

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Mag. No. 22-
	:	
MICHAEL BROWN	:	33 U.S.C. §§ 1319(c)(1) and 1321(b)(3)
	:	

I N F O R M A T I O N

The United States Attorney for the District of New Jersey charges:

At all times relevant to this Information, unless otherwise indicated:

The Clean Water Act

1. The Federal Water Pollution Control Act, commonly known as the “Clean Water Act,” was amended by the Oil Pollution Act of 1990, 33 U.S.C. § 1321(b)(1) (“OPA”), which established and implemented a policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States.

2. The Clean Water Act, as amended by OPA, made it a crime for a person to negligently discharge oil into or upon the navigable waters of the United States in such quantities as may be harmful. 33 U.S.C. §§ 1319(c)(1), 1321(b)(3).

3. The Clean Water Act defined “discharge” to include “any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.” 33 U.S.C. § 1321(a)(2). The Clean Water Act defined “oil” as “oil of any kind or in any form, including, but not limited to, petroleum, fuel oil.” 33 U.S.C. § 1321(a)(1).

4. Regulations promulgated under the Clean Water Act defined a “harmful” quantity of oil as that which causes “a film or sheen upon or discoloration of the surface of the water” 40 C.F.R. § 110.3. A “sheen” “means an iridescent appearance on the surface of the water.” 40 C.F.R. § 110.1

5. The Clean Water Act defined “navigable waters” as the waters of the United States and the territorial seas, that latter of which was defined as water extending three miles seaward of the ordinary low tide mark. 33 U.S.C. §§ 1362(7), 1362(8). Clean Water Act regulations further defined “navigable waters” to include internal waters, which are “the waters shoreward of the territorial sea baseline.” 33 C.F.R. §§ 2.24, 2.36.

The Defendant

6. Defendant MICHAEL BROWN (hereinafter, “defendant BROWN”) was a Chief Engineer of a towing vessel. Among his duties as Chief Engineer, defendant BROWN was in charge of fuel oil transfer operations.

The Discharge

7. On or about September 12, 2016, defendant BROWN was conducting a transfer of marine diesel fuel oil from the International Matex Tank Terminal’s Mobil Pier in Bayonne, New Jersey, to the towing vessel. During that transfer, hundreds of gallons of diesel fuel oil spilled into the Kill Van Kull, a tidal straight that connects Newark Bay with Upper New York Bay.

8. On or about September 13, 2016, in response to questions by U.S. Coast Guard officials regarding the origin of the spill, defendant BROWN falsely stated, in sum and substance, that the diesel fuel oil had not come from the towing vessel.

9. On or about September 12, 2016, in Hudson County, in the District of New Jersey, and elsewhere, the defendant,

MICHAEL BROWN,

did negligently discharge oil, namely marine diesel fuel oil, into a water of the United States, namely, the Kill Van Kull.

In violation of 33 U.S.C. §§ 1319(c)(1) and 1321(b)(3).



PHILIP R. SELLINGER
UNITED STATES ATTORNEY