

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**CARLOS RAFAEL,
VILA NOVA DO CORVO II, INC.,
STEPHANIE RAFAEL DEMELLO, and
CARLOS PEREIRA,**

Defendants.

COMPLAINT

COMPLAINT

Plaintiff, the United States of America, acting at the request of the United States Coast Guard, files this Complaint and alleges the following:

NATURE OF THE ACTION

1. This is a civil action brought by the United States against Carlos Rafael, Vila Nova do Corvo II, Inc., Stephanie Rafael DeMello, and Carlos Pereira (collectively “Defendants”), seeking civil penalties for multiple violations of Section 311 of the Clean Water Act (“CWA” or the “Act”), 33 U.S.C. § 1321. The Complaint addresses Defendants’ willful discharges of oil, including used oil-soaked engine fuel filters and oily bilge waste, from the commercial fishing vessel *Vila Nova do Corvo II* into the ocean offshore of southeastern New England, and Defendants’ related violations of the Coast Guard’s pollution control regulations.

JURISDICTION, AUTHORITY, AND VENUE

2. This Court has jurisdiction over this matter pursuant to Section 311(b)(7)(E), (e), and (n) of the CWA, 33 U.S.C. § 1321(b)(7)(E), (e), (n), and 28 U.S.C. §§ 1331, 1345, and 1355.

3. Authority to bring this action is vested in the United States Department of Justice by, *inter alia*, 28 U.S.C. §§ 516 and 519.

4. Venue is proper in this District pursuant to Section 311(b)(7)(E), (e), and (n) of the CWA, 33 U.S.C. § 1321(b)(7)(E), (e), (n), and 28 U.S.C. §§ 1391 and 1395(a), because the claims arose in this District and Defendants reside and do business in this District.

DEFENDANTS

5. Defendant Vila Nova do Corvo II, Inc. is a Massachusetts corporation based in New Bedford, Massachusetts. The company owns the U.S.-flagged *Vila Nova do Corvo II* (Official Number: 618384). The *Vila Nova do Corvo II* is a commercial fishing vessel homeported in New Bedford. The vessel measures approximately 94 feet long and is approximately 163 gross tons. The vessel is used to catch sea scallops.

6. Defendant Carlos Rafael is the President, Treasurer, and Director of Vila Nova do Corvo II, Inc. At times relevant to the Complaint, he controlled and managed the operations of the corporation and the *Vila Nova do Corvo II*. He also was an operator and person in charge of the vessel at the time of the CWA violations alleged in this Complaint. His principal residential address is in North Dartmouth, Massachusetts. He currently is incarcerated at a federal prison in Massachusetts.

7. Defendant Stephanie Rafael DeMello is and has been the manager of Vila Nova do Corvo II, Inc. during at least the time Carlos Rafael has been incarcerated, including before, during, and after the *Vila Nova do Corvo II's* February 2018 fishing voyage. She is an operator and person in charge of the vessel for the CWA violations alleged in this Complaint. She resides in North Dartmouth, Massachusetts.

8. Defendant Carlos Pereira has acted as the captain of the *Vila Nova do Corvo II* and as an operator and person in charge of the vessel for the CWA violations alleged in this Complaint, including before, during, and after the fishing voyage that departed New Bedford on February 9, 2018, and returned to New Bedford on February 15, 2018. He resides in Dartmouth, Massachusetts.

FACTS

9. Vila Nova do Corvo II, Inc. has owned the vessel since 2006.

10. Defendants Carlos Rafael, Stephanie Raphael DeMello, and Carlos Pereira were the operators and persons in charge of the *Vila Nova do Corvo II* at times relevant to this Complaint. They managed the operations of the vessel, including handling and disposal of wastes, purchasing equipment for the vessel, managing the crew, scheduling fishing voyages, and coordinating the sale of the catch.

11. Defendants knew that the *Vila Nova do Corvo II* lacked the equipment and capacity to retain on board all of the oily mixtures, as described below, generated while underway, that the vessel regularly discharged used fuel oil filters and oily mixtures overboard into the ocean during voyages, and that discharging oil overboard is unlawful.

12. The *Vila Nova do Corvo II* does not have an oil-water separating system on board, and lacks the capacity to store the quantity of oily mixtures generated on its typical fishing voyages.

13. Defendants nonetheless continued to operate the *Vila Nova do Corvo II* without adequate capacity to retain all of its waste oil and oily mixtures on board and continued to discharge oily mixtures overboard.

14. Fuel oil and lube oil routinely leaked from machinery into the *Vila Nova do Corvo II*'s engine room bilge.

15. Water and other waste fluids that entered the engine room bilge commingled with the fuel oil and lube oil to form an oily mixture of bilge waste.

16. Rather than properly treat or store the engine room's oily bilge waste onboard the *Vila Nova do Corvo II*, Defendants routinely, on a near-daily basis, caused oily mixtures to be pumped out of the engine room bilge into waters of the United States offshore of southeastern New England during fishing voyages.

17. Defendants used an electric water pump onboard the *Vila Nova do Corvo II* to illegally discharge oily waste from the engine room bilge overboard multiple times during each fishing voyage.

18. Subject to reasonable opportunity for further investigation or discovery, this has been Defendants' typical oily waste disposal practice for the vessel for an extended period of time, including before, during, and after the fishing voyage that occurred in February 2018.

19. Defendants failed to take action to prevent or correct the violations alleged in this Complaint.

20. In February 2018, the Coast Guard boarded the vessel and discovered a piping configuration connecting the pump in the engine room bilge to piping that runs overboard for direct discharges of oily mixtures into the ocean.

21. In addition to discharging oily mixtures from the engine room bilge, Defendants routinely dumped used, oil-soaked engine fuel filters from the *Vila Nova do Corvo II* into the ocean during fishing voyages.

22. Defendants' routine discharges of oily bilge waste and dumping of oil-soaked engine fuel filters enabled Defendants to avoid the cost of proper waste management and disposal and the *Vila Nova do Corvo II* to stay at sea longer to increase its fish catch.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Civil Penalties for Violations of CWA Section 311(b)(3), 33 U.S.C. § 1321(b)(3) – Discharges of Oil

23. The preceding paragraphs are incorporated herein.

24. Enforcement of Section 311 of the CWA supports the national objective to prevent and deter oil spills and “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. §§ 1251(a), 1321(b)(1).

25. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil “into or upon,” *inter alia*, “the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone . . . or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson-Stevens Fishery Conservation and Management Act) in such quantities as may be harmful”

26. Congress directed the President to determine by regulation “those quantities of oil and any hazardous substance the discharge of which may be harmful to public health or welfare or the environment of the United States.” 33 U.S.C. § 1321(b)(4). The President delegated authority to the Administrator of the Environmental Protection Agency under CWA § 311(b)(3) and (b)(4) for determining quantities of oil the discharge of which may be harmful. Exec. Order No. 12777, Section 8(a), 56 Fed. Reg. 54757, 54768 (1991). The EPA determined that discharges of oil that “violate applicable water quality standards, or cause a film or sheen upon

or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines” are, for purposes of Section 311(b)(4) of the CWA, discharges of oil in such quantities that may be harmful to the public health or welfare or the environment of the United States. 40 C.F.R. § 110.3.

27. Pursuant to Section 311(b)(7)(A) of the CWA, “[a]ny person who is the owner, operator, or person in charge of any vessel . . . from which oil . . . is discharged in violation of paragraph (3), shall be subject to a civil penalty” 33 U.S.C. § 1321(b)(7)(A).

28. Civil penalties will be increased pursuant to Section 311(b)(7)(D) of the CWA if the violation results from “gross negligence or willful misconduct.” 33 U.S.C. § 1321(b)(7)(D).

29. Defendants are each a “person” within the meaning of Section 311(a)(7) of the CWA. 33 U.S.C. § 1321(a)(7).

30. Defendants are the owner, operators, or persons in charge of the vessel from which oil was discharged within the meaning of Section 311(a)(6) of the CWA. 33 U.S.C. § 1321(a)(6).

31. The *Vila Nova do Corvo II* is a “vessel” within the meaning of Section 311(a)(3) of the CWA. 33 U.S.C. § 1321(a)(3).

32. Each time the *Vila Nova do Corvo II* dumped used engine fuel filters and pumped oily mixtures overboard during fishing voyages before, during, and after the voyage that occurred in February 2018 constitutes a “discharge” of oil within the meaning of Section 311(a)(2). 33 U.S.C. § 1321(a)(2). Under Section 311(a)(2) of the CWA, “discharge” is defined to include “any spilling, leaking, pumping, pouring, emitting, emptying or dumping . . . ,” subject to certain specified exceptions not applicable here. 33 U.S.C. § 1321(a)(2).

33. The discharges were of “oil” within the meaning of Section 311(a)(1) of the CWA. 33 U.S.C. § 1321(a)(1).

34. Defendants discharged oil from the *Vila Nova do Corvo II* into or upon navigable waters of the United States, adjoining shorelines, the contiguous zone, and into the ocean offshore of southeastern New England within the exclusive economic zone (“EEZ”). In particular, Defendants operated the vessel within and discharged oil into the contiguous zone during the February 2018 fishing voyage.

35. Defendants discharged oil from the *Vila Nova do Corvo II* while fishing in and traveling through the habitat of numerous types of natural resources within the contiguous zone and the EEZ. The oil discharges may have affected natural resources, including water, fish, marine mammals, sharks, birds, and biota, belonging to, appertaining to, or under the United States’ exclusive management authority.

36. Discharging oil into and upon waters that these species inhabit is known to cause them harm.

37. The oil discharges were in a quantity “as may be harmful” within the meaning of Section 311(b)(3) and (4) of the CWA, 33 U.S.C. § 1321(b)(3)-(4), and 40 C.F.R. § 110.3.

38. The oil discharges violated Section 311(b)(3) of the CWA. 33 U.S.C. § 1321(b)(3).

39. The oil discharges resulted from Defendants’ willful misconduct or gross negligence. Defendants knew discharging used engine fuel filters and oily mixtures overboard is unlawful and knew the vessel’s oily waste generation rate exceeded its capacity to retain the waste onboard during planned fishing voyages. Instead of legally managing the waste stream and operating within the limits of the vessel, Defendants willfully discharged oil while at sea.

Discharging oil overboard while fishing enabled the *Vila Nova do Corvo II* to stay at sea longer to increase its catch, thereby increasing profits, and it allowed Defendants to avoid the costs of proper waste management and disposal.

40. Defendants are each liable for civil penalties of up to \$47,357 per day of violation or \$1,895 per barrel discharged under CWA Section 311(b)(7)(A), or under Section 311(b)(7)(D) if it is proved that the violations are the result of gross negligence or willful misconduct, a minimum of \$189,427 and up to \$5,683 per barrel discharged. *See* 33 C.F.R. § 27.3 (listing inflation-adjusted penalty rates for violations occurring after November 2, 2015).

SECOND CAUSE OF ACTION

Civil Penalties for Regulatory Violations under CWA Section 311(b)(7)(C), 33 U.S.C. § 1321(b)(7)(C) – Failure to Have Capacity to Retain Oily Mixtures Onboard

41. The preceding paragraphs are incorporated herein.

42. Any person who fails or refuses to comply with any regulation issued under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), shall be subject to a civil penalty of up to \$47,357 per day for each violation pursuant to Section 311(b)(7)(C), 33 U.S.C. § 1321(b)(7)(C); *see also* 33 C.F.R. § 27.3 (listing inflation-adjusted penalty rates for violations occurring after November 2, 2015).

43. The Coast Guard has promulgated pollution control regulations under the authority of Section 311(j) of the CWA, including 33 C.F.R. § 155.350. Pursuant to 33 C.F.R. § 155.350, no person may operate an oceangoing vessel less than 400 gross tons unless the vessel: (1) “[h]as the capacity to retain on board all oily mixtures and is equipped to discharge these oily mixtures to a reception facility;” or (2) “[h]as approved oily-water separating equipment”

44. The *Vila Nova do Corvo II* is less than 400 gross tons.

45. The *Vila Nova do Corvo II* does not have an oil-water separating system on board.

46. Defendants operated the *Vila Nova do Corvo II* before, during, and after the February 2018 voyage without the capacity to retain on board the oily mixtures generated by the vessel. Instead of retaining the oily waste on board, Defendants illegally discharged the waste overboard.

47. Defendants are each liable for civil penalties of up to \$47,357 per day for each violation under Section 311(b)(7)(C) of the CWA.

THIRD CAUSE OF ACTION

Civil Penalties for Regulatory Violations under CWA Section 311(b)(7)(C), 33 U.S.C. § 1321(b)(7)(C) – Failure to Have a Fixed Piping System to Discharge Oily Mixtures

48. The preceding paragraphs are incorporated herein.

49. Any person who fails or refuses to comply with any regulation issued under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), shall be subject to a civil penalty of up to \$47,357 per day for each violation pursuant to Section 311(b)(7)(C), 33 U.S.C. § 1321(b)(7)(C); *see also* 33 C.F.R. § 27.3 (listing inflation-adjusted penalty rates for violations occurring after November 2, 2015).

50. The Coast Guard has promulgated pollution control regulations under the authority of Section 311(j) of the CWA, including 33 C.F.R. § 155.420. Pursuant to 33 C.F.R. § 155.420, no person may operate an oceangoing vessel that is fitted with main or auxiliary machinery spaces and is 100 tons and above but less than 400 tons unless, *inter alia*, “[t]he ship has at least one pump installed to discharge oily mixtures through a fixed piping system to a reception facility” or the ship is equipped with oil-water separating equipment.

51. The *Vila Nova do Corvo II*’s engine room is a main machinery space.

52. The *Vila Nova do Corvo II* is 163 gross tons.

53. The *Vila Nova do Corvo II* does not have an oil-water separating system on board.

54. Defendants operated the *Vila Nova do Corvo II* before, during, and after the February 2018 voyage without a pump and fixed piping system to discharge oily mixtures to a reception facility. Instead of using a dedicated piping system for oily mixtures, the engine room bilge piping connects to the fresh water washdown piping and thereby can contaminate the fresh water flow with oily waste.

55. Defendants are each liable for civil penalties of up to \$47,357 per day for each violation under Section 311(b)(7)(C) of the CWA.

REQUEST FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court:

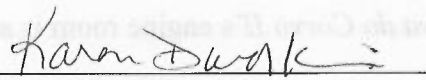
A. Assess civil penalties against each Defendant for the oil discharge violations of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), in the amount of up to \$47,357 per day of violation under CWA Section 311(b)(7)(A) or, if it is proved that the violations are the result of gross negligence or willful misconduct, in the amount of at least \$189,427 per discharge and up to \$5,683 per barrel discharged under Section 311(b)(7)(D);

B. Assess civil penalties against each Defendant of up to \$47,357 per day for each violation of the Coast Guard's pollution control regulations promulgated pursuant to CWA Section 311(j), as authorized under Section 311(b)(7)(C); and


C. Award such other and further relief as the Court may deem just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:


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Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice


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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Jason Barbeau, U.S. Dept. of Justice, ENRD-EES,
Box 7611, Washington, DC 20044-7611, 202-616-8908

DEFENDANTS

Carlos Rafael; Vila Nova do Corvo II, Inc.; Stephanie Rafael DeMello; Carlos Pereira

County of Residence of First Listed Defendant **Bristol**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
33 U.S.C. 1321

Brief description of cause:

Clean Water Act enforcement action addressing oil discharges and violations of pollution prevention regulations

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) United States of America v. Carlos Rafael et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).



I. 160, 400, 410, 441, 535, 830*, 835*, 850, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.



II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.



III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

None.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Jason Barbeau, Senior Trial Attorney, U.S. Dept. of Justice, ENRD-EESADDRESS Box 7611 Ben Franklin Station, Washington, DC 20044-7611TELEPHONE NO. 202-616-8908