

inventory of the female's food at that point and time in the three babies' development. I guess Ms. Luke presumed that the images were products of a criminal nature. I don't think the government ever declined keeping money that was seized as the result of criminal activity.

The judge wasted little time and returned with his verdict. I was fined \$4,000. Damon was fined \$2,000. We were to be given unconditional discharges after one year if we were of good behaviour and kept the peace. I wanted to give a statement to the local papers but Howard advised against the idea.

On 22 October 2008 Dick Cannings had provided me with a letter regarding my character to give to the Penticton judge. The third paragraph read: "Shortly before the Yellow-breasted Chat incident, I was contacted by Damon Calderwood, a former student of mine and colleague of Don's. Damon said that he and Don were planning a photography field trip to the Okanagan, and he emailed me a list of species they were interested in. That list included the Yellow-breasted Chat. I quickly emailed a reply, giving short bits of information on where they might most easily find each species. I get emails like this all the time from bird watchers, and answered that email in the same fashion. While I was aware of the fact that Don and Damon photographed birds at the nests, it didn't occur to me to remind them that Chats were a listed species and they should not attempt to photograph them at the nest—I was simply treating the list as it were coming from a bird watcher."

I afterwards exchanged an email with Margaret Holm, Dick's wife. I found Marg's statement that the chats are the most endangered birds in Canada totally erroneous since they are common in other parts of Canada and the United States. They are only at risk in the Okanagan because they are at the extreme northern end of their range. Maybe she was referring to the subspecies—*Icteria virens auricollis*.

Damon's and my conditions were as follows:

- make our payments for the purpose of conducting research and protection of the Yellow-breasted Chat.
- remove all photographs that were garnered

from this venture from any website that either Donald Ender Waite or Damon Scott Calderwood has or both have, neither has to sell or otherwise disseminate them in any way to a member of the public or publish them.

- the said sum of \$6,000 is to be spent at the direction of Dr. Barry D. Smith, Acting Regional Director of Environment Canada's Canadian Wildlife Service (Pacific Wildlife Research Centre at 5421 Robertson Road, Delta), to engage in activities that will lead to the conservation and recovery of the Yellow-breasted Chat in British Columbia.
- and that we must make the \$6,000 payment on or before the 16 February 2010.

It would appear that the court system had worded the conditions against Damon and I so that even the photographs taken by my wife Tina would never see the light of day.

Our pleading guilty fired up the Okanagan birding community and a couple of the more Heavenly bound individuals went onto the blogs in an attempt to cause Damon and I even more hardship. One was Roberta Oleniuk, one of the 25 recipients of Dr. Bishop's original email and the one that had forwarded Dr. Bishop's email to Colin Clasen.

Olenick was responding to a post submitted by wildlife photographer Tim Zurowski "about these two photographers who have been using EXTREMELY unethical practices to photograph birds at the nest sites." He went on to write, "I have heard from others of many situations where they have actually caused the death of some birds, and in many others have driven the birds from the nests, just to get photos for profit. Their practices are nothing short of disgusting and all they care about is trying to profit from photographs while damaging or traumatizing nesting birds." Zurowski summed up by adding that we "were found guilty, but only fined \$6,000."

I found it very interesting that Olenick was completely convinced that her modus operandi was perfectly all right and had the support of the birding community while my methods generated "hate" mail. In my mind, the taking of the baby chats from their home nest and placing



[Home](#) > [Enforcement](#) > [Enforcement Notifications](#)

February 16, 2009

Two British Columbia Photographers Sentenced in Court for Damaging the Residence of an Endangered Species

PENTICTON, British Columbia -- Two commercial photographers pleaded guilty in Penticton Provincial Court to a violation of the *Species at Risk Act*, and were ordered to pay a total penalty of \$6,000.

Donald E. Waite and Damon S. Calderwood pleaded guilty to charges that stemmed from an investigation related to the damage of a residence belonging to the Western Yellow-breasted Chat (*Icteria virens auricollis*), an endangered species. Both Waite and Calderwood received conditional discharges which will take effect after they serve a 12 month term of probation. Further, the court also ordered that Waite pay \$4,000 and that Calderwood pay \$2,000 to Environment Canada's Canadian Wildlife Service for the purpose of conducting research into the protection of this Canadian species at risk. Waite and Calderwood were also ordered by the court not to disseminate or profit from any of the Western Yellow-breasted Chat photographs taken after they damaged the residence of this bird.

Federal Wildlife Officers learned last year a significant amount of Wild Rosebush had been removed from an area adjacent to the nest of a Western Yellow-breasted Chat. Since then, the investigation established that the photographers removed the rosebush to photograph the adult birds of this endangered species while they fed their young. The investigation also established that the photographers set up their equipment adjacent to the nest and took pictures of the birds' behaviour for three consecutive days.

Date Modified: 2009-02-18

The CWS wasted little time and within a few days the Environment Canada had our guilty plea up on their Internet web site for the whole world to see. It would appear (2013) that the above page has been removed from the Environment Canada web site.

them in a "collected" nest was something that should not have been condoned by the birding community. I was quite certain that her and the biologist's actions caused more stress to the baby chats and their parent or parents than anything that Damon and I had done in 2007. The ignorance in the content of the blog that she placed on the Internet for the whole world to read ad infinitum was despicable—and she did this with the blessings of the chat biologists in the Okanagan. I found it very interesting that Olenick thought that it was all right for her to apply desperate measures and to remove baby chats from their home nest and place them in a collected nest in a more open area for a photo opportunity. Were the baby chats stressed by

being removed from their "home" nest? Was/were the parent bird(s) stressed upon discovering that her (their) babies were not in the "home" nest? I truly don't know but I suspect that if chats could speak they wouldn't have anything positive to say about some Okanagan biologists and at least one Okanagan bird photographer. I found it sad that Olenick was still being vindictive and directing bloggers to Sandhill Books, the distributor of Damon's book that was published by my company.

I kept complaining to Goluza about irregularities in the investigation until I received a registered letter from John Wong, one of the 17 witnesses in the crown's prosecution package. He put in contact with Aida Warah, the Values &

On 22 February 2009 these emails appeared on *Nature Scapes The Resource for Nature Photographers*:

5:26 am 22 February 2009

I have been very interested in this yellow-breasted chat case because in 2005 I spent 6 very frustrating weeks trying to get shots of the chats in the Okanagan. The chat biologist at the Canadian Wildlife Service asked me if I would volunteer to get her some images to be used in materials promoting chat conservation. So I agreed to donate my time and use of the images in exchange for being shown the chats' territories as the biologist discovered them. I worked very closely with her and followed her instructions to the letter in terms of where I could go and when I could go there. She showed me the very most open of the nests she found that year, and even those were not at all photographable (and of course I would not and did not remove any vegetation).

The best I was able to get after a lot of effort were a few images of males singing from perches above the rose thickets where the nests are hidden, and a few grab shots of nests that I took when I accompanied the biologist when she went very briefly to collect her nest data. If we heard an adult alarm call, we were out there pretty fast.

Desperate times call for desperate measures. So at one point we collected a nest after the chat chicks had fledged (they do not reuse their nests), zapped it in a microwave to destroy any parasites and pathogens and then took that nest out to the field with us. To minimize time spent at the actual nest site, the biologist would generally put the chicks in cloth bags and bring them out into a more open area when it was time to band them. So on a couple of occasions, we put these chicks in our collected nest where they were very happy as they waited their turn to be measured and banded. And they gave me an opportunity to take tight shots showing just the chicks and a bit of nest in better light than there was at any in situ nest. And moments later, the chicks were back in their real nest where they belonged. But that is the sort of thing I had to resort to get a decent "nest" shot or two (which are labelled appropriately).

In all that time, I only saw a chat feed a chick (a fledging) once and was not able to photograph it as it was in the densest, spiniest, nastiest rose thickets you can imagine, often with a nice understory of poison ivy. So I certainly was never able to get any shots of adults feeding chicks at the nest. I did, however, succeed in getting a really impressive case of poison ivy that lasted a month and covered me head to toe.

For those wishing to express concerns to the company marketing Calderwood's book, go here:
<http://www.sandhillbooks.com/cgi...00073.html>

Roberta Olenick - www.neverspook.com

9:02 am 22 February 2009

I think you can get a feeling of their sense of ethics from page 84-85 in their book (their site links to pages) "As the sun rose on June 7, I awoke with a sense of determination to get some great shots that day **by hook or by crook.**"

Aside from the, now typical self-aggrandizing part it does speak to their ethics - and in their case their ends justifies the means.

Jim Roetzel - <http://www.jimroetzel.com>

6:02 pm 22 February 2009

The court has ordered these two bird photographers not to display or profit from the images of the chats they took after they disturbed the nest. I don't know whether they prepared the book before or after they disturbed the chat nest. (The book became available March 2008 according to their website. They photographed the chats in June 2007).

I do know that the Canadian Wildlife Service biologist studying the chats was following the nest they photographed, and was shocked to discover the rosebushes had been removed when she came for one of the regular nest site checks. I gather the photographer was there and when she told him to leave, he asked if he could come back the next day to continue shooting. She said no and reported his activities to the authorities. They conducted an investigation, a search warrant was executed and charges were eventually laid. Since presumably they knew they were under investigation right at the time they photographed the chats, I would be surprised at their chutzpah if they put chat images in the book. However, I have not seen the actual book. But under court order, those chat images will not be published anywhere from now on. So at least they do not get profit now from their disturbance of the chat nest.

Roberta Olenick - www.neverspook.com

10:09 am 23 February 2009

Wow, amazing the gall of some photographers. Sadly, there are photographers only in it for the photo/money they can get without caring much about the subject they've come to photograph. It's good they didn't get away with it.

Maybe the people quoted in the testimonial portion of the website wish they could have their quotes removed. Of course they had no idea what these guys were doing with regards to the Chat. Check it out.

Cliff Beittel - <http://www.agpix.com/cliffbeittel>

8:58 pm 26 February 2009

A recent flurry of posts to the BC birding list reflect something of a counterpoint to much of what's being said here.

Some of the points raised:

The photographers were charged with the disturbance of the "residence" of a locally endangered species, referring to the removal of vegetation. Technically, they weren't found guilty, but plead guilty in order to avoid a long, expensive trial.

The photographers apparently return to the nests they photograph daily, until fledging, and claim a 91 % fledging rate, far higher than the average. Judging by the quantity of nest photos on their website, the sample size is not tiny.

Since I have no first hand knowledge of anything here, I'm not taking sides; just wanted to show there's usually more than one side of a story.

Mike Danzenbaker - www.avesphoto.com



A silhouette of the female Yellow-breasted Chat and her three babies. A part of the sentencing included a clause that said that neither Damon nor I was not allowed to publish any photographs of the chat for profit. PROFIT! I figure that this species of bird has very likely cost me \$250,000 in the past five years. Our lawyer, Howard Smith offered all our digital files of the chat to the Justice Department (and the CWS) but the gesture was declined. Biologists McKibbon, Bishop, Easton and Mahoney all had nothing but negative comments about the images and said that the female was on high alert most of the time and even appeared in one photograph as if she was “in shock or pain”. The photograph was the last one taken by my wife on the evening of the 11 June. The female wasn’t “in shock or in pain”; she wanted to go to bed for the night. Are chats the only birds that are “on high alert” all the time? Maybe birders and biologists should look at the images in Damon’s book “Flights of Fantasy: Photographing North American Birds” to get the answer.



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Yellowridge Construction Ltd. is a Canadian owned and operated Construction Company established in 1961. We provide General Contracting, Construction Management and Design Build services to a wide client base. We have worked throughout Western Canada with a strong focus on all regions in British Columbia. Yellowridge is dedicated to providing quality solutions to our clients through our flexibility and team approach. Our long-term success is built on a solid foundation of integrity, pride and expertise.



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CONSTRUCTION LTD**

200 - 2605 Clarke Street
Port Moody, BC V3H 1Z4
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Fax: 604.936.2630
Web: yellowridge.ca

My older son Kevin is a part owner of Yellowridge Construction out of Port Moody. The company was started by Joe Cabott, husband of Mae Cabott, the federal Liberal fundraiser. It was Mae that encouraged me to run for the Ridge Meadows Member of Parliament in 1986.

Ethics Senior Officer with the CWS.

I looked Dr. Warah up on the Internet and discovered that she taught psychology at the University of Ottawa. I talked to her about her background beliefs and we spent a fair amount of time talking about Mahatma Gandhi and truth.

Here were my five complaints to Dr. Warah:

- Dr. Bishop sent out an email about me with misinformation to friends and associates before any official investigation had been initiated
- That someone had deliberately visited the “crime” scene after I left it on the 13 June 2007 and made it 4 times larger before the arrival of the 3 investigators from Vancouver
- That the operator of the video camera had

deliberately deleted some of the video and had also slowed down its speed to make me sound slurred.

- That the Justice Department forged one of the documents changing ‘Registrar’ to “Justice of the Peace” as well as using white redacting
- That the crown prosecutor lawyer and the justice department lawyer worked in collusion to get Dr. Bishop off on my slander suit

In the end Miss Warah forwarded my complaints to Ken Payne, a former high ranking RCMP officer and the President of MBCI Investigations & Security Ltd. in Ottawa. I talked to Ken and a Mr. Cummings for 2.5 hours but in the end Ken brought up my charges in Burns, Oregon, stating that I was a recidivist. I offered

to send him the fudged video but he wasn't interested in seeing it. I also attempted to make him fully aware of the forgery and the redacting on the one of the legal papers that had been returned to me from Robert Danay, the Justice Department lawyer for Dr. Bishop. In my opinion, Ken did an armchair investigation from his office in Ottawa. It's possible that I showed signs of mental illness at the time of our talk. In any event, in the end he told me that Warah didn't have the authority to follow through on most of my complaints. They were outside her jurisprudence!

Payne and I talked and he explained that in December 2006 the Justice Department was split and that the office of public prosecution was separate from the criminal prosecution. He was explaining that the offices of Robert J. Danay and Jane Luke were two separate agencies. I thought he even told me that the two agencies were not permitted to disclose information between themselves. I found this difficult to believe as both Danay and Luke worked out of the same downtown Vancouver office.

In the summer of 2009 Tina and I drove east to Ontario. It was a working holiday for me as I gathered material for my gold and espionage books. On 7 July 2009 I received an email from Mr. Robert J. Danay, the Justice Department lawyer in Vancouver who had been assigned to Dr. Bishop's file. The letter stated that Dr. Bishop was preparing to counter sue me and that the JD would be asking for damages. When I asked him the amount of the damages, I was told that it was solicitor-client privileges and that he couldn't tell me but he did reveal that he would be initiating his lawsuit on 22 July. I emailed Danay back explaining that I was on a working holiday in Ontario and that I wasn't planning on being back in BC until early August. I explained to him that I didn't have easy access to either the Internet or lawyers since I was in Northern Ontario. I requested that he defer the 22 July date until the 1 September. I looked Danay's biography up on the Internet and learned that he was a specialist with defamation cases over the Internet. The Justice Department had hired him to defend one of their own for writing misleading information about me that went viral.

On the 16 July Peter Bright, my civil action lawyer and the son of my original psychiatrist, sent me an email suggesting that I not proceed with my case. He noted that my psychiatric

I kept Mr. Kamp in the loop as to the strategy being implemented by the Justice Department. He said he'd make a phone call to Mr. Danay on my behalf. Tina begged me to just drop my civil action against Dr. Bishop and as a result I emailed Danay on 21 July and told him that I had decided to discontinue my action against Dr. Bishop. He responded 9 minutes later saying that he'd be preparing a Notice of Discontinuance for my signature upon my return to BC.

Tina and I drove up to Summerland right after Christmas to spend the New Year with her Mom. I found an article in the Penticton Herald under the caption 'Tom Siddon 2009 Newsmaker of the Year' very interesting. He had been on the local school board and had found that some very large cheques with indiscrepancies had been 'digitally signed'. Of course this left the signing person off the hook for any responsibility. I called Mr. Siddon by phone and we talked until my cellular phone died. I told him about the forged document, the digital signature and the editing of the video tape. He sympathized with me as he'd gone through a similar situation that smeared his name. He told me that when I got all my ducks in a row to make a submission to him and that he'd take it up with both Robert Nicholson, the Member of Parliament for Niagara-on-the-Lake and the Federal Minister of Justice and Attorney General of Canada. He also talked about presenting my findings to the Privy Council. Just to be sure, I looked Privy Council up on the Internet. I think it meant a group of advisors who privately passed on information to the Prime Minister. When I returned home I looked up Siddon on the Internet and learned that he had been the Member of Parliament for the riding of Burnaby—Richmond—Delta and had for a short period been Canada's Minister of Defense.

Environment Canada

APPLICATION FOR PERMIT TO KILL AND/OR CAPTURE MIGRATORY BIRDS FOR SCIENTIFIC PURPOSES

I _____ Full Name (Print)	_____ Occupation
of _____ Street address	_____ City or Town
_____ Province	_____ Postal Code
_____ Phone/Fax	_____ E-mail address

Hereby apply for a permit authorising me to kill and/or capture migratory birds and take blood samples, eggs or nests of migratory birds for scientific purposes. I agree that no eggs taken shall be incubated.

I further agree that if a permit to kill and/or capture migratory bird(s) is issued to me, that I will forward a written report to Environment Canada, Wildlife Enforcement Section. Containing such information required on the report form and/or stipulated by the permit. A report will be submitted in writing on or before the 31st day of January next, or 30 days following the expiration date on my permit.

I am aware that the permit does not give me any authority to take migratory birds or their eggs, on any Federal, Provincial Game Preserves, Bird Sanctuaries, any public park, within the limits of any city, town, village or hamlet. It does not allow me any authority on any privately owned property without the consent of the proper authorities.

I agree that I shall not take more specimens than are listed on the permit. I am the full age of 18 years as required by Departmental policy.

SIGNATURE OF APPLICANT

WITNESS

DATE OF SIGNATURE

A facsimile of Environment Canada's Application for a Permit to Kill and/or Capture Migratory Birds for Scientific Purposes. Will Environment Canada ever issue a permit to Photograph Birds at the Nest (with proper training)?



August 9, 2010

Mr. D. Waite
1 - 23233 Kanaka Way
Maple Ridge, BC,
V2W 2B7

Dear Mr. Waite,

As undertaken I engaged the services of BMCI Consulting Inc. to assist Environment Canada in assessing your complaint. Its assessment included a review of some 700+ electronic documents in addition to a 2 ½ hour personal telephone interview with you.

Your complaint, for the purposes of its assessment, was broken down into four (4) allegations.

The first allegation relates to the manner in which the Registrar in the Supreme Court of British Columbia in New Westminster purportedly modified an original document signed by you and Counsel for the Defendant prior to registering it in file number S112356 in the New Westminster Registry. You are of the opinion that constitutes forgery.

The second allegation relates to an alleged abuse of authority by the Department of Justice in its dealings with yourself and your associate by charging each of you with nine indictable offences only after you had initiated a cause of action against Dr. Bishop in the Supreme Court of British Columbia in April 2008 some 10 months after the incident of June 13, 2007. Those nine charges were stayed in exchange for guilty pleas by you and your associate to one summary conviction count each with recommended fines of \$6,000.00 and \$8,000.00 respectively. As the negotiations with respect to the charges were ongoing with the prosecution, the Department of Justice lawyer representing Dr. Bishop informed you that Dr. Bishop was preparing to initiate a counterclaim against you unless you dropped your case against Dr. Bishop.

The third allegation relates to discrepancies in the recorded data describing the size of the area of habitat destroyed in order for you and your associate to take pictures of the chat nest. You allege between the time the three Environment Canada technicians approached you on June 13, 2007 and June 14th someone deliberately increased the size of the original habitat that was removed to make you look worse or to fit in the content of what was in the original email sent out by Dr. Bishop. More specifically you allege Rene McKibbin contaminated the scene by cutting additional vegetation and making the cut area larger.

The fourth allegation relates to your allegation that personnel from Environment Canada edited your recorded interview of June 16, 2010 in such a manner as to make you look bad, and your conclusion was that either the operator of the video camera was incompetent or that someone fudged the tape.

You also advanced the proposition that because you had a mental breakdown you suspect you have been the subject of some kind of surveillance and that if so then National Security is an issue.

It is clear that neither I nor the Department has the authority to undertake a review of your first or second complaints.

I and the Department would have the authority to initiate a review of your third and fourth complaints to the extent there was some creditable empirical evidence upon which to initiate such a review.

I have considered the opinions expressed with respect to allegations three and four above and come to the conclusion that the empirical evidence reviewed and information obtained does not warrant further review.

With respect to your issue as to what authority Dr. Bishop had to disclose the information contained in her email to 21 recipients on June 13, 2007 at 2:14 PM, it seems that it may fall under the Privacy Commissioner of Canada's mandate.

Concerning your suspicion that you were the subject of surveillance and if so, that would involve National Security, there is nothing substantive or creditable for me to consider or forward to the appropriate authorities for their consideration.

Yours truly, <



A. Warah
Values and Ethics Senior Officer

My complaints to Aida Warah, the Values and Ethics Senior Officer with the Canadian Enforcement Branch, came to nothing. She hired BNCI Consulting Inc. of Ottawa (instead of someone from Vancouver). My first complaint related to a forgery committed by the Justice Department (see pages 26 & 27). Another complaint referenced an altered videotape by CWS investigators Goluza and Porter (see pages 8 to 11. The investiga-

tors in Ottawa didn't even want to see a copy of the edited videotape. After a 2 1/2 hour interview, the Ottawa armchair investigators concluded that I was a "recidivist" or "repeat offender" and asked me not to send them the videotape.

I didn't specifically allege that René McKibbin contaminated the scene by cutting additional vegetation. I told Dr. Warah that someone altered or contaminated the crime scene.

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DONALD ENDER WAITE

PLAINTIFF

AND:

CHRISTINE ANNETTE BISHOP

DEFENDANT

ORDER

BEFORE A JUDGE OF THE COURT

)DAY
) THE DAY OF
)
) 20

ON THE APPLICATION of the Defendant, Christine Annette Bishop, without a hearing and by consent;

THIS COURT ORDERS that

1. The within action be dismissed against the Defendant, Christine Annette Bishop.
2. The said dismissal shall be for all purposes of the same force and effect as if a judgment dismissing the action had been pronounced after a trial of the action upon the merits.

CONSENTED TO:

[Handwritten signature of Donald Ender Waite]

 Plaintiff



[Handwritten signature of Counsel for the Defendant]

 Counsel for the Defendant

BY THE COURT

Registrar

[Handwritten notes: "3/6 Aug 09" with a signature]

WITHOUT PREJUDICE

I am concerned that by signing this document I am perhaps being misled and that it that could be used as proof that my libel suit against Dr. Bishop was malicious or frivolous. It could then be used against me. Signing a document that states that the release shall be the same as if it had gone to trial makes the point that Dr. Bishop maybe would have won and that very likely is not true. The signing of the document might also be an attempt to prevent me from telling my side of the story without the threat of Dr. Bishop suing me sometime down the road.

The reason I am dropping the suit against her is because I simply don't have the resources or the health (I suffered a mental breakdown) to follow through against the government. After all, they crown stayed 8 indictable (criminal) charges against me with the potential for fines of \$2,000,000. Now there is the treat from the Justice Department to pursue the collection of legal costs in respect to my action against Dr. Bishop.

I find it strange that Dr. Bishop sent out a broadcast email less than 3 hours after my confrontation with her assistant to 26 of her associates/colleagues/friends (not the investigative branch of the CWS) with misinformation and that the crown waited and didn't lay charges against my associate and I until after I had initiated my libel suit against Dr. Bishop eleven months later.

My associate and I are charged a year after the incident with 9 indictable (criminal charges) with a potential for fines of \$4,500,000. My lawyer and the prosecution did a plea bargain. The deal was simple. My associate and I would each plead guilty to one summary conviction (no criminal record) charge with a recommendation of \$14,000 in fines.

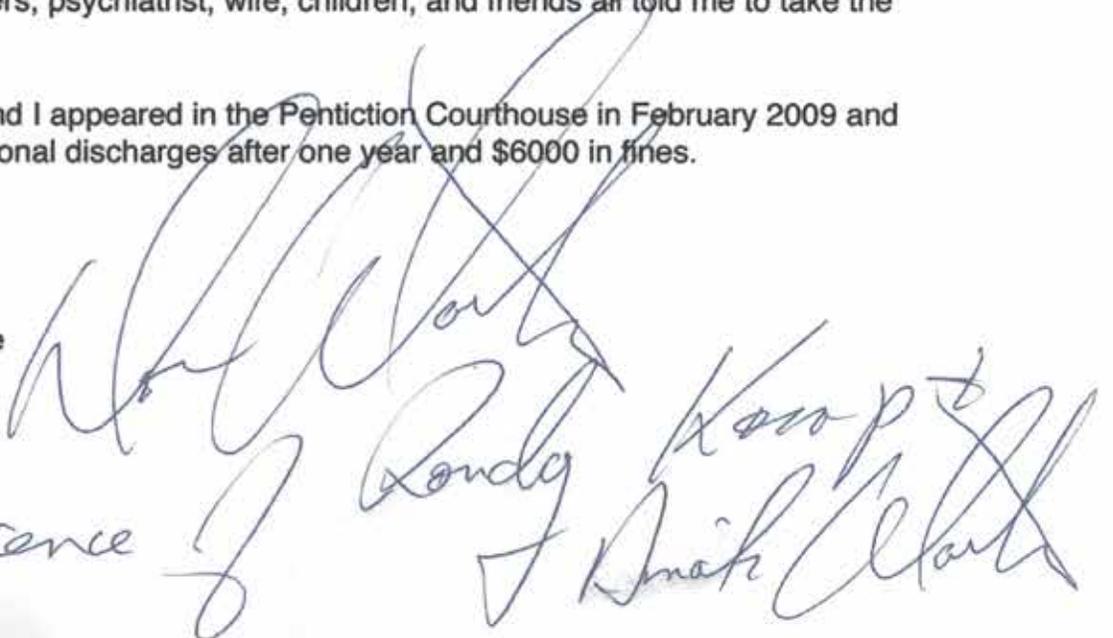
The prosecution had lined up 16 witnesses and a trial would have taken 2-3 weeks. Our lawyer told us that his fees would have been \$50,000 to \$75,000 alone. My lawyers, psychiatrist, wife, children, and friends all told me to take the deal.

My associate and I appeared in the Penticton Courthouse in February 2009 and received conditional discharges after one year and \$6000 in fines.

Sincerely,

Donald E. Waite
20 August 2009

in presence of



Donald E. Waite
Randy Koopt
Derek Clark



Department of Justice
Canada

Ministère de la Justice
Canada

Department of Justice
B.C. Regional Office
900 - 840 Howe Street
Vancouver, British Columbia
V6Z 2S9

Telephone: (604) 775-7499
Facsimile: (604) 775-7557

July 07, 2009

By Email & Regular Mail

1 - 23233 Kanaka Way
Maple Ridge, British Columbia
V2W 2B7

Attention: Donald Ender Waite

Dear Sir:

**Re: WAITE, Donald Ender v. Christine Annette Bishop - BCSC No. S112356 - New
Westminster Registry - Environment Canada
Court No.: S112356
Our File: 2-263574**

It has come to our attention that on February 16, 2009 you were convicted of committing an offence under section 97(1)(a) of the *Species at Risk Act*. This conviction was based on the very same facts that were asserted by the defendant, Dr. Bishop, in the email that you allege to be defamatory in the above-captioned proceedings. In our view, your conviction means that as a matter of law your defamation action cannot validly continue.

We therefore invite you to discontinue your action against Dr. Bishop as soon as possible. If you do so on or before **July 22, 2009** we will not seek to recover any legal costs from you in respect of the action. However, if you do not withdraw the action by that date, we will then immediately be bringing a motion to strike the proceedings as an abuse of process. If forced to do bring such a motion, we will of course be seeking an order to recover all of our legal costs as well.

Yours truly,

Robert Danay
Counsel

RD/eb



Department of Justice
B.C. Regional Office
900 - 840 Howe Street
Vancouver, British Columbia
V6Z 2S9

Telephone: (604) 775-7499
Facsimile: (604) 775-7557

July 27, 2009

By Courier

1 - 23233 Kanaka Way
Maple Ridge, British Columbia
V2W 2B7

Attention: Donald Ender Waite

Dear Sir:

**Re: WAITE, Donald Ender v. Christine Annette Bishop - BCSC No. S112356 - New
Westminster Registry - Environment Canada
Court No.: S112356
Our File: 2-263574**

Please find enclosed a draft Consent Dismissal Order and draft Release in relation to the above-noted matter. Kindly sign these documents where indicated and return them to our office at your earliest convenience. You will note that the Release also requires the signature of a witness so please ensure you have someone on hand who can witness your signature on this document.

Once you have returned the documents to our office we will file the Order with the Court and will forward you an entered copy in due course.

Yours truly,

Robert Danay
Counsel

/eb
Enclosures

Handwritten note:
Phil
20 Aug 09
1/6

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DONALD ENDER WAITE

PLAINTIFF

AND:

CHRISTINE ANNETTE BISHOP

DEFENDANT

CONSENT DISMISSAL ORDER

DEPARTMENT OF JUSTICE

900 - 840 Howe Street
Vancouver, BC, V6Z 2S9
Telephone: (604) 775-7499
Facsimile: (604) 775-7557
Attention: Robert Danay

File #: 2-263574

Robert Danay
20
2/6

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DONALD ENDER WAITE

PLAINTIFF

AND:

CHRISTINE ANNETTE BISHOP

DEFENDANT

ORDER

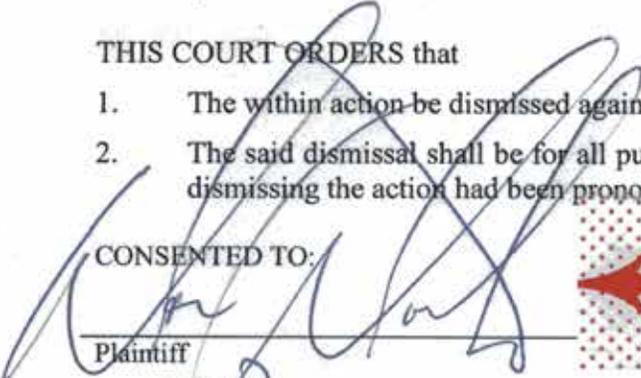
BEFORE A JUDGE OF THE COURT)DAY
) THE DAY OF
)
) 20

ON THE APPLICATION of the Defendant, Christine Annette Bishop, without a hearing and by consent;

THIS COURT ORDERS that

1. The within action be dismissed against the Defendant, Christine Annette Bishop.
2. The said dismissal shall be for all purposes of the same force and effect as if a judgment dismissing the action had been pronounced after a trial of the action upon the merits.

CONSENTED TO:



Plaintiff



Counsel for the Defendant

BY THE COURT

Registrar

Handwritten note: 3/6 Aug 19

FULL AND FINAL RELEASE

In consideration of an undertaking not to pursue collection of legal costs in respect of the action in the Supreme Court of British Columbia in the Registry of New Westminster with the file number S112356, Donald Ender Waite, for himself, his heirs, executors, administrators, successors and assigns releases and forever discharges Christine Annette Bishop and her employer, Her Majesty the Queen in Right of Canada, from all actions, causes of action, claims and demands for or by reason of any damage, loss or injury to person and property which has been or may be sustained in consequence of:

1. an email or emails sent on or about June 13, 2007 containing the following words:

Today our field crew came across this wildlife photographer at one of our chat nests in the south okanagan wildlife management area. The biologist was shocked to find that Donald Waite had cut a path and a 5ft sq. patch of wild rose out of the bush to completely expose a chat nest so that he could photograph it and its contents. He said he had been there 3 days! He also said that after he finishes photographing birds on nests he puts the vegetation (dead veg I suppose) back around nests so no harm done! The chat chicks were still in the nest but rene weighed them and they were 2-3 grams underweight for their age suggesting that the birds were not fed at the normal rate, likely due to disturbance. We don't know how this person figured out exactly where and how to find chat nests bc as you may know they are damn cryptic and once the birds are nesting the adults don't sing much. He did say he has someone who helps him find nests but he did not reveal who it is. He also said he was in process of also photographing a grosbeak nest at south ok. Wildlife management area. When he was asked to leave, he then asked if it was ok to come back tomorrow to photograph the birds fledging!

He claimed ignorance of the impact he might be having on the birds on their nest and their habitat around the nest esp. of a SpARisk residence. However I suspect this person knew very well that what he was doing was not ethical. Perhaps you know this person and have had a better experience with him. However based on this situation, I felt I needed to alert wildlife people about this incident.

If you are approached by this person for access or suggestions on where to go to photograph wildlife please be aware of this situation. If you are inclined, please also pass this information on to as many people as you know in the Okanagan valley and elsewhere, I am not on my office computer so I don't have my full email list.



20
Aug
4/6

His web site is: globalbirdphotos.com
Donald Waite is based in Maple Ridge.

Thanks.

(the "Email"),

which Email is the subject matter of the following action:

No. S112356
New Westminster Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DONALD ENDER WAITE

PLAINTIFF

AND:

CHRISTINE ANNETTE BISHOP

DEFENDANT

Handwritten signature and date:
20 Aug 09
5/6

And for the above consideration the undersigned, Donald Ender Waite, further agrees not to make claim or take proceedings against any other person or corporation which might claim contribution or indemnity under the provisions of any statute or otherwise.

And it is agreed that the payment is not deemed to be an admission of liability on the part of the Defendant, Christine Annette Bishop.

And it is declared that the terms of this settlement are fully understood; that the undertaking not to pursue costs is the sole consideration for this release and that this

undertaking is accepted voluntarily for the purpose of making a full and final compromise, adjustment and settlement of all claims for injuries, losses and damage resulting or which may result from the Email.

IN WITNESS WHEREOF we have set our hand and seal.

SIGNED, SEALED AND DELIVERED at
British Columbia on August 20, 2009.

[Handwritten signature of Donald Ender Waite]

Signature of Donald Ender Waite

[Handwritten signature of R. Camp]

Witness



Handwritten notes:
Mar 6/6
20 Aug 09

** See attached registration
[Handwritten signature]*