

# House Calendar No. 116

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. CON. RES. 267

[Report No. 109-283]

Expressing the sense of the Congress upholding the Makah Tribe treaty rights.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 2005

Mr. POMBO submitted the following concurrent resolution; which was referred to the Committee on Resources

NOVEMBER 10, 2005

Reported with amendments, referred to the House Calendar, and ordered to be printed

[Strike out all after the resolving clause and insert the part printed in italic]

[Strike out the preamble and insert the part printed in italic]

[For text and preamble of introduced concurrent resolution, see copy of concurrent resolution as introduced on October 17, 2005]

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## CONCURRENT RESOLUTION

Expressing the sense of the Congress upholding the Makah Tribe treaty rights.

*Whereas the United States and the Makah Tribe signed a treaty at Neah Bay on January 31, 1855, which was ratified by Congress on March 8, 1859;*

*Whereas under the treaty, the Tribe ceded to the United States approximately 300,000 acres of its aboriginal homelands on the Olympic Peninsula in the State of Washington;*

*Whereas in exchange for the cession of land benefiting the United States, a reservation was established for the Tribe and several rights were secured to the Tribe, including the right under Article 4 of “whaling”, which had been a tradition for more than 1,500 years;*

*Whereas the Tribe voluntarily and temporarily ceased whaling in the 1920’s prior to protections being implemented and the gray whale population being listed as endangered under the Endangered Species Act of 1973;*

*Whereas the United States has now scientifically concluded that the gray whale population is presently neither threatened nor endangered, in 1994 the population was removed from the endangered species list, and the population has repopulated to a level that can be harvested by the tribe on a sustainable basis;*

*Whereas the Tribe sought to restore its ancient tradition of whaling, and took a gray whale in 1999 pursuant to its treaty right;*

*Whereas the tribe’s ability to exercise its treaty rights with respect to such takings are being seriously impaired by the Marine Mammal Protection Act of 1972;*

*Whereas the Makah Tribe has been required to apply for a waiver under the Marine Mammal Protection Act of 1972, but the procedures under such Act for obtaining a waiver are burdensome, costly, and contrary to the letter and spirit of the Tribe’s treaty rights, and it will take years for the Tribe to obtain a waiver; and*

*Whereas the National Congress of American Indians adopted Resolution #MOH-04-025 and the Affiliated Tribes of the Northwest Indians adopted Resolution No. 98-35 in full support of the Tribe's treaty rights: Now, therefore, be it*

1       *Resolved by the House of Representatives (the Senate*  
2 *concurring), That the Congress disapproves of requiring the*  
3 *Makah Tribe to obtain a waiver and a permit under the*  
4 *Marine Mammal Protection Act of 1972 before taking gray*  
5 *whales, and expresses its intent that the Government of the*  
6 *United States should uphold the treaty rights of the Makah*  
7 *Tribe.*

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