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6 UNITED STATES OF AMERICA  
7 Department of Commerce  
8 National Oceanic and Atmospheric Administration

9 *In re:* Proposed Waiver and Regulations  
10 Governing the Taking of Eastern North  
11 Pacific Gray Whales by the Makah Indian  
Tribe

Hon. George J. Jordan  
Hearing Docket No. 19-NMFS-0001

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13 **DECLARATION OF CATHERINE PRUETT**  
14 **IN SUPPORT OF EXPEDITED MOTION FOR EXTENSION OF TIME**  
15 **TO SUBMIT INITIAL DIRECT TESTIMONY AND FOR CONTINUANCE OF HEARING**

16 I, Catherine Pruett, hereby declare as follows:

- 17 1. I am an attorney and serve as the Executive Director of Sea Shepherd Legal (SSL). In such  
18 capacity, I oversee SSL's review and responses to National Marine Fisheries Service's (NMFS)  
19 efforts to grant a waiver of the Marine Mammal Protection Act (MMPA) moratorium on the take  
20 of marine mammals to allow for take of Eastern North Pacific (ENP) gray whales.  
21 2. SSL represents the interests of the Sea Shepherd Conservation Society (SSCS) in this  
22 proceeding. I refer collectively to SSL and SSCS, where applicable, as "Sea Shepherd."  
23 3. Sea Shepherd has extensively reviewed materials relevant to the waiver issue, including, for  
24 example, associated case law, NMFS's aborted 2008 Draft Environmental Impact Statement  
25 (DEIS), and NMFS's 2015 DEIS and public comments thereto.  
4. On July 27, 2015, SSL submitted comprehensive comments in response to the six action

1 alternatives proposed by NMFS in its 2015 DEIS.

2 5. Sea Shepherd has conducted a preliminary comparative review of NMFS's new alternative  
3 proposed in this proceeding and found that it is very distinct from any of the alternatives  
4 presented in NMFS's 2015 DEIS.

5 6. On or about May 6, 2019, Sea Shepherd issued timely requests for participation as Parties to  
6 this proceeding.

7 7. While waiting for approval of their Party status, Sea Shepherd reached out to NMFS seeking  
8 its consent to a reasonable delay of the hearing and associated deadlines.

9 8. On May 6, 2019, SSL received a notice from NMFS that its request to participate as a Party  
10 in this proceeding had been received. On May 9, 2019, SSCS received the same response.

11 9. As it was unclear whether a "request received" amounted to "acceptance" of Party status, Sea  
12 Shepherd contacted NMFS by phone on May 9 for clarification of this procedural issue. During  
13 the call, NMFS confirmed that the "request received" indeed amounted to "acceptance" of Party  
14 status.

15 10. At the close of business on May 9, NMFS advised Sea Shepherd that it did not consent to the  
16 requested deadline extension, stating among other things that "your organizations provided  
17 comments soon after the release of [the 2015] DEIS, and there has been ample time since then to  
18 review issues addressed by that DEIS." See Exhibit A (May 9, 2019 letter from Barry Thom,  
19 Regional Administrator, West Coast Region, NMFS), attached hereto.

20 I declare under penalty of perjury under the laws of Washington and the United States that the  
21 foregoing is true and correct.

22 DATED this 10<sup>th</sup> day of May 2019

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24 Catherine Pruett