



MARINE MAMMAL COMMISSION

15 January 2010

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-230255
(Pontecorvo Productions)

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. The applicant is requesting authorization to take by Level B harassment up to 20 polar bears during filming activities. The film footage would be used in a wildlife documentary, "Bears of the Last Frontier," for PBS Nature. The applicant states that numerous mitigation measures will be taken to ensure that the animals being filmed are not disturbed. These measures would include enlisting the assistance of an Inupiat guide in locating a polar bear den approximately 6 to 8 weeks prior to bear emergence; utilizing a white, insulated shelter that blends with the environment as the film team's living enclosure and shooting blind; limiting activity by the film crew to the immediate camp area, behind the shelter and out of sight of the den; establishing the camp well in advance of denning to allow for the possibility that drifting snow will further conceal the camp from view; and, should adequate drifting not occur, erecting snow-block walls around camp for this purpose; and refraining from using snow machines until den activity has ended and camp is being broken. The proposed filming activities would be conducted in the coastal and offshore regions of the Beaufort Sea from the Canadian border to about 20 miles west of Flaxman Island from 15 February to 15 May 2010.

The Commission notes that section 104(c)(6) of the Marine Mammal Protection Act, which governs the issuance of photography permits, limits the type of taking that can be authorized to Level B harassment. We are concerned that the proposed activities might cause bears to abandon dens or emerge earlier than they otherwise would, possibly compromising cub survival. Were this to occur, the taking would likely exceed Level B harassment. In order for the Service to make an informed decision as to whether the proposed filming activities might result in taking other than by Level B harassment, and to design permit conditions that minimize the risks to the subject polar bears, the Commission believes that additional information is needed.

RECOMMENDATION

The Marine Mammal Commission recommends that the Fish and Wildlife Service defer further consideration of the requested permit, pending receipt and review of additional information that addresses the following points:

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- The application states that the film crew will look for sites 6 to 8 weeks before emergence but then states that the crew will set up camp “well in advance of denning.” This seems contradictory, and the applicant should clarify the proposed timing for identifying a den site and setting up camp;
- It is not clear how far from the den the applicant proposes to establish its camp, where the camp would be placed with respect to the den (i.e., in direct line of sight from the den or some other location), or whether the applicant has considered how best to minimize the potential for denning bears to smell the presence of the film crew (e.g., by locating the camp downwind from the den). More detailed information in this regard is needed;
- The application does not, but should, discuss what, if any, protocols would be used to respond to an aggressive bear;
- The application does not, but should, discuss why the filming crew could not establish its filming site close to a den but build its camp farther away, returning to the filming site only when necessary (as has been done by other applicants); and
- The application does not, but should, describe the methods to be employed and mitigation measures that would be used when filming polar bears hunting seals.

Please advise the Commission when such additional information is received. Feel free to contact me if you have any questions concerning this recommendation or would like to discuss more precisely what information the Commission believes is needed.

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director