



MARINE MAMMAL COMMISSION

17 September 2012

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

Re: Permit Application No. 17403
(Robert Pilley,
John Downer Productions)

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.

RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the permit but condition it to require Mr. Pilley to (1) monitor and report all cases when filming activities lead to sufficient disturbance that the dolphins alter their behavior or otherwise exhibit strong response to filming activities or the various filming platforms and (2) cease filming if any dolphins appear to be unduly disturbed by the activity.

RATIONALE

Mr. Pilley is requesting authorization to take by Level B harassment up to 196 bottlenose dolphins per year during filming activities in South Carolina and Florida waters during a five-year period. The purpose of the project is to document dolphin strand-feeding events in the waters of Bull Creek and Hilton Head Island, South Carolina, and mud-plume feeding events in the waters off the Florida Keys and possibly in Florida Bay. The footage would be used in two wildlife documentaries (i.e., "Earthflight 3D" and Dolphins-Spy in the Pod") for the British Broadcasting Corporation and Discovery Channel. Mr. Pilley has produced wildlife documentaries throughout the world, which includes filming strand-feeding dolphins in South Carolina under permit 15128 for the six-part documentary series "Earthflight."

Mr. Pilley would conduct the proposed filming activities for up to two weeks at each location year-round. Dr. Jennifer Lewis and Adam Fox, researchers at the respective locations, would assist Mr. Pilley in the field. Using an 8-m vessel, Mr. Pilley would approach the dolphins for approximately 3 hours per day around low tide when they feed. He would use four filming platforms: a 3D mirror camera rig mounted on the deck of the vessel, a static remotely-operated camera placed on the mudflats, a radio-controlled helicopter camera, and a radio-controlled boat

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camera. The 3D camera mounted on the 8-m vessel would be the primary camera for recording 3D images of the dolphins above the water. The vessel would approach the dolphins at a distance of no less than 15 m and at a speed of no more than 3 knots. Mr. Pilley would hide the remotely-operated camera on the mudflats under mud, stones, or leaves and use a cameraman stationed 100 m away to operate it. He would place and retrieve the camera when no dolphins were present and would leave it in place for several days.

He also would use a radio-controlled helicopter camera that would be operated by Martyn Bell, who has been flying those devices for 10 years. Mr. Bell would launch and land the helicopter from the main vessel and would control the helicopter from a distance of approximately 100 m. The helicopter would be flown within 10 m of the dolphins for approximately 20 minutes to obtain the footage. Due to the helicopter's size (90 x 50 x 30 cm) and quiet electric motor, Mr. Bell has successfully flown it within 10 m of flocks of birds without causing disturbance and expects that dolphins would be undisturbed as well.

Finally, Mr. Pilley would launch, control, and retrieve a radio-controlled model catamaran, approximately 100 x 75 cm, from the main vessel at a distance of 100 m. Cameras would be mounted on top of the radio-controlled boat and under the nose of the boat to obtain footage of the dolphins above and below the water. The boat would be disguised as a piece of wood or rock and would travel at 4 knots or less. It would approach the dolphins at a distance of no less than 5 m and would be used up to 2 hours per day. It has been used to film swimming polar bears with no adverse effects, and Mr. Pilley does not expect adverse effects on the dolphins.

Mr. Pilley does not anticipate that any dolphins would be injured or disturbed by the various filming activities. Nevertheless, Dr. Lewis and Mr. Fox would be present to advise Mr. Pilley when and how to use the different filming platforms to ensure dolphin safety and to avoid any activity that would alter the dolphins' feeding behavior.

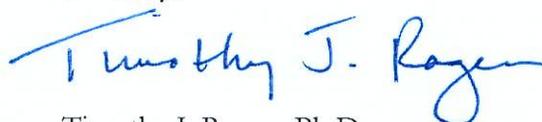
The Commission supports the filming of marine mammals as films can be an important means of educating the public about these animals, their natural history, and the value of conserving them. Nevertheless, the proposed activities pose some risk of disturbance, and the Commission believes it is useful and informative to monitor the activities and report any cases where the impacts might be deemed excessive. Excessive impacts might include causing the dolphins to leave an area, alter their social structure (i.e., break up into smaller groups), or cease their feeding behaviors. In addition, any instances in which a dolphin and various filming platforms 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 issue the permit but condition it to require Mr. Pilley to (1) monitor and report all cases when filming activities lead to sufficient disturbance that the dolphins alter their behavior or otherwise exhibit strong response to filming activities or the various filming platforms and (2) cease filming if any dolphins appear to be unduly disturbed by the activity.

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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.

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

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director