

KAREN L. LOEFFLER
United States Attorney

ANDREA T. STEWARD
Assistant U.S. Attorney
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9, Room 253
Anchorage, Alaska 99513-7567
Tel: (907) 271-5071
Fax: (907) 271-1500
E-mail: Aunnie.Steward@usdoj.gov
AK # 0112091

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	Case No.
)	
Plaintiff,)	
)	PLEA AGREEMENT
vs.)	
)	
ARNE FUGLVOG,)	
)	
Defendant.)	
_____)	

Unless the parties jointly inform the Court in writing of any additional agreements, this document in its entirety contains the terms of the plea agreement between the defendant and the United States. This agreement is limited to the District of Alaska; it does not bind other federal, state, or local prosecuting authorities.

I. TERMS OF AGREEMENT, FEDERAL RULE OF CRIMINAL PROCEDURE 11, WAIVER OF CLAIM FOR ATTORNEY'S FEES AND COSTS

A. Terms of Agreement

The defendant agrees to plead guilty to Count 1 of the Information in this case. The United States agrees not to prosecute the defendant further for any other offense related to the subject of investigations that resulted in the charge contained in the information. The parties agree to jointly recommend a sentence of ten months incarceration, a fine of \$50,000 and a community service payment in the amount of \$100,000, the details of which are set forth in Section III. The defendant will waive all rights to appeal the conviction and sentence imposed under this agreement, and will waive all rights to collaterally attack the conviction and sentence, except on the grounds of ineffective assistance of counsel or the voluntariness of the plea.

B. Federal Rule of Criminal Procedure 11

Unless the parties otherwise inform the Court in writing, Federal Rule of Criminal Procedure 11(c)(1)(C) will control this plea agreement. Under the terms of this Agreement, the parties may only withdraw from this Agreement if the Court deviates from the sentencing recommendations made by the parties as outlined in this Agreement in Section III.

C. Waiver of Claim for Attorney Fees and Costs

Because this is a negotiated resolution of the case, the parties waive any claim for the award of attorney fees and costs from the other party.

II. CHARGES, ELEMENTS, FACTUAL BASIS, STATUTORY PENALTIES AND OTHER MATTERS AFFECTING SENTENCE, FORFEITURE

A. Charges

The defendant agrees to plead guilty to a violation of the Lacey Act, 16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(B) for falsely reporting in which Individual Fishing Quota statistical area he caught sablefish.

B. Elements

The elements of the charge to which the defendant is pleading guilty are as follows:

- 1) First, the defendant knowingly submitted a false record concerning the identification of fish; and
- 2) Second, the fish were intended to be transported in interstate commerce.

C. Factual Basis

The defendant admits the truth of the allegations in Count 1 of the information and the truth of the following statement, and the parties stipulate that

the Court may rely upon this statement to support the factual basis for the guilty plea and for the imposition of the sentence:

From 2001 to 2006, the defendant, Arne Fuglvog, was the owner and operator of the Fishing Vessel (F/V) Kamilar. Fuglvog had permits to fish in the Gulf of Alaska for sablefish and halibut. On several occasions between 2001 and 2006, Fuglvog fished in one regulatory area and then falsely reported that the fish were caught in a different regulatory area.

Specifically, in 2005, Fuglvog had an Individual Fishing Quota (IFQ) permit for sable fish in the statistical area designated as “Western Yakatat.” Fuglvog’s permit allowed him to catch approximately 30,000 pounds of sablefish in the Western Yakatat area in 2005. Fuglvog actually caught approximately 63,000 pounds of sablefish in the Western Yakatat area in 2005. Fuglvog covered up his illegal fishing by submitting false statements when he landed the fish indicating that over 30,000 pounds of sablefish were caught in the statistical area designated as “Central Gulf,” when in fact the fish were caught in the Western Yakatat area. The fish that Fuglvog falsified the landing reports for regarding where they were caught were then transported in interstate commerce.

The approximate value of the fish caught and landed by Fuglvog in 2005, that Fuglvog provided a false location for in the landing report, was approximately \$100,000.

D. Statutory Penalties and Other Matters Affecting Sentence

1. Statutory Penalties

The statutory penalties applicable to the charge to which the defendant is pleading guilty, based on the facts to which the defendant will admit in support of the guilty plea, are as follows:

- a) 12 months imprisonment;
- b) a maximum \$100,000 fine;
- c) a \$25 mandatory special assessment; and
- d) 1 year of supervised release.

2. Other Matters Affecting Sentence

a. Conditions affecting the defendant's sentence

The following conditions may also apply and affect the defendant's sentence: 1) pursuant to Comment 7 of U.S.S.G. § 5E1.2, the Court may impose an additional fine to pay the costs to the government of any imprisonment and supervised release term; 2) pursuant to 18 U.S.C. § 3612(f), unless otherwise ordered, if the Court imposes a fine of more than \$2,500, interest will be charged

on the balance not paid within 15 days after the judgment date; and 3) upon violating any condition of supervised release, a further term of imprisonment equal to the period of the supervised release may be imposed, with no credit for the time already spent on supervised release.

b. Payment of Special Assessment

The defendant agrees to pay the entire special assessment in this case on the day the Court imposes the sentence. All payments will be by check or money order, and are to be delivered to the Clerk of Court, United States District Court, 222 W. 7th Ave. Box 4, Rm. 229, Anchorage, AK 99513-7564.

**III. ADVISORY UNITED STATES SENTENCING GUIDELINES;
GUIDELINE APPLICATION AGREEMENTS; SENTENCING
RECOMMENDATIONS**

A. Advisory United States Sentencing Guidelines

The Court must consult the advisory United States Sentencing Commission Guidelines [U.S.S.G.] as well as the factors set forth in 18 U.S.C. § 3553(a) when considering the sentence to impose. The U.S.S.G. do not establish the statutory maximum or minimum sentence applicable to the offenses to which the defendant

is pleading guilty. The U.S.S.G. are not mandatory and the Court is not bound to impose a sentence recommended by the U.S.S.G.

B. Guideline Application Agreements

The parties have no agreements on any guideline applications unless set forth below in this section.

1. Acceptance of responsibility

Subject to the defendant satisfying the criteria set out in U.S.S.G. § 3E1.1 and the applicable application notes, the United States agrees to recommend the defendant for a two level downward adjustment for acceptance of responsibility and, if U.S.S.G. § 3E1.1(b) applies, to move for the additional one level adjustment for acceptance of responsibility. If, at any time prior to imposition of the sentence, the defendant fails to fully satisfy the criteria set out in U.S.S.G. § 3E1.1, or acts in a manner inconsistent with acceptance of responsibility, the United States will not make or, if already made, will withdraw this recommendation and motion.

C. Sentencing Recommendations

The defendant may request that the Court dispense with a pre-sentence report. The parties agree to recommend the following sentence. A term of imprisonment of ten months. A fine of \$50,000. A community service payment

of \$100,000 to the National Fish and Wildlife Foundation for the purpose of enhancing fisheries habitat in the coastal areas of the Gulf of Alaska. A special assessment of \$25, and one year of supervised release. The parties further agree that as a term of supervised release, the defendant will make an announcement, approved by the undersigned, in the National Fisherman Magazine acknowledging his wrongdoing.

IV. WAIVER OF TRIAL, APPELLATE RIGHTS, AND COLLATERAL ATTACK RIGHTS

A. Trial Rights

Being aware of the following, the defendant waives these trial rights:

- If pleading to an information, the right to have the charges presented to the grand jury prior to entering the guilty plea;
- The right to a speedy and public trial by jury on the factual issues establishing guilt or any fact affecting the mandatory

minimum and statutory penalties, and any issue affecting any interest in any assets subject to forfeiture;

- The right to object to the composition of the grand or trial jury;
- The right to plead not guilty or to persist in that plea if it has already been made;
- The right to be presumed innocent and not to suffer any criminal penalty unless and until the defendant's guilt is established beyond a reasonable doubt;
- The right to be represented by counsel at trial and if necessary to have a counsel appointed at public expense to represent the defendant at trial -- the defendant is not waiving the right to have counsel continue to represent the defendant during the sentencing phase of this case;
- The right to confront and cross examine witnesses against the defendant, and the right to subpoena witnesses to appear in the defendant's behalf;

- The right to remain silent at trial, with such silence not to be used against the defendant, and the right to testify in the defendant's own behalf;
- The right to contest the validity of any searches conducted on the defendant's property or person.

B. Appellate Rights

The defendant waives the right to appeal the conviction resulting from the entry of guilty plea to the charges set forth in this agreement. The defendant further agrees that if the Court imposes a sentence that does not exceed the statutory maximum penalties – as set forth in section II D above in this agreement, the defendant waives without exception the right to appeal on all grounds contained in 18 U.S.C. § 3742 the sentence the Court imposes– including forfeiture (if applicable) or terms or conditions of probation (if applicable) or supervised release, and any fines or restitution.

C. Collateral Attack Rights

The defendant agrees to waive all rights to collaterally attack the resulting conviction and/or sentence – including forfeiture (if applicable) or terms or conditions of probation (if applicable) or supervised release, and any fines or restitution – the Court imposes. The only exceptions to this collateral attack

waiver are as follows: 1) any challenge to the conviction or sentence alleging ineffective assistance of counsel -- based on information not now known to the defendant and which, in the exercise of reasonable diligence, could not be known by the defendant at the time the Court imposes sentence; and 2) a challenge to the voluntariness of the defendant's guilty plea.

V. ADDITIONAL AGREEMENTS BY UNITED STATES

In exchange for the defendant's guilty plea and the Court's acceptance of the defendant's plea and the terms of this agreement, the United States agrees that it will not prosecute the defendant further for any other offense -- now known -- arising out of the subject of the investigation related to the charges brought in the indictment in this case and the defendant's admissions set forth in Section II C. Provided, however, if the defendant's guilty plea is rejected, withdrawn, vacated, reversed, or set aside, or if the defendant's sentence is vacated, reversed, set aside, or modified, at any time, in any proceeding, for any reason, the United States will be free to prosecute the defendant on all charges arising out of the investigation of this case including any charges dismissed pursuant to the terms of this agreement, which charges will be automatically reinstated as well as for perjury and false statements.

VI. ADEQUACY OF THE AGREEMENT

Pursuant to Local Criminal Rule 11.2 (d)(7) and (8), this plea agreement is appropriate in that it conforms with the sentencing goals that would otherwise be applicable to the defendant's case if the defendant had gone to trial and had been convicted on all counts in the charging instrument.

VII. THE DEFENDANT'S ACCEPTANCE OF THE TERMS OF THIS PLEA AGREEMENT

I, Arne Fuglvog, the defendant, affirm this document contains all of the agreements made between me – with the assistance of my attorney – and the United States regarding my plea. There are no other promises, assurances, or agreements the United States has made or entered into with me that have affected my decision to enter any plea of guilty or to enter into this agreement. If there are any additional promises, assurances, or agreements, I and the United States will jointly inform the Court in writing before I enter my guilty plea.

I understand that no one, including my attorney, can guarantee the outcome of my case or what sentence the Court may impose if I plead guilty. If anyone, including my attorney, has done or said anything other than what is contained in this agreement, I will inform the Court when I stand before it to enter my plea. If there were, I would so inform the Court.

I enter into this agreement understanding and agreeing that the conditions set forth herein are obligatory and material to this agreement and that any failure on my part to fulfill these obligations will constitute a material breach of this agreement. If I breach this agreement, I agree the United States, in its sole discretion, may withdraw from this agreement and may reinstate prosecution against me on any charges arising out of the investigation in this matter. If my compliance with the terms of this plea agreement becomes an issue, at an appropriate hearing, during which I agree any of my disclosures will be admissible, the Court will determine whether or not I have violated the terms of this agreement. I understand the government's burden to prove a breach will be by a preponderance of the evidence.

I understand the Court will ask me under an oath to answer questions about the offense to which I am pleading guilty and my understanding of this plea agreement. I understand that I may be prosecuted if I make false statements or give false answers and may suffer other consequences set forth in this agreement.

I have read this plea agreement carefully and understand it thoroughly. I know of no reason why the Court should find me incompetent to enter into this agreement or to enter my plea. I enter into this agreement knowingly and voluntarily. I understand that anything that I discuss with my attorney is

privileged and confidential, and cannot be revealed without my permission.

Knowing this, I agree that this document will be filed with the Court.

I am fully satisfied with the representation given me by my attorney and am prepared to repeat this statement at the time I stand before the Court and enter my guilty plea. My attorney and I have discussed all possible defenses to the charges to which I am pleading guilty. My attorney has investigated my case and followed up on any information and issues I have raised to my satisfaction. My attorney has taken the time to fully explain the legal and factual issues involved in my case to my satisfaction. We have discussed the statutes applicable to my offense and sentence as well as the possible effect the U.S.S.G. may have on my sentence.

Based on my complete understanding of this plea agreement, I therefore wish to enter a plea of guilty to Count 1 of the information.

DATED: April 8, 2011

Arne Fugl Vog
ARNE FUGLVOG
Defendant

As counsel for the defendant, I have discussed with the terms of this plea agreement with the defendant, have fully explained the charge to which the defendant is pleading guilty and the necessary elements, all possible defenses, and the consequences of a guilty plea to a felony. Based on these discussions, I have no reason to doubt that the defendant is knowingly and voluntarily entering into this agreement and entering a plea of guilty. I know of no reason to question the defendant's competency to make these decisions. If, prior to the imposition of sentence, I become aware of any reason to question the defendant's competency to enter into this plea agreement or to enter a plea of guilty, I will immediately inform the court.

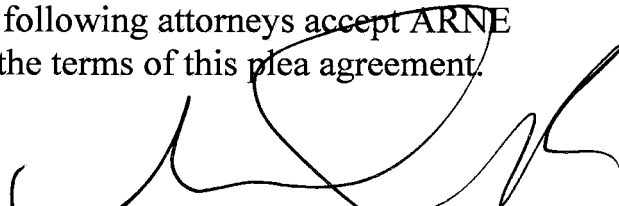
DATED: 4.20.11



JEFF FELDMAN
Attorney for Arne Fuglvog

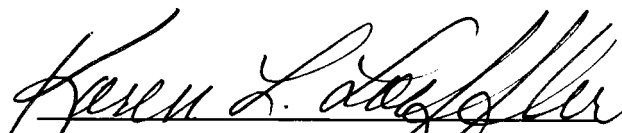
On behalf of the United States, the following attorneys accept ARNE FUGLVOG's offer to plead guilty under the terms of this plea agreement.

DATED: 6/7/11



ANDREA T. STEWARD
Assistant U.S. Attorney

DATED: 8/1/11



KAREN L. LOEFFLER
United States Attorney