



Department of Justice

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FEDERAL GRAND JURY INDICTS NEW JERSEY RESIDENT FOR VIOLATING THE ENDANGERED SPECIES ACT AND MAKING FALSE STATEMENTS

WASHINGTON – James R. Durr, 55, of Wrightstown, N.J., was indicted by a federal grand jury in Camden, N.J., for violating the Endangered Species Act by taking the federally protected bog turtle and for making false statements to authorities, the Justice Department announced today.

Bog turtles, scientific name *Clemmys muhlenbergii*, are native to New Jersey and have been designated a threatened species under the Endangered Species Act since 1997, due in large part to habitat loss. Bog turtles reside in part in holes in the ground.

The two count indictment returned yesterday alleges that Durr, who owned and operated at least three properties in New Jersey, was engaged in the business of growing plants and flowers for sale to the florist trade. Specifically, the indictment alleges that in December 2005, Durr acquired a property in North Hanover Township in Burlington County, N.J., that he called Turtle Creek Farm.

The property allegedly included a free flowing perennial stream called Turtle Creek that ran into and out of a wetland area on the property that was documented as occupied habitat for threatened bog turtles. The indictment further alleges that when Durr bought the land, he was informed of the presence and location of the bog turtles and knew that work had been done to enhance the habitat for the bog turtles using funds from a federal Wildlife Habitat Incentives Program. The program provides money to farmers to undertake wildlife habitat improvements on their farms.

Shortly after buying the farm, Durr allegedly began to clear a buffer of trees that framed each side of one portion of Turtle Creek. Durr allegedly was advised while clearing was ongoing that there was concern that the tree removal was going to effect the listed bog turtles down stream due to ensuing deposits of silt and sediment. As a result of Durr's activities, by November 2006, approximately eight to 12 inches of silt allegedly had eroded from the cleared stream banks and adjoining farm fields and were deposited in core bog turtle habitat. By the following June, approximately two feet of coarse sand and fine gravel had been deposited in places in the stream channel allegedly as a result of Durr's activities.

Consequently, the indictment alleges that between late December 2005 and the present, Durr knowingly and unlawfully took at least one bog turtle in violation of the Endangered Species Act.

The Endangered Species Act and implementing federal regulations prohibit the taking, without a permit, of any threatened species. "Take" means to harass or harm, among other things. "Harass" means to intentionally or negligently act or fail to act in a way that creates the likelihood of injury to wildlife by significantly disrupting normal behavioral patterns which include breeding, feeding or sheltering. "Harm" means an act which actually kills or injures wildlife including through significant habitat modification or degradation where it actually kills or injures wildlife.

An indictment is merely an accusation, and a defendant is presumed innocent unless and until proven guilty in a court of law.

The maximum penalty for a violation of the Endangered Species Act is up to six months in prison and a \$25,000 fine. The maximum penalty for making a false statement is up to five years in prison and a \$250,000 fine.

The case was investigated by the U.S. Fish and Wildlife Service and is being prosecuted by the Justice Department's Environmental Crimes Section.

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