



MARINE MAMMAL COMMISSION

4 May 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, Virginia 22203

Re: Permit Application No. PRT-04400A
(Sea Studios Foundation)

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 15 southern sea otters during filming activities. The film footage would be used in a feature-length wildlife documentary film for planned theatrical distribution and television broadcast. The applicant states that the film team would work closely with researchers at the Monterey Bay Aquarium, University of California at Santa Cruz (Terri Williams, Ph.D., and Jim Estes, Ph.D.), and the U.S. Geological Survey (Tim Tinker, Ph.D.) when filming in the field. The proposed filming would take place throughout the stock's range (e.g., Piedras Blancas, Big Sur, Point Lobos, Asilomar Beach, Point Pinos to Monterey Wharf and Elkhorn Slough). Filming would be conducted from an inflatable vessel, a research vessel/dive boat, and underwater over a period of approximately 75 days between January 2010 and April 2011. The applicant notes, however, that until a permit is issued, filming would be conducted only from shore or using long-range lenses (to avoid harassing the subject animals) or incidental to the activities of researchers working under valid scientific research permits.

RECOMMENDATION

The Marine Mammal Commission recommends that the Fish and Wildlife Service issue the requested permit.

In making this recommendation, the Commission notes that, in addition to southern sea otters, the applicant is proposing to film harbor seals, northern elephant seals, and California sea lions. It is unclear whether the applicant has contacted the National Marine Fisheries Service to determine if the proposed filming of these species requires a permit under the Marine Mammal Protection Act from that agency. If the applicant is planning to approach pinnipeds closely for filming, the potential for harassment exists. Unless the applicant is planning to accompany researchers holding valid scientific research permits, a photography permit for these species under section 104(c)(6) of the Marine Mammal Protection Act also should be sought. If the applicant is relying on someone else's permit to authorize the filming activities, it should nevertheless consult

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with the National Marine Fisheries Service to confirm whether a separate permit for filming is needed. The Fish and Wildlife Service should advise the applicant of this necessity.

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

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a blue highlight behind it.

Timothy J. Ragen, Ph.D.
Executive Director