Independent Evaluation of the Western Gray Whale Advisory Panel (WGWAP)

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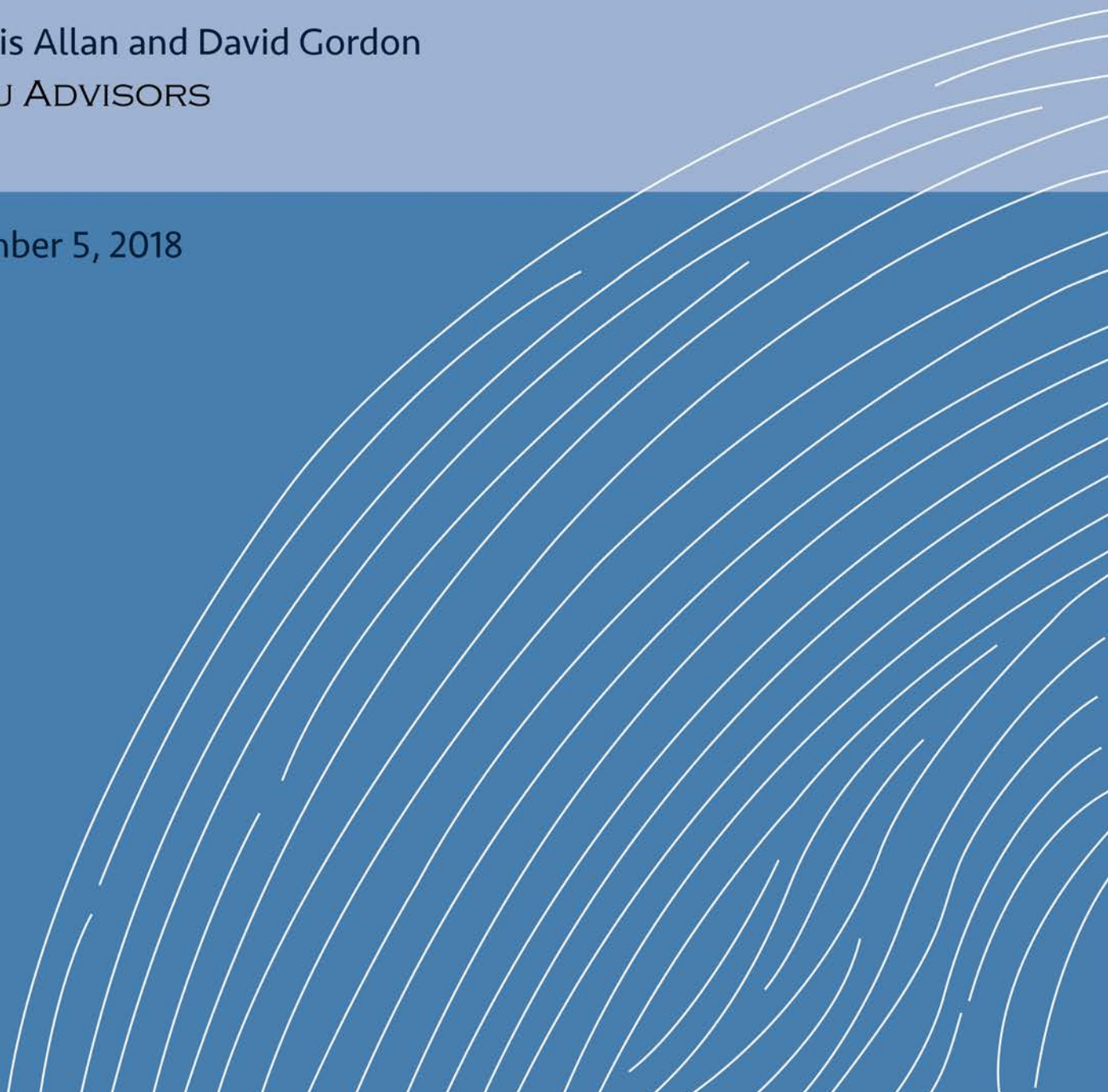

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Abbreviations

DAC	Development Assistance Committee
EIA	Environmental Impact Assessment
ENL	Exxon Neftegas Limited
GBBP	Global Business and Biodiversity Programme
GEF	Global Environment Facility
GMPP	Global Marine and Polar Programme
HSESAP	Health, Safety, Environmental and Social Action Plan
IFC	International Finance Corporation
IISG	Interim Independent Scientists Group
ISRP	Independent Scientific Review Panel
ISTAP	Independent Scientific and Technical Advisory Panel
IUCN	International Union for Conservation of Nature
IWC	International Whaling Commission
IWG	Interdepartmental Working Group
LNG	Liquefied Natural Gas
nd	not dated
MMO	Marine Mammal Observer
MMP	Monitoring and Mitigation Plan
MNR	Ministry of Natural Resources and Ecology of the Russian Federation
NGO	Non-Governmental Organisation
NTF	Noise Task Force
OECD	Organisation for Economic Co-operation and Development
PSA	Production Sharing Agreement
SSC	Species Survival Commission
TOR	Terms of Reference
UK	United Kingdom
UNDP	United Nations Development Programme
WGW	Western Gray Whale
WGWAP	Western Gray Whale Advisory Panel

Executive Summary

This evaluation reviews the impact and effectiveness of the Western Gray Whale Advisory Panel (WGWAP). The overall goal of the WGWAP is to improve the conservation status of the Western Gray Whale[1] by providing objective independent advice on the conservation of Western Gray Whales. Overall, we find that the WGWAP has contributed in meaningful ways to minimizing impacts from offshore oil and gas development on Western Gray Whales, but concerns remain whether best practices to minimize impacts will be sustained in the future.

The WGWAP was created in 2006[2] by Sakhalin Energy to fulfil requirements of its international lenders for its offshore oil and gas project near Sakhalin Island in the Russian Far East. In agreeing to finance the project, the lenders required Sakhalin Energy to obtain and implement independent scientific advice on Western Gray Whale issues, managing lender institutional requirements for environmental responsibility and pressure from Russian and international Non-Governmental Organisations (NGOs). Sakhalin Energy included obligations for the WGWAP in the Marine Mammals Specification of its Health, Safety, Environmental and Social Action Plan (HSESAP). At the request of Sakhalin Energy, International Union for Conservation of Nature (IUCN) convened and launched the WGWAP. The WGWAP was established for an initial period of five years (2006-2011), extended for another five years (2012-2016), and is currently convened for five more years (2017-2021). Sakhalin Energy funds the WGWAP, and has committed to supporting it through the current Terms of Reference (TOR), which expire in 2021.[3]

This evaluation comes at an important time for the WGWAP. Having run for many years, we can now assess with some confidence the long-term legacy and impact of the Panel. Sakhalin Energy plans to repay its loans by 2021, which may free Sakhalin Energy from its obligation for the WGWAP, calling the future of the WGWAP after 2021 into question. This evaluation is designed to capture its legacy and impact and assess potential future scenarios in order to spark a discussion among WGWAP stakeholders.

Structure of the Report

This report is organized by chapters, which correspond to discussion and findings by the categories in the evaluation TOR: Relevance, Effectiveness, Efficiency, Legacy and Impact, and Independence. We then discuss the future of the WGWAP, and present four possible scenarios for the Panel. Finally, we present Conclusions and an Overall Assessment. Annexes include References, the TOR for this evaluation and for the WGWAP itself, the Evaluation Matrix that guided this study, a list of in-depth interviews, and complete results of the online survey we conducted.

Summary Findings

The following summarizes key findings of the evaluation. Evidence for these findings and more detail are contained in the report body itself.

Relevance – To what extent are the Panel's and company's activities relevant to the Theory of Change?

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[1] Western Gray Whale refers to the western subpopulation or feeding aggregation of *Eschrichtius robustus,* as described here: http://www.iucnredlist.org/details/8099/0. The WGWAP describes its conservation target as Western Gray Whales with a focus on those that feed off Sakhalin.

[2] Following widespread concerns among conservation NGOs and scientists about impacts of proposed oil and gas development on Western Gray Whales, and at the request of Sakhalin Energy, IUCN convened the Independent Scientific Review Panel (ISRP) in 2004 to evaluate the science around Western Gray Whales and provide advice to Sakhalin Energy. After a report, workshop and extensive discussions, the ISRP recommended establishment of a long-term scientific advisory panel. Following a Lenders' Workshop in 2005, IUCN received and agreed to a request by Sakhalin Energy to convene the WGWAP. IUCN convened an Interim Independent Scientists Group Workshop to review construction plans in 2006, and then held the first formal meeting of the WGWAP in Fall 2006.

[3] Terms of Reference for the WGWAP are contained in Annex 5.

Stakeholders[4] largely agree about how the Panel is meant to improve the conservation status of Western Gray Whales: The WGWAP provides scientific advice to Sakhalin Energy, which enables it to minimize its impact on Western Gray Whales. The presence of the lenders and observers such as other research scientists and NGOs encourages compliance with lender requirements. WGWAP advice also influences other actors that impact the species' habitat, thus improving conservation and population recovery of Western Gray Whales.

This view of how the WGWAP is supposed to work has been validated by evidence of its influence on Sakhalin Energy and, to a lesser extent, on other actors. This report elaborates on its successes in this view, as well as some important limitations in practice.

The WGWAP has focused attention on the status of Western Gray Whales from the oil and gas industry, leading scientists, IUCN, NGOs, and lenders, likely far beyond what would have happened without the Panel. Stakeholders agree that the Panel has improved Sakhalin Energy's performance with respect to Western Gray Whales through better science, consideration of reasonable alternatives, and improved monitoring and minimization of impacts. The Panel has devoted particular attention to noise issues, especially from seismic surveys, and preparedness for oil spill response. Other critical issues related to oil and gas development impacts, such as oil spill *prevention*, feeding ecology, cumulative impacts from multiple oil and gas development projects, and coordination of Western Gray Whale research, have received far less attention from the Panel. Some stakeholders, including Panellists, are concerned that conservation of Western Gray Whales could be negatively impacted by a failure to address grave long-term risks such as impacts on feeding ecology or risk of a large-scale oil spill.

The relevance of the WGWAP to other actors in the region, including other oil and gas companies and other industries like fisheries, is far less evident. There is widespread agreement that the Panel has influenced another operator in the region, Exxon Neftegas Limited (ENL), but stakeholders note that it has been impossible to assess or verify those practices due to ENL's lack of formal participation and its lack of transparency. And although the Panel has increased attention in recent years to fisheries issues, fisheries companies have not formally engaged in the work of the WGWAP.

In keeping with the findings of three previous evaluations of the WGWAP, we concur that it is unrealistic to expect voluntary participation in the WGWAP from other oil and gas companies operating offshore of Sakhalin, despite the benefits to Western Gray Whale conservation or company reputation that participation may bring. In Sakhalin, in order to gain the formal participation of other companies, some form of leverage – whether it be regulatory, reputational, or financial – is required.

The WGWAP is especially relevant to Sakhalin Energy's reputational risk. Sakhalin Energy receives significant benefits from its engagement with the WGWAP, including benefits to the company's reputation, recognition as one of the more environmentally responsible oil and gas operators in the region, and its ability to access expert feedback and review for its Monitoring and Mitigation Plans (MMP).

Effectiveness – To what extent are the Panel's outputs leading to the intended outcomes?

Effectiveness of the WGWAP must be assessed by indirect means, since species conservation depends on a highly complex interaction of natural, social, and economic factors. Research has not been conducted that would link any specific actions of the WGWAP to the health of Western Gray Whales themselves. Although numbers of Gray Whales in the area offshore of Sakhalin have gradually increased, panellists note that it is impossible to say with certainty if greater numbers are a result of changed company practices or if the increase would have been even greater in the absence of oil and gas activity.

[4] Note that in this report we use the term "stakeholders" to refer to all organisations with an interest in the operation of the WGWAP. So while the Panel scientists are the members of the WGWAP, and Sakhalin Energy is the sole entity required to comply with reasonable recommendations, IUCN has a stake in its management, other companies in the area are affected indirectly by its operations, lenders monitor that it maintains their Health, Safety, and Environmental standards, and outside observers have a stake in ensuring that it minimizes adequately the effects of oil and gas operations on Western Gray Whales.

While certainty about impact is elusive, the WGWAP has produced a number of outputs that are likely to have contributed to minimizing the impacts of oil and gas development on Western Gray Whales and, thus, benefit Western Gray Whale conservation and population recovery.

Panel Recommendations – On the whole, stakeholders have confidence in the clarity and implementation of WGWAP recommendations. Stakeholders have confidence in implementation of recommendations on Photo ID and population assessment, vessel traffic, and Marine Mammal Observers (MMO); they have somewhat lower confidence in implementation of recommendations on noise, seismic surveys, and environmental monitoring. On concerns about feeding ecology, the Panel has made several recommendations which have not yet been implemented by Sakhalin Energy.

Publications – The Panel either produced or influenced several publications for peer review or industry use on mitigating the impact of oil and gas operations on marine mammals. Documentation of improved practices through such materials makes these practices more standardized and durable in Sakhalin. These materials also help expand the impact of the WGWAP beyond Sakhalin, so that the lessons learned through the WGWAP and its recommendations can be replicated and utilized by regulators and oil and gas operators around the world to minimize impacts on marine mammals.

Policy Influence – IUCN, the WGWAP, and Sakhalin Energy collaborated with a United Nations Development Programme/Global Environment Facility project to provide input to the Russian Federation's Ministry of Natural Resources and the Environment about best practices for monitoring and mitigation of impacts on large whales from offshore industrial activities. This collaboration provided an important opportunity for lessons learned from the WGWAP process to inform Russian government policy and practices.

Management and Functioning of the WGWAP – Stakeholders largely agree that IUCN has managed the Panel well over the years. We note that in 2014, before the remit of the current evaluation, the relationships between WGWAP, IUCN, and Sakhalin Energy were at a low point, leading to concerns about the viability of the WGWAP. Thanks to extensive efforts at IUCN, Sakhalin Energy, and the WGWAP, these relationships have improved remarkably; individuals in each group should be commended. Stakeholders have high regard for staff at IUCN and Sakhalin Energy and for Panel co-chairs and members.

Stakeholders respect the scientists who serve on the panel as among the best in their fields, which lends credibility to WGWAP recommendations and is fundamental to the panel's success. Stakeholders highlighted two areas where the Panel may benefit from additional expertise to evaluate company responses: oil spill prevention and oil industry experience.

The role of lenders and NGO observers has been important for independent monitoring of the Panel's function. Lenders have participated, but have not been vocal in expressing opinions. Stronger and more vocal engagement by lenders in the WGWAP would make it more likely that all recommendations are implemented. Russian and international NGOs have actively raised issues for the WGWAP to consider, a positive influence on the process. The Panel has helped transform NGOs from outside critics to participants, bringing transparency and a way forward to what was originally a highly contentious issue.

Although current relationships between the WGWAP, Sakhalin Energy, and IUCN are strong, these ties are dependent on the individuals involved and are vulnerable to staff turnover. Stakeholders worry about whether future key staff in relevant positions will share a commitment to Western Gray Whale conservation and to the WGWAP. A question remains about the extent to which the success of Western Gray Whale conservation – and the WGWAP as an important means to that end – is embedded into Sakhalin Energy's corporate culture, or is dependent upon the individuals involved.

Important shortcomings in Panel effectiveness include persistent challenges for Sakhalin Energy to provide information to Panellists with sufficient time and in the right formats for Panellists to properly assess and make recommendations based on sound science. In 2015, IUCN cancelled a formal meeting of the WGWAP, replacing it with a Working Meeting, due to the failure to receive information on a timely basis. Data generated by the

Joint Programme of Sakhalin Energy and ENL continue to be particularly problematic. The challenge of access to information from the Joint Programme is a long-standing issue that has been identified time and again by Panel members and through WGWAP evaluations. It is not clear why Sakhalin Energy has not prioritized a renegotiation with ENL of policies regarding access to information in the Joint Programme.

Poor planning and communications related to Sakhalin Energy's 2015 seismic survey and the Russian Government denial of an acoustic monitoring permit for the 2018 seismic survey undercut implementation of the company's MMPs and prompted the WGWAP to issue special statements of concern.[5] The WGWAP stated that if Sakhalin Energy proceeded with its 2018 survey without acoustic monitoring, it would mean that the MMP – an integral part of Sakhalin Energy's commitments to the Marine Mammal Specification under its Health, Safety, Environment and Social Action Plan – was not fully implemented. These statements represent a breakdown of how the Panel normally works, and suggest reduced compliance by Sakhalin Energy with critical WGWAP recommendations. These examples also show that compliance of Sakhalin Energy with the environmental guidelines of lenders requires constant vigilance and attention.

We concur with the three previous evaluations that low levels of engagement by the Russian Federal Government and Sakhalin Oblast limit the influence of the WGWAP on the industry in the region. For example, it is surprising to us that neither Sakhalin Energy nor IUCN would have contacts with different levels of the Russian Government that could help navigate a reconsideration of the 2018 acoustic monitoring permit denial. Some stakeholders doubt any reconsideration was possible due to possible influence of Russian military interests, and the fact that another permit was denied at the same time. However, even if this were to be the case, discussions by all stakeholders with the Russian government about the vital importance of adequate acoustic monitoring may help prevent the recurrence of this problem in the future. We suggest that it is essential for Sakhalin Energy, IUCN, and the WGWAP to build relationships with Russian regulators to ensure that this situation is not repeated. Panel members – especially Russian Panel members – can play a larger role in engagement with the Russian government.

Efficiency – How cost-effective is the WGWAP process?

Assessing cost-effectiveness of the WGWAP process depends on the criteria used. On the positive side, the WGWAP is cost effective when measured in the following ways:

- From a strictly management point of view, IUCN has efficiently achieved its outputs with the resources available.
- As a solution for a contentious project that saw protests in the streets of London and advocacy in the halls of the lenders, the existence of the WGWAP has efficiently managed conflict and sought acceptable solutions.
- As a method for improving Sakhalin Energy's corporate reputation on environmental issues, the WGWAP appears to the evaluators to have improved the company's reputation beyond that of other companies operating in the area, based on interviews with multiple stakeholders and survey data.

Stakeholders thought the Panel was not cost-effective when assessed as follows:

- As for whether the WGWAP is fit for purpose, some stakeholders thought that the Panel should reflect the transition from construction to ongoing operations by shrinking the panel, relying on part-time consultants, and relying on Task Forces. Other stakeholders saw value in the current size of the panel.
- As a conservation project, stakeholders noted that the scientific results produced by research from
- NGOs and other Russian institutions are more useful than that produced by the company, and more conservation impact can be achieved per dollar from research funded by conservation organisations and foundations than from company-funded efforts.

[5] "WGWAP Statement of concern with respect to proposed seismic activity on the Sakhalin shelf in 2015," May 8, 2015; "Panel Statement related to acoustic monitoring during Sakhalin Energy's 2018 seismic survey," May 17, 2018.

Stakeholders expressed concern that the drop in budgets for the WGWAP and the Joint Programme since 2014 may undermine the ability of the WGWAP to continue to make scientifically sound recommendations. Budgets for the WGWAP and Joint Programme are not regularly reviewed by all stakeholders, increasing the risk that at a certain point the WGWAP will no longer fulfil the function of providing advice to minimize company impact and causing Sakhalin Energy to no longer be in compliance with its HSESAP, which underpins the loan agreement.

Legacy and Impact – To what extent are the Panel's outputs leading to the intended outcomes?

Overall, the WGWAP has had a significant and positive impact on conservation of Western Gray Whales. Had the WGWAP not existed, less attention would have been paid to minimizing impacts on Western Gray Whales. It guided Sakhalin Energy to minimize its impact on whales by:

- Advising against construction of infrastructure that pose high risks to Western Gray Whales (e.g., a pipeline through the feeding grounds or a third offshore platform);
- Improving monitoring of Western Gray Whales;
- Reducing the impact of high risk operations such as seismic surveys on Western Gray Whales through improvement of MMPs; and
- Improving the understanding of Western Gray Whale population dynamics.

Engagement in the WGWAP has provided notable and impressive benefits to Sakhalin Energy's reputation. Another legacy of the WGWAP is increased trust between the company, independent scientists, and conservation NGOs. This trust has slowly been built over the years, and has had many setbacks. Nonetheless, trust is difficult to earn but easy to squander. Although increased trust is one of the legacies of the WGWAP process, a faltering in either the process or Sakhalin Energy's implementation of WGWAP recommendations could cause a quick reversion to distrust.

Review of Sakhalin Energy and ENL practices show that Sakhalin Energy's engagement with the WGWAP has led to more protective company behaviour for Western Gray Whales with regards to seismic exclusion zones and independent review of MMPs for infrastructure construction activities. ENL's decision to not formally participate in the WGWAP means that ENL – in comparison to Sakhalin Energy – failed to receive reputational benefits, a higher level of trust, or independent verification of practices to minimize impacts on Western Gray Whales.

The WGWAP showed that an Independent Scientific Advisory Panel can:

- Increase trust among stakeholders;
- Deliver reputational benefits to participating companies;
- Influence other stakeholders who do not explicitly take part;
- Influence industry practice through publications and publicity.

Independence – To what extent is the WGWAP's independence maintained?

IUCN and Panellists managed the WGWAP in ways that preserved its independence while accommodating the needs of other stakeholders. This management is particularly noteworthy in light of past difficulties. IUCN staff spent considerable time and resources on managing relationships and ensuring the integrity of the process.

Transparency was key to maintaining independence: public meeting reports and documenting implementation of recommendations provided an open look at the work of the Panel. Some stakeholders believe that greater publicity and engagement with mass media would give the WGWAP more authority, and make it more likely that all recommendations are implemented. The presence of NGO observers and lenders (including Ramboll) served to monitor proceedings and raise issues for discussion. Stakeholders generally agree that panellists based their recommendations on sound science.

One concern for the Panel's independence was stakeholder doubts about the quality or integrity of data

provided by Sakhalin Energy, or the paucity of information provided by other companies. The level of quality, integrity, and completeness of data affects the confidence of stakeholders in the independence of the WGWAP's discussions and recommendations.

The Future of the WGWAP

Most stakeholders believe that the Panel should continue after the current TOR expire in 2021. Most stakeholders are sceptical that Sakhalin Energy will continue best practices to minimize impact on Western Gray Whales if the WGWAP is not renewed at that time. We note that there is a reputational risk to Sakhalin Energy in continuing operations without the WGWAP, especially if Western Gray Whales were to experience a population decline.

We lay out four scenarios for the future of the WGWAP:

- Scenario 1: WGWAP is disbanded
- Scenario 2: WGWAP continues in its current form
- Scenario 3: WGWAP is mandated by the Russian Government
- Scenario 4: WGWAP transforms into a range-wide initiative jointly managed by the IWC and IUCN.

Based on our analysis, the worst outcome would be disbanding the WGWAP. Of the four scenarios, we believe that the range-wide initiative is most feasible and brings positive conservation impact, is the most likely to maintain the gains the WGWAP has worked so hard to achieve over the years, and would spread its influence to a wider geography. These scenarios provide an initial platform for discussion by the WGWAP and other stakeholders.

Recommendations

The following are our recommendations for the future of the WGWAP.

1. The WGWAP should review the range of risks that it assesses to ensure that it is focusing adequate attention on less known, longer-term issues, such as feeding ecology, oil spill prevention, cumulative impacts, and fisheries.
2. The WGWAP should consider whether it requires a Panel member who is a specialist on oil spill prevention and a Panel member with direct experience working for the oil industry, ideally with engineering and/or Health, Safety, and Environment expertise, who can help with an independent evaluation of company responses.
3. Sakhalin Energy should formally provide its research plans, including research plans of the Joint Programme, to the WGWAP for review and input, on an annual basis.
4. IUCN and the WGWAP should continue to produce publications in order to scale its impact. IUCN and the WGWAP should also consider publicizing its primary recommendations through the media in order to build support, encourage compliance, and scale its impact.
5. Sakhalin Energy should prioritize providing full and timely information to the WGWAP to ensure its effectiveness. Sakhalin Energy should renegotiate with ENL policies regarding access to information in the Joint Programme, in order to ensure that any data developed with Sakhalin Energy funding can be provided to the WGWAP for the Panel's full review and consideration.
6. Sakhalin Energy should demonstrate that its commitment to Western Gray Whale conservation and the success of the WGWAP is embedded into the company's corporate culture. Sakhalin Energy staff who regularly engage with the WGWAP should convey the positive value of the WGWAP to their superiors, ensuring a common understanding within the company of the value that the WGWAP has provided to Sakhalin Energy and a common commitment to the WGWAP's future success.

7. The WGWAP, IUCN, and Sakhalin Energy should increase their joint engagement of the Russian government in WGWAP initiatives, building relationships and understanding within relevant Russian government agencies about the value of the WGWAP.
8. The WGWAP, IUCN, Sakhalin Energy, and lenders should review budgets for both the WGWAP and the Joint Programme, to ensure that funding allocated to Western Gray Whale conservation issues is adequate to meet the requirements of Sakhalin Energy's HSESAP.
9. Lenders, in addition to lender consultants, should engage more regularly and actively in WGWAP proceedings in order to ensure that WGWAP recommendations are implemented and to ensure compliance with lender and IFC social and environmental standards.
10. The WGWAP, together with all stakeholders, should review scenarios in the report for continuation and/or transformation of the WGWAP after 2021. Following review, the WGWAP and IUCN should take steps to explore potential options, including, but not limited to, transforming the WGWAP into a range-wide initiative.

Photo by Gribov Andrei Aleksandrovich

Introduction

Background

In the 1980s to early 2000s, research documented the presence of Western Gray Whales, a critically endangered subpopulation (using IUCN Red List terminology) of the species of Eschrichtius robustus, in feeding grounds off north-eastern Sakhalin. Simultaneously, energy companies started exploring and developing offshore extraction projects to exploit rich oil and gas reserves located in and near the feeding grounds.

Sakhalin Energy Investment Company Ltd. is a company owned jointly by Gazprom, Royal Dutch Shell, Mitsui, and Mitsubishi. As it was designing and developing oil and gas extraction plans in north-eastern Sakhalin, Sakhalin Energy sought significant levels of financing from public and private finance institutions. Scientists and environmentalists voiced concern to the finance institutions about Sakhalin Energy's potential impacts on Western Gray Whales from oil and gas development. Examples of major potential threats include disturbance from noise, ship strikes, decline in food sources, and oil spills.

Conflict over Sakhalin Energy's potential impacts on Western Gray Whales came to a head in 2004, when the company considered construction of a platform near, and an undersea pipeline through, Western Gray Whale feeding grounds. Potential lenders became concerned about impacts on Western Gray Whales and whether financing the project would violate their environmental guidelines. As a result, and at the request of Sakhalin Energy, IUCN convened an Independent Scientific Review Panel (ISRP) to evaluate the scientific aspects of Western Gray Whale conservation in the context of Phase 2 of the Sakhalin II and provide advice to Sakhalin Energy. Sakhalin Energy modified its construction plans as a result of the ISRP, re-designing the route of the undersea pipeline to avoid the feeding grounds. Based on the ISRP, and following a review of lessons learned, parties recommended establishing a long-term scientific advisory Panel. This recommendation was then codified in the loan agreement between Sakhalin Energy and its creditors.

At the request of Sakhalin Energy, IUCN convened and launched the WGWAP in 2006. The overall goal of the WGWAP is to improve the conservation status of the Western Gray Whale by providing objective independent advice on relevant research, monitoring, and mitigation. The WGWAP was convened for an initial period of five years (2006-2011), extended for another five years (2012-2016), and the WGWAP is currently convened for five more years (2017-2021). Sakhalin Energy has been funding the WGWAP to meet the requirement by lenders to establish an independent advisory structure.[6] Sakhalin Energy has committed to supporting the WGWAP through the current TOR, which expire in 2021, from which time the future of the WGWAP is uncertain.

The current TOR (2017-2021) say that the "Goals, Scope and Objectives" of the Panel are the following:

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[6] The loan agreement incorporates the requirement that Sakhalin Energy comply with the Appendix 6 Marine Mammal Specification of the Health, Safety, Environmental and Social Action Plan (HSESAP). The Specification states:

- "Sakhalin Energy has implemented the WGWAP in line with the outcome of the Vancouver Report, and shall support the WGWAP until such time as review by the Company and Lenders results in agreement that this is no longer appropriate.
- Sakhalin Energy shall provide funding for the WGWAP to undertake its activities in line with its agreed terms of reference and shall make best efforts to ensure that the WGWAP operates in line with the terms of reference in conjunction with a suitable independent convener.
- Should the WGWAP cease to operate due to circumstances beyond the control of Sakhalin Energy, Sakhalin Energy shall make reasonable endeavours to instigate an equivalent advisory body. The new body would be convened and operated to the satisfaction of the entities that make up the new body. The Company shall consult with the Lenders throughout this process.
- Sakhalin Energy shall keep the WGWAP informed of its offshore activities (including any future seismic surveys) on a regular basis in order that all future priority issues can be identified and reviewed in a timely fashion.
- All proposed changes to the MMP shall be provided to the WGWAP for review.
- The Company shall implement all reasonable recommendations from the WGWAP, provided that they comply with Russian law, and to seek support for these recommendations from shareholders, Russian Party and joint industry partners as appropriate."

Sakhalin Energy Investment Company Ltd., 2015. Marine Environment Protection Standard. p. 1.

> *The WGWAP is managed by IUCN as an independent advisory body of scientists. The overall goal of the WGWAP is to provide objective independent advice on the conservation of western gray whales with a focus on those that feed off Sakhalin (hereafter WGWs).*[7]

The TOR list 13 specific objectives, principal of which is that WGWAP members are:

> *to provide independent scientific and technical advice and recommendations to Sakhalin Energy, the MNR/IWG (and other stakeholders when appropriate) with respect to the actual and potential effects of human activities, particularly oil and gas development activities, on WGWs.*[8]

At the same time, the TOR call on IUCN:

> *to act as a communication link and promote the connection between industry, the engineering and natural science communities, government and civil society;*
>
> *to influence stakeholders other than Sakhalin Energy with respect to the potential effects of human activities, on WGWs including provision of mitigation advice and encouragement to join the WGWAP process.*[9]

The role of Sakhalin Energy in the TOR is:

> *to implement all reasonable recommendations from the WGWAP, provided that they comply with Russian legislation, and seek support for these recommendations from shareholders, Russian Party and joint industry partners as appropriate.*[10]

The TOR also list four general principles for operation: independence, transparency, accountability and engagement.

Evaluation

Those TOR call for periodic evaluation of the Panel:

> *IUCN will, in consultation with the WGWAP Co-Chairs, appoint an independent agency to evaluate, according to IUCN-supported Independent Scientific & Technical Advisory Panels (Procedures for establishing and managing IUCN-supported Independent Scientific & Technical Advisory Panels, 2014) the performance of the collaboration under these TOR and the effectiveness with which IUCN, WGWAP, and Sakhalin Energy have played their respective roles. The evaluation will be conducted against a set of indicators that will be developed by IUCN. The independent agency will make recommendations on how the performance might be improved.*[11]

In response to the evaluation report, the TOR call for IUCN, in consultation with the WGWAP and Sakhalin Energy, to determine to what extent the recommendations arising from the evaluation process are to be adopted and implemented. Both the evaluation report and the management response will be posted publicly on the WGWAP web site.

This document is the fourth evaluation report of the Panel. Others were conducted in 2009, 2011, and 2014.[12] This evaluation covers the period January 2015 – June 2018. Since the Evaluation Matrix includes questions

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7 Western Gray Whale Advisory Panel (WGWAP), *Terms of Reference 2017-2021,* p. 1.

8 Ibid., p. 2

9 Ibid., p. 2-3.

10 Ibid., p. 6.

11 Ibid., p. 11.

12 Turner, S.D., *Evaluation of the Western Gray Whale Advisory Panel*, IUCN, March 5, 2009; Turner, S.D., *Evaluation of the Western Gray Whale Advisory Panel*, IUCN, November 7, 2011; Turner, S.D., *Evaluation of the Western Gray Whale Advisory Panel*, IUCN, December 1, 2014.

about Legacy and Impact, it is necessary to move back farther in time than this three-year period to capture trends and developments that are important to the legacy and future of the Panel. Also, since this evaluation period straddles two sets of TOR (2012-2016 and 2017-2021), both TOR are relevant.

This evaluation is designed to review the impact and effectiveness of the WGWAP. After 14 years, lessons learned from this experience can be useful for similar efforts around the world to create and manage Independent Scientific and Technical Advisory Panel (ISTAP) efforts.

Specific Objectives in the Evaluation TOR are the following:

1. To assess the continued relevance of the WGWAP process;
2. To assess the effectiveness of the results of the WGWAP process in relation to each of the stated roles and responsibilities;
3. To assess the cost effectiveness of the WGWAP process in relation to the results achieved;
4. To assess the influence, and if possible, the impact and legacy of the WGWAP process;
5. To assess the functioning and independence of the Panel and the adequacy of support provided to it by IUCN.;
6. To assess the quality of the overall project/process.

The key evaluation questions are:

1. Relevance – To what extent are the Panel's and company's activities relevant to the Theory of Change?
2. Effectiveness – To what extent are the Panel's outputs leading to the intended outcomes?
3. Efficiency – How cost-effective is the WGWAP process?
4. Legacy and impact – To what extent are the Panel's outputs leading to the intended outcomes?
5. Independence – To what extent is the WGWAP's independence maintained?
6. Quality of the overall project/process

The full Evaluation Matrix is appended to this report as Annex 3.

The three previous evaluations assessed the operations of the Panel, and made numerous recommendations to improve its function and effectiveness. The third evaluation started a transition toward focus on lessons learned and the way forward, and this fourth evaluation extends that trend. That is, this report will focus less on the mechanics of how the Panel functions and more on its impact on Western Gray Whales, Sakhalin Energy, and other actors on the Sakhalin shelf, its legacy, and recommendations for its future, including after the expiration of the current TOR in 2021.

The third evaluation made a number of recommendations. The key ones were a call to maintain the WGWAP, but limit its mandate considerably: "to understand and minimize the impact of company activities on the Western Gray Whales population, both during oil and gas development and routine production operations." At the same time, the evaluation recommended convening a group of key stakeholders to map out future operations, and to promote a general environmental forum for Sakhalin that would cover issues wider than Sakhalin Energy's impact on Western Gray Whales. It also recommended a smaller Panel with more rotation of members.

The Panel did engage in a series of consultations with key stakeholders on changes to the format and function of the Panel. The revised TOR do not reflect substantial changes, though they do lay out more specific roles for the Panel, IUCN, and Sakhalin Energy. Of the recommendations made, it is notable that Recommendation 3 – that the Panel narrow its remit "to understand and minimize the impact of company activities on the Western Gray Whales population, both during oil and gas development and routine production operations" – was not included in the Panel's current TOR. Instead, the current TOR continue to call on the Panel and IUCN to influence as many stakeholders as possible throughout the range including threats beyond those posed by oil and gas operations.

Evaluation Method

The evaluation was done with the following methods.

Document reviews – We reviewed documents in both English and Russian, and coded them by theme according to the six specific objectives of the evaluation matrix. Documents reviewed are listed in Annex 1.

Semi-structured interviews – We conducted 30 semi-structured interviews using an interview guide and leaving space for respondents to speak from their own perspectives and raise issues that were unexpected or they thought important. The interview guide was based on the questions in the Evaluation Matrix. Interviews were conducted on a confidential basis, and thus information from interviews is not attributed to individuals in this evaluation.

The main categories of interviews were:

- WGWAP Panellists;
- Sakhalin Energy staff, consultants, and shareholders;
- Lenders;
- National and international NGOs;
- IUCN Secretariat and Commissions;
- International Organisations;
- Other Oil & Gas operators;
- Research institutes.

The list of people interviewed is in Annex 2.

Survey of stakeholders – We conducted an online survey, sent to stakeholders identified jointly with IUCN staff. We used an online survey tool (SurveyGizmo) and conducted the survey in both Russian and English. The survey was sent to 125 people; we received 46 responses.[13] We received responses from:

- Panel members (7);
- Sakhalin Energy staff and consultants (9);
- Staff or consultants for other oil and gas companies (3);
- IUCN staff (8);
- NGO staff, consultants, or volunteers (6);
- External scientists (7);
- Finance institution staff or representatives (2);
- Other (4).

Other includes people who did not easily fit into defined categories, such as former members of a stakeholder group and members of intergovernmental organisations. We analysed overall results and broke down responses by category of respondent. The full survey results are in Annex 6.

Outcome Harvest Verification – While these tools are of course helpful, the difficulty of answering legacy questions suggested the need for the introduction of a new tool. To answer the questions posed concerning the legacy of the project, responses to normal surveys and interviews gave evidence that benefited from further

[13] The survey was open for almost a month (July 5th-August 3rd, 2018). From the list that IUCN provided, we sent potential respondents an initial invitation and seven follow-up reminders. The result was a higher total number of responses than during the previous evaluation, including higher engagement from Sakhalin Energy and NGOs (and comparable engagement from IUCN and Panel members).

verification. Outcome Harvesting is designed to deal with these issues, especially in complex programmes. While the evaluation did not have the resources to do a full Outcome Harvest, we identified six possible key outcomes identified by respondents related to uptake of recommendations or other indications of legacy. We triangulated these outcomes with key respondents to see if results were valid, and what strategies they could be tracked back to. To structure this process we used an Outcome Harvesting table.

Photo by Mogens Trolle

Relevance of the WGWAP

This section of the evaluation addresses the extent to which the Panel's and company's activities are relevant to the conservation and population recovery of Western Gray Whales.

Summary Findings

1. The WGWAP follows an implicit Theory of Change: The WGWAP provides scientific advice to Sakhalin Energy, which enables it to minimize its impact on Western Gray Whales. The presence of the lenders and observers, such as research institutes and NGOs, encourages compliance with the agreement. WGWAP advice also influences other actors that impact the species' habitat, thus improving conservation and population recovery of Western Gray Whales.
2. Overall, the WGWAP continues to demonstrate its relevance to conservation of Western Gray Whales. The WGWAP has sustained attention to the issue of Western Gray Whales from leading scientists, IUCN, NGOs, and lenders. Had the Panel not existed, it is extremely unlikely that a similar level of attention would have been focused on minimizing impacts to Western Gray Whales from the oil and gas industry in Sakhalin.
3. The Panel focuses overwhelmingly on impacts from the oil and gas industry. Within the range of potential impacts from oil and gas development in this review period, the Panel focuses predominantly on noise issues, especially those that come from seismic exploration. Other critical issues, such as oil spill prevention, risks to feeding ecology, risks from cumulative impacts, and risks from fisheries, have received inadequate attention.
4. It is clear that the WGWAP is relevant to Sakhalin Energy by helping the company minimize its impact on Western Gray Whales. The Panel influences the practices of other oil and gas companies active on the Sakhalin shelf, especially Exxon Neftegas Limited. However, due to the lack of formal participation by these companies and these companies' lack of transparency, it is impossible to verify and confirm how the Panel influences their practices.

Theory of Change

A Theory of Change is a description of how a desired change is expected to come about. No Theory of Change has been articulated for the WGWAP, although the WGWAP has operated on the basis of an implicit Theory of Change. As part of this evaluation, we were requested to reconstruct and articulate a Theory of Change. In turn, we assess relevance of the WGWAP to this implicit Theory of Change that underpins the WGWAP.

In the original TOR for the WGWAP, the following were listed as the goals and objectives:

> *The overall goal of the WGWAP is the conservation and recovery of the WGW population. The WGWAP's specific objectives are:*
>
> > *(a) To provide independent scientific and technical advice to decision makers in industry, government and civil society with respect to the potential effects of human activities, particularly oil and gas development activities, on the WGW population; and*
> >
> > *(b) Co-ordinate research to: achieve synergies between various field programmes; minimise disturbance to WGW, e.g. by avoiding overlap and redundancy of field research programmes; identify and mitigate potential risks associated with scientific research activities; and maximise the contributions of research to understanding the status and conservation needs of the WGW*

population.[14]

These goals and objectives have varied somewhat from this original formulation in the two subsequent TORs but followed the same general themes. From our perspective as evaluators, stakeholders were actually operating under an implicit Theory of Change that had a goal and three primary, specific objectives that led to the creation of the WGWAP:

Goal: Conservation and population recovery of Western Gray Whales

Objectives:

1. Minimization of impacts from human activities on Western Gray Whales, principally oil and gas development;
2. Compliance of Sakhalin Energy with the environmental guidelines of lenders;
3. Reduction of reputational risk to Sakhalin Energy and institutions associated with the project, including lenders.

These three objectives capture the motivations of different stakeholders to participate in the WGWAP. Note that some objectives are not explicitly stated by the WGWAP TOR themselves. For example, reducing reputational risk is an objective of Sakhalin Energy and other institutions, not of the WGWAP; compliance of Sakhalin Energy with the environmental guidelines of lenders is relevant to the WGWAP but ultimately not the responsibility of the WGWAP.

To achieve these objectives, an independent body made up of leading scientists was created to provide scientifically sound advice and recommendations to Sakhalin Energy and other interested parties. The body, designed to be objective and independent from the oil and gas industry, would meet regularly. Using necessary data and information provided by Sakhalin Energy, the body would inform its recommendations, and be open to lenders and observers to monitor compliance. In turn, Sakhalin Energy would act to implement all reasonable recommendations. As a result, Sakhalin Energy's impacts on Western Gray Whales would be minimized, improving the likelihood of their conservation and population recovery.

The WGWAP operates under an implicit understanding that by providing independent and objective advice that minimizes Sakhalin Energy's impacts on Western Gray Whales, the WGWAP would in turn improve the environmental standards of other oil and gas operators off Sakhalin. This outcome would reduce their impact and improve conservation and population recovery both in the Western Gray Whales' critical habitat off Sakhalin and throughout the species' range. The WGWAP also envisioned addressing threats to Western Gray Whales from other sectors, such as the fishing industry.

To state the Theory of Change in a simpler manner, the WGWAP provides scientific advice to Sakhalin Energy, which enables it to minimize its impact on Western Gray Whales. The presence of the lenders and observers, such as research institutes and NGOs, encourages compliance with the agreement. WGWAP advice also influences other actors that impact the species' habitat, thus improving conservation and recovery of Western Gray Whales.

Survey responses show a high level of confidence in the WGWAP's underlying assumptions. The idea that independent and objective scientific recommendations are needed to conserve Western Gray Whales received an average response of 9.26 out of a possible score of 10.[15] Different stakeholder groups responded in a fairly uniform manner to this question, indicating that the Theory of Change is both understood and shared across stakeholder groups. Respondents see WGWAP as objective and independent, as reflected in the average score of 8.7.[16] While stakeholder groups responded in a fairly uniform manner to this question, the overall range of responses was higher, with more than twice the standard deviation of the first question.

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[14] Terms of Reference: Western Gray Whale Advisory Panel (WGWAP), 2006-2012, p. 2.

[15] Survey Question 10

[16] Survey Question 11

Survey respondents also believe that WGWAP is implementing this Theory of Change, at least with regards to Western Gray Whales overall, and the specific impacts of Sakhalin Energy. Respondents said that WGWAP's recommendations address critical issues affecting conservation of Western Gray Whales (8.32 average)[17] and that the WGWAP's recommendations address critical issues of the impact on Western Gray Whales from Sakhalin Energy (8.42 average).[18] Notably, respondents demonstrated significantly less confidence that WGWAP addresses impacts on Western Gray Whales from other oil and gas companies operating off Sakhalin (5.51 average)[19] or impacts on Western Gray Whales from other commercial sectors (5.09 average).[20] While responses from stakeholder groups were fairly uniform across these questions, the standard deviation across all responses was significantly higher for the final two questions.

One way of visually analysing the Theory of Change is through a logic model. Figure 1 illustrates a simplified logic model inherent in the WGWAP TOR. This logic model demonstrates how the WGWAP and other institutions concerned with Western Gray Whales are designed to influence actors to reduce threats to the conservation target, Western Gray Whales. The green box represents the geographic scope, and the green circle is the conservation target. Red boxes represent threats to the conservation target, and the brown boxes represent scientific initiatives relevant to the conservation target. Orange boxes represent actors relevant to the threats. Yellow hexagons represent strategies and programmes relevant to the actors, threats, and conservation target.

Figure 1 shows arrows based on the historical record of WGWAP's activities. For example, WGWAP recommendations have been addressed to Russian Government authorities, Sakhalin Energy, ENL, and Rosneft,

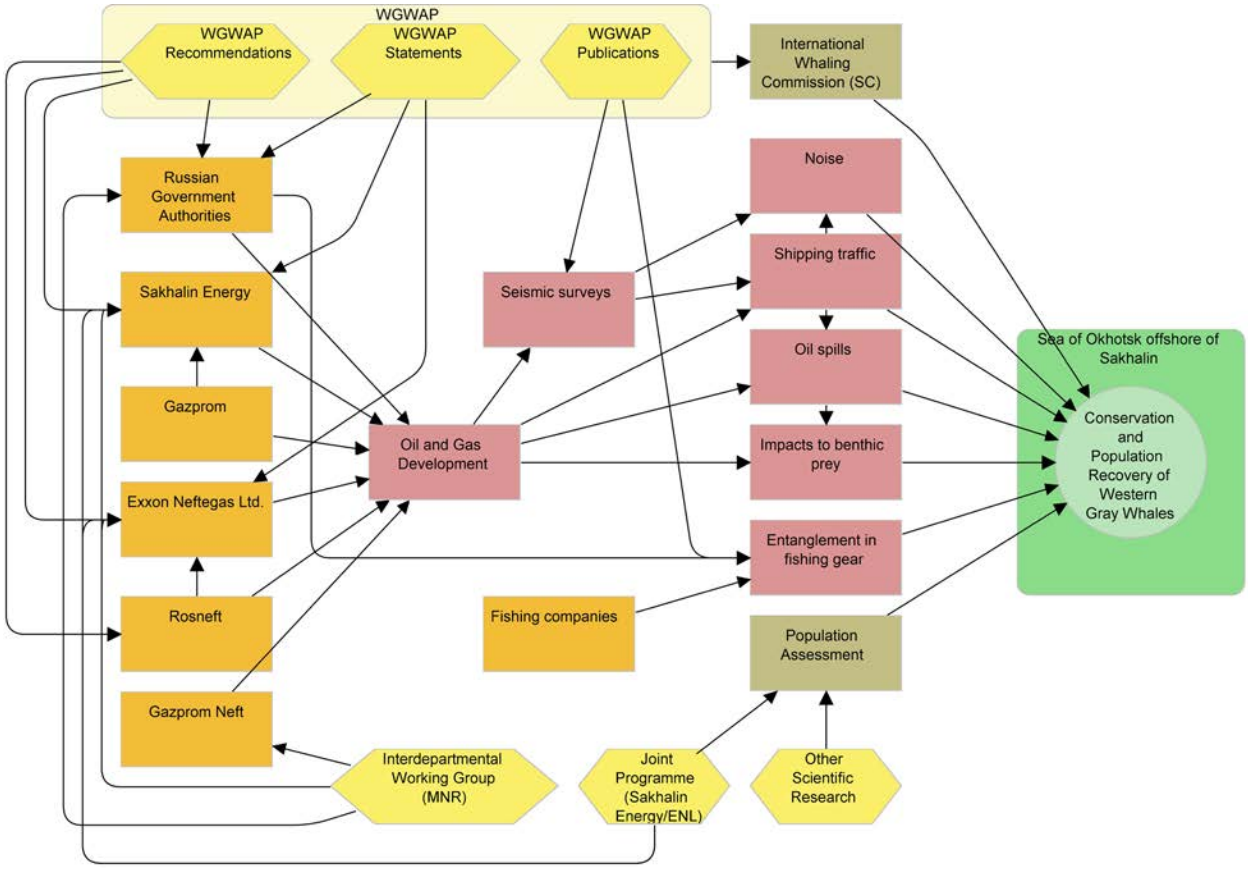

Figure 1. This diagram provides a simplified logic model to illustrate how WGWAP and other strategies are designed to influence key actors off of Sakhalin Island to reduce the threats to Western Gray Whales

17 Survey Question 12
18 Survey Question 13-1
19 Survey Question 13-2
20 Survey Question 13-3

although in theory they could also be addressed to others. WGWAP statements and letters have been addressed to Russian Government authorities, Sakhalin Energy, and ENL. WGWAP publications also only address a subset of the threats to the conservation target. Other programmes not related to the WGWAP, such as the Interdepartmental Working Group (IWG) and other scientific research programmes, also have influence on some, but not all, actors and threats to the conservation target. Such a logic model can help in discussions about whether WGWAP is adequately addressing all relevant threats, since overall it shows that the WGWAP has been relevant to some threats to Western Gray Whales but not all.

From this analysis and our overall assessment, it is not clear that the structure and design of the WGWAP adequately supports the full implementation of the WGWAP's original and implicit goal of conservation and recovery of Western Gray Whales. The original TOR provide a scope for the WGWAP to address all conservation issues associated with Western Gray Whales, especially impacts associated with the oil and gas industry. However, the structure of the WGWAP, which included only Sakhalin Energy as a formal corporate participant, has limited the ability of the WGWAP to address issues beyond those caused directly by Sakhalin Energy.

There is therefore a gap between what the WGWAP is set up to do and what it can actually do. The loan agreement obligates Sakhalin Energy to work with the WGWAP. In reality, the WGWAP is only able to influence some of the main threats to Western Gray Whales. It has done so effectively in many cases, but the set-up of the WGWAP – in which only Sakhalin Energy is obliged to implement Panel recommendations – means that many threats to Western Gray Whales are beyond the effective reach of the Panel. The behaviour of other oil and gas companies, other industries such as fisheries and tourism, and Russian Federal Government regulation are all influenced by the WGWAP only in indirect ways. WGWAP has done an excellent job in addressing this indirect influence, but given its limited mandate, it cannot be expected to address adequately all the main threats to Western Gray Whales.

Relevance to Conservation and Recovery of Western Gray Whales

Overall, the WGWAP continues to demonstrate its relevance to conservation of Western Gray Whales. The WGWAP has maintained attention to the issue of Western Gray Whales from leading scientists, IUCN, NGOs, and lenders. Had the Panel not existed, it is extremely unlikely that a similar level of attention would have been focused on minimizing impacts on Western Gray Whales from the oil and gas industry in Sakhalin.

The Panel serves as a forum for monitoring and discussing the impacts on the whales from Sakhalin Energy and, to a lesser extent, from other oil and gas companies and other industries. The Panel's statements and recommendations carry weight and credibility, thanks in large part to the reputation and expertise of Panel members and to the independent and scientific approach that the WGWAP has sought to maintain over the course of its existence.

From the outset, the best outcome for Western Gray Whale conservation would have been no oil and gas development in the Western Gray Whale feeding area offshore of Piltun Lagoon. However, since oil and gas development proceeded in the area, the creation of the WGWAP – the first and largest ISTAP supported by IUCN – was a critical step in providing confidence to a range of important stakeholders that Sakhalin Energy would take reasonable measures needed to conserve the Western Gray Whale population.

Qualitative interviews showed widespread agreement that the WGWAP has improved Sakhalin Energy's performance with regards to Western Gray Whales through better science, consideration of reasonable alternatives, and improved monitoring. Interviewees noted that the WGWAP helps ensure a high focus and understanding of the issues of Western Gray Whales at Sakhalin Energy. Without the WGWAP, it would be difficult for one company to access the level and interdisciplinary breadth of expertise represented by Panel members. Historically, companies hire specific consultants needed at the time for a specific type of expertise; the Panel, however, allows Sakhalin Energy to benefit from a range of disciplines that are relevant to Western Gray Whale conservation.

Some qualitative interviews raised a question about the relevance of the WGWAP in light of new evidence that

calls into question whether Western Gray Whales are a genetically distinct subpopulation or a distinct feeding aggregation.[21] The Scientific Committee of the IWC is considering this question through a range-wide review of North Pacific Gray Whales.[22] However, no interviewees suggested that oil company mitigation measures to protect these Gray Whales should be any different based on the answer to this question. As a result, while the question is undoubtedly important from a scientific perspective, it appears to have little bearing on the relevance of the WGWAP to conservation and recovery of the marine mammals that feed offshore of Sakhalin and to minimizing the impacts from the oil and gas industry.

The number of whales feeding offshore of Sakhalin has also been increasing. Panel documents report that "the population is estimated to have been increasing at 2-5% per year over the last 10 years, but there has been statistically significant fluctuation in reproductive success and hence in population growth."[23] Qualitative interviews showed agreement among stakeholders that it is impossible to say whether any population increase is a result of the Panel's efforts to minimize the impacts of oil and gas development, whether the population increase would have been greater in the absence of oil and gas development or the presence of the Panel, or whether population increase has occurred for reasons that have no relationship to the WGWAP.

Relevance to Priority Issues

Among the range of issues affecting Western Gray Whales, the Panel focuses overwhelmingly on impacts from the oil and gas industry. This focus is understandable, given the Panel's relationship with Sakhalin Energy and the recognition of the high risk of impacts on marine mammals from oil and gas development activities. Within the range of potential impacts from oil and gas development in this review period, the Panel focuses predominantly on noise issues, especially those that come from seismic surveys.

Seismic surveys and noise. Without a doubt, seismic survey is an activity that carries a high level of risk for marine mammals. Panel members have written that "marine seismic surveys, which use loud, primarily low-frequency sound to penetrate the sea floor, are known to disturb and could harm marine life….Given their proliferation and potential for negative environmental impact, there is a growing need for systematic planning and operational standards to eliminate or at least minimize impacts, especially when surveys occur in sensitive

Category	Number of recommendations (2015-2017)
Noise	19
Photo ID and Population Assessment	8
Environmental Monitoring	5
Other	5
Traffic and Marine Mammal Observers	4
Oil spills	3
Total	45

Note that feeding ecology is included within "Environmental Monitoring"; fisheries is included within "Other."

Figure 2. From 2015-2017 the WGWAP issued 45 recommendations. Over 40% of the recommendations focused on noise issues.

[21] Tagging and satellite tracking in 2010-11 showed that three whales migrated from Sakhalin across the Pacific to North America, with one female going as far as Mexico. Mate BR, Ilyashenko VY, Bradford AL, Vertyankin VV, Tsidulko GA, Rozhnov VV, Irvine LM. 2015 Critically endangered western gray whales migrate to the eastern North Pacific. Biol. Lett. 11:20150071. http://dx.doi.org/10.1098/rsbl.2015.0071

[22] For example, IWC. 2017. Report of the Fourth Rangewide Workshop on the Status of North Pacific Gray Whales. Journal of Cetacean Research and Management 19 (Suppl.): 521-36.

[23] Report of the Western Gray Whale Advisory Panel at its 18th meeting, 15-17 November 2017.

areas."[24]

As a result of the high level of risk to marine mammals associated with seismic surveys, WGWAP has created a Noise Task Force (NTF), which meets regularly. In 2017-18, members of WGWAP's NTF invested extensive time into working with Sakhalin Energy on a MMP for Sakhalin Energy's 2018 seismic surveys. Reflective of the WGWAP's focus on noise issues, the NTF has met at least once a year since 2007; the NTF met twice each year in 2016-17.

Oil spill prevention and response. Other critical issues related to oil and gas development impacts on Western Gray Whales have received far less attention from the Panel. Oil spill response issues have received a modest amount of focus. IUCN retains an Associate Scientist to the Panel who is a specialist in oil spill response, although he is no longer a member of the Panel. According to stakeholders, Sakhalin Energy responded effectively to Panel issues with preparedness for oil spill response. Although the WGWAP lists an Oil Spill Task Force, it has not met since 2008. However, the WGWAP does not have any specialists in oil spill *prevention* and has not focused significant attention on the issue. Specialists in this area – which would include expertise in facility design, asset integrity, well control, operational integrity and process safety – have skill sets that are different from those of whale scientists, so it would require recruiting appropriate specialists. This lack of focus on prevention is surprising, particularly as oil spill prevention is clearly more effective than oil spill response. Although unlikely at any given time, a large-scale oil spill could be, arguably, the single highest risk to the Western Gray Whale population. Such a spill would be a "black swan" event, yet the likely impact of such a spill makes it surprising that the Panel has not focused more attention on oil spill prevention.

Shipping traffic. The WGWAP has also focused a modest amount of attention on risks from shipping traffic, which is likely commensurate with the current perception of a relatively low risk of ship strikes in the area.

Feeding ecology. The WGWAP has not been able to focus adequate attention on risks to the feeding ecology of Western Gray Whales, despite efforts of some Panellists to focus on this issue. Multiple stakeholders stated that food ecology of Western Gray Whales remains poorly understood, which makes it difficult to assess potential risks to Western Gray Whales. A debate about the importance of Piltun Lagoon to benthic prey for Western Gray Whales continues. Since changes to the prey base and feeding ecology of Western Gray Whales are long-term risks and still unknown, as opposed to the short-term and known risks of seismic surveys, these concerns have not found traction among key WGWAP stakeholders, particularly Sakhalin Energy. Although a Task Force on Environmental Monitoring is listed by the WGWAP, it has been inactive since 2011.

The Panel has repeatedly requested deeper Joint Programme focus on this issue. For example, the meeting report from the November 2016 WGWAP meeting said:

> *In view of the profound biological significance to western gray whales of the feeding areas off north-eastern Sakhalin, the Panel has repeatedly expressed its support for research focussed on the distribution and density of prey resources and their implications for gray whale feeding ecology. Systematic and robust research is needed to improve understanding of ecological features of the region that attract the whales (e.g. their diet) and the environmental and biological factors responsible for the exceptional productivity of the two known primary feeding areas – the Piltun (near-shore) area and the Offshore area.*[25]

Sakhalin Energy's position is that it is not operating in important feeding areas, and that the Joint Programme work understands enough about the feeding ecology to conclude that there are few concerns about the state of

[24] Douglas P. Nowacek, Koen Broker, Greg Donovan, Glenn Gailey, Roberto Racca, Randall Reeves, Alexander Vedenev, David Weller, and Brandon Southall, "Responsible Practices for Minimizing and Monitoring Environmental Impacts of Marine Seismic Surveys with an Emphasis on Marine Mammals," *Aquatic Mammals,* 2013.

[25] IUCN, 2017. Report of the Western Gray Whale Advisory Panel at its 17th meeting. Gland: IUCN, p. 11. The meeting report goes on to cite previous discussions of this key issue: "see in particular the reports of the Independent Scientific Review Panel in 2005 (Chapter IV, item 4), WGWAP-1 in 2006 (item 11), WGWAP-2 in 2007 (item 4), WGWAP-7 in 2009 (item 10), WGWAP-8 in 2010 (item 10), WGWAP-10 in 2011 (item 6), WGWAP-12 in 2012 (item 3.3), WGWAP-14 in 2014 (item 15)9 and the Environmental Monitoring Task Force in 2011 (items 3 and 4)".

feeding grounds. However, evaluators learned that most other stakeholders do not find this position compelling.

Cumulative impacts. Cumulative impacts refer to the total impacts on Western Gray Whales from anthropogenic threats throughout their range. Thus, cumulative impacts include impacts from Sakhalin Energy, other oil and gas companies, and other commercial sectors. Although addressing cumulative impacts on Western Gray Whales is scientifically difficult, the potential harm caused by multiple activities of multiple corporate actors, especially oil and gas companies, in and near the feeding area off Sakhalin makes cumulative impacts important and relevant to conservation and population recovery of Western Gray Whales. The WGWAP has not been able to address the risk from cumulative impacts in an effective manner. In large part, this gap is due to the fact that Sakhalin Energy is the only company that participates in the WGWAP on a formal basis. The WGWAP receives information about ENL 's operations in Sakhalin on an *ad hoc* basis, and it receives very limited information about the activities of other oil and gas operators in the area. This limits the WGWAP's ability to review cumulative impacts, despite a recognition of this gap.

Fisheries. In recent years, the WGWAP has significantly increased its attention to fisheries issues. Although fisheries were originally included within the remit of the WGWAP, the issue did not receive significant attention from the Panel until whales were documented in the close vicinity of salmon nets near Piltun Lagoon in 2013 and the Sakhalin government requested additional information about fisheries risks in 2014 concerning the issue of relative risks to whales from different types of set nets. Since then, the Panel commissioned an expert analysis and has developed a scientific paper which was published in 2018.[26] Despite this increased attention, fisheries companies have not yet been formally engaged in the work of the WGWAP, and it remains unclear how the WGWAP can best influence fisheries practices to increase Western Gray Whale conservation. Only one recommendation during the 2015-17 time period related to fisheries, and this was a request to Sakhalin Energy for information. Notably, increased attention to fisheries issues may be particularly beneficial to Sakhalin Energy. Under the 2012 IFC Performance Standards, Sakhalin Energy can compensate harm to critical habitat through biodiversity offsets by mitigating other impacts on Western Gray Whales (e.g., fisheries impacts).[27]

Western Gray Whale research. From its formation, the WGWAP has created a space to coordinate research. This was a specific objective included in the 2006-2012 TOR for the WGWAP. This space continues today, although the specific objective has been revised in the 2017-2021 TOR to "encourage and provide advice on research aimed at (1) improving and developing methods for the assessment of the potential effects of human activities on WGWs and (2) developing and monitoring the effectiveness of mitigation measures." Unfortunately, however, the WGWAP appears to be less of a forum to discuss and coordinate research than in previous years. Three listed task forces relate to scientific research: the Photo-ID Task Force, the Environmental Monitoring Task Force, and the Joint Programme Task Force. However, the Photo-ID and Environmental Monitoring Task Forces are dormant, having not met since 2009 and 2011 respectively. The Joint Programme Task Force met twice in 2016, after not having met since 2013, but has not met again since that time.

Qualitative interviews indicated that Panel members are not given the opportunity to adequately review Sakhalin Energy's research plans or the research plans of the Joint Programme. Sakhalin Energy disputes this characterization, stating that it reports on past results and presents the following year's plans each year. Review of meeting reports from 2015-18 shows that discussions about upcoming research plans are, at best, cursory in nature, and that Panel members have not been afforded a meaningful opportunity at panel meetings to review

[26] Lowry LF, Burkanov VN, Altukhov A, Weller DW, Reeves RR. (2018). Entanglement risk to western gray whales from commercial fisheries in the Russian Far East. Endang Species Res 37:133-148. https://doi.org/10.3354/esr00914.

[27] For discussion of possible offsets, see the report from the November 2016 WGWAP meeting in in the context of the draft Critical Habitat Assessment, IUCN, 2017. Report of the Western Gray Whale Advisory Panel at its 17th meeting, pp. 38-9. At that meeting lenders "confirmed that as long as the Company is carrying out activities with potential impacts, offsets are needed to demonstrate net gains for biodiversity."

and provide input to research plans.[28]

Following discussions at WGWAP-16 (November 2015) about Sakhalin Energy's plans to "refresh" the Joint Programme, IUCN, the WGWAP, and Sakhalin Energy convened two Joint Programme Task Force meetings in 2016. To inform a new plan, these task force meetings allowed for fuller discussions of research needs, in light of reports of budget decreases for the Joint Programme and for research on Western Gray Whales funded by oil companies in the region. Sakhalin Energy reports heavy pressure from Russian Federation authorities to dramatically reduce expenditures for the Joint Programme. With decreasing resources for Western Gray Whale research, it becomes even more important and incumbent upon all parties to carefully plan and coordinate the research in order to ensure that the impacts of human activity on Western Gray Whales are adequately understood. It is surprising to evaluators that the Joint Programme Task Force has not met again since November 2016, since this Task Force could become an appropriate forum for coordinating research plans. It is also not clear to evaluators whether or how input provided by panel members at the Joint Programme Task Force meetings have informed or been incorporated into new plans for research under the Joint Programme.[29] Given the level of expertise of Panel members and their engagement in a wide range of marine mammal research, including through the International Whaling Commission (IWC), it seemed unusual that Sakhalin Energy and other oil companies have not done more to inform the WGWAP about the refresh of the Joint Programme research plans and, most importantly, to ensure that WGWAP input is incorporated.

Decisions about what issues the Panel will focus on appear to be driven by a number of considerations. First, what are the issues of critical and short-term concern to the conservation of Western Gray Whales? For example, imminent and planned seismic surveys require the Panel to focus significant effort on noise issues. Second, does the Panel have access to adequate information about the issue? For example, the Panel has not received adequate information to work on cumulative impacts or feeding ecology. Increasing information about fisheries has allowed the Panel to start addressing risks from entanglement. Third, does the Panel have the necessary budget to focus on an issue? Many interviewees reported that budgets for both the Panel itself and the Joint Programme for research on Western Gray Whales have declined in recent years. Such budget reductions force the key participants in the Panel – Panel members, Sakhalin Energy, and IUCN – to make difficult choices. In recent years, these considerations have forced the Panel to focus overwhelmingly on noise issues – clearly a high priority – while paying less attention to longer term and lesser known issues such as feeding ecology, oil spill prevention, and research coordination. Although the choices are understandable, we are left with concerns that conservation of Western Gray Whales could be negatively impacted by a failure to address longer-term, lesser-known issues.

Relevance to Sakhalin Energy and to other Companies

It is clear through both survey results and qualitative interviews that the WGWAP is relevant to and has a beneficial impact on Sakhalin Energy. Survey respondents evaluated the Panel's help to Sakhalin Energy to minimize its impact on Western Gray Whales at 8.32 out of a possible score of 10.[30] Stakeholder groups rated this question relatively uniformly with the exception of NGOs, who expressed less confidence by rating the Panel's help at 7.17. Qualitatively, interview respondents noted that the Panel has made a real contribution to Sakhalin Energy's mitigation measures. Interview respondents also pointed to benefits to Sakhalin Energy from engagement with the Panel, including significant benefits to the company's reputation and benefits from

[28] For the most recent example, the meeting report of for WGWAP-18 on page 19 states: "There was limited discussion of the 2018 plans because these were already fixed. However, with regard to plans for 2019 and beyond, the Panel had several concerns….The Panel requests that IUCN liaise with the Company with a view to ensuring that the Panel can provide input into the plans well before they are submitted, and before they are agreed between the two companies. The Panel also expressed concern that despite considerable work within the Joint Programme Task Force, there had been little if any feedback since the most recent meeting (JPTF-3) in November 2016."

[29] "The Panel also expressed concern that despite considerable work within the Joint Programme Task Force, there had been little if any feedback since the most recent meeting (JPTF-3) in November 2016." IUCN, 2017. *Report of the Western Gray Whale Advisory Panel at its 18th meeting.* p. 19.

[30] Survey Question 5

Sakhalin Energy's ability to access expert feedback and review for its mitigation plans.

Although other companies do not formally engage in the WGWAP process, qualitative interviews showed broad consensus that the Panel influences these companies' practices, even though it is difficult to verify and confirm how the Panel influences their practices. The Panel's transparent processes make it possible for other companies to review the Panel's reports and recommendations, and it is widely acknowledged that other companies pay attention to the Panel. Interviewees noted that other companies in Sakhalin are starting to take up Sakhalin Energy practices in its MMPs for seismic exploration. For example, one interviewee pointed out that ENL's approach to monitoring and mitigation during its 2015 seismic survey was patterned on Sakhalin Energy's approach in 2010, which had been informed by the WGWAP.[31]

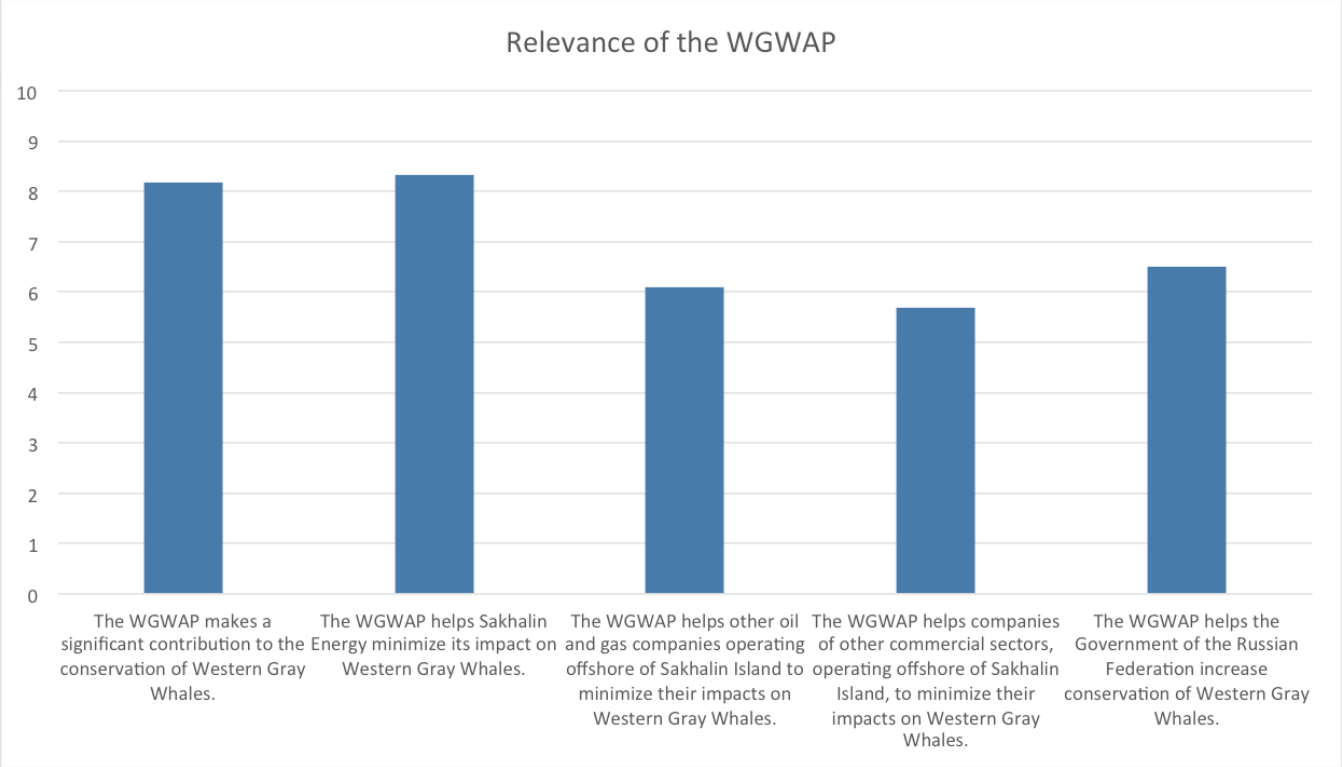

Figure 3. Survey questions 4, 5, 6 and 7

It is especially clear that the Panel influences ENL, which partners with Sakhalin Energy on the Joint Programme. ENL chose to develop its approach to mitigating impacts on Western Gray Whales internally, without the benefit of outside advice. Due to ENL's lack of transparency, it is impossible to say to what extent WGWAP activities have influenced its operations. ENL did not participate in WGWAP meetings as an observer until 2013. However, since that time, ENL has regularly sent 1-3 people to observe, which demonstrates that ENL finds some value from engagement with the WGWAP.

It is difficult to understand the extent to which WGWAP has influenced Russian companies operating offshore of Sakhalin. No Russian companies responded to our requests for an interview, and interviewees generally stated that they had little or no information about these companies' practices. However, interviewees pointed out that discrete mitigation measures, such as stationing marine mammal observers on ships, have been adopted by Russian companies in Sakhalin and in other regions, such as the Russian Arctic. Despite challenges in working with Russian companies, several interviewees – especially Russian interviewees – discussed the need to engage Russian companies proactively and involve them in the process, even if they do not formally join the WGWAP.

Survey results highlight the differences in perception between the WGWAP's relevance to conservation of

[31] To be complete, the influence flows in both directions: Sakhalin Energy's 2010 approach in turn benefited from ENL's approach in 2001. The Panel's increased use of modeling in particular was useful for ENL in 2015.

Western Gray Whales and Sakhalin Energy, and to other actors on the Sakhalin shelf. Overall, respondents demonstrated strong confidence that the WGWAP makes a significant contribution to the conservation of Western Gray Whales (8.17)[32] and even greater confidence that the WGWAP helps Sakhalin Energy minimize its impact on Western Gray Whales (8.32).[33] However, confidence fell sharply when asked if the WGWAP helps other oil and gas companies operating offshore of Sakhalin to minimize their impacts (6.1).[34] Notably, Sakhalin Energy staff themselves indicated the lowest confidence in the WGWAP helping other oil and gas companies operating offshore of Sakhalin by rating this question only a 4.38. Respondents also did not show confidence when asked if the WGWAP helps companies of other commercial sectors to minimize their impacts (5.69).[35]

From the beginning of the WGWAP, Sakhalin Energy has been a formal participant in the process, whereas other oil and gas companies operating offshore of Sakhalin Island have not been formally involved. The original TOR allowed for other companies to become parties to the WGWAP; lack of involvement of other companies has been recognized in previous evaluations. Sakhalin Energy became a party to the WGWAP under the terms of Sakhalin Energy's HSESAP . The HSESAP was agreed upon by Sakhalin Energy and its public and private lenders. Thus, Sakhalin Energy was mandated to support the WGWAP in order to receive financing for project development and construction. No such leverage existed for other companies. For example, ENL, which started development and construction contemporaneously with Sakhalin Energy, did not require public financing, and thus was not subject to similar requirements. Based on qualitative interviews, a clear understanding is shared, that leverage over Sakhalin Energy was required for the company to become a formal participant in the WGWAP, and the lack of leverage over other companies is the primary barrier to their participation. In other words, it is unrealistic to expect voluntary participation from other oil and gas companies operating offshore of Sakhalin, despite the benefits to Western Gray Whale conservation or company reputation that participation may bring. In order to gain the formal participation of other companies, some form of leverage – whether it be legislative or financial – is required.

[32] Survey Question 4
[33] Survey Question 5
[34] Survey Question 6
[35] Survey Question 7

Effectiveness of the WGWAP

This section discusses the extent to which the Panel's outputs have been leading to the intended outcomes of conservation of Western Gray Whales.

Summary Findings

1. Stakeholders have confidence in the clarity and implementation of WGWAP recommendations. Stakeholders have higher confidence in implementation of recommendations on Photo ID and population assessment, vessel traffic and Marine Mammal Observers. They have somewhat lower confidence in implementation of recommendations on noise, seismic exploration, and environmental monitoring.

2. IUCN and WGWAP published several scientific articles and other materials relevant to its work. Documentation of improved practices, through such materials, makes these practices more durable in Sakhalin in the future, and replicable in other areas.

3. Collaborations such as the UNDP/GEF project about best practices for monitoring and mitigation of impacts on large whales from offshore industrial activities provide a mechanism to scale up the impact of the WGWAP to improve the biodiversity conservation practices of oil and gas operations throughout the Russian Federation.

4. Access to information about oil company activities and Western Gray Whales is a critical factor for effectiveness of the WGWAP. Stakeholders now have a higher level of confidence in access to information. However, persistent concerns remain about receiving comprehensive information as requested, and on a timely basis. Reliance on information from the Sakhalin Energy/ENL Joint Programme on Gray Whale research and monitoring remains a significant barrier to access information.

5. In 2014, before the remit of the current evaluation, the relationships between WGWAP, IUCN, and Sakhalin Energy were at a low point, leading to concerns about the viability of the WGWAP. Thanks to extensive efforts at IUCN, Sakhalin Energy, and the WGWAP, these relationships have improved remarkably; individuals in each group should be commended for their efforts. Stakeholders have a high level of regard for staff at IUCN and Sakhalin Energy and for Panel co-chairs and members. Confidence in the relationships boils down to the people involved.

6. It is clear that Sakhalin Energy has demonstrated a commitment to the success of the WGWAP, even though Sakhalin Energy's own relationship with the WGWAP has fluctuated over the years depending on the individuals involved. However, a question remains about the extent to which the success of Western Gray Whale conservation, and the WGWAP as a means to that end, is embedded into Sakhalin Energy's corporate culture, or is dependent upon the individuals involved. It is incumbent upon Sakhalin Energy staff, who regularly engage with the WGWAP, to convey the positive value to their superiors.

7. A critical factor in the success of the WGWAP that has not yet received adequate attention is engagement with the Government of the Russian Federation. In recent years, IUCN has taken a lead in building relationships with Russian government agencies, to ensure that they are both informed about the WGWAP and invited to relevant WGWAP meetings. This is a positive step. Nonetheless, joint engagement by WGWAP parties with the Russian government remains low. The lack of engagement with the Russian government can have significant impacts on the Panel's effectiveness. For example, the lack of contacts with different levels of the Russian Government prevented efforts to encourage reconsideration of the denial of an acoustic monitoring permit that was essential to the MMP for Sakhalin Energy's 2018 seismic survey.

Panel Recommendations

The primary outputs of the WGWAP are "scientific, technical, and operational recommendations that it believes are necessary or useful for conserving the Western Gray Whale population."[36] The recommendations are agreed to by the consensus of Panel Members in reports developed after the official WGWAP meetings. Task Force recommendations are submitted to the full WGWAP for consideration; Task Forces cannot approve binding recommendations on their own. Secondary outputs of the WGWAP include reports, scientific journal articles, and meeting and task force reports.

Since its inception, the WGWAP has issued 595 recommendations.[37] The vast majority of these recommendations – 453, or more than 76% – have been made to Sakhalin Energy. Just over half of these recommendations – 302 – are listed as having been implemented/resolved satisfactorily or implemented/resolved satisfactorily but need to be tracked regularly. Over 17%, or 104 recommendations, were either rejected by Sakhalin Energy or no longer relevant but had not been implemented satisfactorily at the time it became moot. Twenty-seven recommendations are currently listed as open.

In the period of 2015-17, the WGWAP issued 45 recommendations. Of these, 17 are closed, having been implemented/resolved satisfactorily. Two recommendations were either rejected by Sakhalin Energy or no longer relevant but had not been implemented satisfactorily at the time it became moot. Twenty-four recommendations from this time period are listed as open.

It is important to note that a purely numerical evaluation of the implementation of recommendations is inadequate. Implementation of several recommendations that have minor impact on conservation of Western Gray Whales has the potential to be outweighed by the rejection of one recommendation that would have major impact on conservation of Western Gray Whales.

Through the survey and interviews we assessed the perception, across stakeholder groups, about how well recommendations have been implemented. While Panellists determine whether recommendations are adequately implemented or not, all stakeholders have views on the quality of implementation. On the whole, survey respondents indicated confidence in the clarity of WGWAP recommendations. When asked if the recommendations, advice and other outputs delivered by the WGWAP are clear, practical, and useable, respondents answered with a rating of 7.76 out of a possible 10.[38] Interestingly, lenders rated this question the lowest, providing a rating of 6.5.

Respondents also indicated overall confidence in the implementation of WGWAP recommendations. They rated the implementation of WGWAP recommendations a 7.65 out of a possible 10.[39] When asked to rate how well different categories of recommendations have been implemented, respondents rated implementation of recommendations on traffic and marine mammal observers (7.87)[40] and photo ID and population assessment (7.84)[41] highest, and implementation of recommendations on noise (7.02) and environmental monitoring (6.89)[42] lowest. NGOs, Panel members, and outside scientists all rated implementation of recommendations on environmental monitoring relatively low; NGOs and outside scientists rated implementation of recommendations on noise low. Standard deviation in answers to these questions was relatively high, showing greater variation among answers. Respondents generally had confidence that if recommendations were not implemented, responsible stakeholders explained their decisions clearly (7.22).[43]

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36 https://www.iucn.org/sites/dev/files/content/documents/tor_wgwap_2017-2021.pdf

37 This figure includes 144 recommendations from the ISRP and Vancouver workshop in 2005-6 before the first meeting of the WGWAP.

38 Survey Question 15

39 Survey Question 21

40 Survey Question 20

41 Survey Question 19

42 Survey Question 16

43 Survey Question 22

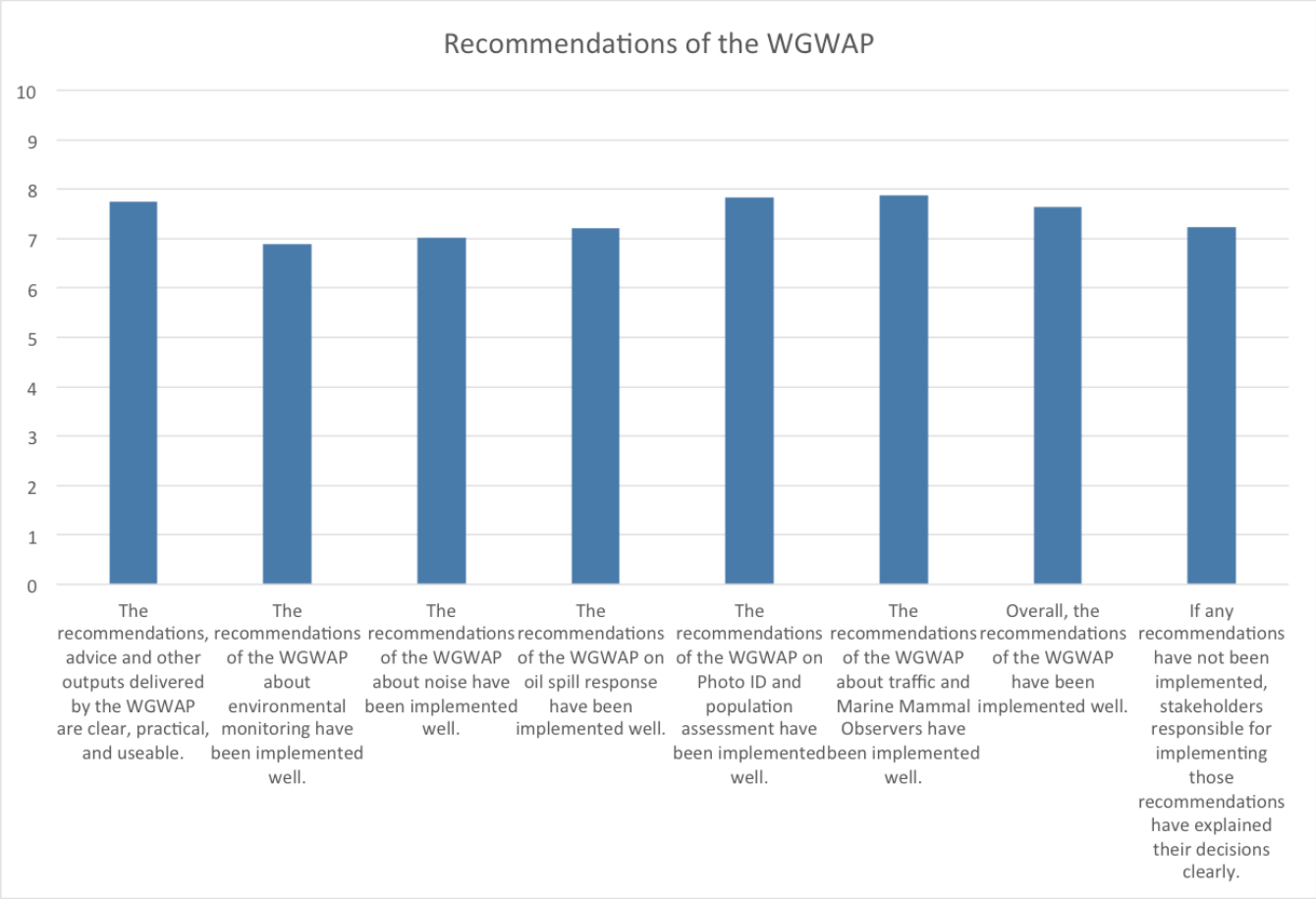

Figure 4. Survey question 22

Qualitative interviews showed the perception that Sakhalin Energy and other stakeholders implemented some important recommendations well, especially in regards to improving the understanding of Western Gray Whales through photo ID and genetics programmes. For seismic exploration, qualitative interviews showed a perception that Sakhalin Energy implemented some recommendations and did not implement other recommendations (see case studies for a more detailed exploration of these issues). We also heard concern that Sakhalin Energy and other stakeholders have failed to implement recommendations related to feeding ecology (see case study).

Qualitative interviews showed that several factors play a role in the implementation of WGWAP recommendations. Increased use of the Task Force model – especially through the NTF – has helped produce better recommendations. Task forces allow Panel members, company representatives, and other invited specialists to explore challenging issues collaboratively, developing solutions to minimize impacts. Task force results are then brought before the entire Panel. Without the collaborative space created by task forces, Panel meetings can be seen as an antagonistic examination of company practices. Thanks to the fact that task forces bring their results to the full Panel, the WGWAP still maintains needed oversight.

Statements and Letters

The WGWAP issues statements and letters on an ad-hoc basis; these statements and letters generally represent a breakdown in the standard system of issuing recommendations, due to the urgency of an issue, time constraints,

or Panel members' concerns about company responses.[44]

During the period covered by this evaluation (January 2015-June 2018), the Panel issued three public statements. One statement expressed concern about then-proposed seismic activity on the Sakhalin shelf in 2015, one statement expressed concern about the potential impacts of ENL's ongoing pier construction project in Piltun Lagoon, and one statement concerned acoustic monitoring during Sakhalin Energy's 2018 seismic survey.

These statements and letters highlight the Panel's conclusions in those instances when individual recommendations are not adequate to the Panel's level of concern. In each of the cases, the statements regarded potentially critical and large-scale impacts on conservation of Western Gray Whales. These statements and letters represent important public positions taken by the Panel.

Sakhalin Energy formally responded to the statements and letters relevant to the company; ENL did not. Sakhalin Energy made modest changes to its plans, although it did not comply with the primary recommendations to postpone the seismic survey (2015) or to "make every effort" to ensure that acoustic monitoring takes place (2018).[45] We are not aware of any changes that ENL made as a result of the statements and letters. However, qualitative interviews showed that all stakeholder groups pay close attention to the content of WGWAP statements and letters, and these statements and letters are important to future deliberations among the stakeholder groups. As such, we believe the outputs of statements and letters on critical issues do contribute to the Panel's effectiveness and intended outcomes.

Brochures and Publications, Scientific Papers, Technical Reports, and Articles

From time to time, IUCN, the WGWAP, and associated stakeholders publish materials that are a result of the WGWAP's work. During the time period covered by this evaluation, published materials[46] included:

- *Western Gray Whale Advisory Panel: Stories of Influence;*
- A series of scientific articles on seismic surveys and Western Gray Whales, published in *Endangered Species Research;*
- *Effective planning strategies for managing environmental risk associated with geophysical and other imaging surveys: A resource guide for managers;*
- "New Resource Guide Maps out more Effective Planning Strategies for Seismic Survey Techniques and Environmental Imaging," *IUCN Marine News;*
- "Whale protection during offshore oil and gas mapping in Sakhalin," *IUCN Marine News.*
- Summaries of the Panel's work published in the IWC Scientific Committee's reports;
- A scientific article on entanglement risk from commercial fisheries, "Entanglement risk to western gray whales from commercial fisheries in the Russian Far East," published in *Endangered Species*

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[44] "WGWAP Statement of concern with respect to proposed seismic activity on the Sakhalin shelf in 2015," May 8, 2015; IUCN, 2016. *Statement of Concern from the IUCN's Western Gray Whale Advisory Panel (WGWAP) with respect to the potential impacts of Exxon Neftegas Limited (ENL) ongoing pier construction project in Piltun Lagoon on gray whales, including mothers and calves, and their critical habitat around the lagoon entrance.* "Panel Statement related to acoustic monitoring during Sakhalin Energy's 2018 seismic survey," May 17, 2018. Public statements and letters and also other letters sent to various stakeholders can be found at https://www.iucn.org/western-gray-whale-advisory-panel/panel/statements-and-letters

[45] The company's response to the Panel was: "The Company thanks the Panel for their contributions in development of the Monitoring and Mitigation Plan (MMP) for the 2018 Seismic Survey. Much effort was made to develop the MMP, and the Company was ready for its full implementation. However, the service Providers (National Scientific Marine Biology Centre and Pacific Oceanological Institute) are not permitted to deploy environmental acoustic monitoring this season as it had been permitted to do for many previous seasons, and there are no other permitting options available to the Company at this time. Hence Sakhalin Energy will not be able to implement the planned environmental acoustic monitoring." https://www.iucn.org/sites/dev/files/wgwap_se_response_en.pdf

[46] Links for these publications can be found at https://www.iucn.org/western-gray-whale-advisory-panel/resources.

Research.[47]

Documentation of improved practices through such materials makes these practices more durable in Sakhalin in the future, and replicable in other areas. These materials help expand the impact of the WGWAP beyond Sakhalin, so that the lessons learned through the WGWAP and its recommendations can be utilized by regulators and oil and gas operators around the world, thus leading to greater conservation of marine mammals. Qualitative interviews highlighted that the WGWAP is sometimes referenced as a model in similar situations in other countries where industrial activity is controversial. Mining companies and other oil and gas companies have inquired with both the companies involved and IUCN about the WGWAP experience and how it might help them in managing their own environmental challenges. NGOs note that colleagues who work on whale issues are familiar with the panel, but within the conservation movement, there is not much awareness of it, or how powerful it has been. The work of the WGWAP is well known and well received at the IWC, especially on seismic surveys. We understand that seismic guidelines developed by the WGWAP have also informed work in Ireland and Greenland.

Collaborations

IUCN, the WGWAP, and Sakhalin Energy collaborated with a UN Development Programme/Global Environmental Facility/Russian Federation Ministry of Natural Resources and Ecology Project "Mainstreaming biodiversity into Russia's energy sector policies and operations" to develop "Principles and Guidelines for the Monitoring and Mitigation of Impacts on Large Whales from Offshore Industrial Activity in Russian Waters," for use by the Ministry of Natural Resources in developing policy on best practices.

This collaboration provided an important opportunity for lessons learned from the WGWAP process to inform Russian government policy and practices. The principles and guidelines are under consideration by the Ministry of Natural Resources and are pending approval. If approved, the principles and guidelines provide a mechanism to scale up the impact of the WGWAP to improve the biodiversity conservation practices of oil and gas operations throughout the Russian Federation.

Meeting Reports

IUCN and the WGWAP publish reports for each meeting, including full Panel meetings and meetings of Task Forces. These reports are exceptionally important for transparency of the WGWAP process, which is key to the WGWAP's credibility and independence (see chapter on independence for further discussion). The meeting reports document details of the discussions that are not captured in the WGWAP's recommendations. These details are important to understanding the recommendations and to achieving the Panel's outcomes.

However, meetings are not publicized. Some qualitative interviews indicated that posting long meeting reports is not adequate to ensure support for panel recommendations; IUCN should consider publicizing the WGWAP's primary recommendations through the media nationally in Russia and locally in Sakhalin. Such media, according to the qualitative interviews, would help ensure better compliance with primary recommendations by generating public support for the work of the Panel.

Critical Factors for Effectiveness

Both the survey and qualitative interviews identified several critical factors important to the WGWAP's effectiveness:

Access to Information

In its role to provide independent scientific and technical advice, the WGWAP relies on information provided to it

[47] Lowry LF, Burkanov VN, Altukhov A, Weller DW, Reeves RR. (2018). *Entanglement risk to western gray whales from commercial fisheries in the Russian Far East*. Endang Species Res 37:133-148. https://doi.org/10.3354/esr00914.

by Sakhalin Energy, IUCN, other oil and gas companies, and other stakeholders. Access to information underpins the WGWAP's effectiveness.

Meeting reports and qualitative interviews showed that concerns about receiving full information in a timely manner frustrate Panel members.

Previous evaluations and meeting reports have pointed out that concerns about access to information have persisted and fluctuated since the Panel's creation. The 2011 evaluation, for example, quoted the meeting report of the 2008 meeting:

> *the Panel has set forth its concerns and frustrations in regard to the WGWAP process and how it has functioned to date. The lack of recent progress on various matters, primarily as a result of inadequate provision of data and information, has led Panel members to question whether the process is serving its central purpose: to promote the necessary protection for this critically endangered whale population and thus improve its chances for full recovery.*[48]

Following the WGWAP-5 meeting, information timing and quality improved enormously, and the Panel noted it at the next WGWAP meeting.[49]

Yet in 2015, the problem resurfaced in a more serious form. Due to not receiving requested information, IUCN cancelled a formal WGWAP meeting, replacing it with an informal working meeting. In the WGWAP-17 meeting report the following year, Panellists complained that "the Panel's lack of ready access to the 2015 non-seismic acoustic data is limiting and frustrating."[50]

Again at the WGWAP-18 in November 2017, Panellists expressed concern about the information provided, especially with regards to open recommendations about environmental monitoring and feeding ecology.

Lack of adequate and timely access to information and data from the Joint Programme or ENL is of particular concern. Meeting reports and qualitative interviews raised concerns that only conclusions were provided to the Panel, without the data needed to review the information or an explanation of how the analysis was conducted. This made it difficult for the Panel to provide independent verification of the conclusions. Many also noted that even this limited information arrived too late before meetings to allow for serious analysis.

The WGWAP-18 meeting report observed:

> *The Panel was provided with a document (WGWAP-18/20) concerning the Joint Programme's acoustics and hydrological work in the 2016 season, although this document included only a few summary figures and data on the 2016 results. The document refers to a set of files that contains all of the acoustic data for 2016 in the formats previously agreed, but unfortunately these data were submitted to the Panel for its consideration only one day before the beginning of the WGWAP-18 meeting. Therefore, the Panel was unable to draw any conclusions about the noise levels in 2016. As a consequence, detailed consideration and discussion had to be postponed and the Panel's schedule and workplan in 2018 revised to reflect the delay. It is important to note that a similar sequence of events occurred during the lead-up to WGWAP-17, so formal consideration of the 2015 acoustics data had to be postponed until the NTF-12 meeting in March-April 2017.*[51]

Reliance on information from the Joint Programme is a significant barrier to the Panel's analysis and recommendations. The Joint Programme provides a significant amount of scientific data necessary for the WGWAP's deliberations; however, the Joint Programme requires the agreement of ENL for Sakhalin Energy

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48 Turner, S.D., 2011. *Evaluation of the Western Gray Whale Advisory Panel.* Gland: IUCN, pp. 9-10.

49 Ibid.

50 IUCN, 2017. *Report of the Western Gray Whale Advisory Panel at its 17th meeting*, p. 15.

51 IUCN, 2017. *Report of the Western Gray Whale Advisory Panel at its 18th meeting,* p. 8. This paragraph of the report is followed by three more citing other information problems with acoustic recording and data from 2017 which are not quoted here for purposes of brevity.

to provide information to the WGWAP. Qualitative interviews suggested that this information is sometimes provided, and sometimes not. Some stakeholders raised concerns that Sakhalin Energy can use the Joint Programme as an excuse to not share data, or as a scapegoat to blame another party. Concerns about access to information from the Joint Programme was also raised as a priority issue in numerous survey comments.

The challenge of access to information from the Joint Programme is a long-standing issue that has been identified time and again by Panel members and through WGWAP evaluations. It is not clear why Sakhalin Energy has not prioritized a renegotiation with ENL of policies to ensure that all data gathered by the Joint Programme is available to the WGWAP. The lack of effort to solve this issue raises concerns about the company's commitment to providing WGWAP members with the information they need.

At the same time, we did not see evidence that IUCN or the Panel had experimented with different timings of meetings to allow for proper presentation of data, or different methods of sharing data informally in between meetings. The move from two meetings per year to one did not help, since with two meetings the Panel was able to review plans in the spring and review results in the fall.

Nonetheless, survey respondents show a higher level of confidence in access to information than in previous years. Survey respondents rated their confidence in information provided to the Panel in contributing to WGWAP's effectiveness a 7.61 out of 10.[52] Panel members showed slightly less confidence in the information provided, offering a rating of 7.17; NGOs demonstrated the least confidence, with a rating of 5.67.

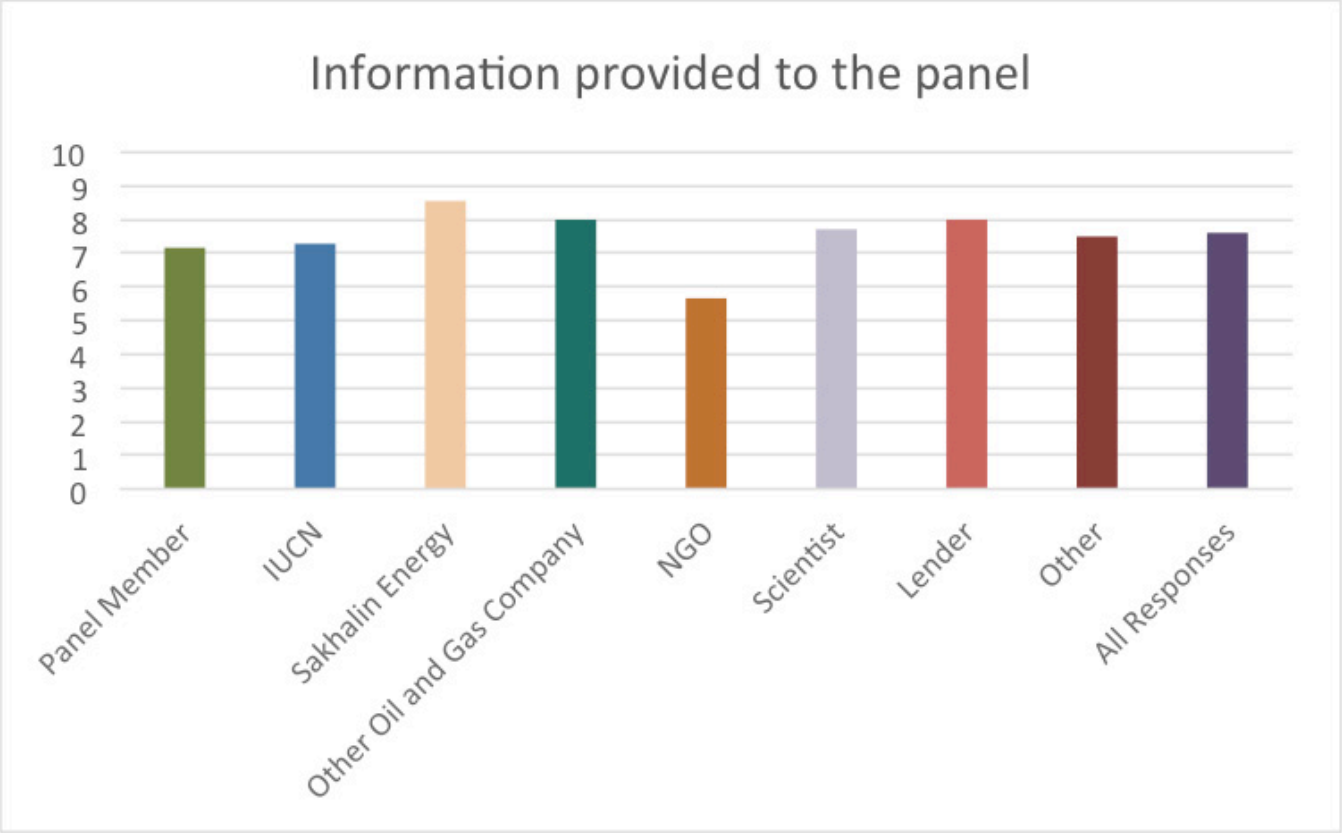

Figure 5. Survey Question 26

Relationships between WGWAP, IUCN, and Sakhalin Energy

[52] Survey Question 26

In 2014, before the remit of the current evaluation, the relationships between WGWAP, IUCN, and Sakhalin Energy were at a low point, leading to concerns about the viability of the WGWAP. Thanks to extensive efforts at IUCN, Sakhalin Energy, and the WGWAP, these relationships have improved remarkably; individuals in each group should be commended for their efforts.

Qualitative interviews showed a high level of regard for staff at IUCN and Sakhalin Energy and for Panel co-chairs and members. In particular, interviewees appreciated the individuals at IUCN and Sakhalin Energy now responsible for the WGWAP and attributed the turnaround in relationships to those individuals' efforts. Interviews showed that confidence in the relationships boils down to the people involved.

Survey respondents validated this assessment, rating the relationship between WGWAP and IUCN a healthy 8.7 out of 10[53] and the relationship between WGWAP and Sakhalin Energy a healthy 8.19 out of 10.[54]

However, this dependence on individuals involved also raises concerns about the stability of these relationships with staff turnover. Sakhalin Energy is currently experiencing a staff change in its Health, Safety, and Environment Manager, a position critical to the success of the WGWAP. Qualitative interviews showed concern about whether future staff people in relevant positions will be committed to Western Gray Whale conservation, and the WGWAP as an important means to that end. In the case of Sakhalin Energy, given the increasing management role of Gazprom – which has not had the depth of history and relationship with WGWAP as Shell – it is critically important for company staff to convey the positive added value of WGWAP to their superiors and to ensure a common commitment to the WGWAP's success.

It is clear that Sakhalin Energy has demonstrated a commitment to the success of the WGWAP, even though Sakhalin Energy's own relationship with the WGWAP has fluctuated over the years depending on the individuals involved. However, a question remains about the extent to which the success of Western Gray Whale conservation, and the WGWAP's role in it, is embedded into Sakhalin Energy's corporate culture, or is dependent upon the individuals involved. Qualitative interviews showed concern about whether the understanding of the value of positive engagement with the WGWAP is shared by upper management. To address this problem, it is incumbent upon Sakhalin Energy staff who regularly engage with the WGWAP to convey the positive value to their superiors.

Engagement with other companies

As identified in the chapter on relevance, engagement with other companies active on the Sakhalin shelf is desired but is not occurring at the necessary level. ENL engages with the Panel by sending observers to meetings; however, the Panel does not receive necessary information about ENL's activities to render scientific conclusions. The engagement of other oil and gas companies and of companies from other sectors in the region is even less. Few recommendations have addressed other companies, likely due to the lack of a formal engagement mechanism with these companies or a requirement for the companies to respond.

Survey responses show a strong differential between perceptions of engagement by companies. Stakeholder groups evaluated Sakhalin Energy's engagement at a healthy 8.32 out of a possible score of 10,[55] the engagement of other oil and gas companies at just 4.25,[56] and the engagement of companies from other commercial sectors at a measly 2.68.[57]

[53] Survey Question 46
[54] Survey Question 40
[55] Survey Question 29
[56] Survey Question 30
[57] Survey Question 31

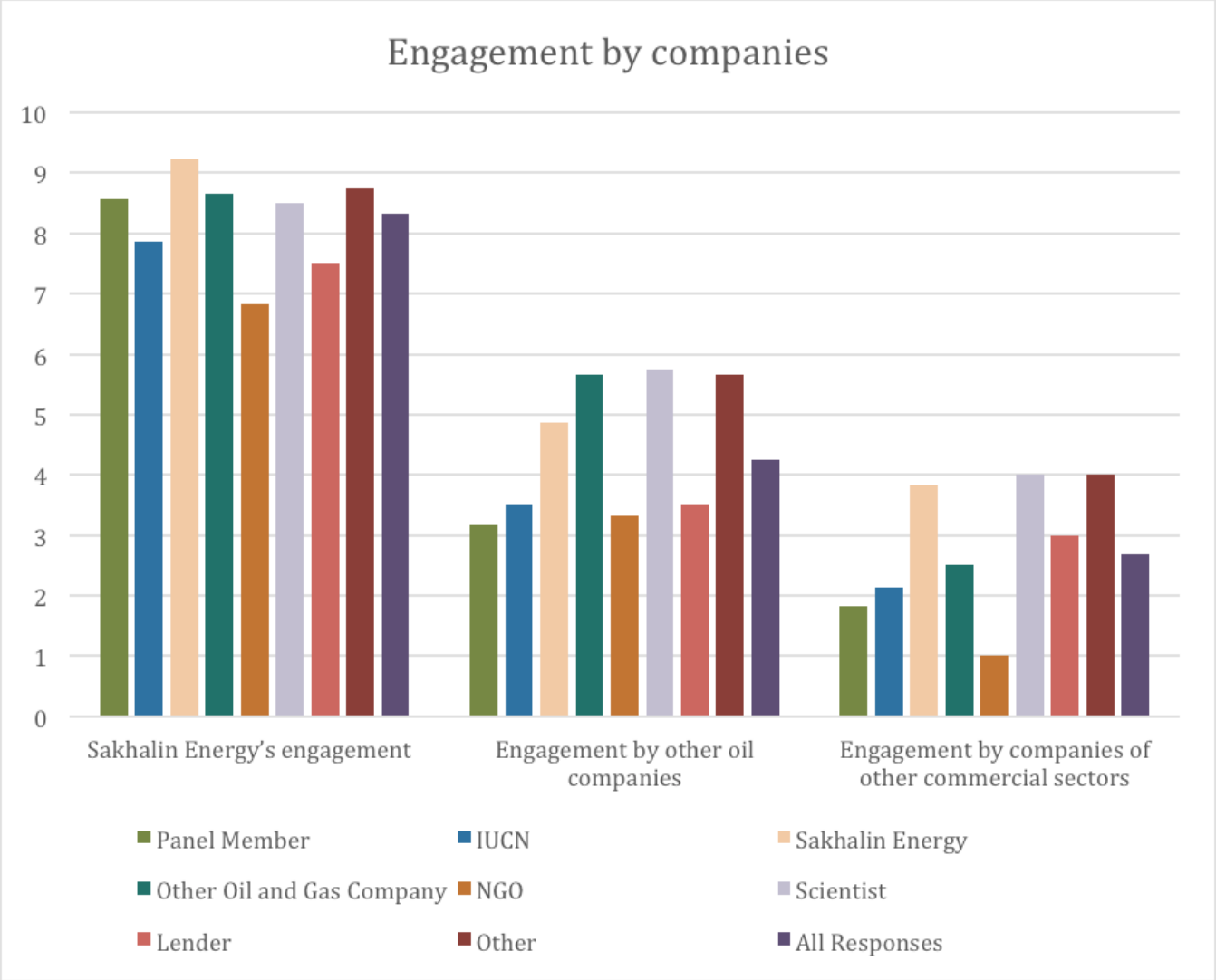

Figure 6. Survey questions 29, 30 and 31

In 2016, the Panel issued a public statement to ENL and Russian Federation authorities to express its "extreme concern" about the potential impacts of ENL's pier construction project in Piltun Lagoon on Gray Whales and their critical habitat. IUCN brokered discussions between NGOs and ENL at several meetings. Unfortunately, it is not evident whether the Panel's statement, which included recommendations to Russian authorities, or the meetings, had any impact.

Notably, and with the encouragement of ENL and Sakhalin Energy, Gazprom Neft has recently started to attend meetings of the Russian Government's IWG for conservation of the Okhotsk-Korean Population of Gray Whales (see below for explanation). Rosneft reportedly also attends. Sakhalin Energy and ENL have also discussed the possible participation of Gazprom Neft in the Joint Programme. It is positive to see another oil and gas company active on the Sakhalin shelf engage in discussions about Western Gray Whale conservation. However, Gazprom Neft has not yet chosen to engage with the WGWAP, which would in turn allow the company to access a diverse range of expertise that it cannot access through either the IWG or the Joint Programme, and help manage its reputational risk. A question remains, therefore, about how parties to the WGWAP can encourage and secure the engagement of companies like Gazprom Neft in the WGWAP.

Engagement with the Russian Government

Previous evaluations have regularly cited the need for strong engagement with the Government of the Russian Federation. Russian government ministries and agencies – especially the Ministry of Natural Resources – are responsible for environmental regulations governing the oil and gas industry offshore of Sakhalin. As such, the WGWAP's recommendations would be further enhanced and solidified when supported by Russian government agencies.

When the Panel was first created, the WGWAP did not engage effectively with the Russian government. In recent years, IUCN has taken a lead in building relationships with Russian government agencies, to ensure that they are both informed about the WGWAP and invited to relevant WGWAP meetings. This is a positive step.

Nonetheless, Russian government engagement with the WGWAP remains low. We note that Russian government representatives did not make themselves available for interviews for this evaluation. Qualitative interviews showed that many Panel members profess to not have an informed understanding about the Russian government's policies on minimizing environmental impacts from oil and gas development.

In 2009, the Russian government created the IWG for Conservation of the Okhotsk-Korean Population of Gray Whales under the Ministry of Natural Resources. The previous evaluation pointed out that the creation of the IWG was partially inspired by the WGWAP. Unfortunately, the previous evaluation found that the relationship between the IWG and the WGWAP has never been strong, although IUCN made efforts in 2014-15 to strengthen the relationship. The IWG has now gone through its own changes and is no longer convened by the Ministry of Natural Resources. Instead, an informal version of the IWG has convened in recent years at the invitation of ENL and Sakhalin Energy. Even with its current informal status, the IWG plays an important role for dialogue between the companies and the Russian government on Western Gray Whale issues, including smoothing the route for obtaining necessary permits. It is surprising to us that, despite its close relationship with the Russian government through the IWG, Sakhalin Energy has not used this opportunity to highlight the role of the WGWAP and encourage stronger relations between the WGWAP and the Russian government.

It is important to note the difference between Russian federal government agencies and the Sakhalin Region government. The Russian federal government oversees most policies relevant to offshore oil and gas development and to the marine environment. The Sakhalin regional government is a critically important stakeholder responsible for environmental protection on the terrestrial portion of Sakhalin, whereas the federal government is responsible for the offshore environment. The Sakhalin government, especially through its Environmental Council and its Biodiversity Expert Group, has engaged with the WGWAP, though that engagement has declined in recent years due to reorganisation and turnover in staff and leadership within the Sakhalin government.

Survey data validates these concerns. Respondents evaluated the engagement of the Russian Government in the WGWAP at just 4.74 out of 10[58] and the relationship between the WGWAP and the Russian Government at just 4.5.[59] They evaluated the engagement of the Sakhalin Government at just 5.52 out of 10[60] and the relationship between the WGWAP and the Sakhalin Government at just 5.18.[61]

The lack of engagement with the Russian government can have significant impacts on the Panel's effectiveness. For example, a lack of understanding of the potential negative impacts on whales from an overly large exclusion zone may have contributed to the government's decision in 2015 to establish a 2 km exclusion zone (see case studies). Lack of follow up to the government's decision to deny a 2018 permit needed for Sakhalin Energy's MMP risks a repeat of the problem if parts of the Russian Federation government do not understand the importance of acoustic monitoring for compliance with the MMP.

[58] Survey Question 32
[59] Survey Question 43
[60] Survey Question 33
[61] Survey Question 40

A turning point occurred in fall 2014, when the WGWAP held a Panel meeting in Yuzhno-Sakhalinsk. Since then, the WGWAP has held a meeting each year in Moscow. The meeting location facilitates participation by Russian government officials as well as by other Russian stakeholders, including other Russian stakeholders such as NGOs, research institutes, and companies; this should be encouraged and continued. IUCN has taken a lead role in building relationships with the Russian government and should continue to do so. Simultaneously, several stakeholders suggested that in addition to the positive outreach efforts to the Russian government led by IUCN, Panel members – especially Russian Panel members – can play a larger role in engagement with the Russian government. Additionally, the parties should consider collaborative work involving Sakhalin Energy, IUCN, and the WGWAP to jointly engage the Russian government in WGWAP initiatives.

WGWAP membership

Currently, the WGWAP is comprised of 10 prominent international scientists. All 10 scientists specialize in cetacean research, covering a range of expertise including population dynamics, biology, conservation, behavioural ecology, noise and bioacoustics, risk quantification, and marine food web dynamics.

In 2015, IUCN and the WGWAP conducted an application process to review existing membership and invite new members to participate in the Panel. This process allowed IUCN and the WGWAP to both involve several new members necessary for the Panel's expertise and to confirm the time commitments of Panel members.

On the whole, the membership of the WGWAP is highly respected for its expertise. Survey respondents rated the quality of Panel membership a 7.75 out of a possible score of 10[62] and they rated the engagement of Panel members at 8.43.[63]

Qualitative interviews validated the high level of respect afforded to the Panel. The fact that the Panel has engaged world-renowned cetacean scientists as members of the Panel is fundamental to its success.

Qualitative interviews also highlighted two areas where the Panel may benefit from additional expertise. The Panel does not currently have a member who is a specialist on oil spills (a former Panel member is now an Associate Scientist to the Panel on oil spill response issues). In order to ensure effective focus on oil spill issues, especially prevention, it is worth considering the panel's need to increase its capacity in oil spill prevention.

Qualitative interviews also pointed to the value of a Panel member with direct experience working for the oil industry, ideally with engineering and/or Health, Safety and Environment expertise. Some interviews pointed to a challenge where the Panel is entirely dependent on Sakhalin Energy to determine whether a recommendation is realistic for implementation. A Panel member with industry expertise can help both with preparing recommendations to ensure that they are realistic and with evaluating company responses. The challenge will be identifying a person for this role who is able to act independently of industry, given historical relationships within the oil and gas industry. Nonetheless, if independence from industry is highlighted as a primary criterion for selection, it may be worthwhile to consider engaging such a Panel member.

[62] Survey Question 35

[63] Survey Question 36

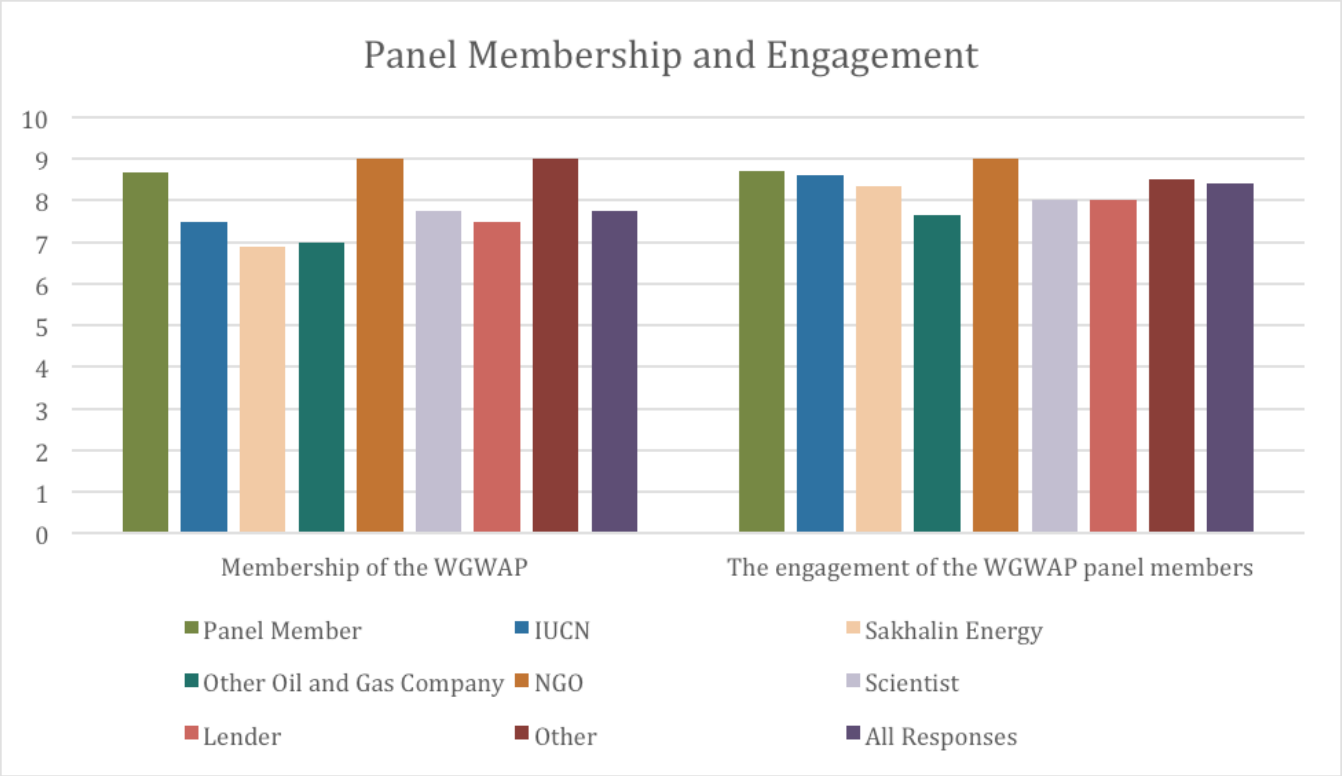

Figure 7. Survey questions 35 and 36

Role of Lenders and their Consultants

Lenders and their consultants have played an important role in the WGWAP since the very beginning of the process. It is due to lender financing, and requirements for the WGWAP included in Sakhalin Energy's HSESAP provided to lenders, that the WGWAP exists. Qualitative interviews repeatedly underscored the understanding that Sakhalin Energy's engagement with the WGWAP is due to the company's need to secure public and private financing for development of the Sakhalin-2 project.

Lenders continue to be seen by a range of stakeholders as critical to the success of the WGWAP. While the role is not expressly stated in the TOR, many stakeholders see lenders, *de facto*, as an arbiter of disputes between WGWAP and Sakhalin Energy, although this role has been rarely, if ever, used. Lenders themselves do not engage deeply in WGWAP, although they regularly attend as observers. Lender consultants, specifically Ramboll, have engaged extensively with WGWAP since the beginning. In addition to participating in the regular Panel meetings, lender consultants started participating in the NTF in 2015. This is a positive development, as the lender consultants can provide needed information to both Panel members and company representatives about compliance standards required by the lenders, including IFC Performance Standards. Participation in the NTF can also provide the lender consultant needed detail that ensures lenders are well informed and are able to monitor compliance with the HSESAP and lender standards. Qualitative interviews showed a desire among some stakeholders that lenders play a more active role in ensuring compliance with WGWAP recommendations. Stronger and more vocal engagement by lenders in the WGWAP would make it more likely that critically important recommendations are implemented.

Role of Observers

Stakeholders broadly see the role of NGO observers to the WGWAP as a positive contribution to the Panel's efforts. Indeed, all stakeholders credit NGOs with the public pressure that was necessary to first create the WGWAP. Since then, several NGOs have consistently engaged with the Panel as observers and continue to raise issues of concern at meetings. Qualitative interviews demonstrated respect from all parties for the role of NGOs.

We noted that the work of the WGWAP is not well known among Russian NGOs who do not regularly follow the work of the Panel.

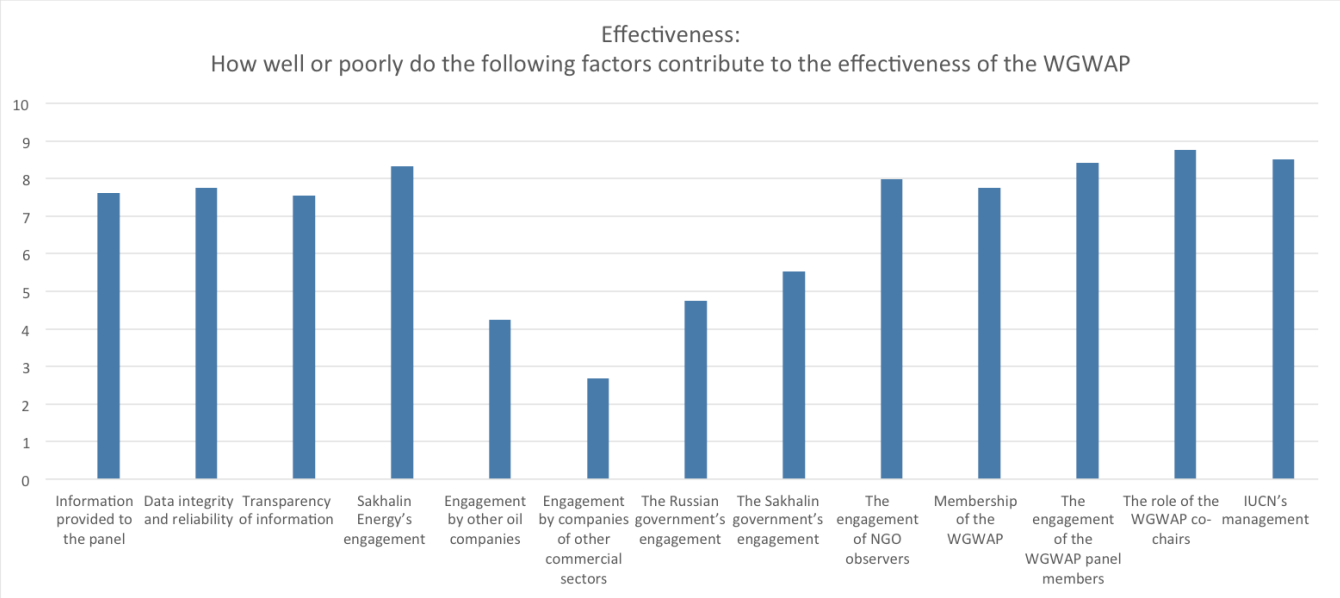

Figure 8. Survey questions 26, 27, 28, 29, 30, 31 ,32, 33, 34, 35, 36, 37 and 38

From a lender and company point of view, stakeholders noted that relationships with NGOs have shifted, over the years, from one of criticism and risk to corporate reputation to one of cooperation and engagement with the Panel as a means of reaching their goals of environmental protection.

Survey data validates this observation; respondents evaluated the engagement of NGO observers at 7.97 out of 10[64] and the relationships between the WGWAP and NGOs at 8.14.[65]

In addition to NGO observers, who receive the bulk of attention as observers, we heard positive feedback from qualitative interviews about the presence and engagement of other observers, especially Russian scientists who are not members of the Panel.

[64] Survey Question 34

[65] Survey Question 45

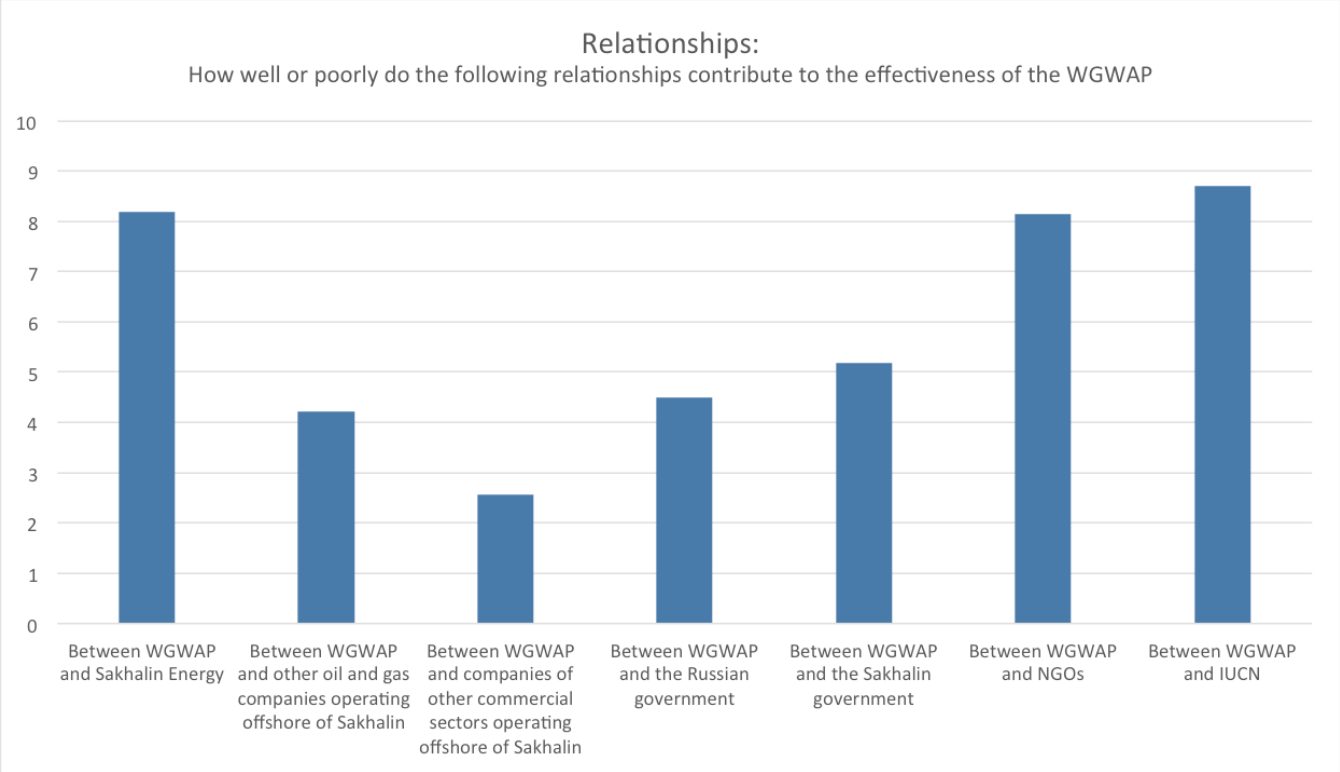

Figure 9. Survey Questions 40, 41, 42, 43, 44, 45, 46

Case Study: Seismic Survey Exclusion Zones

Discussion of proposed exclusion zones for Sakhalin Energy's 2018 seismic survey is a positive example of Panel members and Sakhalin Energy working collaboratively through the NTF to find a solution that, based on available knowledge, minimizes impacts on Western Gray Whales. An exclusion zone is important to identify a precautionary estimate of the distance over which noise could physically harm Gray Whales. Please note that the distance established for an exclusion zone differs depending on the power of the seismic airguns, and thus can differ from survey to survey. In 2015, Sakhalin Energy was required by the Russian Government State Environmental Expert Review (SEER) to apply an exclusion zone of two kilometres. However, a larger exclusion zone extends the overall duration of the seismic survey, since the seismic survey has to be shut down more often. This can particularly affect Western Gray Whales, who migrate to feeding areas in the late spring/early summer, and thus seismic surveys extending later into the season will affect greater numbers of whales. This creates a challenge where the benefit to an individual whale through a larger exclusion zone to prevent damage may be in conflict with the benefit to the overall whale population, since extending the seismic survey later can harm larger numbers of whales.

The 2015 decision for a two kilometre exclusion zone also created consternation because ENL was only required by the Russian government to comply with a 500-metre exclusion zone during the same 2015 season. The Panel later suggested that substantially larger shut-down zones may be appropriate; qualitative interviews showed that some stakeholders believe that this 500-metre exclusion zone by ENL was not adequate to protect Western Gray Whales.

In preparation for the 2018 seismic survey, participants in the NTF reviewed the data to determine an appropriate exclusion zone that is precautionary in terms of harm to individual whales, while not so large as to unnecessarily extend the seismic survey longer. At the request of the NTF, the Panel approved a recommendation for a one-kilometre exclusion zone. This one-kilometre exclusion zone was also approved by the Russian Government through the State Environmental Expert Review.

Case Study: 2015 Seismic Surveys

In 2015, Sakhalin Energy and ENL conducted seismic surveys in the Western Gray Whale feeding area during the same season, which created significant concerns among Panel members about potential impacts on Western Gray Whales. As a result, the WGWAP issued a special statement of concern[66] that concluded that, "from a precautionary perspective, Sakhalin Energy should not conduct the survey in 2015 but should postpone it to 2016." Sakhalin Energy did not comply, and chose to move forward with its seismic survey plans. Several factors led to this failure, offering lessons for the future.

Poor information flow between Sakhalin Energy and WGWAP contributed to the problem. At the time, relations between Sakhalin Energy, IUCN, and WGWAP were at a low point. Sakhalin Energy failed to provide requested information to the WGWAP in a timely manner in spring 2015, preventing the Panel from assessing Sakhalin Energy's modifications to its MMP on a timely basis. As a result, IUCN cancelled a planned Panel meeting, choosing instead to hold an informal working meeting. The Panel stated that it was not able to evaluate the feasibility of Sakhalin Energy's modifications to its MMP, or the consequences of these modifications on Gray Whales off of Sakhalin.

Lack of communication with ENL, as the other major operator conducting seismic surveys, was a driving factor behind the challenge. The WGWAP first learned about the planned ENL survey in October 2014, more than a year after it had started working with Sakhalin Energy on its seismic survey MMP for 2015. The Panel did not receive detailed information from ENL that would have been necessary to evaluate potential cumulative impacts on Western Gray Whales from the surveys, forcing the Panel to "undertake additional calculations in the absence of reliable information from ENL so that it could advise Sakhalin Energy on the most appropriate strategy"[67] at a later date.

In March 2015, the Panel learned that ENL and Sakhalin Energy had agreed to stagger their surveys, moving the start date of Sakhalin Energy to later in the season, after the conclusion of the ENL seismic survey. This change avoided ensonification of the entire feeding area at one time. However, this decision also led to complications by extending Sakhalin Energy's survey later into the season. The decision likely impacted a greater number of Western Gray Whales who had arrived to feed, and required Sakhalin Energy to make adjustments based on tidal conditions to shoot seismic at night, which increased risk to Western Gray Whales.

Finally, the timing of surveys during the same year caused problems in the quality of implementation of Sakhalin Energy's MMP, since experienced resources were stretched due to demand from both surveys, and hence the company encountered challenges finding qualified marine mammal observers needed to implement the plan.[68] The Panel noted the need for Sakhalin Energy to focus greater effort on preparatory training, a lesson which appears to have been taken into consideration prior to Sakhalin Energy's 2018 seismic survey.

Since the time of the 2015 seismic surveys, individuals involved in Sakhalin Energy have made diligent efforts to keep the Panel and the NTF better informed about upcoming plans. These efforts appear to have had significant positive impact on the ability of the NTF and the Panel to better advise Sakhalin Energy. They should be continued, in order to both ensure the WGWAP's effectiveness and to avoid the risks to Western Gray Whales that were created during the 2015 seismic survey season.

Case Study: 2018 Acoustic Monitoring Permit

In preparation for Sakhalin Energy's 2018 seismic survey, Panel members and Sakhalin Energy representatives worked together through the NTF to develop a MMP. A key element of the MMP involved acoustic monitoring, using acoustic sensors. With very little time left before the seismic survey was to begin, Russia's Ministry of

66 "WGWAP Statement of concern with respect to proposed seismic activity on the Sakhalin shelf in 2015," May 8, 2015.

67 WGWAP-16 report

68 "The NTF reiterated that for the planned 2018 survey (or any future one) it will be critical to avoid a situation similar to that in 2015 when final preparations (e.g. recruitment and training of personnel, testing of field protocols and equipment) were last -minute and therefore rushed."

Education and Science denied the permit for the acoustic monitoring of the survey without explanation, thus undermining a core pillar of the MMO.

Panel members met in an urgent session via teleconference to discuss the issue and then issued a public statement on May 17, 2018. Panel members underscored the essential role of acoustic monitoring, discussed alternatives, and recommended that the company and IUCN make every effort to ensure that acoustic monitoring take place. It is important to note that this issue raises concerns about Sakhalin Energy's compliance with its commitments to lenders. The WGWAP stated that if Sakhalin Energy proceeded with its 2018 survey without acoustic monitoring, it would mean that the MMP – an integral part of Sakhalin Energy's commitments to the Marine Mammal Specification under its HSESAP – would not be fully implemented.

Sakhalin Energy responded that it would not be able to implement the planned acoustic monitoring. During discussions with the Panel, Sakhalin Energy indicated that it would make precautionary modifications to reduce the risk that noise levels near whales would be underestimated. The WGWAP Co-Chairs responded on May 24, 2018, stating the Panel's conclusion that the MMP cannot be fully implemented in the absence of an acoustic monitoring programme and underscoring that the Panel does not concede that sound source verification and acoustic monitoring are optional elements.

It is important to acknowledge Sakhalin Energy's voluntary commitment to increase precautionary measures after the permit was denied. However, qualitative interviews show a high level of scepticism among some stakeholders that adequate steps were taken to obtain necessary permits. Sakhalin Energy used the same process as in the past to obtain permits, working through collaborators at the National Scientific Marine Biology Centre and Pacific Oceanological Institute. However, qualitative interviews indicated a split among stakeholders about whether adequate steps were taken to understand why the permit was denied or to advocate for reversal of the decision. Instead, the permit denial was considered a "fait accompli" and attributed to military interests with which Sakhalin Energy has no contact.

Some stakeholders doubt any reconsideration was possible due to possible influence of Russian military interests. It is not possible for this evaluation to judge the validity of these statements. However, it is surprising to us that after almost 25 years of extensive work with the Russian Government, Sakhalin Energy would not have contacts with different levels of the Russian Government that could be used to inform relevant decision-makers about the importance of acoustic monitoring. Similarly, it is surprising to us that IUCN, which also has extensive relationships with the Russian Ministry of Natural Resources, did not prioritize such discussions to communicate concern about the decision. Even if the decision had not been changed for the 2018 seismic survey, advocating for reconsideration would help inform relevant parties in the Russian Government about the essential need for acoustic monitoring, thus making it more likely that acoustic monitoring permits would not be denied in the future. In the future, we suggest that it is essential for Sakhalin Energy, IUCN, and the WGWAP to build relationships with Russian regulators to ensure that this situation is not repeated.

Case Study: Feeding Ecology

Feeding ecology of Western Gray Whales is a key concern to Panel members, who for many years have recommended additional research. Not only would additional research improve understanding of feeding ecology in general, but especially, the influence of nutrients from inside of areas such as Piltun Lagoon in driving elevated productivity of the benthos in nearshore waters outside the Lagoon.[69] Panel members repeatedly expressed concern about a major and persistent decline in amphipod biomass in the nearshore (Piltun) whale feeding. Despite these concerns, Panel recommendations have not gained traction with Sakhalin Energy or other

[69] Benthos is the community of organisms that are the primary food source for Gray Whales. The predecessor panel to WGWAP, the Independent Scientific Review Panel, recommended work to better understand benthos as far back as 2005: ISRP-34, and WGWAP has made similar recommendations on feeding ecology many times since then: WGWAP-1/021 (1) and WGWAP-1/020 from 2006, WGWAP-2/002, WGWAP-2/001, and WGWAP-3/024-2 from 2007, WGWAP-9/020 from 2010, WGWAP-10/012 from 2011, WGWAP-11/006, WGWAP-12/003 and WGWAP-12/004 from 2012, WGWAP-14/010 from 2014, WGWAP-16/011, WGWAP-16/012 and WGWAP-16/015 from 2015, WGWAP-17/03 from 2016, WGWAP-18/06 from 2017. The issue was also highlighted in the Vancouver workshop report, issues table 11.1 (PART 1).

stakeholders. Since 2015 alone, the Panel has issued five recommendations related to feeding ecology; one was retracted due to overlap with other recommendations. Of the four other recommendations, three remain open (in progress or no action yet taken), while the fourth was closed because it was no longer relevant but had not been implemented satisfactorily at the time it became moot.

Several factors contribute to the challenges faced in addressing feeding ecology. First, it is a long-term risk to Western Gray Whales that requires long-term investment to understand adequately. In an era of tightening budgets for both the WGWAP and the Joint Programme, neither Sakhalin Energy nor ENL has prioritized research on feeding ecology.

Second, Panel members theorize that Piltun Lagoon plays an important role for feeding ecology and productivity of benthos in the feeding area immediately outside the lagoon mouth. In addition, any oil spill from a pipeline or platform puts the Piltun feeding area at risk, and it is impossible to say how much oil would contaminate it or what the effects would be. Sakhalin Energy does not use Piltun Lagoon for its operations, whereas ENL uses Piltun Lagoon extensively. Sakhalin Energy thus does not see itself as the responsible party for research in Piltun Lagoon. ENL, however, does not accept the idea that Piltun Lagoon plays an important role for productivity of benthos outside the lagoon and is not interested in supporting independent research that would validate or invalidate its own theory. Panel members question how anyone can draw defensible conclusions without further evidence.

The result is that a critical question for conservation of Western Gray Whales is not receiving needed attention. If amphipod biomass in the Piltun feeding area is in decline, and if food availability starts to have a negative impact on population abundance of Western Gray Whales, necessary research will not have been conducted. As a result, it will be difficult to adapt activities accordingly, which increases the long-term risk to the Western Gray Whale population, and, therefore, to the reputations of the companies operating in the region.

Photo by lastjedai

Efficiency

This section addresses the question of how cost-effective the WGWAP process is.

Summary Findings

1. Stakeholders have high confidence that the management of the process by IUCN accomplished a great deal with the resources available. IUCN staff ensure that meetings are well managed, materials produced to high quality, differences of opinion managed, and relationships brokered as well as possible within budget constraints. The co-chairs have also been quite efficient in bridging the values and needs of industry, scientists, observers, and IUCN staff.
2. WGWAP should continue to consider whether the Panel has the necessary makeup to be fit for purpose, balancing the need to reduce costs with necessary redundancy that brings multiple viewpoints to the table. Task Forces gain high marks for producing useful discussions with fewer people, especially on technical issues, though there is no substitute for a full Panel review of task force conclusions.
3. ISTAPs have high value because they take contentious projects and create the means of dealing with seemingly irreconcilable conflicts between economic activity, biodiversity, and social concerns. For Sakhalin Energy, funding the WGWAP is far more cost-efficient than not receiving international loans necessary for project construction due to these conflicts.
4. Cutbacks in funding for WGWAP may save money during a period of austerity for the industry in Russia, but endanger the ability to produce high-quality scientific advice that is transparent and valuable. As funding for WGWAP and the Joint Programme falls, the ability to do quality monitoring, provide useful data, and the capacity to advise Sakhalin Energy are reduced. The risk is that at a certain point the function of the WGWAP will be crippled to the point that it is no longer fulfilling the role of minimizing company impact.
5. We note with concern the decreasing budgets for both the WGWAP and the Joint Programme. Unfortunately, the budgets for the WGWAP and the Joint Programme are not reviewed regularly by lender consultants. At some point, declining budgets may undermine efforts to minimize impacts on Western Gray Whales, to the extent that Sakhalin Energy would functionally no longer be in compliance with its HSESAP, which underpins the loan agreement.

To answer the question of whether the WGWAP is efficient, stakeholders noted a number of different framings of efficiency:

- **Well managed**
- **Fit for Purpose**
- **Conservation project**
- **Solution for contentious project**
- **Efficiency vs. Effectiveness trade offs**

So the answer to the question depends on which framing one uses. Overall, respondents to the survey gave a 7.6 in response to the statement "From my perspective, the WGWAP process is an effective investment of money toward the conservation of Western Gray Whales."[70]

[70] Survey Question 54

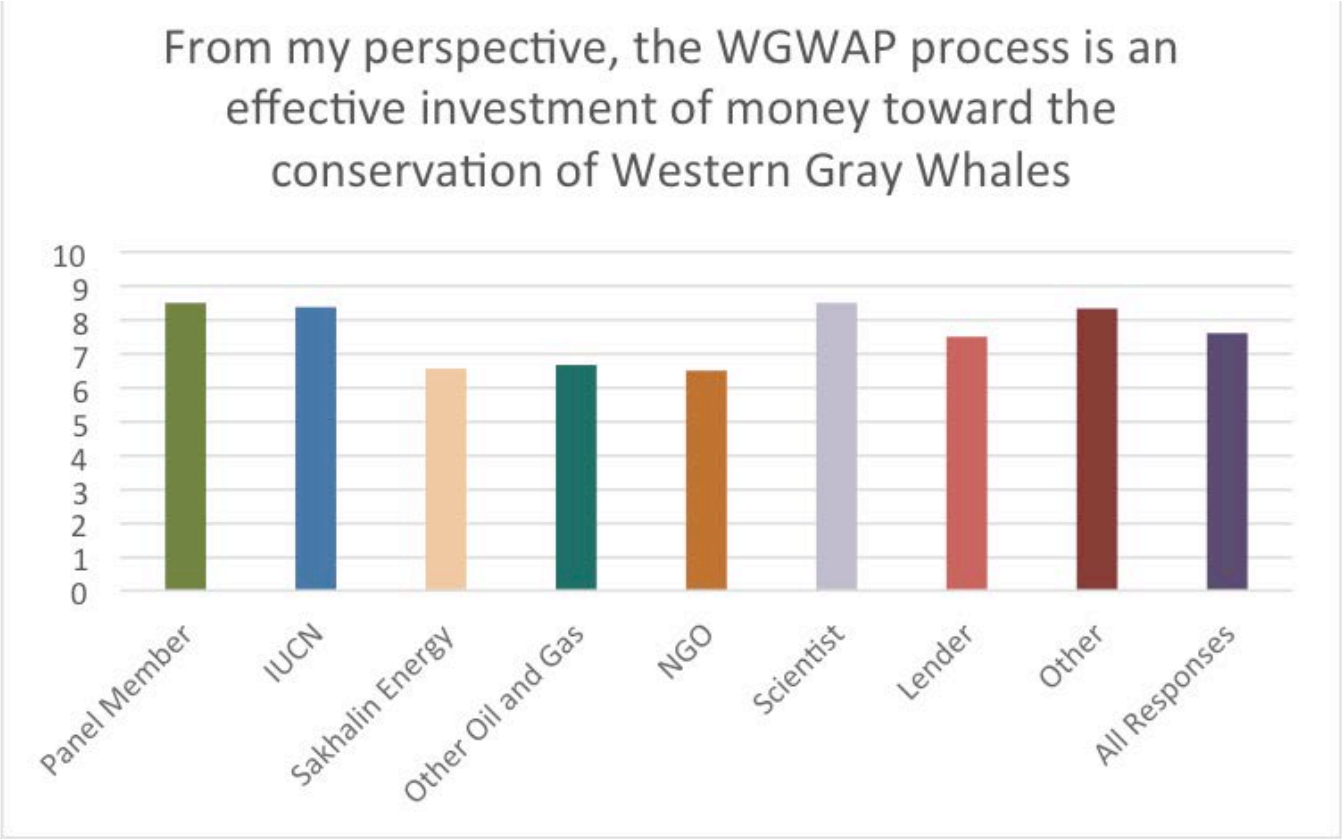

Figure 10. Survey Question 54

Well managed

Stakeholders were nearly unanimous that the management of the process by IUCN accomplished a great deal with the resources available. IUCN staff ensure that meetings are well managed, materials produced to high quality, differences of opinion managed, relationships brokered as well as possible within budget constraints. There has been some success in leveraging other funds, in the form of *pro bono* contributions of time by some Panel members, acquisition of $60,000 from UNDP to produce the Principles and Guidelines document, and use of savings in funding on some line items to conduct an analysis of risk from entanglement, a change approved by Sakhalin Energy. The co-chairs have also been quite efficient in bridging the values and needs of industry, scientists, observers, and IUCN staff.

The one critique of management of the WGWAP is that the labour involved to maintain the high standard of professional attention devoted to well-prepared meetings and documents perhaps needs to shift somewhat. A shift in time allocation to allow staff more time to broker relationships for a future WGWAP might enable them to engage more directly with issues of concern beyond a single oil and gas company to threats across the range states. Right now Sakhalin Energy funds 1.8 FTE at IUCN to manage the WGWAP. A shift of attention from the current stellar management of Panel meetings and documents to finding a new relationship with the IWC could be a way of evolving the Panel and ensuring its legacy. A minority view also suggests that meetings themselves are often managed too efficiently, not allowing enough time for needed discussion from all perspectives, including observers. A minority view also suggested that pressure to compromise on issues can sometimes lead to issues being resolved too quickly.

Fit for Purpose

A number of stakeholders extended this concept to question whether the current set up of the Panel is still as fit

for purpose as it was 14 years ago. A Panel with wide sets of expertise on numerous threats made sense during a development phase that perhaps are not necessary as Sakhalin Energy has shifted to operations, with no current plans for expansion. The 2014 evaluation proposed a smaller Panel with scientists on call for specific questions on an as needed basis, and some stakeholders renewed that concept. In this analysis, a smaller, more focused Panel might cost less and deliver equally good results. Others note that the current size of the Panel allows for scientists to bring multiple viewpoints on questions where the answers are often unclear, which can promote resolution of discussions. Task Forces gain high marks for producing useful discussions, especially on technical issues, though there is no substitute for a full Panel review of task force conclusions.

Conservation project

According to some stakeholders, if the WGWAP were in competition for funding as an NGO or foundation-funded conservation project, it would be far too expensive for the conservation results produced. It focuses on a single species in a limited geographic range, and Panellists note that the scientific results of company-funded research are less useful from a scientific point of view than those produced by far cheaper Russian institutions and NGO or foundation-funded research programmes.

Solution for contentious project

Some stakeholders point out that efficiency must be assessed keeping in mind why the Panel exists in the first place. The purpose of the exercise is to manage a project that has been controversial from the start, and thus special processes are needed to manage a variety of concerns and values. ISTAPs are not the solution for every commercial or conservation project, and in fact may be expensive ways to manage them. Yet they have high value because they take contentious projects and create the means of dealing with seemingly irreconcilable conflicts between economic activity, biodiversity, and social concerns. Without the WGWAP, Sakhalin Energy may not have received international loans necessary to provide capital for project construction. At the same time, relationships between NGOs on the one hand, and lenders and Sakhalin Energy on the other, have moved from confrontation to collaboration. It is difficult to imagine how that transformation would have taken place without the WGWAP. So from that point of view, the WGWAP is far more efficient from an industry or lender perspective than a project that is never funded due to these conflicts.

Efficiency vs. Effectiveness trade offs

Many stakeholders from all vantage points noted the value of WGWAP management practices that are perhaps expensive, but in fact justified by the results they produce. In this sense, cheaper is not necessarily more efficient if it doesn't produce the needed results. A simple example is the number and location of meetings. Over the years, IUCN has explored where best to hold meetings, considering the strategic impact and cost effectiveness. Meetings have been held in such places as Gland, Moscow, Yuzhno-Sakhalinsk, and Korea. There are trade-offs with each location: Moscow brings in international and Federal participation, which is important due to federal control over offshore resources, but reduces access to Sakhalin based company and NGO staff; Sakhalin allows greater local participation but is expensive, more difficult to get to, and logistically challenging. When the Panel was created, it met twice a year. Since 2011, the Panel has normally met only once per year, although some Panel members meet through Task Forces. When the Panel met twice a year, participants were able to engage in deeper discussions before open water season and after – meeting once a year is cheaper, but the value of Panel advice is reduced accordingly. Several stakeholders underscored the value of two Panel meetings per year, despite the extra demands on time and budget that this creates.

Restriction in the number of observers produces more streamlined meetings, but reduces the participation of observers such as research institutes and NGOs. Production of publicly available documents on an open web site increases transparency and integrity, but require staff time to produce. IUCN has balanced these and other trade-offs, and will continue to do so as the Panel evolves. Reputational risk for Sakhalin Energy has been managed in part by this process in ways that internal consultants or non-transparent processes may not have.

Cutbacks in funding for WGWAP may save money during a period of austerity for the industry in Russia, but

endanger the ability to produce high-quality scientific advice that is transparent and valuable. As funding for WGWAP and the Joint Programme falls, the ability to do quality monitoring, provide useful data, and the capacity to advise Sakhalin Energy are reduced. The risk is that at a certain point the function of the WGWAP is crippled to a degree that it is no longer fulfilling the function of mitigating company impact.

The table below shows WGWAP budgets provided by IUCN from 2006-2018. Budgets increased steadily from 2006-10, and have been progressively dropping ever since to return to the 2006 level. Until 2012 these expenses were recoverable for the company under the Production Sharing Agreement (PSA), but since that time the shareholders of the PSA have reportedly been putting increasing pressure on Sakhalin Energy to reduce the amount of money going to the WGWAP. This trend is exacerbated by tightening budgets in general in the Russian oil and gas industry, and, according to some stakeholders, the declining influence of Shell, who has seen great value of practices like the WGWAP in reducing their reputational risk worldwide.

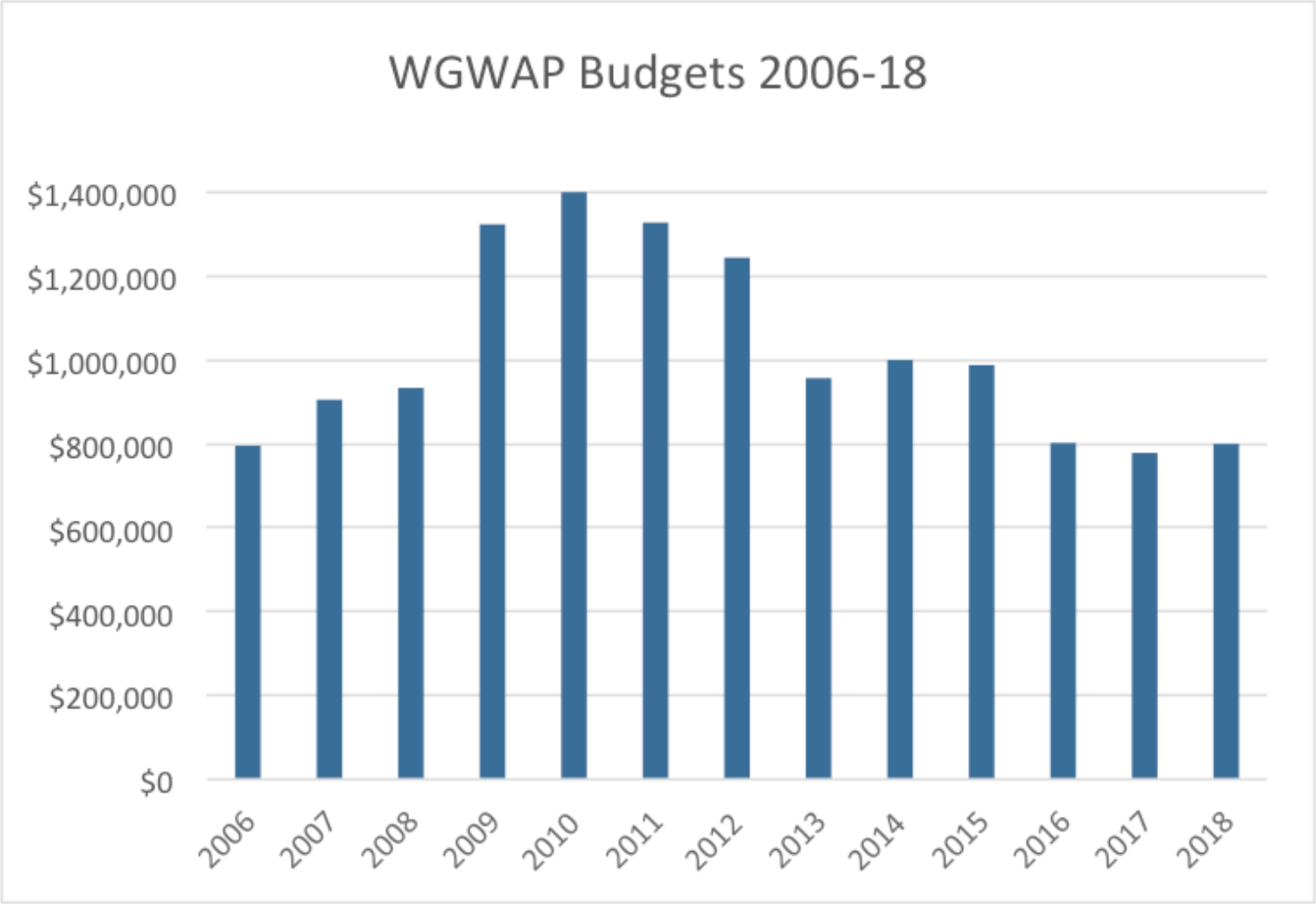

Figure 11. WGWAP Budgets 2006-18

Budget decreases have affected Sakhalin Energy's programmes related to Western Gray Whales across the board. In total, the 2018 cumulative budget of the Joint Programme, the WGWAP, and MMO Programme is less than 55% of the 2014 cumulative budget. The Panel has noted with concern drops in WGWAP, Joint Programme, and MMO Programme budgets. For example, in the meeting report for WGWAP-17 of 2016, the Panel observed that:

> *there was no assurance of further support for any of the work begun in 2016 on ecological monitoring and gray whale diet….Nor was it likely that the core WGWAP responsibility of population assessment (see item 2.3) could be met in full in 2017 in view of expected programme budget reductions and data availability.*[71]

[71] IUCN, 2017. *Report of the Western Gray Whale Advisory Panel at its 17th meeting.* p. 40.

Many stakeholder interviews also noted with concern these decreasing budgets, and expressed concern as to whether adequate resources are being allocated to Western Gray Whale conservation.

At the request of the evaluators, Sakhalin Energy initially provided data about budgets for the Joint Programme, the WGWAP, and MMO Programme (Marine Mammals Protection Plan Implementation) from 2014-18. Following review of the draft evaluation, Sakhalin Energy withdrew its permission for this data to be included. Evaluators express their concern that they were prevented from sharing data that was gathered during the normal course of conducting the evaluation. Sakhalin Energy's decision to withdraw permission increases evaluators' concerns about Sakhalin Energy's commitment to transparency about budget information. It also raises concerns that budgets to address Western Gray Whale issues are discussed with relevant stakeholders and are adequate to implement Sakhalin Energy's commitments within its HSESAP.

Unfortunately, the budgets for the WGWAP and the Joint Programme are determined between Sakhalin Energy and IUCN; they are not reviewed regularly by Panel members or by lenders and their consultants. At some point, declining budgets may undermine efforts to minimize impacts on Western Gray Whales to the extent that Sakhalin Energy would functionally no longer be in compliance with its HSESAP, which underpins the loan agreement.

Photo by lastdjedai

Legacy and Impact

This section examines to what extent the Panel's outputs over its lifetime have led to the intended outcomes in the long term.

Summary Findings

1. The WGWAP has helped Sakhalin Energy minimize its impacts on Western Gray Whales. The primary ways the WGWAP has helped Sakhalin Energy do so is by advising against the construction of infrastructure that poses the highest risk to Western Gray Whales (e.g., a pipeline through the feeding grounds or a third offshore platform); improving monitoring of Western Gray Whales, especially during potentially high risk operations such as seismic surveys; reducing the impact of high risk operations such as seismic surveys on Western Gray Whales through improvement of MMPs; and improving the understanding of Western Gray Whale population dynamics and behaviour.
2. Engagement in the WGWAP has provided notable and impressive benefits to Sakhalin Energy's reputation.
3. Another legacy of the WGWAP is increased trust between the company, independent scientists, and conservation NGOs. This trust has slowly been built over the years, and has had many setbacks. Nonetheless, trust is difficult to earn but easy to squander. Although increased trust is one of the legacies of the WGWAP process, a faltering in either the process or Sakhalin Energy's implementation of WGWAP recommendations could cause a quick reversion to distrust.
4. The WGWAP has had a modest but tangible impact on practices outside of Sakhalin Energy. There is recognition that the WGWAP's recommendations have influenced ENL practices, even if ENL has not formally participated in the process. However, due to ENL's lack of transparency, it is difficult to understand and verify the particular ways that WGWAP has influenced ENL's practices and whether the WGWAP has helped ENL minimize its impacts on Western Gray Whales.
5. Review of Sakhalin Energy and ENL practices show that Sakhalin Energy's engagement with the WGWAP has led to notable differences in company behaviour with regards to seismic exclusion zones and independent review of MMPs for infrastructure construction activities. We noted that, as a result of its engagement with the WGWAP, Sakhalin Energy has received a significant reputational benefit, a higher level of trust afforded to the company, and independent verification of its practices minimizing its impacts on Western Gray Whales, when compared with ENL.
6. The WGWAP has not set itself up as a stakeholder engagement or conflict resolution mechanism; rather, it is a body to provide useful scientific advice to the company. Having said that, it has in fact done much to bring stakeholders together in dialogue and find common ground where little existed before.

It is clear to us that, over the life of the Panel process, the WGWAP has had a significant and positive impact on the conservation of Western Gray Whales. Overall, the Western Gray Whale population has been increasing at 2-5% per year over the last 10 years, but stakeholders agree that it is impossible to attribute the increase to WGWAP activities, or to know whether the increase would have been greater without oil and gas development.

When the process began, conservation NGOs in Sakhalin, in Russia, and internationally raised major objections to oil and gas development offshore of Sakhalin. These concerns were influencing the very viability of development of the Sakhalin-2 project, which needed international financing from public and private banks to proceed. Conservation NGOs raised concerns about whether financing of the Sakhalin-2 project would violate

the environmental and social standards of these finance institutions. They used petitions, international media, and even an inflatable whale at the corporate headquarters of banks in London and Switzerland to put public pressure on the banks.

Formation of the WGWAP, an Independent Scientific Technical Advisory Panel (ISTAP), built the confidence of finance institutions that they could proceed with support for the project without violating their own environmental and social standards. Existence of the Panel also served to blunt civil society objections to oil and gas development in such a sensitive environment.

As a theoretical exercise, it is important to recognize that had the Panel never existed, Sakhalin Energy may not have received necessary financing to develop the Sakhalin-2 project, and the consortium may have abandoned the project. The absence of oil and gas development in the area would clearly be safer for Western Gray Whales. However, had Sakhalin Energy not received necessary financing, the Sakhalin-2 project may have been delayed, but would likely have been developed eventually by a different operator, given the Russian government's commitment to exploiting new offshore oil and gas resources. It is difficult to argue that eventual development by a different operator, without the benefit of an ISTAP such as the WGWAP, would be safer for Western Gray Whales. Additionally, ENL would still have developed the Sakhalin-1 project, but without the ancillary benefit of Sakhalin Energy's development of better practices for minimizing impacts on Western Gray Whales, which then influenced ENL's practices. Less attention overall would have been paid to the need to minimize impacts on Western Gray Whales.

An important legacy of the WGWAP, however, is that the process shows a need for some form of leverage or mandate to gain corporate commitment to the process. Sakhalin Energy engaged in the WGWAP process due to its need to obtain international public and private financing that it likely would not have received without the WGWAP. It remains unclear whether Sakhalin Energy will voluntarily continue its support for and engagement with the WGWAP without its need to comply with loan conditions. Meanwhile, other companies such as ENL chose not to become formal participants in the WGWAP, pointing out that there was no requirement for the company to do so in order to comply with Russian law. This shows that, despite the positive impacts of the WGWAP, it is unrealistic to expect voluntary corporate engagement in the process. Some kind of leverage is necessary to motivate company participation. That leverage can be financial, as in the case of WGWAP, reputational, as in the case of other IUCN-led ISTAPs with Shell in Nigeria and Holcim globally, or regulatory, as is the case in many countries around the world.

Impacts on Western Gray Whales

Throughout its existence, the WGWAP has provided a formal mechanism to maintain expert attention and oversight on conservation of Western Gray Whales, with a particular focus on minimizing the impacts from oil and gas development. The WGWAP has focused primary attention on Sakhalin Energy, the only formal corporate participant in the WGWAP process, although the WGWAP has also maintained attention to particular impacts from other oil and gas operators – especially ENL – and other anthropogenic impacts, such as fisheries.

Qualitative interviews show a general agreement that the WGWAP has helped Sakhalin Energy minimize its impacts on Western Gray Whales. Primary ways the WGWAP has helped Sakhalin Energy do so is by:

- Advising against the construction of infrastructure that pose the highest risk to Western Gray Whale (e.g., a pipeline through the feeding grounds or a third offshore platform);
- Improving monitoring of Western Gray Whales, especially during potentially high risk operations such as seismic surveys;
- Reducing the impact of high risk operations such as seismic surveys on Western Gray Whales through improvement of MMPs;
- Improving the understanding of Western Gray Whale population dynamics and behaviour.

Survey results show that stakeholders agree that the WGWAP has had a positive impact on the conservation of

Western Gray Whales; respondents rated this question a strong 8.30 out of a possible score of 10.[72] Interestingly, the strongest endorsement for this position came from scientists who are not members of the Panel, who rated this question a very high 9.14.

Impacts on Sakhalin Energy

Qualitative interviews show broad consensus that engagement in the WGWAP has provided notable and impressive benefits to Sakhalin Energy's reputation. Before the WGWAP process began, the conservation NGO community was extraordinarily distrustful of Sakhalin Energy. Now, the collaboration between Sakhalin Energy and the WGWAP is held up as a model by some in the NGO community, as evidenced by the 2016 report *Western Gray Whale Advisory Panel: Stories of Influence* (published by IUCN, WWF, and IFAW) and a presentation of the report at the 2016 World Conservation Congress. Also in 2016, Sakhalin Energy earned the top rating in an environmental responsibility rating of oil and gas companies in Russia, published by CREON and WWF. While the rating covers a range of issues far beyond the remit of the WGWAP, the processes and practices influenced by the WGWAP helped Sakhalin Energy's rating, particularly with regards to environmental management and disclosure/transparency. At Sakhalin's annual oil and gas conference in 2017, NGOs reportedly commended Sakhalin Energy for its efforts on biodiversity conservation.

Based on qualitative discussions with stakeholders, we believe that for Sakhalin Energy, the WGWAP has demonstrated its cost-effectiveness if this criterion is solely applied to the company's reputation. Based on discussions with stakeholders, especially observers, we believe that similar levels of resources spent on other approaches to improving reputation – for example, media advertisements or charitable giving programmes – would not have had the same impact among the target audience of scientists, conservation NGOs, and lenders that have been engaged through the WGWAP.

Another legacy of the WGWAP is increased trust between the company, independent scientists, and conservation NGOs. When the Panel began, relationships between scientists involved and Sakhalin Energy suffered from a lack of trust. This trust has slowly been built over the years, and has had many setbacks. Qualitative interviews showed a much higher level of trust between scientists on the Panel and Sakhalin Energy, in part due to the individuals involved and their efforts to build positive relationships. In turn, this has also built trust with other stakeholder groups, such as conservation NGOs. Nonetheless, trust is difficult to earn but easy to squander. Although increased trust is one of the legacies of the WGWAP process, a faltering in either the process or Sakhalin Energy's implementation of WGWAP recommendations could cause a reversion to distrust. Although some in the NGO community hold up the WGWAP process as a model, others remain sceptical and point to the ever-present need for diligent and on-going oversight. Even the Russian government's denial of the 2018 acoustic monitoring permit, which some stakeholders believe was not the fault of Sakhalin Energy, caused concern among them about the company's commitment to WGWAP recommendations. It will be important to continue good-faith efforts to support the WGWAP process in order to maintain the hard-earned and fragile trust.

Survey data supports the perception that WGWAP has achieved positive changes in Sakhalin Energy practices to minimize impacts on Western Gray Whales; survey respondents rated this question a strong 8.31 out of a possible score of 10,[73] similar to the question about whether WGWAP has had a positive impact on conservation of the whales.

Influencing practices outside of Sakhalin Energy

Evaluation results show a belief that the WGWAP has had a modest but tangible impact on practices outside of Sakhalin Energy. Most stakeholders believe that the WGWAP's recommendations have influenced ENL practices, even if ENL has not formally participated in the process. However, due to ENL's lack of transparency, it is difficult to understand or verify the particular ways that WGWAP has influenced ENL's practices and whether the WGWAP has helped ENL minimize its impacts on Western Gray Whales.

[72] Survey Question 48

[73] Survey Question 49

Anecdotal information from qualitative interviews show that modest recommendations of the WGWAP are starting to influence other oil and gas operations in Sakhalin and in other regions such as the Russian Arctic. For example, companies are starting to involve marine mammal observers on their ships. This is just a small step, and far from needed actions to minimize impacts on Western Gray Whales or other marine mammal populations. However, it is an important sign that the WGWAP has impact beyond its direct relationship with Sakhalin Energy. We attempted to gain further evidence by seeking interviews with other operators, however only ENL participated.

Influencing Russian and global best practices

Importantly, thanks to the work of IUCN and Panel members, the WGWAP has informed key documents that have the potential for national or global impact. Specifically, in 2013, WGWAP members and stakeholders authored an article on "Responsible Practices for Minimizing and Monitoring Environmental Impacts of Marine Seismic Surveys with an Emphasis on Marine Mammals," which was also endorsed by the IWC. Following up on this work, in 2016 WGWAP members authored a resource guide for managers that document effective planning strategies for managing environmental risks associated with geophysical and other imaging surveys. The article and practical guide gather best practices to make them available for oil and gas operations around the world. Sakhalin Energy practices, which were informed by the WGWAP, were also included in "Good Practice Guidance for Oil and Gas Operations in Marine Environments," produced by Fauna and Flora International in 2017.

IUCN, the WGWAP, and Sakhalin Energy also contributed to a UN Development Programme/Global Environment Facility/Ministry of Natural Resources project on mainstreaming biodiversity conservation into Russia's energy sector policies and practices. This project resulted in a document, "Principles and Guidelines for the Monitoring and Mitigation of Impacts on Large Whales from Offshore Industrial Activity in Russian Waters," which is under consideration by Russia's Ministry of Natural Resources and pending approval by the Minister. If approved, the guidance will have significant impact in compelling best practices throughout Russian waters.

Range-wide Impact

The WGWAP has also contributed to efforts to improve conservation planning throughout the range of Western Gray Whales. While these efforts have not yet resulted in measurable improvements to conservation practices, they hold great potential for future range-wide efforts necessary to ensure long-term conservation of the population. As the WGWAP evolves, many stakeholders proposed a wider role for the WGWAP in regional conservation efforts.

In 2008, IUCN convened a Western Gray Whale Rangewide Workshop to summarize information about the population, identify information gaps, identify and rank threats, and map needed research and management actions. Following these efforts, the IWC and IUCN developed a Conservation Management Plan (CMP) for the Western Gray Whale; the CMP is currently being updated. This cooperation then led to a Memorandum of Cooperation (MoC) among range states. This Memorandum has now been endorsed by the Russian Federation, the United States, Japan, the Republic of Korea, and Mexico. Although the work to develop the CMP and the MoC occurred outside of the auspices of the WGWAP, Panel members have been integrally involved at every step. The WGWAP has also helped focus needed attention on the issue of conservation of Western Gray Whales, and is formally mentioned in the MoC.

Respondents rated the impact of the WGWAP on other issues notably lower: WGWAP's influence over broader industry practice in the range of Western Gray Whales was rated at 6.59;[74] WGWAP's influence on marine conservation practices generally in the oil industry was rated at 6.32;[75] WGWAP's influence on the environmental policy of Russian government agencies was rated at 6.19;[76] and WGWAP's influence on government practice of

[74] Survey Question 50
[75] Survey Question 51
[76] Survey Question 52

other states that have oil and gas operations that impact whales was rated at 5.68.[77]

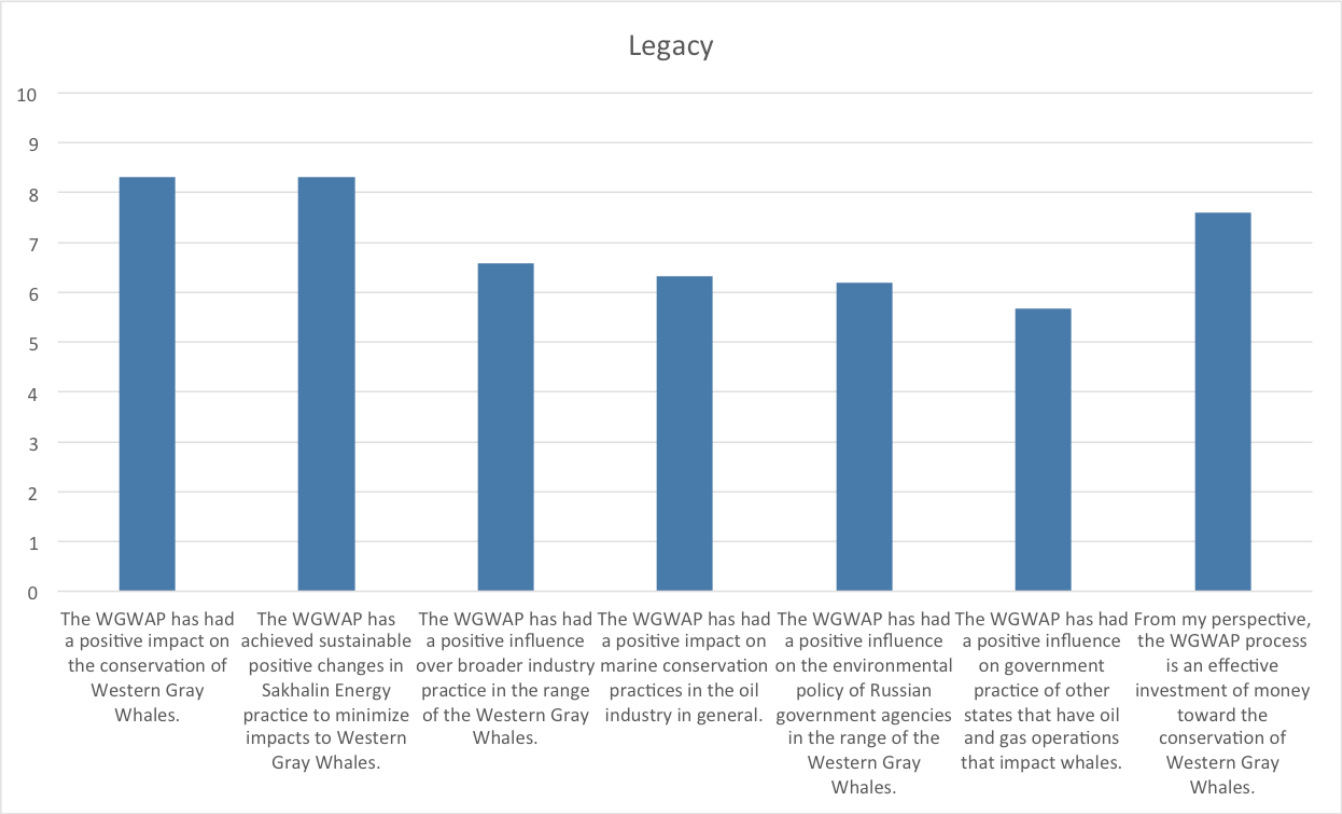

Figure 12. Survey questions 48, 49, 50, 51, 52, 53 and 54

Creating Guidance for Independent Scientific and Technical Advisory Panels (ISTAPs)

One legacy of the WGWAP is that IUCN's engagement with panels like the WGWAP led the organisation to develop internal guidance on when and how such panels should be organized.[78] The experience offers important lessons for IUCN on how to manage risks associated with ISTAPs.

Reputational risks: It is clear that Sakhalin Energy and the lenders had reputational risks in funding Sakhalin-2, but IUCN has as well. IUCN gets high marks from nearly all stakeholders on its management of a scientifically sound, independent process.

Risk of incompatible institutional cultures: The risk of differences in ways of operating between the private and non-profit sector has surfaced in the past in the WGWAP, though in recent years seems to have settled. One large difference is the commitment to transparency, and the performance of the WGWAP has been undermined by the private sector predilection for holding on to data or only releasing relevant data slowly. The WGWAP has been the most affected on this issue by work conducted through the Joint Programme, primarily due to Joint Programme policies of Sakhalin Energy and ENL on data sharing that prevent transparency with the WGWAP.

Risk of changing priorities of the contracting business or government agency: This risk has become more important in recent years as Shell's percentage ownership has declined, and the Russian oil industry has come under more financial pressure. Under the current PSA, Sakhalin Energy notes that there is heavy pressure from Russian Federation authorities to dramatically reduce spending on this programme. Sakhalin Energy staff are

[77] Survey Question 53

[78] IUCN, *Procedures for establishing and managing IUCN-supported Independent Scientific & Technical Advisory Panels*, July 2014. Experience from IUCN's other panels contributed as well: Niger Delta Panel, Yemen LNG Independent Review Panel, IUCN/Holcim Independent Experts Panel, Independent Panel on Oil and Gas Activities in the Islamic Republic of Mauritania.

also finding it harder to justify expenses to shareholders on whale research and threat mitigation. The result is declining budgets for both the WGWAP and the Joint Programme, which have increased the difficulty for the Panel to produce scientifically sound recommendations in the absence of sufficient data.[79]

Risk of underestimating budgetary requirements to deliver the Panel's work: Some industry stakeholders note that they can hire their own consultants to do technical work without the input of the Panel. Yet this loses sight of the fact that the fundamental purpose of the WGWAP is not just to provide scientific advice, rather, to provide it in a way that is widely seen as independent and reliable. Declining budgets may put this independence and reliability at risk.

Risk of underestimating (and more rarely overestimating) the time necessary to produce Panel conclusions and recommendations: This risk is related to the budget risk, and has surfaced several times as Sakhalin Energy has been unable to provide information to the Panel with sufficient time and in appropriate format for Panellists to review and analyse it. For its part, IUCN has managed this risk quite well to protect the reputation of the WGWAP, notably when IUCN staff felt obliged to cancel a WGWAP meeting in response to the lack of information from the company.

Overall, it is as important to understand what an ISTAP is as well as what it is not. The WGWAP has not set itself up as a stakeholder engagement or conflict resolution mechanism, rather as a body to provide useful scientific advice to the company. Having said that, it has in fact done much to bring stakeholders together in dialogue and find common ground where little existed before.

Case Study: Assessing the Benefits of WGWAP: Comparing Sakhalin Energy and ENL

Sakhalin Energy and ENL both started oil and gas development projects offshore of north-eastern Sakhalin contemporaneously. Sakhalin Energy chose to become a formal participant in the WGWAP process, whereas ENL did not. This provides us with an opportunity to understand the impact of the WGWAP on Western Gray Whales by comparing known information about their practices.

Qualitative interviews showed that most stakeholder groups have higher trust and confidence in Sakhalin Energy's practices to minimize impacts on Western Gray Whales. Stakeholders noted repeatedly that even if ENL is implementing good practices to minimize impacts, there has been no way to independently verify this information.

Some stakeholders – particularly those in the oil and gas industry – stated their belief that ENL is implementing practices commensurate with Sakhalin Energy to minimize their impacts on Western Gray Whales. On many issues, this appears to be the case. However, we identified key areas of difference between the companies:

- In 2015, ENL used an exclusion zone of only 500-metres during its seismic survey, when Sakhalin Energy was required to use a two-kilometre exclusion zone (note that Sakhalin Energy would have used a recommended one-kilometre exclusion zone had Russian government authorities allowed it). In this case, Sakhalin Energy used an exclusion zone that was more protective of Western Gray Whales. Sakhalin Energy's recommended exclusion zones in both 2015 and 2018 were informed by the deliberations of the WGWAP.
- In 2016, ENL carried out infrastructure construction activities inside of Piltun Lagoon without submitting its MMP for independent review. The main concern of the Panel here was disturbance to Gray Whales at and near the Lagoon mouth from heavy equipment shipped to supply the construction site inside the Lagoon. Since Sakhalin Energy does not conduct operations inside of Piltun Lagoon, it has not had to consider a similar need. However, we believe it is safe to say that had ENL been a member of the WGWAP, it would have been required to submit its MMP for review by the Panel. As a result of not receiving necessary information, the WGWAP expressed extreme concern about the

[79] This point was noted in many stakeholder interviews, and cited in IUCN, 2017. *Report of the Western Gray Whale Advisory Panel at its 17th meeting,* p. 40.

potential impacts on Western Gray Whales. After the operations, the WGWAP was provided with conflicting information about the operation from ENL and from conservation NGOs who monitored the work.

Qualitative interviews showed an understanding that Sakhalin Energy and ENL have different corporate cultures around transparency and engagement. Qualitative interviews underscored Sakhalin Energy's interest in transparency and engagement, and a belief that this provides long-term value to the company through increased trust and better relations with stakeholders. Qualitative interviews showed that ENL prefers to rely on internal or contracted expertise. As a result, Sakhalin Energy gains a much higher reputational benefit than ENL from its participation in the WGWAP, and Sakhalin Energy receives advice and expertise from a highly respected independent group of cetacean scientists, whereas ENL chooses not to do so.

Finally, Sakhalin Energy gains a benefit through independent verification of its practices to minimize impacts on Western Gray Whales, resulting from the imprimatur of the Panel. Whereas even if ENL's practices are as good, ENL does not receive the same benefit because no such independent verification exists.

Photo by Dave Weller

Independence

This section discusses the extent to which the WGWAP's independence is maintained.

Summary Findings

1. Independence of the WGWAP is central to its ability to serve the function for which it was created.
2. Transparency is a key factor in the WGWAP's independence. The fact that all meeting reports and publications are posted on the web, translated into Russian, and available to all, contributes to an openness and integrity of discussions and decisions. In addition to these documents, recommendations are searchable on the web, and are consistently updated as they are implemented, rejected, or modified.
3. Stakeholders noted that doubts about the quality or integrity of data provided by Sakhalin Energy, or the paucity of information provided by other companies, made it difficult to have confidence in the quality of discussions or recommendations.
4. Some stakeholders believe that greater publicity and engagement with mass media will give the WGWAP more authority, and make it more difficult to limit the Panel's work or the scientific research behind it.
5. The wide set of stakeholders, including NGO observers and lenders, in WGWAP meetings are critical to keeping the process independent.
6. IUCN's management of the WGWAP keeps all groups working together while ensuring its independence. This management is particularly noteworthy in light of past difficulties over managing the WGWAP.
7. A critical factor in independence of the WGWAP has been the appointment of the world's top scientists who provide advice based on the best science available. Stakeholders, by and large, agreed that Panellists consistently based their recommendations on scientific evidence and reasoning.

All stakeholders agreed that independence of the WGWAP is central to its ability to serve the function for which it was created. Independence is important for companies to manage their reputational risk, since without it, outside pressure is not alleviated if their process is not seen as legitimate. At the same time, it is important for IUCN to be seen as maintaining WGWAP independence, to protect its reputational risk as well as its name as a capable conservation organisation that can manage processes like ISTAPs.

Overall, stakeholders agreed with the statement "I consider the WGWAP to be objective and independent of IUCN, Sakhalin Energy, the Russian government, the Sakhalin government, and lenders."[80] The average score here was 8.7, with the highest scores coming from NGOs and IUCN, and the lowest from Others, who tend to be independent of the WGWAP. For Others there was consensus across all stakeholder groups.

[80] Survey Question 11

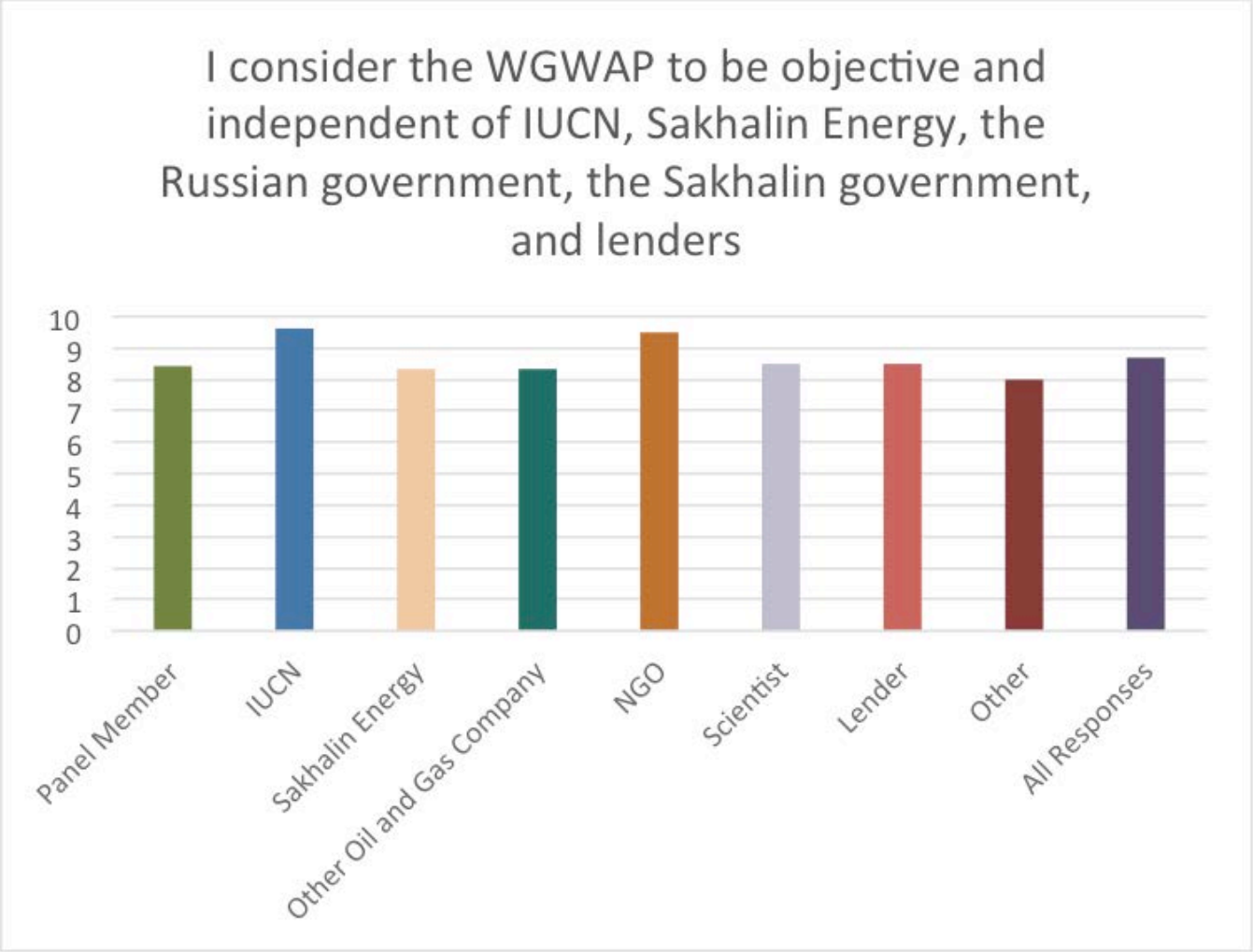

Figure 13. Survey Question 11

Main Factors Affecting the WGWAP's Independence

The following are the main factors affecting the WGWAP's independence that stakeholders identified, and the extent to which these factors are being addressed.

Transparency – The fact that all meeting reports and publications are posted on the web and available to all contributes to an openness and integrity of discussions and decisions. In addition to these documents, recommendations are searchable on the web, and are consistently updated as they are implemented, rejected, or modified.

Stakeholders noted that doubts about the quality or integrity of data provided by Sakhalin Energy, or the paucity of information provided by other companies, made it difficult to have confidence in the quality of discussions or recommendations. Panellists noted that the inability to see primary data, and rely only on analyses without knowing how the data was analysed, makes it difficult to provide scientific recommendations with confidence. The main issue here is often information generated by the Joint Programme, which is restricted by confidentiality issues from ENL. Sometimes company staff note that this information will be made available on publication, but the slow process of publishing means that information often appears years later, and recommendations in the meantime do not benefit from it.

Some NGO observers note that while all reports are available online, it is a long way from making information

accessible and useable. There is a difference between publishing long reports on the web and being transparent about what is happening, especially in this era of information overload. A minority view was that better publicity and engagement with mass media will give the WGWAP more authority, and make it more difficult to limit the Panel's work or the scientific research behind it.

Participation of observers, NGOs, and lenders – The wide set of stakeholders in WGWAP meetings is critical to keeping the process independent. Many stakeholder organisations have been attending the meetings from the start and frequently raise issues for discussion. While these groups often disagree with each other about what recommendations should be, their ability to represent a variety of viewpoints helps discussion. For the lenders, the work of its contractor Ramboll provides a technically adept team to monitor operations and report back about compliance with agreements. Other stakeholders see the Ramboll team's participation in Panel meetings and Task Forces as positive. It was unclear how often the lenders took action based on Ramboll reports, or on discussions at meetings. Overall, the legal leverage that the lenders have for Sakhalin Energy to participate in the Panel and implement all reasonable recommendations is not common in the conservation world, and is the reason why the Panel exists at all. The importance of this leverage is underlined by the vast differences of opinions among stakeholders about what will happen after 2021 when the current TOR expire, and Sakhalin Energy may no longer be obligated to support the Panel.

In the 2017-2021 TOR, IUCN removed a previous cap on the number of NGO observers allowed to participate in meetings. This is a positive step, as valuable contributions can be made by NGOs that have not previously participated in Panel meetings. However, some stakeholders complained about this cap in interviews, and thus appear to be unaware of this change in the TOR. IUCN should ensure that the removal of the limit is communicated effectively to interested and potential observers.

IUCN management – Stakeholders across the spectrum agreed that IUCN's management of the WGWAP kept all groups working together while ensuring their independence. This management is particularly noteworthy in light of past difficulties over managing the WGWAP. Besides the management of documents and logistics that ensured that the Panel could function, IUCN staff spent considerable time and resources on managing relationships and ensuring the integrity of the process.

As an example, IUCN staff took the unilateral decision to suspend the formal Panel meeting in 2015, replacing it instead with a working meeting, when delays in provision of information by Sakhalin Energy meant that the Panel would be unable to render any meaningful recommendations. While it was possible to continue with the meeting as scheduled, the integrity of the process and the independence of the Panel would have been questionable.

A minority view pointed out that IUCN has a reputational risk as well in the success of the Panel, in that it wants to be seen as a capable conservation organisation that can manage difficult issues, such as this one, in a way that balances conservation and economic development. This risk ensures that IUCN works hard to maintain the WGWAP's integrity and legitimacy, which was appreciated by all stakeholders. At the same time, there may be a temptation to document and publicize the Panel's success on issues that are more ambiguous than strict evidence allows.

Attitude of Staff – Most stakeholders pointed to the ups and downs of the Panel based on which people are involved. For example, in recent years, Sakhalin Energy staff have shown a high commitment to the work of the Panel, and IUCN staff have been skilled in relationship management across all stakeholder groups. Many stakeholders pointed to other periods when these commitments have not been as apparent, and that the work of the Panel has suffered as a result. From the life of the Panel it is clear that shifts in key personnel can make a large difference in the extent to which people perceive the Panel as independent.

Scientific Credibility – All stakeholders agreed that the WGWAP's appointment of the world's top scientists who provide advice based on the best science available was the basis for an independent Panel. Stakeholders, by and large, agreed that Panellists consistently based their recommendations on scientific evidence and reasoning. At

times, some industry observers felt that the scientific judgements were overly academic, but Panellists pointed to wide gaps between the scientific evidence available for their recommendations and what would be required for an academic investigation.

Conflicts of Interest – To maintain independence and avoid conflict of interests, Panellists have steered clear of working for any company or participating in NGO campaigns. At the same time, the entire process is based on funding by Sakhalin Energy, which to some makes it appear that the Panel is beholden to the company. It is difficult to imagine what alternatives there are to this form of funding in an industrial operation of this size, so that may simply be a fact of life that critics will have to live with. While the leverage of lenders means that the company cannot just drop the Panel, the company can reduce its budget. Given reductions in the WGWAP budgets in recent years, this concern further underscores the need for transparent discussions between Sakhalin Energy, IUCN, and Panel members about budget needs.

Photo by Dave Weller

The Future of the WGWAP

Summary Findings

1. Stakeholders have a fundamental belief in the value of the WGWAP, and stakeholders generally believe that the WGWAP should continue after 2021.
2. We also saw scepticism that Sakhalin Energy will continue to implement best practices after 2021, regardless of the existence of the WGWAP. Stakeholders worry that without the Panel and its regular mechanisms to review Sakhalin Energy's plans, Sakhalin Energy practices with regards to Western Gray Whales would slowly and over time start to degrade. As a result, Sakhalin Energy would not benefit from the continued improvement and innovation encouraged by the Panel.
3. Stakeholders are concerned that staff turnover at Sakhalin Energy will lead to people who are not as committed to the WGWAP or Western Gray Whale conservation as the Sakhalin Energy representatives who have recently engaged with the WGWAP. They are also concerned that upper management at Sakhalin Energy does not value the WGWAP to the extent necessary.
4. Sakhalin Energy, and potentially other stakeholders such as lenders, will assume reputational risk if the WGWAP does not continue after 2021. Although Sakhalin Energy has reaped enormous benefits from the WGWAP through increased trust and reputation, these can be quickly squandered. If Sakhalin Energy wants to secure its reputational gains and legacy, it should demonstrate continued commitment to the WGWAP.
5. We assessed four different future scenarios for the WGWAP: (1) the WGWAP is disbanded; (2) the WGWAP continues in its current form; (3) the WGWAP is mandated by the Russian government; and (4) the WGWAP transforms into a range-wide initiative under the auspices of IWC and IUCN. These assessments provide an initial platform for discussion by the WGWAP and other stakeholders.

The current TOR for the WGWAP lasts through 2021. Also in 2021, Sakhalin Energy is expected to fully repay the loans under which it has been required to maintain the WGWAP. Numerous interviewees discussed their belief that, without the terms of the loan to compel support of the WGWAP by Sakhalin Energy, they expect the company to stop funding it. Just a small number of interviewees indicated that they thought Sakhalin Energy would continue to support the WGWAP. It is important to note, however, that under the terms of Sakhalin Energy's HSESAP, it has committed to "support the WGWAP until such time as review by the Company and Lenders results in agreement that this is no longer appropriate." In other words, the HSESAP calls for the WGWAP until a formal agreement is reached that it is no longer needed, which may or may not occur at the same time as Sakhalin Energy's loan is repaid. However, interviewees worry that without the terms of the loan to compel continuing the Panel, Sakhalin Energy may not face repercussions if it were to stop its support for the WGWAP.

As a result, the future of the WGWAP after 2021 is in question. We were asked to assess several options about the future of the WGWAP in order to spark a discussion among WGWAP stakeholders.

Stakeholder perceptions

Survey and qualitative interviews showed a belief in the fundamental value of the WGWAP. Respondents rated the importance of the WGWAP process to the conservation of Western Gray Whales a healthy 8.25 out of a possible score of 10;[81] NGOs and external scientists rated this question the highest.

[81] Survey Question 57

However, respondents also showed a healthy scepticism that Sakhalin Energy will continue to implement best practices after 2021, regardless of the existence of the WGWAP. Respondents rated this question a 6.21.[82] Notably, the greatest amount of scepticism came from stakeholder groups who have had the most direct engagement with Sakhalin Energy on Western Gray Whale issues: Panel members rated their confidence at only 3.83 out of 10; IUCN staff rated their confidence at only 4.38.

Finally, survey respondents rated the question of whether the WGWAP should continue after 2021 at a strong 7.88.[83] Answers to this question were rated the highest by external scientists (9.8) and Panel members (9.14), and lowest by Sakhalin Energy and other oil and gas companies (both 6.3).

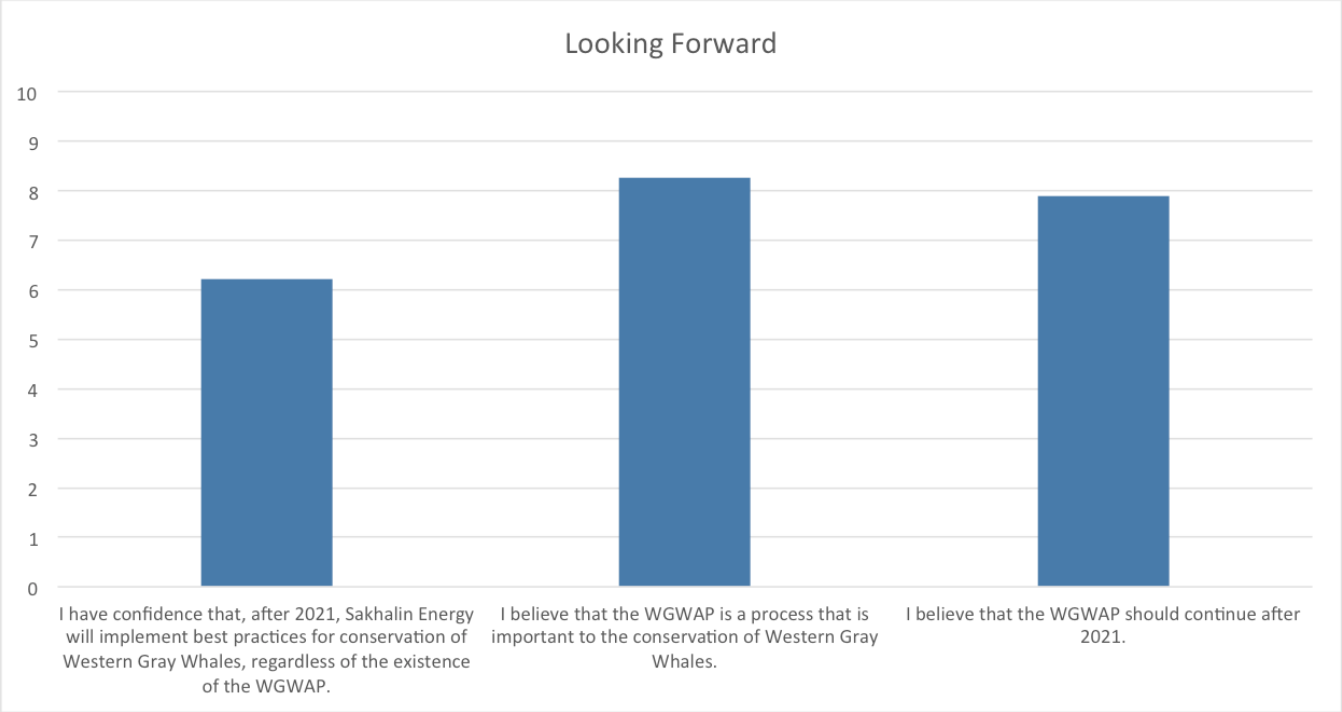

Figure 14. Survey questions 56, 57 and 58

Qualitative interviews backed up the scepticism that Sakhalin Energy would continue to implement best practices without the presence of the WGWAP. Some interviewees recognized that Sakhalin Energy has moved from a construction phase to an operations phase, which could mean fewer and rarer large-scale risks to Western Gray Whales. A minority view held the opinion that Sakhalin Energy has learned enough from the WGWAP and that, as long as Sakhalin Energy continues to implement its existing practices, there is no longer a need for the Panel. However, in our opinion, this view fails to recognize the value of the Panel in providing ongoing review, oversight, and advice that is valuable and necessary for adapting the company's practices over time. Other stakeholders argued that in order to fulfil its original goal of minimizing the impacts from Sakhalin Energy on Western Gray Whales, the WGWAP is needed as long as Sakhalin Energy conducts operations on the Sakhalin shelf.

Some interviewees expressed concern that staff turnover at Sakhalin Energy would lead to people who are not as committed to the WGWAP or Western Gray Whale conservation as the Sakhalin Energy representatives who have recently engaged with the WGWAP. Others expressed concern that upper management at Sakhalin Energy – given the increasing management role of Gazprom, which has not had the same depth of history and relationship with WGWAP as Shell – needs to understand the positive added value that the WGWAP has provided for Sakhalin Energy.

Several interviewees noted a concern that without the Panel and its regular mechanisms to review Sakhalin Energy's plans, Sakhalin Energy practices with regards to Western Gray Whales would slowly and over time

[82] Survey Question 56

[83] Survey Question 58

degrade, and Sakhalin Energy would not benefit from the continued improvement and innovation encouraged by the Panel. While this may not present a serious concern for several years, one set of significant impacts on Western Gray Whales from a poorly executed seismic survey or from an unforeseen event, such as an oil spill, could very negatively impact the Western Gray Whale population. Interviewees noted that if such an event were to occur, the absence of the Panel would harm Sakhalin Energy in two ways: first, the absence would harm the company's ability to respond and adapt accordingly; and, second, if the company was not at fault, the Panel would not be able to provide independent verification that the cause was not Sakhalin Energy.

Finally, several stakeholders noted the reputational risk to Sakhalin Energy, and even to other stakeholders such as lenders, should the WGWAP not continue after 2021. They noted that although Sakhalin Energy has reaped benefits from the WGWAP through increased trust and reputation, these can be quickly squandered, especially if negative impacts were to occur. Although the WGWAP helped to stem protests from NGOs with inflatable whales, there is no guarantee that the protests would not start again. They underscored that if Sakhalin Energy wants to secure its reputational gains and legacy, it should demonstrate continued commitment to the WGWAP.

Future Scenarios

Through interviews with stakeholders, we started to explore potential future scenarios of the WGWAP.

Scenario 1: WGWAP is disbanded

Under this scenario, the WGWAP would wrap up its work in 2021. Without a WGWAP to monitor and provide advice, we expect that the practices of Sakhalin Energy and other oil and gas companies operating offshore of Sakhalin will either stay the same or degrade over time, and there would be no guarantee that their practices would not degrade. At the time the Panel is discontinued, we expect an outcry of concern from conservation NGOs that has the potential to negatively impact Sakhalin Energy's reputation and the reputation of other stakeholders. With regards to Western Gray Whales, Sakhalin Energy may fall out of compliance with its commitment to uphold its own HSESAP and the IFC Performance Standards, over time, due to the loss of independent scientific advice. In particular, IFC Performance Standard 6 on biodiversity conservation and sustainable management of living marine resources would be at risk. If the Western Gray Whale population starts to decline, we expect that NGOs and the public will be quick to blame actors in the oil and gas industry and the financiers of those projects.

Scenario 2: WGWAP continues in its current form

Under this scenario, the WGWAP would continue to review Sakhalin Energy's plans, with a goal of minimizing impacts on Western Gray Whales. Although it would be positive to engage other actors in the oil and gas industry and beyond, we see no evidence that this is a realistic expectation. Under this scenario, Sakhalin Energy would remain in compliance with its HSESAP and with IFC Performance Standards. If the Western Gray Whale population started to decline, Sakhalin Energy would be able to rely on a highly respected, independent Panel to provide advice and review. This option requires either an annual budget commitment from Sakhalin Energy or a one-time commitment to establish a fund that would sustain the WGWAP's operations (note that such a fund is similar to funds that extractive industries often have to set aside for reclamation or mitigation of environmental impacts). The Panel could review whether it requires the same composition or should be slightly reduced in number; however, we note that perceptions on this question were mixed and there is value in the current size of the Panel. Ideally, a budget commitment to the WGWAP would be supplemented by budget commitments to conduct needed research on Western Gray Whales, whether this occurs through the Joint Programme or independently.

Scenario 3: WGWAP is mandated by the Russian Government

Under this scenario, the Russian Federal Government would require corporate participation in the WGWAP by companies active on the Sakhalin shelf. This scenario would be the most successful at engaging the range

of actors who have impacts on Western Gray Whales, including both oil and gas companies and fisheries companies, who would be required to participate. The Russian government could either cover budget requirements or require payments of companies active on the Sakhalin shelf. Shared budget costs across corporate actors would likely reduce the budget commitment from Sakhalin Energy. This option would also secure the WGWAP's future as one component in best practices for offshore oil and gas development in the Russian Far East. This option would likely require an expansion of the WGWAP, in order to have necessary expertise to review all of the corporate actors in the area who impact Western Gray Whales. The WGWAP would be available to advise other companies who have significant impacts on Western Gray Whale habitat. Sakhalin Energy would remain in compliance with its HSESAP and IFC Performance Standards, and other companies may come into compliance with the Standards. If the Western Gray Whale population started to decline, the Russian government and companies would be able to rely on a highly respected, independent Panel to provide advice and review. This scenario would require significantly increased and stronger relationships between IUCN, the WGWAP, and Russian Federal authorities.

Scenario 4: WGWAP transforms into a range-wide initiative jointly managed by the IWC and IUCN.

Under this scenario, the WGWAP would become a range-wide initiative that would help implement the CMP for Western Gray Whales. The strong relationship between the WGWAP, IWC, and IUCN makes this possible. Since the WGWAP would now be responsible for advice and review of conservation issues throughout the range of Western Gray Whales, it would likely need to grow. For the WGWAP to continue to maintain necessary oversight and engagement with regards to oil and gas development in Sakhalin, a mechanism would need to developed, such as a sub-committee within the IWC Scientific Committee and/or Conservation Committee or a dedicated advisory group under the CMP itself. Budget costs for the WGWAP would likely need to be shared by range states and by companies involved in the region. Budget commitments could be made by participating companies (including Sakhalin Energy, if it were to choose to seed or participate in this initiative) on an annual basis or by establishing a fund that would sustain the WGWAP's operations. Although IWC and IUCN would not be able to mandate participation by range states or companies, their standing and credibility together make it more likely that range states and some companies will choose to voluntarily participate. Nonetheless, under this scenario, significant effort would need to be dedicated to securing needed funds. To the extent that Sakhalin Energy chose to participate under this scenario, the Panel would provide independent verification that the company remains compliant with its HSESAP and with IFC Performance Standards. Other companies that choose to participate may come into compliance with these standards. If the Western Gray Whale population starts to decline, participating range states and companies would be able to rely on a highly respected, independent Panel to provide advice and review. This scenario would require ongoing and significant efforts by the IWC, the IUCN, and the WGWAP to engage state and corporate actors and secure their commitments.

In assessing these four scenarios, we considered their likelihood, their impact on conservation of Western Gray Whales, their impact on Sakhalin Energy's reputation, their impact on Sakhalin Energy's compliance with current HSESAP and IFC Performance Standards, and the budget responsibility for each scenario.

Post-2021 Scenario Analysis	**Likelihood**	**Potential Impact on the Conservation of Western Gray Whales**	**Impact on Sakhalin Energy's Reputation**	**Impact on Sakhalin Energy's HSESAP and IFC Standards**	**Budget responsibility**
Scenario 1: WGWAP is disbanded	High	Negative	Negative	Negative	None

Scenario 2: WGWAP continues in its current form	Low	Same	Same	Same	Sakhalin Energy
Scenario 3: WGWAP is mandated by the Russian Government	Low	Positive	Same	Same	Shared among companies in Russia and/or covered by Russian government
Scenario 4: WGWAP becomes a range-wide initiative	High	Positive	Same or positive (presuming Sakhalin Energy's participation)	Same (presuming Sakhalin Energy's participation)	Shared among governments and/ or companies active in range

Table 1. Post-2021 Scenarios

Based on this analysis, the worst outcome clearly is disbanding the WGWAP. We believe that the WGWAP becoming a range-wide initiative under the auspices of IWC and IUCN is most feasible at this time and brings positive conservation impact. Although we believe that action by the Russian Government to mandate the WGWAP would also be positive, especially in terms of conservation impact, we believe the likelihood is low without greatly strengthened relationships between the WGWAP, IUCN, and the Russian Government. As a result, we think it is most effective to focus the attention and effort of stakeholders on transforming the WGWAP into a range-wide initiative.

Minimization of Impacts. We believe that the WGWAP has improved Sakhalin Energy's performance with respect to Western Gray Whales through 1) better science and 2) outside monitoring. In these specific ways, we believe that the Panel has surpassed its intended project outcomes of changing company practice.

We note, however, that the WGWAP has primarily addressed noise and seismic survey issues, and to a lesser extent oil spill response and shipping traffic issues. We note that several areas relevant to oil and gas impacts on Western Gray Whales require greater attention, including oil spill prevention, better understanding of feeding ecology, and cumulative impacts.

We also note that the Panel was established with the original vision that it would also influence other oil and gas operators and reduce threats to Western Gray Whales from other industries. For this specific objective, the Panel has fallen short of original hopes. Although ENL likely benefited from the WGWAP's recommendations, the lack of leverage – whether regulatory, reputational, or financial – to secure the participation of other companies in the WGWAP has meant that attempts to minimize the impacts of other actors have been less successful than with Sakhalin Energy.

IUCN and the WGWAP engaged with a UNDP/GEF/MNR project to provide input about best practices for monitoring and mitigation of impacts on large whales from offshore industrial activities. Such collaborations provide a mechanism to scale up the impact of the WGWAP to improve the biodiversity conservation practices of oil and gas operations throughout the Russian Federation.

Compliance of Sakhalin Energy with the environmental guidelines of lenders. The WGWAP has helped Sakhalin Energy comply with the environmental guidelines of lenders, and, according to reports from lender consultants, Sakhalin Energy has not violated compliance requirements specifically with regards to Western Gray Whale concerns. We also note that Sakhalin Energy has adopted a commitment to comply with 2012 IFC Performance Standards, including Performance Standard 6 on biodiversity conservation and sustainable management of living marine resources. The WGWAP can help Sakhalin Energy comply with these Performance Standards, including through exploration of biodiversity offsets.

However, compliance of Sakhalin Energy with the environmental guidelines of lenders requires constant vigilance and attention. Controversial issues, such as conducting seismic surveys in 2015 during the same season as ENL and conducting seismic surveys in 2018 without recommended acoustic monitoring, threaten compliance. The WGWAP stated that if Sakhalin Energy proceeded with its 2018 survey without acoustic monitoring, it would mean that the MMP – an integral part of Sakhalin Energy's commitments to the Marine Mammal Specification under its Health, Safety, Environment and Social Action Plan – was not fully implemented. These controversial issues also point to the need for an ongoing role for the WGWAP.

We are also concerned that declining funding in recent years, from Sakhalin Energy for Western Gray Whale conservation – through the WGWAP, the Joint Programme, and the Marine Mammals Protection Plan implementation – could undermine the ability of the WGWAP to perform its function, thus affecting compliance.

In addition to the ongoing need for the WGWAP to fulfil its role to provide advice to Sakhalin Energy, we believe there is a need for increased engagement by lenders to ensure implementation of WGWAP recommendations and compliance with lender and IFC social and environmental standards.

Reduction of Reputational Risk. We believe that the WGWAP surpassed the broad objective of reducing the reputational risk to Sakhalin Energy and other institutions associated with the project, including lenders. Engagement in the WGWAP has provided notable and impressive benefits to Sakhalin Energy's reputation. We believe that for Sakhalin Energy, the WGWAP has demonstrated its cost-effectiveness if this criterion is solely applied to Sakhalin Energy's reputation.

Another legacy of the WGWAP is increased trust between the company, independent scientists, and conservation NGOs. This trust has slowly been built over the years, and has had many setbacks. Nonetheless, trust is difficult to earn and easy to squander. Although increased trust is one of the legacies of the WGWAP process, a faltering in either the process or Sakhalin Energy's implementation of WGWAP recommendations could cause a reversion to distrust.

The existence of WGWAP provides a platform for dialogue among the company, NGOs, outside observers, and lenders that did not exist prior to its creation. All stakeholders appreciated the value of this platform in creating a venue for exchange and understanding.

Future of the WGWAP. We find that the WGWAP has been an important force for conservation of Western Gray Whales. While there is always room for improvement, by and large, it has been an excellent solution to the problem of how to promote regional economic development while protecting the environment.

We believe that the WGWAP has been effective enough to warrant continuation. We hope that the WGWAP, together with all stakeholders, will review scenarios for continuation and/or transformation of the WGWAP after 2021. Following review, we hope that the WGWAP and IUCN will take steps to explore potential options, including, but not limited to, transforming the WGWAP into a range-wide initiative.

Recommendations

The following are our recommendations for the future of the WGWAP.

1. The WGWAP should review the range of risks that it assesses to ensure that it is focusing adequate attention on less known, longer-term issues, such as feeding ecology, oil spill prevention, cumulative impacts, and fisheries.
2. The WGWAP should consider whether it requires a Panel member who is a specialist on oil spill prevention and a Panel member with direct experience working for the oil industry, ideally with engineering and/or Health, Safety, and Environment expertise, who can help with an independent evaluation of company responses.
3. Sakhalin Energy should formally provide its research plans, including research plans of the Joint Programme, to the WGWAP for review and input, on an annual basis.

4. IUCN and the WGWAP should continue to produce publications in order to scale its impact. IUCN and the WGWAP should also consider publicizing its primary recommendations through the media in order to build support, encourage compliance, and scale its impact.
5. Sakhalin Energy should prioritize providing full and timely information to the WGWAP to ensure its effectiveness. Sakhalin Energy should renegotiate with ENL policies regarding access to information in the Joint Programme, in order to ensure that any data developed with Sakhalin Energy funding can be provided to the WGWAP for the Panel's full review and consideration.
6. Sakhalin Energy should demonstrate that its commitment to the success of Western Gray Whale conservation and the WGWAP is embedded into the company's corporate culture. Sakhalin Energy staff who regularly engage with the WGWAP should convey the positive value of the WGWAP to their superiors, ensuring a common understanding within the company of the value that the WGWAP has provided to Sakhalin Energy and a common commitment to the WGWAP's future success.
7. The WGWAP, IUCN, and Sakhalin Energy should increase their joint engagement of the Russian government in WGWAP initiatives, building relationships and understanding within relevant Russian government agencies about the value of the WGWAP.
8. The WGWAP, IUCN, Sakhalin Energy, and lenders should review budgets for both the WGWAP and the Joint Programme, to ensure that funding allocated to Western Gray Whale conservation issues is adequate to meet the requirements of Sakhalin Energy's HSESAP.
9. Lenders, in addition to lender consultants, should engage more regularly and actively in WGWAP proceedings in order to ensure that WGWAP recommendations are implemented and to ensure compliance with lender and IFC social and environmental standards.
10. The WGWAP, together with all stakeholders, should review scenarios in the report for continuation and/or transformation of the WGWAP after 2021. Following review, the WGWAP and IUCN should take steps to explore potential options, including, but not limited to, transforming the WGWAP into a range-wide initiative.

Photo by Dave Weller

Overall Assessment and Recommendations

To conclude, the TOR for the evaluation ask fundamental questions that any evaluation should address as an overall assessment:

- To what extent have WGWAP activities reached/surpassed intended delivery;
- To what extent has the Panel met/surpassed its intended project outcomes of its TOR of changing company practice; and
- To what extent has the Project leveraged additional resources towards the same objectives?

To assess the first two questions, we reviewed the Panel's effectiveness in achieving its goal and primary objectives, which we had generated as an *implicit* Theory of Change that stakeholders are operating with. Note that since there is no explicit Theory of Change – that is, an understanding of how the WGWAP is supposed to achieve its goals – we generated this implicit view that incorporates the perspectives of all stakeholders in the process. It goes beyond the functioning of the Panel itself to understand the involvement of all the stakeholders in the process.

Goal: Conservation and population recovery of Western Gray Whales

Objectives:

1. Minimization of impacts from human activities on Western Gray Whales, principally oil and gas development;
2. Compliance of Sakhalin Energy with the environmental guidelines of lenders;
3. Reduction of reputational risk to Sakhalin Energy and institutions associated with the project, including lenders.

Conservation and Population Recovery: Overall, we believe that the WGWAP has improved conservation and recovery of Western Gray Whales. Evidence shows that Western Gray Whale numbers are gradually increasing. Although numbers of Gray Whales in the area offshore of Sakhalin have gradually increased, Panellists note that it is impossible to say with certainty if greater numbers are a result of changed company practices or if the increase would have been even greater in the absence of oil and gas activity. We find that the WGWAP has contributed in meaningful ways to minimizing impacts from offshore oil and gas development on Western Gray Whales, but concerns remain whether best practices to minimize impacts will be sustained in the future.

We believe that overall, the WGWAP has kept and maintained attention and oversight on the issue of Western Gray Whales, which has been valuable to the conservation and population recovery of the species. As for leveraging additional resources, there has been some minimal success in leveraging other funds, in the form of *pro bono* contributions of time by some Panel members and Associate Scientists, acquisition of $60,000 from UNDP to produce the Principles and Guidelines document, and use of savings in funding on some line items to conduct an analysis of risk from entanglement. At the same time, the WGWAP has leveraged its own expertise and support from others to draft a CMP for Western Gray Whales and a Memorandum of Cooperation among range states. This provides a positive basis for increasing long-term conservation and population recovery of Western Gray Whales.

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Annex 2. List of interviews

*indicates current or former Panel Member

Berzina-Rodrigo, Anete	IUCN
Bos, Gerard	IUCN
Blonk, Bastian	Sakhalin Energy
Burdin, Alexander	Kamchatka Branch of Pacific Geographical Institute, Russian Academy of Sciences
Carbone, Giulia	IUCN
Cooke, Justin*	Centre for Ecosystem Management Studies
Dicks, Brian*	Independent
Donovan, Greg*	International Whaling Commission (IWC)
Dupont, Jennifer	ExxonMobil / Exxon Neftegas Limited (ENL)
Elliott, Wendy	WWF International
Hancox, Jonathan	Ramboll
Knizhnikov, Alexey	WWF Russia
Lisitsyn, Dmitry	Sakhalin Environmental Watch
Lock, Stephanie	Sakhalin Energy
Maginnis, Stewart	IUCN
Mate, Bruce	Ramboll
Nevenchina, Elena	Sakhalin Ministry of Natural Resources
Norlen, Doug	Advisory Committee (and former Policy Director) Pacific Environment
Nowacek, Douglas*	Nicholas School of the Environment & Pratt School of Engineering, Duke University Marine Laboratory
Ohyama, Yoshiko	Mizuho Bank (in writing only)
Pomerleau, Corinne*	University of Manitoba, Centre for Earth Observation Science, & Greenland Institute of Natural Resources, Department of Birds and Mammals
Racca, Roberto	Sakhalin Energy Contractor
Reeves, Randall*	Okapi Wildlife Associates
Reynolds, Aoife	Shell International
Rodriguez, Jon Paul	IUCN Species Survival Commission
Roseboom, Gertjan	Shell International
Samatov, Andrey	Sakhalin Energy
Scott, Mike	Exxon Neftegas Limited (ENL)
Sheynfeld, Svetlana	UNDP/GEF/MNR Project: “Mainstreaming biodiversity conservation into Russia’s energy sector policies and operations”
Tsidulko, Grigory*	Marine Mammal Council
Urban Ramirez, Jorge	Laguna San Ignacio Ecosystem Science Program, Professor of Marine Biology, Universidad Autonoma de Baja California Sur, IUCN Cetacean Specialist Group, Scientific Committee of IWC
Vedenev, Alexander*	Laboratory on Noises and Sound Fluctuations in the Ocean at P. P. Shirshov Institute of Oceanology of Russian Academy of Sciences
Vorontsova, Maria	IFAW International
Weller, David*	Research Wildlife Biologist (marine mammals), Marine Mammal and Turtle Division, Southwest Fisheries Science Center (SFSC), National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA)

Annex 3. Evaluation matrix

EVALUATION CRITERIA	KEY EVALUATION QUESTIONS	SUBQUESTIONS	INDICATORS	INFORMATION SOURCES / METHODS
Relevance	To what extent are the Panel's and company's activities relevant to the Theory of Change?	1. How does the panel help in the conservation and recovery of WGWs? 2. What are the priority issues in conservation and recovery of WGWs that WGWAP has addressed? What are the priority issues that it has not addressed?8 3. Does the WGWAP process affect only Sakhalin Energy, or does it also affect other oil and gas operators in the area? How so?	1. Likert scaling of assessments of relevance by expert observers and participants	1. Survey data 2. Interviews with key informants 3. Review of documentation
Effectiveness	To what extent are the Panel's outputs leading to the intended outcomes?	1. What factors promote or inhibit the effectiveness of the WGWAP? (including issues of management leadership and governance, membership, implementation of recommendations, data integrity and reliability, engagement of the private sector, NGOs and local and national government) 2. How effectively are IUCN, Sakhalin Energy, the WGWAP Chair, and the Panel overall performing the roles assigned to them by the WGWAP TOR? 3. What scientific membership would make the WGWAP most effective 4. How clear are the recommendations, advice and other outputs delivered by the WGWAP)? 5. How practical and useable are the recommendations, advice and other outputs delivered by the WGWAP? 6. What recommendations have been implemented fully, and what recommendations have not been implemented fully? What are the factors that have led to effective implementation? How effectively are WGWAP recommendations and advice being used by Sakhalin Energy? 7. How effectively are WGWAP recommendations and advice being used by other stakeholders? 8. How effectively have IUCN and Sakhalin Energy engaged relevant stakeholders, including the private sector, NGOs and local and national government in the WGWAP process 9. What are the obstacles to engagement by relevant stakeholders, and how effectively is the WGWAP addressing these obstacles? 10. Has the WGWAP been effective enough to warrant its continuation?	1. Likert scaling of assessments of effectiveness by expert observers and participants 2. Percentage of WGWAP recommendations completed/ addressed, open, abandoned, superseded 3. Percentage of WGWAP recommendations accepted, queried, rejected by Sakhalin Energy 4. Number of documents posted by IUCN on WGWAP website (in English and Russian) 5. Number of and trends in visits to WGWAP website	1. Survey data 2. Interviews with key informants 3. Analysis of WGWAP records 4. Review of other documentation

Efficiency	How cost-effective Is the WGWAP process?	1. Is the WGWAP managed efficiently? (including clarity of roles, responsibilities and tasks, transparency, annual work plans, communications in Russian and English, logistical support) 2. Do Sakhalin Energy, IUCN and other funding agencies consider these costs to be an effective investment in relation to the direct and indirect results achieved? 3. Do the various stakeholders consider WGWAP roles, responsibilities and tasks to be clearly defined and assigned?	1. Likert scaling of assessments of efficiency by expert observers and participants 2. Dates of annual work plan production 3. Proportion of planned activities reported done 4. Number of and trend in documents deemed confidential by IUCN and not made public 5. Proportion of WGWAP documentation, including website content, available in Russian as well as English.	1. Survey data 2. Interviews with key informants 3. Analysis of WGWAP budget and other records 4. Review of other documentation
Legacy and impact	To what extent are the Panel's outputs leading to the intended outcomes?	1. To what extent is the WGWAP process contributing to the overall conservation and recovery of the WGW? 2. Has the WGWAP process achieved sustainable positive changes in Sakhalin Energy practice that are likely to persist beyond the life of the WGWAP project? 3. Is the Panel process influencing practices beyond Sakhalin Energy operations? 4. Has the WGWAP process to date had any influence over broader State and industry practice in the range? 5. Has the WGWAP process to date had any impact on marine conservation practices in the oil industry in general? 6. Does the impact of the WGWAP process warrant its continuation or termination? 7. What could the WGWAP do to extend its legacy: should the mandate of the WGWAP be extended to other environmental considerations pertinent to Sakhalin Energy's potential impacts on the environment on/near Sakhalin Island?	1. Likert scaling of assessments of impact by expert observers and participants 2. Number of design or operational changes by Sakhalin Energy attributable to WGWAP recommendations	1. Survey data 2. Interviews with key informants 3. Review of other documentation
Factors affecting independence	To what extent is the WGWAP's independence maintained?	1. What are the factors, if any, that are affecting the WGWAP's independence? 2. How well are these factors being addressed? 3. How transparent is the WGWAP process?	1. Likert scaling of assessments of independence by participants and expert observers	1. Interviews 2. Survey data
Quality of the overall project/ process		1. To what extent have Project activities and products reached/surpassed intended delivery 2. To what extent has the Panel met/ surpassed intended project outcomes of its TOR of changing company practice? 3. To what extent has the Project leveraged additional resources towards the same objectives	1. Rating criteria discussed between IUCN and evaluators	1. Interviews 2. Survey data

Request for Proposals (RfP)

Independent evaluation of the Western Grey Whale Advisory Panel (WGWAP)

Independent evaluation of the Western Grey Whale Advisory Panel (WGWAP)

Issue Date: 17 April 2018
Closing Date and Time: 4 May 2018 17:00 GMT+1

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PART 1 – INSTRUCTIONS TO PROPOSERS AND PROPOSAL CONDITIONS

1.1. About IUCN

IUCN, International Union for Conservation of Nature, helps the world find pragmatic solutions to our most pressing environment and development challenges.

IUCN's work focuses on valuing and conserving nature, ensuring effective and equitable governance of its use, and deploying nature-based solutions to global challenges in climate, food and development. IUCN supports scientific research, manages field projects all over the world, and brings governments, NGOs, the UN and companies together to develop policy, laws and best practice.

IUCN is the world's oldest and largest global environmental organization, with more than 1,200 government and NGO Members and almost 11,000 volunteer experts in some 160 countries. IUCN's work is supported by over 1,000 staff in 45 offices and hundreds of partners in public, NGO and private sectors around the world.

1.2. Summary of the Requirement

IUCN invites proposals from individuals or teams for the Independent 2-yearly evaluation of the Western Grey Whale Advisory Panel (WGWAP). The detailed Terms of Reference can be found as Annex 1 of this RfP.

1.3. The procurement process

The following key dates apply to this RfP:

RfP Issue Date	17 April 2018
Confirmation of Intention to Bid (optional)	At earliest convenience but latest 27th April 2018. Please note this is optional and allows IUCN to contact interested bidders with eventual modifications, and to share answers to questions received with all bidders.
Final date for queries	27 April 2018 17:00 GMT+1
RfP Closing Date and Time	4 May 17:00 GMT+1
Estimated Contract Award Date	1 June
Estimated Contract Start Date	10 June

1.4. Conditions

IUCN is not bound in any way to enter into any contractual or other arrangement with any Proposer as a result of issuing this RfP. IUCN is under no obligation to accept the lowest priced Proposal or any Proposal. IUCN reserves the right to terminate the procurement process at any time prior to contract award. By participating in this RfP, Proposers accept the conditions set out in this RfP.

Proposers must sign the "Proposer's Declaration" and include it in their Proposal.

1.5. Queries and questions during the RfP period

Proposers are to direct any queries and questions regarding the RfP to the above IUCN Contact. No other IUCN personnel are to be contacted in relation to this RfP.

Proposers may submit their queries no later than 27 April 17:00 GMT+1.

To the extent possible, IUCN will issue the responses to any questions, suitably anonymised, to all Proposers that have expressed their intention to bid to evaluation@iucn.org. If you consider the content of your question confidential, you must state this at the time the question is posed.

1.6. Amendments to RfP documents

IUCN may amend the RfP documents by issuing notices to that effect to all Proposers and may extend the RfP closing date and time if deemed appropriate.

1.7. Proposal lodgement methods and requirements

Proposers must submit their Proposal to IUCN no later than 17:00 GMT+1 on 4 May 2018 by email to: evaluation@iucn.org. The subject heading of the email shall be: **RfP – WGWAP 2-yearly evaluation - [Proposer Name]**. Electronic copies are to be submitted in PDF format. Proposers may submit multiple emails (suitably annotated – e.g. Email 1 of 3) if attached files are deemed too large to suit a single email transmission (10MB is the file limit for messages to IUCN addresses).

Proposals must be prepared in English and in the format stated in Part 3 of this RfP.

1.8. Late and Incomplete Proposals

Any Proposal received by IUCN later than the stipulated RfP closing date and time, and any Proposal that is incomplete, will not be considered. There will be no allowance made by IUCN for any delays in transmission of the Proposal from Proposer to IUCN.

1.9. Withdrawals and Changes to the Proposal

Proposals may be withdrawn or changed at any time prior to the RfP closing date and time by written notice to the IUCN contact. No changes or withdrawals will be accepted after the RfP closing date and time.

1.10. Validity of Proposals

Proposals submitted in response to this RfP are to remain valid for a period of 90 calendar days from the RfP closing date.

1.11. Evaluation of Proposals

The evaluation of proposals shall be carried out exclusively with regards to the evaluation criteria and their relative weights specified in part 2 of this RfP.

Part 2 – THE EVALUATION MODEL

Each proposal is requested to respond to the following criteria (see sections 3.2 and 3.3 for detail) and will be screened against each criterion on a points basis (available points in brackets). Award of the maximum amount of points signifies a superior qualification against the criterion, while a score of zero signifies that the requested criterion was either not addressed or completely inadequately addressed.

Criteria (showing points available in brackets)	Points available
1. Quality and clarity of the (up to) 3-page proposal, including demonstrated understanding of the evaluation ToR (15), methodological approach (15), overall quality of the evaluation work plan (10).	40
2. Relevant qualifications of the evaluator or team, including qualifications and/or experience in evaluation (20) and the technical background requested in the evaluation ToR (10)	30
3. Overall proposed cost	20
4. Quality of the writing sample, in particular degree to which the writing sample demonstrates strong evaluation practice (10)	10
Total	100

PART 3 – INFORMATION TO BE PROVIDED BY PROPOSERS

By participating in this RfP, Proposers are indicating their acceptance to be bound by the conditions set out in this RfP.

This Part details all the information Proposers are required to provide to IUCN. Submitted information will be used in the evaluation of Proposals. Proposers are discouraged from sending additional information, such as sales brochures, that are not specifically requested.

3.1. Declaration

Please read and sign the Declaration in **Annex 4** and include this in your proposal.

3.2. Technical and Pricing Information/Service Proposal

Each proposal should be a maximum of five (5) pages and should address the following elements and questions:

- Proposal to address the Terms of Reference including methodological approach including how data collected will be triangulated and analyzed. (Up to two (2) pages, excluding the items below).
- Cost and budget preparation: Overall proposed budget in US Dollars up to a total value of US$20,000. (Budget should be no longer than one (1) page). Submitted rates and prices are deemed to include all costs, insurances, taxes, fees, expenses, liabilities, obligations, risk and other things necessary for the performance of the Requirement. Any charge not stated in the Proposal as being additional, will not be allowed as a charge against any transaction under any resultant Contract. Prices shall be exclusive of Value Added Tax.

- Brief summary of evaluator or evaluation team's qualifications and experience in evaluation and the relevant technical background– see Evaluation ToR, "Qualifications of the Evaluator/Evaluation Team" (One (1) page max. for team's qualifications/experience).
- A writing sample of an evaluation conducted and written by the lead consultant, if possible on a related topic, is required.

Proposals that do not submit a suitable writing sample will not be considered. Each team member is also required to submit a relevant CV.

Rates and Prices

The budget should be clear and transparent and presented in table format. The consultant fees, the number of working days anticipated and rough estimates of travel expenses should be included, at a minimum.

3.3. Non-price commercial information

Any self-employed consultants based in the EU or Switzerland must indicate that they will be able to provide the registration certificates and other documents relating to their tax and social security obligations.

PART 4 – DEFINITIONS

For the purposes of this Request for Proposal (RfP) the following definitions apply:

Contract	Means any contract or other legal commitment that results from this Request for Proposals.
Contractor	Means the entity that forms a Contract with IUCN for provision of the Requirement.
Instructions	Means the instructions and conditions set out in Part 1 of this Request for Proposals.
IUCN	Means IUCN, International Union for Conservation of Nature and Natural Resources.
IUCN Contact	Means the person IUCN has nominated to be used exclusively for contact regarding this Request for Proposals and the Contract.
Proposal	Means a written offer submitted in response to this Request for Proposals.
Proposer	Means an entity that submits, or is invited to submit, a Proposal in response to this Request for Proposals.
Requirement	Means the supply to be made by the Contractor to IUCN in accordance with Part 2 of the RfP.
RfP	Request for Proposals

ANNEXES

Annex 1: Evaluation Terms of Reference
Annex 2: Draft Evaluation Matrix
Annex 3: Proposed Contract
Annex 4: Declaration

ANNEX 1 – TERMS OF REFERENCE

Independent 2-yearly evaluation of the Western Gray Whale Advisory Panel (WGWAP)

Terms of Reference

1. The Western Gray Whale Advisory Panel (WGWAP)

In 2006 IUCN established a panel of independent scientists – the WGWAP – which provides scientific advice and recommendations to Sakhalin Energy Investment Company Ltd. (Sakhalin Energy) on the conservation and recovery of the Western Gray Whale (WGW).

The overall goal of the WGWAP is to improve the conservation status of the WGW by providing objective independent advice on relevant research, monitoring and mitigation. The WGWAP's objectives and modus operandi are established in the Terms of Reference (https://www.iucn.org/sites/dev/files/content/documents/tor_wgwap_2017-2021.pdf) .

2. Purpose and Objectives of the Evaluation

For learning, improvement and accountability purposes, IUCN seeks an independent evaluator to evaluate the performance of the collaboration and the effectiveness with which IUCN, the WGWAP, and Sakhalin Energy have played their respective roles. The evaluation will be conducted against a set of indicators developed by IUCN and the independent evaluator will make recommendations on how the performance might be improved.

Since the establishment of the WGWAP, three independent evaluations have been conducted, in 2008-9, 2011 and 2014, resulting in a number of recommendations for improvement aimed at both IUCN and Sakhalin Energy (https://www.iucn.org/western-gray-whale-advisory-panel/panel/evaluations). An informal review was conducted in 2016 (https://portals.iucn.org/library/node/46182). This evaluation will cover the period from 1st quarter of 2015 to 2nd quarter of 2018. Please note that a further evaluation, close to the end or after the end of the 2017-2021 period covered by the current WGWAP TOR will be carried out which will explore in detail evidence of the WGWAP process' impacts over the whole 2017-2021 period, the strength of causality as well as an assessment of the value for money of the Panel process.

The final evaluation report will be made public on the IUCN website, along with IUCN's Management Response to the report.

Specific objectives:

1. To assess the continued **relevance** of the WGWAP process**:**
   Review and clarify/reconstruct the Theory of Change (ToC).
   Is the ToC (whether implied or explicitly stated) well understood by IUCN, Sakhalin Energy and the Panel?
   To what extent is the Toc/Vision shared by IUCN, Sakhalin Energy and the Panel
   To what extent are the Panel's and company's activities relevant to this ToC?
   To what extent are the WGWAP process activities relevant (and efficient) to the delivery of the WGWAP outputs?

2. To **assess the effectiveness** of the results of the WGWAP process in relation to each of the stated roles and responsibilities:

To what extent are the WGWAP process outputs leading to the intended outcomes?
To what extent do the management leadership and governance of the WGWAP contribute to these outcomes?

3. To assess the **cost effectiveness** of the WGWAP process in relation to the results achieved.
   How cost-effective is the WGWAP process?

4. To assess the **influence, and if possible, the impact** and **legacy** of the WGWAP process**:**
   To what extent is the WGWAP process contributing to the overall conservation and recovery of the WGW?
   Is the Panel process influencing practices beyond Sakhalin Energy operations?
   What could the WGWAP process do to extend its legacy?
5. To assess the **functioning and independence** of the Panel and the adequacy of support provided to it by IUCN.
   To what extent has the WGWAP's independence been maintained?

6. To assess the **quality of the overall project/process:** a performance rating by the evaluator, based on criteria to be agreed and refined with IUCN.

3. Intended Uses and Users

This evaluation is commissioned by the Director General of IUCN and will be managed under the supervision of the Planning, Monitoring, Evaluation and Risk Unit (PMER Unit) responsible for IUCN's evaluation work.

The primary audiences for the evaluation are the three implementing parties of the initiative, namely IUCN (design, management and quality control of the process), the WGWAP Co-Chairs and Panel members (delivery of analysis, advice and recommendations), and the senior managers and research scientists employed or contracted by and working for Sakhalin Energy (the principal users of the Panel's outputs).

Each of these parties is therefore expected to act on the results of the evaluation in terms of improving the effectiveness of their respective roles.

In particular, the intended users of the evaluation by IUCN, as a convener, include:

- The Director General of IUCN for the purpose of taking decisions on the mandate, composition and operations of the WGWAP;
- The IUCN Global Director - Nature-based Solutions, Director – Business and Biodiversity Programme and the Head – Science and Knowledge Unit for the purpose of developing systems for the establishment and management of independent Scientific Advisory Panels (ISTAPs); and
- The IUCN Global Director - Biodiversity Conservation Group, the IUCN Global Species Programme and the IUCN Species Survival Commission for the purpose of supporting WGW conservation.

In addition, the various interested parties to the initiative[1], including the Government of the Russian Federation, local government agencies in Russia, civil society groups, Sakhalin Energy shareholders, other resource extraction operators and existing or potential international financial institutions lending to the relevant projects of the Contracting Company or other companies in the area, may have a significant interest in the outcome of this evaluation.

[1] Defined under section 9 of the WGWAP TOR.

4. Evaluation methods and questions

The evaluation will seek the views of the range of stakeholders who have been engaged in the process to date including:

- Managers and staff of IUCN
- Managers and staff of Sakhalin Energy
- Managers and staff from other companies operating in the same area
- Members of the WGWAP
- Representatives from:
    - The Government of the Russian Federation
    - The Government of Sakhalin Oblast
    - Civil society organizations (in particular WWF Russia, WWF International, IFAW Russia, IFAW International, Sakhalin Environment Watch, Pacific Environment)
    - Sakhalin Energy lending institutions

Methods used for data collection and analysis should be explained in the inception note and may include a combination of:

- Document reviews
- Semi-structured interviews
- Survey of participants and stakeholders
- Other innovative and new approaches to assessing ISTAPs/projects and their results are welcomed, notably to assess uptake of WGWAP recommendations by regulators or other oil & gas operators.

All data collection tools (surveys, questions etc) are to be included as an Annex to the final evaluation report. The link between evaluation questions, data collection, analysis, findings and conclusions must be clearly made and set out in a transparent manner in the presentation of the evaluation findings.

The senior evaluator is expected to consult with both the WGWAP Co-Chairs and Sakhalin Energy over the development of the evaluation questions. The inception report should include an evaluation matrix with the final evaluation questions, data sources and methods that will be used. Adequately addressing the key questions in the Matrix will be the basis for IUCN to sign off on the completeness of the final evaluation report.

This evaluation is expected to comply with the standards set out in the IUCN Monitoring and Evaluation Policy[2].

5. Management of the Evaluation

The evaluation will be managed by the Planning, Monitoring, Evaluation and Risk Unit (PMER). The PMER Unit will verify that the draft report is useful, conforms to these TOR, answers all questions as best as data will allow, and conforms to the IUCN Monitoring and Evaluation Policy. The ITHCP Secretariat will supply documentation, create access to stakeholder lists and stakeholders, and provide day to day support as needed for logistical arrangements.

IUCN and the WGWAP Secretariat will prepare and implement a management response that will be posted publicly alongside the evaluation report.

6. Qualifications of the Evaluator / Evaluation Team

All deliverables are expected in English, but the assignment includes data collection from Russian speaking stakeholders. Therefore the evaluator or evaluation team must be able to work in both languages.

[2] IUCN Monitoring and Evaluation Policy (last updated in 2015).
https://www.iucn.org/sites/dev/files/content/documents/the_iucn_monitoring_and_evaluation_policy_2015.pdf

- Experienced evaluator with a minimum of 10 years' experience conducting and managing project/evaluation reviews in international science based organizations and with private sector.
- Relevant degrees at the Masters level or higher in development, environmental management, business or organizational development.
- Minimum 10 years' experience working with international organizations in the not-for-profit and/or business sector in regions such as Asia, Latin America, Africa, Europe and North America.
- Ability to interact and communicate well with senior managers in IUCN, Sakhalin Energy and related stakeholder groups.
- Excellent interview and qualitative data analysis skills.

7. Outputs, deliverables and timeframe

The evaluation is expected to **make recommendations** for the implementation of the remainder of the current agreement (which will end in December 2021) and for the future (also beyond 2021) of the WGWAP (format, geographic and thematic scope, involvement of other parties) in the absence of an agreement with Sakhalin Energy.

- Inception report including: finalized Evaluation Matrix, details of data collection approaches, tools and sources (people to interview/survey), and agreed dates for subsequent deliverables.
- Draft report.
- Final report, including **recommendations for improvements** to the achievement of the results and fulfillment of the TOR, including amendments, alternative approaches and new elements if appropriate.
- A powerpoint presentation of the final findings and recommendations for the key audiences and users of this evaluation.

The evaluation will take place from June 2018 to mid-September 2018.

Milestone	**Indicative completion date**
Finalise appointment of evaluator	Early June 2018
Inception report	Mid-June 2018
Undertake data collection and analysis	Mid-June to July
Submit draft report	15th August
Submit final report	15 September 2018

8. Budget

A maximum budget of USD 20,000 is available for this evaluation. No travel will be required for this evaluation.

ANNEX 2: DRAFT EVALUATION MATRIX
To be completed by the Evaluator/evaluation team

EVALUATION CRITERIA	KEY EVALUATION QUESTIONS	SUBQUESTIONS – for refinement in evaluation inception phase	INDICATORS	INFORMATION SOURCES / METHODS
Relevance	To what extent are the Panel's and company's activities relevant to the ToC?	1. Review and clarify/reconstruct the ToCI 2. Is the ToC (whether implied or explicitly stated) well understood by IUCN, Sakhalin Energy and the Panel? 3. To what extent is the Toc/Vision shared by IUCN, Sakhalin Energy and the Panel? 4. To what extent does the WGWAP process address the priority issues? 5. How relevant and credible is the WGWAP process for the conservation and recovery of western gray whales? 6. How relevant and credible is the WGWAP process in addressing the impact of Sakhalin Energy operations on western gray whales? 7. How relevant is the WGWAP process to IUCN's engagement with the private sector? 8. Does the WGWAP process address issues of relevance to the wider oil and gas industry operating on the Sakhalin shelf?	1. Likert scaling of assessments of relevance by expert observers and participants	1. Survey data 2. Interviews with key informants Review of documentation
Effectiveness	To what extent are the Panel's outputs leading to the intended outcomes?	1. To what extent do the management leadership and governance of the WGWAP contribute to these results? How adequate for effective performance of the WGWAP is the information provided to the Panel? 2. How effectively is the WGWAP process addressing issues of data integrity and reliability? 3. How effectively is IUCN performing the roles assigned to it by the WGWAP TOR? 4. How effectively is Sakhalin Energy performing the roles assigned to it by the WGWAP TOR? 5. How effectively are IUCN and Sakhalin Energy working as partners in the WGWAP process? 6. How effectively is the WGWAP Chair performing the roles assigned to him by the WGWAP TOR? 7. To what extent is the WGWAP complying with the principles specified in its TOR? 8. How fully is the WGWAP performing the tasks set out in its TOR? 9. Would the effectiveness of the WGWAP be enhanced by different membership? 10. How clear are the recommendations, advice and other outputs delivered by the WGWAP (2011 evaluation recommendation 3.2)? 11. How practical and useable are the recommendations, advice and other outputs delivered by the WGWAP (2011 evaluation recommendation 3.2)? 12. How effectively are IUCN and the WGWAP managing Panel recommendations? 13. How effectively are WGWAP recommendations and advice being	2. Likert scaling of assessments of effectiveness by expert observers and participants 3. Percentage of WGWAP recommendations completed/ addressed, open, abandoned, superseded 4. Percentage of WGWAP recommendations accepted, queried, rejected by Sakhalin Energy 5. Number of documents posted by IUCN on WGWAP website (in English and Russian) Number of and trends in visits to WGWAP website	1. Survey data 2. Interviews with key informants 3. Analysis of WGWAP records Review of other documentation

		used by Sakhalin Energy? 14. How effectively are WGWAP recommendations and advice being used by other stakeholders? 15. How effectively have IUCN and Sakhalin Energy engaged the private sector, NGOs and local and national government in the WGWAP process (2014 evaluation recommendation 2, 6, 7)? 16. What factors promote the effectiveness of the WGWAP? 17. What factors inhibit the effectiveness of the WGWAP? Has the WGWAP been effective enough to warrant its continuation?		
Efficiency	How cost-effective Is the WGWAP process?	1. What are the financial costs of the WGWAP process to Sakhalin Energy, IUCN and others? 2. Do Sakhalin Energy, IUCN and other funding agencies consider these costs to be an effective investment in relation to the direct and indirect results achieved? 3. Do Sakhalin Energy, IUCN and other funding agencies identify ways in which cost effectiveness could be enhanced? 4. Do the various stakeholders consider WGWAP roles, responsibilities and tasks to be clearly defined and assigned? 5. How transparent is the WGWAP process? 6. Are WGWAP task forces enhancing the Panel's performance? 7. Are WGWAP annual work plans produced on time and adhered to? 8. How efficient are WGWAP- Sakhalin Energy communications at Panel meetings and at other times? 9. How efficient are WGWAP-IUCN communications, in Russian as well as in English? 10. How efficient are WGWAP external communications, in Russian as well as English? 11. How efficient is IUCN logistical support to the WGWAP?	1. Likert scaling of assessments of efficiency by expert observers and participants 2. Dates of annual work plan production 3. Proportion of planned activities reported done 4. Number of and trend in documents deemed confidential by IUCN and not made public 5. Proportion of WGWAP documentation, including website content, available in Russian as well as English.	1. Survey data 2. Interviews with key informants 3. Analysis of WGWAP budget and other records Review of other documentation
Legacy and impact	To what extent are the Panel's outputs leading to the intended outcomes?	1. To what extent is the WGWAP process contributing to the overall conservation and recovery of the WGW? 2. Has the WGWAP process achieved sustainable positive changes in Sakhalin Energy practice that are likely to persist beyond the life of the WGWAP project? 3. Is the Panel process influencing practices beyond Sakhalin Energy operations? 4. Has the WGWAP process to date had any influence over broader State and industry practice in the range? 5. Has the WGWAP process to date had any impact on marine conservation practices in the oil industry in general? 6. Does the impact of the WGWAP process warrant its continuation or termination? 7. What could the WGWAP do to extend its legacy: should the mandate of the WGWAP be extended to other environmental considerations pertinent to Sakhalin Energy's potential impacts on the environment on/near Sakhalin Island?	1. Likert scaling of assessments of impact by expert observers and participants 2. Number of design or operational changes by Sakhalin Energy attributable to WGWAP recommendations	1. Survey data 2. Interviews with key informants Review of other documentation

Factors affecting independence	To what extent is the WGWAP's independence maintained?	1. What are the factors, if any, that are affecting the WGWAP's independence? 2. How well are these factors being addressed?	1. Likert scaling of assessments of independence by participants and expert observers	1. Interviews Survey data
Quality of the overall project/process		1. To what extent have Project activities and outputs reached/surpassed intended delivery 2. To what extent have Project outputs met/surpassed intended project outcome 3. To what extent have there been time and/or resource efficiencies 4. To what extent has the Project leveraged additional resources towards the same objectives	1. Rating criteria to be discussed between IUCN and evaluator	1. Interviews Survey data

Annex 1

Terms of Reference

Western Gray Whale Advisory Panel (WGWAP)

1. BACKGROUND

For some years now, work has been undertaken to understand, quantify and minimise the impact on the western gray whale population of oil and gas developments on the Sakhalin Shelf. A large part of this work has been undertaken and sponsored by Sakhalin Energy Investment Company Limited and Exxon Neftegaz Limited under a research permit, auspices and guidance of: the Russian Federation Ministry of the Natural Resources and Environment, the Russian Federal Service of Natural Resources Use and Supervision, the Russian Federal Fishery Agency, the International Whaling Commission (IWC), and the International Union for Conservation of Nature (IUCN).

To evaluate the science around western gray whales, in the context of Sakhalin-II, Phase–2, an independent scientific review panel (ISRP) was established in 2004 co-ordinated by IUCN. The report of this panel (ISRP Report) became publicly available on Feb 16, 2005. The Sakhalin Energy response to the ISRP Report was reviewed in a workshop held on May 11-12, 2005 at IUCN's World Headquarters in Gland, Switzerland and again in a meeting held on Sep 17-19, 2005 in Vancouver, Canada. Subsequent meetings reaffirmed the proposal for establishing a Western Gray Whale Advisory Panel (WGWAP). After membership selection, the first meeting of the WGWAP was convened on October 2, 2006. Meetings of the Panel have been held on a regular two per year basis, supported by a number of special focussed technical meetings of WGWAP task forces.

Sakhalin Energy Investment Company Limited (Sakhalin Energy) is a consortium of companies developing oil and gas reserves in the Sea of Okhotsk off the northeast coast of Sakhalin Island in the Russian Far East. The shareholders in Sakhalin Energy are:

- Gazprom 50% plus 1 share
- Shell Sakhalin Holdings B.V. (Shell) 27.5%
- Mitsui Sakhalin Holdings B.V. (Mitsui) 12.5%
- Diamond Gas Sakhalin, (Mitsubishi) 10%

Sakhalin Energy is implementing the Sakhalin II Production-Sharing Agreement (PSA), an agreement between the Government of the Russian Federation, the Regional Government of the Sakhalin Oblast,

and Sakhalin Energy. Sakhalin II is a phased development project. Phase 1, an oil-only development, involving a single offshore platform (Molikpaq, or PA-A) went into production in 1999 producing for approximately six months of the year during the ice-free period. Phase 1 effectively ended in 2008 when the Single Anchor Leg Mooring facility and the Floating Storage and Offloading tanker at the Molikpaq platform were decommissioned. Phase 2 is an integrated oil and gas development for which construction began in 2005, continued during 2006/7 and finally came on stream in 2009. The two additional offshore platforms, offshore and onshore pipelines, and onshore processing and exporting facilities became fully operational in December 2009. Phase 2 of the Sakhalin II Project was and remains the largest international oil and gas investment in the Russian Federation.

The western gray whale population is still today listed as an endangered species in the Russian Federation Red Data Book and as a *critically endangered* sub-population in the IUCN Red List of Threatened Species™.

Since the start of the work on western gray whales off Sakhalin, back in the late 1990s, extensive data has been collected and analysed, which has increased our understanding about the importance of the Sakhalin feeding grounds. Additionally, through long-term research programs, quite precise information on both the population size and demographics are available. Although relatively little is known about the migration routes and the breeding and calving locations of this western group of gray whales, the importance of the Sakhalin shelf for feeding and as a site where calf weaning occurs has been determined.

With the satellite tagging conducted in September 2010, and with data collected through photo Identification offshore Sakhalin, offshore Kamchatka and along the Canadian, US and Mexican coasts, there is evidence of migration across the Pacific Ocean and some level of mixing with the eastern gray whale population, whose numbers are thought to be in excess of about 19,000 animals.

In 2011, the population of western gray whales was thought to comprise over 138 living animals. This is based on photo-ID data collected offshore Sakhalin and supported by population models developed by J. Cooke *et al* (WGWAP-9 meeting). These population models also conclude the population is currently relatively stable or slowly increasing (3%)

Further, data from systematic shore- and vessel-based distribution surveys off north-eastern Sakhalin in the summer-to-fall seasons of 2004-2010 indicate the existence of two main western gray whale feeding areas. The first, Piltun Feeding Area, is located adjacent to Piltun Bay and extends from Ekhabi Bay in the north to Chayvo Bay to the south over a coastline stretch of about 120 km; Whales predominantly feed in this area at a distance of less than 5 km from shore and in water depths of less than 20 m. The

second, deeper Offshore Feeding Area is located about 35-50 km from shore to the southeast of Chayvo Bay; the water depth in this area is between 35-60 m.

According to the most recent scientific data (2010), approximately 60% of the western gray whales observed were sighted in the Piltun Area, and the remaining 40% in the Offshore Area, including the Arkutun-Dagi License Block. The distribution and concentration of whales within the Piltun and Offshore feeding areas display both temporal and spatial variability. Inter-annual trends in distribution appear to have coincided, at least in part, with natural variations in benthic food supplies.

Collectively, the monitoring and research activities over the last decade, sponsored by various groups, including by oil and gas companies, represent an annual investment of well over $4million USD, making this one of the most intensively studied baleen whale populations in the world.

2. GOAL AND OBJECTIVES

WGWAP is established as an independent advisory body of scientists. The overall goal of the WGWAP is to provide objective independent advice on the conservation and recovery of the WGW population. The WGWAP's specific objectives are:

(a) To provide objective independent scientific and technical advice to decision makers in industry, government and civil society with respect to the potential effects of human activities, particularly oil and gas development activities, on the WGW population.
(b) To function as a forum for integrating expertise on conservation science and technology relevant for the conservation and recovery of the WGW population, and as an effective communication channel between industry, the engineering and natural science communities.
(c) To understand and minimize the impact of company activities on the WGW population, both during oil and gas development and routine production operations.
(d) To co-ordinate research aimed at improving the understanding and assessment of the potential effects of human activities on the WGW population and how to address them; achieving synergies between various field programmes; minimising disturbance to WGW from research activities, e.g. by avoiding overlap and redundancy of field research programmes; identifying and mitigating potential risks associated with scientific research activities; and maximising the contributions of research to understanding the status and conservation needs of the WGW population.

3. PRINCIPLES

In carrying out these TOR, the WGWAP and the contracting companies it advises will be guided by the following principles:

(a) In accordance with international law, the Russian Federation holds the responsibility for any industrial and other activities undertaken within Russian territorial waters and the adjacent continental shelf, where the Russian Federation has sovereign rights.

(b) Based on international treaties and agreements to which it is a party, the Russian Federation has international obligations to conserve and recover the WGW population within the waters under its sovereignty and national jurisdiction The same holds true of other range States in their respective jurisdictions.

(c) All reasonable efforts must be made to ensure that development activities, especially oil and gas exploration and production activities on and around Sakhalin Island, are environmentally sound and the potential negative impacts on WGW, related habitats and biodiversity important to their conservation are minimised, offset[1] by appropriate measures and maintained to tolerable levels.

(d) Conservation recommendations shall be made and follow-up management decisions taken with openness and transparency; the consequences of any follow-up decisions must be monitored and, if deemed necessary, decisions must be modified or withdrawn over time.

(e) The guidance, advice and recommendations provided by the WGWAP regarding WGW conservation shall strive to:

  (i) involve the best local, national and international scientific expertise;

  (ii) be science-based and derived from the best scientific methods, data and information available at the time;

  (iii) be compliant with relevant international conventions and agreements and relevant Russian regulations;

  (iv) make use of Best Available Practices and Best Available Technologies to implement an Ecosystem Approach to Management, especially with relevance to the sustainable use of the marine environment;

  (v) seek a balance between industrial activities, overall conservation of habitats and biodiversity and the conservation and recovery of the WGW population;

  (vi) be specific, measurable, achievable and time-bound, including the identification and assessment of risks that can adversely affect their implementation;

  (vii) be impartial and be developed and conveyed in a transparent manner; and

[1] *"Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken"*. (International Finance Corporation (IFC) Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources)

(viii) adhere to a risk based approach managed under *"as low as is reasonably practicable"* principles consistent with responsible industry practice, distinguishing whenever possible those that have a risk management basis from those which are scientific in nature[2].

(f) To this end the WGWAP should have sufficient access to all the relevant data and information from all interested parties and will be free to seek any information necessary and relevant to discharge its duties.

(g) IUCN will work with the WGWAP to obtain a better understanding of conservation principles, ongoing efforts and requirements established by the Russian Government (MNR/IWG and RPN) for Sakhalin Shelf oil and gas development, with the goal of facilitating the work of the WGWAP itself and with the view of developing common WGW conservation and recovery efforts in the future with other non-participating industry operators. To facilitate this, opportunities will be open to:

i. Include a permanent item on the WGWAP meeting agenda offering the competent Russian Government agencies an opportunity to report on recent policy decisions affecting Sakhalin Shelf oil and gas development or the conservation of the WGW.
ii. Formally adopt[3] in each session any recommendations related to the report from the Russian Government agencies or impinging on the functioning of the MNR/IWG or RPN.
iii. Seek the formal recognition of participation/membership of WGWAP Chair in MNR/IWG meetings.

(h) IUCN will examine the merits of having an independent oil and gas industry specialist on the panel to improve the level of relevance and impact of recommendations to industry operations, facilitating their subsequent implementation.

(i) IUCN will continue to seek the active participation of other Sakhalin-based industries to avoid inconsistencies in the approach to WGW conservation, monitoring and mitigation adopted by the industry as a whole. In this regard, IUCN should continue to extend invitations to other companies to participate in WGWAP meetings as observers.

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[2] As a source of guidance for the application of "as low as is reasonably practicable" (ALARP) principles, the publication *"Reducing Risks, Protecting people; HSE's decision-making process"* is used as a reference. (U.K. Health and Safety Executive). Managing risk following ALARP principles also meets Russian MNR/IWG directives establishing that conservation efforts should focus on *"managing operators business risk"*, enabling the identification of actions that potentially carry cost recovery opportunity.

[3] w/o waiting for the Panel report to be finalized

4. SCOPE

(a) The WGWAP provides the opportunity for coordination and cooperation among interested parties, including contracting companies, governments, financial institutions, and civil society, and builds upon and expands the ISRP process.

(b) The WGWAP is an advisory rather than a prescriptive body, and its decisions will be in the nature of recommendations rather than prescriptions. It will provide guidance and recommendations it considers necessary, useful and/or advisable for the conservation of WGW, both on a proactive basis and in response to specific requests for guidance on relevant issues within its mandate.

(c) SEIC is committed to implement the reasonable recommendations of WGWAP and to clearly identify and document the specific areas and points where (i) they were/will be accepted and/or implemented; or (ii) they were not/will not be accepted and/or implemented, including a clear explanation therefore. Likewise, other contracting companies and organisations advised by the WGWAP are also expected to implement the reasonable recommendations and follow its conclusions and advice.

(d) Substantively, the WGWAP shall focus on the conservation of WGW and related biodiversity (as discussed in the ISRP Report). In its considerations and recommendations, the WGWAP will take into account, to the extent possible, the potential impacts of its WGW-related recommendations on other key biota (such as Steller's Sea Eagles or salmon) that may be known to it or may be brought to its attention.

(e) Geographically, the initial focus of the WGWAP was on activities on the Sakhalin Shelf and this primary focus remains. However, given recent information indicating that the summer range of WGW includes other parts of the Okhotsk Sea and the south-eastern coast of Kamchatka Peninsula, the scope of the WGWAP should be considered to include those other parts of the population's range within Russia. Further, the Panel should keep itself informed about, and take into account in developing its advice, potential threats to WGW in parts of their range outside Russia.

(f) To this end the WGWAP should have sufficient access to data and information from all interested parties and will be free to seek from its owner any information necessary and relevant to discharge its duties. Where necessary or useful, the WGWAP may seek information and input from scientists and researchers in related fields external to the WGWAP, and establish dialogues

with scientific groups it deems relevant (such as those in Russia, Japan, China and elsewhere in the WGW range).

(g) Full mitigation of adverse effects of oil and gas developments on Sakhalin shelf on the WGW population cannot be achieved by actions by one single operator. It is therefore desirable that others oil and gas operators participate in the WGWAP process. Convincing them of the desirability of joining the process will require a collective effort by Sakhalin Energy (through leading by example), and IUCN with WGWAP representing the best expertise. Efforts to involve other companies and organizations are to be coordinated by IUCN according to the principles of IUCN & SEIC engagement and partnership.

(h) Should other potential contracting companies not join or should their joining be delayed, it will not constitute a reason for suspending or abandoning WGWAP. The WGWAP will continue to review Sakhalin Energy-related information and to advise Sakhalin Energy accordingly.

(i) The WGWAP will develop a vision for its work over the next five years that will be translated, through its successive annual work plans, reviews and assessments, into proactive recommendations and advice to Sakhalin Energy and other contracting companies. This and/or other developments may warrant appropriate amendments to these TOR.

5. THE ROLE AND RESPONSIBILITIES OF IUCN

The role and responsibilities of IUCN will be to:

(a) Act as the impartial convenor of the WGWAP;
(b) Actively solicit the participation of Other Companies and co-ordinate similar efforts by the Contracting Companies and WGWAP members;
(c) Encourage, coordinate and facilitate engagement of the WGWAP with the Russian Interdepartmental Working Group on WGW;
(d) Where possible, liaise with non-participating companies on work programs, mitigation measures and assessment of impacts on WGW;
(e) Select and appoint the WGWAP Chair and Members;
(f) Effectively link the relevant stakeholders;
(g) Establish and preserve the independence of the WGWAP;
(h) Provide the conduit for the transmission of all information and documentation requests to and from the WGWAP;

(i) Provide secretariat support to WGWAP and WGWAP's task forces, including (without limitation) the management of Budget Funds and negotiation/execution of contracts with WGWAP Members, as necessary and appropriate for their participation in WGWAP;
(j) Monitor regularly WGWAP's overall performance and compliance with WGWAP's TOR;
(k) Post all relevant reports and materials used and produced by the WGWAP on the IUCN website (http://www.iucn.org/wgwap/), and distribute them through other media/channels when and as IUCN, in consultation with the Chair, may deem necessary and appropriate;
(l) Make all efforts to enable the delivery of the outputs provided for in the TOR; and
(m) Establish and manage administration contracts with Contracting Companies that wish to support the WGWAP in accordance with these TOR.

6. THE ROLE AND RESPONSIBILITIES OF CONTRACTING COMPANIES

The role and responsibilities of Contracting Companies will be to:

(a) Enter into a legally binding contract with IUCN for the latter to convene and manage the WGWAP;
(b) Actively solicit the participation of Other Companies and facilitate engagement of the WGWAP with the Russian Interdepartmental Working Group on WGW;
(c) Provide relevant information and documentation at their disposal to the WGWAP in a timely and well-documented manner to facilitate the efficient functioning of the WGWAP,
(d) Contribute to the sustainable funding of the WGWAP;
(e) Actively support IUCN in effectively maintaining its credibility as the WGWAP impartial convenor; and
(f) With respect to the conclusions, advice and recommendations provided by the WGWAP, clearly identify and document specific areas and points (i) where they were/will be accepted and/or implemented or (ii) where they were not/will not be accepted and/or implemented (including a clear explanation therefore).

7. KEY TASKS for WGWAP

(a) Provide objective scientific, technical and operational recommendations it believes are necessary or useful for conserving the WGW population;
(b) Review all relevant information on the WGW population;
(c) Seek any additional information that it may require for making effective recommendations;
(d) Using the best available data and information, assess whether the Contracting Companies' studies, assessments and proposed mitigation plans (i) take account of the best available

scientific knowledge, (ii) identify information gaps, and (iii) interpret both existing knowledge and information gaps in a manner that reflects precaution[4];

(e) Conduct annual assessments, using the available information and data, of the biological and demographic state of the WGW population, as a basis for its recommendations and advice on WGW conservation needs and research priorities;

(f) Assess whether the studies, assessments and proposed mitigation and offset plans are adequate for minimizing impacts on the WGW population;

(g) Review: (i) the effectiveness of existing mitigation and offset measures as determined from associated monitoring programme results, and (ii) the likely effectiveness of proposed mitigation and offset measures; provide recommendations regarding modifications, alternatives or the development of new measures;

(h) Review existing and proposed research and monitoring programmes and provide recommendations and advice as necessary or useful;

(i) Recommend new research and monitoring programmes aimed at ensuring the recovery of the WGW population;

(j) Seek meaningful engagement, initially by the WGWAP Chair and Russian Panel members, with the Russian Interdepartmental Working Group on WGW; and

(k) Where possible, actively engage with non-participating companies on work programs, mitigation measures and assessment of impacts on WGW.

8. MODUS OPERANDI OF WGWAP

8.1. WGWAP Composition

(i) The technical and scientific expertise required on the WGWAP (the WGWAP members and the Chair) will be determined by IUCN. Objectivity and transparency in the selection process will be ensured by, *inter alia*, setting selection criteria and constituting a candidate evaluation committee. To this end IUCN will consult with interested parties on nominations to be considered but the eventual decision will remain with the IUCN as convenor.

(ii) It is the intention of the Parties to the WGWAP Agreement that the WGWAP include 8-12 of the best available scientists in their respective fields with an ample experience and ability to bridge scientific, technological and policy issues related to both industry, scientific research and

[4] "Precaution": the "precautionary principle" or "precautionary approach" as defined and applied by IUCN is "a response to uncertainty in the face of risks to health or the environment. In general, it involves acting to avoid serious or irreversible potential harm, despite lack of scientific certainty as to the likelihood, magnitude, or causation of that harm". This definition is the product of the Precautionary Principle Project (2005) – a joint exercise between IUCN, Traffic International, Fauna and Flora International and Resource Africa and is available at: http://www.pprinciple.net/the_precautionary_principle.html

conservation. WGWAP members will be independent from, and free of any conflict of interest (whether actual, potential or reasonably perceived) with, any Contracting Companies that the WGWAP will advise. The actual number of scientists will depend on their availability and on the mix of different fields of expertise they individually bring to the WGWAP.

(iii) Panel Members shall disclose to the WGWAP Chair and IUCN any real or potential conflicts of interests derived from contractual or other statutory obligations to which they are subject. At the discretion of the Chair, Panel Members may be requested to abstain from participating in Panel discussions in which he/she has a personal interest or has had significant involvement in any such capacity.

(iv) To access additional expertise that may be required from time to time, the WGWAP may, at the discretion of the Chair, constitute task forces under the coordination of one of the WGWAP members. The task force is a working group of panel members and Company representatives, and it may include other relevant experts and scientists required to support its work. IUCN will approve the constitution of task forces, information about which will be placed on the IUCN website, and facilitate the work of the task forces to the extent necessary and as agreed with the Chair.

(v) Starting with this second phase of the Project, there will be agreed periods of tenure for Panel Members and Chairperson. To preserve the institutional memory of the Panel, replacement of Members will be phased-in incrementally, a minority fraction of the whole number at a time. This will be determined by IUCN in consultation with SEIC on an annual basis, but conform to the principles of (b) above.

(vi) The WGWAP members may resign at any time by notifying IUCN in writing, at least ninety days in advance of the effective date of their resignation. IUCN will publicize the receipt of any such notice of resignation on its website (www.iucn.org/wgwap).

(vii) In consultation with and with the agreement of the WGWAP Chair, IUCN may remove any of the WGWAP members and replace them as necessary and appropriate.

8.2. Work Plans, Meetings, Missions and Reports

(i) For each calendar year, and no later than two months before of the end of the preceding year, the WGWAP, in consultation with IUCN and the contracting companies, will establish an annual work plan, including (but not limited to) the reviews it will undertake, the information it will require, the meetings it will hold, and the task force workshops and other events it will convene.

Subsequently, and in consultation with the WGWAP Chair, IUCN will establish a more detailed plan for each of the key assignments.

(ii) The WGWAP will meet at least once per calendar year. Such meetings will be scheduled to ensure that a full analysis and review of results of the previous season's operations and mitigation measures occur sufficiently in advance to influence the Contracting Companies' planning, procedures and activities for the ensuing work season. Meetings will be held with participation of Contracting Companies.

(iii) To ensure the WGWAP has access to all the relevant information, Contracting Companies will ensure that all their relevant personnel are at hand for consultation by the WGWAP at any particular meeting.

(iv) The Chair of the WGWAP has single point accountability for managing the working of the Panel, the proceedings of the meetings and the WGWAP's reports exercising impartiality. This includes being responsible for its final content and production in consultation with panel members and contracting companies. It is expected that adoption of any report by the WGWAP will be by consensus among the WGWAP members. However, if full consensus is not achieved, any of the WGWAP members will have the right and opportunity to provide a written minority view that will be included in the relevant report as an authored annex.

(v) The timelines for WGWAP reports and Contracting Company responses will be agreed at each meeting, following consultations conducted by the Chair with IUCN and the Contracting Companies. IUCN will dispatch the agenda and the background documents no later than four weeks in advance of a meeting.

(vi) The Chair of WGWAP may, with the advance written approval of IUCN, arrange for assignments or commission field visits and missions, either by one or more WGWAP members or by other independent experts, to analyze or assess a particular issue, event or outcome of direct relevance to the work of the WGWAP. All such assignments, visits or missions will produce reports available to the members of WGWAP, IUCN and SEIC. These assignments and commissions, as far as foreseen in advance, must be duly incorporated in the Annual plan and budget.

(vii) The advisory process of WGWAP shall be guided by practices characterizing the delivery of objective, credible and high-quality scientific and technical advice. These practices include the identification of experts for WGWAP's task forces representing a balance of views and

disciplines, and peer review of working papers and new scientific outputs when appropriate, according to the discretion of the WGWAP's Chair. In fulfilling its terms of reference, WGWAP shall draw on IUCN networks with the wider scientific community.

(viii) Explore formal recognition of participation/membership of WGWAP Chair in MNR/IWG meetings.

8.3 Data and Information

(i) To fulfil the principle on data and information enunciated above will require cooperation among those collecting and generating such information and data. Data represent the product of a significant investment of both money and time, therefore, appropriate measures aimed at safeguarding the legitimate interests of persons holding rights thereto shall be adopted and respected by all parties concerned. The information and data exchange between IUCN and Contracting Companies will take place according to the following considerations:

- The intellectual property rights of those involved in the collection of data must be respected (e.g. the right to first publication, ownership as well as confidentiality concerns, whether of commercial or other nature);
- The right of first publication is a generally accepted scientific norm that will be respected and complied with;
- If recommendations are to be made that have important implications for both conservation of WGW and industry, they should be based on a full scientific review of both data quality and analysis that can be independently verified;
- Whilst the results of analyses of the data and broad summaries of the data may be included in WGWAP reports if required to explain the rationale for recommendations, the raw data reviewed by panel members will remain confidential and the property of the rightful data collectors or providers;
- When use of proprietary data is involved in any publication or report, the rightful data collectors or providers, including Contracting Companies, will be consulted and requested to approve such use; and
- The information and level of resolution of the data to be made available to the WGWAP will be determined by the WGWAP on the basis of the analysis for which the data are required and must be reasonable, objective and adequate to the purpose.

(ii) Each WGWAP member will be required to sign an individual non-disclosure agreement (NDA) pursuant to which he/she will have an obligation, *inter alia*, not to disclose outside the WGWAP information designated as confidential pursuant to 9.d. of this TOR and to respect the rights of

first publication. That said, however, the NDA will not preclude the WGWAP from reporting any conclusions relevant to its mandate hereunder that are based upon such information, as long as none of the confidential information is disclosed in such conclusions.

8.4. Recommendations

Depending on their scope[5] and as a mechanism to focus its advice, all WGWAP recommendations are divided into Strategic Advice and Operational Advice.

Strategic Advice addresses contemporary but open-ended issues related to the conservation and recovery of the WGW population that calls for the involvement and joint efforts of a wide range of stakeholders including national governments, companies, IGOs, and NGOs.

Operational Advice addresses specific, clearly individualized and time-bound targets, e.g. current project, survey, installation, construction, program, research, and should be addressed to the body or bodies which undertake such activities.

Strategic Advice should be addressed to the competent international and national bodies with responsibilities for the conservation and recovery of the WGW population. Strategic advice includes, among other things:

(a) Advice on needs for further scientific knowledge, policies and common operational implications of industrial operations related to the conservation of the WGW population or its habitat;
(b) Advice containing specific scientific aspects of WGW ecology, the identification of negative impacts, its potential effects and on protective measures to minimize them; including level of integration and urgency of implementation; and
(c) Advice on further research plans and programs by identifying targeted or integrated studies which would improve the knowledge on the status and conservation needs of WGW population.

Operational Advice includes, among other things:

(a) Advice on protective measures and mitigation and offset for ongoing and planned future industrial activities;
(b) Advice on the nature and scope of the monitoring programs specified for ongoing and planned future industrial activities; and
(c) Advice on the improvement of ongoing and future scientific programs and individual research projects to maximize contributions to understanding conservation needs.

[5] importance to the WGW conservation and recovery, geographical extension, number of stakeholders involved, complexity of actions, etc.

8.5. Funding

(a) Funding will initially come mainly from Sakhalin Energy.
(b) Each Contracting Company shall contribute to the funding of WGWAP activities as provided in its contract with IUCN.
(c) IUCN will continue to seek additional funding from multiple sources.

9. COMMUNICATIONS AND TRANSPARENCY

(a) WGWAP members will not receive financing for their research from Contracting Companies (including their parent or sister companies and subsidiaries), and shall disclose any such conflict of interest (whether actual, potential or reasonably perceived) from recent (last 12 months) or anticipated (next 12 months) relationships with the Contracting Companies.

(b) Information and documentation related to the WGWAP, including these TOR, work-plans, meeting schedules and agendas, reports and responses will be made publicly available on the IUCN website.

(c) IUCN has developed a Communications Strategy which will be implemented and updated as necessary. This strategy is meant, inter alia, to ensure that interested parties have access to all relevant information to enable independent assessment of progress and to have opportunities to interact with the WGWAP including through open information sessions.

(d) All documents submitted to the WGWAP will normally be made publicly available by the time the WGWAP issues its WGWAP report, except for information that is designated confidential. Whether information is confidential or not will be determined by IUCN in consultation with the entity or individual providing the information. Confidentiality will be an exception rather than the rule, and therefore as much information as possible will be made available to the public.

(e) IUCN will act as intermediary between the WGWAP and interested parties in order to:
   i. ensure all interested parties have fair and equal access to information about the WGWAP process and WGWAP Reports,
   ii. strengthen the independence of the WGWAP,
   iii. enable documentation of information flows to the WGWAP, and
   iv. manage requests for information in connection with the WGWAP process and work.

(f) The provisions of paragraph 9(e) above apply to the formal activities of the WGWAP that IUCN will convene, and does not preclude interactions between the WGWAP members and interested party scientists as part of the activities of the task forces contemplated in clause 8.1.(iv) above.

(g) The Chair of the WGWAP will have exclusive authority to speak for the WGWAP on substantive scientific aspects and findings of its work, and will coordinate with IUCN on requests made to him/her by media or the WGWAP members, or other sources, for information, statements and interviews. All queries related to the process of WGWAP will be addressed by IUCN which, likewise, will coordinate with the Chair as necessary. The Chair may delegate his/her authority for responding to any of the substantive scientific questions or findings addressed to him/her to one or more of the members of the WGWAP. Where individual WGWAP members are approached directly, they shall consult and follow the advice of the WGWAP Chair.

10. PERFORMANCE ASSESSMENT

Regular performance assessment is essential to ensure that the collaborative effort required by these TOR from all the parties concerned succeeds and contributes to the achievement of the goal and objectives of this partnership. Consequently, assessments of the performance of the WGWAP as an advisory body, of IUCN as a convenor, and of the Contracting Companies in terms of their implementation of the advice from the WGWAP, will be conducted as follows:

(a) Self-assessment will be a recurring item on the agenda of the WGWAP. In each of its meetings, it will (i) evaluate its own performance and the extent to which, in its opinion and on the basis of available information, the Contracting Companies are implementing its advice and (ii) provide any recommendations to IUCN for changes needed in the WGWAP process.

(b) IUCN will, in consultation with the WGWAP Chair and the Contracting Companies, appoint an independent agency to evaluate, once every two years, the performance of the collaboration under these TOR and the effectiveness with which IUCN, WGWAP, and the Contracting Companies have played their respective roles. The evaluation will be conducted against a set of indicators that will be developed by IUCN and agreed with the Contracting Companies and WGWAP. The independent agency will make recommendations on how the performance might be improved.

(c) IUCN, as convenor of WGWAP, will in consultation with WGWAP and the Contracting Companies determine to what extent the recommendations arising from 10 (a) and 10 (b) (above) are to be adopted and implemented. IUCN will have the final decision regarding adoption and implementation of such recommendations. IUCN will clearly identify and document specific

recommendations (i) where they were/will be accepted and/or implemented or (ii) where they were not/will not be accepted and/or implemented (including a clear explanation therefore). IUCN will ensure that these TOR are amended, if and as necessary, to reflect the accepted recommendations.

11. PARTICIPATION OF INTERESTED PARTIES

11.1. Government

The Russian Ministry of Natural Resources and other Russian governmental agencies will have the opportunity to:

a) Nominate candidates for membership in the WGWAP;
b) Provide IUCN with information on issues within the scope of these TOR and important for the WGWAP to consider in carrying out its mandate. IUCN will relay the information it receives to the WGWAP Chair, so that it may be placed on the agenda for the successive WGWAP meetings;
c) Participate in the Panel's meetings as 'observers', and subject to a maximum of four (4) observers. Failure to communicate to the Chair the list of participating observers in each session, two weeks before the meeting will foreclose this option.

11.2. Civil Society

Civil society will have the opportunity to:

a) Nominate candidates for membership in the WGWAP;
b) Provide IUCN with information on issues within the scope of these TOR and important for the WGWAP to consider in carrying out its mandate. IUCN will relay the information it receives to the WGWAP Chair, so that it may be placed on the agenda for the successive WGWAP meetings;
c) Participate in the Panel's meetings as 'observers', upon invitation and subject to a maximum of one (1) observer per organisation with a maximum of four (4) NGO observers at a time agreed among themselves and authorized by IUCN. Failure to communicate to the Chair the list of participating observers in each session, two weeks before the meeting will foreclose this option.

11.3. Financial Institutions

The financial institutions lending or potentially lending to the relevant projects of the Contracting Companies will have the opportunity to:

a) Provide comments on the WGWAP TOR;

b) Nominate candidates for membership in the WGWAP;
c) Provide IUCN with information on issues within the scope of these TOR and important for the WGWAP to consider in carrying out its mandate. IUCN will relay the information it receives to the WGWAP Chair, so that it may be placed on the agenda for the successive WGWAP meetings;
d) Participate in the Panel's meetings as 'observers', upon invitation.

12. TERM

The WGWAP was established for an initial period of 5 years. The update of these Terms of Reference is given in the context of the second 5-year term and may be extended for further periods as necessary and useful, subject to agreement between IUCN and Contracting Companies.

WGWAP TOR Definitions

Civil Society	Academic institutions, non-governmental organizations (NGOs) and individuals who do not represent another Interested Party.
Contracting Companies	Companies with Oil and Gas concessions on the Sakhalin shelf that have entered into a legally binding contract with IUCN to support the WGWAP
Contracting Company Response	The point-by-point response to the WGWAP Report produced by each Contracting Company
Financial Institutions	Institutions currently, or potentially, lending money to one or more Contracting Companies for a relevant project
Government	Interested governmental authorities/agencies
Interested Parties	Existing Contracting Companies or Other Companies, Financial Institutions, Governments, and Civil Society
Other Companies	Companies that have not yet entered into a legally binding contract with IUCN to support the WGWAP
WGWAP Report	The Report produced by the WGWAP after each WGWAP meeting

Annex 1

Terms of Reference 2017-2021

Western Gray Whale Advisory Panel (WGWAP)

1. BACKGROUND

In 2008 the IUCN Red List of Threatened Species classified the western Pacific subpopulation of gray whales as Critically Endangered. This subpopulation is also listed as Endangered in the Red Data Book of the Russian Federation. Western gray whales, as they are generally known, numbered well over 1,500 in the late 19th century. An estimated 1,800–2,000 were killed and processed by commercial whalers off the Korean Peninsula and Japan between 1890 and 1966. Today western gray whales occur only occasionally in most of their historical range in the Far East of Asia. The only places where they are seen regularly and in relatively high densities are two small, well-defined feeding areas on the north-eastern Sakhalin Shelf, Russia. Around 150 gray whales forage there intensively during the summer/autumn open-water season. Some of these individuals migrate to the west coast of North America for the winter, and some individuals are known to visit the coastal waters of Japan in the late winter and early spring months. The stock structure of gray whales in the North Pacific is not yet fully understood but the Sakhalin whales are of great scientific interest as well as conservation importance – they represent the potential for reoccupation of the species' extensive historical range in the western Pacific, including coastal waters of Japan, Korea, China and Vietnam. This situation has been recognized (e.g. IWC, IUCN) requiring coordinated conservation actions.

Sakhalin Energy's loan agreement with the financing parties to the Sakhalin 2 Phase 2 Project includes a commitment to comply with a suite of environmental and social (E&S) management controls contained within the Health, Safety, Environmental and Social Action Plan (HSESAP). The HSESAP includes, *inter alia*, specific commitments in relation to the funding of the WGWAP, keeping the WGWAP informed of its offshore activities and implementation of all reasonable recommendations from the WGWAP.

The international lender E&S standards applicable at the time of the Sakhalin 2 Phase 2 loan agreement were based on the 1998 World Bank Safeguard Policies. However, the Company has now voluntarily committed in an update to the HSESAP to comply with the more recent 2012 IFC Performance Standards on Social and Environmental Sustainability. It is therefore a requirement of the Company that its management approaches to the protection the WGW, including through the advice provided by the WGWAP, are in compliance with the IFC Performance Standards.

2. GOALS, SCOPE AND OBJECTIVES

The WGWAP is managed by IUCN as an independent advisory body of scientists. The overall goal of the WGWAP is to provide objective independent advice on the conservation of western gray whales with a focus on those that feed off Sakhalin (hereafter WGWs).

The specific objectives of these Terms of Reference with regard to the roles of the WGWAP and IUCN are:

2.1 WGWAP Members:

(a) to provide independent scientific and technical advice and recommendations to Sakhalin Energy, the MNR/IWG (and other stakeholders when appropriate) with respect to the actual and potential effects of human activities, particularly oil and gas development activities, on WGWs – recommendations can be made both on a proactive (anticipatory) basis and in response to specific requests for guidance;

(b) to understand and provide advice on how to minimize the actual and potential impacts of Sakhalin Energy and, to the extent practicable, other activities on WGWs, including both oil and gas development and routine production operations;

(c) to place WGWAP advice in the context of compliance with the IFC Performance Standards (with a specific focus on Performance Standard 6);

(d) to integrate expertise on conservation science and technology relevant to the conservation and recovery of WGWs throughout their range and to make this expertise widely accessible, including liaison with the IWC Scientific Committee, the IWC/IUCN Conservation Management Plan and the Memorandum of Co-operation amongst range states;

(e) to encourage and provide advice on research aimed at (1) improving and developing methods for the assessment of the potential effects of human activities on WGWs–and (2) developing and monitoring the effectiveness of mitigation measures;

(f) to develop industry good practice for the protection of WGWs;

(g) to provide opportunities for coordination and cooperation among interested parties, including companies, governments, research groups, financial institutions, and civil society.

(h) to take into account the principles of conservation, current efforts and requirements identified by the Government of the Russian Federation (MNR/IWG, RPN) and Sakhalin Oblast Government regarding activities on the Sakhalin Shelf.

2.2 IUCN (with WGWAP input)

(a) to act as a communication link and promote the connection between industry, the engineering and natural science communities, government and civil society;

(b) to influence stakeholders other than Sakhalin Energy with respect to the potential effects of human activities~~,~~ on WGWs including provision of mitigation advice and encouragement to join the WGWAP process;

(c) to provide the WGWAP with a better understanding of conservation principles, ongoing efforts and requirements established by the Russian Federal Government (MNR/IWG, RPN) and Sakhalin Oblast Government for Sakhalin Shelf oil and gas development;

(d) to coordinate WGWAP efforts with those of the appropriate Russian national and regional authorities;

(e) to disseminate information and results related to the WGWAP's activities internationally.

3. PRINCIPLES

To be effective, the WGWAP should operate according to the following four general principles: independence, transparency, accountability and engagement. These principles apply to all IUCN-supported Independent Scientific & Technical Advisory Panels (*Procedures for establishing and managing IUCN-supported Independent Scientific & Technical Advisory Panels*, 2014).

4. GUIDANCE

The WGWAP, IUCN and Sakhalin Energy will be guided by the following:

(a) recognition that the Russian Federation is responsible for any industrial and other activities undertaken within Russian territorial waters and the adjacent continental shelf, where the Russian Federation has sovereign rights;

(b) recognition that the Russian Federation and other range states have international obligations to the conservation and recovery of WGWs within the waters for which they are responsible based on international treaties and agreements to which they are parties;

(c) recognition of any conservation principles, ongoing efforts and requirements established by the Russian Government (IWG, MNR/RPN, Fisheries Agency);

(d) recognition that all reasonable efforts must be made to ensure that development activities, especially oil and gas exploration and production activities on and around Sakhalin Island, are compatible with good environmental practice, with special emphasis on mitigating adverse impacts on WGWs and the habitats and ecosystems important to their conservation;

(e) recognition of the importance to Sakhalin Energy of compliance with the IFC Performance Standards (and specifically IFC PS1 and 6) and the need for the advice of the WGWAP to be placed in this context, including in relation to the development of biodiversity offsets[1];

(f) recognition that Sakhalin Energy management decisions that do not follow WGWAP advice need to be explained clearly and transparently;

(g) recognition of the need to monitor progress with WGWAP recommendations and Sakhalin Energy decisions, noting that as appropriate, recommendations may be modified or rescinded and decisions revisited and modified over time;

(h) recognition that the WGWAP should have access to all the relevant data and information from all interested parties, but at a minimum that from Sakhalin Energy, and is free to seek any information necessary and relevant to discharge its duties.

5. ROLES AND RESPONSIBILITIES

5.1 WGWAP

The role and responsibilities of the WGWAP are to:

(a) Review all relevant information on WGWs;

(b) Conduct annual assessments of the biological and demographic state of the WGW, and use these assessments as a basis for recommendations and advice on WGW conservation needs and research priorities;

(c) Provide scientific, technical and operational recommendations it believes are necessary or useful for the conservation and recovery of WGWs;

(d) Assess whether Sakhalin Energy's research activities, assessments and proposed mitigation plans (i) take account of the best available scientific knowledge, (ii) address important information gaps, and (iii) interpret both existing knowledge and information gaps in a manner that recognizes and reflects scientific uncertainty;

(e) Assess whether the research activities, assessments and proposed mitigation and offset plans are adequate for mitigating (or in the case of offsets, compensating for) impacts on WGWs and are in line with the requirements of IFC PS1 and 6;

(f) Review (i) the effectiveness of existing mitigation and offset measures as determined from monitoring programme results, and (ii) the likely effectiveness of proposed mitigation and offset measures; and provide recommendations regarding modifications, alternatives or the development of new measures;

[1] *"Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken"*. (International Finance Corporation (IFC) Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources)

(g) Review existing and proposed research and monitoring programmes with a focus on the Sakhalin region and the conservation and recovery of WGWs and provide recommendations and advice as necessary, including advice on the initiation of new research and monitoring programmes;

(h) Co-operate with the IWC Scientific Committee, and others in providing scientific advice for the update and implementation of the IUCN/IWC Conservation Management Plan and Memorandum of Co-operation amongst Range States.

5.2 IUCN

The role and responsibilities of IUCN are to:

(a) Act as the impartial convenor of the WGWAP;

(b) Select and appoint the WGWAP Chair/Co-Chairs and Members, in accordance with the IUCN Procedures for Establishing and Managing Independent Scientific and Technical Advisory Panels (2014);

(c) Establish and maintain the independence of the WGWAP;

(d) Provide the conduit for transmitting all information and documentation requests to and from the WGWAP;

(e) Provide secretariat support to the WGWAP and the WGWAP's Task Forces, including (without limitation) the management of Budget Funds and negotiation/execution of contracts with WGWAP Members, as necessary and appropriate for their participation in the WGWAP;

(f) Post all relevant reports and materials used and produced by the WGWAP on the IUCN website (http://www.iucn.org/wgwap/), and distribute them through other media/channels when and as IUCN, in consultation with the Co-Chairs, deems necessary and appropriate;

(g) Promote the work of the WGWAP, and in particular its technical reports, through communications with relevant audiences and stakeholders within and beyond Sakhalin;

(h) Monitor regularly the WGWAP's overall performance and compliance with these TOR including maintaining an online database of WGWAP recommendations and their individual status;

(i) Recognizing that mitigation of the potential adverse impacts of oil and gas development on the Sakhalin shelf depends on the involvement of all operators, encourage the participation of other companies and co-ordinate similar efforts by Sakhalin Energy and the WGWAP;

(j) Where possible, and under the guidance of the WGWAP, liaise with non-participating companies on work programmes, mitigation measures and assessment of impacts on WGWs;

(k) Encourage, coordinate and facilitate engagement of the WGWAP with the relevant national and local authorities including the Russian Interdepartmental Working Group on WGW and the Oblast Biodiversity Group, among others;

(l) Engage the relevant stakeholders;

(m) Actively contribute to multi-stakeholder consultation and to implementation of the Western Gray Whale Conservation Management Plan facilitated by the International Whaling Commission and the Memorandum of Co-operation amongst Range States;

(n) Identify and secure funding from multiple sources for WGW conservation.

5.3 Sakhalin Energy

The role and responsibilities of Sakhalin Energy are to:

(a) Contribute to the sustained funding of the WGWAP;

(b) Help maintain IUCN's credibility as the impartial convenor of the WGWAP;

(c) Provide all relevant information and documentation at the Company's disposal to the WGWAP in a timely and well-documented manner to enable the efficient functioning of the WGWAP;

(d) Endeavour to make all information relevant to the development of WGWAP recommendations and Company responses to recommendations publicly available as soon as possible (see Item 6.3);

(e) Implement all reasonable recommendations from the WGWAP, provided that they comply with Russian legislation, and seek support for these recommendations from shareholders, Russian Party and joint industry partners as appropriate;

(f) Explain any specific areas and points where (i) the recommendations were/will be implemented; or (ii) were/will not be implemented; or (iii) request further clarification;

(g) Actively encourage the participation of other companies, and facilitate engagement of the WGWAP with the relevant national and local authorities (e.g. Russian Interdepartmental Working Group on WGW).

6. MODUS OPERANDI OF WGWAP

6.1 WGWAP Composition and Structure

a) The technical and scientific expertise required on the WGWAP (the WGWAP members and the Co-Chairs) will be determined by IUCN. Objectivity and transparency in the selection process will be ensured by, *inter alia*, setting selection criteria and constituting a candidate evaluation committee. To this end IUCN will also consult with interested parties on nominations to be considered but the eventual decision will remain with IUCN as the convenor.

b) The WGWAP includes 8-12 of the best available scientists in their respective fields with ample experience and ability to bridge scientific, technological and policy issues related to oil and gas industry, scientific research and conservation. WGWAP members will be independent from, and free of any conflict of interest (whether actual, potential or reasonably perceived) with Sakhalin Energy. The actual number of scientists will depend on their availability and on the mix of

different fields of expertise they individually bring to the WGWAP. Co-Chairs shall be appointed as part of the WGWAP recruitment as documented in IUCN's Procedures for the Establishment and Management of ISTAPs.

c) Any time during this TOR that there is a need to refresh the composition of the panel (e.g. due to changes in specific required tasks), no more than 1/3 of the members will be replaced at a time (excluding the Co-Chairs). This is to ensure that the institutional memory of the WGWAP is preserved.

d) The Co-Chairs, assisted by the IUCN Secretariat, is/are responsible for recruiting the other WGWAP members and setting their Terms of Reference (TORs), developing the WGWAP's work plan in line with its mandate and ensuring that WGWAP deliberations are independent and free from real or perceived conflicts of interest.

e) The Co-Chairs is/are required to defend and publicly advocate for the findings and conclusions of the WGWAP, but not to resolve any differences of opinion or objections that third parties have with the WGWAP's findings, or conflicts between IUCN and the recipient of advice. The Co-Chairs should have proven authority and leadership, as well as an understanding of and ability to work according to the four ISTAP principles mentioned above. While the Co-Chairs will represent the WGWAP, they do not represent or speak for IUCN.

f) WGWAP Members shall disclose to the WGWAP Co-Chairs and IUCN any real or potential conflicts of interest derived from contractual or other statutory obligations to which they are subject. At the discretion of the Co-Chairs, WGWAP Members may be requested to abstain from participating in WGWAP discussions in which they have a personal interest or have had significant involvement.

g) WGWAP members will not receive funding for their research from Sakhalin Energy (including its parent or sister companies and subsidiaries), and shall disclose any conflict of interest (whether actual, potential or reasonably perceived) arising from recent (last 12 months) or anticipated (next 12 months) relationships with Sakhalin Energy.

h) The WGWAP may constitute Task Forces under the coordination of one of the WGWAP members. A Task Force is a working group of Panel members and Sakhalin Energy representatives, and it may include other relevant experts and scientists required to support its work. IUCN will approve the constitution of Task Forces, information about which will be placed on the IUCN website, and facilitate the work of the Task Forces to the extent necessary and as agreed with the Co-Chairs.

i) Following on the example of the Advisory Groups appointed to liaise with Sakhalin Energy during the 2010 and 2015 seismic surveys, the WGWAP may appoint similar Advisory Groups for specific situations to address inter-sessional issues in a timely way. IUCN will approve the constitution of such Advisory Groups, information about which will be placed on the IUCN website, and facilitate their work to the extent necessary and as agreed with the Co-Chairs.

Decisions/advice should be tracked and shared at the appropriate time with the WGWAP and all stakeholders. These Advisory Groups will be established for specific activities and periods.

6.2 Workplans, Meetings, Missions and Reports

a) For each calendar year, and no later than one month before of the end of the preceding year, the WGWAP, in consultation with IUCN and the contracting companies, will establish an annual workplan and budget, including (but not limited to) the reviews it will undertake, the information it will require, the meetings it will hold, and the task force workshops and other events it will convene. Subsequently, and in consultation with the WGWAP Co-Chairs, IUCN will establish a more detailed plan for each of the key assignments.

b) The WGWAP will meet at least once per calendar year. The plenary sessions at the meetings will be held with participation of Sakhalin Energy and observers (see item 9). The meetings will be scheduled based primarily on the work plan and the activity calendar developed by Sakhalin Energy, with due consideration for other matters that could affect the panel's ability to deliver on its mandate, including unforeseen events.

c) The agendas for panel and task force meetings are set by the WGWAP, in consultation with IUCN and Sakhalin Energy, based on the annual work plan, and fulfilling the objectives described in this Terms of Reference.

d) The length of the meetings should be set by the WGWAP based on the specific agenda and on discussions of the WGWAP Co-chairs with IUCN and Sakhalin Energy.

e) To ensure the WGWAP has access to relevant information, all parties will endeavour to:
    a. provide IUCN with all agreed documents and data normally three weeks before the meetings concerned (full meetings and subsidiary meetings e.g. Task Forces), unless agreed differently by Co-chair and IUCN.
    b. make relevant personnel available for consultation by the WGWAP at any meeting.

f) IUCN will seek to dispatch the agenda and the available background documents normally three weeks in advance of a meeting (unless agreed differently as per point above).

g) The Co-Chairs of the WGWAP has/have single-point accountability for managing the work of the Panel, including the WGWAP reports (and those of the subsidiary bodies such as Task Forces). This includes being responsible for the production and content of reports (in consultation with Panel members and others including Sakhalin Energy, IUCN and observers). It is expected that adoption of any report by the WGWAP will be by consensus among the WGWAP members. However, if full consensus is not achieved, any member will have the right and opportunity to provide a written minority view that will be included in the relevant report as an authored annex.

h) The timelines for WGWAP reports and Sakhalin Energy responses will be agreed at each meeting, following consultations conducted by the Co-Chairs with IUCN and Sakhalin Energy.

i) Teleconferences among Co-Chairs(s), IUCN, Sakhalin Energy and lenders' representative(s), will be organized monthly.

j) The Co-Chairs of WGWAP may, with advance written approval of IUCN, arrange for assignments or commission field visits and missions, either by one or more WGWAP members or by other independent experts, to analyze or assess a particular issue, event or outcome of direct relevance to the work of the WGWAP. All such assignments, visits or missions will produce reports available to members of the WGWAP, IUCN and Sakhalin Energy. These assignments, visits and commissions, as far as foreseen in advance, must be duly incorporated in the annual workplan and budget.

6.3 Data and Information: levels of confidentiality

a) Fulfilment of the commitments on data and information made above (e.g. see Item 6.2 (v)) will require cooperation among those collecting and generating such information and data. Data represent the product of a significant investment of both money and time, and the legitimate interests of persons holding rights must be respected by all parties. Therefore, the information and data exchange among IUCN, the WGWAP and Sakhalin Energy will take place according to the following considerations:

- Respect for the intellectual property rights of those involved in the collection of data (e.g. the right to first publication, ownership as well as confidentiality concerns, whether of commercial or other nature);
- Recommendations should be based on a full scientific review of both data quality and analysis that can be independently verified;
- Whilst the results of analyses of the data and broad summaries of the data may be included in WGWAP reports if required to explain the rationale for recommendations, the raw data reviewed by panel members will remain confidential and the property of the rightful data collectors or providers;
- When use of proprietary data is involved in any publication or report, the rightful data collectors or providers, including Sakhalin Energy, will be consulted and requested to approve such use; and
- The information and level of resolution of the data to be made available to the WGWAP will be determined by the WGWAP on the basis of the analyses for which the data are required and such analyses must be reasonable, objective and adequate to the purpose.

b) Each WGWAP member will be required to sign an individual non-disclosure agreement (NDA) pursuant to which he/she will have an obligation, *inter alia*, not to disclose outside the WGWAP information designated as confidential and to respect the rights of first publication. That said, however, the NDA will not preclude the WGWAP from reporting any conclusions relevant to its mandate hereunder that are based upon such information, as long as none of the confidential information is disclosed in such conclusions.

c) IUCN will normally make publicly available all documents submitted to the WGWAP by the time the WGWAP issues its meeting report, except for information that is designated confidential. Whether information is confidential or not will be determined by IUCN in consultation with the entity or individual providing the information. Confidentiality will be an exception rather than the rule, and therefore as much information as possible will be made available to the public.

6.4 Recommendations

Strategic and operational advice and recommendations provided by the WGWAP will:

(a) be based upon the best scientific methods, data and information available at the time;
(b) be made in an impartial and transparent manner;
(c) not conflict with relevant international conventions and agreements and relevant Russian regulations;
(d) be specific, measurable, achievable and time-bound to the extent possible;
(e) give highest priority to providing recommendations aimed at ensuring the conservation and recovery of WGWs and the habitat, whilst recognising the needs of industry;
(f) be made in the context of compliance with IFC Performance Standards, and in particular Performance Standard 6;
(g) to the extent possible consider potential impacts of the advice and recommendations on other biota, according to information known to Panel members or that is otherwise brought to the Panel's attention;
(h) to the extent possible take a risk-based approach.

7. COMMUNICATION AND TRANSPARENCY

(a) IUCN will develop a Communication Strategy which will be implemented and updated as necessary. This strategy will be designed, *inter alia*, to ensure that interested parties have access to all relevant information to enable independent assessment of the progress made by the WGWAP and to have opportunities to interact with the WGWAP including through WGWAP meetings or open information sessions organised by IUCN.
(b) Information and documentation related to the WGWAP, including terms of reference, workplans, meeting schedules and agendas, reports and responses to recommendations, will be made publicly available on the IUCN website.
(c) The Co-Chairs of the WGWAP will have exclusive authority to speak publicly for or represent the WGWAP on substantive scientific aspects and findings of its work, or can delegate this responsibility to another WGWAP member. IUCN has authority to speak about the WGWAP process.

(d) If approached by the media to comment on WGWAP related matters, any Panel member, including the Co-Chairs, should first get clearance by IUCN according to the IUCN Media Policy (2016). Panel members should also get clearance from the Co-chairs.

8. PERFORMANCE ASSESSMENT

Regular performance assessment is essential to ensure that the collaborative effort required by these TOR from all concerned parties succeeds and contributes to the achievement of the goal and objectives of the WGWAP outlined in Section 2. Consequently, assessments of the performance of the WGWAP as an advisory body, of IUCN as a convenor, and of Sakhalin Energy in terms of its implementation of advice and recommendations from the WGWAP, will be conducted as follows:

(a) IUCN will, in consultation with the WGWAP Co-Chairs, appoint an independent agency to evaluate, according to IUCN-supported Independent Scientific & Technical Advisory Panels (*Procedures for establishing and managing IUCN-supported Independent Scientific & Technical Advisory Panels*, 2014) the performance of the collaboration under these TOR and the effectiveness with which IUCN, WGWAP, and Sakhalin Energy have played their respective roles. The evaluation will be conducted against a set of indicators that will be developed by IUCN. The independent agency will make recommendations on how the performance might be improved.

(b) IUCN will, in consultation with the WGWAP and Sakhalin Energy, determine to what extent the recommendations arising from the evaluation process are to be adopted and implemented. IUCN will have the final decision regarding adoption and implementation of such recommendations. IUCN will clearly identify and document, regarding specific recommendations from the review process, (i) where they were/will be accepted and/or implemented or (ii) where they were not/will not be accepted and/or implemented (including a clear explanation therefore).

9. PARTICIPATION OF INTERESTED PARTIES

9.1 Government

Governments will have the opportunity to:

(a) Provide comments on any proposed amendments to this TOR;

(b) Provide IUCN with information on issues within the scope of these TOR and important for the WGWAP to consider in carrying out its mandate. IUCN will relay the information it receives to the WGWAP Chair/Co-Chairs, so that it may be considered and, if appropriate, placed on the agenda of the next WGWAP meeting;

(c) Participate in the Panel's meetings as 'observers', with maximum numbers subject to practical logistical considerations.

9.2 Civil Society

Civil society will have the opportunity to:

(a) Provide comments on any proposed amendments to this TOR;

(b) Provide IUCN with information on issues within the scope of this TOR and important for the WGWAP to consider in carrying out its mandate. IUCN will relay the information it receives to the WGWAP Co-Chairs, so that it may be considered and if appropriate, placed on the agenda of the next WGWAP meeting;

(c) Participate in the Panel's meetings as 'observers', with maximum numbers subject to practical logistical considerations.

9.3. Financial Institutions

The financial institutions lending or potentially lending to the relevant projects of the Contracting Companies will have the opportunity to:

(a) Provide comments on any proposed amendments to this TOR;

(b) Provide IUCN with information on issues within the scope of this TOR and important for the WGWAP to consider in carrying out its mandate. IUCN will relay the information it receives to the WGWAP Co-Chairs, so that it may be considered and, if appropriate, placed on the agenda of the next WGWAP meeting;

(c) Participate in the Panel's meetings as 'observers', with maximum numbers subject to practical logistical considerations.

10. TERM

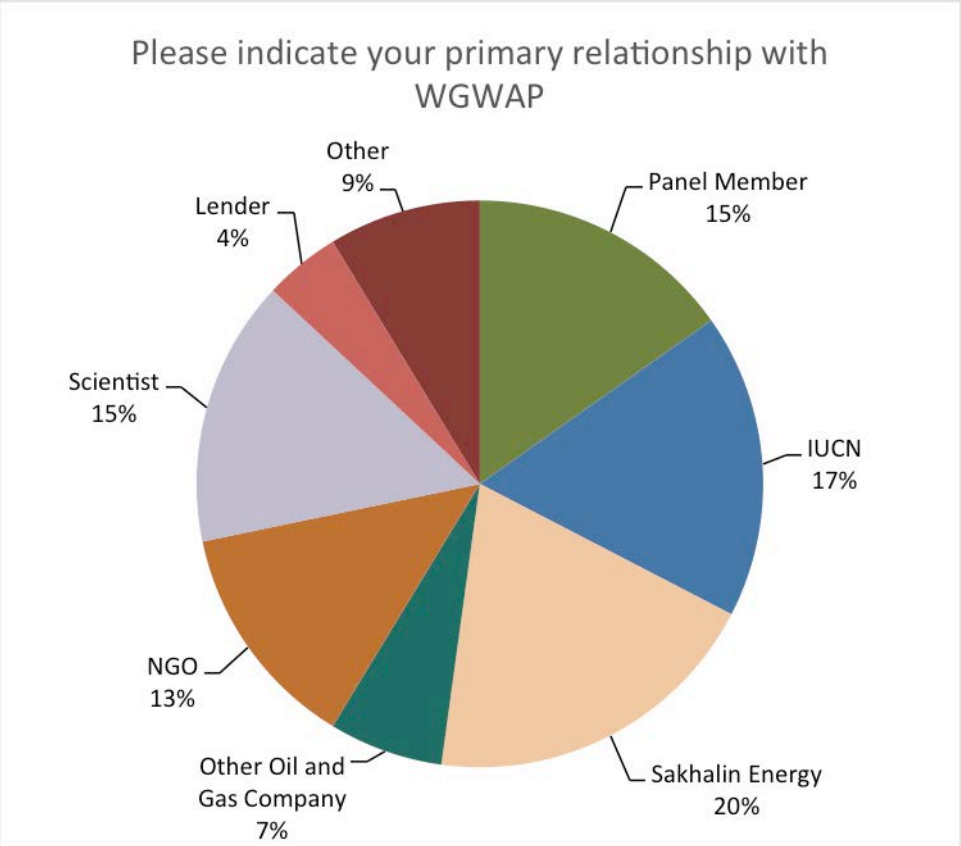
10.1 The WGWAP is established for a period of 5 years (1 January 2017 - 31 December 2021).

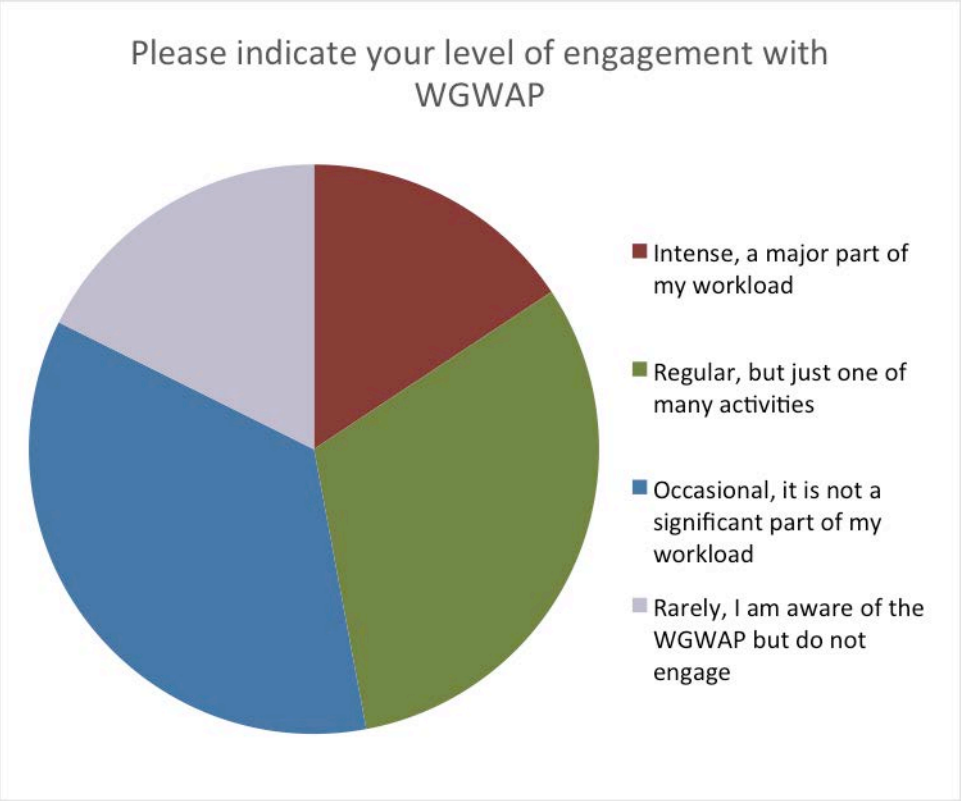
10.2 Updates of this TOR will have to be approved as an amendment to the agreement.

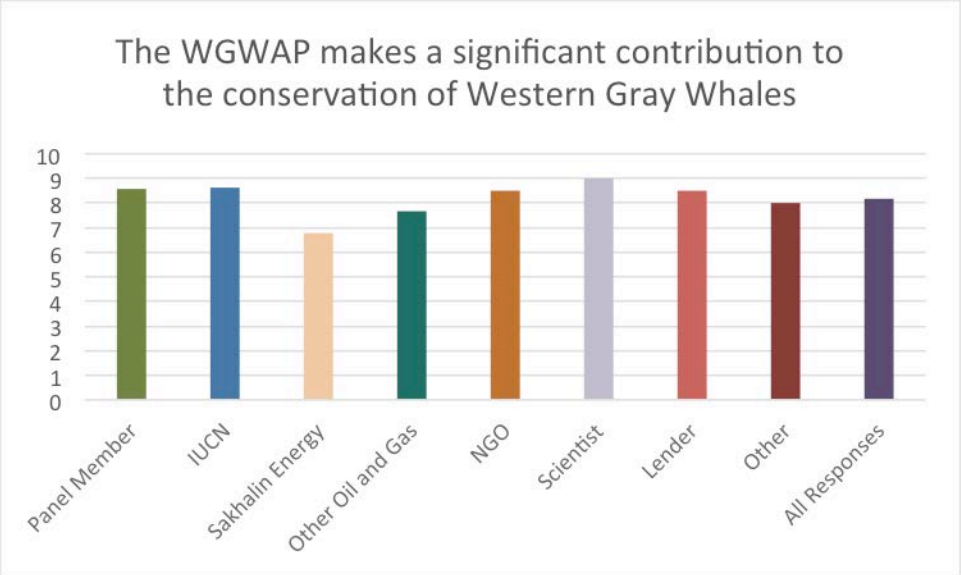
WGWAP TOR Definitions

Civil Society	Academic institutions, non-governmental organizations (NGOs) and individuals who do not represent another Interested Party.
Contracting Companies	Companies with Oil and Gas concessions on the Sakhalin shelf that have entered into a legally binding contract with IUCN to support the WGWAP
Contracting Company Response	The point-by-point response to the WGWAP Report produced by each Contracting Company
Financial Institutions	Institutions currently, or potentially, lending money to one or more Contracting Companies for a relevant project
Government	Interested Russian Federation and other Range State national governmental authorities/agencies and intergovernmental organisations
Interested Parties	Existing Contracting Companies or Other Companies, Financial Institutions, Industry Bodies, Governments, and Civil Society
Other Companies	Companies that have not yet entered into a legally binding contract with IUCN to support the WGWAP
WGWAP Report	The Report produced by the WGWAP after each WGWAP meeting

Annex 6. Online survey results






The WGWAP makes a significant contribution to the conservation of Western Gray Whales
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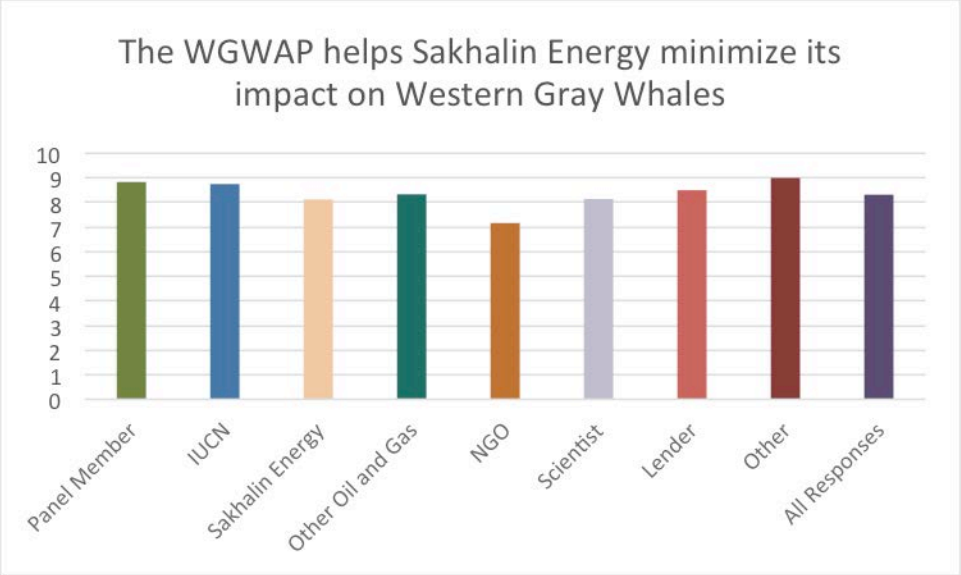
The WGWAP helps Sakhalin Energy minimize its impact on Western Gray Whales
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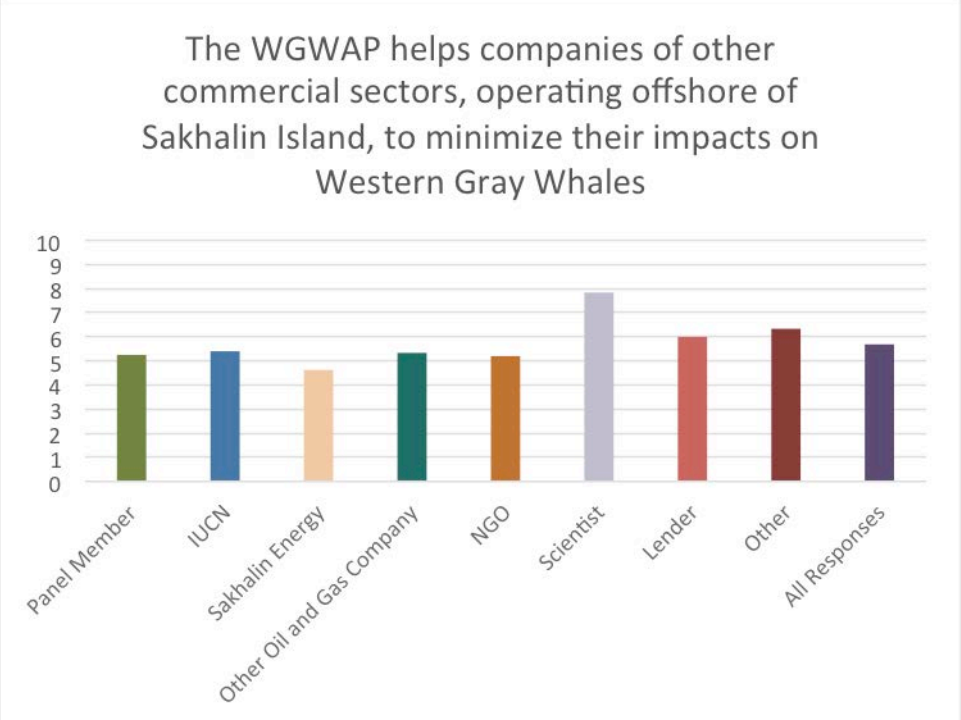
The WGWAP helps companies of other commercial sectors, operating offshore of Sakhalin Island, to minimize their impacts on Western Gray Whales
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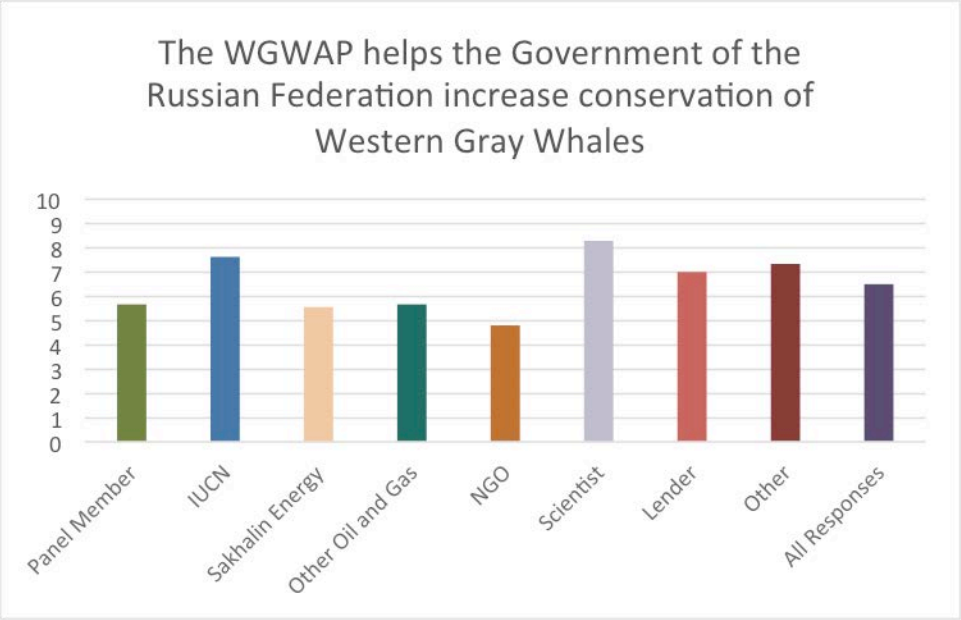
The WGWAP helps the Government of the Russian Federation increase conservation of Western Gray Whales
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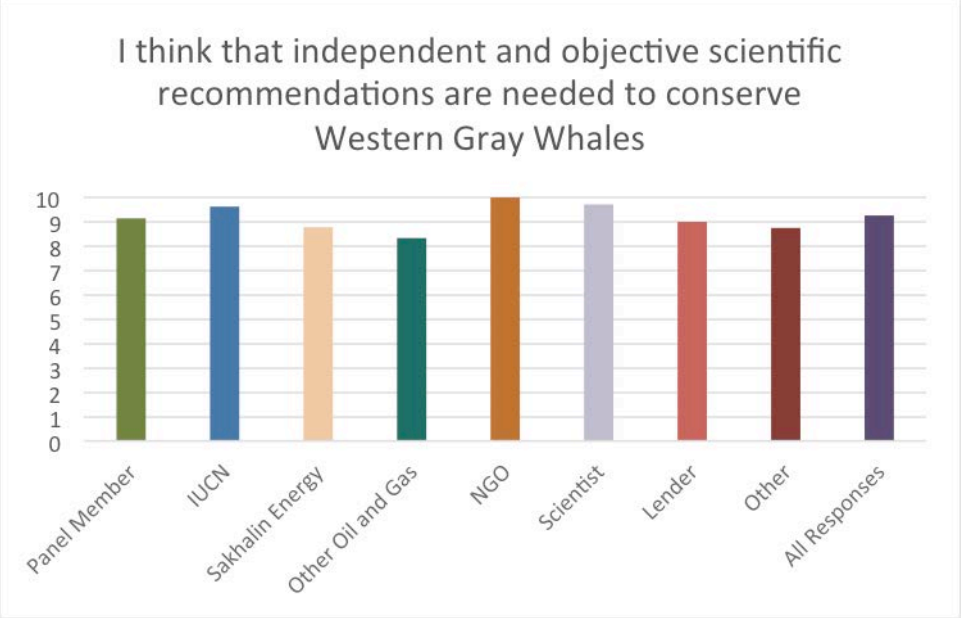
I think that independent and objective scientific recommendations are needed to conserve Western Gray Whales
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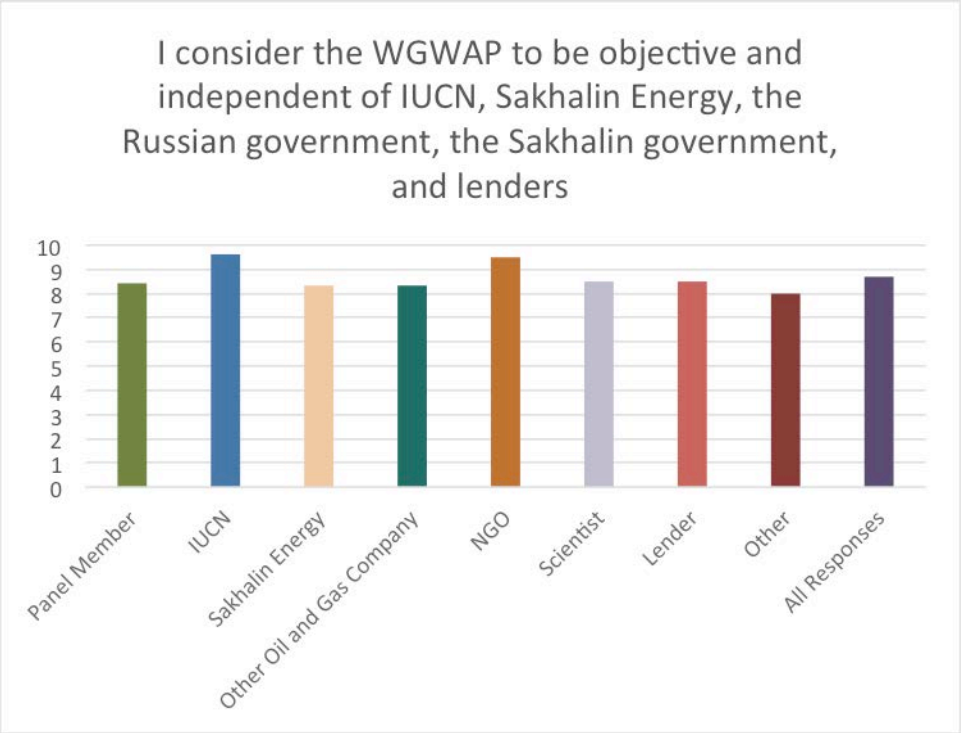
I consider the WGWAP to be objective and independent of IUCN, Sakhalin Energy, the Russian government, the Sakhalin government, and lenders
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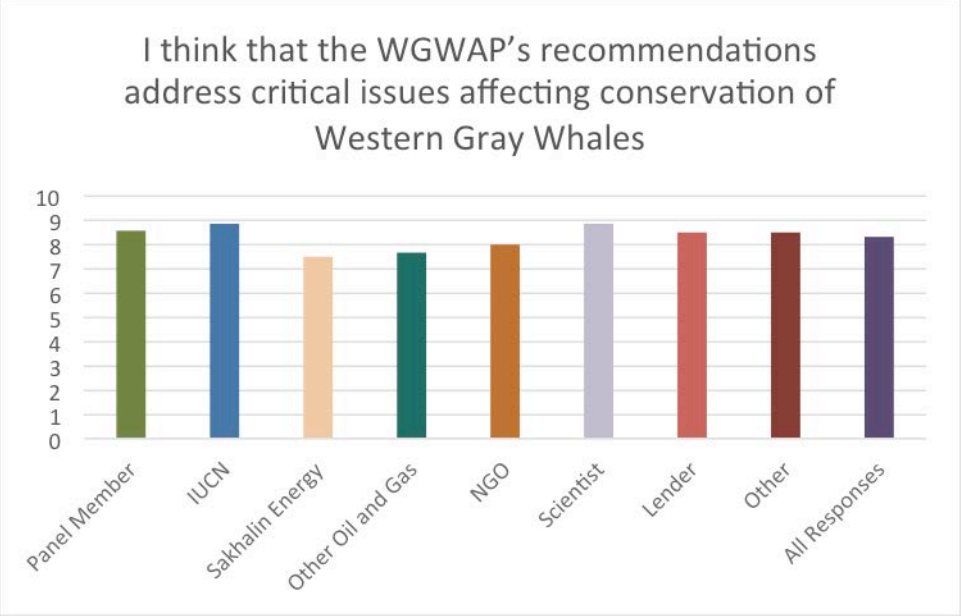
I think that the WGWAP's recommendations address critical issues affecting conservation of Western Gray Whales
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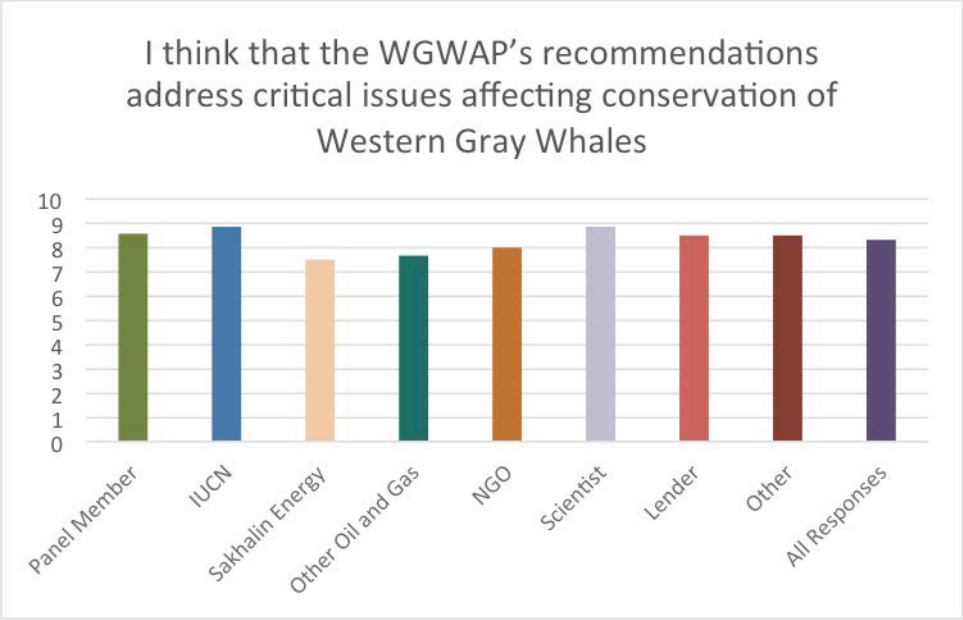
I think that the WGWAP's recommendations address critical issues affecting conservation of Western Gray Whales
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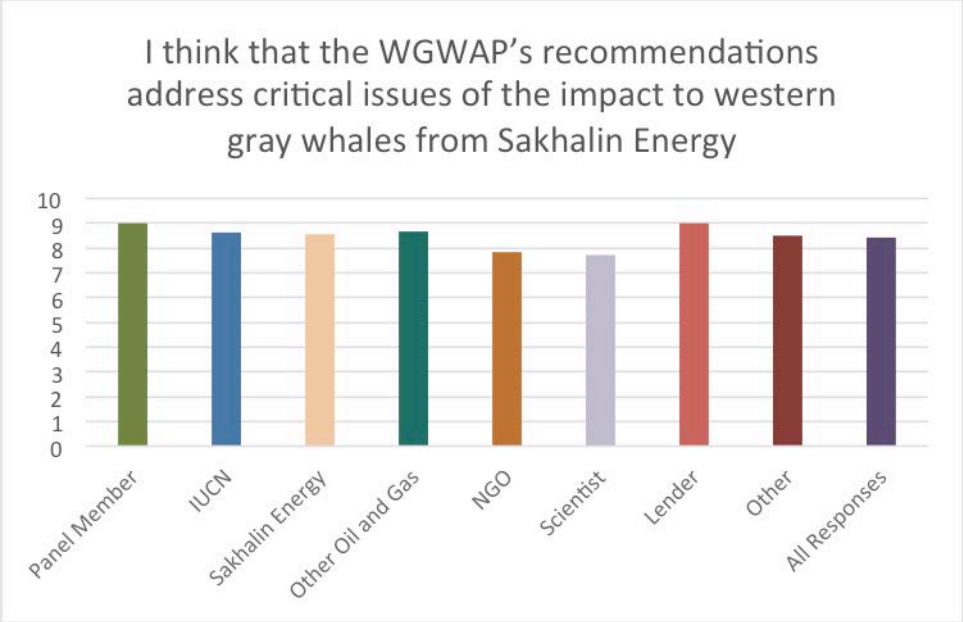
I think that the WGWAP's recommendations address critical issues of the impact to western gray whales from Sakhalin Energy
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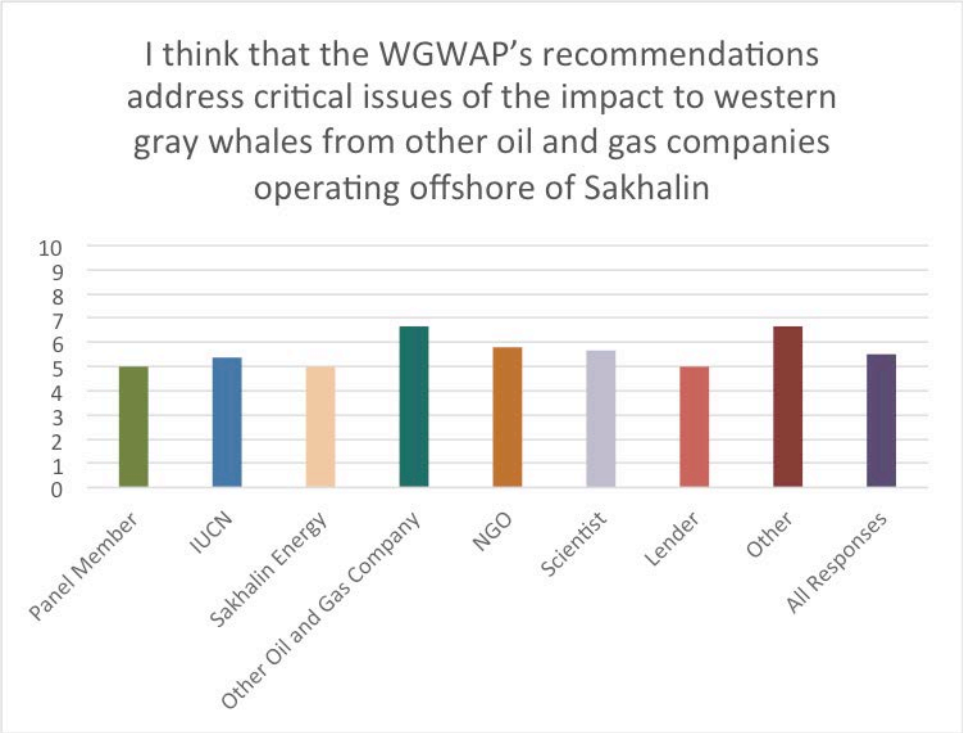
I think that the WGWAP's recommendations address critical issues of the impact to western gray whales from other oil and gas companies operating offshore of Sakhalin
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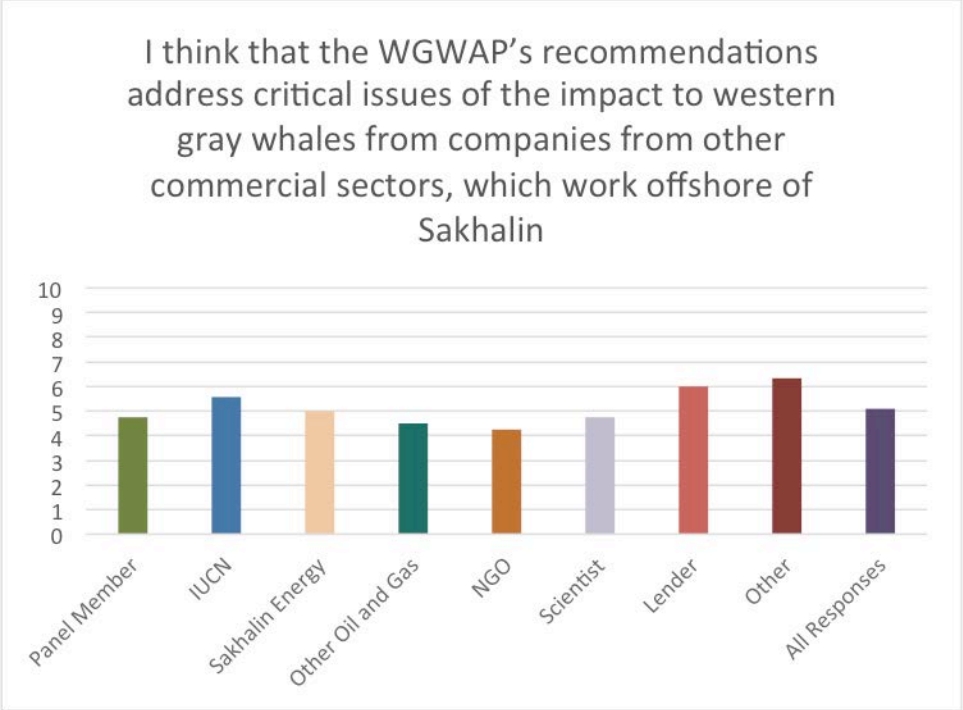
I think that the WGWAP's recommendations address critical issues of the impact to western gray whales from companies from other commercial sectors, which work offshore of Sakhalin
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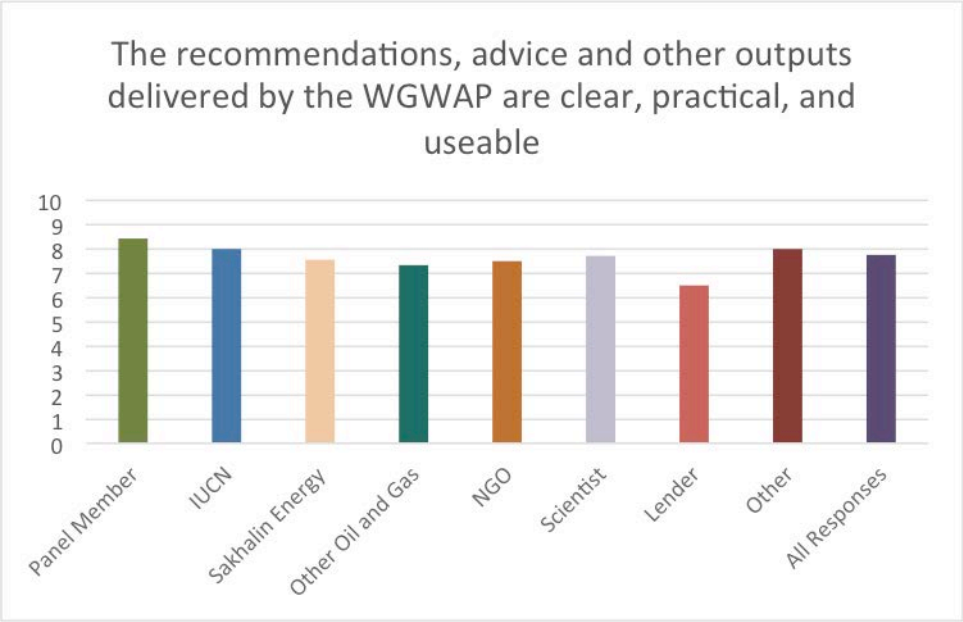
The recommendations, advice and other outputs delivered by the WGWAP are clear, practical, and useable
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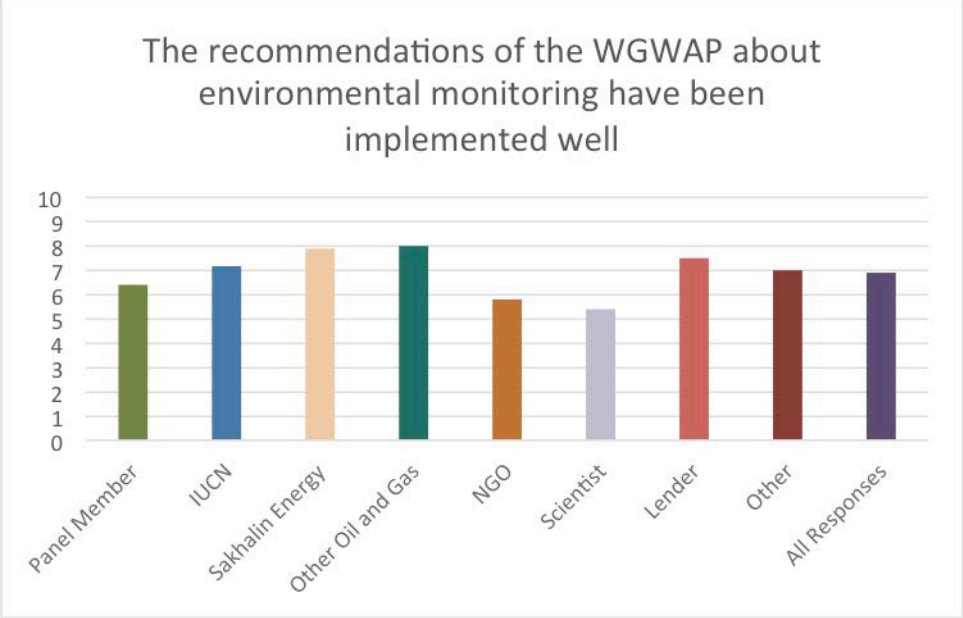
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
Lender
Other
All Responses


The recommendations of the WGWAP about environmental monitoring have been implemented well
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Panel Member
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Sakhalin Energy
Other Oil and Gas
NGO
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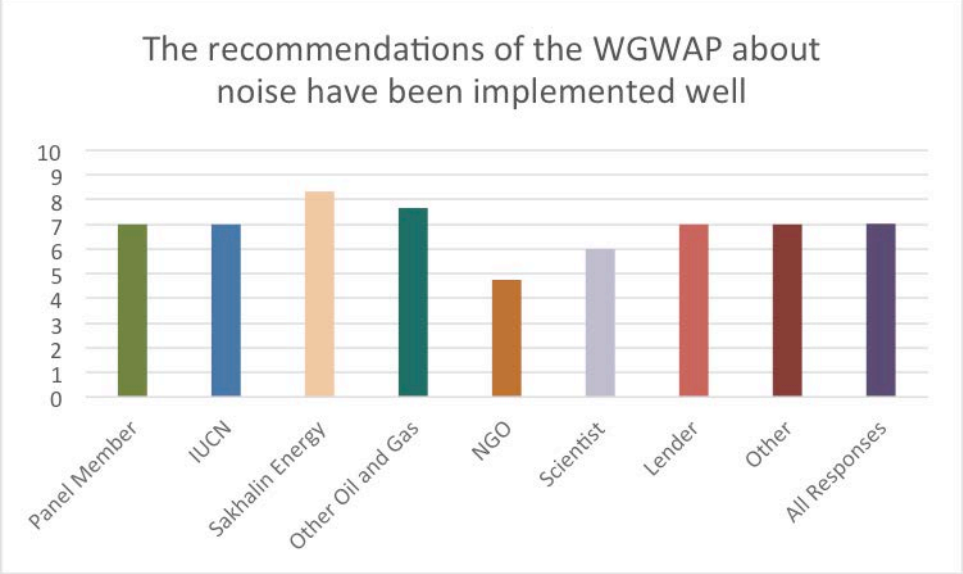
Other
All Responses


The recommendations of the WGWAP about noise have been implemented well
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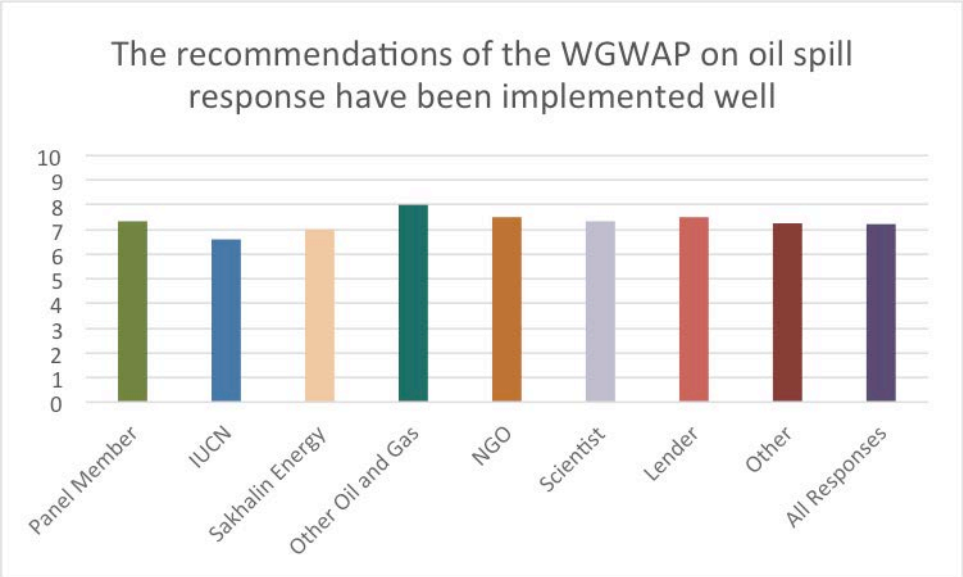
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
Lender
Other
All Responses


The recommendations of the WGWAP on oil spill response have been implemented well
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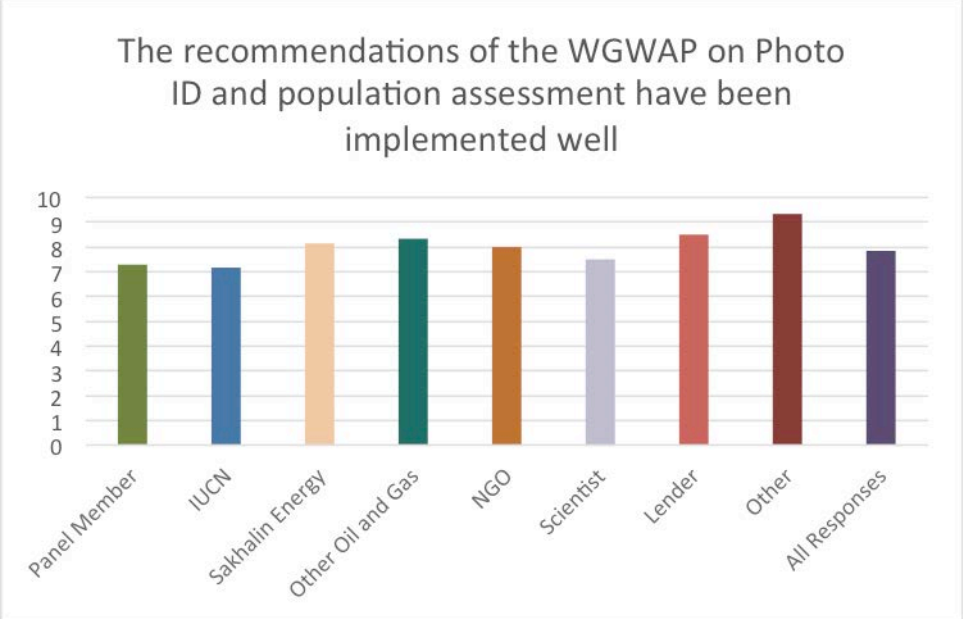
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
Lender
Other
All Responses


The recommendations of the WGWAP on Photo ID and population assessment have been implemented well
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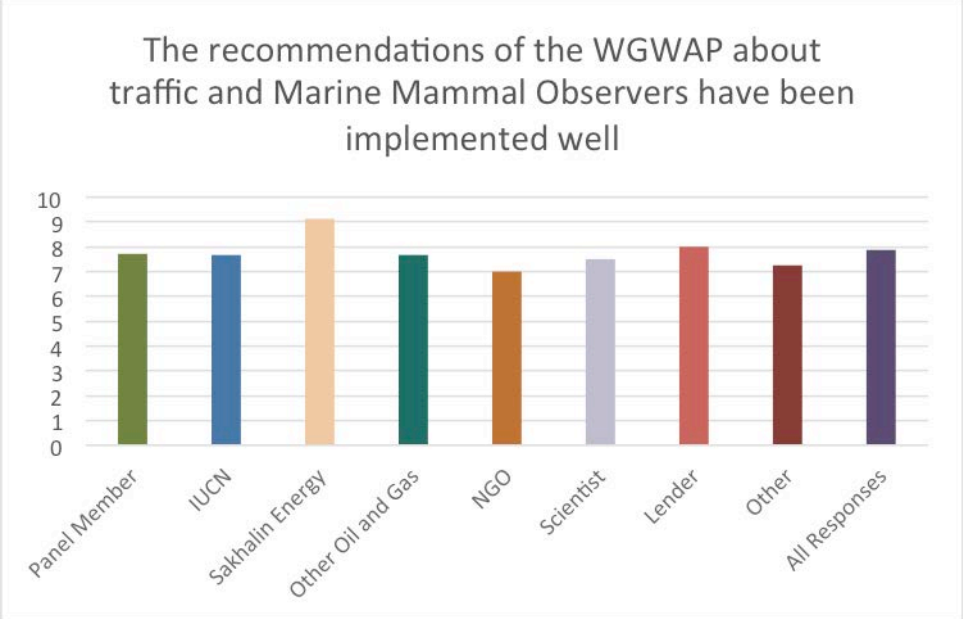
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
Lender
Other
All Responses


The recommendations of the WGWAP about traffic and Marine Mammal Observers have been implemented well
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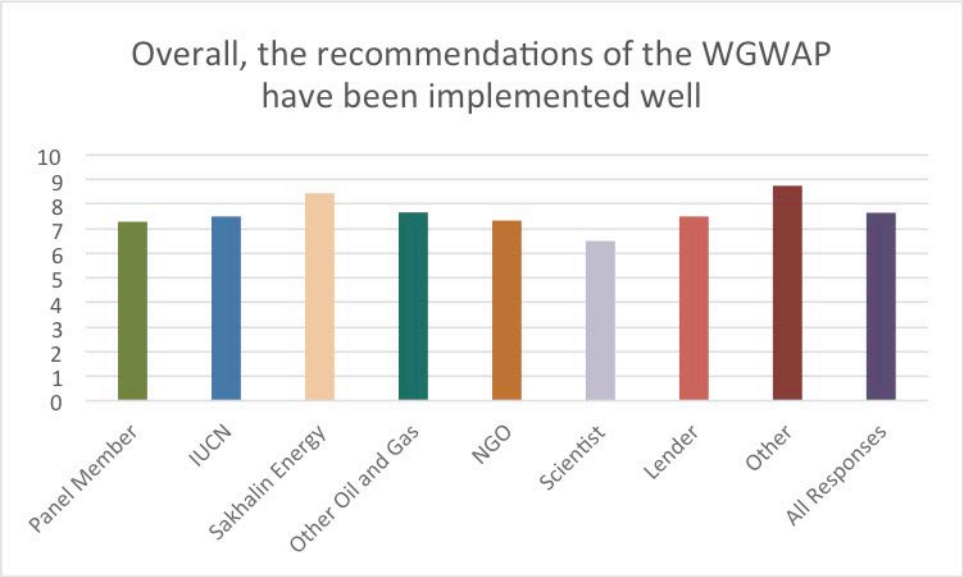
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
Lender
Other
All Responses


Overall, the recommendations of the WGWAP have been implemented well
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Panel Member
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Sakhalin Energy
Other Oil and Gas
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Scientist
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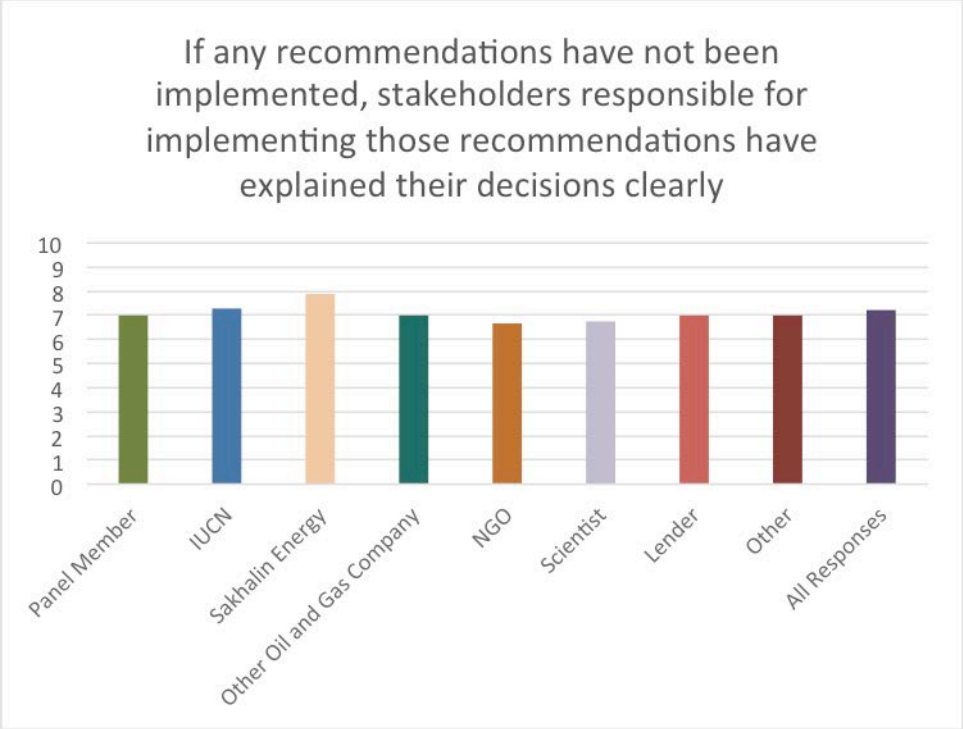
Other
All Responses


If any recommendations have not been implemented, stakeholders responsible for implementing those recommendations have explained their decisions clearly
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
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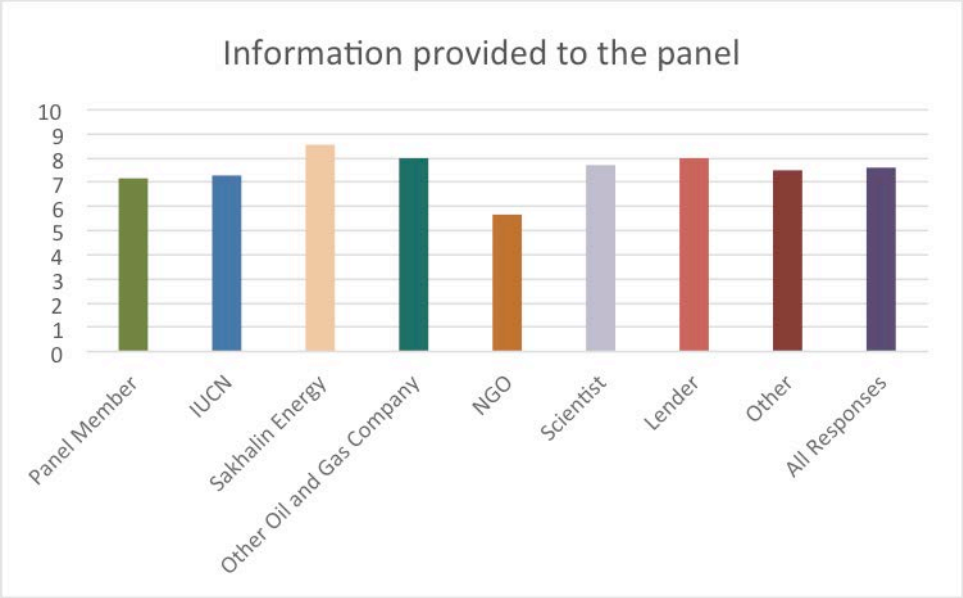
Other
All Responses


Information provided to the panel
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
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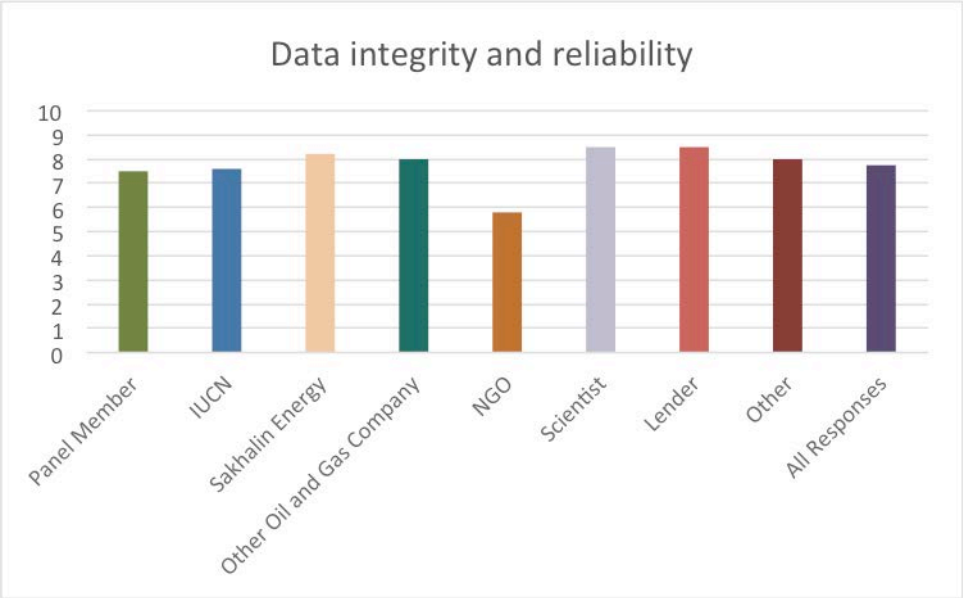
Other
All Responses


Data integrity and reliability
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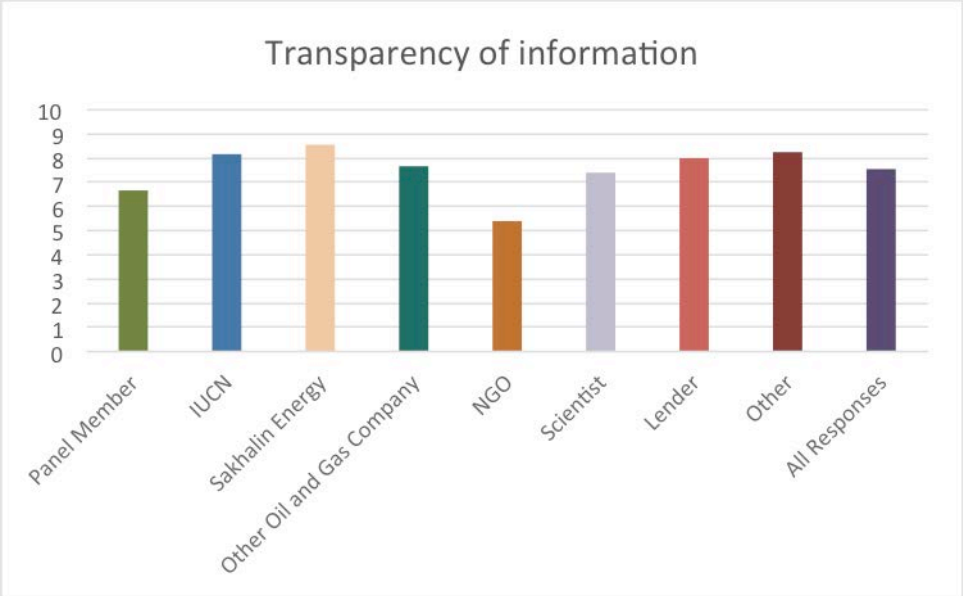
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
Lender
Other
All Responses


Transparency of information
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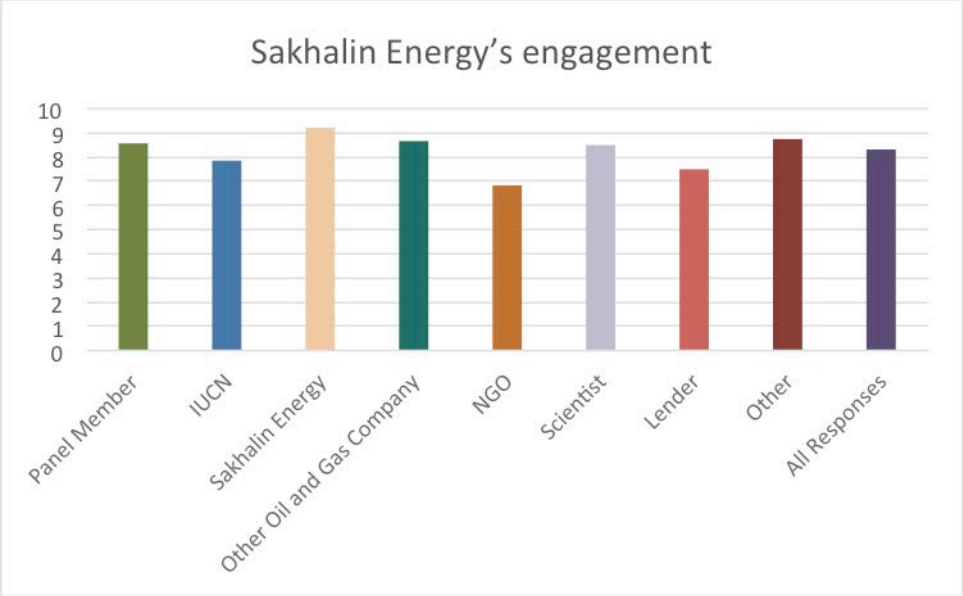
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
Lender
Other
All Responses


Sakhalin Energy's engagement
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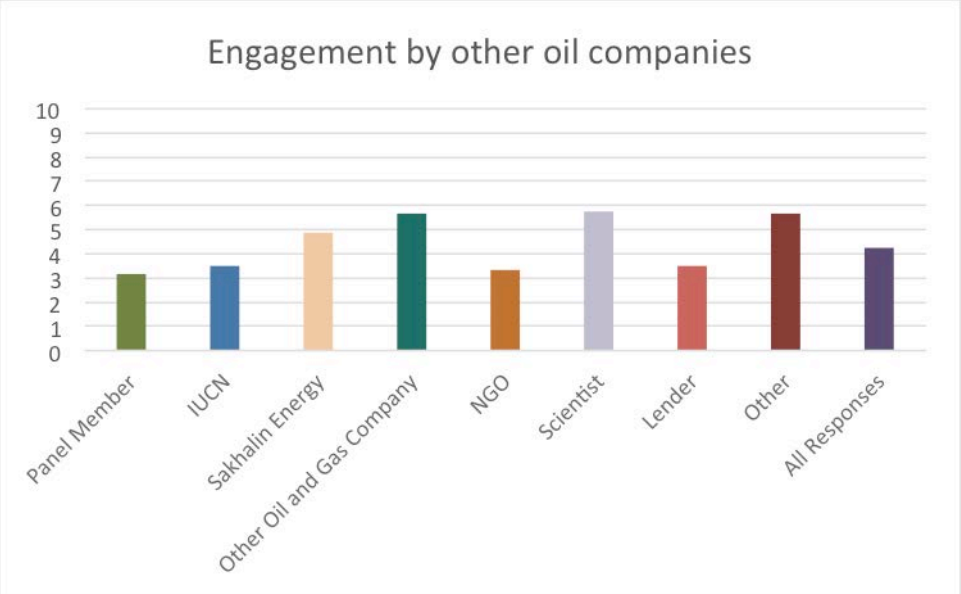
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
Lender
Other
All Responses


Engagement by other oil companies
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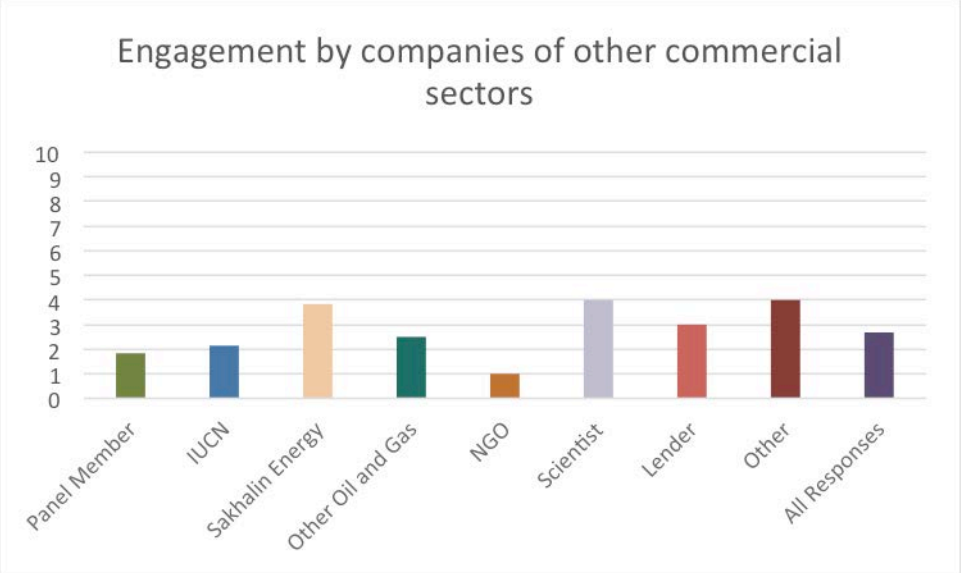
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
Lender
Other
All Responses


Engagement by companies of other commercial sectors
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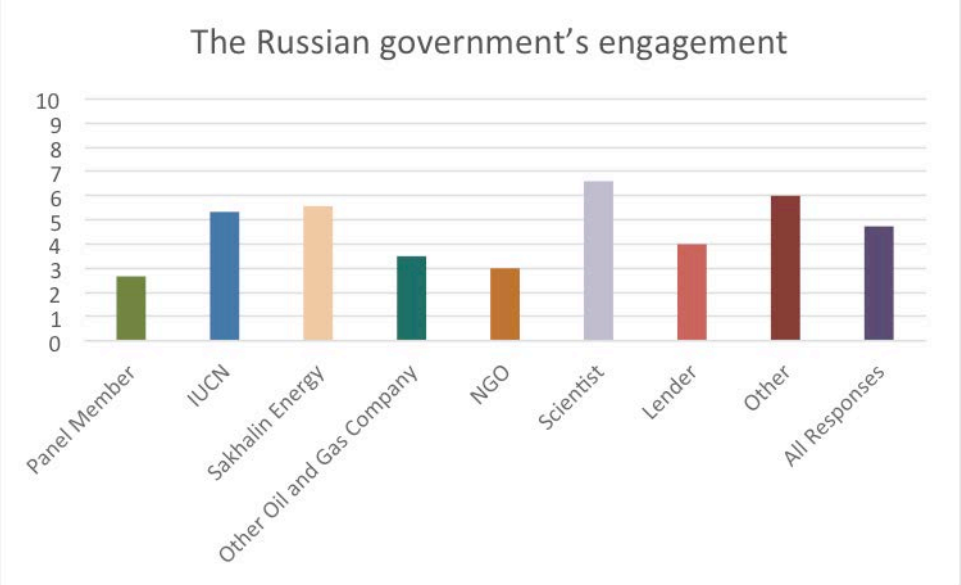
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
Lender
Other
All Responses


The Russian government's engagement
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Panel Member
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Sakhalin Energy
Other Oil and Gas Company
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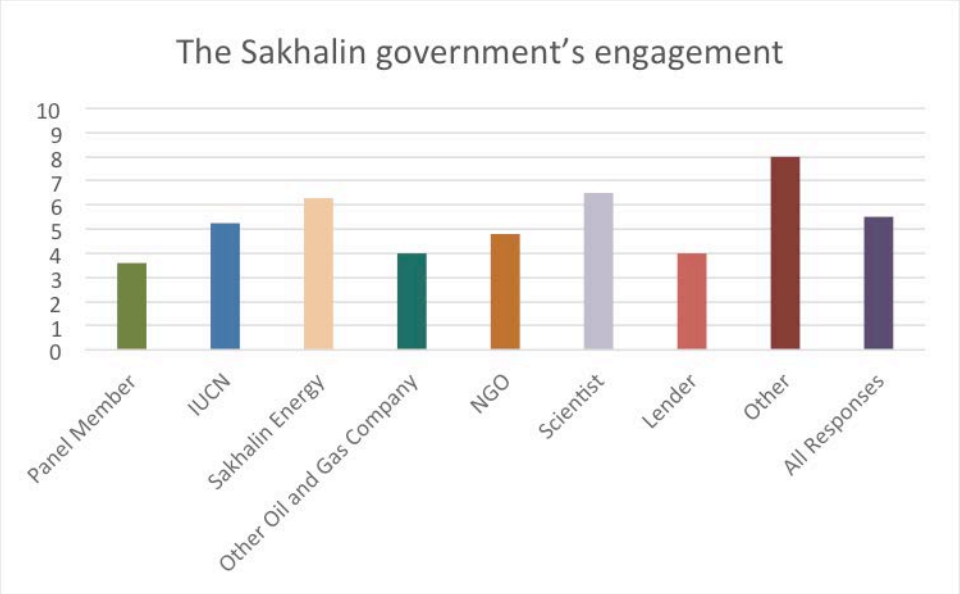
Other
All Responses


The Sakhalin government's engagement
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Panel Member
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Sakhalin Energy
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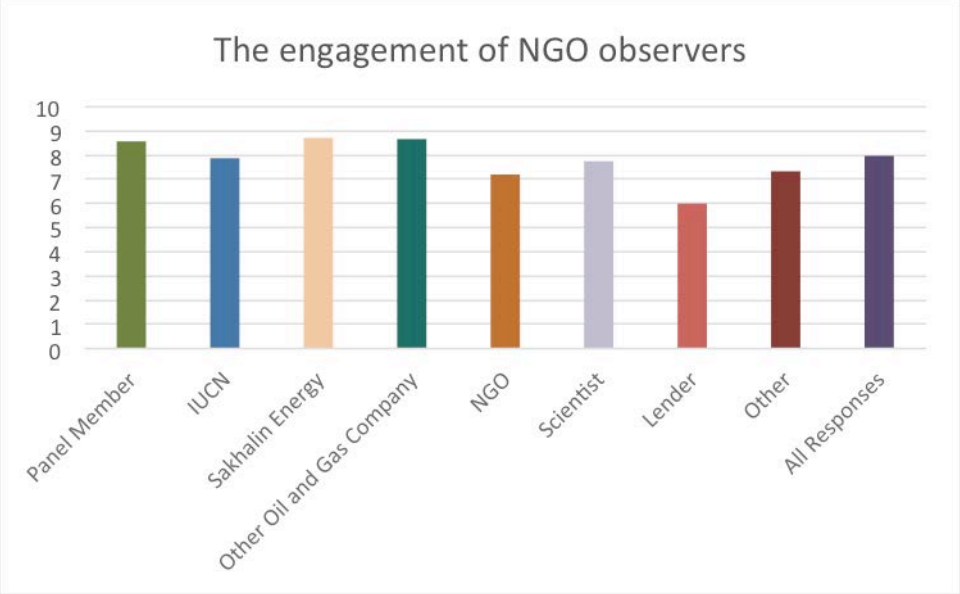
Other
All Responses


The engagement of NGO observers
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
Lender
Other
All Responses


Membership of the WGWAP
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
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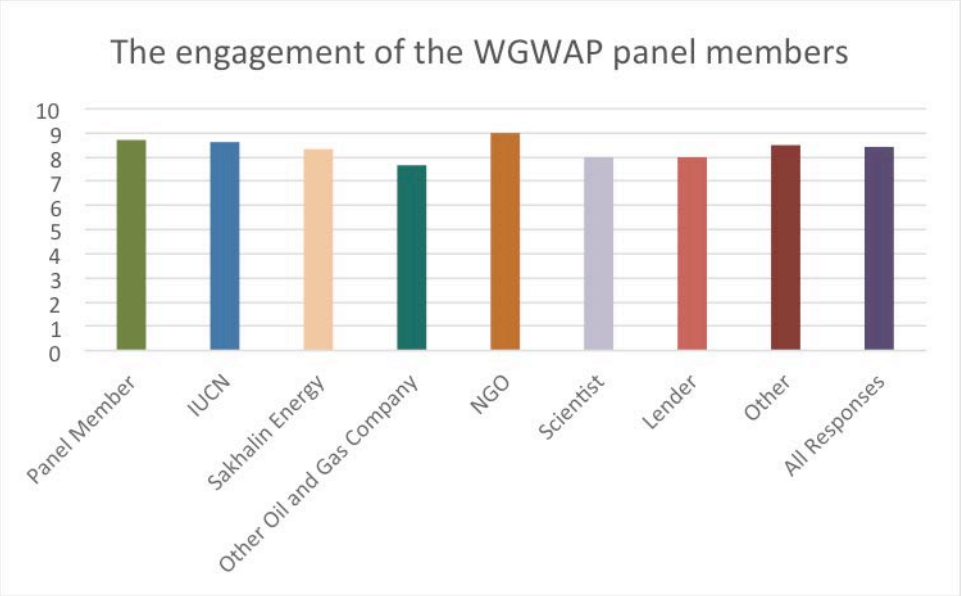
Other
All Responses


The engagement of the WGWAP panel members
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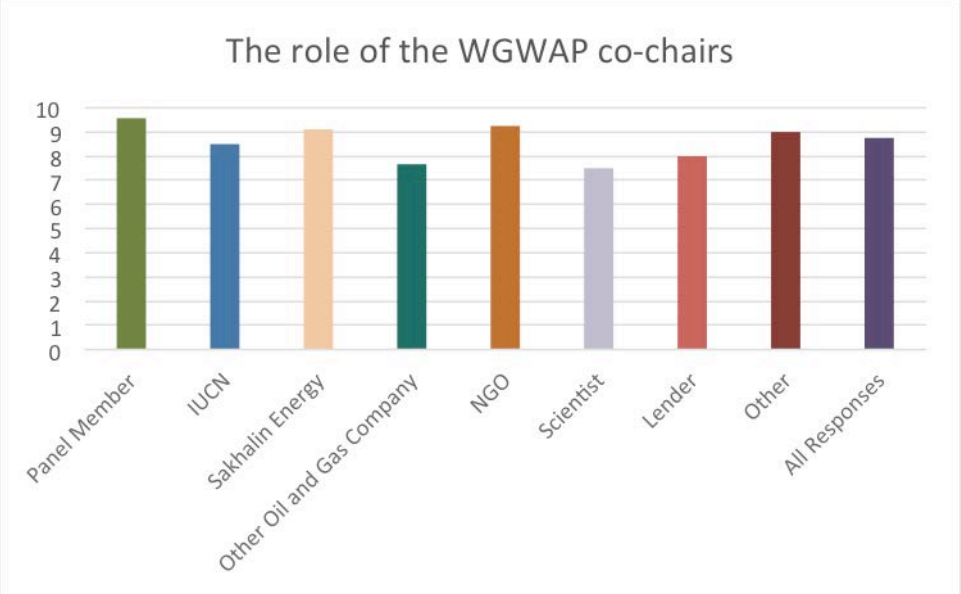
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
Lender
Other
All Responses


The role of the WGWAP co-chairs
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
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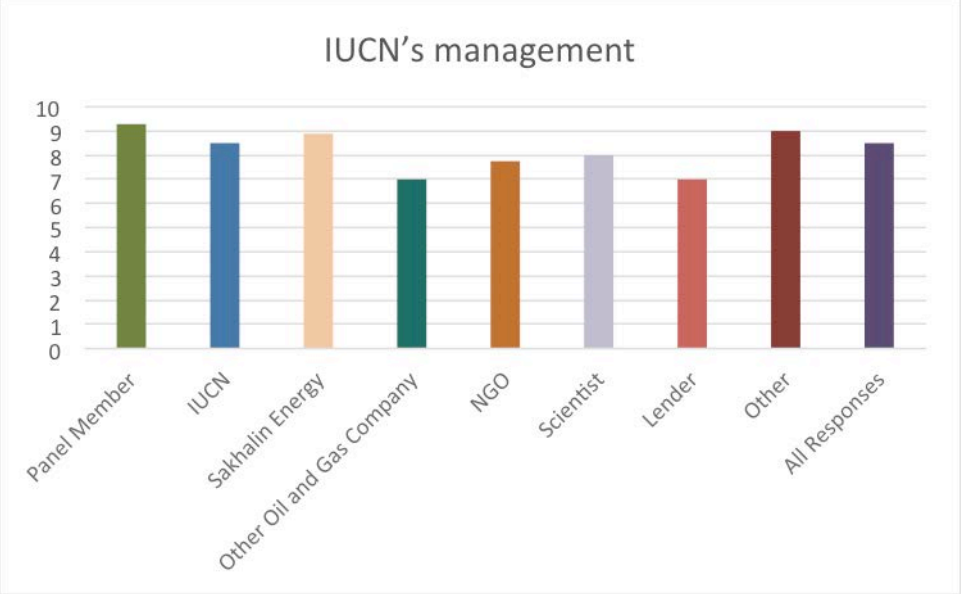
Other
All Responses


IUCN's management
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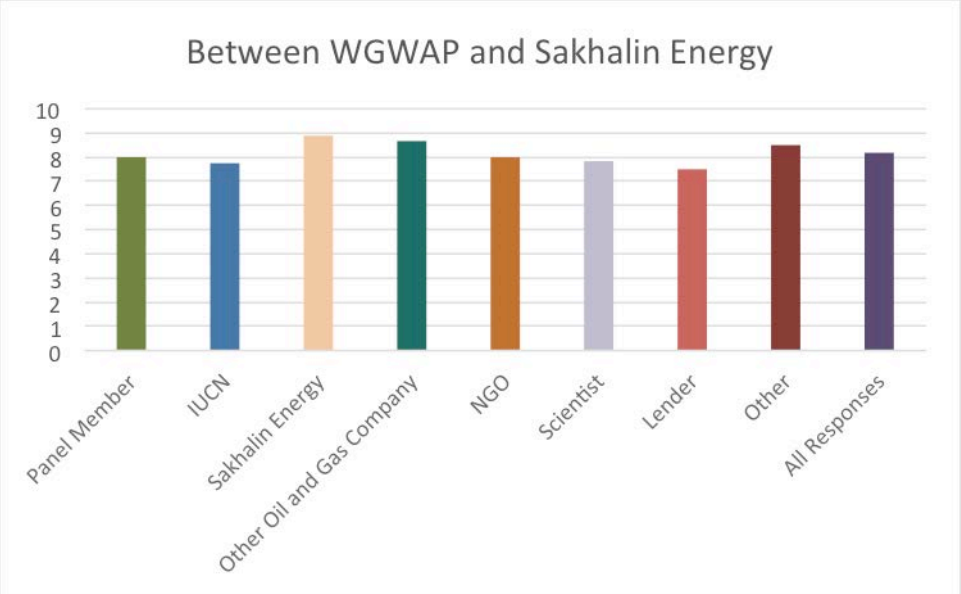
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
Lender
Other
All Responses


Between WGWAP and Sakhalin Energy
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Panel Member
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Sakhalin Energy
Other Oil and Gas Company
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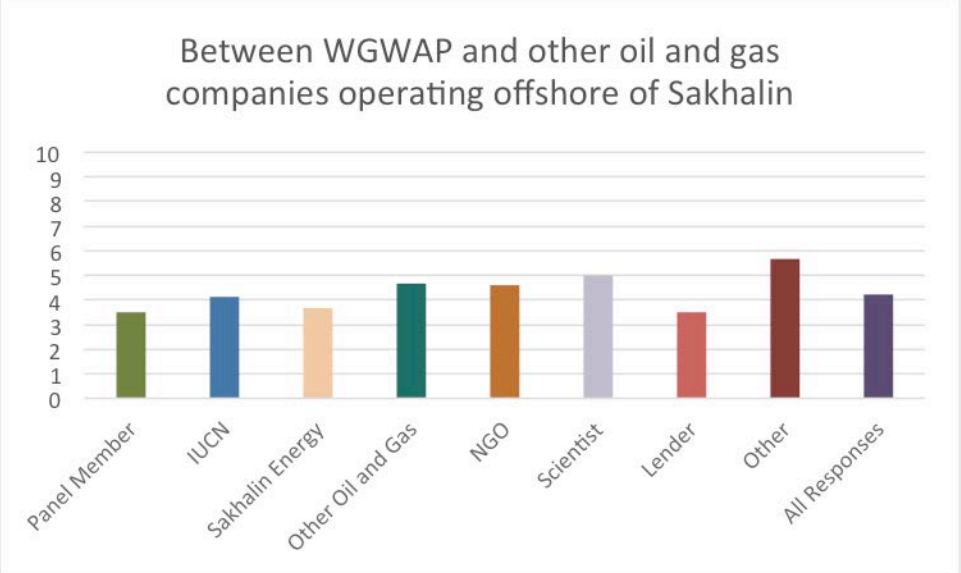
Lender
Other
All Responses


Between WGWAP and other oil and gas companies operating offshore of Sakhalin
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Panel Member
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Sakhalin Energy
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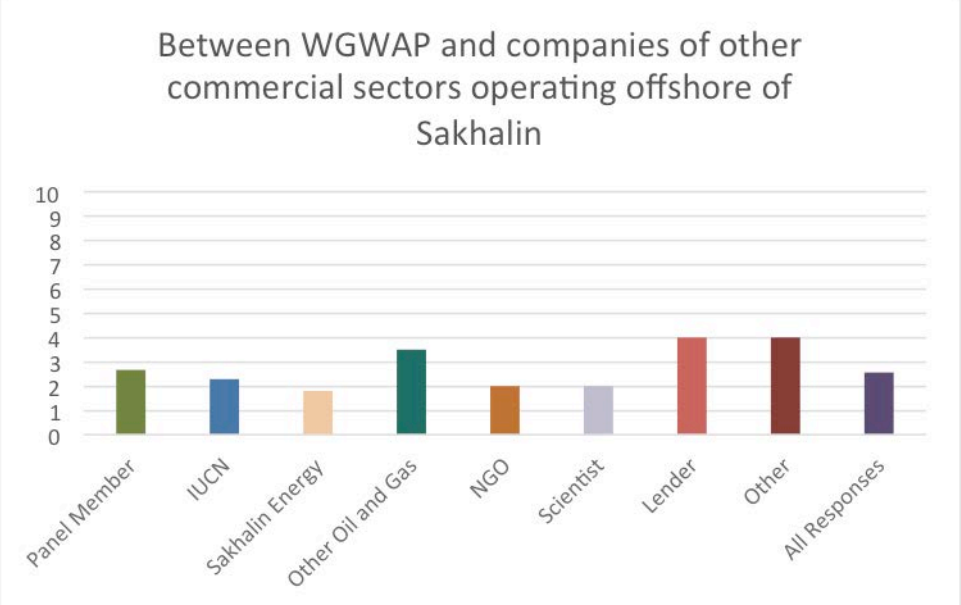
All Responses


Between WGWAP and companies of other commercial sectors operating offshore of Sakhalin
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Panel Member
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Sakhalin Energy
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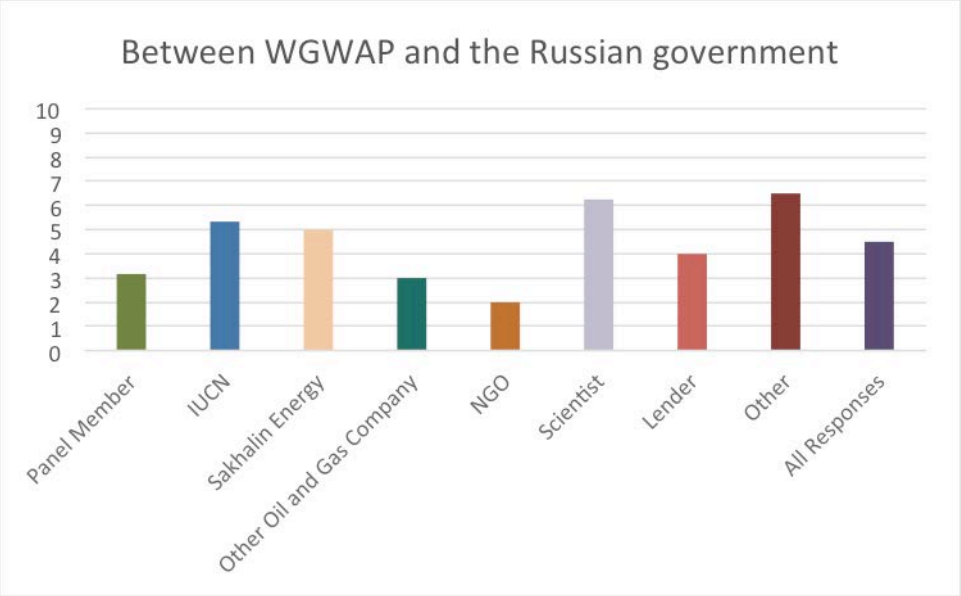
All Responses


Between WGWAP and the Russian government
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
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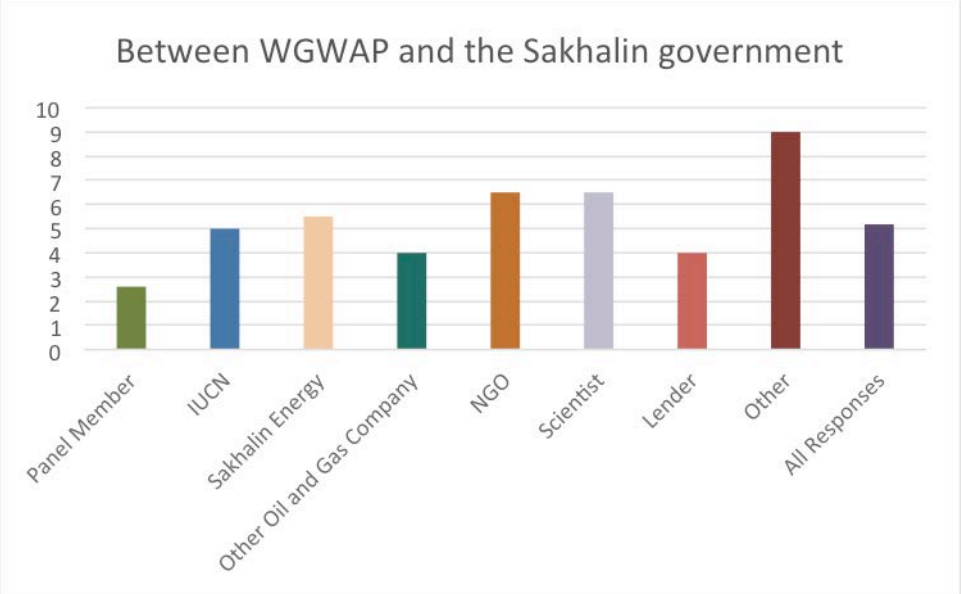
Other
All Responses


Between WGWAP and the Sakhalin government
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Panel Member
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Sakhalin Energy
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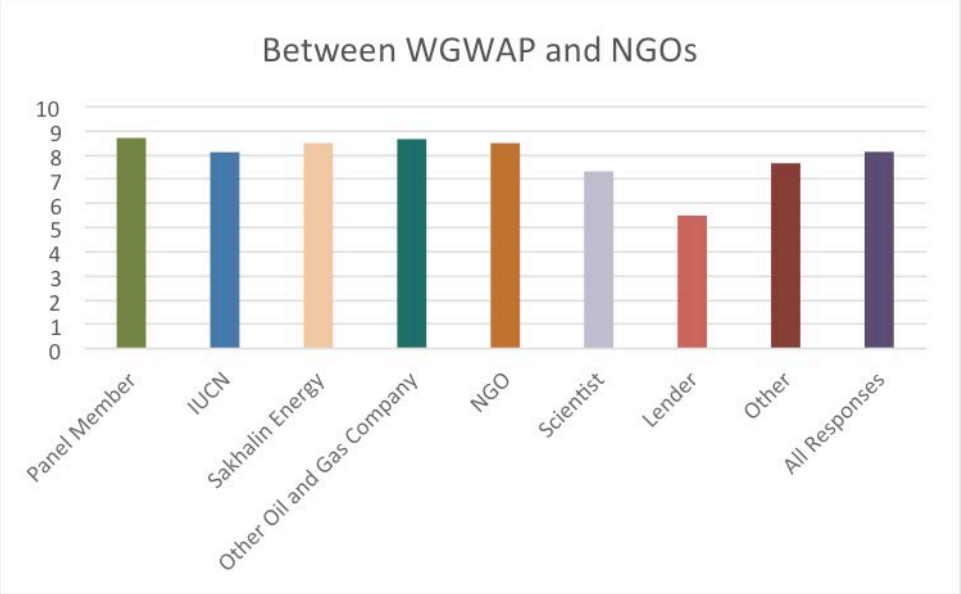
All Responses


Between WGWAP and NGOs
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
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Scientist
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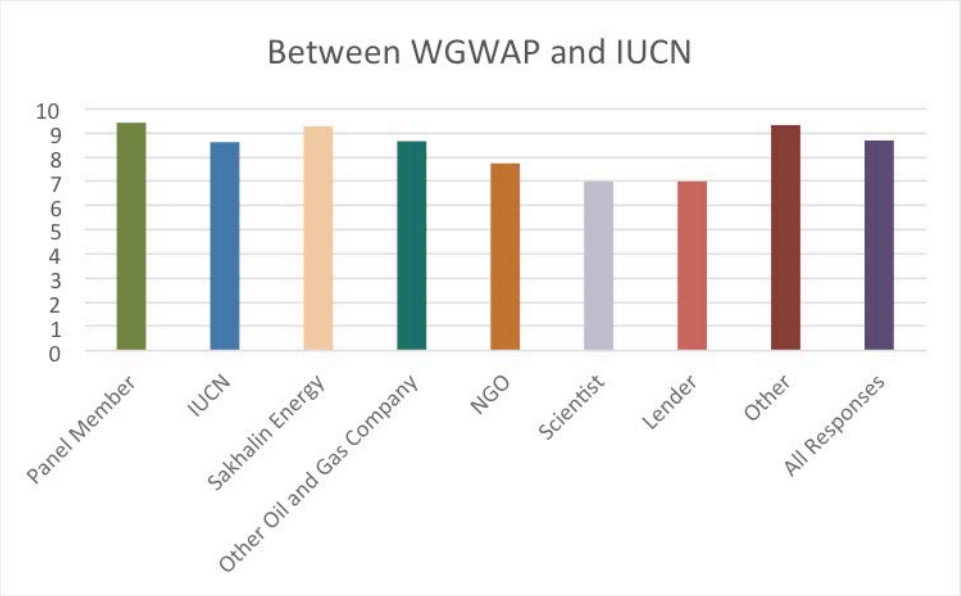
Other
All Responses


Between WGWAP and IUCN
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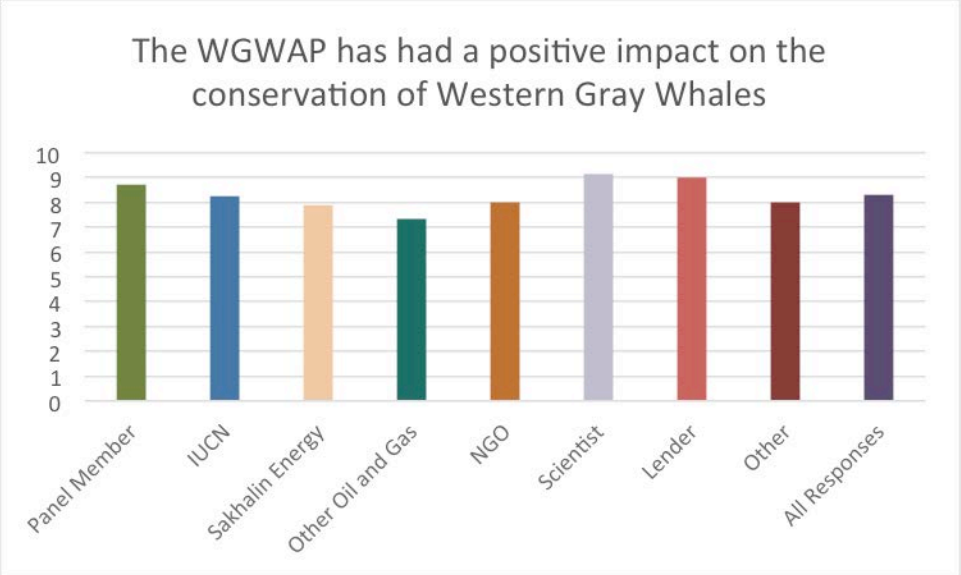
Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
Lender
Other
All Responses


The WGWAP has had a positive impact on the conservation of Western Gray Whales
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Panel Member
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Sakhalin Energy
Other Oil and Gas
NGO
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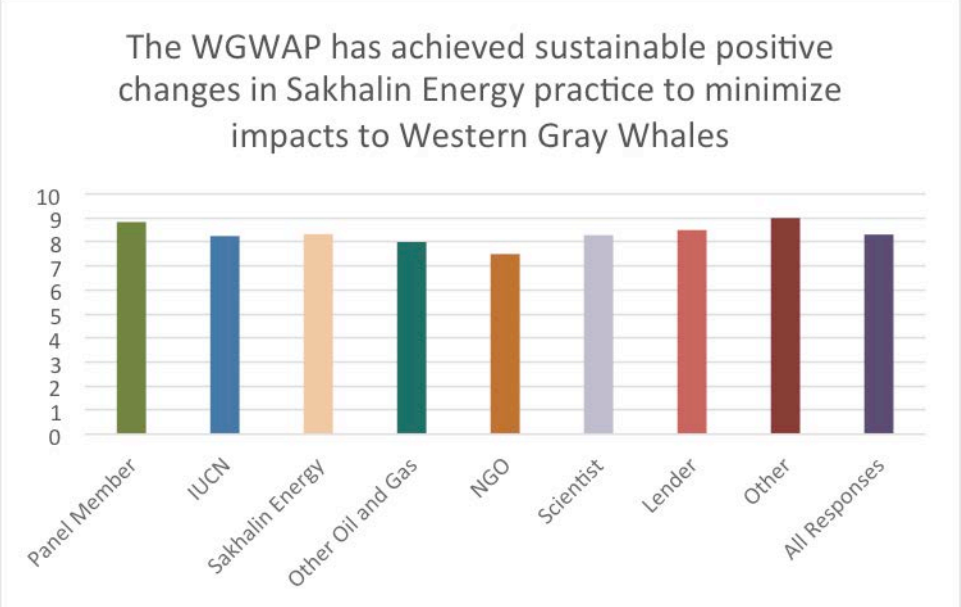
Lender
Other
All Responses


The WGWAP has achieved sustainable positive changes in Sakhalin Energy practice to minimize impacts to Western Gray Whales
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
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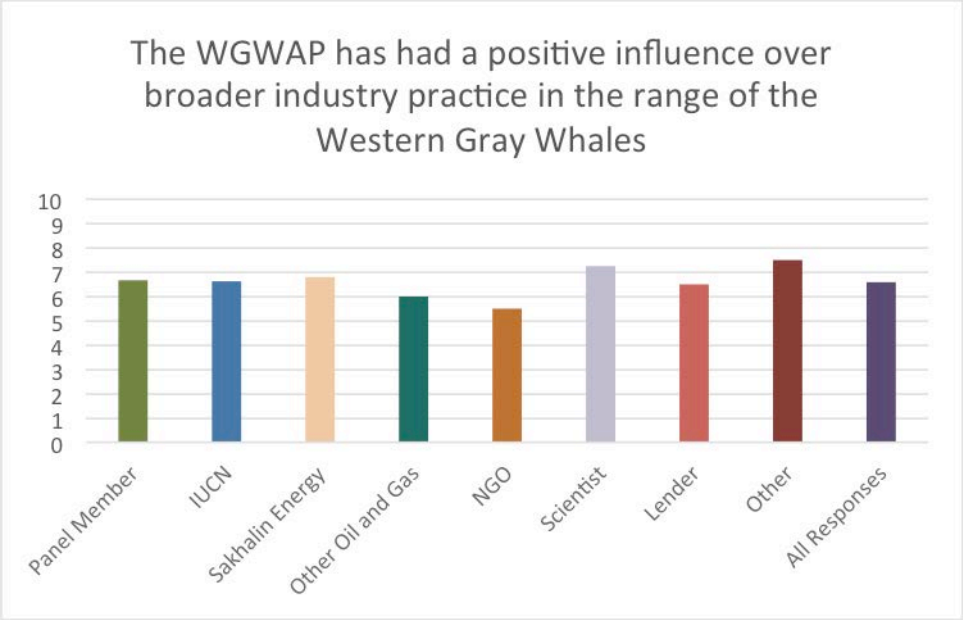
Other
All Responses


The WGWAP has had a positive influence over broader industry practice in the range of the Western Gray Whales
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Panel Member
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Sakhalin Energy
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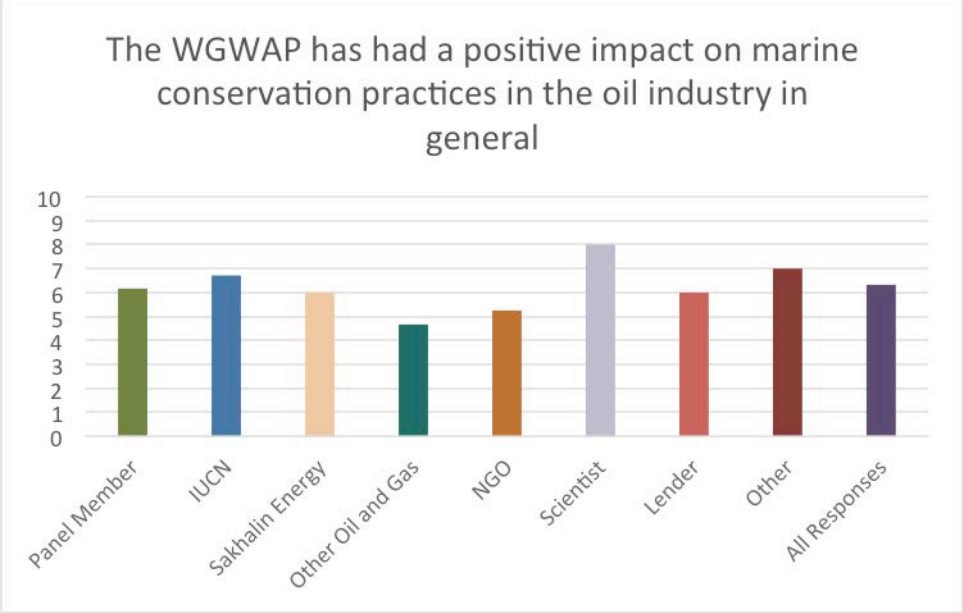
Other
All Responses


The WGWAP has had a positive impact on marine conservation practices in the oil industry in general
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Panel Member
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Sakhalin Energy
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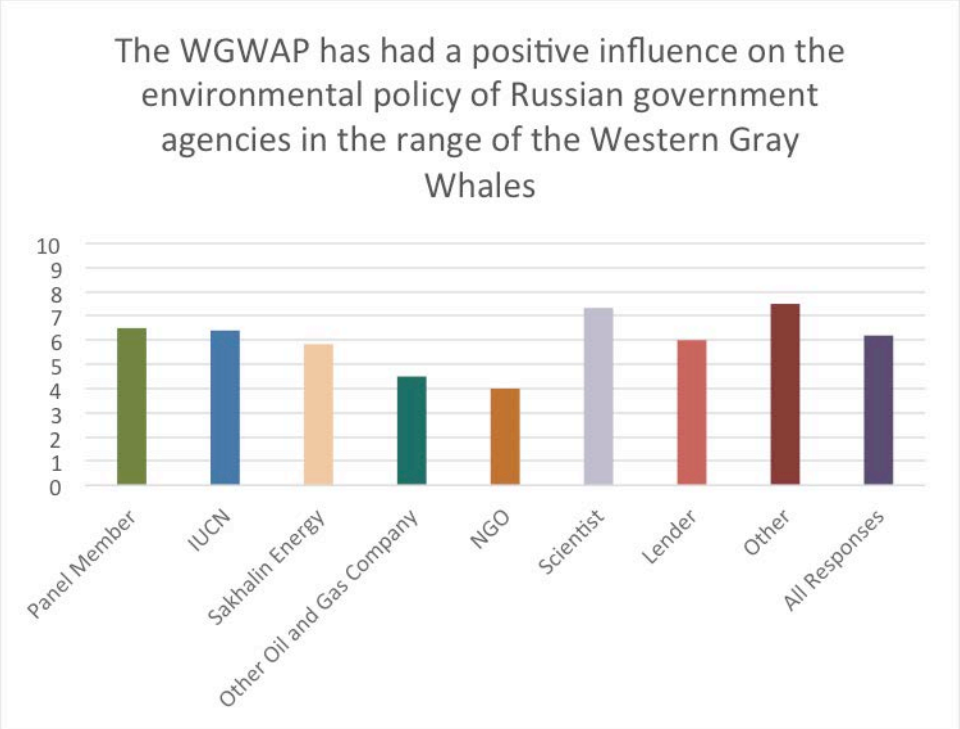
All Responses


The WGWAP has had a positive influence on the environmental policy of Russian government agencies in the range of the Western Gray Whales
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Panel Member
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Sakhalin Energy
Other Oil and Gas Company
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Scientist
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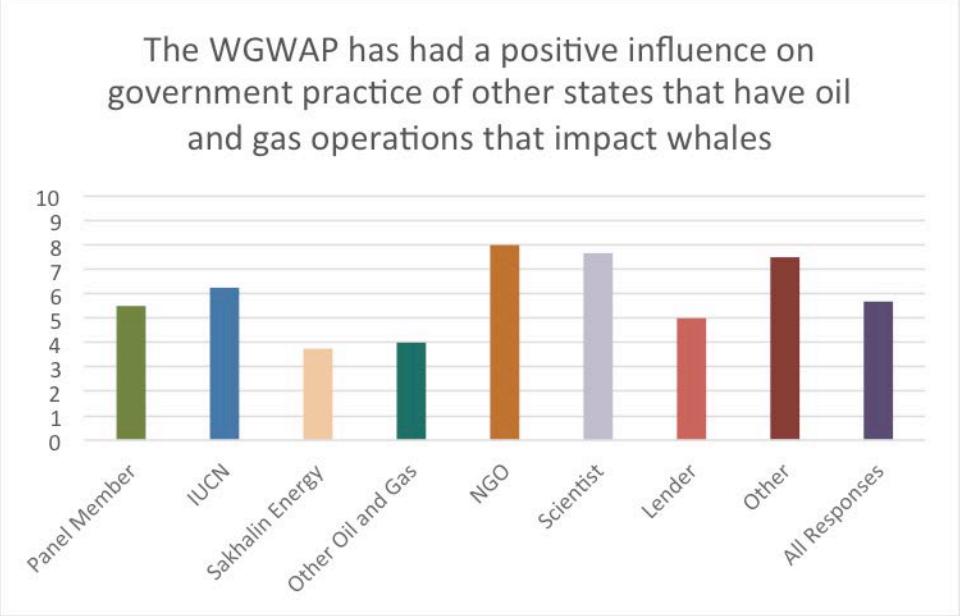
Other
All Responses


The WGWAP has had a positive influence on government practice of other states that have oil and gas operations that impact whales
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
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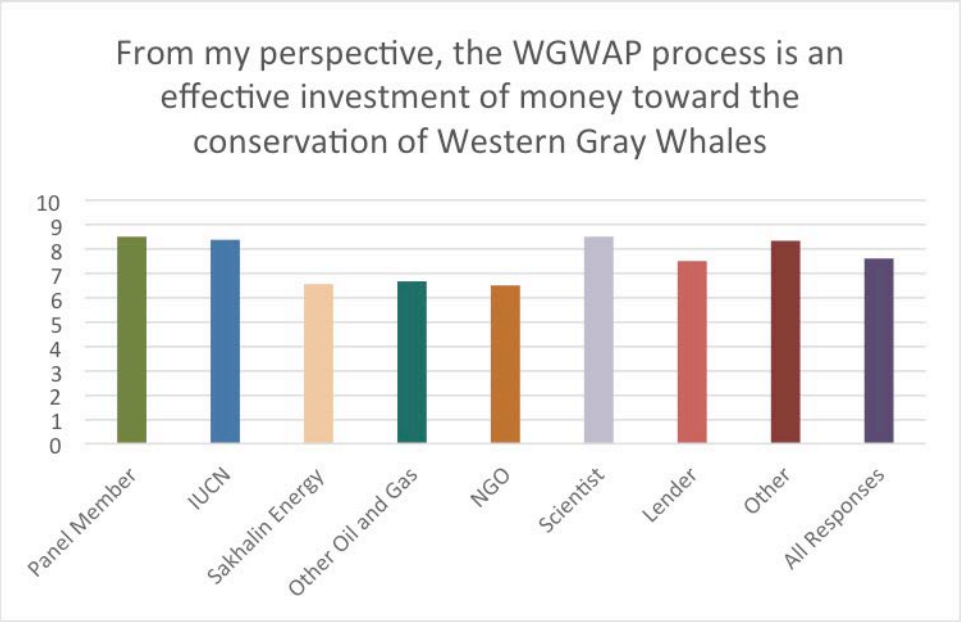
Other
All Responses


From my perspective, the WGWAP process is an effective investment of money toward the conservation of Western Gray Whales
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Panel Member
IUCN
Sakhalin Energy
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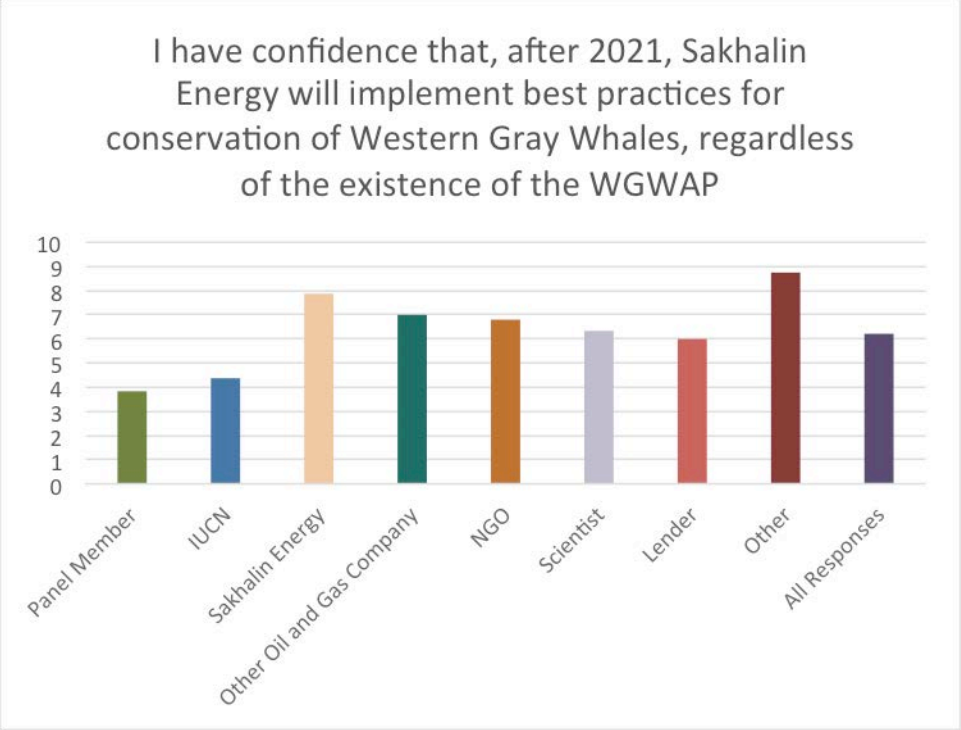
Lender
Other
All Responses


I have confidence that, after 2021, Sakhalin Energy will implement best practices for conservation of Western Gray Whales, regardless of the existence of the WGWAP
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas Company
NGO
Scientist
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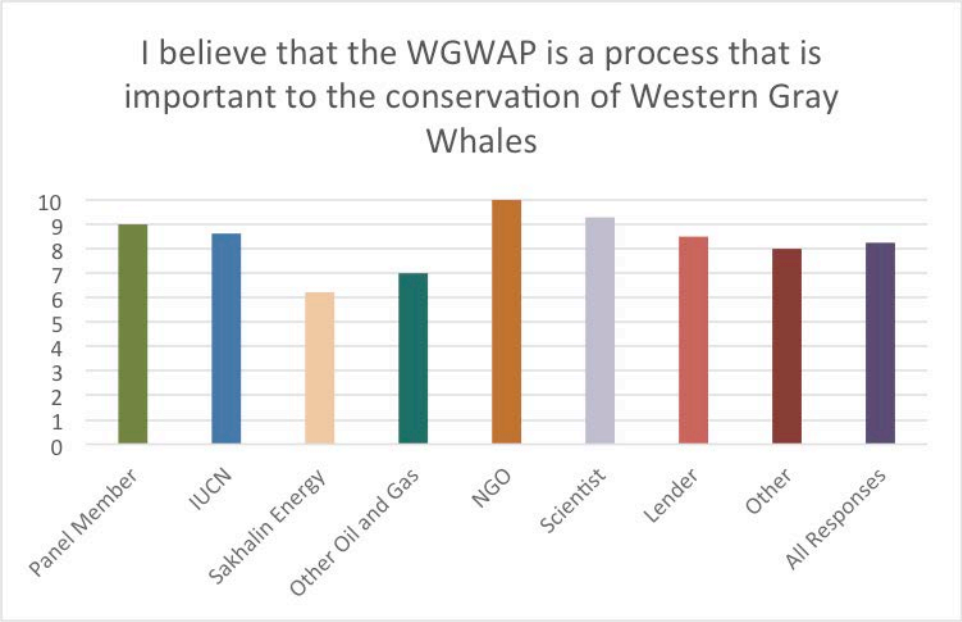
Other
All Responses


I believe that the WGWAP is a process that is important to the conservation of Western Gray Whales
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
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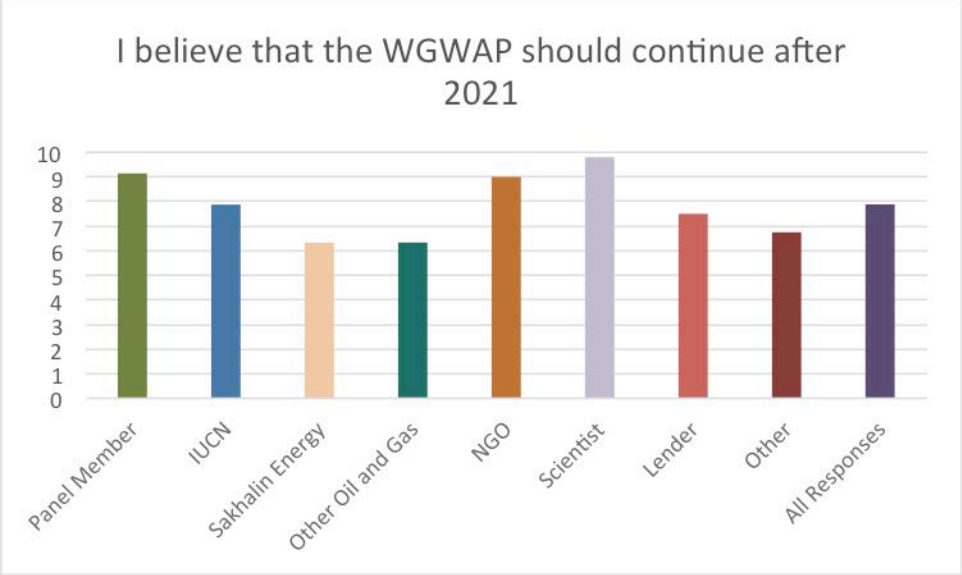
Other
All Responses


I believe that the WGWAP should continue after 2021
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Panel Member
IUCN
Sakhalin Energy
Other Oil and Gas
NGO
Scientist
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Other
All Responses