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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

12  
13 **DECLARATION OF CATHERINE PRUETT**  
14 **IN SUPPORT OF SEA SHEPHERD’S REQUEST**  
15 **TO MOVE THE HEARING DATE**

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. As a public-interest environmental law firm focused on the protection of marine species and  
24 habitat, participation in the present hearing is critical to SSL’s mission.  
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1 4. As an international organization dedicated to the protection of marine species and marine  
2 habitat, with more than 40 years of experience and leadership in the field, participation in the  
3 present hearing is also critical to SSCS's mission.

4 5. In addition, however, SSL is significantly involved in efforts to reduce threats to vulnerable  
5 marine species flowing from international trade in wildlife. In this vein, SSL has devoted  
6 considerable time, energy, and financial resources to participation in the decision-making  
7 apparatus of, and other events associated with, the Convention on International Trade in  
8 Endangered Species of Wild Fauna and Flora (CITES).

9 6. Extensive preparation is required for effective and meaningful attendance at a CITES  
10 Conference of the Parties, including the review and analysis of a large number of conference  
11 documents (*i.e.* resolutions and species proposals).

12 7. In 2016, the CITES Secretariat approved SSL's request to participate as an observer to the  
13 Seventeenth Conference of the Parties (CoP17) in Johannesburg, South Africa.

14 8. To effectively participate in CoP17, it was necessary for SSL to send all three of its full-time  
15 staff to South Africa.

16 9. Although CoP17 formally took place from September 24 to October 5, 2016, SSL staff  
17 arrived on or about September 19, 2016.

18 10. This early arrival was critical to ensure that SSL could participate in pre-CoP17 meetings,  
19 including the CITES Standing Committee meeting (held before the CoP plenary session) and  
20 coordination and planning meetings hosted by the Species Survival Network (SSN), of which  
21 SSL is a member.

22 11. SSN is a coalition of non-governmental organizations (NGOs) that "coordinates the activities  
23 of conservation, environmental and animal protection organizations around the world to secure  
24 CITES protection for plants and animals affected by international trade." Species Survival  
25 Network, About Us, *available at* [http://www.ssn.org/aboutus\\_EN.htm](http://www.ssn.org/aboutus_EN.htm). The SSN meetings are

1 critical to ensuring that NGO observers coordinate a unified approach to issues of common  
2 concern. Without such a coordinated approach, the effectiveness of NGO participation is  
3 substantially undercut, as conservation groups are vastly outnumbered by nation States and  
4 organizations that advocate for diminished wildlife protections in the complicated CoP decision-  
5 making process.

6 12. In addition to participating in SSN activities and lobbying multiple member state delegates to  
7 support marine species listings during CoP17, SSL conducted a comprehensive side event  
8 involving a short film and presentations by a panel of experts. The side event was attended  
9 primarily by member state delegates and focused on the critical importance of CITES to the  
10 protection of marine species. SSL's early arrival at CoP17 to coordinate meeting logistics was  
11 critical to the success of the side event.

12 13. SSL intends to attend CoP18 and has achieved accreditation to do so. SSL also intends to be  
13 involved in a side event at CoP18.

14 14. At the close of CoP17, the Secretariat of CITES announced that the next CoP (CoP18) would  
15 be held in 2019 in Sri Lanka.

16 15. On December 14, 2017, specific dates for CoP18 were announced on the CITES website:  
17 May 23 to June 3, 2019 in Colombo, Sri Lanka. CITES, *Press Release: CITES CoP18 will be*  
18 *held in Colombo, Sri Lanka in May 2019* (Dec. 14, 2017), available at  
19 [https://cites.org/eng/news/pr/CITES\\_CoP18\\_will\\_be\\_held\\_in\\_Colombo\\_Sri\\_Lanka\\_in\\_May\\_2019\\_14122017](https://cites.org/eng/news/pr/CITES_CoP18_will_be_held_in_Colombo_Sri_Lanka_in_May_2019_14122017).  
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21 16. SSL had planned its schedule and activities with these dates in mind.

22 17. On April 21, 2019, several explosions erupted in Sri Lanka. These terrorist attacks claimed  
23 the lives of over 250 individuals. As a consequence of these tragic attacks, the CITES Secretariat  
24 announced on April 25, 2019 that the CoP had been postponed, with new dates (and possibly a  
25 new location) to be determined at some point in the future. CITES, *The Secretary-General's*

1 *Statement on the Postponement of CoP18* (April 26, 2019), available at  
2 [https://cites.org/eng/news/the-secretary-generals-statement-on-the-postponement-of-](https://cites.org/eng/news/the-secretary-generals-statement-on-the-postponement-of-cop18_26042019)  
3 [cop18\\_26042019](https://cites.org/eng/news/the-secretary-generals-statement-on-the-postponement-of-cop18_26042019).

4 18. On June 12, 2019, the CITES Secretariat announced that CoP18 would be held from August  
5 16 to August 28 in Geneva, Switzerland. CITES, *Message from the Secretary-General on the*  
6 *71st Meeting of the CITES Standing Committee, the 18th Meeting of the Conference of the*  
7 *Parties, and the 72nd Meeting of the CITES Standing Committee* (June 12, 2019), available at  
8 [https://cites.org/eng/Message\\_from\\_CITES\\_Secretary-](https://cites.org/eng/Message_from_CITES_Secretary-General_on_SC71_CoP18_SC72_12062019)  
9 [General\\_on\\_SC71\\_CoP18\\_SC72\\_12062019](https://cites.org/eng/Message_from_CITES_Secretary-General_on_SC71_CoP18_SC72_12062019).

10 19. In order to participate effectively in the CoP in Switzerland, SSL would need to send at least  
11 two staff members. Such staffing is necessary because the CoP is split into multiple large parallel  
12 sessions, in addition to smaller working groups. At CoP17, SSL was only barely able to  
13 participate effectively with three staff members in attendance. Two staff would be the minimum  
14 necessary for meaningful participation, particularly given that SSL intends to hold a side event at  
15 CoP18, as it did at CoP17.

16 20. In addition, our remaining staff member resides primarily in Bolivia with his family and will  
17 be in Bolivia during the month of August. Even if he were available to participate in the MMPA  
18 waiver hearing, our experience to date in this proceeding convinces us that one attorney would  
19 not be able to effectively represent Sea Shepherd in this matter. Between witness preparation,  
20 preparation for cross examination, motion practice, and the many other tasks that will inevitably  
21 arise during the week-long hearing, one staff member will simply not suffice. Perhaps this is why  
22 NMFS is represented by, at last count, seven attorneys, the Makah by at least three attorneys and  
23 a paralegal, and AWI is supplementing its busy staff with two attorneys from an outside firm.

24 21. Accordingly, unless the hearing is postponed, SSL will have to choose between participation  
25 in CoP18 and participation in this hearing. It is not possible for SSL to do both.

1 22. In addition to the CITES CoP conflict, I am very concerned that our rebuttal witnesses will  
2 not be able to participate in the hearing as currently scheduled.

3 23. Over the past several weeks, SSL has been in contact with two out-of-state gray whale  
4 experts. Both experts have expressed an interest in (1) serving as rebuttal witnesses concerning  
5 certain assertions advanced by the direct testimony offered in this matter to date and (2)  
6 submitting potential direct testimony concerning the Unusual Mortality Event identified as a new  
7 issue during the pre-hearing conference. However, despite their desire to participate in this  
8 matter, both experts have stated that it would be an extreme hardship for them to prepare for,  
9 travel to, and participate in the hearing as scheduled. In particular, Sea Shepherd's experts have  
10 significant professional and personal scheduling conflicts during the week of August 12<sup>th</sup>. By  
11 comparison, both experts have indicated that, at this point, their schedules are more flexible if the  
12 hearing were postponed until the week of September 16.

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

15 DATED this 24<sup>th</sup> day of June 2019

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18 Catherine Pruett