

# The Makah Whaling Chronicles: One Tribe's Modern-Day Battle for its Ancestral Cultural Identity



**MINA BEDOGNE**

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*WRITER'S COMMENT: During my undergraduate career, I have become increasingly interested in the intersection of science and society. Through environmental-related classroom and internship experiences, I continue to learn the importance of engaging with diverse audiences to address natural resource management from a multidisciplinary perspective. In UWP 102G, Environmental Writing, Dr. Bender challenged me to expand my scientific communication skills and practice framing my writing for different contexts. For our feature article assignment, I wanted to integrate elements of environmental science and justice, ultimately deciding to expand on a policy memo I wrote for a marine policy course. Through my portrayal of the Makah People and their ancestral connection to the gray whale, I strived to highlight the disconnect between cultural rights and environmental law. While I extensively researched the Makah and their history, using primary resources written by the Makah themselves and trusted secondary accounts, I acknowledge I cannot fully capture the essence of a people and their culture without directly communicating with them. Moving forward, I hope to engage with the communities I advocate for in my writing.*

*INSTRUCTOR'S COMMENT: In fall 2021, my environmental writing class spent a good amount of time discussing environmental justice and the history of racism within U.S. conservation movements. While these discussions energized the class as a whole, few students tackled this crucial concern as thoroughly and skillfully as Mina Bedogne does in*

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*this compelling lay audience article covering the Makah Indian Tribe's struggles to maintain their cultural practices in the face of colonial incursions and environmental regulations. In these "chronicles"—as Mina aptly titles this piece—readers are taken on a journey that begins with Makah whaling practices that date back nearly 2000 years, illustrates the role that the North Pacific grey whale has played in the development of Makah spiritual practices and community identity, and details the legal and political battles that have challenged Makah stewardship rights in more recent decades. Situated at the intersection of social justice and conservation efforts, the conflict central to Mina Bedogne's article demonstrates how attentive we must be to the needs of all who have a stake in protecting the environment.*

—Melissa Bender, University Writing Program

## Welcome to Neah Bay

Cool waves crash against the rocky shoreline as a crisp maritime breeze and the call of seabirds emanate along Washington's coast. Nestled at the northwestern tip of the state, secluded from the bustle of Port Angeles and Seattle, lays Neah Bay—the ancestral homeland of the Makah Indian Tribe. To the inquisitive traveler, trekking hours from the comforts of the nearest city, the Makah Reservation appears a remote, picture-perfect fishing village. With a membership of roughly 3,000, about half of whom reside around Neah Bay, the Makah form a tight-knit community with a rich history of shared traditions (Makah, 2019; IWC, n.d.).

For the Makah, Washington's serene coast is more than a picturesque tourist destination. Much like their ancestors, a long line of expert mariners, a deep-rooted connection to the sea runs through the Tribe's blood. Even today, the Makah turn to the ocean's bounty for their subsistence, with 99% of households relying on halibut, salmon, and other local fish stocks for at least part of their diet (IWC, n.d.). In return, the Makah—translating

to those “generous with food” (IWC, n.d.)—serve as stewards of the sea, safeguarding marine resources.

Nowhere is the Tribe's maritime heritage more apparent than in the Makah Cultural and Research Center. Aptly located within view of the rugged shore, the museum's display of centuries-old fishing gear, basketry, and ocean-inspired artwork memorialize Makah fishing culture (AIANTA, n.d.). But among the carefully curated collection of over 55,000 artifacts, one exhibit in particular dominates the room: the massive, suspended skeleton of a North Pacific gray whale—a vivid portrayal of the Makah's intimate relationship with this marine species above all others.

## **Makah Ceremonial and Subsistence Whaling**

For nearly 2,000 years, the Makah owed their very persistence as a People to the gray whale. Before European contact, the large cetacean represented an abundant and reliable resource—one which the Makah regarded as sacred and thus managed sustainably (IWC, n.d.). At 90,000 pounds (NOAA, 2018), just one whale could provide enough meat, blubber, and oil to sustain the community for some time.

What began as a hunt for survival soon became deeply interwoven into Makah culture. The development of the Tribe's whaling practice drove the coevolution of their spiritual identity and formed the basis of the community's social structure. Preparation for a hunt required rigorous physical training as well as numerous ceremonies, granting whalers their position at the top of the social hierarchy as protectors, providers, and spiritual leaders (IWC, n.d.). From the pursuit to consumption, all steps of the whaling process took on cultural significance, inspiring songs, dances, and designs that continue to define Makah tradition.

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*The Makah have long used art to convey their connection to and appreciation for nature, often depicting the gray whale in their symbology (Undisciplined Environments, 2015).*

Whaling is so engrained in the Makah's spiritual and social identity that under the 1855 Treaty of Neah Bay, the Tribe ceded much of their sacred land to the United States government while reserving the right to whale at their "usual and accustomed grounds" (Makah, 2019). With a homeland of just 50 square miles, a mere shadow of its previous extent, the Makah community relied on the gray whale more than ever for the physical, spiritual, and economic health of its members.

And for nearly 70 years, the federal government more or less honored their agreement, permitting the Makah to whale freely. However, by the early 20th century, government neglect and ever-changing federal priorities rendered the Treaty of Neah Bay meaningless, setting the stage for future conflict between cultural rights and environmental concerns.

## The Beginning of the End of Cultural Whaling



*Asael Curtis's photo, taken between 1910 and 1932, captures one of the Makah's last whale landings of the early 20th century (University of Washington).*

The Makah's cultural and treaty whaling right has been in limbo ever since commercial whaling decimated gray whale populations in the 1920s (NOAA, 2021). Despite its treaty responsibilities, the U.S. did little to address overexploitation by fishermen looking for profit. Because the average gray whale reaches sexual maturity at eight years old and experiences a year-long gestation period, the species is especially vulnerable to extinction (NOAA, 2018). As gray whale sightings became few and far between, the steward-minded Makah voluntarily ceased their whaling activities. Unbeknownst to them, they would never be able to whale freely again.

Hurdles to the Makah's whaling were institutionalized in 1970, when the gray whale was officially listed as endangered under a predecessor to the Endangered Species Act (ESA). During this time, Congress also passed the 1972 Marine Mammals Protection Act (MMPA), which imposes a moratorium on the taking—harassment, hunting, capture, or killing—of all marine mammals (NOAA, 2019). Such restrictions soon transformed Neah Bay from

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the Makah's ancestral homeland into a socio-political battleground, pitting environmental justice against environmental law.

Although progressive environmental laws of the 1970s made great strides toward ecological rehabilitation and protection, they often failed to address the needs of relevant human stakeholders. For the Makah, the MMPA represented the criminalization of their cultural whaling. With the loss of whaling came a gradual loss of social cohesion within the tribal community as members struggled to maintain their cultural identity. According to the International Whaling Commission (IWC), an international body responsible for the conservation of whale stocks in collaboration with the communities that rely on them, "Makah elders and professional anthropologists trace the decline of the social and physical health of the Tribe to the elimination of the whale hunt and its associated ceremonial and social rigors."

During the closing decades of the 20th century, poor economic conditions afflicted the remote reservation. The seasonal nature of fisheries and tourist attractions, combined with geographic isolation, left little opportunity for economic advancement, resulting in an average unemployment rate of 51% and an equally high proportion of household incomes below the federal poverty level (NPAIHB, n.d.). These conditions were, and continue to be, exacerbated by overfishing, habitat degradation, and other environmental pressures that threaten the reliability of alternative fish stocks. Yet, despite socio-economic hardships, the Makah refused to let go of one of the last remnants of their cultural identity, awaiting the day they could once again set out on the sea and pursue their spiritual and subsistence savior.



*Makah Tribe members celebrate a successful eastern North Pacific gray whale landing on May 17, 1999 (Elaine Thompson).*

For a brief period in the 1990s, hopes for renewed whaling became all the more real when the federal government loosened protections for the gray whale. NOAA Fisheries, the agency responsible for marine mammal protection under both the ESA and MMPA, recognizes the North Pacific gray whale as two genetically distinct populations, or stocks: the western North Pacific (WNP) and the eastern North Pacific (ENP) (NOAA, 2018). By 1994, the ENP gray whale population had greatly recovered, prompting NOAA to delist this stock from the ESA while continuing to consider the substantially smaller WNP stock endangered (NOAA, 2021).

The following year, with a renewed sense of hope and purpose, the Makah appealed to NOAA to allow them to resume hunting the ENP gray whale, as consistent with the 1855 Treaty of Neah Bay, for ceremonial and subsistence purposes. After a period of

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environmental assessment and with permission from the IWC, the U.S. government made good on its 19th-century agreement (NOAA, 2021).

On May 17, 1999, cheered on by a crowd of fellow Tribe members, an elated group of Makah whalers completed their ceremonial preparation and set out into the pristine waters of the Olympic Peninsula in traditional longboats. Bearing the tools and the bravery of their ancestors, the Makah successfully landed an ENP gray whale—their first landing in over half a century (NOAA, 2021). Today, it is the skeleton of this whale that hangs in the Makah Cultural and Research Center.

Alas, the memory of that triumphant spring day is all that remains of the Makah's so-called whaling right. History tends to repeat itself in the most insidious of ways—by 2004, challenges under the MMPA once again brought a halt to the Tribe's cultural practice. The museum skeleton remains a looming reminder of foregone promises and the back-and-forth legal battles between the Makah and federal environmental law that persist to this day.

## **Tradition on Trial**

While the ENP gray whale was delisted from the ESA in 1994, bypassing the MMPA's moratorium on the hunting of marine mammals requires navigating a series of legal hurdles and a long process of environmental analysis. Following a rapid succession of court rulings holding that the 1999 hunt was inconsistent with the MMPA's goals and purposes, NOAA made clear that the Makah must seek its approval to waive restrictions and issue hunting regulations. Refusing to forget the broken promises of 1855 and abandon their spiritual connection to the gray whale, the ever-persistent Makah applied for a waiver in 2005, thus beginning their journey through the complex world of environmental law (NOAA, 2021).

The Makah's request initiated an extensive review process under the National Environmental Protection Act, commonly referred to



as NEPA, which required NOAA to analyze the potential impact of hunting the ENP gray whale based on the best available science. Under the MMPA, NOAA's decision must prioritize natural resource protection and conservation, ensuring that the ENP gray whale stock will remain a functioning component of its ecosystem. In addition to preparing a stock assessment report, which both examines the current range, abundance, and productivity of the stock and predicts future levels, NOAA must also factor in non-ecological considerations relevant to renewed whaling. These include existing international agreements governing the taking of whales, the development of other fishery resources, and the economic and technological feasibility of implementing guiding regulations (NOAA, 2019, p. 13605).

In 2019, after years of assessment, NOAA published its much-anticipated proposed rule to authorize limiting whaling privileges for the Makah over a 10-year-period. Based on federal biological reports, NOAA determined that an average annual removal of three ENP gray whales would not have a significant impact on population dynamics or larger ecosystem processes (2019, p. 13613). In its comprehensive proposed rule, NOAA further outlines a series of measures to protect the stock and interdependent marine species and resources, such as strict monitoring, strike limits, and alternating hunting seasons (2019, p. 13608).

Although the proposed rule represents significant progress, the Makah must continue to navigate carefully through the perilous legal waters ahead. Proposing to approve the Makah's waiver request is a long way from granting the Tribe their whaling rights. Even if NOAA approves the waiver, the Makah will still need to obtain an MMPA permit, which involves additional opportunities for public comment and requires the Tribe to provide further evidence that an ENP gray whale taking is consistent with the purposes of the MMPA (NOAA, 2019, p. 13605).

## **Navigating Opposition and Scientific Uncertainty**

Despite the Makah's undoubtable frustration with the legal system, this long, arduous assessment process represents more than just bureaucratic red tape. As rapidly changing ocean conditions and anthropogenic influences threaten the health of marine resources, there is a very real need to protect whale stocks and the other species and ecosystem processes that depend on them.

Opponents of waiver approval emphasize legitimate scientific concerns over the effect of Makah whaling on non-target whale populations. Environmental and animal rights activist groups such as Sea Shepherd and the Animal Welfare Institute (AWI) argue that Makah whalers may accidentally land an individual from the endangered WNP gray whale stock or the Pacific Coast Feeding Group (PCFG) (Sea Shepherd, 2019; AWI, 2021). Because it resembles the ENP gray whale and follows the same migration route, renewed whaling activity in the Pacific puts the small WNP gray whale population of just 300 at an even greater risk of extinction. The PCFG, an even smaller population of 200 summer resident gray whales, is of particular concern because marine biologists know little about its range and habitat use (Lagerquist et al., 2019, p. 926).

Sea Shepherd and AWI also point to a recent increase in gray whale strandings as sufficient reason to deny the Makah's waiver request. In 2019, in response to reports of gray whale mortalities all along the Pacific coast, NOAA declared an Unusual Mortality Event (UME), meaning that additional study is needed to determine the cause of these strandings and whether the ENP gray whale stock warrants further protection. While NOAA issued its proposed rule when the stock numbered 27,000 individuals, the population is now down to around 20,000 (Stewart & Weller, 2021). Together, scientific uncertainty and new threats to the gray whale bring into question NOAA's earlier biological reports and the true health of interconnected ecosystem processes, posing the greatest barriers to Makah whaling.

## **The Makah Whaling Saga Continues**

In light of legal hurdles and scientific uncertainty, the Makah remain optimistic for a future with whaling. In response to NOAA's 2019 proposed rule, Makah Tribal Council chairman John Ides, Sr. spoke on behalf of his fellow Tribe members, stating, "We look forward to the next step in this process and hope it will soon allow our people to have consistent access to whale meat, oil, and other products to meet our subsistence and cultural needs" (Makah, 2019a). Toward that end, 2021 has proven an especially promising year. In January, NOAA released a technical memorandum on the abundance of ENP gray whales and projects the population to rebound based on similarities between the most recent UME and a past mortality event (Stewart & Weller, 2021). Most recently, this past September, an administrative law judge advanced the waiver approval process by issuing a 156-page recommendation to allow tribal hunts (AP, 2021).

While concerns over the health of the ENP gray whale stock and interconnected populations are justified, the survival of disadvantaged human communities is arguably just as important. Since the beginning of their history, the Makah have practiced great care with marine resources. This long-sustained stewardship ethic, combined with the strict regulations NOAA outlines in its proposed rule, will guide sustainable hunting practices. Furthermore, restoring the Makah's whaling right, as consistent with the Treaty of Neah Bay, will set a precedent for addressing social justice and indigenous involvement in environmental law. Although a final decision likely won't happen anytime soon, perhaps one day the Cultural Center's lone whale skeleton will be joined by another.

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