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16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**
18 **SOUTHERN DIVISION**

19 PETER MOSES GUTIERREZ, JR.,
20 *et al.*,

21 Plaintiffs,

22 vs.

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24
25 AMPLIFY ENERGY CORP., *et al.*,

26 Defendants.
27
28

Case No. 8:21-CV-01628-DOC(JDEx)

**PLAINTIFFS' CONSOLIDATED
CLASS ACTION COMPLAINT**

1. Strict Liability under Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, Gov. Code § 8670, *et seq.*
2. Violations of Oil Pollution Act, 1990, 33 U.S.C. § 2701, *et seq.*
3. Strict Liability for Ultrahazardous Activities (Based on California and Federal Law)
4. Negligence (Based on California Law)

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5. Public Nuisance
6. Negligent Interference with Prospective Economic Advantage
7. Trespass
8. Continuing Private Nuisance
9. Violations of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*

DEMAND FOR JURY TRIAL

TABLE OF CONTENTS

1			
2			<i>Page</i>
3	I	INTRODUCTION.....	1
4	II	NATURE OF THE ACTION.....	1
5	III	PARTIES.....	6
6		A. Plaintiffs.....	6
7		B. Defendants.....	8
8	IV	JURISDICTION AND VENUE.....	10
9	V	FACTS.....	12
10		A. The Rich and Unique Character of the Orange County Coast.....	12
11		B. The Elly Oil-Processing Platform and San Pedro Bay Pipeline.....	13
12		C. Defendants Knew of the Monumental Risks Associated with Their	
13		Ultrahazardous Activities.....	17
14		D. Vessel Congestion in the San Pedro Bay Was a Clear and Present	
15		Danger to the Pipeline.....	18
16		E. The Shipping Defendants Strike the Pipeline, a Risk that Should Have	
17		Been Obvious to Amplify.....	21
18		F. Amplify Failed To Adequately Monitor Its Pipeline.....	25
19		G. The Amplify Defendants’ Responsibilities Under Their Oil Spill	
20		Prevention Response Plan.....	26
21		H. The Amplify Defendants Have a Long History of Safety Violations	29
22		I. The Obvious Warnings of the Unfolding Oil Spill Crisis.....	31
23		J. The Rupture.....	33
24		K. The Catastrophic Consequences of the Amplify Defendants’ Failure to	
25		Detect And Stop Their Spill.....	34
26		1. The Spill’s Impact on Commercial Fishing.....	40
27		2. The Spill’s Impact on Residents.....	44
28			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS (cont.)

	<i>Page</i>
3. The Spill’s Impact on Coastal Businesses.....	48
VI PLAINTIFFS’ FACTS.....	52
A. Commercial Fishing Class Plaintiffs	52
B. Real Property Class Plaintiffs	54
C. Waterfront Tourism Class Plaintiffs.....	55
VII CLASS ACTION ALLEGATIONS	58
VIII CAUSES OF ACTION	63
First Claim for Relief: Strict Liability under Lempert-Keene- Seastrand Oil Spill Prevention and Response Act, Government Code Section 8670, <i>et seq.</i>	63
Second Claim for Relief: Violation of the Oil Pollution Act of 1990, 33 U.S.C. § 2701, <i>et seq.</i>	65
Third Claim for Relief: Strict Liability for Ultrahazardous Activities.....	67
Fourth Claim for Relief: Negligence	69
Fifth Claim for Relief: Public Nuisance	74
Sixth Claim for Relief: Negligent Interference With Prospective Economic Advantage.....	76
Seventh Claim for Relief: Trespass	77
Eighth Claim for Relief: Continuing Private Nuisance	79
Ninth Claim for Relief: Violation of California’s Unfair Competition Law, Cal. Bus. and Prof. Code § 17200, <i>et</i> <i>seq.</i>	80
IX REQUEST FOR RELIEF.....	81
X DEMAND FOR JURY TRIAL.....	82

I INTRODUCTION

1
2 Plaintiffs John and Marysue Pedicini, Rajasekaran and Chandralekha
3 Wickramasekaran, Donald C. Brockman, individually and as Trustee of the Donald
4 C. Brockman Trust, Heidi M. Jacques, LBC Seafood, Inc., Qualify Sea Food Inc.,
5 Beyond Business Incorporated, d/b/a Big Fish Bait & Tackle, Josh Hernandez, John
6 Crowe, Banzai Surf Company, LLC, Davey’s Locker Sportfishing, Inc., East Meets
7 West Excursions, Bongos Sportfishing LLC and Bongos III Sportfishing LLC, and
8 Tyler Wayman (collectively “Plaintiffs”), individually and on behalf of all others
9 similarly situated, allege the following against Amplify Energy Corporation
10 (“AEC”), Beta Operating Company, LLC (“BOC”), and San Pedro Bay Pipeline
11 Company (“SPBPC”) (collectively “the Amplify Defendants” or “Amplify”); and
12 MSC Mediterranean Shipping Company and Dordellas Finance Corp., the owners
13 and operators of the *MSC Danit*; and Costamare Shipping Co. S.A.; and
14 Capetanissa Maritime Corporation of Liberia, the owners and operators of the
15 *Cosco Beijing*, (collectively, the “Shipping Defendants”), based where applicable
16 on personal knowledge, information and belief, and the investigation and research
17 of counsel.

II NATURE OF THE ACTION

18
19 1. On Friday October 1, 2021, at 4:10 p.m., an alarm sounded on the Elly
20 oil processing platform, which is positioned roughly eight and one-half miles off
21 the Orange County, California coastline. The alarm, designed to alert a 24-hour
22 surveillance crew of low-pressure in the 41-year-old, 17.5-mile-long San Pedro Bay
23 crude oil pipeline (“Pipeline”),¹ should have triggered an immediate shut-down of
24 the Pipeline, a step designed to protect against a crude oil spill and mitigate the
25 impact of any rupture. However, rather than following their own Oil Spill
26 Prevention and Response Plan (“OSPRP”), a protocol that would have required the
27 crew to alert authorities to a potential spill, Amplify’s understaffed and fatigued
28

¹ The San Pedro Bay Pipeline is formally known as Pipeline P00547.

1 crew, who had not been adequately trained on the automatic leak detection system,
2 simply ignored the alarm and restarted the Pipeline. The crew then did the same
3 thing seven more times: the automated leak detection alarm sounded again at 5:52
4 p.m., 7:15 p.m., 8:39 p.m., 9:23 p.m., and 10:01 p.m. Each time, Amplify’s crew
5 disregarded the alarms and the steps that they were required to take in response to a
6 potential spill, as forth in their OSPRP, and instead kept restarting the Pipeline.
7 After the sixth alarm sounded at 11:15 p.m., the crew finally began a manual leak
8 detection test. Even then, rather than wait for the result, they *again* restarted the
9 Pipeline, allowing it to pump toxic crude oil into the ocean unabated for three more
10 hours from 11:15 p.m. to 2:27 a.m.

11 2. After an eighth alarm sounded at 5:28 a.m., crew members again
12 restarted pumping oil through the Pipeline. In doing so, the Amplify crew relied on
13 the fact that untrained, non-Amplify personnel on a boat, who were sent out to sea
14 in the middle of the night, could not detect evidence of an oil discharge. It was not
15 until approximately 6:01 a.m., nearly fifteen hours after the first alarm sounded,
16 that the Pipeline was shut down. By that time, the damage had already been done—
17 at least 25,000 gallons of toxic crude oil had been released into the Pacific Ocean at
18 a point roughly four and one-half miles offshore of the pristine beaches of Southern
19 California. By Saturday evening or early Sunday morning of October 3, 2021, toxic
20 crude oil washed ashore in Huntington and Newport Beach.

21 3. AEC, the owner, and BOC and SPBPC, operator of Elly and the
22 Pipeline and AEC’s subsidiaries, failed to alert the United States Coast Guard
23 (“Coast Guard”) of the spill until 9:07 a.m. on Saturday, October 2, 2021. What
24 makes this failure even more glaring is that many in the surrounding area
25 recognized a problem long before the Amplify Defendants did. For example, on
26 Friday, October 1, 2021, residents of the local beach communities began to smell
27 oil. The crew of at least one commercial vessel noticed an oil slick on the water in
28 the San Pedro Bay at 6:13 p.m. and notified the National Response Center (“NRC”)

1 at 8:22 p.m. At 7:00 p.m. on Friday, October 1, 2021, as the commercial vessel
2 made its observations, satellite imagery, identified a three-mile-wide oil “anomaly”
3 in the San Pedro Bay. The National Oceanic and Atmospheric Administration
4 (“NOAA”), upon receipt of this information, notified the Coast Guard of the
5 anomaly at 2:06 a.m. on Saturday, October 2, 2021.

6 4. That “anomaly” became a nightmare for the citizens and wildlife that
7 claim the Orange County coast as their home. By the time the Amplify Defendants
8 managed to shut down their offshore pipeline, the Pipeline had discharged at least
9 25,000 gallons of crude oil, creating an oil spill approximately thirteen square miles
10 in size three miles off the coast of Newport Beach.² This catastrophic spill caused
11 immediate harm to Southern California’s coastal communities: within a day, the
12 toxic oil spread through the ocean waters and made its way to Orange County’s
13 famed shoreline of pristine sand, tide pools teeming with marine life, ecological
14 preserves, secluded coves, picturesque pleasure boat harbors, and legendary surf
15 breaks, contaminating the all with toxic oil. From Seal Beach in the north to Dana
16 Point to the South, ocean currents carried the toxic oil to the shoreline, forcing the
17 closure of beaches, ports, fishing grounds, shellfish and fishing operations. The
18 toxic oil soiled previously lucrative offshore fishing blocks, killing fish, larvae, and
19 damaging critical vegetation necessarily for a healthy fishing ecosystem. The oil
20 then oozed onto shore, invading coastal private properties.

21 5. Fishing and businesses that rely on coastal fishing were devastated as
22 approximately 650 square miles of marine waters and approximately **45 miles** of
23
24

25 ² Southern California Oil Spill Response, Newport Beach Oil Spill Response
26 (Initial Unified Command Release) (Oct. 3, 2021),
27 [https://socalspillresponse.com/newport-beach-oil-spill-response-initial-unified-
28 command-release/](https://socalspillresponse.com/newport-beach-oil-spill-response-initial-unified-command-release/); Laylan Connelly, *Authorities announce cleanup of October’s oil
spill off Orange County complete*, THE ORANGE COUNTY REGISTER (Dec. 28, 2021,
11:11 a.m.), [https://www.ocregister.com/2021/12/28/authorities-announce-cleanup-
of-octobers-oil-spill-off-orange-county-complete/?clearUserState=true](https://www.ocregister.com/2021/12/28/authorities-announce-cleanup-of-octobers-oil-spill-off-orange-county-complete/?clearUserState=true).

1 shoreline were closed to fishing.³ And, as a result of the physical damage that the
2 spill caused to the shoreline, and the related closures required to contain the spill
3 and facilitate its clean-up, a wide variety of businesses that rely on the fishing
4 ecology and beachfront for their survival were hit with a second disaster: They were
5 unable to operate their businesses and/or their customers disappeared. Further,
6 compounding these losses, to facilitate clean-up efforts, the popular Great Pacific
7 Airshow, which was to take place on Sunday October 3, 2021, was canceled,
8 robbing businesses of one of their most profitable days of the year.

9 6. The formerly pristine waters impacted by the spill are home to
10 hundreds of sensitive animal species, including whales, dolphins, and sea turtles, as
11 well as bountiful schools of commercial fish and shellfish that serve as the
12 backbone for the local commercial fishing industry, sports fishing, and whale
13 watching industries. These industries rely on the healthy aquatic life of this delicate
14 offshore ecosystem. Defendants' catastrophic spill upended that delicate
15 equilibrium. Its effects will affect the livelihoods of these formerly vibrant local
16 communities well into the future. While the impact on animal species is difficult to
17 measure, rescue workers recovered many oiled and dead animals, including more
18 than 80 dead birds, and six dead marine mammals.⁴

19 7. The wildlife and the commercial industries that rely on wildlife were
20 not the only victims of this disaster. Property owners and lessees along the coast
21 pay a premium to enjoy the benefits of beachfront living. The thousands of gallons
22 of toxic crude oil that washed onto their beaches fouled their properties, the water
23
24

25 ³ Cal. Dept. of Fish and Wildlife, Declaration of Fisheries Closure (October 7,
26 2021), [https://socialspillresponse-com-jtti.s3.us-west-2.amazonaws.com/wp-](https://socialspillresponse-com-jtti.s3.us-west-2.amazonaws.com/wp-content/uploads/2021/10/07174741/CDFW-Declaration-Amendment_2_10.07.21.pdf)
27 [content/uploads/2021/10/07174741/CDFW-Declaration-](https://socialspillresponse-com-jtti.s3.us-west-2.amazonaws.com/wp-content/uploads/2021/10/07174741/CDFW-Declaration-Amendment_2_10.07.21.pdf)
28 [Amendment_2_10.07.21.pdf](https://socialspillresponse-com-jtti.s3.us-west-2.amazonaws.com/wp-content/uploads/2021/10/07174741/CDFW-Declaration-Amendment_2_10.07.21.pdf) (last visited Jan. 25, 2022).

⁴ Univ. of Cal., Davis, Veterinary Medicine, Oiled Wildlife Care Network, Pipeline
P00547 Incident Wildlife Numbers, [https://owcn.vetmed.ucdavis.edu/pipeline-](https://owcn.vetmed.ucdavis.edu/pipeline-p00547-incident)
p00547-incident (last visited Jan. 25, 2022).

1 they swim in, the sand and beach activities they enjoy, and their incomparable
2 views.

3 8. On December 29, 2021, nearly three months after the disaster and
4 following a massive clean-up effort involving 1,800 people, the Coast Guard, the
5 California Department of Fish and Wildlife (“CDFW”) and Orange and San Diego
6 counties, authorities announced that clean-up efforts were complete.⁵ However, this
7 announcement did not mean that the spill’s damage has been eradicated. It meant
8 only that the most glaring impacts of the spill had been addressed: There is no
9 question that many gallons of unrecovered oil from the spill continue to foul the
10 ocean and harm the ecosystem.

11 9. The Amplify Defendants could have averted this disaster. Their
12 Pipeline’s leak-detection system, per Amplify’s own admission, malfunctioned.⁶
13 Their failure to maintain and monitor the Pipeline, coupled with their reckless
14 disregard of pending threats to it, led to its rupture. Moreover, their cataclysmic
15 failure to discover and address their own leak for many hours turned what could
16 have been a containable problem into an unmitigated environmental disaster.

17 10. The Amplify Defendants either lacked or ignored the basic industry-
18 standard safety equipment that would have recognized the telltale signs of a spill: a
19 decrease in the pressure of the Pipeline and a change in the flow rate of oil. As
20 recently as 2016, the Amplify Defendants claimed that their safety system would
21 detect a spill of this magnitude in a matter of minutes. Instead, local residents,
22

23 ⁵ Southern California Oil Spill Response, Newport Beach Oil Spill Response
24 (Initial Unified Command Release) (Oct. 3, 2021),
25 [https://socalspillresponse.com/newport-beach-oil-spill-response-initial-unified-
26 command-release/](https://socalspillresponse.com/newport-beach-oil-spill-response-initial-unified-command-release/); Laylan Connelly, *Authorities announce cleanup of October’s oil
27 spill off Orange County complete*, THE ORANGE COUNTY REGISTER (Dec. 28, 2021,
28 11:11 a.m.), [https://www.ocregister.com/2021/12/28/authorities-announce-cleanup-
of-octobers-oil-spill-off-orange-county-complete/?clearUserState=true](https://www.ocregister.com/2021/12/28/authorities-announce-cleanup-of-octobers-oil-spill-off-orange-county-complete/?clearUserState=true).

⁶Robert Burnson, *Amplify Energy Charged Over California’s Worst Oil Spill in
Nearly 30 Years*, BLOOMBERG GREEN (Dec. 15, 2021, 6:04 p.m.),
[https://www.bloomberg.com/news/articles/2021-12-16/amplify-energy-charged-
with-negligence-in-san-diego-oil-spill](https://www.bloomberg.com/news/articles/2021-12-16/amplify-energy-charged-with-negligence-in-san-diego-oil-spill).

1 fishermen, and other entities were the first to learn of the spill and notify authorities
2 after smelling toxic oil and seeing a massive oil sheen on the water.

3 11. Because the Amplify Defendants failed to detect the spill, they also
4 failed to stop pumping copious amounts of oil through the ruptured Pipeline and
5 failed to close valves that could have prevented oil from escaping. Amplify did not
6 notify the authorities until over *15 hours* after the spill began—and only after
7 consulting the company’s risk management firm⁷—impeding clean-up efforts and
8 violating the Amplify Defendants’ own policies. The Amplify Defendants’
9 incompetence and callous disregard of industry-standard safety measures permitted
10 the disaster to occur and continue to engulf Orange County.

11 12. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure
12 23 on their own behalf and as representatives of others similarly situated to recover
13 significant losses they have incurred and will continue to incur because of
14 Defendants’ misconduct.

15 III PARTIES

16 A. Plaintiffs

17 13. Plaintiffs Donald C. Brockman (“Brockman”) and Heidi M. Jacques
18 (“Jacques”) are residents and citizens of Orange County, California. Dr. Brockman
19 is the trustee of the Donald C. Brockman Trust and Ms. Jacques in the trustee of the
20 Heidi M. Brockman Trust. Brockman and Jacques are commercial fishers and are
21 members of and seek to represent the Commercial Fishing Class.

22 14. Plaintiff LBC Seafood, Inc. (hereinafter “LBC Seafood”) is a
23 California Corporation doing business in Long Beach, California. LBC Seafood is a
24 family-owned, international seafood wholesale business. LBC Seafood is a member
25 of and seeks to represent the Commercial Fishing Class.

26 _____
27 ⁷ Anita Chabria, et al., *Pipeline company evades questions over a 15-hour gap*
28 *before reporting oil spill*, LOS ANGELES TIMES (Oct. 9, 2021, 5:00 a.m.),
<https://www.latimes.com/california/story/2021-10-09/oil-spill-timeline-questions-contradictions>.

1 15. Plaintiff Qualify Sea Food Inc. (hereinafter “Qualify Sea Food”) is a
2 California corporation doing business in Redondo Beach, California. Quality Sea
3 Food is a historic seafood market operating since 1953, engaged in the sale and
4 distribution of commercial retail seafood. Quality Sea Food is a member of and
5 seeks to represent the Commercial Fishing Class.

6 16. Plaintiff Josh Hernandez (“Hernandez”) is a resident and citizen of
7 Capistrano Beach, California, and is in the business of commercial fishing out of
8 Dana Point, California. Hernandez is a member of and seeks to represent the
9 Commercial Fishing Class.

10 17. Plaintiff John Crowe (“Crowe”) is a resident and citizen of King
11 Harbor, Redondo Beach, California, and is in the business of commercial fishing.
12 Crowe is a member of and seeks to represent the Commercial Fishing Class.

13 18. Plaintiffs John and Marysue Pedicini (the “Pedicinis”) are residents
14 and citizens of Newport Beach, Orange County, California, where they own and
15 reside in their waterfront property. The Pedicinis are members of and seek to
16 represent the Real Property Class.

17 19. Rajasekaran and Chandralekha Wickramasekaran (the
18 “Wickramasekarans”) are residents and citizens of California. They are the Co-
19 Trustees of The Wickramasekaran Family Trust and owners of a waterfront, duplex
20 property located in Newport Beach, California. The Wiskramasekarans are
21 members of and seek to represent the Real Property Class.

22 20. Plaintiff Beyond Business Incorporated (“BBI”), d/b/a Big Fish Bait &
23 Tackle (“BFBT”), is a California corporation located 1780 Pacific Coast Highway,
24 Seal Beach, California. BFBT is engaged in the sale of fishing and related supplies.
25 BBI is a member of and seeks to represent the Waterfront Tourism Class.

26 21. Plaintiff Banzai Surf Company, LLC (hereinafter “Banzai Surf”) is a
27 California limited liability company doing business in Huntington Beach,
28 California. Banzai Surf is a year-round surf school that operates on Huntington

1 State Beach, California. Banzai Surf is a member of and seeks to represent the
2 Waterfront Tourism Class.

3 22. Plaintiff Davey’s Locker Sportfishing, Inc. (hereinafter “Davey’s
4 Locker”) is a California corporation doing business in Newport Beach, Orange
5 County, California. Davey’s Locker is in the business of providing sportfishing and
6 whale and dolphin watching charters. Davey’s Locker is a member of and seeks to
7 represent the Waterfront Tourism Class.

8 23. Plaintiff East Meets West Excursions (hereinafter “East Meets West”)
9 is a California limited liability company doing business in Newport Beach, Orange
10 County, California. East Meets West is in the business of providing whale and
11 dolphin watching charters. East Meets West is a member of and seeks to represent
12 the Waterfront Tourism Class.

13 24. Plaintiffs Bongos Sportfishing LLC and Bongos III Sportfishing LLC
14 (collectively “Bongos”) are California limited liability companies doing business in
15 Newport Beach, Orange County, California. Bongos is in the business of providing
16 sportfishing charters. Bongos is a member of and seeks to represent the Waterfront
17 Tourism Class.

18 25. Plaintiff Tyler Wayman (“Wayman”) is a resident and citizen of Costa
19 Mesa, California. Wayman is a fulltime, licensed commercial boat captain, and
20 private contractor. Wayman is a member of and seeks to represent the Waterfront
21 Tourism Class.

22 **B. Defendants**

23 26. Defendant Amplify Energy Corp. is a corporation formed in Delaware
24 with its headquarters and principal place of business in Houston, Texas.

25 27. Defendant Beta Operating Company, LLC, doing business as Beta
26 Offshore, is a limited liability corporation formed in Delaware with its headquarters
27 and principal place of business in Long Beach, California. Defendant Beta
28 Operating Company, LLC, is a subsidiary of Defendant Amplify Energy Corp.

1 28. Defendant San Pedro Bay Pipeline Company is a corporation formed
2 in California with its headquarters and principal place of business in Long Beach,
3 California. Defendant San Pedro Bay Pipeline Company is a subsidiary of
4 Defendant Amplify Energy Corp.

5 29. The Amplify Defendants are private businesses, engaged in the
6 business of transporting oil to private entities for commercial purposes. Amplify
7 Defendants own and/or operate three offshore oil platforms and a 17.5-mile
8 pipeline off the coast of Southern California. Amplify Defendants own and/or
9 operate the three oil platforms, known as Elly, Ellen, and Eureka. SPBPC owns and
10 operates the 17.5-mile Pipeline that transports crude oil from the Elly platform to
11 the Port of Long Beach. AEC is the parent company of both SPBPC and BOC.
12 Martyn Willsher is the Chief Executive Officer for AEC, BOC and SPBPC.

13 30. MSC Mediterranean Shipping Company (“MSC”) operates the *MSC*
14 *Danit*, a container ship sailing under the flag of Panama and bearing International
15 Maritime Organization (“IMO”) number 9404649, whose anchor struck the
16 Pipeline on or about January 25, 2021 during a heavy weather event that impacted
17 the Ports of Los Angeles and Long Beach. MSC is headquartered in Geneva,
18 Switzerland.

19 31. Dordellas Finance Corp. owns the *MSC Danit*, and is a Panamanian
20 corporation.

21 32. Costamare Shipping Co. S.A. (“Costamare”) operates the *Cosco*
22 *Beijing*, a container ship sailing under the flag of Malta and bearing IMO number
23 9308508, whose anchor struck the Pipeline on or about January 25, 2021 during a
24 heavy weather event that impacted the Ports of Los Angeles and Long Beach.
25 Costamare is headquartered in Greece.

26 33. Capetanissa Maritime Corporation of Liberia, owns the *Cosco Beijing*.

27 34. The Shipping Defendants were involved in a January 25, 2021 anchor-
28 dragging and strike incident during a heavy weather event that impacted the Ports

1 of Los Angeles and Long Beach. Both the *Danit* and the *Beijing* repeatedly crossed
2 over the subject Pipeline during the storm while both vessels were “at anchor”, and
3 within United States territorial waters. On information and belief, the anchor-
4 dragging incident damaged the subject Pipeline.

5 IV JURISDICTION AND VENUE

6 35. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §
7 1332(d)(2). The federal district courts maintain original jurisdiction over class
8 action lawsuits wherein the amount in controversy exceeds five million dollars and
9 any member of the Class is a citizen of a state different from any Defendant in the
10 matter. 28 U.S.C. § 1332(d)(2)(A). Plaintiffs allege beyond the minimum five
11 million dollars in damages as a result of the spill. Plaintiffs, all citizens of
12 California, are diverse from AEC and BOC, citizens of Texas. SPBPC is a wholly
13 owned subsidiary of AEC.

14 36. This Court also has jurisdiction over this matter pursuant to 28 U.S.C.
15 § 1331 and 33 U.S.C. § 2717(b), because Plaintiffs bring claims under the Oil
16 Pollution Act.

17 37. This Court has personal jurisdiction over all Defendants. The Amplify
18 Defendants are registered to conduct business in California, and do regularly
19 conduct business there. Defendants MSC Mediterranean Shipping Company,
20 Dordellas Finance Corporation, Costamare Shipping Co. S.A., and Capetanissa
21 Maritime Corporation of Liberia (collectively, the “Shipping Defendants”) own and
22 operate two massive container ships, the *MSC Danit* and the *Cosco Beijing*. In the
23 days leading up to January 25, 2021, the two container ships were at anchor in the
24 territorial waters of the United States. Specifically, they were anchored just outside
25 the Port of Long Beach, California, where they were waiting to either enter the Port
26 of Long Beach and/or the Port of Los Angeles and conduct business there, or had
27 just left the Port of Long Beach and/or the Port of Los Angeles, having conducted
28 business there.

1 38. The ships had entered US territorial waters to conduct business in the
2 ports of the California, and therefore the Shipping Defendants purposefully directed
3 their activities toward the United States, and specifically, Southern California and
4 this District. For this same reason, they also purposefully availed themselves of the
5 privileges of conducting activities in California.

6 39. This case arises from the Shipping Defendants' conduct, and the
7 effects of that conduct, in California. The *MSC Danit* and the *Beijing* were involved
8 in a January 25, 2021 anchor-dragging incident during a heavy weather event that
9 impacted the Ports of Los Angeles and Long Beach. Both the *MSC Danit* and the
10 *Beijing* repeatedly crossed over the subject pipeline during the storm while both
11 vessels were at anchor, and within United States territorial waters. On information
12 and belief, the anchor-dragging incident damaged the subject pipeline. The claims
13 in this action against the Shipping Defendants thus directly arise out of or relate to
14 their forum-related activities. There is a direct affiliation between the business that
15 the *MSC Danit* and *Beijing* conducted in the Ports of Los Angeles and/or Long
16 Beach and the oil spill directly offshore. On information and belief, but-for the
17 *MSC Danit* and *Beijing*'s anchor-dragging, the Pipeline would not have ruptured
18 and the Plaintiffs would have not have suffered the injuries they suffered. The
19 exercise of jurisdiction over the Shipping Defendants is reasonable for all these
20 reasons.

21 40. Further, this Court is also the proper venue for this matter because a
22 substantial amount of Defendants' conduct occurred in this District, a substantial
23 part of the property that is subject to this litigation is located in this District, and
24 because Defendants have caused harm to Plaintiffs who reside in and were harmed
25 in this District. *See* 28 U.S.C. § 1391.

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V FACTS

A. The Rich and Unique Character of the Orange County Coast

41. From Seal Beach down to Dana Point, the coastal regions of Orange County offer beautiful and pristine beaches to residents and travelers from all over the world. Residents and visitors pay a premium to live in and travel to these stunning areas for the opportunity to appreciate and take advantage of the beaches, waters, and views. Throughout the year, residents and visitors utilize the beach communities for entertainment, such as family outings or surfing events; recreation, such as kayaking, surfing, sailing, boating, and biking; dining on local seafood; and marine charter excursions, such as whale and dolphin watching, sportfishing and sunset cruises. (See Images 1-3 below).

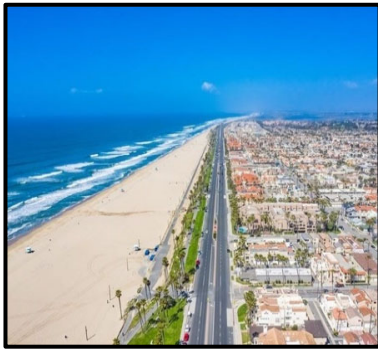


Image 1, Huntington Beach, Courtesy of *Willyou.net*



Image 2, Dana Point, Courtesy of *Trip Advisor*



Image 3, Newport Beach, Courtesy of *The Travel Mag.*

42. The Orange County tidepools, wetlands, and coastal waters offer an abundance of diverse animal life, from fish and birds to lobsters and sea lions. The Talbert Marsh Ecological reserve, a 25-acre restored wetland, serves as a critical link in migratory bird routes and is home to at least 90 species of shorebirds⁸, including great blue herons, pelicans, and endangered California Least Terns, which migrate up the Pacific Coast. Tidepools, flourishing with everything from starfish

⁸ Rachel Becker, *A rare ecological gem is slicked with spilled oil – again*, CAL MATTERS (Oct. 5, 2021), <https://calmatters.org/environment/2021/10/california-oil-spill-talbert-marsh/>.

1 and crabs to sea urchins and snails, provide a glimpse into the delicate ecological
2 balance of the coast. The coastal waters—a draw for enumerable reasons—are flush
3 with various fish species, *e.g.*, surf perch, corbina, and halibut, as well as other
4 marine life, *e.g.*, killer whales, humpback whales, dolphins, sharks, and seals.

5 43. More than merely an outlet for a breathtaking experience, the Orange
6 County coast is a source of work and income for thousands of people. Huntington
7 and Newport Beach alone generate roughly two billion dollars yearly from tourism,
8 which supports thousands of jobs within those communities. Businesses on beaches
9 or harbors—such as restaurants, hotels, retail stores, harbor tours, special beach
10 events, and niche boutiques, to name a few—are a fundamental part of the coastal
11 economy. Fishers, including those who catch or harvest fish and/or shellfish along
12 the Orange County coast, and businesses that re-sell the catch, are a vital
13 community component. This group, who source local businesses and beyond with
14 fresh seafood, is dependent on the availability of all types of sea life, including
15 lobster, squid, sea bass, sculpin, tuna, halibut, yellowtail, and more.

16 44. The documented value of Orange County’s ocean economy, including
17 tourism, recreation, construction, and fishing industries (excluding oil and gas) is
18 \$4.1 billion. Orange County’s ocean economy provides 57,348 jobs.⁹

19 **B. The Elly Oil-Processing Platform and San Pedro Bay Pipeline**

20 45. The Amplify Defendants own and operate at least three offshore
21 platforms off the coast of Southern California—the Eureka, the Elly, and the
22 Ellen—which are roughly nine miles offshore. (*See* Images 4-5.) Amplify’s
23 Pipeline transports crude oil from these offshore platforms to Long Beach, where
24 the oil is distributed to market. The Eureka and Ellen platforms pull oil from the
25 Beta Field, an oil reserve, and pump this oil to the Elly, a processing platform, by

26 _____
27 ⁹ *See* Bus. Alliance for Protecting the Pacific Coast, *Orange County’s Ocean*
28 *Economy* (Oct. 2021), <https://e2.org/wp-content/uploads/2021/10/Orange-County-Oil-Spill-Fact-Sheet-Final.pdf> (last visited Jan. 25, 2022).

1 means of an underground pipeline. From Elly, the oil is transported to shore
 2 through the 17.5-mile Pipeline. As the Pipeline moves inland, the crude oil
 3 transport line sits less than 100 feet below the sea level, mere miles from the
 4 Orange County coastline.

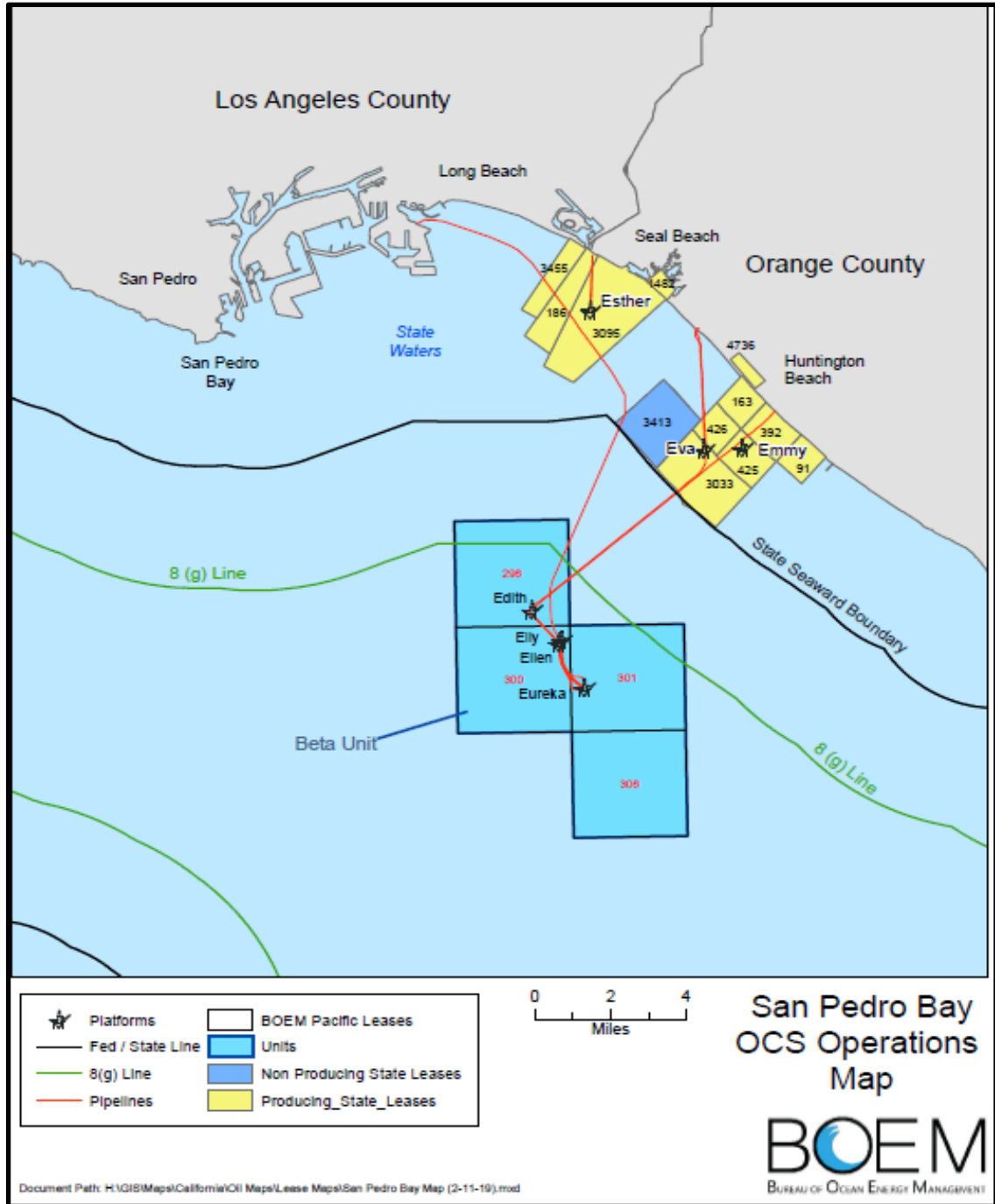


Image 4. Beta Unit Complex Diagram



Image 5. Beta Unit Complex,
Courtesy of *Los Angeles Times*

46. The oil system, referred to at the Beta Unit Complex, was constructed in 1980. The exterior of the Pipeline consists of a .375-inch-thick concrete casing. The interior section consists of a .500-inch-thick, X-42 grade carbon steel line pipe. Prior to the rupture, the Pipeline was reported to be operating at approximately 300-400 pressure per square inch gauge (“psig”).¹⁰ The Pipeline traverses a High Consequence Area (“HCA”) as defined in 49 C.F.R. § 195.450, which means an area where an oil spill could have greater consequences to health and safety or the environment, and an ecologically unusually sensitive area as defined in Section 195.6. Operators of pipelines in an HCA must take special precautions to prevent a spill and mitigate its impacts.

47. Per the Amplify Defendants’ own records, the Beta Unit Complex was producing roughly 3,600 barrels (151,200 gallons) of crude oil per day in the

¹⁰ U.S. Dept. of Trans. Pipeline and Hazardous Materials Safety Admin., Corrective Action Order, CPF No. 5-2021-054-CAO (Oct. 4, 2021), <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2021-10/Beta%20Offshore%20CAO.10.04.2021.pdf>.

1 second quarter of 2021, making it the second largest offshore oil-producer in
2 California. As such, if 25,000 gallons of crude oil was spilled over twenty-four
3 hours (the actual number could be higher), that would amount to a substantial
4 reduction in the amount of crude oil transported from the Beta Unit Complex to the
5 Long Beach storage facility. This begs the question: how could the Amplify
6 Defendants have failed to notice such a significant drop in their own production
7 numbers? Worse, how could the Amplify Defendants have allowed this to happen
8 in the high-consequence area of the Orange County coast?

9 48. The Amplify Defendants were required to have, and purportedly did
10 have, sensors to monitor irregularities and/or failures in the transportation of crude
11 oil through the Pipeline. According to two former employees, Amplify purportedly
12 had software designed specifically for the oil system to monitor the status of
13 pressure at pumps along the Pipeline.¹¹ Sensors were utilized to measure pressure
14 and flow rate within the Pipeline. Per the Defendants' Oil Spill Prevention and
15 Response Plan ("OSPRP"), under the heading "Leak Detection Systems," "Alarms
16 are initiated if volume balance discrepancies vary beyond specific short-term and
17 long-term limits."¹² The Pipeline was purportedly continuously monitored; any
18 detected anomalies via automated monitoring were directly reported to the control
19 rooms at the Elly and Beta Pump Station (staffed 24 hours/day).

20 49. The crew who staffed the control rooms at the Elly and Beta Pump
21 Station should have been trained to identify any and all problems related to any oil
22 spill, as a check on the automated system. According to a former employee who is
23

24 _____
25 ¹¹ Jessica Resnick-ault and Nichola Groom, *Despite preparation, California*
26 *pipeline operator may have taken hours to stop leak*, REUTERS (Oct. 8, 2021, 2:46
p.m.), <https://www.reuters.com/business/energy/despite-preparation-california-pipeline-operator-may-have-taken-hours-stop-leak-2021-10-08/>.

27 ¹² Beta Offshore, Beta Unit Complex, *Oil Spill Prevention and Response Plan*,
28 (Apr. 2012), <https://www.bsee.gov/sites/bsee.gov/files/oil-spill-response-plan-osrp/inspection-and-enforcement/beta-operating-company-osrp-april-2012.pdf>
("2012 OSPRP").

1 familiar with the Amplify Defendants’ oil system, if operators “detected a single
2 barrel [loss], the [P]ipeline should have been shut [down].”¹³.

3 **C. Defendants Knew of the Monumental Risks Associated with Their**
4 **Ultrahazardous Activities**

5 50. A 2017 Environmental Assessment (“EA”), entitled Beta Unit
6 Geographical Survey, should have made the Amplify Defendants acutely aware of
7 the hazardousness of their activities in the Beta Field.¹⁴ Under the heading
8 “Hazardous Materials/Risk of Upset,” the Amplify Defendants were warned that
9 the area where their oil system is located is “utilized for recreational, industrial,
10 and commercial purposes.”¹⁵ It specifically stated, “[g]iven the proximity of the
11 Project survey area to the [Ports of Los Angeles and Long Beach] and offshore
12 vessel traffic lanes, a discussion of hazardous materials and potential risks of upset
13 is provided below.”¹⁶ The EA goes on to state: “The primary statutes, regulations,
14 plans, and policies relevant to the Project that address potential risk of upset related
15 to hazardous materials is provided” below, and provides a list of major
16 international, federal, and state regulations designed to keep the public and
17 environment safe.

18 51. Miles of the Amplify Defendants’ San Pedro Bay Pipeline, including
19 the likely location of the oil spill, are less than five miles off the Orange County
20 coast. The last two miles are directly within and under the City of Long Beach,
21

22 ¹³ Jessica Resnick-ault and Nichola Groom, *Despite preparation, California*
23 *pipeline operator may have taken hours to stop leak*, REUTERS (Oct. 8, 2021, 2:46
24 p.m.), <https://www.reuters.com/business/energy/despite-preparation-california-pipeline-operator-may-have-taken-hours-stop-leak-2021-10-08/> (“Reuters, Hours to Stop Leak”).

25 ¹⁴ U.S. Dept. of the Int., Bureau of Ocean Energy Mngt., Beta Operating Company,
26 LLC, *Application for Permit to Conduct Geological or Geophysical Exploration for*
27 *Mineral Resources or scientific Research on the Outer Continental Shelf* (Dec. 7,
2017), <https://www.boem.gov/sites/default/files/about-boem/BOEM-Regions/Pacific-Region/Geological-and-Geophysical-Data/Section-3.9-Haz-Mat-Risk-of-Upset-110617.pdf>.

28 ¹⁵ *Id.*

¹⁶ *Id.*

1 through piers G and H. The transportation of crude oil laced with ultra-toxic
 2 additives through the Pipeline carries with it extraordinary risks to the safety of the
 3 general public, the economic welfare of the surrounding communities, and an HCA
 4 and unusually sensitive ecological area.

5 52. Amplify’s 2012 OSPRP explicitly states: “The San Pedro Bay
 6 Pipeline . . . is considered to be capable of causing significant and substantial harm
 7 to the environment in the event of a discharge of oil because of its proximity to
 8 navigable waters and adjoining shoreline areas designated as environmentally
 9 sensitive”¹⁷ Beyond the obvious geographical risks to the Orange County
 10 coastline, the San Pedro Bay is home to the Ports of Long Beach and Los Angeles,
 11 the two largest container ports in the United States.¹⁸ As discussed below, since the
 12 beginning of the COVID-19 pandemic in early 2020, the number of vessels to enter
 13 and anchor in the San Pedro Bay ballooned, significantly elevating the risk of harm
 14 from any spill.¹⁹

15 **D. Vessel Congestion in the San Pedro Bay Was a Clear and Present**
 16 **Danger to the Pipeline**

17 53. In early 2020, the COVID-19 pandemic impacted the United States’
 18 supply chains. The Ports of Los Angeles and Long Beach, *the* busiest ports in the
 19 country, were not spared. Massive ships, from oil tankers²⁰ to container vessels²¹,

20 _____
 21 ¹⁷ 2012 OSPRP, fn. 12.

22 ¹⁸ The Port of Los Angeles, *San Pedro Bay Ports Announce New Measure to Clear*
 23 *Cargo Containers that Linger on Terminals* (Oct. 25, 2021),
https://www.portoflosangeles.org/references/2021-news-releases/news_102521_jointclearcargo.

24 ¹⁹ Sam Dean, *Is the ports logjam really getting better? The numbers don’t tell the*
 25 *whole story*, LOS ANGELES TIMES (Dec. 3, 2021, 5:00 a.m.),
<https://www.latimes.com/business/story/2021-12-03/officials-say-the-ports-logjam-is-easing-but-numbers-dont-tell-the-whole-story> (“LAT, Port Logjam”).

26 ²⁰ MARINELINK, *Surge in Oil Tankers at Anchor Off California* (Apr. 24, 2020),
<https://www.marinelink.com/news/surge-oil-tankers-anchor-off-california-477901>.

27 ²¹ Mediha DiMartino, *Ports See ‘Unprecedented Amount of Cargo Volume’*, LOS
 28 ANGELES BUS. JOURNAL (Dec. 21, 2020),
<https://labusinessjournal.com/news/2020/dec/21/ports-see-unprecedented-amount-cargo-volume/>.

1 idled for days in the San Pedro Bay. Congestion in the San Pedro Bay grew
 2 exponentially in 2021. By October 2021, the number of massive vessels awaiting
 3 entry into the ports eclipsed all previous records.²² With cargo vessels utilizing
 4 anchors that can weigh tens of thousands of pounds, each anchored ship represented
 5 a major destructive threat to the pipeline.

6 54. The numerous cargo ships routinely anchored along the length of the
 7 San Pedro pipeline presented a known risk to the Pipeline that all Defendants
 8 should have taken steps to address. Image 6 below demonstrates the numerous
 9 ships at anchor near the Pipeline on October 2, 2021.

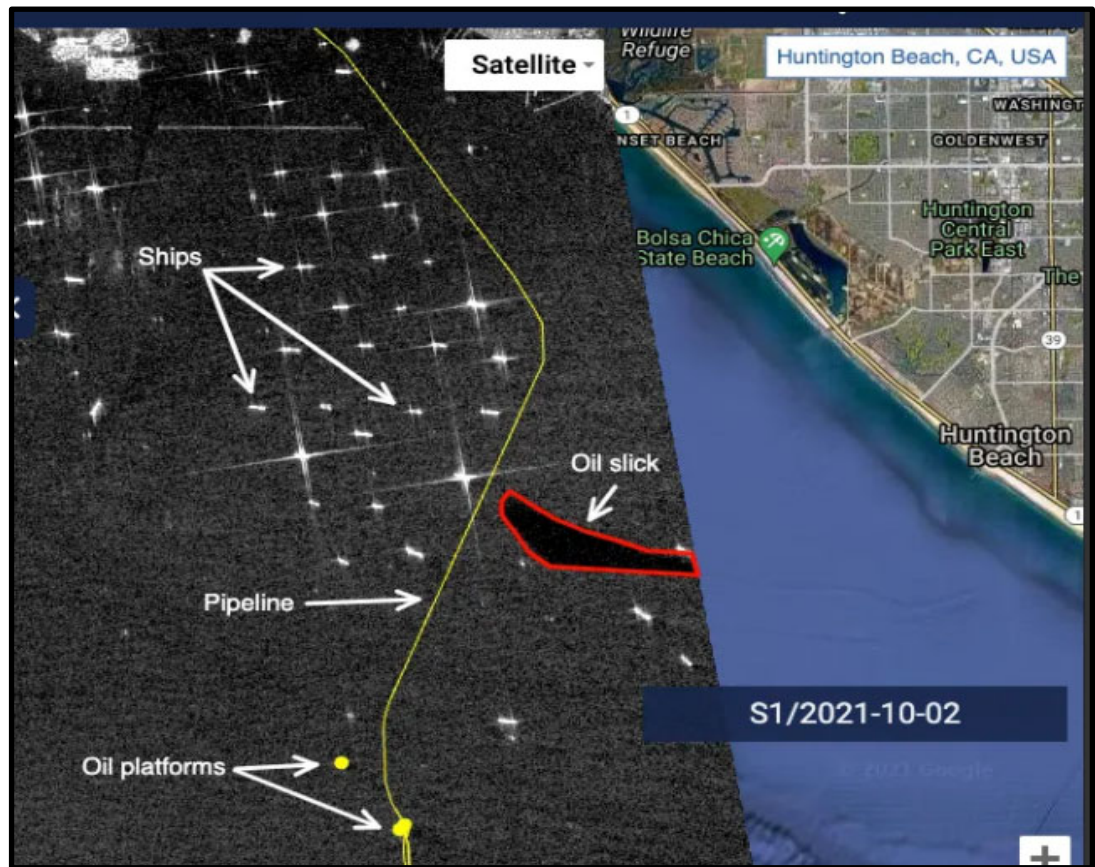


Image 6. Aerial Diagram

²² LAT, Port Logjam, fn. 19; Dani Anguiano, *A record number of cargo ships are stuck outside L.A. What's happening?*, THE GUARDIAN (Sept. 23, 2021, 10:00 a.m.), <https://www.theguardian.com/us-news/2021/sep/22/cargo-ships-traffic-jam-los-angeles-california>.

1 55. Ship anchors dragging across the seabed have previously caused
2 pipeline ruptures, particularly in heavily trafficked waters near ports.²³ Since 1986,
3 at least 17 accidents on pipelines carrying crude oil or other hazardous liquids have
4 been linked to anchor strikes or suspected anchor strikes.²⁴

5 56. The location of underwater pipelines, including the Pipeline at issue, is
6 well-known. Underwater pipelines are clearly marked on nautical navigation charts
7 and maps.²⁵ Furthermore, large container vessels are usually equipped with
8 sophisticated navigational and radar technologies to avoid shallow seas, other
9 vessels, and underwater objects. The grave risk to the integrity of the Pipeline posed
10 by ship anchorages was a concern even before the Pipeline was built. The
11 California Coastal Commission’s May 24, 1979 permit for the Pipeline contained a
12 special condition: Pipeline Burial. The permit states, “the off-shore [P]ipeline *shall*
13 *be buried a minimum of ten feet below the sea floor in Coast Guard-identified*
14 *anchorage areas within the Long Beach breakwater, unless the Corps of Engineers*
15 *in consultation with the U.S. Coast Guard determine that a greater depth would be*
16 *necessary to provide adequate protection from the spillage of crude oil.”²⁶ (Italics*

17 added.)
18 57. The staff report that accompanied the permit explained the reason for
19 the burial requirement: “Pipeline damage due to anchor dragging has been one of
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21

22 ²³ See Christine Mai-Duc and Christopher Matthews, *California Oil Spill May Have*
23 *Been Caused by Anchor Hitting Pipeline*, THE WALL STREET JOURNAL, (Oct. 4,
2021, 3:20 p.m.), <https://www.wsj.com/articles/california-oil-spill-results-in-beach-harbor-fishery-closures-11633376943>.

24 ²⁴ See Michael R. Blood, et al., *California pipeline likely damaged up to a year*
25 *before oil spill*, ASSOCIATED PRESS (Oct. 8, 2021), <https://apnews.com/article/business-los-angeles-california-environment-and-nature-e3b2976b1986e0f4f2908cedc18f2854>.

26 ²⁵ See *id.*; see also Mike Soraghan, *Pipeline owner kept ‘in the dark’ on possible*
27 *anchor strike*, E&E NEWS – ENERGY WIRE (Dec. 17, 2021, 4:24 a.m.),
28 <https://www.eenews.net/articles/pipeline-owner-kept-in-the-dark-on-possible-anchor-strike/>.

²⁶ 154-79 Final Permit at page 2.

1 the major causes of subsea pipeline rupture in off-shore oil operations.”²⁷ In
 2 addition, the Amplify Defendants were on notice that the Pipeline could be
 3 damaged. As documented in a presentation by the Federal Bureau of Safety and
 4 Environmental Enforcement (“BSEE”) which works to promote pipeline safety,
 5 there was a history of dents in the Pipeline which required repair.²⁸

6 **E. The Shipping Defendants Strike the Pipeline, a Risk that Should Have**
 7 **Been Obvious to Amplify**

8 58. During the week of October 4, 2021, investigators discovered a 13-
 9 inch, linear fracture in the Pipeline, roughly four-and-a-half miles offshore. (See
 10 Images 7-9.) Investigators further noted that a 4,000-foot section of the Pipeline,
 11 where the damage was found, had been moved roughly 105 feet from its original
 12 resting point. (See Image 9.) Investigators now believe the manipulation of and
 13 damage to the Pipeline occurred on January 25, 2021, when two container ships, the
 14 *MSC Danit* and *Beijing* allowed their anchors to collide and/or become entangled
 15 with the Pipeline.



24 **Image 7. 13-inch Fracture (1)**

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26 ²⁷ 154-79 Staff report at 5.

27 ²⁸ Theresa Bell, et al., *Overcoming the Challenges to Intelligently Pig the*
 28 *Unpiggable, Platform Elly to Shore Oil Pipeline Case Study*, Prevention First 2008
 (Sept. 2008), at p. 12, <https://www.slc.ca.gov/wp-content/uploads/2018/08/PF2008-Pipeline-Overcoming.pdf>.

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Image 8. 13-Inch Fracture (2)

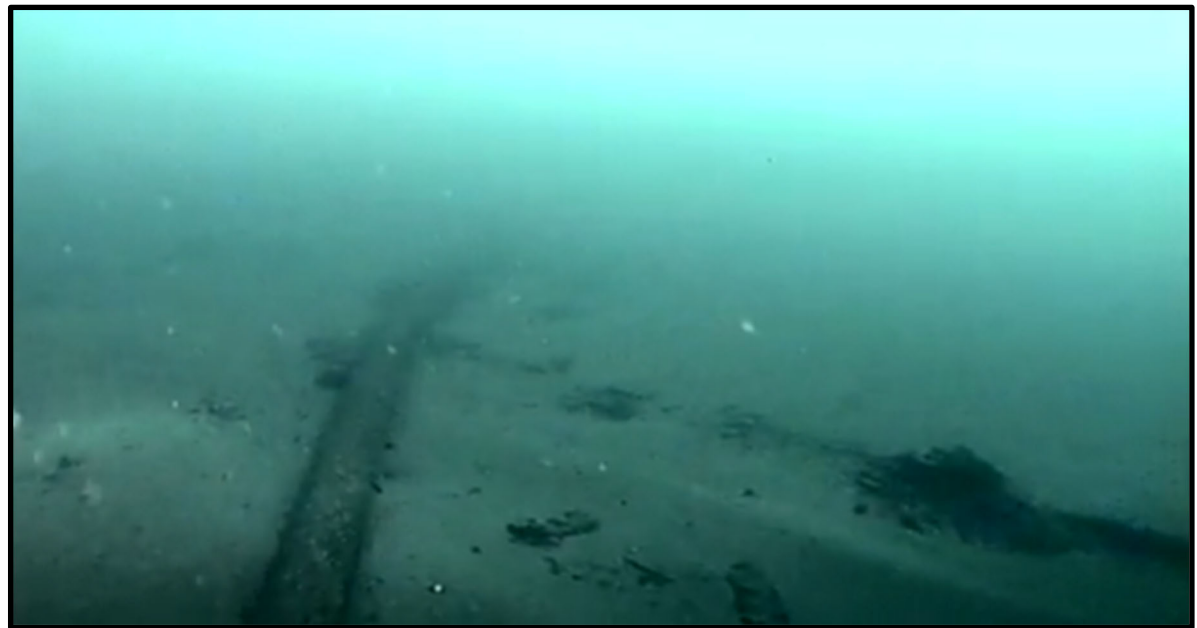


Image 9. Movement of Pipeline

59. In the days leading up to January 25, 2021, the *MSC Danit* and *Beijing*, two massive container ships, dropped anchor near the Pipeline and just

1 outside the Port of Long Beach. They remained within their respective anchor
2 points—called “swing circles”—until the early morning hours of January 25, 2021.

3 60. The *MSC Danit*’s and *Beijing*’s crews knew that they were anchored
4 near the Pipeline, which is marked on the applicable nautical navigation map for the
5 San Pedro Channel. That map contains this specific warning: “Not all submarine
6 pipelines and submarine cables are required to be buried, and those that were
7 originally buried may have become exposed. Mariners should use extreme caution
8 when operating vessels in depths of water comparable to their draft in areas where
9 pipelines and cables may exist, and when anchoring, dragging or trawling.”²⁹ Thus,
10 the Shipping Defendants had a duty to avoid striking the Pipeline.³⁰

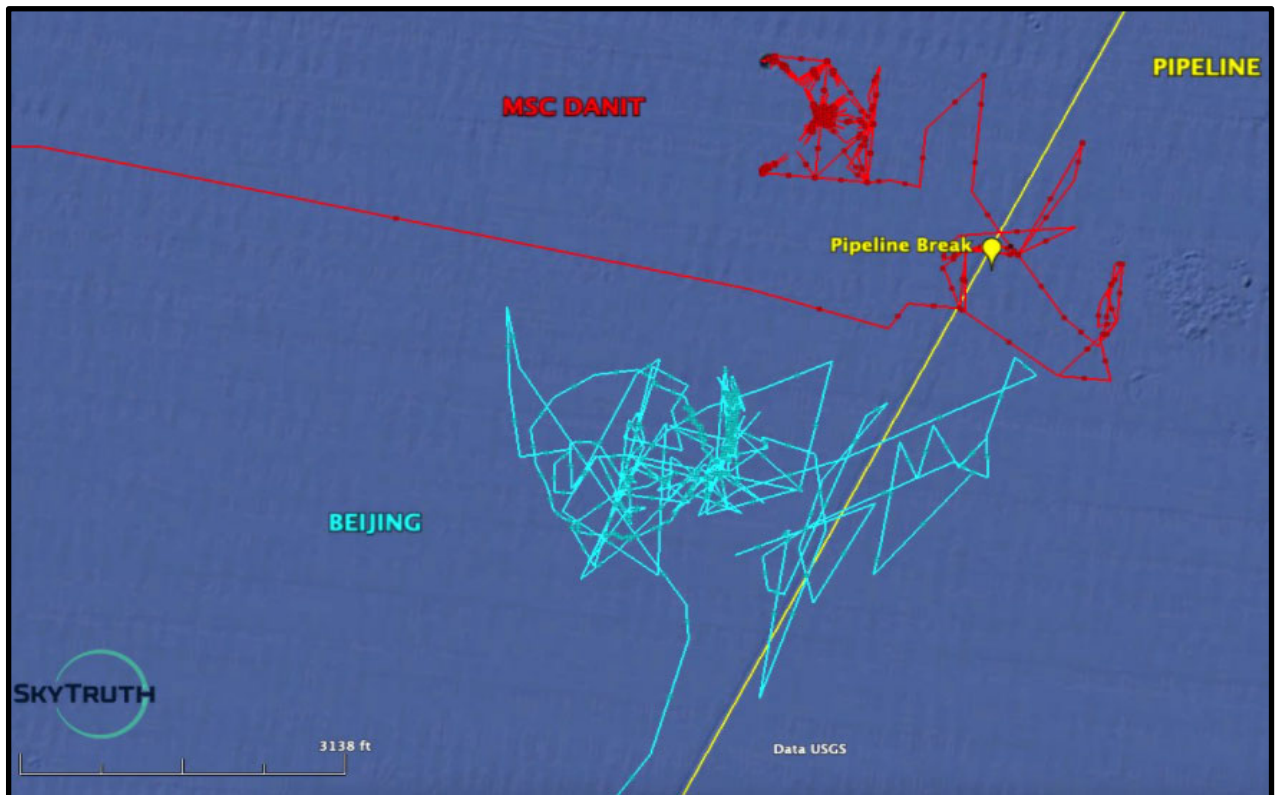
11 61. In the early morning hours of January 25, 2021, a winter storm hit the
12 Los Angeles and Orange County area. Two dozen other vessels pulled their anchors
13 and sailed out to sea to ride out the storm.³¹ However, the *MSC Danit* and *Beijing*
14 chose to remain “at anchor” during the storm, and as a result drifted erratically
15 while dragging their respective anchors across the ocean floor. Indeed, both the
16 *MSC Danit* and the *Beijing* broke their anchorage “swing circles” in the early
17 morning hours of January 25, 2021.

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25 ²⁹ Nat. Oceanic and Atmospheric Admin., Chart of San Pedro Bay,
<https://www.charts.noaa.gov/PDFs/18749.pdf> (last visited Jan. 25, 2022).

26 ³⁰ “[W]hen a mariner knows of obstructions to navigation, he must avoid them.”
Gough v. Nat. Gas Pipeline Co. of Am., 996 F.2d 763, 768 (5th Cir. 1993).

27 ³¹ See Robert Tuttle, *U.S. Coast Guard Boards Vessel That Dragged Anchor Near*
28 *Pipeline*, BNN BLOOMBERG (Oct. 17, 2021), <https://www.bnnbloomberg.ca/u-s-coast-guard-boards-vessel-that-dragged-anchor-near-pipeline-1.1667570>.

1 62. During the *MSC Danit*'s and *Beijing*'s uncontrolled and dangerous
2 drifts, the container ships repeatedly crossed over the Pipeline. Both vessels
3 broadcasted that they were "at anchor," while repeatedly crossing over the Pipeline
4 with their anchors dragging along the ocean floor. (See Image 10.) The *MSC Danit*
5 and *Beijing*, together, moved back and forth over the Pipeline at least nine (9)
6 times.



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20 **Image 10.** Shipping Defendant Movement
21 (Blue represents the Beijing; Red represents the MSC Danit)

22 63. As a result of the *MSC Danit*'s and *Beijing*'s uncontrolled drifts while
23 "at anchor," the *MSC Danit*'s and/or the *Beijing*'s anchor(s) struck the Pipeline.
24 The lateral movement of the *MSC Danit* and *Beijing* near the Pipeline suggests that
25 the *MSC Danit*'s and/or *Beijing*'s anchor(s) struck and/or became entangled with
26 the Pipeline, causing structural damage and/or displacement.

27 64. The *MSC Danit*'s and/or *Beijing*'s anchor strike(s) severely weakened
28 and/or cracked the concrete casing protecting the Pipeline. The suspected location

1 of the Pipeline rupture is in close proximity to the *MSC Danit's* and/or *Beijing's*
2 anchor strike(s).

3 65. Furthermore, the growth of marine life around the displaced section of
4 the Pipeline further suggests that the concrete casing protecting the Pipeline
5 suffered damage *months prior* to the oil spill—*i.e.*, at or about the time that the
6 *MSC Danit* and/or *Beijing's* anchor(s) struck the Pipeline.³² The *MSC Danit's*
7 and/or *Beijing's* anchor weakened the Pipeline's integrity to a degree that permitted
8 rupture and breach on or about October 2, 2021.

9 **F. Amplify Failed To Adequately Monitor Its Pipeline**

10 66. It is apparent that the Amplify Defendants had no ability to identify
11 this significant displacement of, and damage to, the Pipeline, and/or recklessly
12 failed to monitor, respond to, or notify the appropriate authorities of the event. The
13 force needed to move the 4,000-foot section of Pipeline is significant, begging the
14 question of how such an event could occur without triggering a single sensor—
15 pressure, flow, or otherwise—or notifying the Elly or Beta Pump Station control
16 centers.

17 67. Putting aside technology, the Amplify Defendants' manual or human
18 detection of irregularities in the Pipeline was nonexistent. Amplify Defendants
19 claim that they monitored the Pipeline weekly by boat³³ and also cleaned the
20 Pipeline weekly.³⁴ Given that the resting point of a 4,000-foot section of the
21 Pipeline had shifted 105 feet months earlier (*see supra* Image 8), as found by
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25 ³² See Richard Winton, *Coast Guard targets second vessel tied to Orange County*
26 *oil spill*, LOS ANGELES TIMES (Nov. 19, 2021, 3:59 p.m.),
<https://www.latimes.com/california/story/2021-11-19/coast-guard-ties-second-vessel-to-pipe-dragging-connect-to-orange-county-oil-spill>.

27 ³³ Reuters, *Hours to Stop Leak*, fn. 11.

28 ³⁴ CNN Newsource, *A timeline of the California oil spill, from the first report to the*
clean-up, KTZV (Oct. 10, 2021, 12:27 p.m.), <https://ktzv.com/news/2021/10/10/a-timeline-of-the-california-oil-spill-from-the-first-report-to-the-clean-up/>.

1 investigators,³⁵ Amplify Defendants were negligent and/or reckless in failing to
2 identify and rectify the precursor to the oil spill crisis.

3 68. Worse, as discussed herein, the Amplify Defendants knew or
4 reasonably should have known of the high potential for anchor strikes to and/or
5 entanglement with the Pipeline. This was especially true of the unburied section,
6 particularly given the significant increase of vessel traffic in the San Pedro Bay.

7 69. Compounding these issues, the Amplify Defendants overworked their
8 employees and experienced high turnover as a result, with at least one employee
9 warning, “Amplify Energy is a company that focuses on the rich getting richer. The
10 executives are only concerned with the advancement of themselves as well as hiring
11 their friends and personal acquaintances for top heavy positions for which they do
12 not qualify. The employees who have been with the company for years are never
13 considered for advancement and are held in their current capacities. The pay at
14 Amplify is competitive with the market; however, you are expected to do a number
15 of different jobs for one salary due to their high turnover.”³⁶ As would be revealed
16 later, investigators discovered that the Pipeline “was understaffed and the crew was
17 fatigued and insufficiently trained in the leak detection system.”³⁷

18 **G. The Amplify Defendants’ Responsibilities Under Their Oil Spill**
19 **Prevention Response Plan**

20 70. Amplify’s 2012 Oil Spill Prevention and Response Plan, or OSPRP,
21 begins with a very direct warning of the danger their activities pose: “A worst-case
22 crude oil release from the DOT-regulated San Pedro Bay Pipeline could potentially
23

24 ³⁵ NPR, *Oil pipeline damage may have happened months before the massive oil*
25 *spill* (Oct. 8, 2021, 5:10 p.m.), <https://www.npr.org/2021/10/08/1044644445/oil-pipeline-damage-may-have-happened-months-before-the-massive-oil-spill>.

26 ³⁶ See Indeed, *Amplify Energy Reviews: Working at Amplify Energy*,
<https://www.indeed.com/cmp/Amplify-Energy/reviews> (last visited Jan. 25, 2022).

27 ³⁷ Brian Melley, *A Houston-based oil company was indicted over a crude spill in*
28 *Southern California*, ASSOCIATED PRESS (Dec. 15, 2021, 9:42 p.m.)
<https://www.businessinsider.com/houston-based-oil-company-indicted-southern-california-oil-spill-2021-12>.

1 cause significant and substantial harm to the environment, as defined in the Oil
2 Production Act of 1990”³⁸ It further makes the point that:

3 These response guidelines are not intended to supplant
4 the use of common sense or actions not specifically
5 mentioned in this plan, but necessary to mitigate a
6 problem. Depending on the incident, each response may
7 require different or modified approaches or sequences of
8 events to reach the primary objective of the [Defendants];
9 that is, to ensure the safety of life, protection of the
10 environment, and protection of property.³⁹

11 71. The OSPRP specifically identifies the potential victims of a crude oil
12 release, noting: (1) “[n]earby population center[s]”; (2) “[p]roperties at risk
13 (marines, beaches, harbors, parks)”; (3) “[e]conomic and cultural resources”;
14 (4) “[b]iological resources (*e.g.*, sensitive habitats, commercial and recreational
15 fish/shellfish stocks, wildlife, plant life)”; and (5) “[o]ther marine dependent
16 uses.”⁴⁰ To prevent the potentially devastating impacts to these victims of an oil
17 spill, a “[n]o response option (*i.e.*, mechanical or non-mechanical) should be ruled
18 out in advance.”⁴¹ The importance of immediate detection of an oil spill and an
19 effective response is compounded by the fact that spills originating from the oil
20 system “can present challenges to response and recovery efforts due to obstacles
21 and proximity to bodies of water.”⁴² Regardless of the scenario, one directive holds
22 true: **“In General – For Spill Response – Do Not Delay. Plan Ahead. Over-
23 respond and stand down if necessary. Do not get behind the curve.”**⁴³
24 (Emphasis in original.)

25 72. In 2020 and beyond, Amplify utilized a custom leak detection system
26 to identify any release of crude oil from the Pipeline. In 2020 and beyond, Amplify

25 ³⁸ 2012 OSPRP, fn. 12.

26 ³⁹ *Id.*

27 ⁴⁰ *Id.*

28 ⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

1 utilized a custom leak detection system to identify any release of crude oil from the
2 Pipeline—this alarm purportedly would trigger if there was a one-percent change in
3 flow rate. For example, based upon an observed flow rate of roughly 10,500 gallons
4 (250 barrels) per hour, a one percent change in the nominal flow rate over fifty
5 minutes would trigger the leak detection alarm. Converted from flow rate per hour
6 to flow rate per fifty minutes (10,500 gallons divided by sixty minutes, then
7 multiplied by fifty minutes), the baseline flow rate is 8,750 gallons per fifty
8 minutes. Thus, if 87.5 gallons (one percent of 8,750 gallons) of oil were leaked over
9 fifty minutes at the baseline flow rate (8,750 gallons), the leak detection alarm
10 would sound.

11 73. Any anomaly detected by the automated leak detection is directly
12 reported to the control rooms at Elly and Beta Pump Station, which are manned 24
13 hours per day. Each person in those control rooms must be able to “recognize the
14 alarms generated and respond to each alarm.”⁴⁴ Should an alarm be triggered,
15 “control room operators have the ability” to automatically shut down the “shipping
16 pumps” by use of a “shutdown valve.”⁴⁵ Such critical responsibilities must entail
17 training, and the Amplify Defendants “emphasize that, in the event a leak is
18 detected, it is essential to close the platform and onshore shut-in valves as quickly
19 as possible after shutting down shipping pumps to minimize the volume of oil
20 released from the line.”⁴⁶ During an emergency shutdown, the shipping pumps can
21 be stopped and the Pipeline valve “closed within one minute.”⁴⁷ If the leak
22 detection system becomes inoperative, for any reason, routine surveillance of the
23 Pipeline shall be conducted until the system is repaired.

24 74. It is now known that Amplify’s failure to comply with its
25 responsibilities under the OSPRP caused the release of at least 25,000 gallons of

26 ⁴⁴ *Id.*

27 ⁴⁵ *Id.*

28 ⁴⁶ *Id.*

⁴⁷ *Id.*

1 crude oil into and on the Orange County coastal region. If Amplify continued to
2 pump crude oil through the Pipeline for a total of seven hours after the leak began,
3 which appears to be the case, that would amount to an average of 3,570 gallons
4 released per hour. That number represents an approximate fifty percent change in
5 the nominal flow of oil through the Pipeline over fifty minutes. This would be
6 consistent with the eight different leak-detection alarms that sounded on October 1
7 and October 2, 2021.

8 **H. The Amplify Defendants Have a Long History of Safety Violations**

9 75. The Amplify Defendants are not strangers to causing oil spills and
10 negligently operating the Beta Unit Complex.

11 76. The Bureau of Safety and Environmental Enforcement (“BSEE”), a
12 federal agency that oversees the offshore drilling industry, has documented 125
13 instances of non-compliance; 53 of these instances were warnings, 71 were
14 component shut-in violations, and one was a facility shut-in violation.

15 77. A “component shut in” violation pertains to a particular piece of
16 equipment or location that is not in accordance with standing regulations and must
17 be shut down until the violation is corrected.⁴⁸ This type of violation occurs when
18 the non-compliance is part of “an unsafe situation or it poses an immediate danger
19 to personnel or other equipment”⁴⁹ A “facility shut in” violation arises where
20 “the unsafe situation poses an immediate danger to the entire facility or personnel
21 and the specific equipment or location cannot be shut in without affecting the
22 overall safety of the facility.”⁵⁰ Importantly, a “warning” does not suggest a minor
23 violation; rather, a warning will “normally be issued” in an “after-the-fact situation
24 where no correction is possible” and a “shut in would serve no useful purpose.”⁵¹

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26 ⁴⁸ Off. of Offshore Regulatory Programs, Offshore Safety Improvement Branch,
27 Nat. Office Potential Incident of Noncompliance (PINC) List (Sept. 2016),
<https://www.bsee.gov/sites/bsee.gov/files/office-pincs-final-92016.pdf>.

28 ⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

1 78. Beta Offshore received its last pre-spill violation on September 29,
2 2021, just days before the oil spill.⁵²

3 79. The current oil spill crisis is not the Beta Unit Complex's first oil spill,
4 nor was it the first time its alarms apparently failed. In fact, in 1999, one of the
5 crude oil lines connecting Platform Eureka to Platform Elly was "shut in" due to
6 "leakage," according to the Defendants' OSPRP.⁵³ Thereafter, an investigation
7 determined that an electronic monitoring system that was supposed to detect leaks
8 did not sound an alarm.⁵⁴ This leak caused Platform Eureka to be shut down for
9 nine years. In the same year, 2,000 gallons of crude oil were spilled from the Beta
10 Unit Complex into the Pacific Ocean, resulting in a \$48,000 fine for the operators,
11 although it is unclear whether that spill was connected to the Platform Eureka
12 shutdown.⁵⁵ More recently, the Amplify Defendants were fined \$85,000 in 2013
13 and 2014 for three separate incidents, one of which resulted in the release of oil into
14 the Pacific Ocean.⁵⁶

15 80. The Beta Unit complex was built in 1980 and was anticipated to
16 operate for approximately 35 years, after which the platform was to be removed and
17 wells were to be sealed. The complex is now more than five years beyond its
18 expected life span which puts the facility at increased risk for failure. Following the
19 1999 oil spill discussed above, an investigation found seven small leaks in no
20

21 ⁵² Casey Tolan, *Operator of leaking oil infrastructure has record of violations*,
22 CNN (Oct. 4, 2021, 3:14 P.M.), <https://www.cnn.com/2021/10/04/us/beta-operating-company-violations/index.html>.

23 ⁵³ 2012 OSPRP.

24 ⁵⁴ Deborah Schoch, *Seven Leaks Discovered in Shut-Off Pipeline*, LA TIMES (June
25 20, 1999, 12:00 a.m.) <https://www.latimes.com/archives/la-xpm-1999-jun-10-me-46179-story.html>.

26 ⁵⁵ CALIFORNIA NEWS TIMES, *OC oil spill: oil rig operator waited 3 hours to shut off
27 damaged pipeline report says* (Oct. 6, 2021), <https://californianewstimes.com/oc-oil-spill-oil-rig-operators-waited-3-hours-to-shut-off-damaged-pipeline-report-says/549529/>.

28 ⁵⁶ Casey Tolan, *Operator of leaking oil infrastructure has record of violations*,
CNN (Oct. 4, 2021, 12:14 p.m.), <https://www.cnn.com/2021/10/04/us/beta-operating-company-violations/index.html>.

1 apparent pattern along 3,500 feet of line, and determined that an electronic
 2 monitoring system that was supposed to detect leaks did not sound an alarm.⁵⁷ The
 3 seven leaks were the most ever found at a single drilling platform in federal waters,
 4 which raised concerns as to whether there was corrosion affecting the integrity of
 5 the Pipeline.⁵⁸ Corrosion is a chief concern for pipeline failure.⁵⁹

6 **I. The Obvious Warnings of the Unfolding Oil Spill Crisis**

7 81. On Friday October 1, 2021, at 4:10 p.m., the Pipeline’s automated
 8 leak-detection alarm notified the Beta Unit Complex control rooms of an anomaly
 9 in the Pipeline. There was plenty of light outside, which provided the Amplify
 10 Defendants’ agents and employees (“Pipeline Personnel”) every opportunity to
 11 inspect the Pipeline for the release of crude oil. They did not. To the contrary, no
 12 action was taken until 5:10 p.m. when Pipeline Personnel shutdown and then
 13 restarted the Pipeline. Despite favorable lighting conditions, Pipeline Personnel did
 14 not attempt to visually locate a potential release of oil from the Pipeline at this time.
 15 Leak-detection alarms continued to sound through the evening and into the early
 16 morning of Saturday, October 2, 2021, including at 5:52 p.m., 7:15 p.m., 8:39 p.m.,
 17 9:23 p.m., 10:01 p.m., 11:30 p.m., and 5:28 a.m. the following morning.

18 82. According to 10 former and current employees of the Amplify
 19 Defendants and their internal spill response plan, each alarm should have triggered
 20 rapid phone calls to managers, regulators, and the U.S. Coast Guard, and swiftly set
 21 in motion steps to shut down the Pipeline and the platforms that feed it.⁶⁰ The

22 _____
 23 ⁵⁷Deborah Schoch, *Seven Leaks Discovered in Shut-Off Pipeline*, LA TIMES (June
 24 20, 1999, 12:00 a.m.) <https://www.latimes.com/archives/la-xpm-1999-jun-10-me-46179-story.html>.

25 ⁵⁸ *Id.*

26 ⁵⁹ See Lena V. Groeger, *Pipelines Explained: How Safe are America’s 2.5 Million
 27 Miles of Pipelines*, PROPUBLICA (Nov. 15, 2012, 11:27 a.m.)
 28 <https://www.propublica.org/article/pipelines-explained-how-safe-are-americas-2.5-million-miles-of-pipelines>.

29 ⁶⁰ Jessica Resnick-ault and Nichola Groom, *Despite preparation, California
 pipeline operator may have taken hours to stop leak*, REUTERS (Oct. 8, 2021, 2:46
 p.m.), <https://www.reuters.com/business/energy/despite-preparation-california-pipeline-operator-may-have-taken-hours-stop-leak-2021-10-08/>.

1 Amplify Defendants’ OSPRP emphasizes the critical need for communication upon
2 the occurrence of an extraordinary event, providing that “[e]ffective and efficient
3 communication systems are a central requirement for emergency response at *every*
4 *level.*”⁶¹ (Italics added.) Instead, the Amplify Defendants continued to pump oil
5 through the Pipeline unabated for hours after each alarm.

6 83. From 5:10 p.m. until approximately 10:33 p.m. on October 1, 2021,
7 Pipeline Personnel shut down and restarted the Pipeline five (5) times, pumping
8 crude oil through the Pipeline for an aggregate of three hours. From approximately
9 11:15 p.m. on October 1, 2021, until 2:27 a.m. on October 2, 2021, Pipeline
10 Personnel conducted a manual leak detection test. Pipeline Personnel still had not
11 attempted to perform a visual inspection of the Pipeline to attempt to identify a
12 potential release of crude oil.

13 84. Undeterred, Pipeline Personnel restarted the Pipeline at approximately
14 5:11 a.m. on October 2, 2021, causing crude oil to flow through the Pipeline, again.
15 This decision was based upon Pipeline Personnel’s understanding that non-Amplify
16 personnel in a boat were unable to locate an oil discharge from the Pipeline in
17 darkness of the night.

18 85. The Pipeline Personnel’s actions, inactions, and omissions were highly
19 reckless. As the Amplify Defendants’ agents, employees, and/or servants were
20 acting within the scope of their duties, the Amplify Defendants are equally
21 responsible for the reckless conduct. Further, the Amplify Defendants failed to
22 provide sufficient training to Pipeline Personnel regarding the Pipeline’s automated
23 leak-detection system. Even worse, the Amplify Defendants allowed for and
24 maintained understaffed and fatigued Pipeline Personnel to operate the Pipeline on
25 and about October 1 through October 2, 2021.

26 86. The Amplify Defendants’ grossly reckless actions and inactions
27 leading to the rupture are further illustrated by the fact that the Pipeline’s automated
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⁶¹ 2012 OSPRP.

1 leak-detection system was allegedly broken. According to Amplify, the system
 2 “repeatedly and wrongly signaled a potential leak at the platform where no leak was
 3 actually occurring.”⁶² In other words, the Amplify Defendants were virtually
 4 incapable of preventing an imminent crisis. The Amplify Defendants failed in
 5 nearly every possible way to take steps to protect the Orange County coast from
 6 exposure to toxic crude oil.

7 **J. The Rupture**

8 87. On the evening of Friday October 1, 2021, at around 6:30 p.m., Orange
 9 County residents began emailing each other asking if their neighbors smelled toxic
 10 oil.⁶³ Residents also reported an oil sheen on the water to the Coast Guard.⁶⁴ At the
 11 same time, a commercial vessel anchored in the San Pedro Bay noticed” a “sheen”
 12 of oil on the water, which it later reported to the Coast Guard. By 7:00 p.m.,
 13 satellite imagery strongly suggested a spill. At around 7:30 p.m., the Newport
 14 Police Department informed residents *not* to call 911 for a gas smell throughout the
 15 city, because the calls were overwhelming the switchboard. Similar reports were
 16 being made to adjacent police departments as well. Satellite imagery confirmed an
 17 oil slick forming around 10:58 p.m. that night.⁶⁵ Yet the Amplify Defendants did
 18 not reach out to a single government agency or environmental agency during this
 19 entire time.

21 ⁶² Robert Burnson, *Amplify Energy Charged Over California’s Worst Oil Spill in*
 22 *Nearly 30 Years*, BLOOMBERG GREEN (Dec. 15, 2021, 6:04 p.m.),
[https://www.bloomberg.com/news/articles/2021-12-16/amplify-energy-charged-](https://www.bloomberg.com/news/articles/2021-12-16/amplify-energy-charged-with-negligence-in-san-diego-oil-spill)
[with-negligence-in-san-diego-oil-spill.](https://www.bloomberg.com/news/articles/2021-12-16/amplify-energy-charged-with-negligence-in-san-diego-oil-spill)

23 ⁶³ ASSOC. PRESS, *Pipeline owner suspected in Orange County oil spill had been*
 24 *cited for violations 72 times*, KTLA5 (Oct. 4, 2021, 8:43 P.M.),
[https://ktla.com/news/local-news/oil-platform-owner-in-orange-county-spill-](https://ktla.com/news/local-news/oil-platform-owner-in-orange-county-spill-previously-faced-bankruptcy-history-of-regulatory-problems/)
[previously-faced-bankruptcy-history-of-regulatory-problems/](https://ktla.com/news/local-news/oil-platform-owner-in-orange-county-spill-previously-faced-bankruptcy-history-of-regulatory-problems/).

25 ⁶⁴ ASSOC. PRESS, *OC oil spill: Underwater pipeline was split open, moved more*
 26 *than 100 feet, officials say*, ABC 7 (Oct. 5, 2021, 10:13 A.M.), [https://abc7.com/oc-](https://abc7.com/oc-oil-spill-pipeline-was-split-open-and-displaced-officials-say/11085759/)
[oil-spill-pipeline-was-split-open-and-displaced-officials-say/11085759/](https://abc7.com/oc-oil-spill-pipeline-was-split-open-and-displaced-officials-say/11085759/).

27 ⁶⁵ Robert Tuttle and John Gittelsohn, *Global Supply Chain Nightmare May Be*
 28 *Behind California Oil Spill*, BLOOMBERG (Oct. 7, 2021, 9:05 A.M.),
[https://www.bloomberg.com/news/articles/2021-10-06/california-oil-spill-cause-](https://www.bloomberg.com/news/articles/2021-10-06/california-oil-spill-cause-may-have-been-ship-anchor-crowded-port)
[may-have-been-ship-anchor-crowded-port.](https://www.bloomberg.com/news/articles/2021-10-06/california-oil-spill-cause-may-have-been-ship-anchor-crowded-port)

1 88. By 2:00 a.m. Saturday, October 2, 2021, NOAA reported or received
2 confirmation of a likely spill. No fewer than six (6) leak-detection alarms had been
3 triggered at the Beta Unit Complex by this time.

4 89. In the aftermath of the rupture, Amplify's CEO claimed that the
5 company shut down the Pipeline at 6 a.m. on Saturday, October 2, 2021, over *14*
6 *hours* after the first leak-detection alarm sounded and over *12 hours* after residents,
7 miles away, smelled oil. The Amplify Defendants have not confirmed when they
8 closed valves in the Pipeline, which would have prevented any oil left in the
9 Pipeline from spilling out into the ocean. *Two hours later*, at 8 a.m., Amplify
10 allegedly determined what was already obvious to residents, anchored vessels,
11 fishers, and NOAA—that there was an oil spill. Amplify then waited *another hour*
12 before reporting the spill to the National Response Center.⁶⁶ In other words, the
13 Amplify Defendants did not notify a single government agency of the crisis for
14 nearly *sixteen hours* after the spill.

15 90. It is now known that the Pipeline had a thirteen-inch crack from which
16 oil was released, and that over 4,000 feet of the Pipeline was not where it was
17 supposed to be. As Orange County Supervisor Katrina Foley demanded to know on
18 Saturday, October 9, 2021, “Why didn’t the oil company know their [P]ipeline was
19 damaged? Why didn’t they fix it or at least turn off the valve?”⁶⁷

20 **K. The Catastrophic Consequences of the Amplify Defendants’ Failure to**
21 **Detect And Stop Their Spill**

22 91. Because the Amplify Defendants did not shut down the Pipeline,
23 reduce the flow of oil, or close crucial valves for hours, the spill grew to disastrous
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26 _____
27 ⁶⁶ Carolina Lumetta, *Investigation finds oil pipeline leaked for hours*, WORLD
DIGITAL (Oct. 6, 2021), <https://wng.org/sift/investigation-finds-delays-in-calif-oil-spill-response-1633560518>.

28 ⁶⁷ Supervisor Katrina Foley, Oct. 9, 2021 Tweet, <https://twitter.com/SupervisorFoley/status/1447015401922052097?s=20>.

1 proportions. This unconscionable delay appears to have been fed in part by attempts
2 at internal damage control.⁶⁸

3 92. The disastrous impact of the oil spill was apparent immediately. On
4 the morning of Saturday, October 2, 2021, fishing boats and yacht charters
5 experienced the ongoing spill firsthand. Surrounded by oil, they were forced to
6 return to local marinas because their hulls were covered in toxic sludge.⁶⁹ The oil
7 spill created a slick that stretched for dozens of miles. Within the first days, oil from
8 the spill washed up on Huntington Beach and the Talbert March wetlands. The
9 below photos are but a few examples of the damage to these precious habitats:⁷⁰



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21 **Image 11. Environmental Impact (1)**

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23 ⁶⁸ Anita Chabria, et al., *Pipeline company evades questions over a 15-hour gap*
24 *before reporting oil spill*, LOS ANGELES TIMES (Oct. 9, 2021, 5:00 a.m.),
<https://www.latimes.com/california/story/2021-10-09/oil-spill-timeline-questions-contradictions>.

25 ⁶⁹ ASSOC. PRESS, *Pipeline owner suspected in Orange County oil spill had been*
26 *cited for violations 72 times*, KTLA5 (Oct. 4, 2021, 8:43 P.M.),
<https://ktla.com/news/local-news/oil-platform-owner-in-orange-county-spill-previously-faced-bankruptcy-history-of-regulatory-problems/>.

27 ⁷⁰ US Coast Guard via Reuters, *U.S. Coast Guard probes whether ship struck*
28 *California oil pipeline*, REUTERS (Oct. 7, 2021, 1:48 p.m.),
<https://www.reuters.com/news/picture/us-coast-guard-probes-whether-ship-struct-idUSRTXI885B>.

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Image 12. Environmental Impact (2)

93. In the immediate aftermath of the spill, dolphins were seen swimming through the toxic oil, dead fish washed up onto beaches, and residents were encouraged not to approach “oiled wildlife.”⁷¹ (See Image 13.)

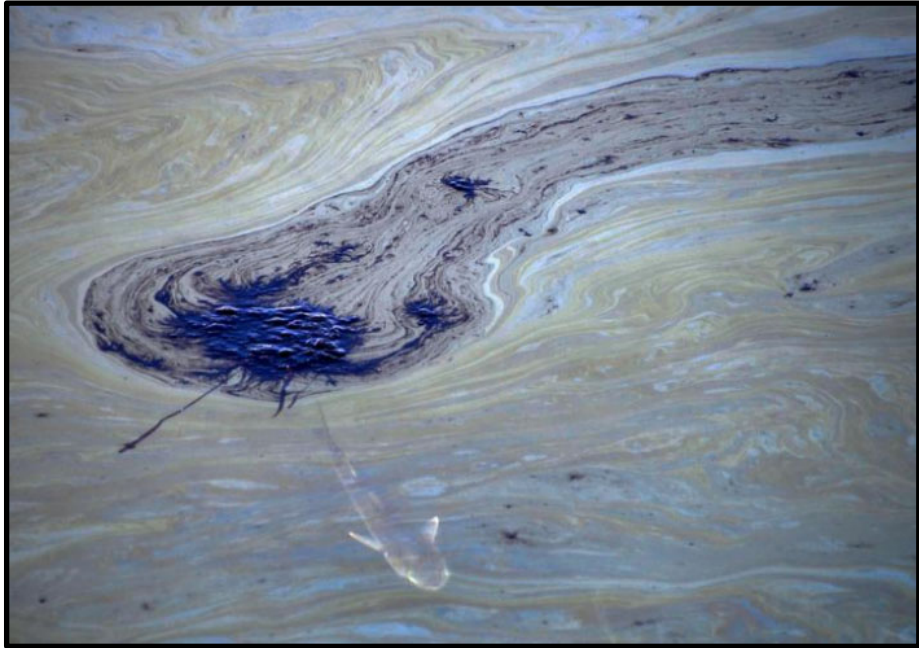


Image 13. Environmental Impact (3)

⁷¹ *Id.*

1 94. As the toxic oil slick spread via ocean currents, it left dead marine
2 animals in its wake. While the total number of animals affected by the spill is
3 unknown, the UC Davis Oiled Wildlife Care network reported recovering 82 dead
4 birds, and six dead marine mammals, three of which were sea lions. These numbers
5 do not reflect the full impact that the spill had on wildlife. Birds may be the most
6 visible victims of oil spills because of how quickly they are impacted by oil. (See
7 Image 14.) Oiling of birds eliminates the insulative air layer beneath their feathers,
8 leading to hypothermia, loss of buoyancy and a reduced flight capability. Affected
9 birds can die in a matter of days. In addition, they can become victims of predation,
10 causing secondary contamination in these predators. Significant internal effects to
11 birds can arise from preening of contaminated feathers.



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22 **Image 14. Environmental Impact (4)**

23 95. Much of the damage to wildlife is out of sight but may continue for
24 years. Many fish and invertebrates start their lives as larvae, including lobsters.⁷²

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28 ⁷² Dan Cabot, *Life Cycle of a lobster*, MV TIMES (Jul. 8, 2010),
<https://www.mvtimes.com/2010/07/08/life-cycle-lobster-1446/>.

1 Larvae are highly vulnerable to the effects of oil. Accordingly, their populations
2 can be expected to fall post-spill.⁷³

3 96. Crude oil can also kill a vast amount of phytoplankton. Phytoplankton
4 feeds countless smaller creatures that are microscopic but are the base of the food
5 chain. Spills also damage plants, which have similar ramifications for the broader
6 ecosystem.⁷⁴

7 97. Additionally, the spill affected the health, migrations, and movements
8 of whales, dolphins, and sea turtles, negatively impacting the local sea life watching
9 industry. Marine mammals like whales and dolphins have to surface to breathe, and
10 if they come up for air through an oil slick, they can suck the toxic substance into
11 their lungs. When they surface in an area nearby an oil spill, they—like humans—
12 can inhale the toxic chemicals evaporating from the surface of the oil. Additionally,
13 oil spills can kill or contaminate smaller animals, such as krill, which are eaten by
14 whales and the fish that dolphins eat.⁷⁵

15 98. Sea turtles, including Green Turtles, Loggerheads, Olive Ridley, and
16 Leatherback, inhabit the waters of Southern California. It is here that they feed and
17 grow, foraging on invertebrates, seaweed, and sea grasses from the San Diego Bay
18 up to the San Gabriel River in Long Beach. They forage in the open water by day
19 and move into protected bays, lagoons, and estuaries at night. The spill has polluted
20 their food supply and the coastal areas where they rest. Additionally, because of the
21 spill, booms and other protective equipment prevented these species from moving,
22 trapping them in oiled waters and disrupting their feeding and resting patterns.⁷⁶

23 _____
24 ⁷³ Benji Jones, *Why the Huntington Beach oil spill is so harmful to wildlife*, VOX
25 (Oct. 6, 2021, 9:00 A.M.), <https://www.vox.com/down-to-earth/22708654/oil-spills-wildlife-huntington-beach-california>.

26 ⁷⁴ *Id.*

27 ⁷⁵ WDC, *Ocean Pollution*, <https://us.whales.org/our-4-goals/create-healthy-seas/ocean-pollution/> (last visited Jan. 25, 2022).

28 ⁷⁶ Sports Fishing Assoc. of Cal., *Southern California Sea Turtles*,
<https://www.californiasportfishing.org/single-post/2016/06/30/southern-california-sea-turtles> (last visited Oct. 7, 2021).

1 99. There is also the fact that many animals exposed to the toxic crude oil
 2 will never recover, despite efforts to help. Studies suggest that wildlife-assistance
 3 efforts during oils spills may merely prolong the inevitable loss of populations of
 4 certain species within the oiled areas.⁷⁷ Then there is the tragic reality that it is
 5 impossible to fully “cleanup” the areas impacted by an oil spill.⁷⁸

6 100. As a result of the spill, authorities were also forced to close the
 7 entrances to Newport Harbor and Dana Point Harbor to vessel traffic.⁷⁹ The
 8 emergency action was taken to help prevent more oil from entering the harbors.
 9 Accordingly, all boats were prevented from entering or exiting the harbors.⁸⁰
 10 Residents and tourists were consequently unable to enjoy the use of the harbor for
 11 pleasure boating, sport fishing, and other activities such as whale watching.

12 101. The spill’s impacts extend beyond industries that rely on a healthy
 13 aquatic ecosystem. On October 3, 2021, the OC Health Care Agency issued a health
 14 advisory for residents exposed to oil contaminants, warning that the “effects of oil
 15 spills on humans may be direct and indirect,” and requested that residents “refrain
 16 from participating in recreational activities on the coastline such as swimming,
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19 ⁷⁷ Andrew Nikiforuk and Hakai Magazine, *Why We Pretend to Clean Up Oil Spills*,
 20 SMITHSONIAN MAGAZINE (July 12, 2016),
<https://www.smithsonianmag.com/science-nature/oil-spill-cleanup-illusion-180959783/>.

21 ⁷⁸ Denise Chow, *How we clean oil spills hasn’t changed in decades. These*
 22 *scientists want to change that.*, NBC NEWS (Oct. 6, 2021, 3:31 p.m.),
<https://www.nbcnews.com/science/environment/clean-oil-spills-hasnt-changed-decades-scientists-want-change-rcna2649>.

23 ⁷⁹ CBSLA Staff, *Enormous Huntington Beach Oil Spill Closes Dana Point Harbor*
 24 *Indefinitely*, CBS LOS ANGELES (Oct. 5, 2021, 10:31 A.M.),
<https://losangeles.cbslocal.com/2021/10/05/enormous-huntington-beach-oil-spill-closes-dana-point-harbor-indefinitely/>.

25 ⁸⁰ Newport Indy Staff, *Entrance to Newport Harbor Temporarily Closed Due to Oil*
 26 *Spill*, NEWPORT BEACH INDEPENDENT (Oct. 4, 2021),
<https://www.newportbeachindy.com/entrance-to-newport-harbor-temporarily-closed-due-to-oil-spill/>; Sonya Quick, *Dana Point Harbor is Latest Closure Along*
 27 *OC’s Coast in Efforts to Prevent Exposure to and Spread of Crude Oil*, VOICE OF
 28 OC (Oct. 5, 2021), <https://voiceofoc.org/2021/10/dana-point-harbor-is-latest-closure-along-ocs-coast-in-efforts-to-prevent-exposure-and-spread-of-crude-oil/>.

1 surfing, biking, walking, exercising, gathering, etc.”⁸¹ The Agency advised that
2 spilled oil, which can contain toxic chemicals, poses health threats via skin contact
3 or inhalation. Symptoms of “excessive exposure to oil or dispersants commonly
4 include the following: skin, eye, nose and throat irritation; headache; dizziness;
5 upset stomach; vomiting; cough or shortness of breath.”⁸²

6 **1. The Spill’s Impact on Commercial Fishing**

7 102. As a result of the spill and Defendants’ failure to contain it, the CDFW
8 was forced to close previously lucrative offshore fisheries due to the public health
9 threat caused by the oil spill into marine waters. According to California’s Office of
10 Environmental Health Hazard Assessment (“OEHHA”), fish in oil spills can be
11 dangerous to eat because they can ingest oil that can contain polycyclic aromatic
12 hydrocarbons that can cause cancer if eaten in certain amounts.⁸³

13 103. On October 3, 2021, the taking of all fish and shellfish was prohibited
14 from Huntington Beach to Dana Point including the shorelines and offshore areas,
15 and all bays, as set forth in map below (Image 17):

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25 ⁸¹ Press Release, OC Health Care Agency Issues Health Advisory For Residents
Exposed To Oil Contaminants, OC Health Care Agency (Oct. 3, 2021),
<https://mailchi.mp/ochca/hca-health-advisory-re-oil-spill-10114934>.

26 ⁸² *Id.*

27 ⁸³ Alyse Messmer, *California Fisherman Can’t Access Nearly 12 Miles of Water 1*
Month After Oil Leak, NEWSWEEK (October 29, 2021, 10:21 a.m.),
28 <https://www.newsweek.com/california-fishermen-cant-access-nearly-12-miles-water-1-month-after-oil-leak-1644001>.

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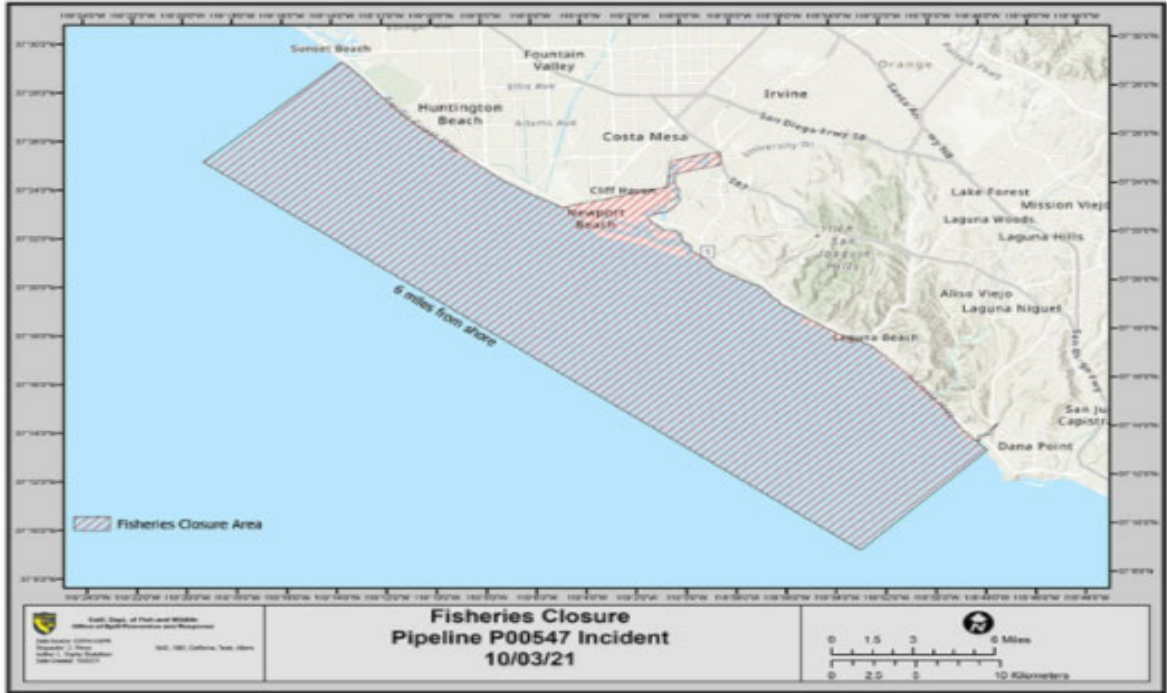


Image 17. Fishery Closures, 10-3-21

104. As the days passed, the true size and scope of the area impacted by the spill continued to grow. On October 5, 2021, the OEHHA expanded the geographic area of the fishery closures to include San Clemente and extended the offshore area to coastal points eight miles offshore, and both Newport Harbor and Dana Point harbor were closed to vessel traffic.⁸⁴

105. On October 7, 2021, the geographic boundaries of the existing fishing and shellfish harvesting closure area was again expanded to stretch from the west jetty of Anaheim Bay to near the southern border of the San Onofre power plant.⁸⁵ (See Image 18.)

⁸⁴ Cal. Dept. of Fish and Wildlife, Amended Declaration of Fisheries Closure (Oct. 5, 2021) https://socalspillresponse-com-jtti.s3.us-west-2.amazonaws.com/wp-content/uploads/2021/10/05115854/CDFW-Fisheries-Closure-Declaration-Amendment_10-05-21.pdf.

⁸⁵ Cal. Dept. of Fish and Wildlife, Amended Declaration of Fisheries Closure (Oct. 7, 2021), https://socalspillresponse-com-jtti.s3.us-west-2.amazonaws.com/wp-content/uploads/2021/10/07174741/CDFW-Declaration-Amendment_2_10.07.21.pdf.

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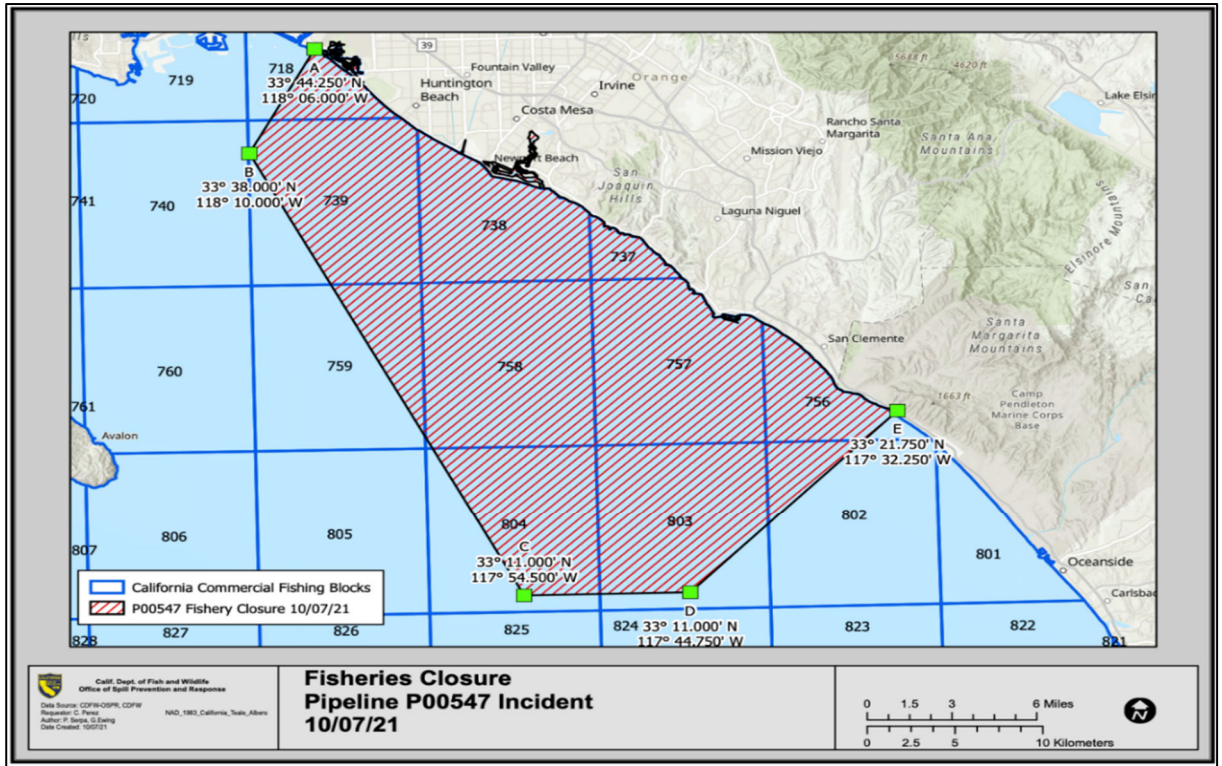


Image 18. Fishery Closures, 10-7-21

106. Eleven formerly lucrative fishing blocks were closed in whole or in part as a result of the spill. The closure then included approximately 650 square miles of marine waters and approximately **45 miles** of shoreline.⁸⁶ The closure area encompassed all bays and harbors from Seal Beach to San Onofre State Beach. The map below illustrates the extent of the fisheries closure.⁸⁷

107. While the fisheries were closed, CDFW sampled seafood in the closed area to measure and evaluate the levels of chemicals found in oil, polyaromatic hydrocarbons (PAHs), which can accumulate in species caught for human consumption, causing an increased risk of cancer and other adverse health conditions. It was not until November 29, 2021, that the OEHHA determined that there was no further risk to public health from seafood harvested in the affected

⁸⁶ *Id.*

⁸⁷ *Id.*

1 area, and ordered the fisheries closure lifted.⁸⁸ By the time the closure was lifted, a
2 wide swath of Southern California's fisheries had been closed to both commercial
3 and recreational fishing for nearly two months.

4 108. The harbor and fisheries closures had a significant impact on fishing.
5 Dana Point Harbor and Newport Harbor were completely closed until October 9,
6 2021, and fishing boats were prohibited from moving at all during that time.⁸⁹ After
7 the harbors were re-opened, fishing was prohibited for miles. Although Fishers
8 were able to fish outside of the confines of the closed fisheries, demand for fish was
9 drastically reduced because of concerns about contamination. During the first
10 weeks of October, which is usually a big season for fishing because it is spawning
11 season, commercial fishers saw demand drop 90% due to the spill.⁹⁰

12 109. Certain types of fishing were even harder hit: Fishers were unable to
13 harvest lobsters during one third of the annual season for California spiny lobsters
14 which runs from October to March.⁹¹

15 110. The closures also had a negative effect on the sale of fish caught
16 outside of the closed areas. As late as November 2021, the Orange County Health
17 Care Agency Director's public advisory recommended the public to refrain from
18 consuming contaminated seafood from the "affected beaches," rather than just the
19 closed zones.⁹² This warning may have led to customers assuming that all locally
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21 ⁸⁸ Cal. Dept. of Fish and Wildlife, Southern California Fisheries Closure Lifted,
22 (November 29, 2021), <https://wildlife.ca.gov/News/southern-california-fisheries-closure-lifted>.

23 ⁸⁹ Jordan B. Darling, *Oil Spill Off of Southern California Coast Prompts Harbor*
24 *and Fisheries Closures*, THELOG (October 14, 2021) <https://www.thelog.com/news-departments/oil-spill-off-of-southern-california-coast-prompts-harbor-closures/>.

25 ⁹⁰ HHRG-117-1115 Written Testimony of Scott Breneman, Joint Field Hearing
October 18, 2021.

26 ⁹¹ Stefan A. Slater, *How Did the OC Oil Spill Impact Local Seafood?*, LAIST (Dec.
27 15, 2021, 8:00 a.m.), <https://laist.com/news/food/orange-county-oil-spill-impact-local-seafood-2021>.

28 ⁹² Orange County, *County Health Officer on Local Oil Spill- Health Advisory #4*,
<https://www.ocgov.com/news/county-health-officer-local-oil-spill-health-advisory-4> (Oct. 14, 2021).

1 caught fish was contaminated or that there were no fish available.⁹³⁹⁴ Wholesalers
2 and other restaurant customers were not interested in “local” product. Local fishers
3 lost tens of thousands of dollars in revenues.⁹⁵ Fish market owners saw an
4 immediate decline in business, because customers were afraid that fish were
5 contaminated. All markets in the area that supply or benefit from the Orange
6 County fishing-related activities suffered as well.

7 **2. The Spill’s Impact on Residents**

8 111. In the immediate aftermath of the spill, in Huntington Beach,
9 California, known as “Surf City USA,” the entire shoreline was closed between the
10 Santa Ana River Jetty and Seaport Street. In Newport Beach, famous for its
11 stunning beaches, all city beaches were closed due to the oil spill. All city and
12 county beaches in Laguna Beach, including Aliso Beach, Laguna Royale, Table
13 Rock Beach, Thousand Steps Beach, and West Street Beach were closed. The maps
14 below (Images 15-16) demonstrate the many miles of formerly pristine coastal
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22 ⁹³ *Id.*, and Fisherman and Foodways Begin to Feel the Squeeze of Orange County
23 Oil Spill, October 6, 2021, <https://www.latimes.com/food/story/2021-10-06/fishermen-and-foodways-begin-to-feel-the-squeeze-of-orange-countys-oil-spill>.
24 <https://apnews.com/article/oil-spills-science-business-pacific-ocean-california-2dd5c29a767b3033469dc0f1a3c8706d>

25 ⁹⁴ *Id.*; Stephanie Breijo, *Fisherman and foodways begin to feel the squeeze of*
26 *Orange County oil spill*, LOS ANGELES TIMES (October 6, 2021, 1:34 p.m.),
<https://www.latimes.com/food/story/2021-10-06/fishermen-and-foodways-begin-to-feel-the-squeeze-of-orange-countys-oil-spill>. <https://apnews.com/article/oil-spills-science-business-pacific-ocean-california-2dd5c29a767b3033469dc0f1a3c8706d>.

27 ⁹⁵Statement of Chairwoman Katie Porter, Oversight and Investigations and Energy
28 and Mineral Resources, “Southern California Oil Leak: Investigating the Immediate
Effects on Communities, Business and the Environment” October 18, 2021

1 beaches that were initially closed because of the spill, along with water advisories
 2 extending up from Seaport Street all the way north to Seal Beach.⁹⁶

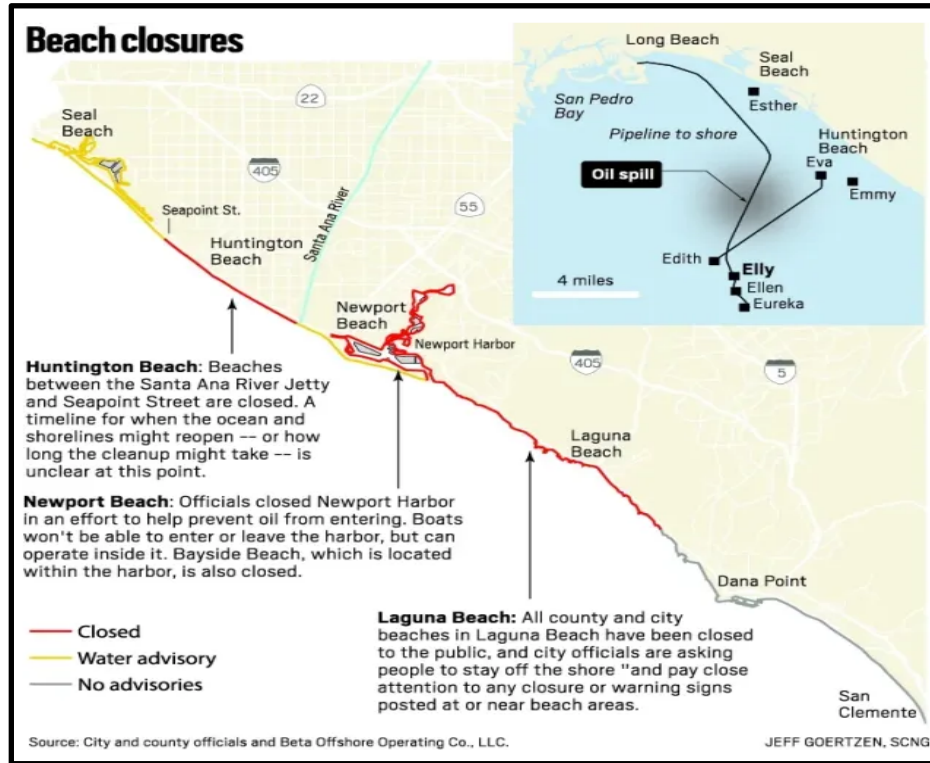


Image 15. Beach Closures (1)



Image 16. Beach Closures (2)

⁹⁶ Tess Sheets, *Planning a Southern California beach trip? These beaches are closed by the oil spill*, EAST BAY TIMES (Oct. 5, 2021, 7:35 A.M.), <https://www.eastbaytimes.com/2021/10/05/heres-what-beaches-are-off-limits-as-officials-work-to-contain-massive-oil-spill/>.

1 112. As the oil slick made its way down the coast, more beaches were
2 impacted and beaches as far south as Dana Point were closed on Tuesday morning,
3 October 3, 2021—adding to the closures of Huntington Beach, Newport Beach, and
4 Laguna Beach. By then, over **23 miles** of shoreline were restricted to protect the
5 public from toxic exposure to crude oil.⁹⁷ By Friday October 8, 2021, tar balls were
6 reported to be washing up even further south along the San Diego coastline, where
7 beachgoers were warned of the toxic effects of the oil.⁹⁸

8 113. Real property owners and shoreline residential properties were on the
9 spill's front lines. The beachfront and waterfront properties along the Southern
10 Coast of California are highly valuable. The property owners and tenants enjoy the
11 unspoiled sand, water and views, and direct access to swimming, fishing, surfing,
12 kayaking, and other activities. As a result of the spill—its toxic stench, the fouling
13 of the ocean, and oil that washed up onto beaches and properties—occupants of
14 beachfront and waterfront real property along miles of formerly pristine beaches
15 lost the use of key features of their properties due to beach closures and dangers
16 associated with the spill. On October 3, 2021, the Orange County Health
17 Commissioner issued a health advisory recommending residents refrain from
18 participating in any recreational activities on the coastline such as swimming,
19 surfing, biking, walking, exercising, and gathering.⁹⁹

20 114. On October 4, 2021, Governor Gavin Newsom declared a state of
21 emergency, finding the conditions caused by the oil spill, by reason of its
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24 ⁹⁸ Dakin Andone, *Pipeline crack in California oil spill may have occurred up to a*
25 *year ago, investigators say*, CNN (Oct. 8, 2021),
26 <https://www.cnn.com/2021/10/08/us/california-oil-spill-friday/index.html>; City
27 News Service, *Unified command responds to oil spill in San Diego, Orange*
28 *Counties*, ABC 10 News San Diego (Oct. 10, 2021),
<https://www.10news.com/news/local-news/san-diego-news/unified-command-responds-to-oil-spill-in-san-diego-orange-counties>.

⁹⁹ Orange County, *OC Health Care Agency Issues Health Advisory for Residents Exposed to Oil Contaminants*, <https://www.ocgov.com/news/oc-health-care-agency-issues-health-advisory-residents-exposed-oil-contaminants>.

1 magnitude, to be beyond the control of local government, and sought to utilize all
 2 available resources to support the response, cleanup, and mitigation of the oil
 3 spill.¹⁰⁰ Governor Newsom stated the “oil release has impacted and continues to
 4 threaten the environment and marine life in the area, including marine mammals,
 5 birds, and fish,” as well as “reached the Huntington Beach shoreline and threatens
 6 numerous jurisdictions along the coast, resulting in beach closures.”

7 115. Following intensive clean-up efforts, affected beaches and harbors
 8 slowly reopened. Orange County reopened Salt Creek Beach, Strands Beach, and
 9 Baby Beach in Dana Point on October 7, 2021.¹⁰¹ Newport Beach and Dana Point
 10 Harbors were reopened for all vessel traffic on October 8, 2021.¹⁰² On October 8,
 11 2021, Orange County announced the reopening of the sand, but not the shoreline or
 12 the water, at beaches in Laguna Beach¹⁰³ and the reopening of Bayside Beach in
 13 Newport Beach.¹⁰⁴ Despite these reopenings, the City of Newport advised residents
 14 and visitors to avoid contact with the ocean water and oiled areas of the beach.¹⁰⁵
 15 Huntington Beach reopened on October 11, 2021.¹⁰⁶ Beaches in Laguna Beach did

16 _____
 17 ¹⁰⁰ Exec. Dept. State of Cal., *Proclamation of a State of Emergency*, (Oct. 4, 2021),
 18 [https://www.gov.ca.gov/wp-content/uploads/2021/10/10.4.2021-Oil-Spill-SOE-](https://www.gov.ca.gov/wp-content/uploads/2021/10/10.4.2021-Oil-Spill-SOE-signed.pdf)
 19 [signed.pdf](https://www.gov.ca.gov/wp-content/uploads/2021/10/10.4.2021-Oil-Spill-SOE-signed.pdf).

20 ¹⁰¹ Orange County Parks, *County Beaches Dana Point Now Open following Oil*
 21 *Spill* [https://ocparks.com/news/county-beaches-dana-point-now-open-following-oil-](https://ocparks.com/news/county-beaches-dana-point-now-open-following-oil-spill-closure#:~:text=The%20County%20of%20Orange%2C%20in,located%20within%20Dana%20Point%20Harbor.Orange%20County%20Operational%20Area%20Emergency%20Operations%20Center%20Press%20Release%20%235)
 22 [spill-](https://ocparks.com/news/county-beaches-dana-point-now-open-following-oil-spill-closure#:~:text=The%20County%20of%20Orange%2C%20in,located%20within%20Dana%20Point%20Harbor.Orange%20County%20Operational%20Area%20Emergency%20Operations%20Center%20Press%20Release%20%235)
 23 [closure#:~:text=The%20County%20of%20Orange%2C%20in,located%20within%20Dana%20Point%20Harbor.Orange County Operational Area Emergency](https://ocparks.com/news/county-beaches-dana-point-now-open-following-oil-spill-closure#:~:text=The%20County%20of%20Orange%2C%20in,located%20within%20Dana%20Point%20Harbor.Orange%20County%20Operational%20Area%20Emergency%20Operations%20Center%20Press%20Release%20%235)
 24 [Operations Center Press Release #5](https://ocparks.com/news/county-beaches-dana-point-now-open-following-oil-spill-closure#:~:text=The%20County%20of%20Orange%2C%20in,located%20within%20Dana%20Point%20Harbor.Orange County Operational Area Emergency) (Oct. 7, 2021)

25 ¹⁰² Orange County, *Newport Beach and Dana Point Harbors Reopened Following*
 26 *Oil Spill Closure*, [https://www.ocgov.com/news/newport-beach-and-dana-point-](https://www.ocgov.com/news/newport-beach-and-dana-point-harbors-reopened-following-oil-spill-closure)
 27 [harbors-reopened-following-oil-spill-closure](https://www.ocgov.com/news/newport-beach-and-dana-point-harbors-reopened-following-oil-spill-closure) (Oct. 8, 2021).

28 ¹⁰³ Orange County, *OC Parks Beaches in Laguna Beach Now Open Following Oil*
Spill Closure [https://www.ocgov.com/news/oc-parks-beaches-laguna-beach-now-](https://www.ocgov.com/news/oc-parks-beaches-laguna-beach-now-open-following-oil-spill-closure)
[open-following-oil-spill-closure](https://www.ocgov.com/news/oc-parks-beaches-laguna-beach-now-open-following-oil-spill-closure) (October 8, 2021).

¹⁰⁴ Orange County, *Newport Beach and Dana Point Harbors Reopened Following*
Oil Spill Closure, [https://www.ocgov.com/news/newport-beach-and-dana-point-](https://www.ocgov.com/news/newport-beach-and-dana-point-harbors-reopened-following-oil-spill-closure)
[harbors-reopened-following-oil-spill-closure](https://www.ocgov.com/news/newport-beach-and-dana-point-harbors-reopened-following-oil-spill-closure) (Oct. 8, 2021)

¹⁰⁵ *Id.*

¹⁰⁶ City of Huntington Beach, *CA -News-HB Beaches Re-open 10/11 at 6 am*,
<https://www.huntingtonbeachca.gov/files/users/residents/HB-Beaches-Reopen.pdf>

1 not fully reopen until October 14, 2021, nearly two weeks after the spill.¹⁰⁷

2 However, the re-opening of the beaches did not mean that the beaches were safe.
 3 On October 14, 2021, Orange County issued a Health Advisory which instructed
 4 residents and visitors to exercise caution if resuming recreational activities at local
 5 beaches in order to limit the risk of contaminants being absorbed through the skin,
 6 inhalation or ingestion.¹⁰⁸ Even after the reopening of the beaches, officials
 7 informed the public to expect to see shoreline cleanup assessment teams and work
 8 crews equipped in protective gear monitoring, inspecting and cleaning the beaches.
 9 The equipment required to perform the monumental cleanup of the Defendants' oil
 10 spill could be seen in public parking lots along the Orange County coast for weeks
 11 thereafter.

12 **3. The Spill's Impact on Coastal Businesses**

13 116. The oil spill and associated closures caused major harm to shorefront
 14 and water-adjacent businesses, affecting not just the boats but also fuel docks, live-
 15 bait providers, tackle offices, fish buyers and processors, fish shippers, and
 16 restaurants.¹⁰⁹

17 117. Local surf shops and surf businesses note that October is a "boom"
 18 month for them because the water is warm, and the winds provide for good swells;
 19 however, much of their October was erased as a result of beach and harbor closures
 20

21 _____
 22 (Oct. 10, 2021).

23 ¹⁰⁷ Orange County, *Beaches in Laguna Reopened Following Oil Spill Closure*
 24 [https://www.ocgov.com/news/county-orange-beaches-laguna-beach-reopened-
 following-oil-spill-closure](https://www.ocgov.com/news/county-orange-beaches-laguna-beach-reopened-following-oil-spill-closure) (Oct. 14, 2021).

25 ¹⁰⁸ Orange County, *County Health Officer On Local Oil Spill- Health Advisory #3*
 26 [https://www.ocgov.com/news/county-health-officer-local-oil-spill-health-advisory-
 3](https://www.ocgov.com/news/county-health-officer-local-oil-spill-health-advisory-3) (Oct. 14, 2021).

27 ¹⁰⁹ Stephanie Breijo, *Fisherman and foodways begin to feel the squeeze of Orange*
 28 *County oil spill*, LOS ANGELES TIMES (October 6, 2021, 1:34 p.m.),
[https://www.latimes.com/food/story/2021-10-06/fishermen-and-foodways-begin-to-
 feel-the-squeeze-of-orange-countys-oil-spill](https://www.latimes.com/food/story/2021-10-06/fishermen-and-foodways-begin-to-feel-the-squeeze-of-orange-countys-oil-spill). [https://apnews.com/article/oil-spills-
 science-business-pacific-ocean-california-2dd5c29a767b3033469dc0f1a3c8706d](https://apnews.com/article/oil-spills-science-business-pacific-ocean-california-2dd5c29a767b3033469dc0f1a3c8706d).

1 and tourists' concerns about the spill which led to cancelations decimating their
2 historically high October profits.¹¹⁰

3 118. The spill also caused the canceling of the final day of the Great Pacific
4 Airshow which was supposed to occur on October 3, 2021. With all three premier
5 North American jet demonstration teams (the U.S. Navy Blue Angels, the Canadian
6 Forces Snowbirds, and the U.S. Air Force Thunderbirds) performing in the same
7 show for the first time in 20 years, the Pacific Airshow was a cornerstone event for
8 Orange County. Indeed, the Pacific Airshow had assembled the largest line up of
9 military and civilian performers *of any airshow in U.S. history*.

10 119. Huntington Beach's public safety officials confirmed that 1.5 million
11 people saw the show from Huntington Beach on Saturday, October 2, 2021, alone,
12 breaking every event attendance record in the city's history. The same number of
13 spectators were expected Sunday—the day the event was canceled due to the spill.

14 120. State Parks spokesman Kevin Pearsall said, "Saturday was one of the
15 busiest days on the sand and likely in Huntington Beach's history, surpassing
16 Fourth of July crowds, with likely 1 million people along the shoreline [] viewing
17 the air show."¹¹¹ Pearsall further estimated that the amount of revenue lost to State
18 Parks and other cities will be in the millions just from closing the beach Sunday
19 October 3, 2021.¹¹²

20 121. Airshow officials have stated that the event would have had a \$100
21 million impact on the local economy. Obviously, that did not occur because of the
22
23

24 ¹¹⁰See Laylan Connelly, *Oil spill causes problems for OC businesses that rely on*
25 *beach tourism*, THE ORANGE COUNTY REGISTER (Oct. 5, 2021, 3:47 p.m.),
26 <https://www.ocregister.com/2021/10/05/areas-greatest-coastal-tourism-draws-suffer-from-oil-spill/>.

27 ¹¹¹See Laylan Connelly, *Major oil spill closes OC beaches, kills wildlife in*
Huntington Beach, THE ORANGE COUNTY REGISTER (Oct. 3, 2021, 9:19 a.m.),
28 <https://www.ocregister.com/2021/10/03/major-oil-spill-forces-cancellation-of-air-show-in-huntington-beach/>.

¹¹² *Id.*

1 Airshow's cancellation.¹¹³ In other words, the oil spill shuttered the largest
2 spectator event in Huntington Beach's history, and thus prevented a million-plus
3 people from gathering in Huntington Beach and neighboring cities to view the
4 show, take advantage of local tourist attractions, dine at local restaurants, stay at
5 local hospitality properties, and purchase goods from local vendors.

6 122. It was not just the airshow. The region's hospitality industry was
7 damaged from the oil spill. Numerous events scheduled at local hotels were
8 cancelled, and/or had attendance slashed.¹¹⁴

9 123. As the spill moved down the shore, more and more businesses were
10 negatively impacted. A fish taco chain saw negative impacts in locations as far
11 south as Laguna Beach and San Clemente.¹¹⁵ Likewise, a chain of surf shops
12 experienced sharp declines in business in its nine locations across the coast.
13 Moreover, in the weeks after the spill, tourism fell, leaving hospitality properties
14 with low occupancy. Property owners who relied upon rental income from vacation
15 and AirBnB/Vrbo rentals, saw numerous cancellations.¹¹⁶ Dolphin and whale
16 watching businesses suffered as a majority of bookings were cancelled into
17 November.

18 124. Sport fishing businesses were impacted directly by the closures which
19 prevented operators from offering tours for weeks. Thereafter, business continued
20 to lag relative to prior years, as customers canceled trips because of concerns about
21 the impact of the oil spill.¹¹⁷

22 _____
23 ¹¹³ See Katie Murar, *Oil Spills Into OC's Tourism Market*, ORANGE COUNTY BUS. J.
24 (Oct. 11, 2021), <https://www.ocbj.com/news/2021/oct/11/oil-spills-ocs-tourism-market/>.

25 ¹¹⁴ See Katie Murar, *Oil Spills Into OC's Tourism Market*, Orange County Bus. J.
26 (Oct. 11, 2021), <https://www.ocbj.com/news/2021/oct/11/oil-spills-ocs-tourism-market/>.

27 ¹¹⁵ Testimony of Vipe Desai, Joint Oversight Hearing October 18, 2021.

28 ¹¹⁶ *Id.*

¹¹⁷ Lilly Nguyen, LA Times, *How Did the OC Oil Spill Impact Local Seafood?*
<https://www.latimes.com/socal/daily-pilot/news/story/2021-11-30/fishing-ban-lifted-on-o-c-coastline-two-months-after-huntington-beach-oil-spill> (Nov. 30, 2021)

1 125. On December 29, 2021, nearly three months after the disaster, and
 2 following a massive clean-up effort involving 1,800 people, the Coast Guard, the
 3 CDFW, and Orange and San Diego counties announced that clean-up efforts were
 4 complete.¹¹⁸ However, clean up does not equal recovery, and its end did not mean
 5 that the spill’s damage has been eradicated. Indeed, “cleanup activities can *never*
 6 remove 100% of the oil spilled[,]” with a significant percentage of oil left
 7 unrecovered on average.¹¹⁹ (Emphasis added.) In this case, the clean-up effort
 8 reported recovering a total of 5,544 total gallons of crude oil by vessel, which
 9 represented just twenty-two percent of the estimated total spill.¹²⁰ In other words,
 10 the Coast Guard’s announcement meant only that the most obvious impacts of the
 11 spill had been addressed. Rather than a complete restoration, it signaled that the
 12 recovery effort had moved into a “transition” period characterized by continued
 13 monitoring of the shoreline for tar balls and other oil incidents, including oil sheens
 14 which have appeared as recently as November.¹²¹ In short, the consequences of the
 15 oil spill continue to be felt in the community.

16 _____
 17 ¹¹⁸ Hayley Smith, LA Times, *Officials Declare O.C. spill cleanup complete*,
 18 <https://www.latimes.com/california/story/2021-12-29/officials-declare-o-c-oil-spill-cleanup-complete> (Dec. 29, 2021); Laylan Connelly, OC Register, *Authorities announce cleanup of October’s oil spill off Orange County complete*,
 19 <https://www.ocregister.com/2021/12/28/authorities-announce-cleanup-of-octobers-oil-spill-off-orange-county-complete/?clearUserState=true> (Dec. 29, 2021)

20 ¹¹⁹ U.S. Department of Commerce, National Oceanic and Atmospheric
 21 Administration, Education, *Oil Spills*, <https://www.noaa.gov/education/resource-collections/ocean-coasts/oil-spills#:~:text=However%2C%20cleanup%20activities%20can%20never,damage%20than%20the%20oil%20alone> (last visited Jan. 25, 2022); *see also* CBC, *How much oil is recovered in average spill? Not much, if any*,
 22 <https://www.cbc.ca/news/canada/newfoundland-labrador/oil-spill-averages-hibernia-update-1.5255733> (Aug. 22, 2021) (“While every oil spill instance is different, and circumstances vary, the C-NLOPB said a best guess for recovery in ideal conditions is up to an average of just 10 per cent.”).

23 ¹²⁰ Southern California Spill Response, *Update 11: The Unified Command is Continuing its Response Sunday to the Coastal Oil Spill in Orange and San Diego Counties*, <https://socalspillresponse.com/update-11-the-unified-command-is-continuing-its-response-sunday-to-the-coastal-oil-spill-in-orange-and-san-diego-counties/> (Oct. 10, 2021)
 24
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28 ¹²¹ The OCR, <https://www.ocregister.com/2021/12/28/authorities-announce-cleanup-of-octobers-oil-spill-off-orange-county-complete/?clearUserState=true>

1 126. While all closures have been lifted, the long-term impacts from the
2 spill are unknown and the stigma associated with the oil spill remains.

3 VI PLAINTIFFS' FACTS

4 A. Commercial Fishing Class Representative Plaintiffs

5 127. Plaintiffs Donald C. Brockman ("Brockman") and Heidi M. Jacques
6 ("Jacques") are residents and citizens of Orange County, California. Mr. Brockman
7 is the trustee of the Donald C. Brockman Trust and Ms. Jacques is the trustee of the
8 Heidi M. Brockman Trust. The Donald C. Brockman Trust and Heidi M. Brockman
9 Trust jointly own three commercial fishing boats: the Little Viking, a 31 ½ foot
10 boat presently docked in Los Angeles with a crew of two; the Donz Rig, a 42-foot
11 boat presently docked in Newport Harbor with a crew of two; and the Freelance, a
12 71-foot boat presently docked in Newport Harbor with a crew of five. Plaintiffs
13 Brockman and Jacques regularly fish for squid in open access fisheries, including
14 those fishing blocks closed by the oil spill, on the above-named boats. The closure
15 of the Newport Harbor caused by the oil spill prevented Plaintiffs' boats from
16 leaving the harbor and consequently prevented them from running their commercial
17 fishing business. Defendants' acts and omissions have therefore caused present
18 injury to Plaintiffs. Plaintiffs Brockman and Jacques are members of and seek to
19 represent the Commercial Fishing Class.

20 128. Plaintiff John Crowe ("Crowe") is a resident and citizen of King
21 Harbor, Redondo Beach, California. Crowe is a commercial fisher who primarily
22 fishes for lobster and squid in Blocks 718, 719 and 720, which were closed due to
23 the oil spill. Crowe has suffered significant damages, including lost profit due to the
24 inability to bait and set traps or otherwise operate during the harbor and fisheries
25 closures. In addition, Crowe's fishing gear and boat engine were damaged or lost as
26 a result of the oil spill and related response activities (e.g., skimmers). Defendants'
27 acts and omissions have therefore caused present injury to Crowe. Plaintiff Crowe
28 is a member of and seeks to represent the Commercial Fishing Class.

1 129. Plaintiff Josh Hernandez (“Hernandez”) is a resident and citizen of
2 Capistrano Beach, California. He is a commercial fisher, who previously served as
3 deckhand for almost a decade. Hernandez owns his boat based out of Dana Point,
4 California, where he fishes primarily, but not exclusively, for lobster, crab, and
5 snail in Blocks 737, 756, and 757, all of which were closed because of Defendants’
6 oil spill. As a result, Hernandez suffered significant damages. The harbor and
7 fisheries closures resulting from the spill precluded Hernandez from baiting and
8 setting his 300 lobster traps and crab pots. Hernandez also suffered damages related
9 to harm to his primary hatcheries/fisheries, lost bait, boat repairs, and recovering
10 traps from closed blocks and harbor closure at Dana Point. Defendants’ acts and
11 omissions have therefore caused present injury to Hernandez. Plaintiff Hernandez is
12 a member of and seeks to represent the Commercial Fishing Class.

13 130. Plaintiff LBC Seafood, Inc. (“LBC Seafood”), is a California
14 corporation located at 1436 Cherry Avenue, Long Beach, California. LBC Seafood
15 is a family-owned, international seafood wholesaler that purchases lobster from
16 fishers in Orange County and sells them to buyers as far north as Redondo Beach
17 and as far south as San Diego. Additionally, LBC Seafood sells lobster to larger
18 wholesalers and distributors who distribute the product throughout California and as
19 far away as Asia. The oil spill affected the fishing blocks from which LBC Seafood
20 sources its product. With the commercial lobster season opening October 6, 2021,
21 and running until March, 2022, LBC Seafood has suffered significant damages
22 because the closure of the fisheries prevented the harvesting of lobster for two of
23 the six-month season. LBC Seafood expects that the spill will cause continued
24 impairment of its ability to earn a living and remain operational in the commercial
25 lobster and fishing industries. Defendants’ acts and omissions have therefore caused
26 present injury to LBC Seafood. Plaintiff LBC Seafood is a member of and seeks to
27 represent the Commercial Fishing Class.
28

1 131. Plaintiff Quality Sea Food Inc. (“Quality Sea Food”), a California
2 corporation located at 100 S. International Boardwalk, Redondo Beach, California,
3 is a historic seafood market operating since 1953, engaged in the sale and
4 distribution of commercial retail seafood. Jeffrey Jones (“Jones”) is the Chief
5 Executive Officer and President of Quality Sea Food. Since the oil spill, Quality
6 Sea Food has experienced a decline in business because of customers’ hesitancy to
7 purchase seafood. Because Quality Sea Food sourced its products from fishing lots
8 shuttered by the oil spill, including the commercial lobster season that normally
9 runs from October 6, 2021 until March, 2022, Quality Sea Food experienced
10 significant economic losses. In addition, Quality Sea Food has incurred serious
11 losses with other types of seafood, including, but not limited to: red snapper,
12 California halibut, rock cod, Mexican snapper, striped bass, tilapia, sea bass, mahi,
13 sardines, anchovies, smelt, pomfret, black cod, mackerel, sheephead, octopus, and
14 squid. Quality Sea Food relies on the Southern California fisheries from as far south
15 as Newport Beach and the many surrounding fisheries supporting the species
16 necessary to keep their international seafood market open to the public. Quality Sea
17 Food operates as a first point of landing for many fishers impacted by the oil spill,
18 as well as a weighmaster for those same commercial fishers. Quality Sea Food
19 experienced negative consequences arising from the oil spill caused by Defendants,
20 which impaired its ability to operate a commercial seafood market business.
21 Defendants’ acts and omissions have therefore caused present injury to Quality Sea
22 Food. Plaintiff Quality Sea Food is a member of and seeks to represent the
23 Commercial Fishing Class.

24 **B. Real Property Class Representative Plaintiffs**

25 132. Plaintiffs John and Marysue Pedicini (the “Pedicinis”) are husband and
26 wife residents and citizens of Newport Beach, California. The Pedicinis own
27 waterfront property in Orange County. The spill prevented the Pedicinis from
28 enjoying and using their property, such as walking the beach and swimming. The

1 oil spill further harmed the pristine views the Pedicinis' property normally
2 provides. Defendants' acts and omissions have therefore caused present injury to
3 the Pedicinis. The Pedicinis are members of and seek to represent the Real Property
4 Class.

5 133. Plaintiffs Rajasekaran Wickramasekaran and Chandralekha
6 Wickramasekaran (the "Wickramasekarans") are residents and citizens of
7 California. They are the Co-Trustees of The Wickramasekaran Family Trust and
8 owners of a waterfront, duplex property located in Newport Beach, California. The
9 Wickramasekarans rent their property consistently throughout the year via
10 villarentalsinc.com, with a policy requiring a 3-night minimum rental. The rental
11 unit at address 6602 A West Oceanfront is rented out for approximately \$356 daily,
12 and 6602 B (the upstairs unit) is rented out for approximately \$483 daily. The oil
13 spill harmed the Wickramasekarans' property and rental income. Defendants' acts
14 and omissions have therefore caused present injury to the Wickramasekarans. The
15 Wickramasekarans are members of and seek to represent the Real Property Class.

16 **C. Waterfront Tourism Class Representative Plaintiffs**

17 134. Plaintiff Banzai Surf Company, LLC ("Banzai Surf"), a California
18 limited liability company located at 6340 East El Paseo Court, Long Beach,
19 California, is a year-round surf school that has been operating on Huntington State
20 Beach for decades. Banzai Surf delivers premier surf instruction to Huntington
21 Beach residents and youth as well as tourists. Banzai Surf was unable to offer surf
22 lessons because of the oil spill caused by Defendants' conduct and the consequent
23 beach closures. Further, the decline in tourism due to the oil spill led to a significant
24 decline in demand for surf lessons even after the beach closures were lifted, causing
25 Banzai Surf to lose additional revenue. Defendants' acts and omissions have
26 therefore caused present injury to Banzai Surf. Plaintiff Banzai Surf is a member of
27 and seeks to represent the Waterfront Tourism Class.
28

1 135. Plaintiff Beyond Business Incorporated, d/b/a Big Fish Bait & Tackle
2 (“BFBT”), is a California corporation located 1780 Pacific Coast Highway, Seal
3 Beach, California. BFBT is a landmark in the Seal Beach community, having
4 opened in the 1960s. BFBT exists to serve the fishing communities in and about the
5 Orange County coast. The store provides fishing supplies, such as rods, reels,
6 tackle, lures, and other related items. BFBT further provides live and frozen bate.
7 For recreational fishermen, both on and offshore, this live bait is the means to
8 successful fishing in the coastal waters. As certain bait can only be kept for so long,
9 BFBT relied, and continues to rely, on regular customers and foot-traffic in order to
10 avoid the economic loss associated with discarding unpurchased, expired items.
11 Because of the Defendants’ oil spill, BFBT experienced a dramatic reduction in
12 customers and foot traffic. Beginning October 2, 2021, BFBT customer base has
13 dropped 50% or more and BFBT incurred significant financial losses because of the
14 oil spill. When the fishing ban was implemented, BFBT was in the untenable
15 position of selling bait to non-existent customers. This economic hardship forced
16 BFBT to lay off its employees. BFBT incurred un-recouped business expenses, as
17 well as loss of revenue, income, and profits because of Defendants’ oil spill.
18 Defendants’ actions, inactions, and/or omissions have caused present injury to
19 BFBT. Plaintiff BFBT is a member of and seeks to represent the Waterfront
20 Tourism Class.

21 136. Plaintiffs Bongos Sportfishing LLC and Bongos III Sportfishing LLC
22 (collectively “Bongos”) is a California limited liability company located at 400
23 Main St, Newport Beach, California. Bongos has operated 6-pack fishing charters
24 out of Newport Beach for over 25 years. Because of the oil spill, Bongos’ boats
25 were unable to come into the harbor of Newport Beach from October 2, 2021 to
26 October 9, 2021. Bongos also lost substantial business in cancelled bookings and
27 incurred damages to its boats from discharged oil, thus resulting in significant
28 financial losses. Defendants’ acts and omissions have caused present injury to

1 Bongos. Plaintiff Bongos is a member of and seeks to represent the Waterfront
2 Tourism Class.

3 137. Plaintiff Davey’s Locker Sportfishing, Inc. (“Davey’s Locker”) is a
4 California corporation doing business at 400 Main Street, Newport Beach, in
5 Orange County, California. Since 1958, Davey’s Locker has offered deep-sea
6 fishing and whale and dolphin watching excursions, as well as charter fishing boats
7 and private boat rentals, to its customers out of Newport Harbor. The oil spill
8 closed Newport Harbor and closed fisheries between Sunset Beach to San Clemente
9 out eight nautical miles from the coast, preventing Davey’s Locker’s boats from
10 leaving the harbor and thus preventing it from running its business of offering
11 excursions and rentals. Even after the harbor reopened, Davey’s Locker
12 experienced declined demand for its services until the end of 2021. Defendants’
13 acts and omissions have therefore caused present injury to Davey’s Locker.
14 Pursuant to the Oil Pollution Act, Davey’s Locker presented its claim to the
15 Amplify Defendants in mid-October 2021 and more than 90 days have since
16 expired. Plaintiff Davey’s Locker is a member of and seeks to represent the
17 Waterfront Tourism Class.

18 138. Plaintiff East Meets West Excursions (“East Meets West”) is a
19 California limited liability company located at 509 S. Bay Front, Newport Beach,
20 California. East Meets West provides whale and dolphin watching off the Southern
21 California coast. The oil spill caused by Defendants resulted in substantial harm to
22 East Meets West’s business, including cancelled bookings and special maintenance
23 to its boats due to contamination with oil. East Meets West was unable to operate
24 during the closure of Newport Beach harbor. In addition, once the harbor was
25 reopened, East Meets West experienced reduced demand for its services and
26 cancelled bookings. Defendants’ acts and omissions have therefore caused present
27 injury to East Meets West. Plaintiff East Meets West is a member of and seeks to
28 represent the Waterfront Tourism Class.

1 139. Plaintiff Tyler Wayman (“Wayman”) is a resident and citizen of Costa
2 Mesa, California. He is a fulltime, licensed commercial boat captain, and private
3 contractor. Wayman makes his living from running boats up and down the Orange
4 County coast and from the coast to Catalina. The oil spill and harbor closing
5 impacted the regularity and consistency of his bookings, leading to lost revenue and
6 significant financial losses. Defendants’ actions, inactions, and/or omissions have
7 caused present injury to Wayman. Plaintiff Wayman is a member of and seeks to
8 represent the Waterfront Tourism Class.

9 **VII CLASS ACTION ALLEGATIONS**

10 140. Plaintiffs bring claims pursuant to Federal Rule of Civil Procedure 23
11 on behalf of classes of similarly situated persons. Plaintiffs initially propose three
12 classes, as defined below:

13 **Commercial Fishing Class**

14 Persons or entities who owned or worked on a commercial fishing vessel
15 docked in Newport Harbor or Dana Point Harbor as of October 2, 2021,
16 and/or who landed seafood within the California Department of Fish &
17 Wildlife fishing blocks 718-720, 737-741, 756-761, 801-806, and 821-
18 827 between October 2, 2016 and October 2, 2021, and were in
19 operation as of October 2, 2021, as well as those persons and businesses
20 who purchased and resold commercial seafood so landed, at the retail or
21 wholesale level, that were in operation as of October 2, 2021.

22 **Real Property Class**

23 Owners or lessees, between October 2, 2021, and December 31, 2021,
24 of residential waterfront and/or waterfront properties or residential
25 properties with a private easement to the coast located between the San
26 Gabriel River and the San Juan Creek in Dana Point, California.
27
28

Waterfront Tourism Class

Persons or entities in operation between October 2, 2021, and December 31, 2021, who:

(a) owned or worked on a sea vessel engaged in the business of ocean water tourism (including sport fishing, sea life observation, and leisure cruising) and accessed the water between the San Gabriel River and San Juan Creek in Dana Point; or

(b) owned businesses that offered surfing, paddle boarding, recreational fishing, and/or other beach or ocean equipment rentals and/or lessons or activities; sold food or beverages; sold fishing bait or equipment, swimwear or surfing apparel, and/or other retail goods; or provided visitor accommodations south of the San Gabriel River, north of the San Juan Creek, and west of:

- (1) Highway 1 in Seal Beach;
- (2) Orange Avenue and Pacific View Avenue in Huntington Beach; and
- (3) Highway 1 south of Huntington Beach.

141. Excluded from the proposed Classes are: (1) Defendants, any entity or division in which Defendants have a controlling interest, and their legal representatives, officers, directors, employees, assigns and successors; (2) the judge to whom this case is assigned, the judge’s staff, and any member of the judge’s immediate family, (3) businesses that contract directly with the Amplify Defendants for use of the Pipeline, and (4) all employees of the law firms representing Plaintiffs and the Class Members.

142. Each Class seeks monetary damages and injunctive relief. The injunctive relief that Plaintiffs and the Classes seek includes an order requiring the Amplify Defendants to pay a third-party engineering firm approved by the Court to design and develop the following, which the Amplify Defendants must then implement:

1 a. a plan to either trench and bury the entirety of the Pipeline and
2 then cover the Pipeline with a rock shield, or build a berm over the existing
3 Pipeline;

4 b. a plan to monitor displacement of the line, which could include
5 installing a fiber-optic cable sensor, GPS monitoring, bi-annual video monitoring,
6 or other forms of bi-annual underwater inspection;

7 c. an automatic shutoff valve system and SimSuite or equivalent
8 smart spill detection technology along the entire Pipeline,

9 d. the reconfiguration of set-points for all critical and safety
10 alarms, and a procedure for clearing these alarms, that is in effect both during the
11 Pipeline's normal operation and during maintenance, all of which is to be
12 incorporated into the Amplify Defendants' Integrity Management Plan and
13 Operations and Maintenance; and

14 e. a control room monitoring and training plan that has to be
15 incorporated into the Amplify Defendants' Integrity Management Plan and
16 Operations and Maintenance, which includes doubling control room staffing,
17 increasing the training for all staff, hiring control room operations managers who
18 are required to sign off on any pipeline restart, and requiring control room
19 operations managers to manually investigate the cause of any critical or safety
20 alarm and issue a report indicating the cause of said alarm before restart.

21 143. Plaintiffs reserve the right to propose additional or more refined
22 classes or subclasses of Plaintiffs in connection with their Motion for Class
23 Certification, and as determined by the Court in its discretion.

24 144. The Classes satisfy the requirements of Rule 23(a) and Rule 23(b) and
25 there are no interclass conflicts.

26 145. **Ascertainability:** The number and identity of class members can be
27 easily ascertained. Those with the type of businesses or properties described in the
28 class definitions above, and located in the geographic areas described, can easily

1 identify themselves. The proposed classes are defined with respect to objective
2 criteria.

3 146. **Numerosity:** The members of the Classes are so numerous that joinder
4 of all members is impractical. The proposed Classes likely contain hundreds if not
5 thousands of members.

6 147. **Commonality:** There are common questions of law and fact that
7 predominate over any questions affecting only individual members of the Classes
8 including, but not limited to, the following:

9 a. Whether Defendants acted negligently, recklessly, wantonly,
10 and/or unlawfully to cause the spill;

11 b. Whether the Amplify Defendants installed and maintained
12 adequate safety measures and systems on the Pipeline that ran from the Elly
13 offshore oil platform to the Port of Long Beach and in its systems of command and
14 control to prevent and/or mitigate the spill;

15 c. Whether the Amplify Defendants conducted adequate
16 supervision of the Pipeline that could have prevented the spill or reduced its scale;

17 d. Whether the Amplify Defendants knowingly, intentionally, or
18 negligently concealed, suppressed, or omitted material facts concerning the safety
19 of the Pipeline from the public;

20 e. Whether the Amplify Defendants knowingly, intentionally, or
21 negligently concealed, suppressed, omitted, or delayed relaying material facts
22 regarding the spill to local, state, and federal agencies, thereby slowing the
23 response, and/or increasing the damages to Plaintiffs and members of the Classes;

24 f. Whether the Shipping Defendants negligently struck the
25 Pipeline by failing to adequately monitor and/or adjust their anchorage;

26 g. Whether Defendants are strictly liable to Plaintiffs and the
27 Classes, by virtue of state and/or federal laws.
28

1 148. **Typicality:** The representative Plaintiffs’ claims are typical of the
2 claims of the members of the Classes. Plaintiffs and all the members of the Classes
3 have been injured by the same wrongful acts and omissions of Defendants.
4 Plaintiffs’ claims arise from the same practices and course of conduct that give rise
5 to the claims of the members of the Classes, and are based on the same legal
6 theories.

7 149. **Adequacy of Representation:** Plaintiffs are representatives who will
8 fully and adequately assert and protect the interests of the Classes, and have
9 retained class counsel who are experienced and qualified in prosecuting class
10 actions. Neither Plaintiffs nor their attorneys have any interests contrary to or in
11 conflict with the Classes.

12 150. **Rule 23(b)(2):** In addition to satisfying the prerequisites of Rule 23(a),
13 Plaintiffs satisfy the requirements for maintaining a class action under Rule
14 23(b)(2). The Amplify Defendants have acted on grounds that apply generally to
15 the proposed Classes, and a single remedy ensuring that the Pipeline, if it becomes
16 operational, is subject to appropriately stringent safety measures to ensure a spill
17 like this does not happen again is a single remedy that is appropriate for the
18 proposed Classes, because no Plaintiff or putative class member wants another oil
19 spill.

20 151. **Rule 23(b)(3):** In addition to satisfying the prerequisites of Rule 23(a),
21 Plaintiffs satisfy the requirements for maintaining a class action under Rule
22 23(b)(3). Common questions of law and fact predominate over any questions
23 affecting only individual members of the Classes, and a class action is superior to
24 individual litigation. The amount of damages available to most individual plaintiffs
25 is insufficient to make litigation addressing Defendants’ conduct economically
26 viable in the absence of the class action procedure. Individualized litigation also
27 presents the potential for inconsistent or contradictory judgments, and increases the
28 delay and expense to all parties and the court system presented by the legal and

1 factual issues of the case. By contrast, the class action device presents far fewer
2 case management difficulties and provides the benefits of a single adjudication,
3 economy of scale, and comprehensive supervision by a single court.

4 152. **Rule 23(c)(4)**: Plaintiffs also satisfy the requirements for maintaining a
5 class action under Rule 23(c)(4). The claims of members of the Classes include
6 specific questions of law and fact that are common to all members of the Classes
7 and capable of class wide resolution that will significantly advance the litigation.

8 VIII CAUSES OF ACTION

9 First Claim for Relief

10 **Strict Liability under Lempert-Keene-Seastrand Oil Spill Prevention and** 11 **Response Act, Government Code Section 8670, et seq.**

12 *(On behalf of all Classes against the Amplify Defendants)*

13 153. Plaintiffs incorporate by reference each and every prior and subsequent
14 allegation of this Complaint as if fully restated here.

15 154. The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act
16 (the “Act” or “OSPRA”) provides that “[a]ny responsible party, as defined in
17 Section 8670.3, shall be absolutely liable without regard to fault for any damages
18 incurred by any injured party which arise out of, or are caused by, the discharge or
19 leaking of oil into or onto marine waters.” Cal. Gov. Code § 8670.56.5(a).

20 155. The Pacific Ocean and the waters off the Southern California Coast are
21 “marine waters” as defined in Section 8670.03(i).

22 156. The Amplify Defendants are “responsible part[ies],” which includes
23 “the owner or transporter of oil or a person or entity accepting responsibility for the
24 oil.”

25 157. The oil transported through the Pipeline is “oil” within the meaning of
26 the Act, which defines “oil” as “any kind of petroleum, liquid hydrocarbon, or
27 petroleum products or any fraction or residues therefrom,” including “crude oil.”
28

1 158. As the responsible party for the oil transported through the Amplify
2 Defendants' Pipeline, the Amplify Defendants are absolutely liable under the
3 OSPRA for any damage incurred by any injured party arising out of the spill.

4 159. On or about October 1, 2021, the Amplify Defendants discharged or
5 leaked crude oil into the Pacific Ocean and are therefore absolutely liable without
6 regard to fault for all damages that Plaintiffs and the Classes sustained or will
7 sustain. That discharge was not permitted by state or federal law.

8 160. The Act entitles a plaintiff to recover a wide variety of damages,
9 including, but not limited to, loss of subsistence use of natural resources; injury to,
10 or economic losses resulting from destruction of or injury to, real or personal
11 property, which shall be recoverable by any claimant who has an ownership or
12 leasehold interest in property; loss of taxes, royalties, rents, or net profit shares
13 caused by the injury, destruction, loss, or impairment of use of real property,
14 personal property, or natural resources; and loss of profits or impairment of earning
15 capacity due to the injury, destruction, or loss of real property, personal property, or
16 natural resources. *See generally* Cal. Gov. Code § 8670.56.5(h).

17 161. The contamination illegally caused by the discharge of crude oil into
18 or upon area beaches and the Pacific Ocean injured, caused to be lost, and/or
19 impaired the use of property or natural resources on which Plaintiffs and the
20 Classes depend for their livelihood, including, but not limited to, local beaches,
21 harbors, and marine waters; populations of fish, lobster, squid and shellfish; and
22 marine ecosystems. It also caused injury to and destruction of real or personal
23 property, as well as impairment of earning capacity of Plaintiffs and the Classes.

24 162. Because Plaintiffs and the Classes have been damaged, the Amplify
25 Defendants are absolutely liable for their damages. Additionally, because Plaintiffs
26 and the members of the Classes have ownership or leasehold interests in real
27 property that have been injured by the Amplify Defendants, the Amplify
28 Defendants are absolutely liable for these damages. Moreover, because Plaintiffs

1 and members of the putative Classes rely on natural resources for subsistence use
2 that have been injured, destroyed, or lost by the Amplify Defendants, the Amplify
3 Defendants are absolutely liable for these damages. Finally, because the Amplify
4 Defendants have injured or destroyed real property, personal property, or natural
5 resources and Plaintiffs members of the Classes derive at least 25% of their annual
6 or seasonal earnings from activities that utilize the injured property or natural
7 resources, the Amplify Defendants are absolutely liable for these damages.

8 163. The injury, destruction, loss, and/or impairment of usability of these
9 natural resources and property has caused Plaintiffs and the Classes to lose profits
10 and will cause future losses of profits and/or impair their earning capacities. The
11 long-lasting effects of contamination related to the discharge of toxic crude oil into
12 the Pacific Ocean, coastal areas, beaches, and harbors—resources which Plaintiffs
13 and the Classes rely on—requires that Plaintiffs and the Classes continue future
14 monitoring and testing activities in order to ensure that such marine life is not
15 contaminated and is safe and fit for human consumption, that the toxic oil from the
16 spill does not further contaminate and degrade Plaintiffs’ property, and that their
17 earning capacity is not impaired.

18 164. The Amplify Defendants are liable to Plaintiffs and the Classes under
19 Government Code § 8670.56.5 (f) and (h) for all damages resulting from the
20 discharge of oil from the Pipeline, including but not limited to loss of profits or
21 impairment of earning capacity due to the injury, destruction, or loss of real
22 property, personal property, or natural resources; and for attorney’s fees, costs of
23 suit, and expert witnesses.

24 **Second Claim for Relief**

25 **Violation of the Oil Pollution Act of 1990, 33 U.S.C. § 2701, *et seq.***

26 *(On behalf of all Classes against the Amplify Defendants)*

27 165. Plaintiffs incorporate by reference each and every prior and subsequent
28 allegation of this Complaint as if fully restated here.

1 166. The Federal Oil Pollution Act (“OPA”) provides that “each responsible
2 party for...a facility from which oil is discharged...into or upon the navigable
3 waters or adjoining shorelines...is liable for the removal costs and damages...that
4 result from such incident.” 33 U.S.C. § 2702(a).

5 167. Recoverable damages include “injury to, or economic losses resulting
6 from destruction of, real or personal property,” “the loss of profits or impairment of
7 earning capacity due to the injury, destruction, or loss of real property, personal
8 property, or natural resources.” *Id.* at (b)(2)(B) & (E).

9 168. OPA defines “facility” as including a “pipeline” used for transporting
10 oil. 33 U.S.C. § 2701(7).

11 169. In the case of a discharge of oil from a pipeline, the “responsible
12 party” is “any person owning or operating the pipeline.” 33 U.S.C. § 2701(32)(E).

13 170. The Amplify Defendants are the owners and operators of the at-issue
14 Pipeline, and are thus the “responsible party.”

15 171. The Amplify Defendants’ Pipeline is a “facility” as it is a pipeline that
16 transports oil.

17 172. The Amplify Defendants “discharged” oil pursuant to 33 U.S.C. §
18 2701(7).

19 173. The Pacific Ocean and Orange County coastal waters are “navigable
20 waters” under OPA, 33 U.S.C. § 2701(21).

21 174. The Amplify Defendants’ actions, inactions and/or omissions directly
22 caused many thousands of gallons of toxic crude oil to be spilled into and upon the
23 navigable waters off of the Orange County coastline. The contamination illegally
24 caused by the discharge of crude oil into the ocean and upon area beaches injured,
25 and/or impaired the use of property and/or natural resources on which Plaintiffs and
26 the Classes depend for their livelihood, including, but not limited to, local beaches,
27 harbors, and marine waters; populations of fish, lobster, squid and shellfish; and
28

1 marine ecosystems. It also caused injury to and destruction of real or personal
2 property, as well as impairment of earning capacity of Plaintiffs and the Classes.

3 175. Plaintiffs and members of the Classes have suffered and will continue
4 to suffer injury, economic losses, loss of profits, and impairment of their earning
5 capacity as a result of the discharge of oil from the Amplify Defendants' Pipeline.
6 The harm to Plaintiffs and members of the Classes includes but is not limited to the
7 elimination of fishing and related activities in and about eleven fishing blocks,
8 property damage, canceled ocean-charter events and reduced foot traffic to onshore
9 businesses and reduced demand for fishing products.

10 176. Under OPA, the Amplify Defendants are responsible for compensating
11 Plaintiffs and the Classes for their current and future injuries, removing the oil from
12 the environment, and restoring the natural resources harmed and/or destroyed as a
13 result of the Amplify Defendants' oil spill.

14 **Third Claim for Relief**

15 **Strict Liability for Ultrahazardous Activities**

16 *(On behalf of all Classes against the Amplify Defendants)*

17 177. Plaintiffs incorporate by reference each and every prior and subsequent
18 allegation of this Complaint as if fully restated here.

19 178. At all times herein, the Amplify Defendants were the owners and
20 operators of the Pipeline.

21 179. At all times relevant to this action, the Amplify Defendants had
22 supervision, custody, and control of the Pipeline.

23 180. The Amplify Defendants were engaged in ultrahazardous activities by
24 transporting flammable, hazardous, and toxic oil through a severely corroded
25 Pipeline in a high consequence area and near a major population center.

26 181. The transportation of oil in this manner and in this setting created a
27 high degree of risk of harm to persons, lands, and chattels of others. These include
28 risks to fish and mammals in the ocean, persons, and entities operating in coastal

1 waters, boats and equipment in coastal waters, coastal real property, and businesses
2 and persons living or working near and/or on the coast.

3 182. It is very likely that the harm resulting from a spill in a high
4 consequence area near a major population center would be great, because of how
5 ocean currents quickly carry oil, making total containment impossible. The risk in
6 such a setting cannot be eliminated by the exercise of reasonable care.

7 183. Deep offshore drilling in Southern California is not common. Indeed,
8 there are only four offshore platforms in federal waters south of Los Angeles that
9 are serviced by two pipelines. Three offshore platforms – the Eureka, Elly, and
10 Ellen – transport oil through the Pipeline. The other platform, the Edith, transports
11 oil via an underwater pipeline to the Eva platform near the coast.¹²²

12 184. Transporting ultrahazardous oil in a sensitive marine environment
13 adjacent to a major population center is completely inappropriate and inherently
14 dangerous. Any value to the community of transporting oil is far outweighed by the
15 inherent danger of such an activity to the water, the coastline, the fish, real and
16 personal property, local businesses, and tourism.

17 185. It was not merely the sensitive geographic area that elevated the
18 hazardousness of the Amplify Defendants’ activities, but also the Amplify
19 Defendants’ pre-spill failures—their faulty leak-detection system, understaffed
20 and/or fatigued crew, inadequate and/or nonexistent manual safeguards, and
21 decades-old components and infrastructure that failed. As a result, the Amplify
22 Defendants’ ultrahazardous activities did exactly what should have been
23 expected—caused substantial harm to the environment and surrounding
24 communities.

25 186. The harm to Plaintiffs and the Classes was and is the kind of harm that
26 would be reasonably anticipated as a result of the risks created by Defendants

27 ¹²² See California State Lands Commission, Mineral Resources Management: *Safety*
28 *and Oil Prevention Audit: DCOR, LLC Platform Eva* (Dece. 2016),
<https://www.slc.ca.gov/wp-content/uploads/2018/10/Eva.pdf>

1 transporting flammable, hazardous, and toxic oil in a corroded and ill-maintained
2 pipeline in the Pacific Ocean and near a large population center with a robust ocean
3 tourism economy. Offshore oil spills in such areas kill fish and wildlife, both
4 offshore and onshore. Oil spills moreover injure and close public and private
5 beaches and harbors, public and private property, including coastal real property,
6 fishing boats, charter boats, and other ocean equipment. Moreover, it is reasonable
7 to anticipate that an offshore oil spill near a major population center that relies on
8 beach and ocean tourism activities would cause economic injuries to businesses that
9 cater to beach and ocean tourism, including those providing charters and surfing
10 lessons, and coastal restaurants and apparel and other tourism shops in the vicinity
11 of the ocean.

12 187. These are precisely the harms that occurred here. Defendants’
13 operation of the Pipeline and its failure was a substantial factor in causing the
14 harms suffered by Plaintiffs and the Classes.

15 188. Plaintiffs and members of the Classes are entitled to recover actual
16 damages.

17 189. The acts and omissions of Defendants were conducted with malice,
18 fraud, and/or oppression as set out in this Complaint.

19 **Fourth Claim for Relief**

20 **Negligence**

21 *(On behalf of all Classes against All Defendants)*

22 190. Plaintiffs incorporate by reference each and every prior and subsequent
23 allegation of this Complaint as if fully restated here.

24 191. Defendants owed a duty to Plaintiffs and the Classes to exercise
25 reasonable and ordinary care. That duty arose generally as well as from, among
26 other things, federal, state, and local laws, ordinances, and regulations that require
27 the Amplify Defendants to operate a pipeline in a manner that does not endanger or
28 damage public health and safety. These laws include, but are not limited to, the

1 Lempert-Keene Act, Cal. Gov. Code § 8670, *et seq.*, the Oil Pollution Act, 33
2 U.S.C. § 2701, *et seq.*, the Porter-Cologne Act, Water Code § 13000, *et seq.*, Cal.
3 Fish & Game Code § 5650, *et seq.*, the Federal Clean Water Act, 33 U.S.C. § 1251
4 *et seq.*, Cal. Health & Safety Code § 25510(a), applicable county codes, and state
5 and federal spill response and notification laws.

6 192. Additionally, the Shipping Defendants owed a duty to Plaintiffs and
7 the Classes to exercise ordinary and prudent maritime, nautical, and navigational
8 skills to avoid striking the Pipeline.

9 193. Amplify Defendants also owed Plaintiffs and the Classes a duty of care
10 because Defendants diminished the quantities of available sea life, and Defendants
11 could reasonably have foreseen that negligently conducting their drilling,
12 extraction, and shipping operations, including negligently responding to the spill,
13 may diminish aquatic life and injure these individuals and businesses that depend
14 on the health of the marine environment near the Pipeline, including fishers, fish
15 processors, and water tourism businesses.

16 194. Defendants also owed Plaintiffs and the Classes a duty of care because
17 Defendants had special relationships with the Plaintiffs and the Classes. Having
18 operated their businesses near the Orange County coastline, it was foreseeable that
19 Defendants' failure to safely operate the Pipeline and vessels, and mitigate the
20 impacts of the spill, would harm these Classes. Plaintiffs suffered injury as a result
21 of Defendants' failures, because Defendants' actions have fouled the ocean,
22 beaches, harbors, and coastal properties. Additionally, Defendants' failures were
23 closely connected to the harms Plaintiffs have suffered and will continue to suffer,
24 Defendants' gross misconduct causing an oil spill is morally blameworthy, and
25 policy reasons favor imposing a duty on Defendants in order to deter future
26 misconduct by Defendants and other pipeline and vessel operators.

27 195. Defendants breached their duty to Plaintiffs and the Classes. Among
28 other things, the Amplify Defendants failed to install reasonable safety equipment

1 to prevent a spill, failed to detect and repair corrosion, failed to have adequate
2 safety measures in place to detect the spill expeditiously, failed to adequately train
3 their crew at the Beta Unit Complex’s control centers how to identify problems
4 with and properly respond to leak-detection notifications, failed to implement a
5 protocol that prevented crew fatigue, and failed to promptly respond to and contain
6 the spill. Worse, the Amplify Defendants failed to notify the appropriate
7 government agencies at a time when measures could have been taken to
8 significantly mitigate the crisis.

9 196. The Shipping Defendants failed to exercise ordinary and prudent
10 maritime, nautical, and navigational skills to avoid striking the Pipeline. The
11 Shipping Defendants’ vessels, while at anchor, drifted erratically during the early
12 morning hours of January 25, 2021—breaking their anchorage swing circles.
13 Between them the vessels crossed the Pipeline at least 9 times with their anchors
14 dragging across the seabed. The Shipping Defendants further breached their duty of
15 care by violating numerous federal regulations setting forth the rules for pilots at
16 sea. For example, the Shipping Defendants failed to maintain a proper look-out, by
17 sight and available radar, and failed to use navigational technologies to avoid
18 crossing (and eventually striking) the Pipeline. *See* 33 C.F.R. § 83.05. The Shipping
19 Defendants failed to use all available means appropriate under the circumstances to
20 determine the high-risk of collision with the Pipeline and to assess actions to avoid
21 collision under the circumstances. *See* 33 C.F.R. § 83.07. The Shipping Defendants
22 further breached their duty of care by anchoring too closely to the Pipeline—and
23 each other—in a dense vessel traffic separation scheme. *See* 33 C.F.R. §§ 83.09,
24 83.10.

25 197. The Amplify Defendants, in the exercise of reasonable care, should
26 have known that the Pipeline could rupture or otherwise fail, that vessel congestion
27 in the San Pedro Bay required additional monitoring of the Pipeline, that their
28 safety measures were insufficient to detect and contain a spill, that their crew at the

1 Beta Unit Complex were undertrained and fatigued, and that the Pipeline could spill
2 significant amounts of oil. The Shipping Defendants knew or should have known of
3 the Pipeline's location. Indeed, the Pipeline is marked on nautical navigation charts.
4 Large container ships, such as the *MSC Danit* and *Beijing*, are and/or should have
5 been equipped with radar and navigational technologies to detect and avoid
6 underwater, stationary structures, such as the 17.5-mile Pipeline at issue. *See* 33
7 C.F.R. § 83.07.

8 198. In addition, Defendants' violations of the above-cited statutes,
9 ordinances, and/or regulations resulted in precisely the harm to Plaintiffs and the
10 Classes that the laws listed above were designed to prevent, and Plaintiffs and the
11 Classes are members of the class of persons for whose protection those laws were
12 adopted.

13 199. At all times herein mentioned, Amplify Defendants negligently,
14 wantonly, carelessly and/or recklessly maintained and operated the Pipeline and
15 vessels, respectively.

16 200. As a direct and proximate result of Defendants' negligence, Plaintiffs
17 and the Classes have been injured and have suffered damages. Those damages may
18 be short-term and long-term. As a direct and legal cause of the Defendants'
19 wrongful acts, inactions, and omissions herein above set forth, Plaintiffs and the
20 Classes have suffered and will continue to suffer harm, injury to earning capacity,
21 loss of use of their real property, wrongful occupation of their real property, and
22 other losses.

23 201. The short-term damages include loss of profits due to fishing, re-
24 selling fish, harbor, and beach closures caused by the spill, and increased costs
25 associated with traveling to different fisheries and maintaining boats and equipment
26 that cannot be used. The necessary closures caused by the spill excluded fishers and
27 charter workers and entities from near-shore fishing grounds. The short-term
28 damages also include lost profits due to cancellations from customers who, but for

1 Defendants' oil spill, would have used services offered by businesses in Orange
2 County, or simply visited Orange County and the businesses there. The short-term
3 damages additionally include loss of use and enjoyment of beachfront and
4 oceanfront real property because of oil polluting and closing the beaches and
5 waters, as well as potential lost rental income and profits from vacationers and
6 tourists visiting Orange County.

7 202. The long-term damages include future lost profits due to the harm
8 caused to the fisheries themselves. For example, the oil contamination is likely to
9 depress populations of crab, lobster, squid and other crustaceans by directly killing
10 numbers of those species or hindering their breeding and feeding. Similarly, oil that
11 sinks below the surface will poison fish and potentially smother their eggs, limiting
12 their future numbers. The oil spill has and may continue to drive down the price of
13 local fish and shellfish, as consumers and fish processors become wary of
14 producing locally caught species. Defendants' oil spill caused physical injury to
15 property in which Plaintiffs and the Classes have a direct ownership interest or an
16 interest by virtue of their right to harvest fish and shellfish.

17 203. The oil spill's long-term damages may also diminish the values of
18 oceanfront and beachfront real properties along the coast that have been polluted by
19 Defendants' oil.

20 204. Similarly, the image of the Southern California Coast as a pristine
21 place and as a perfect place to vacation has been tarnished. Images of oil-soaked
22 wildlife and fouled beaches will dissuade people from visiting the region and the
23 many businesses that depend on tourism and other visitors.

24 205. The acts, inactions, and omissions of Defendants, and each of them,
25 were conducted with malice, fraud, and/or oppression as described in this
26 Complaint.

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1 **Fifth Claim for Relief**

2 **Public Nuisance**

3 *(On behalf of all Classes against All Defendants)*

4 206. Plaintiffs incorporate by reference each and every prior and subsequent
5 allegation of this Complaint as if fully restated here.

6 207. Defendants owed a non-transferable, non-delegable duty to the public,
7 including Plaintiffs and Class members, to conduct their business, in particular the
8 maintenance and/or operation of the Pipeline and their navigable ships, in a manner
9 that did not threaten harm or injury to the public welfare.

10 208. By causing the discharge of tens of thousands of gallons of ultra-toxic
11 crude oil into the Pacific Ocean and onto the Orange County coastline, Defendants,
12 by acting and/or failing to act, as alleged hereinabove, have created a condition that
13 was harmful to the health of the public, indecent and offensive to the senses, an
14 obstruction to the free use of property, an obstruction to the free passage or use of
15 the ocean and public beaches, and a fire hazard. In short, Defendants' acts or
16 failures to act impacted public health, public safety, and the comfort and
17 convenience of the public.

18 209. The oil spill affected a substantial number of individuals similarly
19 situated to the Plaintiffs, such as citizens of and visitors to Orange County, who
20 were prevented from using and enjoying the Southern California beaches and water
21 as a result of the spill, including attending the Pacific Airshow on Sunday, October
22 3, 2021.

23 210. The oil spill caused by Defendants' misconduct is a condition that
24 would reasonably annoy and disturb an ordinary person, as shown by, for example,
25 the health impacts warned of by the county, the community outrage in response to
26 the spill, and the nationwide interest in the spill's impacts on the Southern
27 California Coast.

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1 211. The seriousness and gravity of that harm outweighs the social utility of
2 Defendants’ conduct. There is little or no social utility associated with causing the
3 release of tens of thousands of gallons of oil into the unique ecological setting of
4 Orange County. Further, there is little or no social utility associated with failing to
5 take reasonable steps that account for obvious changes in the risks tethered to a
6 particular activity—such as vessel congestion in the San Pedro Bay.

7 212. Plaintiffs and the Classes suffered harm and injury that is different in
8 kind from members of the general public. While members of the general public
9 could not enjoy the public beach and ocean, had to endure the stench of oil, were
10 obstructed from freely using the public beaches and oceans, and were prevented
11 from recreationally fishing, the Plaintiffs and the Classes’ suffered injury to their
12 coastal private property rights and rights incidental to those property rights, their
13 fish catch, and their economic livelihoods. They did not consent to these injuries,
14 which are different from the type of harm suffered by the general public.

15 213. The acts and omissions of Defendants described herein were also in
16 violation of various California state laws including but not limited to the Lempert-
17 Keene Act, Cal. Gov. Code § 8670, *et seq.*, the Oil Pollution Act, 33 U.S.C. § 2701,
18 *et seq.*, the Porter-Cologne Act, Water Code § 13000, *et seq.*, and Cal. Fish &
19 Game Code § 5650, *et seq.*

20 214. Defendants’ violations of those statutes directly and proximately
21 caused, and will cause, injury to the Plaintiffs and the Classes of a type which the
22 statutes are intended to prevent. Plaintiffs and the Classes are of the class of persons
23 for whose protection these statutes were enacted.

24 215. As a direct and legal cause of Defendants’ wrongful acts and/or
25 omissions herein above set forth, Plaintiffs and the Classes have suffered and will
26 suffer economic harm, injury, and losses.

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1 216. Additionally, to remedy the harm caused by Defendants’ nuisance,
2 Plaintiffs will seek public injunctive relief against Defendants, including the
3 injunctive relief requested above.

4 217. In maintaining the nuisance, which is ongoing, Defendants are acting
5 with full knowledge of the consequences and damage being caused, and the acts
6 and omissions of Defendants were done with malice, fraud, and/or oppression as
7 described in this Complaint.

8 **Sixth Claim for Relief**

9 **Negligent Interference With Prospective Economic Advantage**

10 *(On behalf of All Classes Against All Defendants)*

11 218. Plaintiffs incorporate by reference each and every prior and subsequent
12 allegation of this Complaint as if fully restated here.

13 219. Plaintiffs and the Classes have existing or prospective economic
14 relationships with citizens of Orange County, visitors to Orange County, and other
15 individuals and organizations doing business in and related to Orange County.

16 220. These relationships have a reasonably probable likelihood of resulting
17 in future economic benefits or advantages to Plaintiffs and the Classes.

18 221. Defendants knew or should have known of these existing and
19 prospective economic relationships.

20 222. Defendants owed a duty to Plaintiffs and the Classes to avoid negligent
21 or reckless conduct that would interfere with and adversely affect the existing and
22 prospective economic relationships of Plaintiffs and the Classes.

23 223. The Amplify Defendants breached that duty to Plaintiffs and the
24 Classes by, among other things, failing to install and/or maintain reasonable safety
25 equipment to prevent such an oil spill, failing properly to maintain the Pipeline in a
26 safe condition, failing to have adequate safety measures in place to detect the spill
27 expeditiously, failing to adequately train their crew at the Beta Unit Complex’s
28 control centers how to identify problems with and respond to leak-detection

1 notifications, failing to implement and ensure protocol that eliminated fatigued
2 crew, and the Shipping Defendants breached that duty by failing to responsibly
3 operate their vessels with appropriate care.

4 224. Defendants knew or should have known that, if they failed to act with
5 reasonable care, the existing and prospective economic relationships of Plaintiffs
6 and the Classes would be interfered with and disrupted.

7 225. Defendants were negligent and failed to act with reasonable care as set
8 forth above.

9 226. Defendants engaged in wrongful acts and/or omissions as set forth
10 above, including but not limited to their violations of federal, state, and local laws
11 that require Defendants to operate their Pipeline and vessels in a manner that does
12 not damage public health and safety.

13 227. As a direct and proximate result of Defendants' wrongful acts and/or
14 omissions, Defendants negligently and recklessly interfered with and disrupted the
15 existing and prospective economic relationships of Plaintiffs and the Classes. As a
16 direct and proximate result of Defendants' wrongful acts and/or omissions,
17 Plaintiffs and the Classes have suffered and will suffer economic harm, injury, and
18 losses as set forth above.

19 **Seventh Claim for Relief**

20 **Trespass**

21 *(On behalf of Real Property Class against all Defendants)*

22 228. Plaintiffs, who have a real property interest in waterfront property,
23 bring this on behalf of themselves and all other similarly situated landowners or
24 lessees. They incorporate by reference each and every prior and subsequent
25 allegation of this Complaint as if fully restated here.

26 229. Defendants caused the discharge of a polluting matter beyond the
27 boundary of Plaintiffs' and Class Members' real property in such a manner that it
28

1 was reasonably foreseeable that the pollutant would, in due course, invade
2 Plaintiffs' and Class Members' real property and cause harm.

3 230. By causing the discharge of polluting matter, Defendants entered,
4 invaded, and intruded on the real properties of Plaintiffs and the Class Members
5 without privilege, permission, invitation, or justification.

6 231. Defendants had a duty to use reasonable care not to enter, intrude on,
7 or invade Plaintiffs' and Class Members' real properties. Defendants also owed a
8 duty to Plaintiffs and Class Members to exercise reasonable care in the
9 manufacture, maintenance, and operation of the Pipeline and vessels, respectively.

10 232. Defendants had a heightened duty of care to Plaintiffs and the Class
11 because of the great dangers associated with transporting oil and navigating
12 container ships, respectively, so near to pristine coastal residential areas and nearby
13 real properties along the Southern California Coast.

14 233. The Amplify Defendants breached the duty they owed to Plaintiffs and
15 members of the Class when they failed to exercise reasonable care in the
16 manufacture, maintenance, and operation of the Pipeline, which conduct resulted in
17 entry, intrusion, or invasion on Plaintiffs' and Class Members' real properties.

18 234. The Shipping Defendants breached the duty they owed to Plaintiffs
19 when they failed to exercise reasonable care in operating their vessels without
20 striking the Pipeline, which conduct resulted in entry, intrusion, or invasion on
21 Plaintiffs' and Class Members' real properties.

22 235. Defendants knew or should have known that their conduct would
23 foreseeably result in a disastrous oil spill, causing damage to the real properties and
24 economic interests of persons in the area affected by the spill.

25 236. As a direct and proximate result of Defendants' trespass, Plaintiffs and
26 Class Members have suffered legal injury and damages, in an amount to be proven
27 at trial, including, but not limited to, property damage, diminution of value of real
28 estate, loss of income and other economic loss.

1 237. Defendants’ wanton or reckless conduct, as described herein, entitles
2 Plaintiffs and Class Members to punitive damages.

3 **Eighth Claim for Relief**

4 **Continuing Private Nuisance**

5 *(On behalf of Real Property Class against All Defendants)*

6 238. Plaintiffs, who have a real property interest in waterfront property,
7 bring this claim on behalf of themselves and all other similarly situated landowners
8 or lessees. They incorporate by reference each and every prior and subsequent
9 allegation of this Complaint as if fully restated here.

10 239. Defendants’ actions and inactions caused, maintained, and/or
11 permitted the contamination alleged in this action by their negligence, intentional or
12 otherwise, actionable acts, and/or omissions.

13 240. Defendants created the contamination at issue, which is harmful to
14 both human health and the environment and interferes with Plaintiffs’ and Class
15 Members’ comfortable use and enjoyment of the real property in which they have a
16 possessory interest.

17 241. The Amplify Defendants were, at all relevant times, in sufficient
18 control of their Pipeline and, and the Shipping Defendants in sufficient control of
19 their vessels, to have known of the threatened release of oil and associated
20 hydrocarbons and to have prevented the resulting contamination. Defendants knew
21 or should have known that their negligent operation of the Pipeline and vessels
22 would have, and did, cause the contamination described herein.

23 242. Despite knowledge and forewarning, Defendants failed to take
24 reasonable steps to prevent the failure that resulted in the contamination at issue.

25 243. Defendants failed to take reasonable steps to abate the contamination
26 at issue. The contamination is, however, abatable, and, therefore, it is continuing in
27 nature. This also confirms that Defendants have knowingly maintained the
28 nuisance, *i.e.*, the contamination at issue.

1 244. Plaintiffs and the Class did not consent to the ongoing damage to the
2 use and enjoyment of their properties as a result of Defendants’ actions and
3 inactions.

4 245. As a result, Plaintiffs have and will continue to suffer damages, both
5 economic and otherwise.

6 246. The contamination described herein constitutes a nuisance within the
7 meaning of Section 3479 of California Civil Code.

8 **Ninth Claim for Relief**

9 **Violation of California’s Unfair Competition Law, Cal. Bus. and Prof. Code**
10 **§ 17200, et seq.**

11 *(On behalf of all Classes against all Defendants)*

12 247. Plaintiffs and Class Members incorporate by reference all allegations
13 of the preceding paragraphs as though fully set forth herein.

14 248. Defendants have engaged in and continue to engage in unfair
15 competition in violation of California’s Unfair Competition Law (“UCL”).

16 249. Defendants’ conduct constitutes unlawful and unfair business practices
17 within the meaning of the UCL.

18 250. Defendants’ conduct amounts to unlawful conduct because their
19 conduct constitutes common law negligence, trespass, and nuisance, and they
20 violated Civ. Code § 3479 (prohibiting obstruction to the free use of property, so as
21 to interfere with the comfortable enjoyment of life or property), Cal. Health &
22 Safety Code § 25510(a) (requiring handlers of hazardous material to immediately
23 report the release or threatened release thereof to the unified program agency),
24 OSPRA, Cal. Gov. Code § 8670.56.5, et seq. (imposing liability for any damages or
25 injury resulting from an oil spill), OPA 33 U.S.C. § 2701, et seq. (same), and the
26 Porter-Cologne Act, Water Code § 13000, et seq. (the principal law governing
27 water quality).

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1 251. Defendants’ conduct amounts to “unfair” business practices because
2 the policies underlying the statutes and the common law are implicated by
3 Defendants’ misconduct. Defendants’ practices offend established public policies,
4 are dishonest, unfair, and do not comport with standards of care embodied in
5 various statutes and common laws, including negligence. The impact of
6 Defendants’ practices on Plaintiffs and the Class Members, and the environment,
7 has been sustained and substantial, and is in no way mitigated by any justifications,
8 reason, or motives. Defendants’ conduct relating to the spill has no utility when
9 compared to the harm done to Plaintiffs and members of the Class.

10 252. As a direct and proximate result of Defendants’ unfair and unlawful
11 methods of competition, acts or practices, Plaintiffs and Class Members have
12 sustained injuries and are entitled to injunctive relief pursuant to California
13 Business and Profession Code sections 17203 and 17204.

14 253. Indeed, the UCL permits Plaintiffs to obtain an injunction “as may be
15 necessary to prevent the use or employment by any person of any practice which
16 constitutes unfair competition.” Cal. Bus. & Prof. Code § 17203. Accordingly,
17 Plaintiffs are entitled to injunctive relief to prevent future spills against the Amplify
18 Defendants, as described herein.

19 **IX REQUEST FOR RELIEF**

20 Plaintiffs, individually and on behalf of all others similarly situated, request
21 judgment against Defendants as follows:

- 22 A. for all recoverable compensatory, statutory, and other damages,
23 including remediation costs, sustained by Plaintiffs and the Classes,
24 and all relief allowed under applicable laws;
- 25 B. for costs;
- 26 C. for both pre-judgment and post-judgment interest on any amounts
27 awarded;
- 28 D. for treble damages insofar as they are allowed by applicable laws;

- 1 E. for appropriate individual relief as requested above;
- 2 F. for injunctive relief as requested above;
- 3 G. for payment of attorneys’ fees and expert fees as may be allowable
- 4 under applicable law, including Cal. Gov. Code § 8670.56.5(f) the
- 5 Private Attorneys General Act (“PAGA”), Cal. Lab. Code. § 2698, *et*
- 6 *seq.*;
- 7 J. for exemplary or punitive damages under Cal. Civ. Code § 3294 for
- 8 the oppression, fraud, and malice alleged above; and
- 9 K. for such other and further relief, including declaratory relief, as the
- 10 Court may deem just and proper.

X DEMAND FOR JURY TRIAL

11 Plaintiffs hereby demand a trial by jury on all issues so triable.

12 Dated: January 28, 2022

13 Respectfully Submitted,

14 /s/ Wylie A. Aitken
15 Wylie A. Aitken

16 /s/ Lexi J. Hazam
17 Lexi J. Hazam

18 /s/ Stephen G. Larson
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SIGNATURE CERTIFICATION

Pursuant to L.R. 5-4.3.4(a)(2)(i), I hereby attest that all signatories listed, and on whose behalf the filing is submitted, concur in this filing’s content and have authorized this filing.

/s/ Stephen G. Larson
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