



# MARINE MAMMAL COMMISSION

7 February 2012

Mr. P. Michael Payne, Chief  
Permits, Conservation, and Education Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910

Re: Permit Application No. 17032  
(Shane Moore,  
Moore & Moore Films)

Dear Mr. Payne:

The Marine Mammal 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. Similar filming activities were authorized under permit 1100-1849.

## **RECOMMENDATION**

The Marine Mammal Commission recommends that the National Marine Fisheries Service approve the requested permit, provided that it is conditioned to require Mr. Moore to (1) monitor and report all cases when filming activities lead to sufficient disturbance that the whales alter their behavior or otherwise exhibit strong response to filming activities and the boats and (2) cease filming a particular whale or whales if the whale or whales appear to be unduly disturbed by the activity.

## **RATIONALE**

Mr. Moore is requesting authorization to take by Level B harassment up to 35 killer whales and 10 gray whales per year during filming activities in waters of the eastern Aleutian Islands during a five-year period. The purposes of the project are to document (1) killer whales hunting gray whales that migrate through False Pass and Unimak Pass and (2) behavior of marine vertebrates and invertebrates feeding on gray whale carcasses. Mr. Moore would use the footage for a National Geographic Channel program regarding predators and the challenges they face.

Mr. Moore would conduct the proposed filming activities from April through June of each year for approximately 50 days. He plans to employ Mr. Mike Brittain, who has spent many years working as a skipper for Craig Matkin on killer whale research vessels and with commercial whale watching operations in Alaska. Mr. Brittain would captain either a 14-m twin engine trawler or a 3.7-m inflatable skiff with a ten-horsepower outboard engine during filming activities. A typical interaction would involve using vessel-mounted high-definition video cameras to film the whales for one hour at a distance of 300 m as the whales transit the general area where they hunt gray whales. Mr. Moore indicated that whales would not be pursued at distances of less than 100 m for any of the

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filming activities. However, opportunities have arisen in the past and may arise again under the requested permit when the whales approach the vessel at a distance of 6–9 m for up to a minute. If those conditions occur, Mr. Moore would use a polecam to obtain underwater footage.

Mr. Moore would film marine vertebrates and invertebrates feeding on whale carcasses using a remotely operated video camera with hydrophone capabilities. He would dive to place the equipment near the whale carcass when live marine mammals are not present. Mr. Moore would share his footage with the scientific community, as it may reveal the method by which killer whales feed on submerged carcasses and the extent to which they continue to feed on those carcasses. The footage also may be useful for documenting how other animals feed on or otherwise benefit from those carcasses.

Some of the filming activities may occur in the Alaska Maritime Wildlife Refuge. Mr. Moore has obtained the relevant permits to film in the Refuge in the past and would secure all of the necessary permits to film there in the future.

The Commission supports the filming of marine mammals as films can be an important means of educating the public about these animals, their natural history, and the value of conserving them. Nevertheless, the proposed activities pose some risk of disrupting important behaviors (i.e., feeding) or social organization, and the Commission believes it is useful and informative to monitor the activities and report any cases where the impacts might be deemed excessive. In this case, excessive impacts might include causing the whales to stop feeding, to leave an area, or to alter their social structure (i.e., break up into smaller groups). In addition, any instances in which a whale and the boat come into contact should be reported. Because the proposed activities may cause unintended responses, the Marine Mammal Commission recommends that the National Marine Fisheries Service approve the requested permit, provided that it is conditioned to require Mr. Moore to (1) monitor and report all cases when filming activities lead to sufficient disturbance that the whales alter their behavior or otherwise exhibit strong response to filming activities and the boats and (2) cease filming a particular whale or whales if the whale or whales appear to be unduly disturbed by the activity.

The Commission believes that the activities for which it has recommended approval are consistent with the purposes and policies of the Marine Mammal Protection Act.

Please contact me if you have any questions concerning the recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive, flowing style.

Timothy J. Ragen, Ph.D.  
Executive Director