

NEWS RELEASE



OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF CALIFORNIA

San Diego, California

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For Immediate Release

WILDLIFE RESEARCHER SENTENCED FOR GOLDEN EAGLE THEFT

NEWS RELEASE SUMMARY - August 13, 2013

United States Attorney Laura E. Duffy announced that Julian resident John David Bittner was sentenced today following his plea of guilty to the unlawful taking of a Golden Eagle, in violation of the Bald and Golden Eagle Protection Act.

At the sentencing hearing today, Magistrate Judge David H. Bartick observed that although Bittner had devoted his life to wildlife, he had apparently placed his own financial interests ahead of the need to comply with federal permitting requirements. Bittner was paid by power companies, developers and others to track the birds for environmental impact studies.

Judge Bartick cited the fact that Bittner captured and banded birds without federal and state permits,

placed unpermitted devices on birds, conducted aerial surveys after authorization was denied, used wild birds in educational programs without a permit, failed to immediately send eagle carcasses to the National Eagle Repository (where there is a lengthy waiting list for Native Americans to obtain plumage for religious ceremonies) and failed to provide to the government the data he had obtained about this wildlife. After considering the scientific concerns associated with placing multiple tracking devices on a single bird, and the failure to send eagle carcasses to the National Eagle Repository, Judge Bartick concluded that “it cannot be said that there was no harm in this case.”

Judge Bartick sentenced Bittner to three years’ probation, a \$7,500 fine, and ordered Bittner to provide the government with the raw data compiled from tracking birds from 2007-2012. Bittner had previously withheld this data, but now it can be used by government biologists to evaluate the effect of proposed projects on the bird population.

According to court documents and admissions in his guilty plea, Bittner is the founder of a non-profit organization and makes his living by “banding” birds and gathering data on the movement of those birds. Bittner performs these services to assist companies with environmental impact statements needed for the construction and maintenance of power lines and wind power generators. In order to “band” a bird, the creature must be trapped, captured or taken out of its nest. Such activity is considered a “take” of the bird and requires a permit under both the Migratory Bird Act and the Bald and Golden Eagle Protection Act. These permits are issued by the federal Bird Banding Lab (“BBL”) in Laurel, Maryland, under the auspices of the U.S. Geological Survey. There are 2000 federal Master Bander permits issued throughout the entire United States, and only 181 Master Banders are authorized to band Golden Eagles.

Bittner first obtained a federal bird banding permit while living in Ohio on July 15, 1964. On August 13, 1980, the BBL sent a letter to Bittner, advising him that his permit was revoked due to “various discrepancies in your bird banding operation.” This action was taken after the State of Ohio had revoked

Bittner's 1979 state banding permit, and requested that the federal government remove Ohio from the list of states in which Bittner was permitted to band birds. The BBL subsequently agreed to keep Bittner's permit status as inactive, rather than revoked.

Bittner had no active federal permit to band birds from 1980 until April 30, 1997, when Bittner obtained authorization to band all non-endangered species of migratory birds, and later, to band California Condors and Golden Eagles. Like all such permits, his permit limited the permitted activities to specific states and stated that the federal permit was not valid "unless accompanied by any required State permits or licenses."

In California, a state permit is required to band Golden Eagles, as well as other migratory birds. Since 2000, Bittner has not possessed a valid permit from the State of California, due in large part to his failure to provide the required data in reference to past activities. The lack of a permit from the State of California invalidated the federal permit held by Bittner with respect to collecting and banding of 936 birds in California during the period from 2000-2011.

Bittner's federal banding permit expired on January 31, 2010. On February 13, 2010, Bittner emailed the BBL, stating: "My permit expired on January 31, 2010 but was just renewed on July 14, 2009 only five months before. Permits are supposed to be valid for two years. What's up?" A BBL biologist responded, noting that Bittner's permit was not automatically renewed in July 2009, and reminding Bittner that he owed BBL data on 300-400 bands he had already conducted. Eventually, on August 12, 2010, the federal permit was renewed.

Despite not having a valid federal or California bird banding permit, during the period from January 31, 2010 through August 12, 2010, Bittner illegally trapped and marked 164 birds (including 37 eagles); 144 of those birds were trapped in San Diego or Imperial County. Of the 144 birds trapped in San Diego and Imperial Counties, 29 were Golden Eagles, and the banding cards filled out at the time the birds were marked indicated that Bittner – the only person in the organization who previously held a permit – was personally

present on at least 18 of those occasions. As Judge Bartick noted in sentencing Bittner, during the time when no permits were in effect, the defendant's non-profit organization was paid over \$500,000 by various clients for its services.

According to Paul Schmidt, the Fish and Wildlife Service's Assistant Director for Migratory Birds in 2009, "The Bald Eagle population has rebounded in the past decades, and its recovery poses the challenge of managing a healthy population still protected under the Bald and Golden Eagle Protection Act. But unlike the Bald Eagle, the Golden Eagle population is not expanding, and may be in decline." The Bald and Golden Eagle Protection Act continues to protect these birds by prohibiting anyone without a permit from "taking" Bald or Golden eagles, including their parts, nests and eggs. "Taking" such birds includes pursuing, shooting, shooting at, poisoning, wounding, killing, capturing, trapping, collecting, molesting or disturbing.

United States Attorney Laura E. Duffy observed, "It is a sacred trust to preserve our natural heritage for future generations. This trust mandates that we observe both the spirit and letter of our law designed to protect the environment."

DEFENDANT

Criminal Case No. 13cr1391-W

John David Bittner

SUMMARY OF CHARGES

Unlawful Taking of a Golden Eagle, in Violation of Title 16, United States Code, Section 668(a).
Maximum Penalties: 1 year in custody and/or \$100,000 fine, \$25 special assessment.

AGENCY

U.S. Fish and Wildlife Service