animal from this life to sustain your own life. Uphold the Treaty which gives you the authority to regulate this hunt or relinquish full sovereignty back to the Makah. Michael Swope 206-852-2395 3201 SW Roxbury St. Seattle WA 98126</p>	
1701	e_Sylvie_5-14-15	<p>Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I support Alternative 1, the no-action alternative. The Makah do not have a subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.</p>	<p>These introductory comments are noted; specific responses are provided below.</p>
1702	e_Sylvie_5-14-15	<p>The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.</p>	<p>Please see the response to frequent comment # 12 regarding risks to WNP whales.</p>
1703	e_Sylvie_5-14-15	<p>NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled</p>	<p>The DEIS provides a detailed analysis of impacts on gray whales and other</p>

Sort #	Commenter Code	Comment	Response
		whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1704	e_Sylvie_5-14-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1705	e_Sylvie_5-14-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1706	e_Sylvie_5-14-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1707	e_Sylvie_5-14-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances,	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.

Sort #	Commenter Code	Comment	Response
		ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, sylvie C le bourg cubjac, aquitaine 24640	
1708	e_Tham_7-31-15	Dear all, Please do not allow the Makah Tribe to resume whaling. Thank you Daniel	Comments noted.
1709	e_Thibault_7-31-15	If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities. Thank you	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1710	e_Thiel_5-5-15	In 2015 there is no "need" to kill whales. The Makah Tribe has access to food, clothing and traditional history. "Tradition" is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1711	e_Thiel_5-5-15	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Comments noted.
1712	e_Thiel_5-5-15	If you allow the Makah to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the livelihood of whale watching companies, and tourism for an outdated tradition has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon and Washington Coastlines.	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching
1713	e_Thiel_5-5-15	In closing I want to reiterate that I oppose any permit to allow the Makah to hunt whales in anyway. If you go forward you will be breaking a law and taking away the protections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection Act which came about for a reason. It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challenges to survive in a modern ocean. Sincerely, Daniela Thiel	Comments noted.
1714	e_Thiersch_4-28-15	Regarding the proposed Makah whale hunt: No waiver of the moratorium is acceptable. Quaint provisions of ancient treaties are not relevant to the modern world. In this particular case, in addition to the moral and ethical reasons for not allowing any whaling hunting, there is a high likelihood that a western Pacific	Please see the responses to frequent comment # 8 regarding the Treaty of Neah Bay and # 12 regarding risks to WNP whales.

Sort #	Commenter Code	Comment	Response
		gray whale could be mistaken for an eastern Pacific gray whale and killed; the western Pacific gray whale species is still endangered and must be protected from human predation.	
1715	e_Thiersch_4-28-15	The Tribe's assertions in the "Needs" statement that they will "harvest" whales for "sustenance" is nonsense – if the Tribe's people are that much in need of food, USDA has a number of programs that will feed them, and without butchering rare mammals that are only barely off of the endangered species list. The amount of "sustenance" from 5 whales will have no meaningful impact on the dietary needs of the 2,000 or so Makah who could possibly receive any such food. i.e., The "sustenance" argument is nonsense. The barbaric practices of the past need to stay there – in the past. Tribes cannot cling to their religious beliefs as an excuse, either. There is nothing "sacred" about the proposed slaughter. No waiver of the moratorium is acceptable. NOAA must reject this application, with prejudice. Tom Thiersch Port Townsend, WA	Comments noted.
1716	e_Thomas_3-11-15	Dear Sirs and Madams, I write to you from Germany. For more than 25 years I try to enthuse people for the wonderful whales. I wrote several children's book and illustrated them by myself with artwork. I wrote a novel about orcas and did many talks in schools. I read that you think about starting to hunt grey whales again and my heart almost broke. I always respect other cultures and I learnd how bad the native people in the USA have been treated in the past. So of course I support to keep traditions as good as possible to help you to identify yourself and don't forget your precious roots. But in this case it is different. The grey whales have to deal with a mass of problems and dangers already like pollution, boat traffic. It is a species that we should protect in the best way we can. Wasn't it the aim of native people to live in harmony with nature? Just take what has to be taken. Respect other creatures? Grey whales and other whale species need this spirit now in a time when so many people just think about money, power and success. I hope you find a way to live traditions but to let the whales live. Thank you for taking time with best regards Doris Thomas Germany -- German author <a href="http://www.Doris-T.de">www.Doris-T.de</a>	Comments noted.
1717	e_Thomas_5-18-15	Dear Mr. Stone, I would like to ask if it is possible to extend the comment period for the Makah DEIS for another 60 days. 1,300 plus pages for comments have to be proofed. It would be fantastic if people have enough time to do so. Thank you very much in advance Best regards from Germany Doris Thomas -- <a href="http://www.doris-t.de">www.doris-t.de</a> <a href="http://www.doris-t.blog.de">www.doris-t.blog.de</a> author and artist	Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.

Sort #	Commenter Code	Comment	Response
1718	e_Thornily_3-12-15	I believe that nobody should have special treatment when it comes to public resources. We are all eating from the same pot, and should be subject to the same rules, simple. All other policies descriminate, end of story. Steve Thorniley	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1719	e_Tibbles_4-28-15	To Whom It May Concern: I'm unable to attend the meeting so I appreciate you accepting my comments. First I would like to say that I'm not opposed to subsistence fishing and hunting that commonly occur with some native communities in Alaska, and I appreciate and recognize the spiritual and ceremonial aspect of their traditions which bring respect and reverence into their hunts. The last time the Makah legally hunted and slaughtered a whale in 1999, I was horrified to watch the said hunters' celebrations, the most appalling of which was the young man doing a backflip off the back of the whale. I ask you, does appear to be the actions of an individual exercising their spiritual and ceremonial rights? I won't even address the illegal hunt in September of 2007 in which they shot a whale and it suffered a long and terrible death.	Comments noted.
1720	e_Tibbles_4-28-15	Setting my emotional objections aside, I respectfully ask that you consider the following: The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1721	e_Tibbles_4-28-15	The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1722	e_Tibbles_4-28-15	If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale killed in 1999 was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
1723	e_Tibbles_4-28-15	If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1724	e_Tibbles_4-28-15	If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1725	e_Tibbles_4-28-15	The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. I do not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
1726	e_Tibbles_4-28-15	There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1727	e_Tibbles_4-28-15	If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.
1728	e_Tibbles_4-28-15	The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1729	e_Tibbles_4-28-15	There are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.



Sort #	Commenter Code	Comment	Response
1730	e_Tibbles_4-28-15	Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1731	e_Tibbles_4-28-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution. Respectfully, Joanne Tibbles 360.509.2215	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1732	e_Trinks_8-1-15	Sehr geehrte Damen und Herren, ich protestiere hiermit energisch, gegen Ihr Vorhaben , Grauwale zu jagen. Lassen Sie die Wale in Ruhe. Sie haben nicht das Recht diese zu bejagen. Viele Grüße D. Trinks Translated German to English: Dear Sir or Madam, I protest hereby vigorously against your plans to hunt gray whales. Let the whales alone. You have no right to hunt them. many Greetings D. Trinks	Comments noted.
1733	e_Trosper_4-3-15	To Whom it May Concern, I agree with Alternative 2, but I also like the date limitations in Alternative 4. I think it is important to place measures that help avoid killing endangered Western Pacific gray whales, but I do not agree with the limit of whale deaths in Alternatives 4-5. Thank you,-Concerned Forks Citizen	Comments noted.
1734	e_Trump_5-6-15	I'm writing in support of the gray whales. I attended the meeting in Seattle and like others who spoke, I have been to Baja and had a personal connection with those whales. They are amazingly gentle creatures who are as curious about us as we are of them. As crazy as this sounds, I witnessed many momma whales lifting up their babies to our boat to allow us to interact with them, to look them in the eye, and to pet them. I witnessed one whale who seemed to enjoy putting her nose to the side of our boat and giving us a gentle push. Another whale who we called "the spitter" seemed to enjoyed dunking down next to our boat and spraying us over and over again. The bigger reaction they got from us in the form of laughter and excitement, the more intrigued they seemed to become. These are truly incredible creatures with a personality who showed us their compassion. It would have been nothing for those enormous whales to flip our boat, but they never did (and never have, I was told) because there seemed to be a trust between us that went both ways. These are the same whales that the Makah tribe wants to hunt and kill. The mere thought of a gray whale going up to	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.

Sort #	Commenter Code	Comment	Response
		<p>a Makah boat and being greeted by a harpoon is sickening and simply WRONG. I have the utmost respect for the Native American culture and their heritage but sometimes what we have accepted in the past is no longer acceptable in the current world. To allow this hunt to take place would cause great suffering and cruelty to these whales. Not only are they asking to kill up to 24 whales, but in doing so there could be 42 other whales out there who escaped death but are injured with harpoons and/or gunshot wounds as well as 18 others who died and sank to the bottom of the ocean. This is unacceptable! Who are we as a society if we allow our government to approve the inhumane treatment of animals in our own backyards. Please disapprove the Makah application to hunt gray whales in its entirety! Not a single whale should suffer at the hands of our citizens. Thank you, Diana Trump 9821 NE Murden Cove Dr Bainbridge Island, WA 98110</p>	
1735	e_Tuorto_5-8-15	<p>Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as</p>	<p>Comments noted.</p>
1736	e_Tuorto_5-8-15	<p>(1) the Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I support Alternative 1, the no-action alternative. We must stop all of the killing in our seas. When the seas are dead, so will we be. The Makah do not have a subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1737	e_Tuorto_5-8-15	<p>The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are</p>	<p>Please see the response to frequent comment # 12 regarding risks to WNP whales.</p>

Sort #	Commenter Code	Comment	Response
		inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	
1738	e_Tuorto_5-8-15	NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1739	e_Tuorto_5-8-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1740	e_Tuorto_5-8-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1741	e_Tuorto_5-8-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.

Sort #	Commenter Code	Comment	Response
1742	e_Tuorto_5-8-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances, ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, Vicky Tuorto PO Box 324 San Quentin, CA 94964-0324	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 10 regarding the response of gray whales to being hunted.
1743	e_Turner_3-12-15	OH HELL NO! The Makah must be stopped from killing any more whales. Their culture must evolve, or perish.	Comments noted.
1744	e_Turner_3-12-15	A picture from their previous hunt speaks loudly: it shows two Makah members standing on a dead whale cheering. Disgusting. Their ancestors must be appalled.	Comments noted.
1745	e_Turner_3-12-15	On the other hand, if they are willing to hunt whales using traditional methods then I would not be as adamantly opposed. Instead of power boats and high caliber rifles, let them go out with handmade canoes & paddles & hand thrown harpoons. I'll bet they can't catch a cold. Please stop this awful insanity. Water Dragon	Please see the response to frequent comment # 15 regarding the use of modern weapons.
1746	e_Ufamily_5-8-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as	Comments noted.
1747	e_Ufamily_5-8-15	(1) the Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I support Alternative 1, the no-action alternative. The Makah do not have a subsistence need for whales. As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.	Please see response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1748	e_Ufamily_5-8-15	The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1749	e_Ufamily_5-8-15	NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	The DEIS provides a detailed analysis of impacts on gray whales and other species. Please also see the response to frequent comment # 9 regarding non-lethal action alternatives.
1750	e_Ufamily_5-8-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1751	e_Ufamily_5-8-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.

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		North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	
1752	e_Ufamily_5-8-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1753	e_Ufamily_5-8-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances, ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, The U. family Beth East, PA 18020	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 10 regarding the response of gray whales to being hunted.
1754	e_USDoI_6-11-15.	Dear Mr. Stone: June 11, 2015 United States Department of the Interior OFFICE OF THE SECRETARY Office of Environmental Policy and Compliance 620 SW Main Street, Suite 201 Portland, Oregon 97205-3026 The Department of the Interior has reviewed the Draft Environmental Impact Statement for the Makah Tribe Request to Hunt Gray Whales, Washington. The Department has no comments on the document at this time. We appreciate the opportunity to comment. Sincerely, Allison O'Brien Regional Environmental Officer	Comments noted.
1755	e_VanSull_3-7-15	Please, The whales are very important in our ecosystem. If we don't stop the hunt, the oceans die and if the oceans die, we die. I WANT SAY NO TO THE GRAY WHALE HUNT BY THE MAKAH TRIBE ! WE LIVE IN THE 21st CENTURY AND THE OCEANS, OUR MOTHER IS DYING. STOP THIS ! Support Sea Shepherd please Francois	Comments noted.
1756	e_VanValkeburgh_5-3-15e_Vaus_7-26-15	While I can understand the Makah Tribe's request for a permit to harvest a small number of gray whales, I believe that approval would put the U. S. government on a slippery slope. The request of the Makah is based on certain cultural values of the tribe. But the Japanese justification for killing whales is similarly alleged to be for "cultural" reasons. The U.S. has opposed Japanese whale hunts, so how can we justify a "cultural" exception in this case? I submit that to do so would undercut our efforts to protect other whales and species at risk across the world,	DEIS Subsection 3.17.3.2.2 (Aboriginal Subsistence Whaling) and Subsection 4.17 (Regulatory Environment Governing Harvest of Marine Mammals) address the issues raised in this comment.

Sort #	Commenter Code	Comment	Response
		and strongly urge denial of the permit. Respectfully, Lee Van Valkenburgh 565 Huntington Ave Winter Park, Fl 32789	
1757	e_Vaus_7-26-15	Dear NOAA,I am writing in opposition to your granting the Makah a waiver and a permit to hunt gray whales off the Coast of Washington State. You cannot go around the Marine Mammal Protection Act (MMPA) and allow harming these whales who have come to trust humans, and are loved by whale watchers, residents, and visitors that come to Washington and Oregon Coastlines.In 2015 there is no “need” to kill whales. The Makah Tribe has access to food, clothing and traditional history. “Tradition” is not an acceptable excuse or objective reason to circumvent the Marine Mammal Protection Act as it is a subject state.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1758	e_Vaus_7-26-15	Objective data proves gray whales and all cetaceans to be highly intelligent beings who were almost driven to extinction because of hunting. Today the goal should be to protect and celebrate their existence not harm.	Comments noted.
1759	e_Vaus_7-26-15	If you allow the Makah to kill whales you will be breaking a law, weakening the MMPA and betraying the whales, the whale watching companies and the visitors and whale watchers that bring money into our local economies. To risk the lives of the gray whales, and the lively-hood of whale watching companies, and tourism for an outdated tradition has no place in a modern world is wrong. Gray whales are highly intelligent and know when they are being hunted. If hunting is resumed the whales may take a different route for migration negatively impacting tourism on the Oregon and Washinton Coastlines.	Please see the response to frequent comment # 17 regarding the lawfulness of a waiver. The DEIS discusses the likely impact of a whale hunt on the whale-watching industry in Subsection 4.6.2.3, Whale-watching
1760	e_Vaus_7-26-15	In closing I want to reiterate that I oppose any permit to allow the Makah to hunt whales in anyway. If you go forward you will be breaking a law and taking away theprotections for the Gray Whale and all cetaceans by weakening the validity of the Marine Mammal Protection act which came about for a reason. It is time to stop all hunting of cetaceans who science has proved are highly intelligent beings, and who already face so many challnges to survive in a modern ocean.Sincerely,Kathleen Vaus	Comments noted.
1761	e_Venney_5-14-15	Dear Mr. Stone: I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe’s whale hunt. While I respect the Makah and its culture, I am strongly opposed to the proposed hunt, as	Comments noted.
1762	e_Venney_5-14-15	(1) the Makah do not have a subsistence need for whales, (2) the hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt in inherently cruel. I support Alternative 1, the no-action alternative. The Makah do not have a subsistence need for whales. As reflected in the DEIS, with	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to resume its whaling tradition.

Sort #	Commenter Code	Comment	Response
		the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling (i.e., a subsistence need)--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal. The United States should also not seek another IWC ASW quota for the Makah Tribe for this reason.	
1763	e_Venney_5-14-15	The proposed hunt could further imperil both the resident gray whale and Western North Pacific gray whale populations. If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates from NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing of these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1764	e_Venney_5-14-15	NMFS has not adequately complied with federal law in preparing the DEIS. The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A non-lethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	The DEIS provides a detailed analysis of impacts on gray whales and other species. Regarding non-lethal alternatives, please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1765	e_Venney_5-14-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS. These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these are adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.



Sort #	Commenter Code	Comment	Response
1766	e_Venney_5-14-15	In addition, NMFS has not adequately considered the cumulative impact of past, present, and future activities in US, Canadian, and Mexican waters on the gray whales and their habitat. In the US alone, NMFS routinely permits various projects that involve the use of seismic and sonar testing, oil and natural gas development, coastal construction projects, scientific research, and other activities that it acknowledges will impact gray whales and other marine species. The DEIS does not sufficiently consider the cumulative impacts of such authorizations. When combined with activities in Canadian and Mexican waters of the Pacific Ocean, it becomes evident that gray whales, including the Eastern North Pacific migratory population, are subject to numerous threats throughout their migratory range and in their winter and summer habitats.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1767	e_Venney_5-14-15	The proposed hunt is inherently cruel. It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Under such circumstances, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1768	e_Venney_5-14-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale. The tribe can continue to celebrate the whale and its culture through its traditional dances, ceremonies, and other festivities without killing a single gray whale. That would reflect a new relationship between the tribe and whales that I support, that NMFS should support, and that would benefit all involved, particularly the gray whales. Thank you for considering my views. Sincerely, Elizabeth Venney 14525 SW 290 TER Homestead, FL 33033-2936	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition and # 9 regarding non-lethal action alternatives.
1769	e_Volk_4-24-15	I strongly support the "No Action" alternative to continue the moratorium on any Makah whaling activities. No animal should be killed unless there is a need, and unless there is no waste. It is my understanding that the last whale killed by the Makah was, indeed, wasted.	Comments noted. Most of the meat and blubber from the gray whale killed during the 1999 hunt was consumed during a single community celebration (see Subsection 3.10.3.5.1, Makah Whaling).
1770	e_Volk_4-24-15	Times have changed (thank goodness!). Slavery has been outlawed. Women now vote. The days of whaling should be over as well.	Please see the responses to frequent comments # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1771	e_Volk_4-24-15	The Makah method of killing whales with 50-caliber guns and towing them to shore with motor boats and tractors does not reflect their old culture anyway.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1772	e_Volk_4-24-15	For better or worse, it seems that the tribes have effectively found their voice. They have new health clinics, new casinos, new commercial docks, new lands from our National Park to avoid tsunamis, new methods of fishing that are illegal for the rest of us, etcetera. It seems that the pendulum has swung too far of late: US taxpayers are providing too generously to these “sovereign” tribes that require our lopsided support. I really doubt that Boldt could have predicted his fishing decision to have such drastic effects on the NON-tribal fishermen. I fear that ANY allowance for the Makah to kill whales would likewise be abused in the future. Thank you for making, certainly, what will be a thoughtful decision. Carol Volk, DVM 207 Southview Drive Port Angeles WA 98363 360-928-9509	Comments noted.
1773	e_Ward_3-10-15	It’s “traditional” for my “tribe” (European) to commit genocide against Native Americans. If “tradition” makes it okay for the Makah to murder whales then they shouldn’t object to white people murdering them, right? I mean, after all, it’s only “traditional.” Joe Ward 905 Deer Trail Farmington, NM 87401 “Little garden planet, Oasis in space. Some hearts hurt, They can hardly stand The waste.” – from “Ethiopia” by Joni Mitchell -	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1774	e_Watson_7-28-15	I wholeheartedly support first nations land rights. But they in no way own whales. Just because they have done something for 1500 years does not mean they need to continue or that it is just. Culture is the excuse used by many to do wrong. Modern day first nations do not live like their ancestors, nor do they hunt like them. They utilize every modern convenience and technology the rest of us do so whales are no longer crucial to their survival.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1775	e_Watson_7-28-15	In fact, whale meat is not safe to eat anyway, due to mercury and other contamination. Please do not open this Pandora’s box, whaling is part of history and that is where it needs to remain. Sincerely, Lorraine Watson	Comments noted. The DEIS discusses the presence of persistent and potentially toxic contaminants in whale meat and blubber and allowable consumption rates for humans, based on health concerns, noting that contaminant concentrations often are lower in freshly harvested whales than in stranded whales and also lower in baleen whales than in toothed whales because of their different food sources

Sort #	Commenter Code	Comment	Response
			(see Subsection 3.16.3.2, Environmental Contaminants in Gray Whales). The DEIS notes that under the action alternatives, individual tribal members would be exposed to higher levels of certain contaminants as a result of eating more whale products (Subsection 4.16.3.2, Alternatives 2 through 6).
1776	e_Weinstein_4-17-15	Dear Sir/Ms., I would like to register for the Seattle hearing on April 27 <sup>th</sup> . The registration is for myself, Diane Weinstein, and Dorothy Breen. Is this the correct email address and procedure for registration? Please let me know. Thank you.Diane Weinstein	Request noted.
1777	E_Weinstein_6-10-15-2	Dear Sir/Ms.: Please accept the attached comments on the DEIS Regarding the Makah Tribes Request to Hunt Eastern North Pacific Gray Whales. I would appreciate an acknowledgement that the comments have been received. Thank you.Sincerely, Diane Weinstein Attachments: DEISComments2015.docx , 27 bytes	Request noted.
1778	e_West_7-14-15	Dear Sir or MadamWe are writing to express our opposition to any kind of whaling anywhere.Please do not allow the Makah tribe to take a step backwards in the evolution of humankind and start whaling again.It is unnecessary to kill whales or any ocean being in todays world.Please encourage moving forward and reject proposals to take any more of these now endangered, sentient, intelligent ocean dwellers.I express my opinion that God placed these beings in the ocean to live freely. In the Bible it expressly forbids any eating of any being that does not have lift-able scales.Whether one is religious or not - it cannot be denied that nature has evolved these beings over millions of years and now humankind are driving them to extinction.Please do not allow whaling Please.Thank you for reading my letterYours faithfullyMrs Dawn West & West family and friends 6 PO22 9FH	Comments noted.
1779	e_Wheatcroft_7-27-15	Please do not allow any hunting of the whales. I understand that this practice has sustained the Makah for many generations but times change and we must evolve with them. Cannibalism is no longer acceptable in the world, neither should eating whales. NO HUNTING OF WHALES EVERAnn Wheatcroft Victoria Bc Canada	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1780	e_Wieczorek_3-23-15	National Oceanic and Atmospheric Administration – Bree Wieczorek started a petition on Change.org and listed you as a decision maker. Learn more about Bree Wieczorek's petition and how you can respond.NOAA: Don't Allow the	Comments noted.

Sort #	Commenter Code	Comment	Response
		Makah Tribe to Resume Hunting Whales Petition by Bree Wieczorek · Started Mar 23, 2015 On March 5th, 2015, the National Oceanic and Atmospheric Administration (NOAA) issued a press release disclosing that the Native American, Makah Tribe (located in the... Read more View the petition	
1781	e_Wieczorek_3-23-15 - Wieczorek_Petition	2,108 Supporters On March 5th, 2015, the National Oceanic and Atmospheric Administration (NOAA) issued a press release disclosing that the Native American, Makah Tribe (located in the State of Washington), has requested to resume hunting of eastern North Pacific Gray Whales for ‘ceremonial and subsistence purposes’. NOAA has opened a public comment period (via email) for 90 days, ending on June 11th, 2015. By signing this petition, you are sending a comment directly to NOAA in opposition of the Makah’s request to resume whaling. Letter to National Oceanic and Atmospheric Administration Please issue a ‘No-action’ ruling for the request from the Makah Tribe, asking to resume hunting of eastern Northern Pacific Gray Whales, due to the following: The Makah Tribe’s last whale hunt, in 1999, was met with controversy, as their ‘ceremonial’ whale kill, involved high powered harpoons, a .50 mm rifle, gas powered boats, cell phones, and helicopters taking live footage of the ordeal. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The use of modern technology and high powered harpoons and rifles are not reflective of Native American ceremonial whaling. Unbroken tradition/ceremony, as described by preeminent scientist Roger Payne (2014), would involve no modern weaponry or technology, and hand carved canoes and vessels, with human muscle being the only force at work. Subsistence hunting provides food for survival, and survival only.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1782	e_Wieczorek_3-23-15 - Wieczorek_Petition	The Makah Tribe does not rely on whale meat for food; whaling for the Makah, is not a subsistence hunt, it is simply unnecessary blood sport. Following the gray whale kill in 1999, the Makah Tribe discarded most of the whale meat, and did not consume it.	Most of the meat and blubber from the gray whale killed during the 1999 hunt was consumed during a single community celebration (see Subsection 3.10.3.5.1, Makah Whaling) Please also see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1783	e_Wieczorek_3-23-15 -	Furthermore, the eastern North Pacific Gray Whale population is listed as protected by the Marine Mammal Protection Act (MMPA), which is enforced by NOAA, rendering this hunt to be a direct action against the MMPA.	The MMPA moratorium on “take” is not absolute and the the Secretary of Commerce may waive the moratorium

Sort #	Commenter Code	Comment	Response
	Wieczorek_Petition		if the Secretary determines that the waiver would be compatible with the MMPA. Preparation of the DEIS is one step in the full waiver process, which includes initial and final waiver determinations, formal rulemaking, and permit processing. For more information, see Subsections 1.2.3.3 and 3.17.3.1 of the DEIS.
1784	e_Wieczorek_3-23-15 - Wieczorek_Petition	The IWC does not recognize 'cultural' needs for aboriginal whaling groups to whale; the IWC recognizes aboriginal whaling for unbroken tradition and subsistence purposes only. The Makah break tradition by utilizing modern weaponry and technology for their hunt. The Makah Tribe of Neah Bay has access to grocery stores and other modern conveniences, thus rendering the claims that this hunt is for subsistence purposes as purely false.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1785	e_Wieczorek_3-23-15 - Wieczorek_Petition	NOAA should make a 'No-action' ruling on request by the Makah. There are no changes in any of the Makah's whale hunt tactics and/or subsistence hunting needs since the 1999 whale hunt, which yielded discarded whale meat. The United States does not support whaling.. Do not allow the Makah to resume hunting of eastern North Pacific Gray Whales. "To the Makah...I say: give whales a break; throw open the doors of your imagination. There are vastly better ways to create vastly stronger bonds among the young men in your society. Invent a few and master them. Then show us all and let us admire you..." Roger Payne (2014). Updates	Comments noted.
1786	e_Wiggins_4-24-15	1. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1787	e_Wiggins_4-24-15	2. The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	
1788	e_Wiggins_4-24-15	3. If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1789	e_Wiggins_4-24-15	4. If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1790	e_Wiggins_4-24-15	5. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1791	e_Wiggins_4-24-15	6. The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
1792	e_Wiggins_4-24-15	7. There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse- trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1793	e_Wiggins_4-24-15	8. If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.
1794	e_Wiggins_4-24-15	9. The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a

Sort #	Commenter Code	Comment	Response
			boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1795	e_Wiggins_4-24-15	10. Sea Shepherd notes that there are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1796	e_Wiggins_4-24-15	11. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1797	e_Wiggins_4-24-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution. Thank you, Jana Wiggins	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1798	e_Wilson_7-22-15	Dear NOAA: I want to voice my opinion as a WA state resident against granted the Makah Tribe's petition to resume gray whale hunting. I question the legitimacy of their desire to resume hunting whales for cultural reasons and food. I believe more harm, rather than good, would come from grating this petition.	Comments noted.
1799	e_Wilson_7-22-15	The tribe itself is not in agreement upon resuming whaling,	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1800	e_Wilson_7-22-15	and up to five gray whales per year seems like a large number to request for their given reasons.	Most of the meat and blubber from the gray whale killed during the 1999 hunt was consumed during a single community celebration (see Subsection 3.10.3.5.1, Makah Whaling); this level of consumption suggests that there would be little waste of edible whale products if the Makah were to harvest four whales a year. The Makah Tribe's request is for 4 whales per year, with a maximum of

Sort #	Commenter Code	Comment	Response
			5 harvested in any one year. Harvesting four gray whales per year is estimated to yield 8 to 20 pounds of meat and 16 to 20 pounds of oil or blubber per Makah tribal member (see Subsection 3.16.3.1, Nutritional and Health Benefits from Consuming Whale Food Products and Other Traditional Subsistence Foods).
1801	e_Wilson_7-22-15	Further, in this time period, inhabitants of the PNW all revere whales to some extent. We have groups dedicated to researching and protecting whales, people traveling from all over the country/world to see our whales, and generally whales are a symbol of the PNW. Though the Makah tribe historically practiced whaling, in this age, simply respecting whales as part of nature without whaling can still uphold their traditional values. I truly think granting the Makah tribe whaling rights would undermine the 'spirit' of the Pacific Northwest.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1802	e_Wilson_7-22-15	By granting tribes the right to essentially unrestricted salmon fishing, allowing them to govern their tribal lands, have tribal schools, and the like, is still respecting their rights and traditions as a cultural community. Yet, whaling is outdated and I do not believe granting whaling will bring any additional cultural values and tradition back to the Makah tribe.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1803	e_Wilson_7-22-15	Further, I am concerned that if the Makah tribe is granted this request, other tribes will request whaling permits. If this permit passes, the other tribes will have a greater argument for their own whaling rights. Please uphold the spirit of the PNW and do not grant the Makah tribe whaling rights. Thank you for your time. Sincerely, Briana Wilson Lake Forest Park, WA	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1804	e_Wise_4-21-15	I support the resumption of the Makah Whale Hunt. This is a tribal right. The whales are on the rebound. It is important for us, people of the tall ships, to learn of and appreciate these long-held and long-practiced customs of the first people's culture. Respect, understanding and compassion need to become prominent in our current ways of our being. Bill Wise 710 Foster Street Port Townsend, WA 98368	Comments noted.
1805	e_Wolf_3-13-15	To Whom it May Concern, I want to express my dismay and alarm at even considering letting the Makah tribe hunts whales. The Makah have not whaled since the 1920's. They do NOT need whales for food and said they would sell the meat to Japan. That is NOT subsistence hunting. The International Whaling Commission specifically "allows aboriginal whaling only when there is an	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.



Sort #	Commenter Code	Comment	Response
		unbroken tradition and only for subsistence purposes. Neither of these exceptions are applicable to the Makah tribe.	
1806	e_Wolf_3-13-15	The Makah stated the reason they want to resume whaling is for culture. Slavery in the US was once part of American culture but we finally realized how wrong it was and evolved. The same is true of whaling. Allowing an exemption for “cultural” purposes would set a very bad precedent and would encourage Norway, Japan, Iceland and others to continue slaughtering these intelligent, socially complex beings in the name of culture.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1807	e_Wolf_3-13-15	Will the Makah whale they way they did century ago? Will they sail in wooden boats and throw harpoons at the whales? No they will use motorized boats with GPS, sonar, cell phones and high powered harpoon guns. Those tactics weren’t a part of their “culture” but would become the new “culture”. See how that word evolves, as should the Makah.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1808	e_Wolf_3-13-15	If the Makah are allowed ANY quota for gray whales they will then seek allowances for other species since gray whales aren’t very tasty. They have stated this as their intent.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1809	e_Wolf_3-13-15	If one exemption is made it will be extremely difficult if not impossible to deny the next request or the one after it. And then how can justification be made not allowing exemptions for other countries or peoples? It’s a cascading effect, where will it end?	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1810	e_Wolf_3-13-15	Humans have and still are doing tremendous damage to our oceans and marine life. Killing marine species to the brink of extinction, destroying habitats, polluting the waters, sound deafening oil exploration, overfishing and everything else we’ve done in the name of progress. Whales are still under pressure from all these human activities and still NEED protection. Our oceans and marine life are paying a very high cost for our progress. Humans will too if we don’t change & protect Earths oceans and it’s inhabitants.	Comments noted. Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1811	e_Wolf_3-13-15	How will the killing of whales impact the highly lucrative whale watching industry? Imagine being on a whale watching tour to see live, free swimming whales only to witness their slaughter. Would you want to see that or allow your children to witness it? It’s bad business and could be extremely detrimental to that tourist focused industry. Will whaling end only when they are no more whales left? Not if we make sure to continue to ban whaling in the USA. And continue to pressure other countries to stop their whaling. There are so many reasons NOT to allow the Makah to resume whaling and not a single good one.	As noted in the DEIS, the proposed hunt area is remote and not a major whale-watching destination compared to other areas along the West Coast, so it is unlikely that Makah hunting activities would overlap geographically with whale-watching tours (see Subsection 5.1.3.5, Tourism). The action alternatives place limits on the

Sort #	Commenter Code	Comment	Response
		I'm imploring you, please do not allow the Makah to resume ANY whaling. Thank you, Kathy Wolf	maximum number of whales that can be harvested, struck, and struck and lost (see Table 2-1).
1812	e_Wong_3-12-15	Hello, As a supporter for Sea Shepherd, I would like to voice my opposition to granting the Makah tribe the special ability to whale. Sea Shepherd has 12 primary reasons for opposing the plan to slaughter whales by the Makah: 1. The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1813	e_Wong_3-12-15	2. The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. The Makah have a legal right to sue the U.S. for not representing them, although they did not request representation at the time and have never made a protest about this lack of representation. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1814	e_Wong_3-12-15	3. If the Makah establish a quota of gray whales they will seek to establish a quota for humpbacks, minkes, and orcas in the future because gray whale meat is not considered to be palatable as a food animal. Most of the whale meat that came from the killing of the young whale name "Yabis" (killed on May 17, 1997) was discarded and wasted. Initially, the Makah admitted to having this objective of seeking additional quotas.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1815	e_Wong_3-12-15	4. If the Makah establish a quota for whales and are permitted to kill whales by the USA, it will motivate the tribes on Vancouver Island in Canada to develop whaling plans of their own. In 1998, thirteen native communities on Vancouver Island said that they would be interested in establishing whaling operations should the Makah do so.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1816	e_Wong_3-12-15	5. If the Makah establish a quota for whales it will further strengthen the positions of Japan, Norway, and Iceland to escalate their illegal whaling activities and it will weaken the United States, as it has already done so, as an international voice for whale conservation.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.

Sort #	Commenter Code	Comment	Response
1817	e_Wong_3-12-15	6. The original plans by the Makah were to establish commercial whaling activities to sell whale meat to Japan. We must ensure that this must not happen. Sea Shepherd Conservation Society does not wish to see the United States become a commercial whaling nation or a pirate whaling nation.	We are currently considering the Makah Tribe's request under the MMPA and WCA to undertake a hunt for ENP gray whales. The WCA and MMPA prohibit commercial whaling by U.S. citizens.
1818	e_Wong_3-12-15	7. There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse- trading deal outside of the IWC.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1819	e_Wong_3-12-15	8. If a whale quota is established at Neah Bay, it will threaten the local populations of resident whales that will surely be targeted by the Makah unless specifically protected by legislation.	All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.
1820	e_Wong_3-12-15	9. The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1821	e_Wong_3-12-15	10. Sea Shepherd notes that there are many Makah opposed to the resumption of whaling, and the whaling initiatives have been advanced by elite Makah families without full democratic tribal participation.	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1822	e_Wong_3-12-15	11. Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1823	e_Wong_3-12-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is	Please see the response to frequent comment # 8 regarding interpretation of the Treaty of Neah Bay.

Sort #	Commenter Code	Comment	Response
		contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution. 12. Whales should not be slaughtered anytime or anywhere by any people. These are socially complex, intelligent mammals whose numbers worldwide have been diminished severely. Thank you, Houston Wong 12642 100th Ln NE Apt E121, Kirkland, WA 98034, United States	
1824	e_Wright_7-29-15	Dear Mr. Stone, RE: Makah whaling Draft Environmental Impact Statement I am writing in response to the Draft Environmental Impact Statement (DEIS) on the proposed Makah Tribe's whale hunt. While I respect the Makah and the tribe's culture, I am strongly opposed to the proposed hunt, as (1) the Makah do not have a nutritional and subsistence need for whales, (2) the hunt could further imperil both the resident and Western North Pacific gray whale populations, (3) the National Marine Fisheries Service (NMFS) has not adequately complied with federal law in preparing the DEIS, and (4) the proposed hunt is inherently cruel. I am also concerned that human safety could be jeopardized by the whale hunts, because of the planned weaponry and the hunts taking place so close to shore and in a populated area. Consequently, I support Alternative 1, the no-action alternative.	These introductory comments are noted. Specific responses are provided below.
1825	e_Wright_7-29-15	The Makah do not have a nutritional and subsistence need for whales: As reflected in the DEIS, with the exception of a single whale killed in 1999, and another killed illegally in 2007, the Makah last engaged in whaling in the 1920s, approximately 90 years ago. Consequently, it is impossible for the Makah to demonstrate a continual traditional dependence on whales or whaling--one of the requirements for obtaining an aboriginal subsistence whaling (ASW) quota from the International Whaling Commission (IWC)--and the principle reason why NMFS should deny the Makah's proposal.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1826	e_Wright_7-29-15	The proposed hunt could further imperil both the resident and Western North Pacific gray whale populations: If the Makah are allowed to whale, it is impossible to guarantee the full protection of either resident gray whales or whales from the Western North Pacific population. These imperiled populations number only 209 and 140 whales, respectively, according to recent population estimates published by NMFS. Even though the DEIS contains alternatives designed to reduce the likelihood of killing these whales, these alternatives are inadequate to protect the whales, and allowing any hunt that could result in the death of even a single whale from either of these populations is biologically reckless.	Please see the response to frequent comment # 12 regarding risks to WNP whales.
1827	e_Wright_7-29-15	NMFS has not adequately complied with federal law in preparing the DEIS: The lack of adequate analysis of the impact of the proposed hunt on these imperiled whale populations is only one of several deficiencies in the DEIS. NMFS has also	The DEIS provides a detailed analysis of impacts on gray whales and other species. Please also see the response

Sort #	Commenter Code	Comment	Response
		failed to consider a range of reasonable alternatives, such as developing tribal whale watching. A nonlethal use alternative, like whale watching, would enable the Makah to reconnect to the gray whale without killing a single animal; bring revenue to the tribe; provide additional employment to Makah tribal members; and allow the Makah to educate visitors about whales, marine ecology, and tribal history and culture. Such a solution would be beneficial to all involved, including the gray whales.	to frequent comment # 9 regarding non-lethal action alternatives. .
1828	e_Wright_7-29-15	NMFS has also failed to evaluate the full range of threats to all gray whales in the DEIS: These threats include climate change impacts to gray whale habitat (particularly in the Arctic), ship strikes, contaminants, bycatch, pollution, ocean noise (both seismic and sonar), and development threats throughout the species' migratory range. Military training exercises, oil exploration activities and spills, and a proposed phosphorous mine in Mexico are just a handful of the activities that impact or will impact gray whales; none of these threats were adequately evaluated in the DEIS.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1829	e_Wright_7-29-15	It is difficult to quickly kill a moving whale, from a moving vessel, in a moving ocean. In this particular case, the likelihood of a whale suffering as a result of any hunt is particularly high, given the inexperience of the tribe's whalers. Based on such cruelty concerns alone, NMFS must not allow the tribe to whale.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1830	e_Wright_7-29-15	The resumption of whaling by the Makah will cause stress in the migratory and resident populations and this could lead to dangerous situations for whale-watching participants that could be exposed to wounded or stressed animals.	Under any of the action alternatives, boating accidents might result from protest activities on the water, the actions of a wounded whale, or adverse weather and sea conditions. The DEIS takes into consideration the risk of individuals being injured in a boating accident in the Public Safety section of its analysis (see Subsections 3.15.3.3 and 4.15).
1831	e_Wright_7-29-15	I am aware of the tribe's historic use of whales and the significance of whales to the tribe's culture. Nevertheless, times have changed, social norms and values have changed, and without a legitimate subsistence need for whale meat or other products, the Makah should not be allowed to whale.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1832	e_Wright_7-29-15	Tradition and culture must not be the basis for slaughter. The ancestors of the Makah killed whales because they had to do so for survival. There is no survival necessity today to justify such killing.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1833	e_Wright_7-29-15	The treaty that the Makah cite as evidence of their right to whale specifically states that they have the right to whale "in common with the people of the United States." When the treaty was signed, all Americans had the right to kill whales. When whaling was outlawed for all Americans it included the Makah as the rights are "in common" and not separate. There cannot be unequal rights granted in a system that promotes equality under the law. This is tantamount to extra special rights for a group of people based on race and/or culture and is contrary to the guarantee of equality under the law as guaranteed by the U.S. Constitution.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1834	e_Wright_7-29-15	The International Whaling Commission (IWC) specifically allows aboriginal whaling only when there is an unbroken tradition and only for subsistence purposes. The whales must be a necessity for food. The Makah do not qualify because they voluntarily broke their tradition and they have no need for whale meat for food purposes. They argue that the need is cultural. This is not a recognized need by the IWC.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1835	e_Wright_7-29-15	The Makah say they have a treaty right with the United States to slaughter whales. However, the USA effectively abrogated this treaty in 1946 when they joined the IWC and did not represent the Makah as they did the Yupik and other Alaskan native communities. Whaling is governed by international law and falls under the authority of the IWC, and therefore, the USA no longer has the legal right to grant permission to any peoples to slaughter whales within or outside the territory of the United States.	Please see the response to frequent comment # 8 regarding the Treaty of Neah Bay.
1836	e_Wright_7-29-15	There is no quota granted to the Makah by the IWC and there never was. There is a quota given to native communities in Siberia. The Makah and the United States traded bowhead quotas from Alaska with gray whale quotas from Siberia. This was a horse-trading deal outside of the IWC. Thank you for considering my views. Sandy Wright	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1837	e_Wright_7-30-15	As a citizen of California, I oppose any allowance for the Makah tribe to resume whaling activities. Using the excuse that this is a tradition does not justify the continued exploitation of these animals for human consumption (or whatever they plan to do with them). I am appalled at the whaling activities of countries like Japan, Iceland, and the Faroes who also use this excuse, "tradition", to continue justifying their whaling activities. We should not be hypocritical in our criticism of others while allowing the same in our country. Some Traditions are not worth maintaining. We are an evolved culture that has found that eating animals is harmful to the planet. Whales deserve their safe place in the oceans. Thanks for your consideration, Amy Wright	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1838	e_Wry_3-12-15	I don't believe anyone should be able to hunt the whales! Actually nature and planet earth would be a lot better off without humans in it. We have been more destructive to species and habitats than any other factors. It won't be long though until we destroy everything, what with climate change and ocean acidification. Sincerely, Catherine L. Wry	Comments noted.
1839	e_Young_7-16-15	Dear Sirs, In March, the National Marine Fisheries Service (NMFS) initiated its latest effort to permit the Makah Tribe of Washington to hunt gray whales by releasing a Draft Environmental Impact Statement (DEIS) for public review and comment. This is an opportunity for you to express your thoughts on the DEIS and the government's efforts to allow the Makah the kill gray whales. Please Deny the Makah Tribe Permission to Hunt Gray Whales. With the exception of a single gray whale killed in 1999 and another whale killed illegally in 2007, the Makah have not hunted whales for nearly 90 years. Consequently, the tribe cannot demonstrate a subsistence or nutritional need for whaling or whale products. Such a need is a requirement to secure approval from the International Whaling Commission to engage in aboriginal subsistence whaling, and should be a prerequisite for NMFS' approval of the hunt. Despite the absence of this need, this is the fourth attempt by NMFS to authorize Makah whaling since 1997. Previous efforts have either been scuttled by court rulings or terminated by the agency.	Please see the response to frequent comments # 2 regarding the ASW status of the Makah Tribe and 3.
1840	e_Young_7-16-15	The proposed hunt could jeopardize two imperiled populations of gray whales: the resident Pacific Coast Feeding Aggregation and the Western North Pacific, which number only 209 and 140 animals, respectively.	Comment noted. This comment offers no new information that contradicts or augments the analysis in the DEIS.
1841	e_Young_7-16-15	While the main Eastern North Pacific gray whale population is much larger (nearly 21,000 animals), they and their habitat are subject to threats like climate change, contaminants, ocean noise, ship strikes, and net entanglement throughout their summering, wintering, and incredibly long migratory range (from Alaska to Mexico), and shouldn't be subject to a new threat posed by a hunt.	Comments noted. Please also see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1842	e_Young_7-16-15	Furthermore, whaling is inherently cruel since it involves trying to kill (using harpoon and bullets) a large, moving animal from a moving boat on a rolling ocean by (in this case) individuals with little to no whaling experience—a sure recipe for cruelty and suffering. Respectively, Robert S. Young	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1843	Engel_4-29-15.pdf	Uphold all treaty rights for indigenous people! I support Action or else Makah Nation be returned all their lands.	Comments noted.

Sort #	Commenter Code	Comment	Response
1844	Form_Letter_3_Note_8-6-15	As of the end of the public comment period on July 31, 2015, NMFS had received 33,703 form-letter type emails containing content identical (or nearly so) to that contained below. These e-mails will become part of the agency’s record but not necessarily posted on Regulations.Gov during the comment period. Dear NOAA/NMFS20120104, I am writing to oppose opening U.S. waters for whale hunting. The proposed hunt threatens not only a recovering population of Eastern North Pacific gray whales, but the few remaining individuals left in the endangered Western North Pacific and also the Pacific Coast Feeding Group populations. There is a very strong chance that whales in these smaller groups will be killed because it is virtually impossible to tell the difference between the populations – particularly under chaotic hunt and tumultuous ocean conditions.	Comment noted. The DEIS analyzes the risks to WNP and PCFG whales, and these comments offer no information to contradict or augment that analysis.
1845	Form_Letter_3_Note_8-6-15	There is far too much scientific uncertainty about the impact a hunt would have on gray whales and the environment. Your own scientists acknowledge that the hunt alternatives proposed “are likely to have an adverse impact” on gray whales.	Any predictions about the effects of future events necessarily involve uncertainty. The DEIS characterizes the level of uncertainty associated with various predictions. Any final decision by NMFS will take account of the uncertainties.
1846	Form_Letter_3_Note_8-6-15	Additionally, NMFS is not adequately considering the cumulative impacts of all the other threats to gray whales – such as navy sonar and other underwater noise, climate change, ocean acidification, oil and gas development, ship strikes, and pollution.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.
1847	Form_Letter_3_Note_8-6-15	The proposed hunt is just the first step toward a dangerous precedent that would undermine the global moratorium on whaling.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1848	Form_Letter_3_Note_8-6-15	Whale watching is a meaningful and economically lucrative alternative that helps maintain the gray whale’s iconic role in numerous cultures. Holding a “ceremonial hunt” is another manner to represent the cultural importance of whales, while ensuring that no whales are killed. As a concerned citizen and stakeholder, I strongly oppose the hunt of gray whales and request that NMFS deny any permits to hunt gray whales in our Pacific Coast waters. [end]	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1849	Hayte_4-29-15	Under Indian water laws or “winter rights” a tribe cannot lose its winterrights through non-use.The U.S. Constitution supports and protects Makah whaling. Under Article VI, Clause II treaties are the supreme law of the land.As whalemens it is our responsibility to remind you of a few fundamental rules amongst	Comments noted.



Sort #	Commenter Code	Comment	Response
		whalemen.Do you people keep track of all whaling [illegible]. Numbers of killed, wounded, Russia kill numbers.All same as the Makah’s whaling tradition and the monies received by each of all, and where do the monies go.	
1850	Huntington_3-12-15.pdf	Dear Ms. Dann: I’m writing to comment on the recently released study on the North Pacific gray whale that you were quoted in saying could “eventually lead to authorization for the (Makah) tribe to hunt gray whales”. I am deeply saddened and appalled by this prospect and felt that I must bear witness and comment. As you must be aware, the gray whales are part of the cultures of all of us who make the Pacific Northwest our home and of the thousands of visitors who visit our coast specifically just to be able to see these creatures in all of their magnificence. We respect and value the whales, thrilled when we see them and happy to know that they are living their wild lives free of being terrorized and killed by hunters. We are proud that our country, unlike Japan and Norway, provides a safe haven for whales. The Makahs, with all due cultural respect, do not have exclusive rights to this heritage.	Comments noted.
1851	Huntington_3-12-15.pdf	Further, it is my understanding that the Makah tribe itself is divided on the issue of killing whales. As you know, renegades from that tribe have a history of illegal kills, kills that are protested by us all,	Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.
1852	Huntington_3-12-15.pdf	including members o f their own cultural leadership who recognize that these killings are remnants of a barbaric past and that the idea of needing whales for subsistence is long unnecessary.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1853	Huntington_3-12-15.pdf	As times change, our human history is rife with examples of many cultural artifacts in many cultures that have become illegal for reasons of justice, decency and humane considerations.	Please see the response to frequent comment # 3 regarding the Makah Tribe’s desire to revive its whaling tradition.
1854	Huntington_3-12-15.pdf	Surely the gray whales need continued protection with no exception and I would expect NOAA to vigorously support and provide that protection completely. I would appreciate your comments on this, Sincerely, Diana Huntington	NMFS will make the ultimate decision regarding waiver of the take moratorium according to the requirements of the MMPA and WCA.
1855	HSUSA_3-11-15_-_Makah_comment_deadline_request.pdf	Dear Mr. Stone, On behalf of the members and constituents of The Humane Society of the United States (The HSUS), I am writing to request an extension of the comment deadline on the Draft Environmental Impact Statement (DEIS) on the Makah Tribe Request to Hunt Gray Whales.1 The National Marine Fisheries Service (NMFS) has provided a 90-day comment period, which closes on June 11, 2015. However, in light of technical working group meetings prior to the upcoming International Whaling Commission (IWC) meeting, and the IWC	Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.

Sort #	Commenter Code	Comment	Response
		meeting itself, we ask that the comment period be extended for another 60 days to allow the additional scientific evidence to be submitted and to provide the public an opportunity to analyze the new information.	
1856	HSUSA_3-11-15_-_Makah_comment_deadline_request.pdf	Moreover, the Agency has failed to provide adequate public notice by simply publishing the DEIS on a NMFS page dedicated to Makah whaling and issuing a limited press release.	We did more than publish the DEIS on the NMFS website. The commenter is referred to the Distribution List in the DEIS as well as the EPA and NMFS Federal Register notices announcing the availability of the DEIS (80 FR 13373, March 13, 2015; 80 FR 14912, March 20, 2015).
1857	HSUSA_3-11-15_-_Makah_comment_deadline_request.pdf	We have been made aware that there will be a technical work group meeting held on April 1-3, 2015 that will inform the upcoming annual IWC Scientific Committee meeting that is scheduled for May 22 to June 4, 2015. The Makah proposal is likely to be analyzed and discussed by scientists, including those from NMFS, who would update the information upon which the DEIS analysis was based. Although agency staff may have the benefit of the results of the IWC-related discussions to inform final decision-making; the public should itself be informed of this best available science in order to make informed comments. The agency's presentation of, and participation in, updated research results and the IWC discussions will be concluded only days before the termination of the comment period.	Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.
1858	HSUSA_3-11-15_-_Makah_comment_deadline_request.pdf	Moreover, The HSUS believes the Agency has not fulfilled its obligations to provide the proper public notice under the National Environmental Policy Act (42 U.S.C. § 4321 et seq.). <sup>2</sup> By publishing the DEIS on the NMFS website devoted solely to information on the Makah proposals and by issuing a press release, the Agency has limited the distribution of the DEIS. NMFS should have published the DEIS in the Federal Register to ensure the broader public was on notice of the availability of the DEIS. Gray whales are a public trust resource and this species is beloved of both shore-based and boat-based whale watchers along the west coast both here in the United States and in Mexico, where the eastern Pacific residents of this species winter. Their conservation and humane treatment are of interest to a far broader segment of the public than NMFS will reach with a press release and a somewhat obscure webpage. We believe that NMFS should have provided a notice in the Federal Register, as it does for most of the DEIS's on which the public is asked to comment. Extending the comment deadline will allow NMFS to provide this more proper form of notice to the public. We ask that	The commenter is referred to the Distribution List in the DEIS as well as the EPA and NMFS Federal Register notices announcing the availability of the DEIS (80 FR 13373, March 13, 2015; 80 FR 14912, March 20, 2015).

Sort #	Commenter Code	Comment	Response
		<p>the public comment period can be extended by 60 days to allow the updated scientific information to be released and we request that the Agency publish the notice in the Federal Register. In this way the agency is able to receive informed public comment by the widest segment of the American public. Sincerely, Sharon B. Young Marine Issues Field Director The Humane Society of the United States syoung@humanesociety.org cc. Eileen Sobeck, NOAA Assistant Administrator for Fisheries Rebecca Lent, Marine Mammal Commission 1 Available at <a href="http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/cetaceans/whale_hunt.html">http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/cetaceans/whale_hunt.html</a> . 2 See NOAA Administrative Order 216-6, "Environmental Review Procedures for Implementing the National Environmental Policy Act." (May 20, 1999) (requiring maximum participation by the public in the NEPA process), available at <a href="http://www.nepa.noaa.gov/NAO216_6.pdf">http://www.nepa.noaa.gov/NAO216_6.pdf</a>.</p>	
1859	Marks_3-20-15.pdf	<p>Dear Mr. Stelle: Please accept our comments in favor of Alternative 2 – the Makah Tribe’s Proposed Action Alternative contained in the 2015 DEIS. We understand that DEIS Alternative 2 will allow for both adequate protection of Eastern North Pacific gray whales and responsible use by the Makah Tribe of Washington State for their cultural and subsistence needs. This seems to us to be a fair and balanced approach to the situation. We encourage you to pursue this course of action. Furthermore, we support the Federal Government’s (and your Agency’s...) responsibility to the Makah Tribe and their treaty. We ask that you expedite the approval process since 10 years is far too long to make this Tribe wait for a fair decision from our government. Respectfully Submitted Richard E. And Marie A. Marks Ventura, Ca</p>	Comments noted.
1860	Marks_and_Gilman_3-19-15-2.pdf	[Faxed duplicate of e_Marks_3-21-15]	Comments noted.
1861	Martin_4-29-15.pdf	<p>I am going to start my comment using the main word "treaty." A gigantic amount of my tribes land was exchanged with signing of the treat which we were basically promised all of our traditional ways of living were to remain. Gathering and hunting, which included hunting gray whales. My tribes proposal is not going to harm anyone (besides the ones who are against what we are trying to achieve, keeping our culture alive that our ancestors were promised when they signed that treaty.) We only want to practice our rights. We are not going to waste what we have hunted and will not hunt more than what we could use unless my tribe quadruples in size. I highly doubt the five whales proposed will ever be met in the few short months we would hunt. My tribe deserves to have our culture to continue to be passed on to my children and passed on to theirs. I understand</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		everyone's worries about the population but my ancestors who signed the treat was thinking about my generation who they wanted to continue the traditions that were passed on to them for hundreds of years. My unborn child deserves to see his/her tribe's treaty be met! We should be allowed what was promised to us. We should not be punished because of others who hae mass hunted the whales. We willing stopped hunting because we did not want to lose what mattered so much to our tribe. The whale.	
1862	McMullin_7-15-15	I oppose the Makah Tribe's proposed hunt of gray whales. It's not only cruel,	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1863	McMullin_7-15-15	gray whaling could be disastrous for 2 of the 3 gray whale populations in that geographic area.William McMullin	Comment noted. The comment offers no information to contradict or augment the analysis in the DEIS.
1864	Oczkewicz_7-17-15	Mr. Stone,I am writing to encourage you to deny the Makah's Tribal request to hunt whales. The reasons why are numerous that current tribal members should not partake in whale slaughters. Protecting the gray whales is the highest vale to determine your/our actions and not the Native American subsistence tradition of the past. They can honor their tradition in other ways, and we may honor them for abstaining for humane reasons. It's up to you to take no action that would allow a whale hunt!	Please see the response to frequent comment # 9 regarding non-lethal action alternatives.
1865	Owens_4-29-15	Attention: National Marine Fisheries ServiceWe cannot stand silently by while you mis-manage our tiny group of resident whales to extinction. Had Makah whaling gone forward under any of the management schemes you have endorsed, we would likely have lost forever the 30-35 genetically distinct gray whales that have called Olympic Peninsula waters home for untold generations. Between 1998-2015, at the allowed rate of 20 kills every 5 years, the death toll would be around 68 whales by now, cutting deeply into the entire Pacific Coast Feeding Group of under 200 whales.Your science is unsustainable.The MMPA will not sanction it.	Comments noted.
1866	Peach_6-1-15	Dear Mr. Steele: I support the Makah Tribe's request to resume treaty-based hunting of Eastern North Pacific Gray Whales for ceremonial and subsistence purposes. I am a long-term resident of Clallam County and currently serve as Commissioner of District 3, which covers the western portion of our County. I have also held the positions of Executive Director for the Quileute Tribe and as a regional manager for Rayonier with responsibility for 200,000 acres of private timberland in western Clallam County. I respect the Makah Tribe's express whaling rights under the 1855 Treaty of Neah Bay. I have first- hand knowledge	Comments noted.

Sort #	Commenter Code	Comment	Response
		that the Makah Tribe has great respect for natural resources and the wise management of them. They are excellent co-managers and I encourage you to listen carefully to them. Sincerely, Bill Peach	
1867	Rehg_3-18-15.pdf	To Donna Darm,The Makah tribe wanting to hunt whales as part of their tradition. Is crap. Slavery, female genital mutilation; women as property—these also were (and in some cases still are) traditions. Traditions that involve oppression and cruelty must not be sanctioned.I'm certain members of the tribe drive pickups, use power tools, live in standard houses, cook on gas or electric stoves, wear blue jeans and button shirts—all not part of their tradition. So why cling to one that should never occur again?Charmaine Rehg	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1868	Weng_4-27-15	The need to recognize disagreement on this issue among tribe member. Whereas it appeared that Makah collectively requested to hunt whales, there are disagreements among tribe members, especially female elder members. There have been interviews with female elders who expressed opposition to the whale hunt, but their voices were being silenced. Makah who fought fiercely for the whale hunt are mostly young, male, elite population. I request NOAA to take a fuller survey of this issue among the tribe before making any decision on this issue.	The request for a waiver is on behalf of the Makah Tribe and our response is to the Tribe as a sovereign government. While we recognize that individual members of the Tribe may have differing thoughts on proceeding with the hunt, this is an issue for the Tribal government to address. We are not required to survey individual members of the tribe on such matters. The Makah Tribe has several times surveyed its members and prepared a Needs Statement for consideration by the International Whaling Commision.
1869	PM_SEA_Morris	MS. MORRIS: I'm Nancy Morris. I totally agree with the previous speaker. I also would like to quote a past tribal elder of the Cowlitz Tribe. "The ancient people of this land consider the next seven generations coming before making a serious decision." In the far past, other coastal tribes hunted whales and now they're not. They recognize that the need to kill the whales for subsistence is no longer necessary, nor is it a strong unifying cultural tradition now or for their very next seven generations; therefore, I urgently implore the Makah Council to withdraw their request to chase, harpoon and kill the gray whale.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1870	PM_SEA_Morris	For decades the gray whale has been peacefully watched from boats all along the West Coast, from Baja north to Alaska. The whale's behavior has changed. Gray whales have even interacted peacefully with whale watchers. It is disheartening	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.

Sort #	Commenter Code	Comment	Response
		to think that they may be subject to brutal chasing and a long painful death. There's no way to kill a gray whale without extensive pure pain and suffering.	
1871	PM_SEA_Heizer	THE FACILITATOR: Thank you, Randall. We're through all the speakers that signed up. Let me first just check, is there anybody that did not sign up that would like to speak that has not spoken yet? Is there anybody? If you'd come on up, and if you could just sign in here, your name and affiliation? MR. HEIZER: My name is Ben Heizer. I'm from Republic, Washington. I personally think this is a constitutional issue. Article 6 of the Constitution says to honor and respect all treaties both foreign and domestic. I'm with that. And if this was a gun rights issue, this place would be packed. This is about the Makah. This is about white privilege. This is about white people getting to tell Native peoples what to do once again, and I think that's bizarre. THE FACILITATOR: Make sure your comments are going to NOAA, they're the ones that need to hear it. MR. HEIZER: One more thing I'd like to say. If I'm right, did not the Russians give up part of their quota so the Makah could harvest these whales? THE FACILITATOR: So we're going to have a little bit of question and answer afterwards. It's a good question. So I think we'll have some time afterwards to respond to that question, so thank you. Thanks, Ben.	Comments noted.
1872	PM_SEA_Pruett_2	Catherine Pruett. Again, I'm the executive director of Sea Shepherd Legal. And I don't need five minutes, lawyers tend to talk a lot and I apologize I couldn't stop earlier and I just wanted to point out a couple of things. First, something really important we need to consider. We're not -- again, we're not attacking the Makah, we're not attacking their culture. Other tribal nations understand that this is neither the time nor the place to continue whaling. The First Nation's Environmental Network issued an online statement not that many years ago and they stated, "Not all indigenous people support Makah whaling. While we respect treaty rights, this is a political reason being used for killing and not a true meaning of need and subsistence when it comes to taking another being's life."	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1873	PM_SEA_Pruett_2	I also wanted to wrap up on the part where I left off, the cumulative impacts part. NMFS, in our opinion, has failed to adequately address the cumulative impacts that this hunt will have. In its DEIS, it recognizes the long time frame under which potential cumulative impacts should be analyzed in this instance; however, the Agency neglects to fully understand or consider certain likely and substantial impacts in its analysis – I touched a little bit on that, but I rushed through it – for example, they only devote a few paragraphs to the effects of climate change on the gray whale migration and feeding patterns, neglecting to assess the full range of potential impacts and not discussing the likely greater impact on the smaller populations of the Western Pacific gray and PCFG whales.	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats. This comment does not identify specific information we did not consider.

Sort #	Commenter Code	Comment	Response
		Similarly, NMFS fails to adequately address the potential impacts of the significant increases in underwater sonar use proposed by the Navy; in fact, a federal court recently found that NMFS's approval of a Navy training and testing plan violated multiple requirements of the Marine Mammal Protection Act and the Endangered Species Act. That court ruled that nearly 9.6 million underwater assaults on whales and dolphins were improperly assessed as "negligible" by the Agency. NMFS takes the same dismissive approach here. These are things that they're required to do; they're required to consider all the cumulative impacts.	
1874	PM_SEA_Pr uett_2	Obviously, we take the position that NMFS should deny the waiver and go with the No-action Alternative. We also request an additional 60 days to respond comprehensively in writing. Thank you.	Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.
1875	PM_SEA_An derson_2	Again, Will Anderson of Green Vegans, the New Human Ecology. I had an unpleasant experience with the (unintelligible) in 2005 in Monaco in which the Makah needs statement would not stand on its own. The U.S. knew that, as in previous years, the needs statement was not as strong as the Russian gray whale quota statement and to get around that, they did two things. One, they got in the backroom and did a backroom deal with Russia to present a joint quota in which the U.S. and Russia would be responsible to do whaling themselves; but as I recall, part of that was that Russia would get some of our quota of whales. So my point is that the needs statement, it appears, has always been rubber-stamped. And we're talking about the DEIS; but I believe the needs statement is part of that, so please take a close look at it, at the needs statement, because it's fraught with holes.	Please see the response to frequent comments # 2 regarding the ASW status of the Makah Tribe and 3.
1876	PM_SEA_An derson_2	Again, the treaty was written in a ecosystem that the world no longer exists, both ecologically and socially. Like it or not, the Makah Tribe is part of a world that has changed its relationships with ecosystems and individual species, including gray whales. Seahawk to Seaworld is now fairing in the public eye. Harpoons and anti-tank guns lost in the Native cultures to adapt to ecosystems because the primary purpose of a culture, above all else, is to adapt to ecosystems; to fail to adapt to ecosystem changes as they change and they're changing as never before in history, that culture dies. All of it dies and we're all failing to do that.	Comments noted.
1877	PM_SEA_An derson_2	I created greenhouse gases coming over here. We all do that. We've move the world a little bit closer to the unfolding climate disaster heading our way. In most of the ocean basins in the world, for instance, plankton, the very base of the food chain, is decreasing one percent per year.	Comments noted.

Sort #	Commenter Code	Comment	Response
1878	PM_SEA_An derson_2	There were a lot of technical aspects that were talked about tonight, and I'll just talk about (unintelligible). I'm confused about the National Marine Fisheries Service use of the term "take," because it appears in the very beginning that "take" is defined by the Marine Mammal Protection Act, where the National Marine Fisheries Service has taken a shortened step to define that take as harassment, displacement, and then it jumps immediately over to the Whaling Convention Act and, what else, the IWC definition of "take." So which is it? This is a DEIS about the Marine Mammal Protection Act so I urge you to use that definition throughout the DEIS.	The DEIS glossary notes that the IWC defines take as "to flag, buoy or make fast to a whale catcher" and the MMPA defines it as "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal." We attempted to clarify in the DEIS when using "take" to mean lethal takes versus the full range of MMPA takes. We will continue to work in our decision documents to make sure that when the word is used its meaning is clear.
1879	PM_SEA_An derson_2	I have not seen so far and I do not recall any consideration of the North Puget Sound population of gray whales. They've been ignored because they, after two or three months, they head back up to Kodiak Island, I believe; I ask that be corrected, because those whales exit and enter the Strait of Juan de Fuca, in I believe all of the proposed, except for Alternative 1, alternatives. There are only about a dozen or so that graze by here. They come back every year. They're part of our ecosystem in the State and I urge you to consider that northern Puget Sound population of gray whales.	DEIS Subsection 3.4.3.4.1 (PCFG Population Structure) notes that "[a]lthough interior waters making up Puget Sound are within the PCFG latitudinal boundaries of 41°N to 52°N, whales sighted in Puget Sound were not included in the IWC analysis and are considered outside the range of the PCFG. Previous research has found that the few whales sighted in Puget Sound are typically seen only in the spring (especially in northern Puget Sound), are less likely to be seen in multiple years and regions, and likely represent migratory animals."
1880	PM_SEA_An derson_2	I ask that the word "harvest" be replaced with harpooning and shooting a gray whale. This is a scientific document.	The DEIS glossary defines "harvest" as to kill and land a whale. This is consistent with terminology used by fish and wildlife management agencies and by the International Whaling Commission in its definition of subsistence use.



Sort #	Commenter Code	Comment	Response
1881	PM_SEA_Weng	<p>My name is Yen-Chu Weng and I'm here to represent myself. Based on the literature I read about this case, I think one overlooked issue in our discussion here is that we seem to represent a tribe as a community, that they have commonly agreed upon their request for a whale hunt; however, we fail to recognize there are also internal conflicts or different opinions on this issue. (Unintelligible) especially female elderly members, there are records and interviews of them. They are actually against this whale hunt. They feel like they have a different kind of relationship to the whales compared to the more elite and more like the younger generation and also the male members of the tribe. So there are several interviews and they list in their report that there are actually some internal conflicts. And the elderly, especially female elders, their positions are being excluded. They are being warned by those elite male members saying you should not talk to a reporter on this issue, you are kicked out from our tribal commission. So I urge the Makah Tribe, the tribal members' opinion on this issue, not just focusing on this voice that's being most voiced strongly, but also try to reach out to all the members of the tribe to kind of get a better understanding of their opinion. That's one thing I find that's missing from the environmental impact statement. So far I haven't track one for this issue, but there are certainly some reports on that. Thank you.</p>	<p>Section 3 of the DEIS acknowledges that some Makah tribal members have expressed opposition to the hunt.</p>
1882	PM_SEA_Honeycutt	<p>My name is Christyna Honeycutt and I'm self-affiliated. There is an evolving global consciousness at this time of the sentients and questionable future existence of all beings. This evolving consciousness is shared by all of us as we are experiencing a more transparent network and web of life. The gray whales are at the capacity of 22,000 now; the Western North Pacific gray whales, there are 120 of them. The actual capacity of the ocean to support the gray whales is 96,000 to 122,000, so 22,000 is a very small amount and 120 Western North Pacific gray whales is almost nothing.</p>	<p>Comments noted.</p>
1883	PM_SEA_Honeycutt	<p>If there were 120 humans of one culture left, maybe women for instance in Iran or Iraq, only 120, but it was tribal custom to stone a woman if she had been raped, would that be acceptable to anybody to carry on that custom that had been going on for thousands of years with the evolving consciousness of value of all beings?</p>	<p>Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.</p>
1884	PM_SEA_Honeycutt	<p>Right now, the impact of global climate change and the impact of the ice melt as a result of global warming is a dramatic threat to gray whales. Gray whales are specialty feeders. There's no adequate substitute prey for animalia catecea, which feed on algae dropping from sea ice of carried by ocean currents. When sea ice is diminished, the food web is disrupted and whales are forced to feed on</p>	<p>Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face of climate change and other threats.</p>

Sort #	Commenter Code	Comment	Response
		smaller anthropoids which does not give them the required energy to fulfill their 12,000 mile migration, nor the energy to give birth to their calves nor the ability to feed their calves, as well the impact on the environment, the amount of algae is not there to feed themselves or to their calves. They just really can't exist in this current global climatic environment.	
1885	PM_SEA_Ho neycutt	With respect for the reverence that the Native cultures for thousands and thousands of years that precede the Caucasian population here, with respect for that history and lineage and their reverence for all nature and majestic creatures, I hope that they will consider the next seven generations in this current global climate, both ecological, sociological and consciousness-wise allow the sentients and other beings, whether their whales or birds, females or males, it's evolving. I hope they will consider that. I hope that they will consider that they want their children and their grandchildren and their great, great, great, great grandchildren to even be able to see a whale, to know what it is. I hope that they'll want to tell those children the story of how they restrained, they retreated and withheld as, yes, the Caucasian population continue the slaughter. I hope that by practicing this restraint in honor of the whale and its survival on the planet, that they will feel proud and be able to have a future relationship with whales at all so that we all may. So if we all consider ourselves interconnected, we really need to look at the fragility of the gray whale now and the potential for its survival at all. Thank you.	Comments noted.
1886	PM_SEA_En gles-Klann	MS. ENGLS-KLANN: My name is Jennifer Engles-Klann and I'm not affiliated with anybody in the room. It is not my intention today to suggest that the Makah lose treaty rights or that their deep connection to the ocean and its resources should not be recognized. My intention today is to defend the whales, whales that for decades lived peacefully in their world of momentary interactions with humans that did not fear for their lives, interactions that were born out of curiosity and celebrated their majesty as seen through the lens of a camera and not the sights of a rifle. In the year 2015, no intelligent mammal should be hunted down at the hands of humans in the name of ancient, unpracticed tribal customs and subsistence.	Comments noted.
1887	PM_SEA_En gles-Klann	Decades of subsistence without whale meat or byproducts have proven that it can be done.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.

Sort #	Commenter Code	Comment	Response
1888	PM_SEA_Engles-Klann	Tribal customs should celebrate the lives of the whales and their role in our current ecosystem; just because they are no longer on the endangered species list does not mean you should put them back there.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1889	PM_SEA_Engles-Klann	The reality is that technology and the sheer passage of time has changed the fabric of tribal traditions and should help guide the future. Their adoption of this technology not only makes this an unfair fight, but also blurs the line between what should be held onto as critical customs and hypocrisy.	Please see the response to frequent comment # 15 regarding the use of modern weapons
1890	PM_SEA_Engles-Klann	The whales have families, social structure, great intelligence and a level of comfort with humans that they become so vulnerable to the very people that have an incredible opportunity to create new customs based on ancient traditions.	Comments noted.
1891	PM_SEA_Engles-Klann	NOAA needs to take a stand to protect marine mammals and to recognize the world as it is now. Where it is impossible and unfortunate that things cannot go back to the way they were and the only way to maintain integrity once history, is to recognize that -- although it would be incredible to live out our lives in seclusion without influence from others to upset the ways of our ancestor -- we are all humans on one planet that desperately need to coexist with the other intelligent life forms and not kill them. Thank You.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1892	PM_SEA_Morris	There has been great change in the ocean environment since 1855 when the original treaty was written. Our oceans are in serious danger of ecological collapse -- climate change, increasing acidity, unpredictable food sources -- for all living species including the whales and moves these threats to any population of whales are making population predictions speculative at best. The gray whale has distinct populations and all threats have not been addressed in the DEIS.	Comments noted.
1893	PM_SEA_Morris	I ask that the comment period be extended an additional 60 days. The DEIS is a complicated document an takes time to read. I would like to submit further comment after more analyses.	Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.
1894	PM_SEA_Morris	Therefore, I support only Alternative 1, the no-action alternative, that would not authorize the Makah gray whale hunt.	Comments noted.
1895	PM_SEA_Morris	And finally, I would like us all to please consider that when traditions control us, they have outlived their reason to exist. All humanity is survived by new tradition of the 21st Century.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1896	PM_SEA_Morris	Let the whales in the oceans live free of harassment and killing by humanity from any culture anywhere on the planet from now to the end of time. Thank you.	Comments noted.

Sort #	Commenter Code	Comment	Response
1897	PM_SEA_Bloomer	<p>My name is Morgan Bloomer and I'm a Chippewa from the great Turtle Mountains of North Dakota and I tell you now, all this is for nothing. They have already won. They have it in their treaty and their treaty comes before your Constitution; before, not after. The only reason they're all having to go through this is because they made a little mistake when they wrote it out. Of course, they couldn't speak English and somebody else was doing it for them but, nonetheless, that's how it all goes. You have destroyed everything everywhere and now you come to them, come to them to make it right. Fix all the things you have done and all this will not have to happen, but no, no. You all poor spirit come to them, the weak, again, and ask them to fix it for you. THE FACILITATOR: Morgan, I'm going to ask you to put your comments to them. MR. BLOOMER: I appreciate all the work you do. THE FACILITATOR: Okay. Thank you.</p>	Comments noted.
1898	PM_SEA_Pruett	<p>MS. PRUETT: Thank you. My name is Catherine Pruett. I'm the executive director of the Sea Shepherd Legal and I appreciate the opportunity to comment. We begin by making it abundantly clear that Sea Shepherd Legal has the utmost respect for the culture, beliefs and traditions of Native people, including the Makah. Native people around would have made and continue to make valuable contributions to the protection of the environment and wildlife. We are not here to denigrate native culture; we are here because the science and the law do not support the Makah's request for a waiver of the protections afforded to gray whales under the Marine Mammal Protection Act. We're also here because we have a moral and an ethical duty to protect and preserve the lives of these magnificent and intelligent creatures. There are abundant scientific findings demonstrating that gray whales, like their other cetacean cousins, are intelligent mammals with extensive cognitive abilities, emotional lives and social relations. For example, studies have shown that gray whales care for unrelated calves and assist injured companions, even those that have been harpooned. We believe that Native cultures, with their inherent respect for nature and humanity's place in nature, are uniquely qualified to embrace our evolving understanding of whales and the critical importance of protecting them from harm. Indeed, other Native people, including the Quileute Tribe here in Washington and members of the First Nations in Canada, have abandoned whaling traditions and found great spiritual and cultural enrichment in celebrating the lives of whales.</p>	<p>The DEIS acknowledges that whale hunting under the action alternatives would inspire a wide range of feelings among persons and groups who oppose the hunt, including sorrow, frustration, and anger (see Subsections 3.8.3.3 and 4.8.2.3, Other Individuals and Organizations). Yet it is up to the Makah Tribe, as a sovereign nation, to decide which traditions it continues or revives, within the bounds of the law.</p>
1899	PM_SEA_Pruett	<p>Now, I'll briefly discuss our scientific and legal our opposition to the Makah proposed whale hunt. There's a lot of scientific uncertainty. That's really the biggest issue. We're here today because the Ninth found that NMFS had ignored</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		significant scientific uncertainty surrounding populations of gray whales authorized the first Makah whale hunt.	
1900	PM_SEA_Pr uett	It is undisputed that the proposed Makah hunt will not only target the larger population of the Eastern North Pacific gray whales, but also considerably smaller populations of endangered Western North Pacific gray whales and the Pacific Coast Feeding Group, often referred to as "resident" whales. In discussing the impact of the hunt the Ninth Circuit, in Anderson v. Evans, held that it was uncertain and controversial what would happen to the local whale population if the Tribe is allowed to hunt and kills whales pursuant to the approved quota. Nothing has changed since the Court came out with that. Many years of intensive study remain to be done by NMFS and the Scientific Committee for the International Whaling Commission and other scientists before we can understand the true impact of the proposed hunt on these smaller populations of gray whales. If NMFS approves the proposed hunt, the Agency will have essentially left it to the Tribe to undertake the nearly impossible task of visually confirming that they are not killing a PCFG or a Western gray, a Western Pacific gray whale. As one of our scientific advisors just told me the other day, it is virtually impossible to tell them apart. Under these circumstances it would be irresponsible and illegal for the Agency to approve the Makah hunt.	As described in the DEIS action alternatives, except for Alternative 4, the tribe would have bycatch limits for PCFG whales that would not require PCFG whales to be identified before striking. Under any scenario the tribe would not be authorized to strike a WNP gray whale. All of the action alternatives in the DEIS include provisions to limit impacts to PCFG whales.  Please see the response to frequent comment # 12 regarding risks to WNP whales.
1901	PM_SEA_Pr uett	There are also serious precedential impacts. In ordering NMFS to prepare an environmental impact statement, the Ninth Circuit also recognized the significant risk that other groups would use the precedent established by this approval of the Makah hunt. The current DEIS -- in the current DEIS, NMFS has failed to allay the significant concern.	Please see the response to frequent comment # 4 regarding the precedential effect of a waiver internationally and domestically.
1902	PM_SEA_Pr uett	It fails to show that the proposed hunt, which was abandoned over 80 years ago by the Makah, will serve a recognized subsistence purpose. Rather, NMFS has effectively created a new category of cultural whaling that ignores the standards applicable to true Aboriginal subsistence whaling established by the IWC, the International Whaling Commission. NMFS further ignores the IWC requirement that there be a continuing traditional dependence on subsistence whaling. That element is conspicuously absent there. FACILITATOR: Why don't you find a good place to end. AUDIENCE MEMBER: She can have part of my time. FACILITATOR: She's going to be able to come back, we'll have time. Go ahead.	Please see the response to frequent comment # 2 regarding the ASW status of the Makah Tribe.
1903	PM_SEA_Pr uett	NMFS dismisses these concerns out of hand. They also dismissed a number of things that they should have considered in their cumulative impact topics. Climate change received maybe a couple of paragraphs at best. What about impact of a significant increase in underwater sonar use by the Navy? There were	Please see the response to frequent comment # 14 regarding cumulative effects and the future health of the ENP gray whale population in the face

Sort #	Commenter Code	Comment	Response
		a lot of things that they did not consider, and how long-term impacts of all of these things together with whaling could impact whale populations and the environment as a whole. Accordingly -- thank you.	of climate change and other threats. This comment does not identify specific information we did not consider.
1904	PM_SEA_Paschke	My name is Susan Paschke, and this will be brief because I've got a lot of writing to do. The DEIS examines the effect on the human environment based on the Tribe's request; this is the human environment of a small section of people in this area. I can't -- I'm not tribal with Makah, but I have spent time on the ocean and I'm spent time in Puget Sound and I've spent time with Patch and Little Patch and a female out there too, and I don't know how you can take members of our community that are not human but are part of the human environment and leaving them a resource or a commodity, like lumber in a forest, and treat them for harvest.	The DEIS acknowledges that whale hunting under the action alternatives would inspire a wide range of feelings among persons and groups who oppose the hunt, including sorrow, frustration, and anger (see Subsections 3.8.3.3 and 4.8.2.3, Other Individuals and Organizations).
1905	PM_SEA_Paschke	That's all. I think I'll try No. 1, no change, for a multitude of reasons; but among them, the fact that we are all in this together and this does not present a win situation for anyone. It really doesn't. Thank you.	Comments noted.
1906	PM_SEA_Weinstein	I'm Diane Weinstein. I'd like to speak tonight about my own personal experience with the gray whales and also about the millions of taxpayer dollars that have been used to support the Makah whale hunt. I have spent time with the gray whales in the birthing lagoons in Baja. The mothers and babies come up to the small boats in peace and friendship. They raise their giant heads out of the water to get a better look at you with their small eyes and allow you to touch them. Like giant puppies, they roll over on their backs. The whales playfully spout you with water from their blowholes. They especially like it when children are aboard. The more the children giggle and shout for the joy, the more the whales spout them with water. The babies like to swim under the boats and get them to gently rocking back and forth. If they become too boisterous, the mothers correct them. A few of the older whales were alive when their population was almost brought to extinction by whaling, but the younger ones have mostly only known peace. Harpooning these whales is akin to shooting fish in a barrel. The young whale that was killed in 1999 expected to be greeted by friendly people, not harpooned and shot to death. It is morally wrong to hunt whales that have only known friendly human contact and who willingly come up to boats expecting to be greeted. Allowing these gentle and highly intelligent beings to be killed is a breach of their trust.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1907	PM_SEA_Weinstein	Times have changed, there's no going back. This is the 21st Century and cultural traditions that involve violence and killing should be left in the past.	Please see the response to frequent comment # 3 regarding the Makah

Sort #	Commenter Code	Comment	Response
			Tribe's desire to revive its whaling tradition.
1908	PM_SEA_W einstein	Killing innocent beings will solve the Makah's social or economic problems.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1909	PM_SEA_W einstein	And as to cost, all past, future and ongoing taxpayer costs related to the Makah whale hunt need to be fully stated in the DEIS, but only some of these costs have been included. According to one table, the estimated cost for just enforcement-related activities and resources is up to \$5.6 million per year. The full taxpayer cost today also needs to be included. Just how much is it? 25? 50? 100 million? This should include all monies paid and received, past and present, by federal, state and local governments. The cost preparing the environmental impact statement and other documents, conducting meetings, equipment, travel, training, tracking whales, bringing in experts, sending representatives to IWC meetings, deals and negotiations with other governments, press conferences, use of the Coast Guard, National Guard, Washington State Highway Patrol and the local police and court costs and legal fees. The public has a right to know how many millions of dollars this boondoggle has cost us and I have to ask: Where does it stop? Certainly there must be a better use of our tax dollars that would help the Makah as well as the rest of humankind and other beings.	Comments noted, however the costs we focus on in the DEIS (and cited in this comment) are those relevant to understanding the various alternatives. We do not deem it appropriate or useful to specify the costs associated with conducting the NEPA analysis itself.
1910	PM_SEA_W einstein	The whale hunt is unnecessary, it's cruel and inhumane and no amount of rationalization can ever change that. Like I said, everybody else, the Makah and the general public, the only reasonable and responsible alternative is the no-action, Alternative 1. Please do everyone a favor and stop this whole insane process now. Thank you.	Please see the response to frequent comment # 1 regarding the humaneness of a whale hunt.
1911	PM_SEA_He nderschott	My name is Tracy Hendershott. I'm going to be sharing, as the last person, because I've had the same experience in (inaudible) in Baja. The whales come to the sound of the motor and when they see the boats, they come up to the boats. The mothers bring their babies to the boats and lift them up to the boats. It's quite amazing. They expect no harm. And then they migrate up to the Washington Coast. And the same thing I thought -- the same thing she thought I thought. The one in 1999, that whale came right up to that boat expecting friendship and what it got was a harpoon in his face, and it was very painful to my family and my friends to see that. I've also swum with the humpback whales. And, you know, we drifted toward them and they stopped their fins and their flukes so that they would not hit us. They are compassionate. They are respectful	Comments noted. Please also see the response to frequent comment # 1 regarding the humaneness of a whale hunt.

Sort #	Commenter Code	Comment	Response
		to humans. They're very intelligent. They communicate with each other. So when they come up here, many people aren't living -- like I say, I'm repeating repeat myself because she said so much of what I wanted to say. The most recent unauthorized killing of a resident gray whale by the Makah members was cruel and not very humane to us to know that it died a slowed death at the bottom of the ocean. Whales are members of a whale family. They're bonded. They're highly communicative. When I was with the humpbacks, we got a microphone down. It sounded like they knew everything in the history of mankind. It was just unbelievable.	
1912	PM_SEA_Henderschott	Doing something in the name of tradition is not a valid reason. Some traditions have proven to be immoral and have been left behind in history, such as slavery. There's no good reason for any whale hunting. It's unfair and immoral in the light of the socialization of the people in Baja. And I feel that whaling should be remembered as a tradition of ancestors and not current tribal members, so I support no action and I thank you.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1913	PM_SEA_Myrick	My name is Alex Mryick. I'm here representing only myself. I would like to address the cultural, ceremonial and subsistence resources. For nearly two years, I lived and worked on a reservation where the Tribe was heavily dependent on fishing. This was not the Makah, but the Metlakatla Indian community in southeast Alaska. While there, in my spare time I authored a grant which included funds for a culture camp to help the young people and the Tribe retain what was left and rediscover some of their culture. Speaking of culture, the Makah's have a long and proud tradition of whaling. It goes back over 1,000 years. They would prepare themselves by killing boulders underneath the waters of a moving river. They would lie on the beach and let the sandflies bite them, and they would lay there motionless for hour after hour. They would prepare a Yew wood shaft for their harpoon and keep it for a muscle shot. They'd be paddling out into the ocean for days at a time in search of an animal much larger than themselves. The modern descendants of these brave hunters also prepare themselves, and I would like to say that I stand in awe of this ancient custom. The bravery, the tenacity is incredible. I can't think of anything else like it.	These introductory comments are noted; specific responses are provided below.
1914	PM_SEA_Myrick	And the modern descendants have prepared themselves by sending a delegation to Norway to learn how the Norwegians hunt the whale. They sent a delegation to the University of Maryland Veterinary School to learn how to kill a whale. They had a motorboat that was there, canoes, to chase the whale, and they shot the whale with a retrofitted anti-tank gun. That's quite a bit different from their ancestors. They towed it to the beach -- as I recall, it was a three-year-old female	Please see the response to frequent comments # 2 regarding the ASW status of the Makah Tribe and # 3 regarding the Makah Tribe's desire to revive its whaling tradition.



Sort #	Commenter Code	Comment	Response
		-- doing backflips off the body, cut off a few steaks, traded recipes from a Japanese cookbook and left most of the carcass to rot on the beach. Where is the culture in that? Where is the culture in that?	
1915	PM_SEA_Myrick	The whale hunt as practiced in 1999 by the Makah and as proposed in the near future is not aboriginal and not subsistence, therefore, I would encourage the Makah Tribe to withdraw their petition. Alternatively, I would encourage NOAA and the decision-makers not to grant the waiver. Thank you very much.	Please see the responses to frequent comments # 2 regarding the ASW status of the Makah Tribe and 3.
1916	PM_SEA_Slagden	My name is Greg Slagden, and I am unaffiliated. I just wanted to talk about the human environment in the draft environmental proposal. I think the environment that you may not be considering is the environment of our entire society and worldwide civilization, how there's been a -- over the past 5,000 years, taking a very long view, there's been a progression of the way that society views things in an emerging global -- especially once civilization became interconnecting to one global civilization. There's been kind of a consensus about what is right and what is wrong, sort of a global emerging world morality. The things that were considered commonplace in the past, like human sacrifice or burning people at the stake or cutting down vast forests rather than thinking about it or burning coal like crazy and causing huge amounts of black soot to cover entire cities. These things we don't do anymore; they're recognized as simply wrong. I think that when -- if you fast-forward another hundred years or a thousand years and you look back at what we're doing now, there's a lot these -- the people back in the early 21st Century were actually going out and killing large gentle intelligent creatures. That's just completely unimaginable. Unfortunately, there's a lot of it going on. The elephants in Africa are being killed, the orangutan in Borneo, forests are being ruined, the dolphins in Japan are being herded and killed, whale hunting in the Antarctic continued until very recently and even right now, there are monkeys in animal research labs. All these things are going on, and the fact that the killing of a gray whale is a small part of that; but if there's something you can do to help our generation look better to future generations, I think it's important to consider and that the long view. Thank you very much.	Please see the response to frequent comment # 3 regarding the Makah Tribe's desire to revive its whaling tradition.
1917	PM_SEA_Hopp	My name is Tom Hopp and I'm unaffiliated. I think it's worth going over my credentials first before I make my remarks. I have a PhD in biochemistry from Cornell Medical College which is recognized as one of the top institutions in the study of nutrition in this country, and I have a long history as the vice president of Immunex Corporation in medical research in bringing new medical products forward. And that said, I'd just like to say there's one thing that this draft environment impact statement is slight on. The very first point is to assess the	Comments noted. The comment offers no credible information to supplement the analysis in the DEIS.

Sort #	Commenter Code	Comment	Response
		<p>effect on the human environment. And I noticed in subsequent points, statements of human health being rather far down the list; well, I'd like to bring them much farther up the list. We know that Native Americans don't tolerate alcohol. Well, we know that Native Americans are among those who often are or have no intolerance, lactose intolerance. What we know then, let me simplify it, is that they are physiologically different from mainstream Americans. I don't feel this environmental impact statement has addressed that issue because it's an issue that strongly argues in favor of the Makah whaling. There are people who have had the tradition, as people have said; but more importantly, they have had a biological connection to whales. And the previous speaker said a thousand years; but Neah Bay, the artifacts there go back between four and five thousand years and the traditions of whaling are much more ancient than that. Really, they go back and get lost in time. Even 4,000 years is plenty of time for the human body to adapt in favor of something, for instance, in favor of eating whale. I think that it's a tremendous presumption of the many people that have just spoken right before me that there's so concerned about whales. I think it's sad when somebody kills a whale, it's an awful thing; but if that's somebody's child who needs whale oil to grow strong then I take exception to the things that they're hearing here today, and I would urge the framers of this environmental impact statement to take a look at that mandate, that they look at the human environment in terms of Makah, and that you consider the health impacts of not approving whaling.</p>	
1918	PM_SEA_Anderson	<p>Good evening. I'm Will Anderson representing Green Vegans and the New Human Ecology. It was interesting, the previous remarks. I just wanted to ask the gentleman afterwards if I can get his number so I can add the peer reviewed literature that states that evolution and genetic change takes place over a constant period of time, a long time, and is incapable physiologically or otherwise of making short jumps quickly to adapt to ecosystems. But getting back to my point, we support Alternative 1, the no-action alternative, of course, that would not authorize the gray whale hunt. This meeting, when you hold it the next time, will be scheduled more closely to the actual end of the comment period because the problem I have now, and a problem I have even with the comment period itself, is that there simply isn't -- hasn't been enough time to thoroughly review the DEIS, nor all of these papers and documents that are available. A lot of us, like myself, are paid to do this, even those who aren't have to attend the IWC Scientific Community meeting in California that's coming up. Humpback whales have been supposedly delisted, whales of the Makah; but certainly once</p>	<p>Please see the response to frequent comment # 16 regarding the amount of time allowed to comment on the DEIS.</p>

Sort #	Commenter Code	Comment	Response
		(unintelligible) than gray whales, as I understand it. So I'm going to ask that not only the comment period be closer to the end of the written comment period, but also that the period be extended by 60 days. It's really, really helpful, otherwise. I've been through this before, since 1995, when I first learned of the Makah. Somebody tipped me off to the fact that they were going to go apply, as they did, and to now. I think all sides are pretty weary, but we know that it takes a long time to go through this (unintelligible.)	
1919	PM_SEA_Anderson	Imagine what would have happened had Green not challenged anything in the environmental and animal welfare/rights communities. If we had not challenged this outrageous proposal, the Makah hunt for gray whales, how many of the Pacific Coast Feeding Group would have been killed? How many of the Western Pacific gray whales -- of which there are what, 100 left -- been killed? And as I understand it, very few of those are females. What if they killed even a single female? And yet, we're still wanting to continue onward as if we know everything. What will we destroy now, in our ignorance, because we're being forced by the Makah to attack whales?	Comments noted.
1920	PM_SEA_Anderson	And so a lot of this has been taking place in a context. The context has different rights and accusations of bias in the previous environmental impact and NEPA ventures regarding this issue, and so I'm going to address the context briefly. It's more than a treaty, it's more than cultural identities carried from the past, and it's more than the National Marine Fisheries Service ignoring with certainty that they -- none of us actually -- control the juggernaut called climate change we together have unleashed; it is about watching another volley of violence against this planet already ravished by 7.3 billion people. Nothing is certain now -- not for the gray whales, not for us. There are so many of us on earth that earth is defined as a species far more than a culture. THE FACILITATOR: You've got about a minute left, so if you'd find a convenient spot to stop. MR. ANDERSON: I'll finish my comments later. Thank you.	Comments noted.
1921	PM_SEA_Powell	Jeff Powell. No affiliations. I'm here to support the Makah. It's their treaty rights. We force them into the local reservations and we shouldn't have any say on what they do. It's their history. It's their culture. I just want to say the whales gets harassed enough all the way to the Bennes (sp) in California, Baja, by the people. They've got boats. They've got charters. They're harassed all the way up here, there ain't much difference; but the Makah have got their rights and this should be one of them until proven, at least.	Comments noted.
1922	PM_SEA_Smith	Good evening. My name is Jeff Smith. I work for American Friends Service Committee here in Seattle. It's a Quaker organization. I'm the regional Indian	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>program director. My parents are Chris and Palmer Smith. Chris Smith is from Neah Bay and Port Angeles; Palmer Smith's from Newport, Oregon. So the American Friends Service Committee has supported treaty rights for many years and before that, we supported native peoples before we got into the legal aspects. We support tribal sovereignty and we think that the rule of law should be well-considered and if it's going to be gone around, then it should be done with great care and conscience. The indigenous people have suffered much so that today all people of the Americas enjoy -- well, most of the peoples of the Americas -- the countries of the Americas enjoy great wealth, material wealth. And the tribal people of the Americas have given a lot and have taken a lot so that we can be the way that we are today and all people today, hopefully, benefit from that including indigenous people. So in this process, it would seem to me that the rule of law is followed, that the processes are set in place. The Tribe is, I guess is going by that process. And even though there are some who believe that the process is, you know, not appropriate for this, but the Tribe, the tribal government has decided that this is the way to go. I think that we, as indigenous people, know that there's a lot of people and a lot of forest that has been used against us in the past and we know that we have all live to get along. So I want to thank the people, the staff for coming out tonight and doing his hard work and all the hard work that you're doing on this process, and I wish you good luck.</p>	
1923	PM_SEA_Karstetter	<p>My name is Randall Karstetter, and I'm unaffiliated. I wanted to speak tonight because I feel that the Makah people are underrepresented in these proceedings; that is typical of most interactions between U.S. government and native people, and I just wanted to say something on their behalf. I am not a Native American. The Makah people are not the problem. Whales have flourished for thousands and thousands of years with the Native American people whaling them as part of their subsistence and as part of their religious ceremonies. The problem occurred when the Caucasian people came and commercially hunted them to almost extinction. That's the whole reason why we have NOAA and the Whaling Commission is to protect whales from Caucasian commercial fisherman. We need to do that. What we don't need you to do is to tell the Makah how they should live their lives. Native American people interactions with U.S. government and U.S. people have constantly been told what to do, what clothes to wear, what religions to believe in, how to hunt and fish, what lands they can own. They've constantly been told what to do. Here we are today, again trying to tell them what to do. That is wrong. All of us here are newcomers to this land, to this area. They were here before us. They have their own culture. They have their own way</p>	Comments noted.

Sort #	Commenter Code	Comment	Response
		<p>of living. And we don't have the right to tell them how they should live, what they should hunt, what they should eat, whether they should go to the grocery for their meat. We don't have the right. I would urge NOAA and the U.S. government to take this into consideration that while we all love whales, and we all love whales -- including the Makah, they revere the whales -- we all love whales, but we should not impose our pet projections of whales onto the Makah and their way of life. Leave the Makah alone and let them live their culture the way they have always lived their culture, without our impact.</p>	

END OF COMMENTS