



- 4) to compel the attendance of witnesses for the defense.

**WAIVER OF RIGHTS AND PLEA OF GUILTY**

3. The Defendant agrees to waive these rights and to plead guilty to an Information, charging a violation of 16 U.S.C. §§ 1538(a)(1)(G), 1539(j)(2)(C), 1540(b)(1) and 50 C.F.R. §§ 17.21(c)(1), 17.31, that being Knowingly Taking Threatened Wildlife.

**SENTENCING**

4. The Defendant understands that the maximum penalty provided by law for this offense is:

- a. imprisonment for a period of not more than six (6) months or a term of probation of not more than five (5) years;
- b. a fine of not more than \$25,000; and
- c. a mandatory special penalty assessment of \$10.

5. Regardless of any other provision in this agreement, the United States reserves the right to provide to the United States Pretrial Services and Probation Office and to the Court any information the United States believes may be helpful to the Court, including but not limited to information about the recommendations contained in this agreement and any relevant conduct under U.S.S.G. § 1B1.3.

**ELEMENTS OF THE OFFENSE**

6. If this matter proceeded to trial, the Defendant understands that the United States would be required to prove, beyond a reasonable doubt, the following elements:

16 U.S.C. §§ 1538(a)(1)(G), 1539(i)(2)(C), 1540(b)(1) and 50 C.F.R. §§ 17.21(c)(1), 17.31: Knowingly Taking Threatened Wildlife

*First:* the defendant took a species of wildlife, that is, the defendant harassed, harmed, pursued, hunted, shot, wounded, killed, trapped, captured, or collected the species of wildlife, or he attempted to engage in any such conduct;

*Second:* the species of wildlife was listed as threatened pursuant to regulations promulgated by the United States Fish and Wildlife Service; and

*Third:* the defendant took the threatened species knowingly, that is, the defendant acted with intent to commit the act that constituted the take and the defendant did so knowing the wildlife's species (but the defendant need not know the species' legal status as threatened or that his conduct was illegal).

#### **DEFENDANT'S ADMISSION OF FACTS**

7. By my signature on this plea agreement, I am acknowledging that I am pleading guilty because I am, in fact, guilty of the offense(s) to which I am pleading guilty. I recognize and accept responsibility for my criminal conduct. Moreover, in pleading guilty, I acknowledge that if I chose to go to trial instead of entering this plea, the United States could prove facts sufficient to establish my guilt of the offense(s) to which I am pleading guilty beyond a reasonable doubt, including any facts alleged in the Information that increase the statutory minimum or maximum penalties. I specifically admit the following facts related to the charges against me, and declare under penalty of perjury that all of these facts are true and correct:

In February of 2015, in Catron County within the District of New Mexico, I knowingly took a Mexican gray wolf. That month, I had captured a Mexican gray wolf in a leg hold trap on my grazing allotment in the Gila National Forest and hit it with a shovel. I was afraid that if I didn't hit it with a shovel, it would kill me when I released it. I knew that the animal I caught in the leg hold trap was a Mexican gray wolf because it bore a tracking collar affixed to all Mexican gray wolves in the area. Further, I acknowledge that Mexican gray wolves are a threatened species pursuant to 50 C.F.R. §§ 17.11(h) and 17.84(k).



8. By signing this agreement, the Defendant admits that there is a factual basis for each element of the crime(s) to which the Defendant is pleading guilty. The Defendant agrees that the Court may rely on any of these facts, as well as facts in the presentence report, to determine the Defendant's sentence, including, but not limited to, the advisory guideline offense level.

### RECOMMENDATIONS

9. Pursuant to Rule 11(c)(1)(B), the United States and the Defendant recommend as follows:

- a. The parties recommend pursuant to Fed. R. Crim. P. 11(c)(1)(B) that a specific sentence of one (1) year of probation is the appropriate disposition in this case. The Defendant and the United States agree that a condition of the Defendant's probation will be that the Defendant pay restitution in full to the Mexican Wolf Recovery Program, as agreed in paragraph 13 below, within that one year.
- b. The Defendant understands that the above recommendations are not binding on the Court and that whether the Court accepts these recommendations is a matter solely within the discretion of the Court after it has reviewed any presentence report that it may order. If the Court does not accept any one or more of the above recommendations, the Defendant will not seek to withdraw the Defendant's plea of guilty. In other words, regardless of any of the parties' recommendations, the Defendant's final sentence is solely within the discretion of the Court.

**DEFENDANT'S ADDITIONAL AGREEMENT**

10. The Defendant understands the Defendant's obligation to provide the United States Pretrial Services and Probation Office with truthful, accurate, and complete information. The Defendant represents that the Defendant has complied with and will continue to comply with this obligation.

11. Except under circumstances where the Court, acting on its own, fails to accept this plea agreement, the Defendant agrees that, upon the Defendant's signing of this plea agreement, the facts that the Defendant has admitted under this plea agreement as set forth above, as well as any facts to which the Defendant admits in open court at the Defendant's plea hearing, shall be admissible against the Defendant under Federal Rule of Evidence 801(d)(2)(A) in any subsequent proceeding, including a criminal trial, and the Defendant expressly waives the Defendant's rights under Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 with regard to the facts the Defendant admits in conjunction with this plea agreement.

12. The Defendant agrees that, upon the Defendant's signing of this plea agreement, the facts that the Defendant has admitted under this plea agreement as set forth above, as well as any facts to which the Defendant admits in open court at the Defendant's plea hearing, shall be admissible against the Defendant under Federal Rule of Evidence 801(d)(2)(A) in any subsequent proceeding, including a criminal trial, and the Defendant expressly waives the Defendant's rights under Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 with regard to the facts the Defendant admits in conjunction with this plea agreement.

**RESTITUTION**

13. In this case, the Defendant agrees to pay restitution in the total principal amount of \$2,300, which is immediately payable to the United States District Court Clerk. In the event that the Court orders a schedule of restitution payments, the Defendant consents to the entry of a further term of a restitution order that provides that such schedule is merely a minimum schedule of payments. No later than July 1 of each year after sentencing, until restitution is paid in full, the Defendant shall provide the Asset Recovery Unit, United States Attorney's Office, P.O. Box 607, Albuquerque, New Mexico 87103, (1) a completed and signed financial statement provided to the Defendant by the United States Attorney's Office and/or the United States Probation Office and (2) a copy of the Defendant's most recent tax returns.

**WAIVER OF APPEAL RIGHTS**

14. The Defendant is aware that 28 U.S.C. § 1291 and 18 U.S.C. § 3742 afford a defendant the right to appeal a conviction and the sentence imposed. Acknowledging that, the Defendant knowingly waives the right to appeal the Defendant's conviction(s) and any sentence, including any fine, within the statutory maximum authorized by law, as well as any order of restitution entered by the Court. In addition, the Defendant agrees to waive any collateral attack to the Defendant's conviction(s) and any sentence, including any fine, pursuant to 28 U.S.C. §§ 2241 or 2255, or any other extraordinary writ, except on the issue of defense counsel's ineffective assistance.



**GOVERNMENT'S ADDITIONAL AGREEMENT**

15. Provided that the Defendant fulfills the Defendant's obligations as set out above, the United States agrees that the United States will not bring additional criminal charges against the Defendant arising out of the facts forming the basis of the present Information.

16. This agreement is limited to the United States Attorney's Office for the District of New Mexico and does not bind any other federal, state, or local agencies or prosecuting authorities.

**VOLUNTARY PLEA**

17. The Defendant agrees and represents that this plea of guilty is freely and voluntarily made and is not the result of force, threats, or promises (other than the promises set forth in this agreement and any addenda). The Defendant also represents that the Defendant is pleading guilty because the Defendant is in fact guilty.

**VIOLATION OF PLEA AGREEMENT**

18. The Defendant agrees that if the Defendant violates any provision of this agreement, the United States may declare this agreement null and void, and the Defendant will thereafter be subject to prosecution for any criminal violation, including but not limited to any crime(s) or offense(s) contained in or related to the charges in this case, as well as perjury, false statement, obstruction of justice, and any other crime committed by the Defendant during this prosecution.

**SPECIAL ASSESSMENT**

19. At the time of sentencing, the Defendant will tender to the United States District Court, District of New Mexico, 333 Lomas Blvd. NW, Suite 270, Albuquerque, New Mexico

87102, a money order or certified check payable to the order of the **United States District Court** in the amount of \$10 in payment of the special penalty assessment described above.

**ENTIRETY OF AGREEMENT**

20. This document and any addenda are a complete statement of the agreement in this case and may not be altered unless done so in writing and signed by all parties. This agreement is effective upon signature by the Defendant and an Assistant United States Attorney.

AGREED TO AND SIGNED this 24<sup>th</sup> day of May, 2018.

JOHN C. ANDERSON  
United States Attorney

  
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JOHN A. BALTA

Assistant United States Attorney  
200 N. Church St.  
Las Cruces, NM 88001  
(575) 522-2304

I have carefully discussed every part of this agreement with my client. Further, I have fully advised my client of my client's rights, of possible defenses, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of the relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. In addition, I have explained to my client the elements to each offense to which she/he is pleading guilty. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.

  
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DAVID DOTSON  
Attorney for the Defendant



I have carefully discussed every part of this agreement with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. My attorney has advised me of my rights, of possible defenses, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of the relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement.

  
CRAIG THIESSEN  
Defendant