



MARINE MAMMAL COMMISSION

22 January 2020

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. 23577
(BBC Studios)

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). BBC Studios (BBC) is requesting authorization to conduct filming activities on humpback whales around the Hawaiian Islands of Maui and Lānaʻi for an upcoming wildlife series focusing on female behavior within a species. BBC is requesting authorization to film¹ humpback whales of any age class and either sex for 18 days during February and March 2020. Short-finned pilot whales and bottlenose, spinner and pantropical spotted dolphins also could be harassed incidental to the filming activities. BBC would implement various measures to minimize impacts on humpback whales and also would be required to abide by the National Marine Fisheries Service's (NMFS) standard permit conditions. In addition, Dr. Meagan Jones, a professor at the University of Hawai'i Maui College and co-founder of Whale Trust, would serve as an on-site advisor for the film team.

Takes per animal

The Commission had noted in its informal comments that multiple takes per animal should have been requested in the take table for filming procedures directed at humpback whales, as BBC stated that it may approach the same whale multiple days if it is re-sighted and identified². In response to the Commission's comment, NMFS indicated that multiple takes were not needed since the agency's upcoming revised application instructions³ would not require such information from applicants if the information was already present in the narrative of the application. The Commission disagrees with this approach, as the current 2016 application instructions, which require

¹ Including on land, underwater, and with unmanned aircraft systems.

² Given that Dr. Jones would accompany BBC every day during the filming period, it is likely that she would be able to identify a known whale based on its fluke pigmentation and scarring patterns.

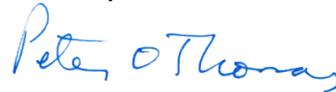
³ Which published for public comment (84 Fed. Reg. 50409) on 25 September 2019. See the Commission's [14 November 2019 letter](#) regarding the application instructions.

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applicants to specify in the take table the number of times an animal could be taken in a year, are still valid until the revised application instructions are finalized. Therefore, the Commission recommends that NMFS ensure that at least two takes per humpback whale for filming procedures are included in BBC's take table.

The Commission believes that the proposed activities are consistent with the purposes and policies of the MMPA. Kindly contact me if you have any questions concerning the Commission's recommendation.

Sincerely,



Peter O. Thomas, Ph.D.,
Executive Director