



# MARINE MAMMAL COMMISSION

13 February 2017

Ms. Jolie Harrison, Chief  
Permits and Conservation Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

Re: Permit Application No. 20993  
(Christopher Cilfone, Be Blue)

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the above-referenced permit application with regard to the goals, policies, and requirements of the Marine Mammal Protection Act (the MMPA). Mr. Cilfone is requesting authorization to conduct filming activities on humpback whales in Hawaii during two seasons as part of a documentary, *Kobola*.

Mr. Cilfone is requesting authorization to photograph and videotape up to 50 humpback whales in the waters of the Maui Nui Basin. Individuals of any age class and either sex could be harassed. He would film the whales from a vessel and an unmanned aerial system (UAS)<sup>1</sup>. The whales also could be filmed underwater using a pole camera and via snorkelers. Bottlenose, pantropical spotted and spinner dolphins could be harassed incidental to the proposed filming activities.

If any whale reacts negatively (e.g., drastic change in behavior, sudden change in direction, trumpeting, peduncle throwing, etc.) to any of the proposed activities, Mr. Cilfone would back away slowly and leave that particular area and whale. He also would not separate a female from her calf. Filming from a vessel would be limited to 30 minutes; whereas, filming would be limited to 15 minutes when using a UAS or snorkel gear. When filming a calf less than 4 weeks of age, Mr. Cilfone would observe the female and calf from a distance for at least 30 minutes<sup>2</sup> to allow for the female to acclimate to the vessel's presence. Once they are acclimated, snorkelers would be deployed at a distance of at least 50 m, would approach no closer than 15 m, and would remain in the water for only 10 minutes to reduce any potential for stress. When filming female-calf pairs using a UAS, Mr. Cilfone would observe them during the initial 30-minute observation period at 100 m and then deploy the UAS to no closer than 50 m. If the whales do not show signs of stress towards the UAS,

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<sup>1</sup> With a mass of 1.4 kg.

<sup>2</sup> Specifically, they will be observed at 100 m for 30 minutes and at 50 m for an additional 30 minutes prior to underwater filming.

Ms. Jolie Harrison  
13 February 2017  
Page 2

it would be positioned no closer than 30 m for up to 10 minutes to obtain the footage. The UAS would not fly lower than 30 m when filming a female-calf pair. If at any time a female or the calf exhibits any signs of stress, the filmmakers and filming platform would slowly back away and leave the area. The Commission believes that the activities are consistent with the purposes and policies of the MMPA and recommends that the National Marine Fisheries Service issue the permit, as requested.

Kindly contact me if you have any questions concerning the Commission's recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style with a large initial 'R' and a trailing flourish.

Rebecca J. Lent, Ph.D.  
Executive Director