



# MARINE MAMMAL COMMISSION

19 October 2009

Mr. Timothy J. Van Norman  
Chief, Branch of Permits  
Division of Management Authority  
U.S. Fish and Wildlife Service  
4401 North Fairfax Drive  
Arlington, VA 22203

Re: Permit Application No. PRT-221257  
(Emma Napper, Ph.D.)

Dear Mr. Van Norman:

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.

## RECOMMENDATIONS

The Marine Mammal Commission recommends that the Fish and Wildlife Service approve the requested permit, provided that—

- the permit, if issued, specify the number of sea otters that are authorized to be harassed during the conduct of the authorized filming activities; and
- in the record of its decision, the Service fully document the basis for its determination that the proposed activities will not result in taking under the Endangered Species Act and, hence, that no permit is required under that Act.

## RATIONALE

The applicant is requesting authorization to take by Level B harassment an unspecified number of southern sea otters by close approach during filming activities on land and underwater. The purpose of the proposed project is to acquire film footage of mother-pup interactions in Monterey Harbor, Moss Landing, Pebble Beach, Pacific Grove, and Point Lobos State Reserve. The film will be used in a BBC Natural World production about southern sea otters and their parental care behavior. The applicant states that the goal of the filming is to capture the animals' natural behavior, and every attempt will be made to avoid disturbing the subject animals. The applicant requests authorization to conduct the requested activities in September (now past), three weeks in November/December, five days in January 2010, and three weeks in March 2010.

The application does not, but should, specify the estimated number of sea otters that could be harassed during the proposed activities. The Marine Mammal Commission recommends that the Fish and Wildlife Service approve the requested permit, provided that the permit, if issued, specify the number of sea otters that are authorized to be harassed during the conduct of the authorized filming activities.

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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. The Commission notes, however, that no parallel permit is being proposed to authorize the taking of southern sea otters under the Endangered Species Act. The Service has advised the Commission that it does not believe that the proposed activities will result in taking under the Endangered Species Act and, hence, that no permit is required under that Act. The Marine Mammal Commission recommends that the Service fully document the basis for this determination in the record of its decision.

Please contact me if you have any questions concerning these recommendations.

Sincerely,



Timothy J. Ragen, Ph.D.  
Executive Director