



HUMBOLDT COUNTY DISTRICT ATTORNEY'S OFFICE
PAUL V. GALLEGOS • DISTRICT ATTORNEY

Criminal Division • tel (707) 445-7411 • fax (707) 445-7416 • 825 5th Street, Eureka, CA 95501
Victim Witness Assistance • tel (707) 445-7417 • fax (707) 445-7490 • 712 4th Street, Eureka, CA 95501

NEWS RELEASE

FOR IMMEDIATE RELEASE

DATE: Thursday, November 14, 2013

CONTACT: Matthew Carr, Deputy District Attorney and Circuit Prosecutor

PHONE: (916) 443-2017

On Wednesday, November 13, 2013, two Humboldt County residents entered felony and misdemeanor pleas for violating the Clean Water Act, thus resolving a significant case of illegal mining of sensitive wetlands in the Bridgeville area off of Highway 36.

As alleged in the civil complaint filed in this matter, the violations concern large-scale industrial surface mining of peat from wetlands in the Bridgeville area, which was later sold for profit. The mining occurred over a period of more than a decade. The People alleged that Daniel Wojcik had no permits to mine the wetland for peat, nor did he have permits to sell it, although he knew that such permits were required.

The wetlands at issue are peat fens. Peat develops slowly, over thousands of years, and inland peat habitat is quite rare in California. The few neighboring fens that exist were found to contain rare plants, but it is not known whether the peat fens that were mined contained such plants. The largest wetland that Mr. Wojcik mined was over eleven acres, and allegedly he did so with the consent of the landowner, Robert Wotherspoon, through a business relationship. The bulk of the mining occurred after 2000, though some apparently occurred prior to that.

The Department of Fish & Wildlife (DFW) conducted an investigation after a scientist there, Michael van Hattem, used aerial photography to notice the large-scale mining operation, and inquired as to whether it was duly permitted. It was not. Extensive investigation by DFW wardens Ed Ramos and Shane Embry and North Coast Regional Water Quality Control Board environmental scientist Stormer Feiler, in coordination with CalFIRE and the Humboldt County Department of Planning, eventually led to the submission of a case for prosecution to the Humboldt County District Attorney's Office.

District Attorney Paul Gallegos recognized that the case was serious and merited attention from his office, but was also cognizant of the limits of his office to prosecute such a complex case in light of recent staffing shortages. To fill this gap in prosecution resources, Mr. Gallegos referred the case to the Circuit Prosecutor Project at the California District Attorneys Association in Sacramento.

The Circuit Prosecutor Project began in 1998 to facilitate the prosecution of complex environmental cases in rural Northern California, since these sort of cases are unlike other cases handled by prosecutors and because even in 1998, such rural offices often lacked resources to adequately prosecute environmental crimes that happened in their jurisdictions. Although the resources issue in rural Northern California has continued to worsen since 1998, unfortunately, the Project has also shrunk, likewise due to budget issues, to the point where there is just one Circuit Prosecutor: Matthew Carr. Mr. Carr currently covers sixteen of California's fifty-eight counties.

Mr. Carr was invited to review the case for prosecution and felt that it easily merited a criminal filing due to the gravity of the violations and his assessment that the violations were willful. In February of 2011, Mr. Carr filed a five-count felony complaint against Mssrs. Wojcik and Wotherspoon, alleging a conspiracy to violate the Surface Mining and Recovery Act (SMARA) and the Lake and Streambed Alteration permitting process, along with four violations of the Clean Water Act. The fifth count concerned Mr. Wojcik only, relating to his failure to secure a business license for his peat sales. Mr. Carr also filed a civil complaint, alleging a wider range of violations against a wider range of defendants, including violations of CEQA, the county Streamside Management Area ordinance, and zoning laws.

Mssrs. Wojcik and Wotherspoon cooperated in the settlement of this matter, and the District Attorney's Office appreciates the defendants' work in crafting a settlement agreement that duly penalizes them such that they do not profit from their illegal actions and in fact lose money on them, but also ensures that the wetlands are restored as well as possible, and that in some ways, the habitat of the area is improved.

Yesterday, November 13, 2013, Messrs. Wojcik and Wotherspoon entered felony and misdemeanor pleas, respectively, with regard to violations of section 404 of the Clean Water Act, pursuant to a complex plea agreement. Mr. Wojcik will pay a penalty of \$189,222; Mr. Wotherspoon will pay a penalty of \$130,804 and will donate to the state permanent access to the violation site for monitoring the restoration and as a "living laboratory" for scientists to access to study this sort of rare ecosystem and its hoped-for regeneration.

Mr. Wojcik will also serve 500 hours of community service, while Mr. Wotherspoon will serve 100 hours.

Mr. Wojcik will also address various zoning and code enforcement issues, as well as replant timberland in certain areas that were affected by the surface mining and restore ponds that were allegedly mined prior to 2000, pursuant to SMARA. Ms. Davina Smith at the Humboldt County Counsel's Office was particularly helpful to the prosecution in ensuring that the settlement addressed all outstanding issues on the properties owned by the defendants in the area.

Most crucially, the settlement requires the defendants to restore the area well above what would be required by law under SMARA. In determining what would be an acceptable minimal level of restoration, the District Attorney's Office worked with scientists in various agencies as well as scientists hired by the defendants to determine what was optimal with regard to three restoration goals: (1) maximizing the extent of peat regeneration, (2) maximizing the flow of cold water from a nearby spring that serves during summer as a crucial cold-water refuge for endangered steelhead in the otherwise-warm Van Duzen River, and (3) durability of those two former goals for as long as practical.

Says Deputy District Attorney Carr, who prosecuted the case: "People who knowingly violate environmental laws and harm the environment should expect that they will not profit from such actions, and will be penalized for them. This was what occurred in this case. Crime did not pay. Thankfully, we were able to work with the defendants to develop a scientifically-sound restoration baseline that

goes beyond what would otherwise be required by law, which makes the best of an otherwise bad situation.”

Says Deputy District Attorney Christa McKimmy, who handles other environmental crimes cases in the county: “Humboldt residents may sometimes take for granted the special resources our region possesses, but we are indeed very privileged to live in such a resource-rich area. The District Attorney’s Office is committed to protecting those resources, so when we see destruction of them such as occurred in this case, we believe it is our duty to prosecute and also alleviate the damage as much as possible.”

The penalty assessed in this matter is one of the largest ever to be assessed in California against non-corporate defendants for violations of section 404 of the Clean Water Act.

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