From: Elizabeth Egan
To: MakahDEIS.nwr@noaa.gov;
Subject: 2008 Makah DEIS
Date: Monday, May 12, 2008 4:47:45 PM

RE: Makah DEIS

In my world, "everybody knows" that Makahs have a treaty and the treaty says they should be able to hunt whales.

The waiver should be granted for the full take request and the hunt should be resumed.

In the 1855 Treaty of Neah Bay, the Makah Tribe secured an express right to hunt whales throughout their usual and accustomed areas. This Treaty has not been abrogated by any subsequent statute including the Marine Mammal Protection Act (MMPA). However, the Ninth Circuit Court of Appeals said that the Tribe must get a waiver from the National Oceanic and Atmospheric Administration (NOAA) for the MMPA before the Tribe may exercise its Treaty whaling rights. *Anderson v. Evans*, 371

The waiver of the take moratorium under Section 101(a)(3) of the MMPA, 16 U.S.C. § 1371(a)(3), to allow aceremonial and subsistence (C&S) harvest from the Eastern North Pacific stock of gray whales (*Eschrichtius robustus*) within the Makah Tribe's adjudicated usual and accustomed grounds SHOULD NOW BE GRANTED!!!

PLEASE STOP WASTING TIME! It has been THREE YEARS before the draft EIS came out. What was the hold up? Regardless, it is a shame that the Makahs have been subject to such bureaucratic nonsense.

Please allow for a total take of 20 gray whales in any five-year period subject to a maximum of five gray whales in any calendar year. Grant the waiver.

Elizabeth M.
Egan