

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

In re:)
) Docket No. 19-NMFS-0001
Proposed Waiver and Regulations Governing)
the Taking of Eastern North Pacific Gray) RIN: 0648-BI58 and
Whales by the Makah Indian Tribe) RIN: 0648-XG584
)

SECOND DECLARATION OF CHRIS YATES

1. I am the Assistant Regional Administrator for Protected Resources for the West Coast Region of the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA). I previously filed a declaration in this matter dated April 5, 2019 (Docket No. 3). I incorporate by reference paragraphs 1 through 5 of my April 5, 2019 declaration, which explain my position and qualifications relative to this matter. This declaration is filed in support of NMFS's Response to the Animal Welfare Institute's (AWI's) Expedited Motion to Extend Waiver Proceeding Schedule and Sea Shepherd Legal/Sea Shepherd Conservation Society's (Sea Shepherd's) Expedited Motion for Extension of Time to Submit Initial Direct Testimony and for Continuance of Hearing.

2. Under the Marine Mammal Protection Act, the Proposed Waiver and Regulations that are the subject of this proceeding are subject to formal rulemaking requirements, including an agency hearing. 16 U.S.C. §§ 1371(a)(3)(A), 1373(d)). NMFS does not have administrative law judges (ALJs) to oversee the required agency hearing. *See* NMFS Ex. 1-16 (NMFS 2017).

NMFS therefore requested, through the Office of Personnel Management (OPM), to obtain the services of another agency's ALJ to preside over the hearing. *Id.* NMFS requested that OPM give priority to the services of a U.S. Coast Guard ALJ due to that agency's past experience handling similar issues and convenient location. *Id.*

3. OPM approved NMFS's request for use of a U.S. Coast Guard ALJ by letter dated October 31, 2017. NMFS Ex. 1-17 (OPM 2017). The original loan term extended through September 30, 2018, but provided for extension through the end of fiscal year 2019 if needed. The loan was extended, therefore the services of the ALJ assigned to this matter are currently available to NMFS until September 30, 2019 (i.e., the end of fiscal year 2019). *Id.*

4. If NMFS is not able to conclude the hearing in this matter by September 30, 2019, it would need to reinitiate the authorization process with OPM, a process that would take an uncertain amount of time. A delay of the hearing beyond September 30, 2019 would also require us to amend our interagency agreement with the U.S. Coast Guard Office of the ALJ to extend the period of performance for funding the ALJ. That process requires several levels of agency review and would take an unknown amount of time. Therefore, delaying the hearing until after September 30 introduces uncertainty as to when the hearing could be rescheduled.

5. Delaying the hearing by 90 days would place the hearing during the fall holiday season, likely complicating the ability of all parties to schedule witnesses and further adding uncertainty of when the hearing could be rescheduled.

6. I understand that one of the reasons that AWI and Sea Shepherd have requested additional time is due to the asserted length of NMFS's initial filings in this matter. However, most of the materials relied on by NMFS were referenced in the 2015 DEIS (*see* Yates First Decl., April 5, 2019, ¶ 12 for background regarding the 2015 DEIS). After publishing the 2015

DEIS, NMFS uploaded all of the referenced articles to our website and made them available at public meetings and upon request. Attached hereto as NMFS Exhibit 1-18 (NMFS 2019d) is a spreadsheet prepared by my staff that identifies all of the materials cited by NMFS in the Proposed Rule (84 Fed. Reg. 13,604 (2019)), the 2015 DEIS, and the four declarations previously filed by NMFS. Only 62 documents are included as references to the Proposed Rule or exhibits to the declarations but not referenced in the 2015 DEIS. Of these 62, only 38 were published after the date of the 2015 DEIS (not including the 8 declarations and CVs associated with our direct testimony). Many of these 38 are IWC, NMFS, or gray whale-related reports that would have been readily available to AWI and to Sea Shepherd. Based on my professional experience, I believe it is reasonable to expect that AWI and Sea Shepherd, both of whom have extensive familiarity with the subject matter, could review 38 documents within the time periods established by NMFS in the Notice of Hearing (84 Fed. Reg. 13,639 (2019)) for this matter.

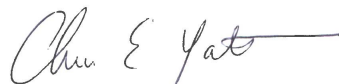
7. I am aware that another reason AWI and Sea Shepherd assert for needing more time is to review reports that have been or will be made available during the May meeting of the International Whaling Commission (IWC). As explained in the Declaration of Dr. David Weller (Docket No. 5), the ENP stock of gray whales is routinely studied and monitored, and research regarding the stock is ongoing. Weller Decl. ¶ 21. Studies and reports regarding gray whales will continue to be generated. If NMFS were required to delay this matter merely on the basis of new reports becoming available, the hearing could be indefinitely delayed.

8. Also as explained in the Weller Declaration, in 2018 the IWC completed an evaluation of the proposal for a Makah tribal hunt as set forth in the Proposed Rule (Docket No. 2). Weller Decl. ¶ 42. To my knowledge, the IWC is not re-evaluating the hunt proposal at the 2019 meeting. Moreover, it is my understanding from the draft 2019 IWC Scientific Committee

Agenda (SC/68AA/GEN/01) that the IWC's implementation review for North Pacific gray whales, originally scheduled for 2019, has been postponed until 2020. See <https://iwc.int/sc67b>.

9. I understand that another reason asserted by Sea Shepherd for needing more time is due to the greater than usual number of gray whale strandings that have occurred this year during the stock's northward migration. As noted in our draft 2018 stock assessment report for the eastern North Pacific stock of gray whales (NMFS Ex. 2-10), abundance has fluctuated for the last 30 years, with a recent increase to over 26,000 whales. Carrying capacity for this stock is likely to fluctuate along with environmental changes, especially those related to the productivity of arctic feeding grounds. While we have yet to determine the cause of these increased strandings, with gray whales at record numbers in recent history it would not be unexpected to see increasing whale densities translate into higher mortality / strandings and lower calf production and survival.

I declare, under penalty of perjury under the laws of the United States, that the foregoing is true and correct to the best of my knowledge, information, and belief.



Chris Yates

Dated: _____



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OREGON 97232-1274

October 10, 2017

Ms. Juanita Love
Administrative Law Judge Program Manager
Office of Personnel Management (OPM)
1900 E Street NW
Washington, DC 20415

Dear Ms. Love:

Pursuant to 5 CFR 930.208, I am requesting the services of an Administrative Law Judge (ALJ) to adjudicate matters involving the National Marine Fisheries Service's (NMFS) review of the Makah Indian Tribe's request for a limited waiver of the Marine Mammal Protection Act's (MMPA) take moratorium to resume treaty-based hunting of eastern North Pacific gray whales. MMPA regulations governing the waiver process and duties of the ALJ/presiding officer are found at 50 CFR 228. Additional information pertaining to NMFS' review of the Tribe's waiver request can be found at the NMFS West Coast Region's website¹.

NMFS does not have an ALJ to oversee the hearing process required by the MMPA regulations cited above. For this particular hearing, I am requesting that OPM give priority to the services of an ALJ from the U.S. Coast Guard due to that agency's: 1) past ALJ oversight of a NMFS action involving marine mammal harvest by Alaskan natives,² 2) role in promulgating regulations at 33 CFR 165.1310 associated with the proposed whale hunt by the Makah Tribe, and 3) location in Seattle, Washington (Henry M. Jackson Federal Building), which is easily accessible to the NMFS Regional Office staff, the Makah Tribe, and several non-governmental organizations actively engaged in NMFS' review of the Tribe's request.

Thank you for considering this request. If you have any questions, please contact Steve Stone of my staff at 503-231-2317 or steve.stone@noaa.gov.

Sincerely,

Barry A. Thom
Regional Administrator

cc: Steve Stone, Protected Resources Division, NMFS West Coast Region (WCR)
Kirsten Erickson, Office of General Counsel, National Oceanic and Atmospheric Administration
Kathryn Schuck; Operations, Management and Information Division; NMFS WCR

¹ See http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/cetaceans/whale_hunt.html

² See NMFS' website regarding the Cook Inlet Beluga Whale Subsistence Harvest at

<https://alaskafisheries.noaa.gov/pr/beluga-admin-hearing>





UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Human Resources
Solutions

Loan #: 2018-26
Expiration date: 9-30-18

OCT 31 2017

Mr. Barry A. Thom
Regional Administrator
United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
West Coast Region
1201 NE Lloyd Boulevard, Suite 1100
Portland, OR 97232-1274

Dear Mr. Thom:

This is in reference to your letter dated October 10, 2017, requesting the loan of an Administrative Law Judge (ALJ) to adjudicate matters involving the National Marine Fisheries Service's review of the Makah Indian Tribe's request for a limited waiver of the Marine Mammal Protection Act. The cases will be heard in accordance with 5 CFR 228 and 33 CFR 165.1310.

Pursuant to 5 U.S.C. § 3344 and 5 CFR 930.208 and with the consent of the loaning agency, the United States Coast Guard (USCG), the Office of Personnel Management (OPM) hereby approves your request. USCG's Chief ALJ Walter Brudzinski will select the judge to be loaned. The services of the loaned judge will be provided on a temporary, intermittent, and reimbursable basis through September 30, 2018, subject to possible extension for Fiscal Year 2019 which, if needed, should be requested from this office no later than September 25, 2018. Judge Brudzinski's telephone number is (410) 962-6129 and his mailing address is: USCG, ALJ Docketing Center, U.S. Customs House, 40 S. Gay Street, Room 412, Baltimore, MD 21202-4022.

Please send us a copy of the case assignment letter that you issue to Chief ALJ Brudzinski and notify us of the final disposition of the case. Address all correspondence to Human Resources Solutions, ALJ Program Office, 1900 E Street, NW, Washington, DC 20415-9400. Please indicate the loan number shown above when referring to any changes to or status of the case regarding this loan.

Sincerely,


Joseph S. Kennedy
Associate Director
Human Resources Solutions

cc: Hon. Walter Brudzinski, Chief ALJ, USCG
Personnel, USCG

Summary 147 documents/PDFs Cited as (a) References in the Proposed Rule, or (b) Declarations and CVs, or (c) Exhibits in NMFS Declarations

File	Full Citation	Proposed Rule	Yates Decl. #	Bettridge Decl. #	Weller Decl. #	Moore Decl. #	In 2015 DEIS?	Not Cited in 2015 DEIS but Available to Public prior to 2015 DEIS	Notes	PDF # Pages
Ilyashenko and Hogarth 2007	Ilyashenko, V. and D. DeMaster. 2007. Addendum to monitoring in 2007 by the Russian Federation and the United States of the Aboriginal Quota for Gray Whales Set by the International Whaling Commission. Agreement signed May 20, 2007.	Y			8		Y	na	Typo in Weller exhibit list - the full citation should have read as "Ilyashenko, V. and W.T. Hogarth" (not Ilyashenko, V. and D. DeMaster)	1
Makah Tribe 2006	Makah Tribe. 2006a. Makah Tribe's clarification of MMPA waiver request application. Letter from Makah Tribal Council to William T. Hogarth. Ph.D. dated January 24, 2006.	Y	2				Y	na	Typo in Yates exhibit list - there is no "b" so full citation did not need an "a"	1
Ilyashenko and DeMaster 2012	Ilyashenko, V. and D. DeMaster. 2012. Addendum to monitoring in 2012 by the Russian Federation and the United States of the Aboriginal Quota for Gray Whales Set by the International Whaling Commission. Agreement signed July 6, 2012.	Y			7		Y	na		1
Gearin and Gosho 2000	Gearin, P. J. and M. Gosho. 2000. Report on whaling activity during the spring 2000 Makah gray whale hunt. NMFS/NWR report.	Y					Y	na		2
NMFS 2005	NMFS. 2005. NMFS Memorandum from William T. Hogarth to D. Robert Lohn re: Delegation of Authority for NEPA Compliance and Federal Register Signature Authority Regarding the Makah Indian Tribe's Request for a Waiver of the Marine Mammal Protection Act Moratorium. Dated April 22, 2005.	Y	3				Y	na		2
Rice 1965	Rice, D. W. 1965. Offshore southward migration of gray whales off southern California. <i>Journal of Mammalogy</i> 46:504-505.	Y					Y	na		2
Hubbs and Hubbs 1967	Hubbs, C. L. and L. C. Hubbs. 1967. Gray whale censuses by airplane in Mexico. <i>California Fish and Game</i> 53:23-27.	Y					Y	na		3
Mate and Urbán-Ramírez 2003	Mate, B. R. and J. Urbán-Ramírez. 2003. A note on the route and speed of a gray whale on its northern migration from Mexico to central California, tracked by satellite-monitored radio tag. <i>Journal of Cetacean Research and Management</i> 5:155-157.	Y					Y	na		3
Wolfson 1977	Wolfson, F. H. 1977. Gray whale behavior. <i>Science</i> 195(4278):534-5.	Y					Y	na		3
Green et al. 1995	Green, G. A., J. J. Brueggeman, R. A. Grotefendt, and C. E. Bowlby. 1995. Offshore distances of gray whales migrating along the Oregon and Washington coasts, 1990. <i>Northwest Science</i> 69:223-227.	Y			12		Y	na		6
Borodin et al. 2012	Borodin, R. G., K. A. Zharikov, V. Yu. Ilyashenko, and I. V. Mikhno. 2012. Rationale of subsistence and cultural needs for gray whales and bowhead whales by indigenous people of Chukotka (Russian Federation) in 2013-2018. Paper IWC/64/ASW 6 presented to the International Whaling Commission.	Y					Y	na		7
Jones and Swartz 2002	Jones, M. L., and S. L. Swartz. 2002. Gray whale <i>Eschrichtius robustus</i> . Pages 524-36 in Perrin, W. F., B. Wursig, and J. G. M. Thewissen, editors. <i>Encyclopedia of Marine Mammals</i> . Academic Press, San Diego, CA.	Y			11		Y	na		7
Reilly et al. 2008	Reilly, S.B., J.L. Bannister, P. B. Best, M. Brown, R. L. Brownell Jr., D. S. Butterworth, P. J. Clapham, J. Cooke, G. P. Donovan, J. Urbán, and A. N. Zerbini. 2008. <i>Eschrichtius robustus</i> . In: IUCN 2012. IUCN Red List of Threatened Species. Version 2012.2.	Y					Y	na		7
Weller et al. 2012	Weller, D. W., A. Klimck, A. L. Bradford, J. Calambokidis, and others. 2012. Movements of gray whales between the western and eastern North Pacific. <i>Endang Species Res</i> 18:193-199.	Y			57		Y	na		7
Frasier et al. 2011	Frasier, T. R., S. M. Koroscil, B. N. White, and J. D. Darling. 2011. Assessment of population substructure in relation to summer feeding ground use in the eastern North Pacific gray whale. <i>Endangered Species Research</i> 14:39-48.	Y			37		Y	na		10
Mallonée 1991	Mallonée, J. S. 1991. Behavior of gray whales (<i>Eschrichtius robustus</i>) summering off the northern California coast, from Oatrick's Point to Crescent City. <i>Canadian Journal of Zoology</i> 69:681-690.	Y			73		Y	na		10
Dunham and Duffus 2001	Dunham, J. S. and D. A. Duffus. 2001. Foraging patterns of gray whales in central Clayoquot Sound, British Columbia, Canada. <i>Marine Ecology Progress Series</i> 223:299-310.	Y			74		Y	na		12
Carretta et al. 2013	Carretta, J., and 15 co-authors. 2013. U.S. Pacific Marine Mammal Stock Assessments: 2012. NOAA-TM-NMFS-SWFSC-504.	Y		5			Y	na		14
Punt and Wade 2012	Punt, A. E. and P. R. Wade. 2012. Population status of the eastern North Pacific stock of gray whales in 2009. <i>Journal of Cetacean Research and Management</i> 12(1):15-28.	Y				3	Y	na		14
Calambokidis et al. 2009	Calambokidis, J., A. Klimck, and L. Schlender. 2009. Summary of collaborative photographic identification of gray whales from California to Alaska for 2007. Final Report for Purchase Order AB133F-05-SE-5570. April 2009. Cascadia Research. 218½ W 4th Ave. Olympia, WA 98501.	Y			76		Y	na		15
IWC 2004	International Whaling Commission (IWC). 2004. Report of the Workshop on Whale Killing Methods and Associated Welfare Issues, Berlin, Germany, June 7-9, 2003, pages 85-101 (Annex E of the Chair's Report of the 55th Annual Meeting) In Annual Report of the International Whaling Commission 2003. Cambridge, United Kingdom. 191 pp.	Y					Y	na		17
Bluhm and Gradinger 2008	Bluhm, B. and Gradinger, R. 2008. Regional variability in food availability for Arctic marine mammals. <i>Ecol. Appl.</i> 18: S77-96.	Y			41		Y	na		20

Lang et al. 2011b	Lang, A. R., D. W. Weller, R. LeDuc, A. M. Burdin, V. L. Pease, D. Litovka, V. Burkanov, and R. L. Brownell, Jr. 2011a. Genetic analysis of stock structure and movements of gray whales in the eastern and western North Pacific. Paper SC/63/BRG10 presented to the IWC Scientific Committee.	Y		59		Y	na	Typo in Proposed Rule and Weller exhibit list - cited as "Lang et al., 2011b" but should have just been "Lang et al. 2011"	22
Darling 1984	Darling, J. D. 1984. Gray whales off Vancouver Island, British Columbia. Pages 267-288 in Jones, M. L., S. L. Swartz, and S. Leatherwood, editors. The Gray Whale <i>Eschrichtius robustus</i> . Academic Press, Inc., Orlando, FL.	Y		31		Y	na		22
Makah Tribe 2013	Makah. 2013. Resolution No. 118-13 of the Makah Tribal Council re: the Makah Whaling Ordinance. August 13, 2013.	Y				Y	na		23
Scordino et al. 2011	Scordino, J. J., P. J. Gearin, M. Goshu, J. Harris, Klimek, A., and J. Calambokidis. 2011. Gray Whale Research in the Usual and Accustomed Fishing Grounds of the Makah Tribe. Paper SC/MK11AWMP5 presented to the International Whaling Commission.	Y		75		Y	na		23
Pike 1962	Pike, G.C. 1962. Migration and feeding of the gray whale (<i>Eschrichtius gibbosus</i>). <i>Journal of the Fisheries Research Board of Canada</i> 19:815-838.	Y		14		Y	na		24
Punt and Moore 2013	Punt, A. E., and J. E. Moore. 2013. Seasonal gray whales in the Pacific Northwest: An assessment of optimum sustainable population level for the Pacific Coast feeding Group. NOAA Technical Memorandum NOAA-TM-NMFS-SWFSC-518. July 2013.	Y				Y	na		24
Calambokidis et al. 1999	Calambokidis, J., J. Quan, and L. Schlender. 1999. Gray whale photographic identification in 1998. Report prepared for National Marine Mammal Laboratory, Seattle, WA.	Y		77		Y	na		25
IWC 2007	International Whaling Commission (IWC). 2007. Report of the Workshop on Whale Killing Methods and Associated Welfare Issues, St. Kitts and Nevis, June 11-13, 2006. Annex D of the Chair's Report of the 58th Annual Meeting.	Y				Y	na		27
IWC 2011c	International Whaling Commission (IWC). 2011c. Report of the Scientific Committee. Annex E. Report of the standing working group on the aboriginal whaling management procedure (AWMP). <i>J. Cetacean Res. Manage. (Suppl.)</i> 143-167.	Y		35		Y	na		29
Green et al. 1992	Green, G. A., J. J. Brueggeman, R. A. Grolefendt, C. E. Bowlby, M. L. Bonnel, and K. C. Balcomb. 1992. Cetacean distribution and abundance off Oregon and Washington, 1989-1990. Pages 1-100 in J. J. Brueggeman, editor. Oregon and Washington Marine Mammal and Seabird Surveys. Final Rept. OCS study MMS 91-0093.	Y		13		Y	na		34
Wade 1998	Wade, P. R. 1998. Calculating limits to the allowable human-caused mortality of cetaceans and pinnipeds. <i>Marine Mammal Science</i> 14(1):1-37.	Y	2			Y	na		37
Calambokidis et al. 2004	Calambokidis, J., R. Lumper, J. Laake, M. Goshu, and P. Gearin. 2004. Gray whale photographic identification in 1998-2003: collaborative research in the Pacific Northwest. Final Report prepared for National Marine Mammal Laboratory, Seattle, WA.	Y		27		Y	na		39
IWC 2011b	International Whaling Commission (IWC). 2011b. Report of the 2011 AWMP workshop with a focus on eastern gray whales. Report SC/63/Rep.2 presented to the International Whaling Commission Scientific Committee.	Y				Y	na		44
Weller et al. 2013	Weller, D. W., and 7 co-authors. 2013. Report of the National Marine Fisheries Service gray whale stock identification workshop. March 2013. NOAA Technical memorandum NOAA-TM-NMFS-SWFSC-507.	Y		2		Y	na		62
Jones and Swartz 1984	Jones, M. L., and S. L. Swartz. 1984. Demography and phenology of gray whales and evaluation of whale-watching activities in Laguna San Ignacio, Baja California Sur, Mexico. Pages 309-374 in Jones, M. L., S. L. Swartz, and S. Leatherwood, editors. The Gray Whale <i>Eschrichtius robustus</i> . Academic Press, Inc., Orlando, FL.	Y		16		Y	na		67
IWC 2011a	International Whaling Commission (IWC). 2011a. Report of the Scientific Committee. <i>J. Cetacean Res. Manage. (Suppl.)</i> 12:1-75.	Y		34		Y	na		75
Calambokidis et al. 2014	Calambokidis, J., Laake, J., and A. Perez. 2014. Updated analysis of abundance and population structure of seasonal gray whales in the Pacific Northwest, 1996-2012. Final Report to National Marine Mammal Laboratory, Seattle, WA.	Y		78	10	Y	na		76
IWC 2012	International Whaling Commission (IWC). 2012. Chair's Report of the 64th Annual Meeting of the International Whaling Commission. 2-6 July 2012.	Y	9			Y	na		88
Makah Tribe 2005	Makah Tribe. 2005. Makah Tribe's Request for a Waiver of the Marine Mammal Protection Act (MMPA) Take Moratorium. Letter from Makah Tribal Council to William T. Hogarth, Ph.D. dated February 11, 2005.	Y				Y	na		123
Rice and Wolman 1971	Rice, D. W. and A. A. Wolman. 1971. Life history and ecology of the gray whale, <i>Eschrichtius robustus</i> . <i>American Society of Mammalogists Special Publication</i> 3.	Y		15		Y	na		160
NMFS 2015	NMFS. 2015. Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales. March 2015.	Y				Y	na		1230
Brueggeman et al. 1992	See Green et al. (1992)	Y				Y	na	Typo in Proposed Rule - correct citation is "Green et al. 1992"	na
Marine Mammal Institute 2012	Update Western Gray Whales information posted at http://mmi.oregonstate.edu/Sakhalin2011 and accessed November 18, 2013.			62		Y	na		2
Clarke and Moore 2002	Clarke, J. T. and S. E. Moore. 2002. A note on observation of gray whales in the southern Chukchi and northern Bering Seas, August-November, 1980-89. <i>Journal of Cetacean Research and Management</i> 4(3):283-288.			22		Y	na		6

Swartz and Jones 1983	Swartz, S.L., and M.L. Jones. 1983. Gray Whale (<i>Eschrichtius robustus</i>) Calf Production and Mortality in the Winter Range. SC/34/PS4. Rep. Int. Whal. Comm. 33:503-507.				17		Y	na		6
Urban et al. 2012	Urban R., J., D. Weller, O. Tyurneva, S. Swartz, A. Bradford, Y. Yakovlev, O. Sychenko, H. Rosales N., A. S. Martinez, A. Burdin, and A. Gómez-Gallardo U. 2012. Report on the photographic comparison of the western and Mexican gray whale catalogues. Paper SC/64/BRG13 presented to the International Whaling Commission Scientific Committee				56		Y	na		6
Vertyankin et al. 2004	Vertyankin, V.V., Nikulin, V.C., Bednykh A.M. and Kononov, A.P. 2004. Sighting of gray whales (<i>Eschrichtius robustus</i>) near southern Kamchatka Pp 126-128 in: Marine Mammals of the Holarctic. Collection of scientific papers of International Conference. Koktebel, Crimea, Ukraine, October 11-17, 2004				49		Y	na		6
Wang 1984	Wang, P. 1984. Distribution of the gray whale (<i>Eschrichtius gibbosus</i>) off the coast of China. Acta Ther. Sinica 4(1):21-6. [In Chinese with English summary].				55		Y	na		6
Mate et al. 2011	Mate, B., A. L. Bradford, G. Tsidulko, V. Vertyankin, and V. Ilyashenko. 2011. Late-feeding season movements of a western North Pacific gray whale off Sakhalin Island, Russia and subsequent migration into the Eastern North Pacific. Paper SC/63/BRG23 presented to the IWC Scientific Committee.				60		Y	na		7
Sanchez Pacheco 1998	Sanchez Pacheco, J.A. 1998. Gray whale mortality at Ojo de Liebre and Guerrero Negro Lagoons, Baja California Sur, Mexico: 1984-1995. Marine Mammal Science 14(1):149-155.				18		Y	na		7
Tyurneva et al. 2010	Tyurneva, O. Y., Y. M. Yakovlev, V. V. Vertyankin, and N. I. Selin. 2010. The peculiarities of foraging migrations of the Korean-Okhotsk gray whale (<i>Eschrichtius robustus</i>) population in Russian waters of the Far Eastern seas. Rus. Jour. of Marine Biol. 36(2):117-124				50		Y	na		8
Mizue 1951	Mizue, K. 1951. Grey whales in the East Sea of Korea. The Scientific Reports of the Whales Research Institute, Tokyo 5:71-9.				53		Y	na		9
Moore et al. 2003	Moore, S. E., J. M. Grebmeier, and J.R. Davies. 2003. Gray whale distribution relative to forage habitat in the northern Bering Sea: current conditions and retrospective summary. Canadian Journal of Zoology 81:734-742				24		Y	na		9
Calambokidis et al. 2002	Calambokidis, J., J. D. Darling, V. Deecke, P. Gearin, M. Gosho, W. Megill, C. M. Tombach, D. Goley, C. Toropova, and B. Gisborne. 2002. Abundance, range and movements of a feeding aggregation of gray whales (<i>Eschrichtius robustus</i>) from California to southeast Alaska in 1998. Journal of Cetacean Research and Management 4(2):267-276				26		Y	na		10
Clapham and Mattila 1993	Clapham, P. J. and D. K. Mattila. 1993. Reactions of humpback whales to skin biopsy sampling on a west Indies breeding ground. Marine Mammal Science 9: 382-391.				70		Y	na		10
Moore et al. 2007	Moore, S. E., K. M. Wynne, J. C. Kinney, and J. M. Grebmeier. 2007. Gray whale occurrence and forage southeast of Kodiak Island, Alaska. Marine Mammal Science 23(2): 419-428.				29		Y	na		10
Swartz et al. 2000	Swartz, S. L., B. L. Taylor, and D. J. Rugh. 2000. Review of studies on stock identity in the gray whale (<i>Eschrichtius robustus</i>). Unpublished report presented to the International Whaling Commission (SC/52/SD3)				64		Y	na		10
Berzin 1984	Berzin, A. A. 1984. Soviet studies on the distribution and numbers of the gray whale in the Bering and Chukchi Seas from 1968 to 1982. Pages 409-419 in Jones, M. L., S. L. Swartz, and S. Leatherwood, editors. The Gray Whale <i>Eschrichtius robustus</i> . Academic Press, Inc., Orlando, FL				20		Y	na		13
Halter and Darling 1974	Halter, D. F. and J. D. Darling. 1974. Recent observations of the gray whale in British Columbia. Canadian Field-Naturalist 88(4):449-459.				30		Y	na		13
Highsmith et al. 2007	Highsmith R. C., K. O. Coyle, B. A. Bluhm, and B. Konar. 2007. Gray Whales in the Bering and Chukchi Seas. Pages 303-313 in Estes, J., D. P. DeMaster, D. F. Doak, T. M. Williams, and R. L. Brownell, editors. Whales, Whaling, and Ocean Ecosystems. University of California Press, Berkeley, CA.				25		Y	na		14
Gauthier and Sears 1999	Gauthier, J. and R. Sears. 1999. Behavioral response of four species of balaenopterid whales to biopsy sampling. Marine Mammal Science 15(1):85-101.				71		Y	na		17
Harvey and Mate 1984	Harvey, J. T. and B. R. Mate. 1984. Dive characteristics and movements of radio-tagged gray whales in San Ignacio Lagoon, Baja California Sur, Mexico. Pages 561-89 in Jones, M. L., S. L. Swartz, and S. Leatherwood, editors. The Gray Whale, <i>Eschrichtius robustus</i> . Academic Press, Inc., Orlando, FL				69		Y	na		17
Moore and Weller 2013	Moore, J. E. and D. W. Weller. 2013. Probability of taking a western North Pacific gray whale during the proposed Makah hunt. NOAA Technical Memorandum NMFS-SWFSC-506. January 2013.			7			Y	na		17
Shelden et al. 2004	Shelden, K. E. W., D. J. Rugh, and A. Schulman-Janiger. 2004. Gray whales born north of Mexico: indicator of recovery or consequence of regime shift? Ecological Applications 14(6):1789-1805.				19		Y	na		17
Lang et al. 2010	Lang, A. R., D. W. Weller, R. G. LeDuc, A. M. Burdin, and R. L. Brownell, Jr. 2010. Genetic differentiation between western and eastern (<i>Eschrichtius robustus</i>) gray whale populations using microsatellite markers. Paper SC/62/BRG11 presented to the International Whaling Commission Scientific Committee (Unpublished). 18 pp				58		Y	na		18
Reeves et al. 2008	Reeves, R. R., T. D. Smith, and E. A. Josephson. 2008. Observations of Western Gray Whales by Ship-based Whalers in the 19th Century. Paper SC/60/BRG7 presented to the International Whaling Commission				51		Y	na		19
Swartz et al. 2006	Swartz, S. L., B. L. Taylor, and D. J. Rugh. 2006. Gray whale <i>Eschrichtius robustus</i> population and stock identity. Mammal Review 36(1):66-84.				65		Y	na		19

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Omura 1984	Omura, H. 1984. History of gray whales in Japan. pp. 57-77. In M. L. Jones, S. L. Swartz, and S. Leatherwood, editors. The Gray Whale, <i>Eschrichtius robustus</i> . Academic Press Inc., Orlando Florida. xxiv+600pp.				54		Y	na		22
Yablokov and Bogoslovskaya 1984	Yablokov, A.V. and L.S. Bogoslovskaya. 1984. A Review of Russian Research on the Biology and Commercial Whaling of the Gray Whale. Pages 465-485 in Jones, M. L., S. L. Swartz, and S. Leatherwood, editors. The Gray Whale <i>Eschrichtius robustus</i> . Academic Press Inc., Orlando, FL.				21		Y	na		22
Moore et al. 2000	Moore, S. E., J. M. Grebmeier and J. R. Davies. 2000. Gray whale foraging habitat in the northern Bering Sea: A GIS Based retrospective summary. Report presented to the International Whaling Commission SC/52/E3.				23		Y	na		23
Carretta et al. 2015	Carretta, J., and 15 co-authors. 2015. U.S. Pacific Marine Mammal Stock Assessments: 2014. NOAA-TM-NMFS-SWFSC-549.			6			Y	na		24
Perryman et al. 2002	Perryman, W. L., M. A. Donahue, P. C. Perkins, and S. B. Reilly. 2002. Gray whale calf production 1994-2000: are observed fluctuations related to changes in seasonal ice cover? <i>Mar. Mammal Sci.</i> 18(0):121-144.				45		Y	na		24
Darling et al. 1998	Darling, J. D., K. E. Keogh, and T. E. Steeves. 1998. Gray whale (<i>Eschrichtius robustus</i>) habitat utilization and prey species off Vancouver Island. <i>B.C. Marine Mammal Science</i> 14(4):692-720.				28		Y	na		29
Lang and Martien 2012	Lang, A. R. and K. K. Martien. 2012. Update on the use of a simulation-based approach to evaluate plausible levels of recruitment into the Pacific Coast Feeding Group of gray whales. Paper SC/64/AWMP4 presented to the Scientific Committee of the International Whaling Commission.				47		Y	na		34
IWC 2014	IWC. 2014. Report of the Scientific Committee. <i>Journal of Cetacean Research and Management (suppl.)</i> 15:1-75. Report of the Scientific Committee.					6	Y	na		75
IWC 2013a	IWC. 2013a. Report of the Scientific Committee. <i>Journal of Cetacean Research and Management (suppl.)</i> 14:1-86. Report of the Scientific Committee.					4	Y	na		86
Andrews 1914	Andrews, R.C. 1914. Monographs of the Pacific Cetacea. I. The California gray whale (<i>Rhachianectes glaucus</i> Cope). <i>Mem. Am. Mus. Nat. Hist.</i> 1(5):227-87.				52		Y	na		91
IWC 2013b	IWC 2013b. Report of the Scientific Committee Annual Meeting 2013 Held on Jeju Island, Republic of Korea from 3-15 June 2013.					5	Y	na		99
Rugh et al. 1999	Rugh, D. J., M. M. Muto, S. E. Moore and D. P. DeMaster. 1999. Status review of the Eastern North Pacific stock of gray whales. U.S. Department of Commerce. NOAA Tech. Memo NMFS-AFSC-103.				63		Y	na		106
NRC 2005	National Research Council (NRC). 2005. Marine Mammal Populations and Ocean Noise: Determining When Noise Causes Biologically Significant Effects Committee on Characterizing Biologically Significant Marine Mammal Behavior. National Research Council.		4				Y	na		143
NMFS 2015b	NMFS. 2015b. Memorandum from S. Stone (NMFS) to the file re: staff responses to comments on the 2008 draft environmental impact statement on the Makah Tribe's request to hunt gray whales. February 19, 2015.		6				Y	na		599
NMFS 2008	NMFS. 2008. Draft Environmental Impact Statement for Proposed Authorization of the Makah Whale Hunt. United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service. May 2008.		5				Y	na		909
IWC 2016a	See NMFS 2019a	Y					No	na	Typo in Proposed Rule - cited as "IWC 2016" but should have been "NMFS 2019a"	na
Fominykh and Smith 2016	Fominykh, I.B. and R.F. Smith III. 2016. Addendum to monitoring by the Russian Federation and the United States of the aboriginal quota for gray whales set by the International Whaling Commission. Signed March 9, 2016, and February 29, 2016.	Y			6		No	No		1
Fominykh and Wulff 2017	Fominykh, I.B. and R. Wulff. 2017. Addendum to monitoring in 2017 by the Russian Federation and the United States of the Aboriginal Quota for Gray Whales Set by the International Whaling Commission. Agreement signed December 20 and 21, 2017.	Y			5		No	No		1
Fominykh and Wulff 2018	Fominykh, I.B. and R. Wulff. 2018. Monitoring in 2019 by the Russian Federation and the United States of the Aboriginal Subsistence Quota for Gray Whales Set by the International Whaling Commission. Agreement signed November 28, 2018, and December 7, 2018.	Y			4		No	No		1
IWC 2018c	International Whaling Commission (IWC). 2018c. Description of the Aboriginal Subsistence Hunt in Chukotka, Russian Federation. Website: https://iwc.int/russian-federation . First accessed December 5, 2018.	Y					No	No		4
Mate et al. 2015	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. <i>Biol. Lett.</i> 11:20150071.	Y			61		No	No		4
Durban et al. 2017	Durban, J.W., D.W. Weller, and W.L. Perryman. 2017. Gray whale abundance estimates from shore-based counts off California in 2014/15 and 2015/16. Paper SC/A17/GW/06 presented to the International Whaling Commission Scientific Committee.	Y			42		No	No		5

Moore and Weller 2018	Moore, J.E. and D.W. Weller. 2018. Updated estimates of the probability of striking a western North Pacific gray whale during the proposed Makah hunt. NOAA Technical Memorandum NMFS-SWFSC-605. August 2018.	Y			8	No	No		11
IWC 2017	International Whaling Commission (IWC). 2017. Annex O. Report of the Sub-Committee on Cetacean Stocks That Are or Might Be the Subject of Conservation Management Plans (CMPs).	Y			67	No	No		14
Cooke 2018	Abundance estimates for western North Pacific gray whales for use with stock structure hypotheses of the Range-wide Review of the Population Structure and Status of North Pacific gray whales. Paper SC/67B/AS 1/02 presented to the International Whaling Commission.	Y			66	No	No	Typo in Weller exhibit list - the full citation should have had "Cooke, J.G. 2018" at the beginning and "67B" should have been "67B"	15
IWC 2018a	International Whaling Commission (IWC). 2018a. International Convention for the regulation of Whaling, 1946. Schedule. As amended by the Commission at the 67th Meeting, Florianopolis, Brazil, September 2018.	Y			3	No	No		17
NMFS 2016	NMFS. 2016. Guidelines for Preparing Stock Assessment Reports Pursuant to the 1994 Amendments to the MMPA. NMFS Instruction 02-204-01. February 22, 2016.	Y			8	No	No		24
Carretta et al. 2017	Carretta, J., and 15 co-authors. 2017. U.S. Pacific Marine Mammal Stock Assessments: 2016. NOAA-TM-NMFS-SWFSC-577.	Y			7	No	No		25
Wells et al. 2017	Wells, B.K., and 43 co-authors. 2017. State of the California Current 2016-2017: Still anything but "normal" in the north. CalCOFI Rep. Vol. 58. 2017.	Y			84	No	No		55
Harvey et al. 2017	Harvey, C.N., and 36 co-authors. 2017. Ecosystem Status Report of the California Current for 2017: A Summary of Ecosystem Indicators Compiled by the California Current Integrated Ecosystem Assessment Team (CCIEA). U.S. Department of Commerce, NOAA Technical Memorandum NMFS-NWFSC-139. https://doi.org/10.7289/N57M-NWFSC-139	Y			83	No	No		61
Calambokidis et al. 2017	Calambokidis, J., Laake, J., and A. Perez. 2017. Updated analysis of abundance and population structure of seasonal gray whales in the Pacific Northwest, 1996-2015. Paper SC/A17/GW/05 presented to the International Whaling Commission.	Y			33	No	No		69
IWC 2018b	International Whaling Commission (IWC). 2018b. Report of the Scientific Committee Bled, Slovenia, 24 April-6 May 2018. IWC/67/Rep01(2018).	Y			43	No	No		103
J.Calambokidis and D.Weller pers. comm. 03-08-19.pdf	J. Calambokidis, Cascadia Research Collective, and D. Weller, NMFS, personal communication, 2019. March 8, 2019, e-mail exchange between J. Calambokidis (CRC), Dave Weller (NMFS), and S. Stone (NMFS) titled "RE: Estimating the Time to Check for WNP Gray Whale matches."	Y				No	No		1
J.Calambokidis pers. comm. 01-23-17.pdf	J. Calambokidis, Cascadia Research Collective, and D. Weller, NMFS, personal communication, 2017. January 23, 2017, e-mail from J. Calambokidis (CRC) to S. Stone (NMFS) titled "RE: Estimating the Time Needed to Compare Gray Whale Photos Against the PCEG Catalog."	Y				No	No		1
A.Lang pers. comm. 10-17-17.pdf	A. Lang, NMFS, personal communication, 2017. October 17, 2017, e-mail from A. Lang (NMFS) to S. Stone (NMFS) titled "Re: Updated Sex Ratio for PCEG Whales?"	Y				No	No		1
Ylitalo et al. 2018	Ylitalo, G, Bolton, J., Boyd, D., and K. Hayes. 2018. Analyses of persistent organic pollutants in gray whales from the West Coast of North America. Northwest Fisheries Science Center Technical Report. August 2018.	Y				No	No		10
NMFS 2019b	NMFS 2019b. NMFS Protocol for Identifying Gray Whales Encountered in Makah Hunts. NMFS WCR Protected Resources Division Report. March 2019.	Y	9			No	No		15
NMFS 2019a	NMFS. 2019a. Biological Report on the Eastern North Pacific (ENP) Stock of Gray Whales. Prepared by the West Coast Region of the National Marine Fisheries Service in support of the proposed waiver and regulations authorizing a limited hunt of ENP gray whales by the Makah Indian Tribe. March 2019.	Y	7			No	No	Typo in Proposed Rule - cited on page 13611 as "NMFS 2018a" but should have been "NMFS 2019a"	89
Moore 2016	Moore, S.E., 2016. Is it 'boom times' for baleen whales in the Pacific Arctic region? Biol. Lett. 12: 20160251.				46	No	No		4
Perryman et al. 2017	Perryman, W.L., Weller, D.W. and Durban, J.W. 2017. Estimates of eastern North Pacific gray whale calf production 1994-2016. Paper SC/A17/GW/07 presented to the International Whaling Commission.				44	No	No		6
Cooke 2015	Cooke, J.G. 2015. Implications of observed whale movements on the relationship between the Sakhalin gray whale feeding aggregation and putative breeding stocks of the gray whale. Paper SC/A15/GW/02 presented to the Second Workshop on the Rangewide Review of the Population Structure and Status of North Pacific Gray Whales. 1-3 April 2015. La Jolla, CA, USA.				11	No	No		8
Durban et al. 2015	Durban, J., Weller, D., Lang, A. and W. Perryman. 2015. Estimating gray whale abundance from shore-based counts using a multilevel Bayesian model. J. Cetacean Res. Manage. 15: 61-68.				40	No	No		8
MMC 2015	MMC comments (7-31-15) from R. Lent (MMC) to W. Stelle (NMFS) re: 2015 DEIS		11			No	No		8
Zagrebelnyy 2018	Zagrebelnyy, S.V. 2018. Whaling in Chukotka from 2013 till 2017. Paper SC/67B/AWMP20 Rev1 submitted to the International Whaling Commission.				68	No	No		8
Wieting 2018	Letter dated 8-27-18 from D. Wieting (NMFS) to J. Calambokidis (Pacific SRG) re: NMFS response to 2018 recommendations of the Pacific SRG.			11		No	No		13
IWC 2016b	IWC 2016. Report of the Scientific Committee. Report of the 2nd workshop on the rangewide review of the population structure and status of North Pacific gray whales, 1-3 April 2015, La Jolla, CA, USA. Journal of Cetacean Research and Management (suppl.) 17:567-581.				12	No	No		18
Carretta et al. 2018	U.S. Pacific DRAFT Marine Mammal Stock Assessments: 2018			10		No	No		24
IWC 2018d	IWC. 2018. Report of the Fifth Rangewide Workshop on the Status of North Pacific Gray Whales. Report SC/67B/REP/07 Rev1.				39	No	No		43

MMC 2018	Second response letter (3-13-18) from P. Thomas (MMC) to B. Thom (NMFS) re: consultation on proposed waiver and regulations.		15				No	No		3
MMC 2017	First response letter (7-11-17) from R. Lent (MMC) to B. Thom (NMFS) re: consultation on proposed waiver and regulations.		8				No	No		4
NMFS 2018	NMFS. 2018. NMFS Protocol for Monitoring Makah Gray Whale Hunts. NMFS WCR Protected Resources Division Report, December 2018.		12				No	No		6
NMFS 2019c	NMFS. 2019c. Memorandum from C. Yates (NMFS) to the record re: responses to comments from the U.S. Marine Mammal Commission on a proposed waiver and regulations related to the Makah Indian Tribe's request for a waiver of the Marine Mammal Protection Act moratorium on take of eastern North Pacific gray whales. March 26, 2019.		13				No	No		6
CV-C. Yates	Curriculum vitae for Chris Yates, NMFS		1				No	No		1
CV-S. Bettridge	Curriculum vitae for Dr. Shannon Bettridge, NMFS			1			No	No		6
CV-D. Weller	Curriculum vitae for Dr. David Weller, NMFS				1		No	No		6
CV-J. Moore	Curriculum vitae for Dr. Jeffrey Moore, NMFS					1	No	No		13
Declaration-C. Yates	Declaration for Chris Yates, NMFS		1				No	No		30
Declaration-S. Bettridge	Declaration for Dr. Shannon Bettridge, NMFS			1			No	No		15
Declaration-D. Weller	Declaration for Dr. David Weller, NMFS				1		No	No		32
Declaration-J. Moore	Declaration for Dr. Jeffrey Moore, NMFS					1	No	No		16
NOAA 2019	Ex Parte Memo signed 3-14-19		4				No	No		9
Thom 2017a	First letter (5-12-17) from B. Thom (NMFS) to R. Lent (MMC) re: consultation on proposed waiver and regulations.		10				No	No		76
Thom 2017b	Second letter (12-19-17) from B. Thom (NMFS) to R. Lent (MMC) re: consultation on proposed waiver and regulations.		14				No	No		88
Sherman and Alexander 1989	Sherman, K. and L.M. Alexander 1989. Biomass Yields and geography of Large Marine Ecosystems, K Sherman and L.M. Alexander. 1989. ISBN: 0813378443.	Y			10		No	Y		7
D'Intino et al. 2013	D'Intino, A. M., J. D. Darling, J. Urban-Ramirez, and T.R. Frasier. 2013. Lack of nuclear differentiation suggests reproductive connectivity between the 'southern feeding group' and the larger population of eastern North Pacific gray whales, despite previous detection of mitochondrial differences. J. Cetacean Res. Manage. 13(2):97-104.	Y			38		No	Y		8
Sumich 1984	Sumich, J. L. 1984. Gray Whales along the Oregon Coast in Summer, 1977-1980. The Murrelet, 65:33-40.	Y			72		No	Y		8
Taylor et al. 2000	Taylor, B.L., Wade, P.R., D.P. DeMaster, and J. Barlow. 2000. Incorporating Uncertainty into Management Models for Marine Mammals. Conservation Biology 14(5):1243-1252.	Y		3			No	Y		10
Longhurst 1998	Longhurst, A.R. 1998. Ecological Geography of the Sea, 1st edition. Academic Press Limited.	Y			9		No	Y		13
Field et al. 2001	Field, J. C., R. C. Francis, and A. Strom. 2001. Toward a fisheries ecosystem plan for the Northern California Current. CalCOFI Report Vol. 42:75-87.	Y			79		No	Y		14
Hickey and Banas 2008	Hickey, B.M., and N.S. Banas. 2008. Why is the northern end of the California Current System so productive? Special Issue on Coastal Ocean Processes, Ecosystem Response. Oceanography 21:4:90-107.	Y			81		No	Y		18
Field et al. 2006	Field, J. C., R. C. Francis, and K. Aydin. 2006. Top-down modeling and bottom-up dynamics: Linking a fisheries-based ecosystem model with climate hypotheses in the Northern California Current. Progress in Oceanography 68:238-270.	Y			80		No	Y		33
Sydemann and Elliott 2008	Sydemann, W.J., and M.L. Elliott. 2008. Developing the California Current Integrated Ecosystem Assessment. Module I: Select Time-Series of Ecosystem State. Final Report January 15, 2008.	Y			82		No	Y		38
Schulberg et al. 1989	Schulberg, S., Show, I., and D.R. Van Schoik. 1989. Results of the 1988-1989 gray whale migration and Landing Craft Air Cushion interaction study program. U.S. Navy Contract N62474-87-C-8669. Rep from SRA Southwest Res. Assoc., Cardiff, CA, for Naval Facil. Eng. Comm., San Bruno, CA. 45 p.	Y					No	Y		70
Weller et al. 2002	Weller, D.W., Burdin, A.M., Würsig, B., Taylor, B.L. and Brownell, R.L., Jr. 2002. The western Pacific gray whale: a review of past exploitation, current status and potential threats. Journal of Cetacean Research and Management 4(1):7-12.				48		No	Y		7
Small and DeMaster 1995	Small, R. J., and D. P. DeMaster. 1995. Alaska marine mammal stock assessments 1995. U.S. Dep. Commer., NOAA Tech. Memo. NMFS-AFSC-57. 93 p.					2	No	Y		10
Calambokidis et al. 2000	Calambokidis, J., Schlender, L., Gosho, M., Gearin, P., Goley, D., and C. Toropova. 2000. Gray whale photographic identification in 1999: Collaborative research by Cascadia Research, the National Marine Mammal Laboratory, and Humboldt State University. December 2000.				32		No	Y		30
IUCN 2012	IUCN 2012. Report of the 11th Meeting of the Western Gray Whale Advisory Panel. Geneva, Switzerland.					9	No	Y		66