

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA** \* **CRIMINAL DOCKET NO:**

**v.** \* **SECTION:**

**VERENO BARCENA BORILLO** \*

\* \* \*

**JOINT FACTUAL BASIS**

The United States Attorney's Office for the Eastern District of Louisiana and the defendant Vereno Barcena Borillo, hereby agree that this Joint Factual Statement is a true and accurate statement of the Defendant's criminal conduct, that it provides a sufficient basis for the Defendant's plea of guilty to the charges contained in the Bill of Information in the above-captioned matter and as set forth in the plea agreement signed this same day, and had this matter proceeded to trial, the following facts would be established beyond a reasonable doubt through competent evidence and testimony.

From August 23, 2011 to January 4, 2012, the defendant Vereno Barcena Borillo, a Philippine citizen, was employed as the Chief Engineer of the *M/V J.D. Jacques Graubart*, a ship operated by CSL Maritime S.A.-Tokyo Branch (CSL). CSL was a Japanese based company that operated a fleet of ocean-going vessels that transported cargo and goods. Borillo's contract of employment was with CSL.

As Chief Engineer, Borillo was in charge of the Engineering Department (“Engineering”) and reported to the Master. Engineering comprises the ship’s machinery spaces, engines, propulsion system, and pollution prevention equipment such as the Oil Water Separator. Engineering is in charge of ensuring that bilges are maintained at safe levels, which requires periodically pumping out bilge tanks and wells.

The operation of large marine vessels or bulk cargo ships like the *M/V J.D. Jacques Graubart* generated large quantities of oily waste water. The oily waste was generated by oil leaks and drips from the engine’s lubrication and fuel systems, spills or leaks from piping and tanks. This oily waste, combined with water, detergents, solvents, and other wastes, accumulated in the bilges of the vessel to form “oily waste water.” This bilge waste was also held in bilge waste tanks. When looking into a bilge waste tank, a person would notice oil floating on top of the water. However, the vessel’s motion and other factors lead to the underlying water being contaminated with petroleum. Bilge waste generally exceeds 15 ppm of oil. The oily waste water was supposed to be run through an Oil Water Separator (OWS), a piece of equipment in the engine room which was used to separate the oil from the oily waste water. After the oil was removed from the oily waste water by use of the OWS, the water could be properly discharged overboard.

The defendant was aware that bilge waste may only be legally disposed of by discharge to an approved shoreside facility or through the OWS, after being filtered until it has a petroleum component of 15 ppm or less.

The United States is part of an international regime that regulates discharges of oil from vessels as sea: the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 (the MARPOL Protocol). The MARPOL Protocol is embodied in numerous

agreements that the United States has ratified and implemented into law by the Act to Prevent Pollution from Ships (APPS), Title 33, United States Code, Sections 1901, *et seq.* APPS regulations require that vessels of more than 400 gross tons, such as the *M/V J.D. Jacques Graubart*, maintain a document known as the Oil Record Book. Vessel personnel must use the Oil Record Book to fully and accurately record transfers of oil, disposals or sludge and waste oil, and overboard discharges of oil contaminated water that accumulated in machinery spaces.

The United States Coast Guard, an agency of the United States Department of Homeland Security, is charged with enforcing the laws of the United States and is empowered under Title 14, United States Code, Section 89(a) to board vessels and conduct inspections and investigations of potential violations and to determine compliance with MARPOL Protocol, APPS, and implementing regulations. Coast Guard personnel rely on crew member statements and vessel documents when conducting inspections and investigations. They are specifically authorized to examine a vessel's Oil Record Book to determine, among other things, whether the vessel has operable pollution prevention equipment, such as the Oil Water Separator, and whether the vessel discharged any oil or oily mixtures in violation of MARPOL, APPS, or any other application of federal regulations.

Although the OWS was fully operational, the defendant admits that on December 8, 2011 and December 20, 2011, he instructed crew members to pump the bilge tank out. On those dates, he did not take the necessary steps to ensure that the OWS was used. The defendant admits that he instructed the first engineer and an oiler to remove the valve on the bilge line. Oily bilge waste water was then pumped overboard using the bilge ballast pump and passed through the eductor instead of going through the OWS as required by MARPOL.

On January 4, 2012, in the Eastern District of Louisiana, the Coast Guard boarded the *M/V J.D. Jacques Graubart* for a port state control inspection to ascertain compliance with health, safety, and anti-pollution protocols. Borillo presented the inspectors with the Oil Record Book, knowing that it contained false entries and omitted material facts. The Coast Guard investigation revealed deficiencies and discrepancies between the Oil Record Book and the OWS Oil Content Meter. On January 4, 2012, the vessel was detained.

The defendant admits that the Oil Record Book's entries for December 8, 2011, and December 20, 2011, were false in that the OWS was not used to process the bilge waste. He admits that he never instructed the crew members on how to use the OWS. As a consequence, the defendant admits that he made false entries in the Oil Record Book regarding use of the Oil Water Separator knowing that these entries were material to the Coast Guard's inspection of the vessel. He further admits that he did not maintain an accurate Oil Record Book as required by MARPOL for the *M/V J.D. Jacques Graubart*.

**READ AND APPROVED:**

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Vereno Barcena Borillo (Date)

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Dorothy Manning Taylor (Date)

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Edward Castaing (Date)  
Attorney for Defendant