



MARINE MAMMAL COMMISSION

16 May 2016

Mr. Timothy J. Van Norman, Chief
Branch of Permits, MS: IA
Division of Management Authority
U.S. Fish and Wildlife Service
5275 Leesburg Pike
Falls Church, Virginia 22041-3803

Re: Permit Application No. 92150B
(Silverback Films)

Dear Mr. Van Norman:

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). Silverback Films proposes to film southern sea otters in California from 2016–2018. The applicant would use footage as part of a Netflix documentary, *Our Planet*, highlighting various species that must withstand anthropogenic impacts so they can exist for future generations.

Silverback Films is requesting authorization to take southern sea otters of either sex by Level B harassment during filming activities in Monterey Bay¹. The filmmakers plan to film up to 20 southern sea otter pups², 20 juveniles, and 200 subadults/adults³ from a small boat during a 10-day period⁴. In addition, Silverback Films plans to film up to 10 sea otter pups, 10 juveniles⁵, and 30 subadults/adults using underwater divers⁶ during a 20-day period. Phil Sammet⁷ would drive the boat and would be the safety diver/dive supervisor, and Lilian Carswell would serve as an advisor for proposed filming activities.

To minimize disturbance to otters during underwater filming, only two divers would be in the water at a given time and would be dropped downwind of the otters at a minimum distance of 50 m. If any of the filming activities disrupt an otter that is feeding, breeding, or nursing, the filmmakers would cease their activities immediately and slowly move away from the otter. If an otter moves away from the filmmakers, they would not pursue it. In addition, the filmmakers would not separate a female and her pup and would not film an individual otter for longer than 3 hours per

¹ Specifically, in Carmel Bay and the Moss Landing area.

² Pups would be at least 3 weeks of age to 6 months of age.

³ Including filming rafts of 30–50 otters.

⁴ Up to an additional 30 pups, 30 juveniles, and 300 subadults/adults may be approached but not filmed during the 10-day period.

⁵ Underwater filming of pups and juveniles would be opportunistic while they wait to film subadults/adults.

⁶ Who would use rebreather systems to minimize impacts.

⁷ With 25 years experience filming sea otters in the Monterey area.

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day. For these reasons, the Commission recommends that the Fish and Wildlife Service issue the permit, as requested.

The Commission believes that the activities for which it has recommended approval are consistent with the purposes and policies of the MMPA. 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 distinct "Lent" at the end.

Rebecca J. Lent, Ph.D.
Executive Director