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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,)	No. CR-10-1703-TUC-CKJ-DTF
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
JANAY M. BRUN,)	
)	
Defendant.)	

On January 24, 2011, Magistrate Judge D. Thomas Ferraro issued a Report and Recommendation [Doc. 39] in which he granted in part and denied in part Defendant’s Motion to Dismiss [Doc. 26] the Information, finding that “the Court should dismiss Count 1 without prejudice for failing to allege an overt act.” R & R [Doc. 39] at 4. Additionally, Magistrate Judge Ferraro recommends “a finding that, at the relevant time in February 2009, there was a valid permit in effect between the [Arizona Game and Fish Department] and the [United States Fish and Wildlife Service], the terms of which are set forth in Exhibit C to Defendant’s Motion to Dismiss (Doc. 26).” *Id.* No objections have been filed within the time provided by 28 U.S.C. § 636(b)(1). Further, pursuant to Rule 59, Federal Rules of Criminal Procedure, failure to file an objection waives a party’s right to review.

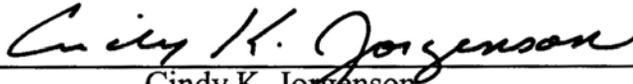
Accordingly, after an independent review, IT IS ORDERED that the Report and Recommendation [Doc. 51] is ADOPTED in part.

IT IS FURTHER ORDERED pursuant to stipulation of counsel and the Report and Recommendation [Doc. 51] that at the relevant time in February 2009, there was a valid permit in effect between the Arizona Game and Fish Department and the United States Fish

1 and Wildlife Service, the terms of which are set forth in Exhibit D to Defendant's Motion to
2 Dismiss [Doc. 26]. The issue of whether or not the permit applies to the Defendant is a
3 question of fact for the jury.

4 Further, the Court notes that the recommendation for the dismissal of Count 1 is moot
5 given the filing by the Government of the Amended Information [Doc. 40] on February 4,
6 2011.

7 DATED this 28th day of February, 2011.

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9 _____
10 Cindy K. Jorgenson
11 United States District Judge
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