Via email & U.S. mail

DJ Schubert
Animal Welfare Institute
900 Pennsylvania Ave., SE
Washington, DC 20003

Brett Sommermeyer
Sea Shepherd Legal
2226 Eastlake Ave. East #108
Seattle, WA 98102

Re: In re Proposed Waiver and Regulations Governing the Taking of Eastern North Pacific Gray Whales by the Makah Indian Tribe; Docket No. 19-NMFS-0001

Dear Mr. Schubert and Mr. Sommermeyer:

This is in response to your letters dated May 6, 2019, requesting a delay of the August 12, 2019, hearing and related deadlines for the above referenced matter.

Pursuant to National Marine Fisheries Service (NMFS) regulations at 50 CFR part 228 and as specified in the April 5, 2019, Federal Register notice announcing an agency hearing on this matter (84 FR 13604), NMFS has appointed the Honorable George J. Jordan, Administrative Law Judge, to act as the presiding officer for this matter. See 50 C.F.R. § 228.6. Accordingly, any requests to delay the hearing schedule should be directed to Judge Jordan.

Your letters identified, among other issues, the need for additional time to review the NMFS West Coast Region’s direct testimony and potential conflicts with scheduled meetings of the International Whaling Commission. While I appreciate your concerns, the hearing schedule as set forth in the April 5, 2019, notice allows all parties 45 days to prepare initial direct testimony and 120 days to prepare for the hearing, which is twice the amount of time required by agency regulation. 50 C.F.R. § 228.4(b)(2). Also, all parties have until July 2, 2019, (unless Judge Jordan sets a different date in the final hearing agenda) to submit testimony to rebut the initial written testimony of NMFS’ witnesses, which is around six weeks after the close of the...
International Whaling Commission meeting referenced in your letters. See 50 C.F.R. § 228.14(a). Finally, the issues proposed to be addressed at the hearing were evaluated in our Draft Environmental Impact Statement (DEIS) on this matter, which was published in 2015, as your letters note. Your organizations provided comments soon after the release of that DEIS, and there has been ample time since then to review issues addressed by that DEIS.

While I anticipate that NMFS would oppose changes to the published schedule, I suggest that you contact Judge Jordan regarding your request at aljseattle@uscg.mil (note the Hearing Docket Number assigned to this matter: 19–NMFS–0001).

Sincerely,

 Barry A. Thom  
 Regional Administrator

Enclosure: Service List
Service List

Animal Welfare Institute
DJ Schubert
900 Pennsylvania Avenue, SE
Washington, DC 20003
Phone: (202) 337-2332
Fax: (202) 446-2131
Email: dj@awionline.org

Inanna McCarty
P.O. Box 792
Neah Bay, WA 98357

Makah Indian Tribe
Brian C. Gruber
Ziontz Chestnut Attorneys at Law
2101 4th Avenue, Suite 1230
Seattle, WA 98121-2331
Phone: (206) 448-1230
Fax: (206) 448-0962
Email: bgruber@ziontzchestnut.com

Marine Mammal Commission
Michael L. Gosliner
4349 East-West Highway, Room 700
Bethesda, MD 20814-4498
Phone: (301) 504-0087
Fax: (301) 504-0099
Email: MGosliner@mmc.gov

Peninsula Citizens for the Protection of Whales
Margaret Owens
612 Schmitt Road
Port Angeles, WA 98363
Phone: (360) 928-3048
Email: pcpwhales@gmail.com

Sea Shepherd Legal
Catherine Pruett
2226 Eastlake Ave, East #108
Seattle, WA 98102
Phone: (206) 504-1600
Email: catherine@seashepherdlegal.org

Sea Shepherd Conservation Society
Catherine Pruett
P.O. Box 8628
Alexandria, VA 22306
Phone: (212) 220-2302
Email: catherine@seashepherdlegal.org