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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'13MJ1482

UNITED STATES OF AMERICA,)	Magistrate Case No. _____
)	
Plaintiff,)	<u>COMPLAINT</u>
)	
v.)	18 U.S.C. §545 - Smuggling;
)	16 U.S.C. §§3372 and 3373-
OI CHUNG,)	Unlawful Trade in Wildlife;
)	18 U.S.C. §2 - Aiding and
)	Abetting
Defendant.)	

The undersigned complainant, being duly sworn, states:

COUNT ONE

On or about February 27, 2013, within the Southern District of California, defendant OI CHUNG did knowingly and willfully cause another to smuggle and attempt to smuggle into the United States from Mexico, merchandise which should have been invoiced, to wit, 6 *Totoaba macdonaldi* swim bladders, in violation of Title 18, United States Code, Sections 545 and 2.

COUNT TWO

On or about February 27, 2013, within the Southern District of California, defendant OI CHUNG did knowingly cause another to import fish, to wit: 6 swim bladders from

1 *Totoaba macdonaldi*, with a market value of over \$350.00,
2 that was taken, possessed, transported, and sold in
3 violation of foreign law, to wit, the Convention on
4 International Trade in Endangered Species of Wild Fauna and
5 Flora, knowing that the fish were taken, possessed,
6 transported and sold in violation of foreign law, in
7 violation of Title 16, United States Code,
8 Sections 3372(a)(1) and 3373(d)(1)(A) and Title 18, United
9 States Code, Section 2.

10 **COUNT THREE**

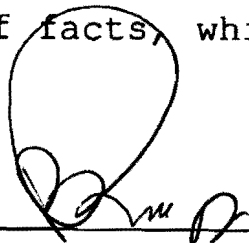
11 On or about March 30, 2013, within the Southern
12 District of California, defendant OI CHUNG did knowingly and
13 willfully smuggle and attempt to smuggle into the United
14 States from Mexico, merchandise which should have been
15 invoiced, to wit, 5 *Totoaba macdonaldi* swim bladders, in
16 violation of Title 18, United States Code, Sections 545 and
17 2.

18 **COUNT FOUR**

19 On or about March 30, 2013, within the Southern
20 District of California, defendant OI CHUNG did knowingly
21 import fish, to wit: 5 swim bladders from *Totoaba*
22 *macdonaldi*, with a market value of over \$350.00, that was
23 taken, possessed, transported, and sold in violation of
24 foreign law, to wit, the Convention on International Trade
25 in Endangered Species of Wild Fauna and Flora, knowing that
26 the fish were taken, possessed, transported and sold in
27 violation of foreign law, in violation of Title 16, United
28 States Code, Sections 3372(a)(1) and 3373(d)(1)(A) and Title

1 18, United States Code, Section 2.

2
3 And the complainant states that this complaint is based
4 on the attached statement of facts, which is incorporated
5 herein by reference.

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7 

8 Roger Turnell
9 U.S. Fish and Wildlife Service
10 Special Agent

11
12 SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 5TH
13 DAY OF APRIL, 2013.

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18 HON. DAVID BARTICK
19 UNITED STATES MAGISTRATE JUDGE
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2 **v.**
3 **OI CHUNG**

4 STATEMENT OF FACTS

5 1. I am a special agent with the United States Fish
6 and Wildlife Service, Office of Law Enforcement, and have
7 been so since 2006. My responsibilities include enforcing
8 the Endangered Species Act ("ESA"), at Title 16, United
9 States Code, Sections 1531-1543, and the Lacey Act, at Title
10 16, United States Code, Sections 3372 and 3373.

11 2. Because many of the covered species are highly
12 migratory, enforcement of the ESA intersects with the
13 implementation of the Convention on International Trade in
14 Endangered Species of Wild Fauna and Flora ("CITES"), an
15 international agreement signed by 176 nations and
16 implemented in 1975, which restricts the international trade
17 and transportation of covered species. My duties also
18 include enforcement of CITES.

19 3. One species protected by the ESA and CITES is the
20 *Totoaba macdonaldi*, also known as *Cynoscion macdonaldi*. This
21 marine fish is the largest species within the *scaienidae*
22 family. It can grow to more than 6 ½ feet in length, weigh
23 up to 220 pounds, and can live up to 25 years. They are
24 endemic only to the Gulf of California, the narrow inlet
25 between Baja California and the Mexico's mainland (also
26 called the Sea of Cortez).

27 4. The Totoaba's spawning season, which runs from
28 approximately March to May each year, has just begun. During
this time, Totoaba travel to the shallower waters at the

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3 **OI CHUNG**

4 secondary. CHUNG had a cooler of various fish and clams in
5 his vehicle. Further inspection revealed five dried Totoaba
6 bladders hidden in two duffle bags wrapped in clothing
7 inside the vehicle. CHUNG was advised that he could not
8 import Totoaba into the United States. The Totoaba was
9 seized and CHUNG was released.

10 9. Working with agents, J.N. agreed to deliver the
11 Totoaba swim bladders seized on February 27 back to CHUNG,
12 who had arranged for them to be imported from Mexico. On
13 April 12, 2013, defendant CHUNG met J.N. at a restaurant in
14 Rosecrans, CA to retrieve the Totoaba swim bladders.
15 CHUNG paid J.N. \$1000 for the swim bladders.

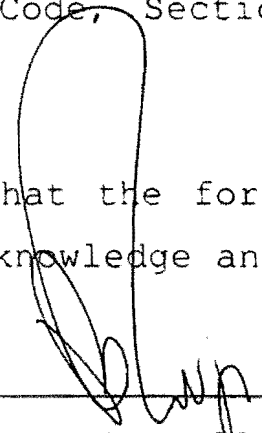
16 10. Totoaba swim bladders can be identified by
17 distinctive tubes that are attached to the swim bladders.
18 Based on consultation with other wildlife enforcement agents
19 and my previous experience with other seizure of Totoaba,
20 I believe that the swim bladders imported by J.N. on
21 February 27, 2013 at CHUNG's direction, and by CHUNG on
22 March 30, 2013, were all taken from the endangered fish
23 *Totoaba macdonaldi*.

24 11. In my experience, the value of the 11 Totoaba swim
25 bladders imported by CHUNG into the United States on
26 February 27 and 30 2013 is conservatively valued at
27 approximately \$16,500. A conservative estimate of the
28 resale value of the 11 swim bladders is approximately
\$55,000.

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3 OI CHUNG

4 Accordingly, there is probable cause to believe that
5 the defendant smuggled the Totoaba into the United States,
6 in violation of Title 18, United States Code, Sections 545
7 and 2, unlawfully imported wildlife, in violation of Title
8 16, United States Code, Sections 3372(a)(1) and
9 3373(d)(1)(A), and engaged in conduct involving the intent
10 to sell wildlife taken in violation of law, in violation of
11 Title 16, United States Code, Sections 3372(a)(1) and
12 3373(d)(1)(B).

13 I declare under oath that the foregoing is true and
14 correct, to the best of my knowledge and belief.


04/13/2013

17 Roger Turnell
18 U.S. Fish and Wildlife Service
19 Special Agent

23 8:52 AM, Apr 13, 2013



24 HON. DAVID BARTICK
25 UNITED STATES MAGISTRATE JUDGE

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