

Easton from the strobe? Walling mentioned something that bothered me a great deal. He said that Goluzka had told him that the powerful strobes had caused the deaths of the baby birds—something that wasn't true. Walling sent me an email to that effect for my records. Who was lying—Goluzka or Walling?

Walling told me that several CWS people were at the studio. I read some evidence from Dr. Nancy Mahoney, an Evaluation Biologist, CWS and another expert witness. She wrote: "Based on my experience at the re-enactment and on the video recording during the re-enactment, I would consider methods and equipment used to take the photographs to be harassment of the individuals belonging to the nest. The photos were taken using very bright flashes, three of which were surrounding the nest 1 to 2-feet away. Did Bishop, Easton or Mahoney know anything about the Inverse Square Law of Light? The brightness of a strobe at 1-foot is 4-times brighter than at 2-feet. Besides, the strobes, according to Goluzka, were all set at 18-inches from the "nest".

Dr. Mahoney's package read: "At this distance the flashes would have been extremely bright. Several minutes after the flashes stopped, I was still seeing flashes on my retinas and my eyes were irritated. This would have affected both adults and chicks in the nest. The flashes may have temporarily impaired the adults' vision causing them to forage less or be less effective at foraging and therefore, possibly reducing the number of feeding trips to the nest or the amount of food they brought per trip. This lower level of feeding may have caused chicks to be underweight at the time of fledging reducing their likelihood of survival. The bright flashes may have induced physiological stress responses in the chicks, also resulting in poorer growth and ultimately lower survival. I found the shutter sound of the camera to be quite loud. Birds at nests may be easily 'spooked' by sound or movement causing adults to fly away and chicks to stop begging and to huddle in the bottom of the nest. These responses would have added to the responses of the flashes themselves. The fact that photographs were taken on three successive days would have meant an accumulation of these potential stressors at a critical time in the growth and development of the chicks."

How does a layman challenge an "expert"? She states that the flashes were 1 to 2-feet away from the nest. Light diminishes at the rate of the square of the distance. A light at 1-foot is 4 times brighter than at 2-feet. She fails to mention if the strobes were set at several different settings. All this is very important when talking about the impact of the camera and the strobes at the nest. She suggests that both adults were involved in the feeding when only the female visited the nest. The female sometimes came to the nest and Damon took several photographs of a single visit. In the bright sunlight, the birds' pupils would have been pinpointed. Besides, Damon's lighting ratio for his strobes was 3-feet, 4-feet and 5-feet at 1/8 power. Mine would have been at 1.5-feet, 2-feet, 2.5-feet but at 1/16, 1/32 or 1/64 power because I was attempting to catch the parent in flight. She uses the word "may" have temporarily impaired the adults' vision..." There was no lower level of feeding. The female came in every ten minutes with copious amounts of food and that's evident from the photographs. At our court appearance, we offered the images to the biologists but the gesture was rejected. If the adult had been 'spooked' upon visiting the nest, she would have flown off after the first visit. She didn't. She stayed and attended to her babies. Like Easton, Dr. Mahoney had the 'march the guilty bastard in' attitude. There was nothing positive in any of comments. Of the many biologists, none of them made any reference to the many photographs of the adult female with beakfuls of food for her babies.

Dr. Mahoney's evidence package is lengthy but here was something of note: "In a couple of the photos, the adult appears to be showing vigilant behaviour, it has no food in its mouth and it is looking away from the chicks, perhaps in response to the activities to the photographer. In other photos, the adult appears to be looking straight at the camera, even with a mouth full of food ready to give to the chicks, possibly indicating that it was aware of the photographer's activities. However, without being able to gauge how long this behaviour took place relative to the activities of the photographer, it is impossible to assess whether or not this is a stress response. The change in behaviour in response to the photographing is likely to have been a

81	11:43 AM
82-85	11:44 AM
86	11:49 AM
87-89	11:50 AM
90-94	11:53 AM
95-	11:58 AM
104	
103-	12:05 PM
105	
106-	12:06 PM
109	
110-	12:15 PM
115	
116	12:16 PM
117	12:17 PM
118	12:21 PM
119-	12:22 PM
121	
122-	12:37 PM
126	
127-	12:58 PM
129	
130	12:59 PM
131-	1:16 PM
134	
135-	1:29 PM
141	
143	1:30 PM

change in the frequency of normal behaviours such as feeding, brooding and vigilance, which would not be evident from viewing still photos. The fact that the photos show the images of the flashes in the adult's eye indicate that the bird could have potentially been impacted by the bright flashes." If the investigators had looked at the Metadata they would have known exactly the time between flashes down to a fraction of a second.

To try to say that the bird is looking this way or that is merely the luck of the draw since birds move so quickly that the difference between a photograph of a bird looking on high alert, feeding or doing sanitary duties can be shorter than 1/100th of a second. I believe Goluz, Porter, Huska, Bishop, Easton and Mahoney visited Artona Studio and attempted to replicate Damon's and my photography setup in the field. They made the distance of the camera lens to nest 34.5 inches and the distance of the three flashes to the "nest" 18 inches.

McKibbin send Bishop an email with 2 pictures at 7:32 p.m. 13 June. One of them was taken of the rosebush from 15-feet away showing rose bush and the top of my blind a few minutes after she first encountered me.

It was interesting to read that the Search Warrant for my Sports Utility Vehicle was wrong. This was pointed out by Constable Jason Muise of the Summerland RCMP to Goluz yet Huska searched and seized equipment from it anyway. Did Goluz think that the entire 10-acre farm was covered by the Search Warrant for the residence? I doubt that this was the case. It probably referred to the residence in which my brother-in-law, sister-in-law and mother-in-law lived. It may not have included the guesthouse in which we were staying. We were charged under the Species at Risk Act for "unlawfully damaging the residence of a Species at Risk". Wouldn't a chat nest be its residence? Surely the residence doesn't refer to all the rosebush, in which it lives. Wouldn't that be the chats' habitat? Damon certainly cut out a 6-foot square of habitat of the chat and he, Tina and I trampled (along with the biologists) an area around the blind. Dr. Bishop's email tried to suggest that an area was cleared all around the nest and that simply isn't true. It was cleared some 4 or 5-feet from

the nest and the vegetation between the nest and the blind was pushed out of the way (and some of it was no doubt trampled.) The rosebush to the right and left of the nest (and blind) and the rosebush behind the nest (in relation to the blind) were not cut. I certainly didn't do anything to damage the nest.

There was something else that bothered me in Goluz's 463-page prosecution package. The Videotaped interview that I had given to him was edited and large chunks were removed. Was he trying to hide the fact that I was psychotic? Johannes Schut, my graphic designer, and I spent more than two days carefully placing text on the video footage. Sometimes the tape was slowed to make me sound slurred.

McKibbin's statement to Goluz states that the size of the cut area was 2.5 meters by 2.5 meters [8-feet by 8-feet]. It had grown two and a half times larger than from the information that she had passed onto Dr. Bishop. Damon had cut a 6-foot square patch of vegetation some 6-feet from the nest. Her response from McKibbin makes it pretty clear that she wanted to do as much damage to my reputation as possible. Here's some of the content from McKibbin's email 8:33 p.m. 15 June: "I read the comments from Mr. Waite's partner [Damon Calderwood]. There are a few things that made me even more cross but two things I want to mention to you is that he says that Mr. Waite did not say he wants to return to photograph the fledglings. That is not true. Ingrid, Mario and I heard him say that. Also, he says we didn't want to discuss the situation further because we were too busy. Well, that's not true either. I spent about 50 minutes talking to him about the situation and finally had to say that I still have lots to do and have to go, which I did. By the time I left, he was not talking about the incident anymore but actually about the book he wants to publish and the one he already published. Well I'll leave it that that for now."

Howard Smith, our lawyer, contacted Damon and I with what he took to be good news in late 2008 or early 2009. He had been in touch with Jane Luke, the Justice Department lawyer, and made a tentative deal. The JP lawyer was prepared to stay (shelve) 8 charges against each of us, drop the remaining charge from indictable

to summary conviction and ask for an \$8,000 fine for me and a \$6,000 fine for Damon. It was understood that we both had to plead guilty. At first we both thought we had died and gone to Heaven but then I realized that a plea of guilty would kill my action against Dr. Bishop. Tina begged me to forget about my action against Dr. Bishop and take Mrs. Luke's deal. Previously to the deal, Mrs. Luke held a \$4,500,000 French guillotine over the heads of Damon and I. It's little wonder that JP lawyers have high conviction rates. In February, Tina and I drove up to Summerland to spend a few days with her mother prior to my appearing in court to plead guilty to the one summary conviction charge under the Species at Risk Act.

Damon and I appeared at the court house in Penticton on the 16 February before Judge Gale G. Sinclair. Our lawyer, Howard Smith, flew into the little airport in Penticton and we picked him up to discuss strategy prior to going to court. I was very upset because Howard told me in no uncertain terms to sit on my hands and to keep my mouth shut at the trial. It was almost comical as the judge told the two lawyers that he had never heard of the two acts under which we were being charged. Jane Luke made arguments as to why Damon and I should have to pay \$8,000 and \$6,000 respectively. Howard tried very hard to get Damon and I off with a reprimand and no costs.

After about an hour, the learned judge adjourned to review the evidence and to read letters that both Damon and I had received referencing our characters. I had letters from Ken Stewart, Coniagas Ranches Ltd.—and a former Member of the Legislative Assembly; Val Patenaude, Executive Director, Maple Ridge Historical Society; Gordy Robson, Mayor of Maple Ridge, Dr. Bridget Bright, my psychiatrist; and Dr. Wayne Campbell, a renowned bird biologist and the author of "Birds of British Columbia: Volumes 1-4"—and Dick Cannings. Goluza was sitting in on the trial as he had requested an opportunity to give a statement. It didn't happen.

Howard offered to give all our images of the chats to the CWS but Jane Luke declined the gesture. It bewilders me since the images clearly showed the intervals between visits, the length of time that the female spent at the nest and the



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