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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *EF* DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 v.)
14 JASON JIN XIE (1))
15 ANTHONY SANCHEZ BUENO (2),)
16 Defendants.)

Case No. 13mj8241

COMPLAINT

18 U.S.C. §371 - Conspiracy
18 U.S.C. §545 - Smuggling
16 U.S.C. §§3372 and 3373 -
Unlawful Trade in Wildlife
18 U.S.C. §2 - Aiding and
Abetting

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The undersigned complainant, being duly sworn, states:

COUNT ONE

Beginning on a date unknown and continuing up to and including March 30, 2013, within the Southern District of California and elsewhere, defendants JASON JIN XIE and ANTHONY SANCHEZ BUENO did knowingly and willfully conspire and agree to commit an offense against the laws of the United States, to wit, Smuggling, in violation of Title 18, United States Code, Section 545;

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1 In furtherance of the conspiracy, the following overt
2 act was committed within the Southern District of
3 California:

4 1. On or about March 30, 2013, in Calexico,
5 California, defendant ANTHONY SANCHEZ BUENO entered the
6 United States from Mexico in a vehicle containing
7 approximately 170 individual *Totoaba macdonaldi* swim
8 bladders.

9 All in violation of Title 18, United States Code,
10 Section 371.

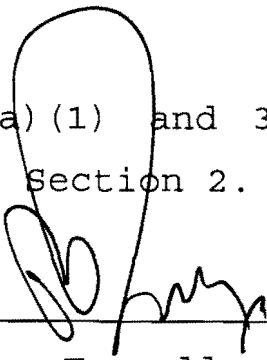
11 **COUNT TWO**

12 On or about March 30, 2013, within the Southern
13 District of California, defendants JASON JIN XIE and
14 ANTHONY SANCHEZ BUENO did knowingly and willfully smuggle
15 and attempt to smuggle into the United States from Mexico,
16 merchandise which should have been invoiced, to wit,
17 *Totoaba macdonaldi* swim bladders, in violation of Title 18,
18 United States Code, Section 545 and 2.

19 **COUNT THREE**

20 On or about March 30, 2013, within the Southern
21 District of California, defendant JASON JIN XIE and ANTHONY
22 SANCHEZ BUENO did knowingly import fish, to wit: *Totoaba*
23 *macdonaldi*, with a market value of over \$255,000.00, that
24 was taken possessed, transported, and sold in violation of
25 foreign law, to wit, the Convention on International Trade
26 in Endangered Species of Wild Fauna and Flora, knowing that
27 the fish were taken, possessed, transported and sold in
28 violation of foreign law, in violation of Title 16, United

1 States Code, Sections 3372(a)(1) and 3373(d)(1)(B) and
2 Title 18, United States Code, Section 2.



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5 Roger Turnell
6 U.S. Fish and Wildlife Service
7 Special Agent

8 SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS /
9 DAY OF APRIL, 2013.



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11 HON. PETER A. LEWIS
12 UNITED STATES MAGISTRATE JUDGE
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1 UNITED STATES OF AMERICA

2 Jason Jin ^{v.} XIE (1)

3 Anthony Sanchez BUENO (2)

4 STATEMENT OF FACTS

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

10 The ESA was enacted in 1973, and provides for the conservation of species that
11 are in danger or threatened throughout all or a significant portion of their habitat. There
12 are approximately 2,050 total species listed under the ESA.

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

18 One species protected by the ESA and CITES is the *Totoaba macdonaldi*, also
19 known as *Cynoscion macdonaldi*. This marine fish is the largest species within the
20 *scaienidae* family. It can grow to more than 6 ½ feet in length, weigh up to 220 pounds,
21 and can live up to 25 years. They are endemic only to the Gulf of California, the narrow
22 inlet between Baja California and the Mexico’s mainland (also called the Sea of Cortez).
23 This fish can be identified by its dusky silver color, elongated body, sharp snout, a
24 projecting lower jaw, and a slightly convex tail.

25 During their winter migration, schools of adult Totoaba travel northward along the
26 east coast of the Gulf of California to the Colorado River delta, where they remain for
27 weeks before spawning in the spring.

28 The Totoaba’s spawning season, which runs from approximately March to May

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1 each year, has just begun. During this time, Totoaba travel to the shallower waters at
2 the mouth of the Colorado River, making them vulnerable to commercial and sport
3 fishermen.

4 The *Totoaba macdonaldi*'s large swim bladders are highly prized for use in
5 Chinese soups. These bladders are removed from the fish, dried, and often imported
6 from Mexico to other countries. In some instances, the fish are taken from the Colorado
7 River, carved open so their swim bladders can be removed, and left to die on the shores.
8 The closest U.S. / Mexico ports to the Sea of Cortez are in Calexico, California and San
9 Luis, Arizona.

10 While the Totoaba were once abundant in the Gulf of California, and even at one
11 point constituted the second most important commercial fish for Mexico, their
12 populations have declined drastically due to overfishing, pollution, and diversion of
13 waters from the Colorado River.

14 The Totoaba was included in the most protected list of species covered by CITES
15 (Appendix I) in 1976, and was listed as endangered under the ESA in 1979. Mexico
16 included it on its list of species "In Danger of Extinction" in 1994. Both Mexico and the
17 United States are signatories to CITES. It is a violation of law in both countries to trade
18 in Totoaba or any part of a Totoaba.

19 Despite the protection, the species has shown minimal recovery. Unique
20 biological traits, such as its limited geographic range and vulnerability during spawning,
21 along with external pressures of habitat degradation and overfishing, have pushed the
22 species to the brink of extinction.

23 On March 30, 2013, at approximately 11:30 a.m., defendant ANTHONY
24 SANCHEZ BUENO entered the United States from Mexico at the Calexico West Port
25 of Entry, in Calexico, California, as the driver and sole occupant of a 1996 Plymouth
26 Voyager, California license plate number 6JAV054. Defendant SANCHEZ BUENO told
27 the primary inspector he was bringing in fish to take to a church he could not further
28 identify as a favor for a friend. The primary inspector noticed three coolers in the rear

1 of the vehicle. The inspector opened one cooler and saw that the top layer appeared to
2 be fish fillets but underneath the ice below the top layer of fillets he discovered
3 numerous fish swim bladders and referred the vehicle to the secondary inspection area.

4 The defendant told the secondary inspector he had fish. After the secondary
5 inspector discovered the swim bladders underneath, the defendant admitted he had the
6 air bladders as well. Inspection of the defendant's coolers revealed approximately
7 102.65 kilograms (225.83 pounds) of endangered totoaba, swim bladders only. The
8 102.65 kilograms of totoaba consisted of parts from at least 169 different fish. The
9 swim bladders measured approximately 18 inches in length, which corresponds to a fish
10 size of at least four feet in length.

11 Defendant SANCHEZ BUENO was advised of his Constitutional rights in a
12 recorded interview. In an interview that wasn't record, he stated that he was being paid
13 \$200 per cooler to bring them into the United States from Mexico, plus \$100 for gas and
14 lunch. He had done this one time previously in February with only two coolers. He
15 delivered the coolers to an Asian man driving a grey SUV in the parking lot of the
16 Walmart in Calexico. When he delivered the cooler, the Asian man gave him the fish
17 fillets on top of the swim bladders and told him to return them to the man who had given
18 him the coolers in Mexico. When SANCHEZ BUENO contacted that man to return the
19 fillets, he was told to keep them. SANCHEX BUENO admitted that he was aware that
20 there was something illegal about the swim bladders, and that the purpose of the fillets
21 was just to conceal the swim bladders underneath. Defendant SANCHEZ BUENO stated
22 that he was to deliver the three coolers to the Best Western hotel in Calexico near the
23 WalMart.

24 An HSI agent went to the Best Western hotel and observed two Asian males sitting
25 on a bench in the parking lot. A controlled delivery of the three coolers of fillets and
26 swim bladders was made to the two Asian men. The two Asian men took custody of the
27 coolers and began placing them in a silver Mazda FX. While the Asians were
28 transferring the fish to the Mazda, defendant XIE admitted that the swim bladders were

1 Totoaba.

2 Defendant XIE was subsequently arrested and advised of his Constitutional rights.
3 Defendant XIE, in a recorded interview, stated that he ordered the fish from an individual
4 in Mexico (the same individual identified by defendant SANCHEX BUENO as having
5 provided him with the coolers of fish and swim bladders). XIE stated that he had
6 purchased an earlier load of swim bladders from the same individual in February, and
7 paid \$1500-\$1800 per swim bladder, and there were approximately 100. XIE stated that
8 he knew it was illegal in Mexico to fish for or possess Totoaba. XIE stated that he was
9 certain that the fish he had received (and the fish in the three coolers seized in this case)
10 were Totoaba because he could recognize them by the distinctive tubes that are attached
11 to the swim bladders. Based on this pricing, the Totoaba in the three coolers is
12 conservatively valued at \$253,500.

13 On March 15, 2013, I spoke Daniel Yanez, an officer for PROFEPA, which is the
14 Mexican agency with jurisdiction over fish and wildlife. Yanez advised me that Totoaba
15 could be identified by the distinctive tubes that are attached to the swim bladders. Based
16 on photographs provided by Yanez and my previous experience with other seizure of
17 Totoaba, I believe that the swim bladders in the three coolers were taken from the
18 endangered fish *Totoaba macdonaldi*.

19 Accordingly, there is probable cause to believe that the defendants conspired to
20 smuggle the Totoaba into the United States, in violation of Title 18, United States Code,
21 Sections 371, 545 and 2, and unlawfully traded in wildlife, in violation of Title
22 16, United States Code, Sections 3372(a)(1) and 3373(d)(1)(B).

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