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12 **UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

Case No. _____

15 **BRADLEY BITTON d/b/a**

16 **BRAD'S LIVE LOCAL**

17 **LOBSTER; KIRK**

18 **SCHOONOVER**, on behalf of
19 themselves and all other similarly
20 situated,

Plaintiffs,

v.

21 **AMPLIFY ENERGY**

22 **CORPORATION**, a Texas

23 Corporation; **BETA OPERATION**

24 **COMPANY LLC d/b/a BETA**

25 **OFFSHORE**, a Texas Corporation;

26 **SAN PEDRO BAY PIPELINE**

27 **COMPANY**, a Texas Corporation,

Defendants.

CLASS ACTION COMPLAINT

1. **Strict Liability for Ultrahazardous Activities**
2. **Negligence**
3. **Negligence Per Se**
4. **Trespass**
5. **Permanent Private Nuisance**
6. **Permanent Public Nuisance**
7. **Continuing Private Nuisance**
8. **Continuing Public Nuisance**
9. **Violations of California's Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, et seq.)**
10. **Lost Profits and Earning Capacity Damages (Federal Oil Pollution Act of 1990, §§ 1002, 1006)**

DEMAND FOR JURY TRIAL

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Strict Liability for Ultrahazardous Activities

SECOND CAUSE OF ACTION 21

Negligence

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Negligence Per Se

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Permanent Private Nuisance

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Continuing Private Nuisance

EIGHTH CAUSE OF ACTION 31

Continuing Public Nuisance

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NINTH CAUSE OF ACTION..... 32
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IX. PRAYER FOR RELIEF35

REQUEST FOR JURY TRIAL 36

1 Plaintiffs, individually, and on behalf of a Class of others similarly situated,
2 bring this class action lawsuit (“Complaint”) against Defendants Amplify Energy
3 Corporation (“Amplify”), Beta Operation Company LLC (“Beta”), and San Pedro Bay
4 Pipeline Company (“San Pedro Bay”). Plaintiffs aver the following upon personal
5 knowledge, information and belief, and based upon the investigation of counsel as to
6 all other facts alleged in the Complaint. Plaintiffs request a trial by jury of all claims
7 so triable.

8 **I. INTRODUCTION**

9 1. This Complaint arises from a massive crude oil release from an offshore
10 oil pipeline in the Beta Field, which is an oil reservoir located in federal waters, about
11 nine miles off the coast of Huntington Beach, California. The oil pipeline,
12 transporting oil from the Beta Field to a pump in Long Beach, California, began
13 gushing oil just four miles from shore (the “Spill”).

14 2. The Spill originated from a broken pipeline (the “Pipeline”) which
15 connects to an offshore oil platform in the Beta Field named the Elly Platform
16 (“Elly”). Elly is owned and operated by Beta, a subsidiary of Amplify. The Pipeline
17 is owned and operated by San Pedro Bay, also a subsidiary of Amplify.

18 3. The release began sometime in the evening hours of October 1 or the
19 early morning hours of October 2, 2021. Beta Offshore’s 16-inch San Pedro Bay
20 Pipeline ruptured, resulting in a release of crude oil into the San Pedro Bay, an inlet
21 of the Pacific Ocean (according to the Corrective Action Order issued by the Pipeline
22 and Hazardous Materials Safety Administration, Office of Pipeline Safety issued on
23 October 4, 2021).

24 4. The total amount of crude oil spilled into the Pacific Ocean is yet
25 unknown, but estimates show as much as 144,000 gallons gushed into ocean waters
26 over the first few days of October 2021. The full extent of the Spill, and the length of
27 time before it was stopped, is not currently known.

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1 5. Residents of the coastal city Huntington Beach, California first reported
2 odors related to the Spill in the evening of October 1, 2021. Soon after, in the early
3 hours of Saturday, October 2, 2021, a large oil slick was visible in the Pacific less than
4 five miles offshore, already wreaking its havoc on marine life, kelp, dolphins, and
5 boats. By late Saturday night or early morning on Sunday, October 3, 2021, the oil
6 began to wash ashore in Huntington Beach. Large amounts of oil, as a result of the
7 Spill, continues to wash ashore and move South along the California coastline to
8 Newport Beach, Laguna Beach, and other beach cities.

9 6. Plaintiffs and members of the proposed class have suffered and continue
10 to suffer business and/or commercial losses related to commercial sea operations by
11 virtue of their proximity to the Spill, and the stigma associated with operating so near
12 to the Spill. This lawsuit is brought to recover business and/or commercial losses and
13 other damages by owners/operators of local business in close proximity to the Spill.

14 **II. THE PARTIES**

15 7. Plaintiff Bradley Bitton d/b/a Brad’s Live Local Lobster (hereinafter
16 “Brad’s Lobster”) is a commercial lobster fishing enterprise which operates out of the
17 Dana Point Harbor. Plaintiff Bradley Bitton has been a commercial fisherman for 30
18 years. Brad’s Lobster was set to begin its lobster trapping operations as of early
19 October 2021 when the Spill occurred.

20 8. Plaintiff Kirk Schoonover is a commercial lobster fisherman who
21 operates out of Dana Point Harbor. He is a longtime member of the community,
22 having served as a lifeguard and in law enforcement. Plaintiff Kirk Schoonover was
23 set to begin his lobster trapping operations as of early October 2021 when the Spill
24 occurred.

25 9. Defendant Amplify Energy Corporation is a Texas corporation with its
26 principal place of business in Texas. Amplify is an energy company which handles
27 oil and gas acquisition, production, and development throughout the United States.

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1 10. Defendant Beta Operating Company LLC d/b/a Beta Offshore is a
2 Delaware corporation with its principal place of business in Texas. Beta is a
3 subsidiary company of Amplify. Beta operates the Elly oil processing platform
4 located above the Beta Field oil reserve.

5 11. Defendant San Pedro Bay Pipeline Company is a California corporation
6 with its principal place of business in California. San Pedro Bay is a subsidiary
7 company of Amplify. San Pedro Bay operates the Pipeline which transports crude oil
8 from Elly to an oil pump in Long Beach, California.

9 12. Plaintiffs allege on information and belief that Amplify, Beta, and San
10 Pedro Bay are jointly and severally liable for each other's negligence, conduct, and
11 wrongdoing.

12 **III. POTENTIAL PARTIES**

13 13. There are several individuals and/or entities whose true names and
14 capacities are currently not known to Plaintiffs. Evidence may come forth that others
15 are legally responsible and liable to Plaintiffs to the extent of the liability of the named
16 Defendants. Plaintiffs will seek leave of the Court to amend this Complaint to reflect
17 the names and capacities of other potential Defendants when such identities and
18 capacities become known. Plaintiffs reserve the right to amend this claim pursuant to
19 Fed. R. Civ. P. 15(a) and Fed R. Civ. P. 21 with leave of the Court to add and amend
20 potential defendants.

21 **IV. AIDING, ABETTING, AND CONSPIRACY**

22 14. At all times herein mentioned, each of the Defendants was the agent,
23 servant, employee, joint venturer, partner and/or alter ego of each of the remaining
24 Defendants named herein and were at all times operating and acting within the purpose
25 and scope of said agency, service, employment, joint venture, partnership and/or alter
26 ego. Each Defendant has rendered substantial assistance and encouragement to the
27 other Defendants, acting in concert knowing that its conduct was wrongful and/or
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1 unlawful, and each Defendant has ratified and approved the acts of each of the
2 remaining Defendants.

3 **V. FACTUAL ALLEGATIONS**

4 **A. Background**

5 15. Plaintiffs and members of the proposed class are fishermen who operate
6 in and around the California coastal cities impacted by the Spill (including but not
7 limited to Huntington Beach, Newport Beach, Dana Point, and Laguna Beach,
8 California).



19 *Photo courtesy of Getty Images (Impacted sand in Huntington Beach)*

20 **B. The Elly Oil Processing Platform**

21 16. Elly is an oil processing platform. It was installed and began operating
22 atop the Beta Field oil reserve in 1980. Elly receives oil via pipeline from nearby oil
23 wells and separates the oil from the water (thus creating crude oil). It then transports
24 crude oil from the Beta Field through the Pipeline to a pump station in Long Beach,
25 California, where the oil is delivered to an oil refinery. The Pipeline is a sixteen-inch
26 seamless steel crude oil pipeline that was installed between Elly and Long Beach in
27 1980. According to Beta's 2012 Oil Spill Prevention and Response Plan, the Pipeline
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1 was transporting roughly 4,000 barrels of oil¹ per day, at pressures ranging between
2 250 and 720 psi.



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Photo courtesy of L.A. Times (Elly platform)

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14 **C. Initial Discovery of Spill by Residents**

15 17. Residents of Huntington Beach, California first reported odors in the air
16 related to the Spill on the evening of Friday, October 1, 2021. The California
17 Governor’s Office of Emergency Services began receiving reports in the evening of
18 October 1, 2021 of oil in the water off the coast of Huntington Beach.² Residents
19 continued to notice a foul smell in the air through the morning of Saturday, October
20 2, 2021.

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26 ¹ One barrel of oil is equal to 42 gallons. The Pipeline thus pumps roughly 168,000 gallons of oil
27 per day when functioning properly.

28 ² Governor’s Office of Emergency Services, Hazardous Materials Spill Report (Oct. 01, 2021)
accessible at:
<https://w3.calema.ca.gov/operational/mal haz.nsf/f1841a103c102734882563e200760c4a/f5fe18e46fd4b83f8825876200127f5e?OpenDocument>

1 **D. Failure to Notify and Shutdown Pipeline**

2 18. According to the Corrective Action Order (CAO) issued by the Pipeline
3 and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety
4 (OPS), Beta Offshore’s 16-inch San Pedro Bay Pipeline ruptured at approximately
5 02:30 Pacific Daylight Time (PDT) on October 2, 2021, resulting in an uncontrolled
6 release of crude oil into the San Pedro Bay, an inlet of the Pacific Ocean.

7 19. However, Amplify failed to notify the U.S. Coast Guard National
8 Response Center until 06:01 PDT – *over three hours later* – allowing the ruptured
9 pipe to release crude oil into the Pacific Ocean, uncontrolled, for hours.

10 20. According to reports, the Coast Guard was notified of the oil sheen by a
11 Good Samaritan (not Amplify). Amplify only notified the U.S. Coast Guard after its
12 company inspectors noticed oil in the water. Amplify did not report shutting down
13 the flow of oil to the Pipeline until Saturday night, at least 24 hours after residents
14 reported smelling oil on shore.

15 21. In the meantime, Amplify allowed over 144,000 gallons³ of crude oil to
16 flow into the Pacific Ocean, ravaging marine life and quickly approaching bustling
17 coastal towns. The crude oil also spilled into the Talbert Marsh, an ecological reserve
18 home to dozens of species of birds.

19 22. Amplify knew or should have known that oil was leaking immediately as
20 the pipe was ruptured. However, Amplify’s CEO Martyn Willsher said in a news
21 conference following the Spill that Amplify was not aware of the Spill until Saturday,
22 October 2, 2021.

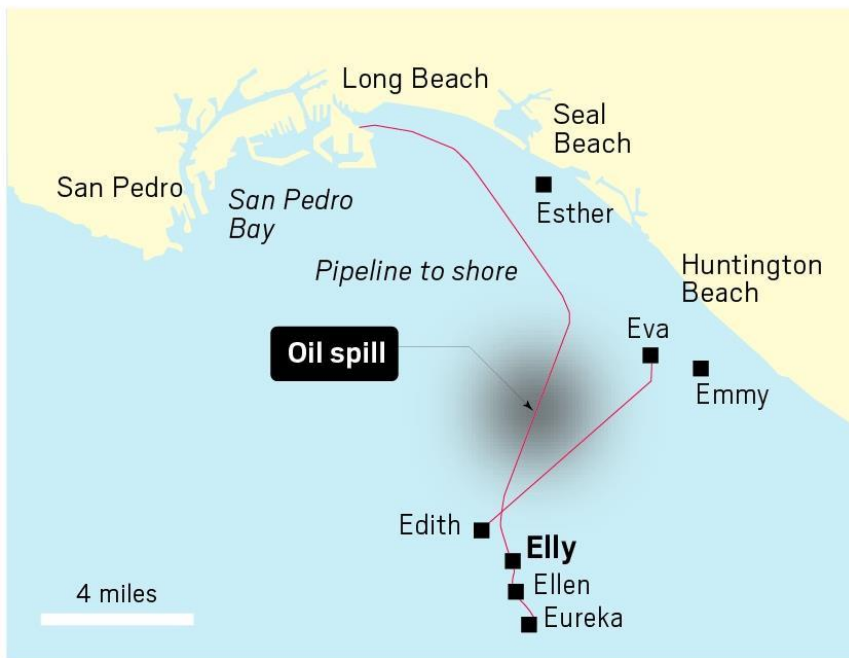
23 23. According to Beta’s own Oil Spill Response and Prevention plan, the
24 Pipeline would be “capable of causing significant and substantial harm to the
25 environment in the event of a discharge of oil because of its proximity to navigable
26 waters and adjoining shoreline areas designated as environmentally sensitive by the
27 [Area Contingency Plan].”

28 ³ This is a current estimate as of the time of filing this Complaint. The estimate has continued to shift.

24. As of the filing of this Complaint, neither Amplify nor the U.S. Coast Guard has confirmed for exactly how long crude oil was spilling into the ocean before they were able to stop the flow. Amplify has reported that it has sent divers to inspect the Pipeline along the sea floor, which is about 80 to 100 feet below the surface, to assess the damage. Despite attempts to patch the Pipeline on Saturday, October 2, Orange County Supervisor Katrina Foley reported that oil continued to spill into the Pacific through the night.

Oil spill

Oil continues to spill from a break in the pipeline connected to Platform Elly approximately 5 miles off the coast.



Source: Beta Offshore Operating Co., LLC.

JEFF GOERTZEN, SCNG

25. As of the filing of this Complaint, the exact cause of the spill has not been determined. Beta and Elly have had their share of spills and incidents over the years. Before Amplify owned Beta and operated Elly, Elly had another oil spill which leaked 2,000 gallons of oil into the Pacific in 1999, leading to \$48,000 in fines. Beta additionally has over 100 reported incidents of non-compliance reported by the Bureau of Safety and Environmental Enforcement, which operates under the U.S. Department of the Interior according to news sources.

1 26. Alternatively, U.S. Coast Guard is investigating whether the Pipeline was
2 damaged or broken by a yet-unknown large commercial ship that may have dropped
3 its anchor in the wrong location. The U.S. Coast Guard and Amplify have reported
4 that the Pipeline was displaced over 100 feet, but have not been able to identify exactly
5 when the Pipeline was moved, nor the cause of the displacement. This investigation
6 remains ongoing and the exact cause of the Spill has not been discovered.

7 27. Regardless of the exact cause of the Spill, Defendants displayed a total
8 failure in detection, notification, and response. According to Beta’s own Oil Spill
9 Prevention and Response Plan,⁴ the Pipeline is continuously monitored by an
10 “automated leak detection system” which includes automated monitoring and
11 reporting to Elly, whose control room is staffed around-the-clock, and leak detection
12 surveillance. Further, Elly is staffed twenty-four hours per day and is connected to
13 an Emergency Shutdown System (“ESD”). The ESD is meant to shut down the flow
14 of oil to the Pipeline within one minute. Elly has both automatic ESDs in the control
15 room, and manual ESDs, or large red pull knobs located throughout the Elly platform.
16 In spite of these numerous emergency backstops, neither Amplify nor Beta has made
17 mention of their use in stopping the Spill (*which may still be flowing into the Pacific*).
18 Rather, Amplify admittedly knew of the oil spill on Saturday morning, and its
19 operators did not stop the flow of oil to the Pipeline until Saturday night. Defendants
20 must answer for this breach in their own operating plan that allowed 144,000 gallons
21 of oil, and counting, to be dumped into the Pacific Ocean and wash ashore nearby
22 beach cities.

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28 ⁴ Beta Offshore Oil Spill Prevention and Response Plan (Apr. 2012), p. A-26-27, E-2, accessible
at: <https://www.bsee.gov/sites/bsee.gov/files/oil-spill-response-plan-osrp/inspection-and-enforcement/beta-operating-company-osrp-april-2012.pdf>

1 **E. Impacts on Ecology and the Orange County Community**

2 28. The Spill has had serious and immediate impacts on the ecology and
3 community of these Orange County beach cities.



13 *Photo courtesy of Wall Street Journal (Oil on Newport Beach)*

14 29. The Southern California Coast is a well-known habitat to lush and
15 biodiverse ecology. The Spill has had an immediate impact on unique marine life and
16 birds not only in the Pacific Ocean, but also on the California shore and tide pools, as
17 well as nearby marshes, wetlands, and ecological reserves. The Huntington Beach
18 Wetlands Conservancy alone owns and manages 127 acres of wetlands on the coast,
19 including the Talbert Marsh.⁵ The Talbert Marsh is home to ninety different bird
20 species, including the endangered California least terns, blue herons, and pelicans.
21 Offshore, the California coast is home to tuna, seabass, sea turtles, dolphins, and
22 whales. Not to be forgotten, countless species of larvae, microscopic organisms, and
23 shellfish call these waters home as well.

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⁵ Huntington Beach Wetlands Conservancy Website, accessible at:
<http://www.hbwetlands.org/about.php>

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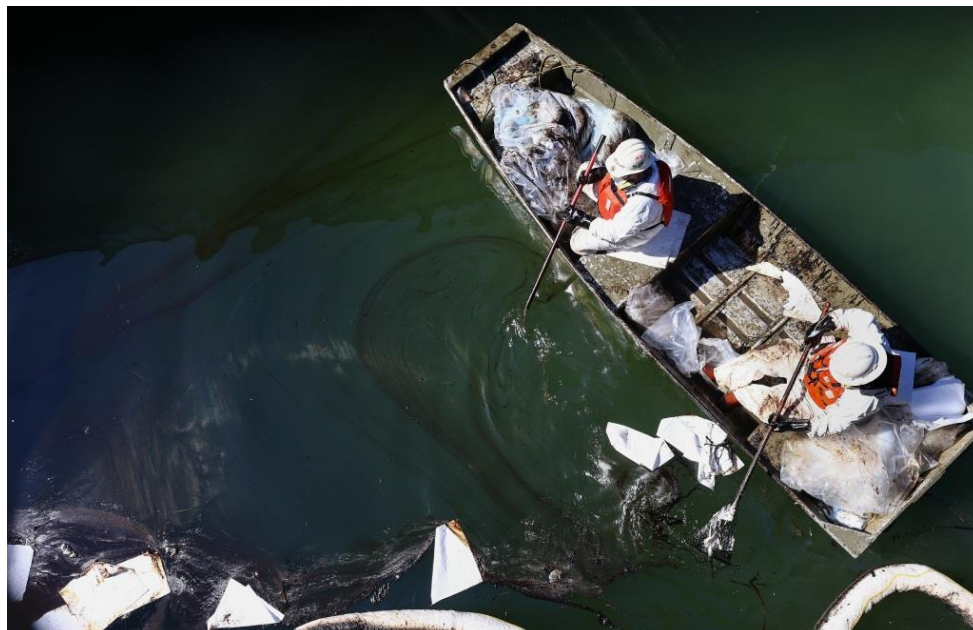


Photo courtesy of Getty Images (Oil Spill Cleanup)

30. Marine life and birds washing ashore dead or covered in oil paint a clear picture of the damage already caused by the Spill.⁶ Crude oil is highly toxic for birds and other marine life to ingest, and can cause cancers and neurological damage. Birds coated in oil have difficulty moving or flying, which can seriously affect migratory patterns, even slowing migration by up to 45 days.⁷ Additionally, marine birds and other furry mammals need clean fur and feathers to stay warm, and being coated in oil can cause them to die from hypothermia.



Photo courtesy of City of Huntington Beach (Oiled Duck)

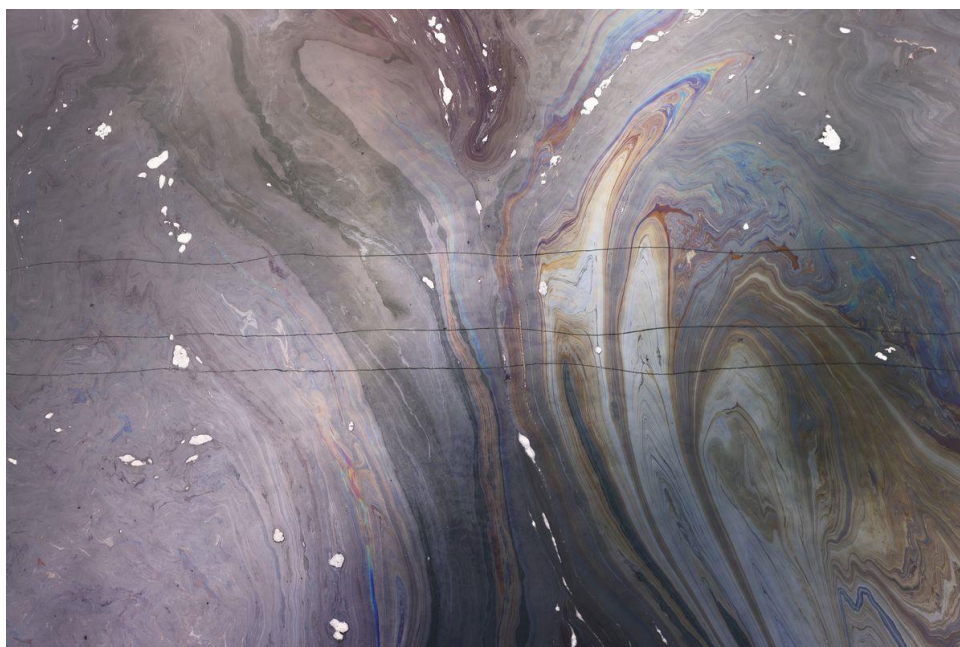


Photo courtesy of Associated Press (Oiled Bird)

⁶ U.S. Fish and Wildlife Service, Effects of Oil on Wildlife and Habitat, accessible at: <https://www.fws.gov/home/dhoilspill/pdfs/dhjcifwsoilimpactswildlifefactsheet.pdf>

⁷ Journal of Experimental Biology (2017) Light oiling of feathers increases flight energy expenditure in a migratory shorebird, accessible at: <https://bit.ly/3mQkYSi>

1 31. The Spill has also already impacted ecology that cannot be seen, but
2 which has serious long-term impacts: altering marine algae. Marine algae, which is a
3 crucial element of any marine habitat, may respond to oil spills by either dying
4 (causing food chain shortages for the marine life that survives off of algae) or growing
5 more rapidly (causing harmful algae blooms). Algae, krill, and other microscopic
6 organisms at the bottom of the food chain being killed or contaminated by oil have
7 lasting, long-term effects as they grow and the oil moves up the food chain, not only
8 to other animals, but to humans consuming seafood.



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19 *Photo courtesy of Getty Images (Oil in Talbert Marsh)*

20 32. As of the filing of this Complaint, the ecological impacts on marine
21 wildlife in the impacted areas are not yet known. The California Department of Fish
22 and Wildlife has closed certain fisheries in areas impacted by the Spill and it could be
23 weeks or months until they re-open. The California Office of Environmental Health
24 Hazard Assessment (“OEHHA”) will be conducting sampling and testing of shoreline
25 mussels and surf zone fin fish in an effort to understand the Spill’s impact on marine
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1 life. The long term consequences of fishing in the impacted area is not fully
2 understand, and won't be for quite some time.



14 *Photo courtesy of Getty Images (Oil in Talbert Marsh)*

15 33. The Talbert Marsh, mentioned above, serves a unique and crucial
16 environmental purpose: improving water quality. The Talbert Marsh acts as a natural
17 water filter for the water flowing through it. The Spill has spoiled that process because
18 the Marsh does not have the natural capability to filter out crude oil pollution.⁸

19 34. The California Department of Fish and Wildlife has closed offshore
20 fisheries indefinitely while they conduct testing. **Lobster fishermen are unable to**
21 **bait and trap lobster for the short harvesting season which was set to begin on**
22 **October 6, 2021.** Many fishers and trappers have lost significant revenue because
23 they have not been able to collect any of the fish or shellfish in their already-set traps.

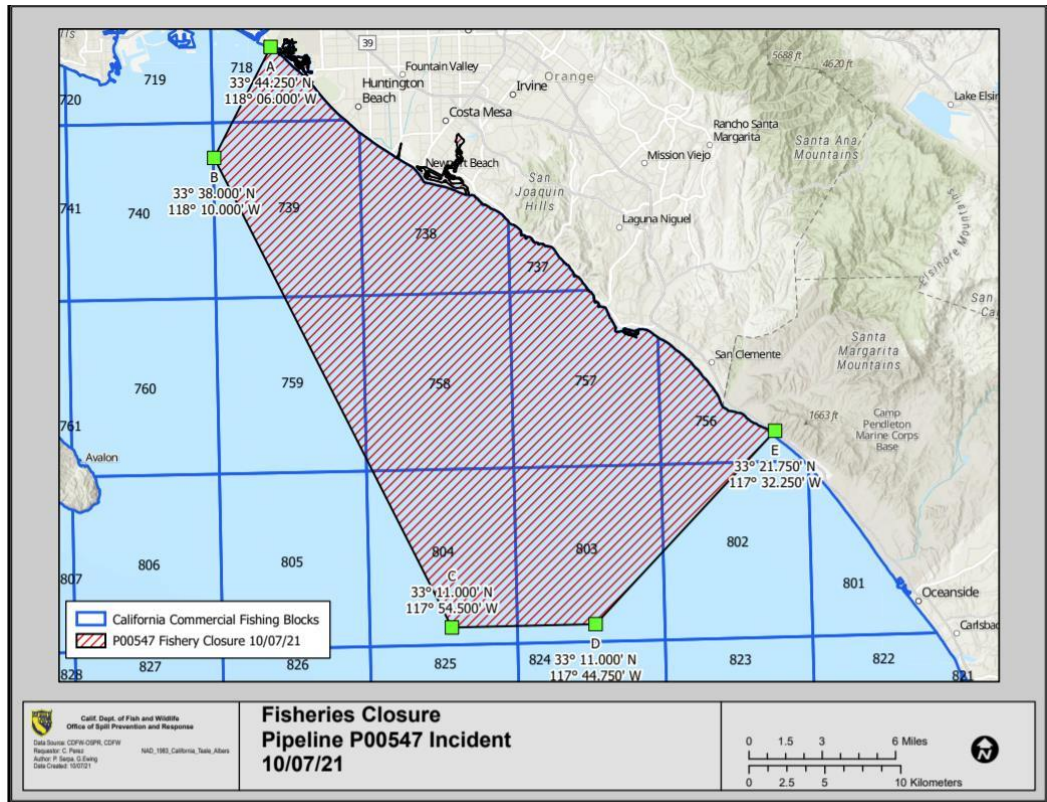
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⁸ Heal the Bay (Oct. 7, 2021) What We Know (and Don't) About the Oil Spill in Orange County, accessible at: <https://healthbay.org/oil-spill-in-orange-county-california/>

1 With testing procedures taking six weeks at a minimum before the fisheries' reopening
2 will be authorized, fishers and trappers are left without income.



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12 *Photo courtesy of University of Connecticut (Lobster Trapper)*



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28 *Map courtesy of California Department of Fish and Wildlife*

1 35. Residents of Orange County are feeling the physical effects of the Spill
2 as well, with many reporting breathing in fumes. Just as with marine life, oil is
3 damaging to humans’ health via inhalation of fumes from off-gassing as well as from
4 dermal contact. The Orange County Health Department advised that even if oil or tar
5 is not visible, it may still be dissolved in swimming water or airborne, and that
6 exposure can lead to nausea, dizziness, vomiting, headaches, and other symptoms.⁹



17 *Photo courtesy of Yahoo News (Harm to marine wildlife)*

18 36. While many questions remain, including the exact cause of the Spill, for
19 how long oil was gushing into the Pacific Ocean, and exactly how much oil was
20 spilled, one aspect of the Spill is clear: California’s coastal ecosystem has been
21 immediately and severely harmed and will continue to see the effects of the Spill for
22 years to come.

23 **VI. JURISDICTION AND VENUE**

24 37. This Court has federal question jurisdiction over this matter pursuant to
25 28 U.S.C. § 1331. Pursuant to the Outer Shelf Continental Lands Act (“OCSLA”), 43
26 U.S.C. § 1331 *et seq.*, federal district courts retain jurisdiction over any case “arising
27 out of, or in connection with ... any operation conducted on the outer Continental Shelf

28 ⁹ Orange County Health Officer on Local Oil Spill – Health Advisory #2 (Oct. 8, 2021), accessible
at: <https://ocgov.com/news/county-health-officer-local-oil-spill-health-advisory-2>

1 which involves exploration, development, or production of the minerals, of the subsoil
2 and seabed of the outer Continental Shelf, or which involves rights to such minerals.”
3 43 U.S.C. § 1349(b)(1)(A). Additionally, Plaintiffs allege Lost Profits and Earning
4 Capacity Damages Under Federal Oil Pollution Act of 1990, §§ 1002, 1006

5 38. Elly and the Pipeline are located in federal waters under the jurisdiction
6 of the OCSLA, and the Spill emanated from said Pipeline on federal waters.
7 Jurisdiction, therefore, lies with the federal district court. *See Broussard v. John E.*
8 *Graham & Sons*, 798 F. Supp. 370, 372 (M.D. La 1992) (“[I]f Plaintiff seeks relief
9 based on state law for an accident arising from operations conducted on the Outer
10 Continental Shelf which involve exploration of minerals, the Plaintiff seeks relief
11 based on federal law through the OCSLA. Therefore, a claim for relief under state law
12 for an accident which occurs on the Outer Continental Shelf requires a federal district
13 court to exercise federal question jurisdiction under 28 U.S.C. § 1331.”).

14 39. This Court also has diversity of citizenship jurisdiction over this matter
15 pursuant to 28 U.S.C. § 1332(d)(2). The federal district courts maintain original
16 jurisdiction over class action lawsuits wherein the amount in controversy exceeds five
17 million dollars and any member of the Class is a citizen of a state different from any
18 Defendant in the matter. 28 U.S.C. § 1332(d)(2)(A). Plaintiffs allege beyond the
19 minimum five million dollars in damages as a result of the Spill. Plaintiffs, all citizens
20 of California, are diverse from Amplify and Beta, citizens of Texas. San Pedro Bay
21 is a wholly owned subsidiary of Amplify. Therefore, this matter sits properly in this
22 Court under diversity of citizenship jurisdiction.

23 40. Further, this matter is also properly venued in this Court because a
24 substantial amount of Defendants’ conduct occurred in this District, a substantial part
25 of the property that is subject to this litigation is located in this District, and because
26 Plaintiffs reside in and were harmed in this District. *See* 28 U.S.C. § 1391.

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1 **VII. CLASS ACTION ALLEGATIONS**

2 41. Plaintiffs bring this class action individually and on behalf of all others
3 similarly situated pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(1)(A), and
4 23(b)(3). This action may be brought and properly maintained as a class action
5 because Plaintiffs satisfy the numerosity, adequacy, typicality, and commonality pre-
6 requisites for suing as representative parties pursuant to Federal Rule of Civil
7 Procedure 23(a).

8 42. As detailed in the individual counts below, Plaintiffs seek to represent a
9 Class defined as follows:

10 **All persons, entities, and commercial enterprises suffering property**
11 **damage and/or financial losses from commercial sea operations (including**
12 **but not limited to fishing, trapping [including lobster trapping], netting,**
13 **and/or crabbing) in and around the California coastal cities impacted by**
14 **the Spill (including but not limited to Huntington Beach, Newport Beach,**
15 **Dana Point, and Laguna Beach, California) beginning on or around**
16 **October 1, 2021 and ongoing as a result of the Spill.**

17 Excluded from the above Class is any entity in which Defendants have a
18 controlling interest, and officers or directors of Defendants. Also excluded from this
19 Class is any judge or judicial officer presiding over this matter and the members of
20 his or her immediate family and judicial staff.

21 43. The Class is ascertainable. The Class definition identifies groups of
22 unnamed plaintiffs by describing a set of common characteristics sufficient to allow a
23 member of that group to self-identify as having a right to recover based on the
24 description, including, but not limited to, by reference to municipal territories and a
25 specific time frame. Other than by direct notice, alternatively proper and sufficient
26 notice of this action may be provided to the Class members through notice published
27 in newspapers or other publications.

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1 44. The members of the Class are so numerous that a joinder of all members
2 would be impracticable. Huntington Beach alone is home to over 10,000 businesses.¹⁰
3 Other surrounding beach cities with thousands more businesses are also affected by
4 the oil spill. The Class is likely to exceed thousands of members.

5 45. A well-defined community of interest in the questions of law or fact
6 involving and affecting all members of the Class exists, and common questions of law
7 or fact are substantially similar and predominate over questions that may affect only
8 individual Class members. This action is amenable to a class-wide calculation of
9 damages through expert testimony applicable to anyone in the Class. The questions of
10 law and fact common to Plaintiffs and the Class members include, among others, the
11 following:

- 12 A. Whether Defendants were negligent in their construction,
13 maintenance, and operation of the Pipeline;
14 B. Whether Defendants owed any duties to Class Members;
15 C. Whether Defendants breached one or more duties to Class
16 Members;
17 D. Whether Defendants' actions and inactions were a substantial
18 factor in causing harm to Class Members;
19 E. Whether Defendants' Discharges caused physical injury to Class
20 Members' businesses;
21 F. Whether Defendants have created a public nuisance;
22 G. Whether the nuisance Defendants have created is permanent;
23 H. Whether Defendants have engaged in an ultrahazardous activity;
24 I. Whether Defendants violated any California statutes, including
25 California's. Unfair Competition Law, Bus. & Prof. Code §§
26 17200, *et seq.*;

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¹⁰ According to Huntington Beach's website, accessible at:
<https://www.huntingtonbeachca.gov/business/>

1 J. The extent to which Class Members have been harmed by the
2 uncontrolled release of crude oil into the Pacific Ocean by the
3 Pipeline; and

4 K. What is the proper measure of damages incurred by the Class
5 Members.

6 46. Plaintiffs' claims are typical of the members of the Class. The evidence
7 and the legal theories regarding Defendants' alleged wrongful conduct are
8 substantially the same for Plaintiffs and all of the Class members.

9 47. Plaintiffs will fairly and adequately protect the interests of the Class
10 members. Plaintiffs have retained competent counsel experienced in class action
11 litigation to ensure such protection. Plaintiffs and their counsel intend to prosecute
12 this action vigorously.

13 48. Prosecution of separate actions by individual Class members would
14 create a risk of inconsistent or varying adjudications with respect to individual Class
15 members that would establish incompatible standards of conduct for the party (or
16 parties) opposing the Class and would lead to repetitious trials of the numerous
17 common questions of fact and law.

18 49. The questions of law and fact common to the members of the Class
19 predominate over any questions affecting only individual members, and a class action
20 is superior to other available methods for the fair and efficient adjudication of the
21 controversy. Plaintiffs know of no difficulty that will be encountered in the
22 management of this litigation that would preclude its maintenance as a class action.
23 Because the injury suffered by any individual Class member may be relatively small,
24 the expense and burden of individual litigation make it virtually impossible for
25 Plaintiffs and Class members individually to seek redress for the alleged wrongful
26 conduct. Even if any individual persons or group(s) of Class members could afford
27 individual litigation, it would be unduly burdensome to the courts in which the
28 individual litigation(s) would proceed. The class action device is preferable to

1 individual litigation(s) because it provides the benefits of unitary adjudication,
2 economies of scale, and comprehensive adjudication by a single court.

3 **VIII. CAUSES OF ACTION**

4 **FIRST CLAIM FOR RELIEF**

5 **Strict Liability for Ultrahazardous Activities**

6 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

7 50. Plaintiffs and Class Members incorporate by reference all allegations of
8 the preceding paragraphs as though fully set forth herein.

9 51. At all times herein, Defendants were the owners and operators of the
10 Pipeline and Elly.

11 52. At all times relevant to this action, Defendants had supervision, custody,
12 and control of the Pipeline and Elly.

13 53. At all times relevant to this action, Defendants were under a continuing
14 duty to protect the Plaintiffs and the Class from the natural consequences of an oil
15 spill from the Pipeline.

16 54. Defendants were engaged in an ultrahazardous activity by transporting
17 and processing hazardous crude oil.

18 55. Plaintiffs and the Class have suffered harm as a result of the Spill
19 emanating from Defendants' Pipeline, including but not limited to: disruption of their
20 business, inconvenience, loss of business opportunities, lost profits, lost earnings, lost
21 earning capacity, loss of business reputation, and other expenses.

22 56. The injuries sustained by Plaintiffs and the Class as a result of the Spill
23 and its aftermath were the direct and proximate result of Defendants' activities.

24 57. The harm to Plaintiffs and the Class was and is the kind of harm that
25 would be reasonably anticipated as a result of the risks created by processing and
26 transporting hazardous crude oil, and not properly maintaining the Pipeline in its close
27 proximity to the Huntington Beach, California shoreline.

28

1 58. Defendants' harm to Plaintiffs' economic interests was foreseeable,
2 because the leak of hazardous crude oil would reasonably impact persons conducting
3 business in the areas nearby the shore.

4 59. Defendants' actions were directly contrary to California and United
5 States policy to preserve and protect the environment.

6 60. Defendants' operation of the Elly and the Pipeline and resulting Spill was
7 and remains a substantial factor in causing the harms suffered by Plaintiffs and the
8 Class.

9 61. Defendants are liable to Plaintiffs and Class Members for all damages
10 arising from this ultrahazardous activity, including all compensatory damages, and
11 punitive damages pursuant to Cal Civ. Code § 3294, and attorney's fees pursuant to
12 Cal Civ. Code § 1021.5.

13 62. Defendants are liable to Plaintiffs and Class Members for all damages
14 arising from their violation of California Civil Code section 3479, California Health
15 & Safety Code section 25510(a), and California Government Code section 8670.56.5,
16 including compensatory and injunctive relief, punitive damages pursuant to California
17 Civil Code section 3294, and attorneys' fees pursuant to California Code of Civil
18 Procedure section 1021.5.

19 63. The wrongful acts, representations and/or omissions of Defendants,
20 hereinabove set forth, were made, adopted, approved, authorized, endorsed and/or
21 ratified by their officers, directors or managing agents, and were done maliciously,
22 oppressively, fraudulently and/or with a willful and knowing disregard of the probable
23 dangerous consequences for the health and safety of Plaintiffs and their community.
24 The officers, directors and/or managing agents of Defendants had advanced
25 knowledge of aging infrastructure, including but not limited to: aging wells, pipelines,
26 and/or safety systems; and/or the lack of an effective integrity management program
27 to ensure the safety of the operation of their oil platform and pipelines. The officers,
28 directors and/or managing agents of Defendants also had advanced knowledge that a

1 failure to maintain, inspect, assess, replace, and/or repair infrastructure would result
2 in the probability of a catastrophic event, which foreseeably would lead to harm and/or
3 injuries to the health and safety of Plaintiffs and their community, generally. In failing
4 to take protective measures to safeguard against the danger, the officers, directors
5 and/or managing agents of Defendants acted with a willful and/or knowing disregard
6 of the probable dangerous consequences, and/or acted with an awareness of the
7 probable dangerous consequences of their conduct and deliberately failed to avoid
8 those consequences, thereby creating a substantial risk of injury to Plaintiffs and the
9 California coastal cities impacted by the Spill (including but not limited to Huntington
10 Beach, Newport Beach, Dana Point, and Laguna Beach, California). Plaintiffs and
11 Class Members are entitled to punitive and exemplary damages in an amount to be
12 ascertained, which is appropriate to punish or set an example of Defendants and deter
13 such behavior by Defendants and others in the future.

14 **SECOND CAUSE OF ACTION**

15 **Negligence**

16 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

17 64. Plaintiffs and Class Members incorporate by reference all allegations of
18 the preceding paragraphs as though fully set forth herein.

19 65. Plaintiffs and Class Members are individuals and entities who conduct
20 business on or within a short distance of the California coast in Orange County,
21 California.

22 66. At all times relevant herein, Defendants owned and operated the Pipeline
23 and Elly. Defendants owe and owed a duty to Plaintiffs and Class Members to use
24 reasonable care in the design, construction, operation, and/or maintenance of all
25 relevant operations and equipment. Such reasonable care includes, but is not limited
26 to designing, constructing, operating, and/or maintaining all operations and equipment
27 in a manner compatible with the reasonable use and enjoyment of the nearby beach
28

1 cities and the surrounding communities, and in compliance with relevant regulations
2 and industry standards.

3 67. Defendants breached this duty to Plaintiffs and the Class by negligently
4 designing, constructing, operating, and maintaining the Pipeline; failing to implement
5 reasonable safety and spill prevention practices; failing to conduct reasonable safety
6 and spill inspections; and failing to promptly contain the Spill. These breaches caused
7 the Spill, which led to Plaintiffs' and Class Members' inability to conduct their
8 business, as well as their clients and customers to be displaced. As a foreseeable
9 result, Plaintiffs and Class Members have been unable to conduct business in the
10 affected area and surrounding communities, or have seen a substantial decrease in
11 business transactions originating in the affected areas.

12 68. Defendants also breached their duties of care to Plaintiffs and Class
13 Members by violating several statutes and/or regulations including California Civil
14 Code section 3479 (prohibiting obstruction to the free use of property, so as to
15 interfere with the comfortable enjoyment of life or property) and California Health &
16 Safety Code section 25510(a) (requiring handlers of hazardous material to
17 immediately report the release or threatened release thereof to the unified program
18 agency).

19 69. Defendants knew, or should have known that their design, construction,
20 operation, and/or maintenance could result in the Spill, and that the foregoing could
21 and would cause significant economic harm to businesses in the surrounding
22 communities.

23 70. As a direct and proximate result of Defendants' negligence in designing,
24 constructing, operating, and/or maintaining the Elly and the Pipeline, Plaintiffs' and
25 Class Members' properties were, and are, being physically invaded by Defendants'
26 crude oil.

27 71. As a direct and proximate result of Defendants' negligence, Plaintiffs and
28 Class Members suffered property damages as alleged herein, including physical injury

1 to their property; as corroborated by the presence of odor and crude oil tracked onto
2 their properties and chattels.

3 72. As a direct and proximate result of Defendants' negligence, Plaintiffs and
4 Class Members suffered and will continue to suffer the loss of the access to
5 commercial fishing and trapping located in and around the California coastal cities
6 impacted by the Spill (including but not limited to Huntington Beach, Newport Beach,
7 Dana Point, and Laguna Beach, California).

8 73. As a direct and proximate result of Defendants' negligence, Plaintiffs and
9 Class Members have suffered legal injury and damages, in an amount to be proven at
10 trial, including, but not limited to, business and reputational damage, diminution of
11 value of business property, the cost to repair the damage and restore business property
12 to its condition prior to the Spill, plus the value of their lost earnings as a result of
13 Defendants' negligence.

14 74. Defendants are liable to Plaintiffs and Class Members for all damages
15 arising from their negligence, including compensatory and injunctive relief, punitive
16 damages pursuant to Cal. Civ. Code § 3294, and attorneys' fees pursuant to Cal. Civ.
17 Proc. Code § 1021.5.

18 75. Defendants were and are in a special relationship to this Class of property
19 owners. Defendants operated Elly and the Pipeline in such close geographical
20 proximity to the Class, and with knowledge of the residential properties in close
21 proximity to the Pipeline. Defendants' operation of the Pipeline was intended to and
22 did directly affect the Class.

23 76. Due to the geographical proximity between the Pipeline and the Class,
24 the harm to the Class from a massive Spill was clearly foreseeable.

25 77. The Class suffered injury, which was plainly caused by the Spill.

26 78. There is moral blame attached to the Defendants as a result of the injuries
27 to the Class and the massive damage to the environment.

28

1 79. Public policy supports also finding a duty of care in this circumstance,
2 due to the Defendants' violation of California Civil Code section 3479, California
3 Health & Safety Code section 25510(a), and California Government Code section
4 8670.56.5, and Defendants' engagement in an ultrahazardous activity.

5 **THIRD CAUSE OF ACTION**

6 **Negligence Per Se**

7 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

8 80. Plaintiffs and Class Members incorporate by reference all allegations of
9 the preceding paragraphs as though fully set forth herein.

10 81. Plaintiffs and Class Members are individuals who operate businesses or
11 commercial enterprises within a short distance of the California coast in Huntington
12 Beach, Newport Beach, Dana Point, and Laguna Beach, California.

13 82. At all times relevant herein, Defendants owned and operated the Pipeline
14 and Elly. Defendants owe and owed a duty to Plaintiffs and Class Members to use
15 reasonable care in the design, construction, operation, and/or maintenance of all
16 relevant operations and equipment. Such reasonable care includes, but is not limited
17 to designing, constructing, operating, and/or maintaining all operations and equipment
18 in a manner compatible with the reasonable use and enjoyment of the nearby beach
19 cities and the surrounding communities, and in compliance with relevant regulations
20 and industry standards.

21 83. Defendants breached this duty by negligently, wantonly, carelessly
22 and/or recklessly designing, constructing, operating, and maintaining the Pipeline;
23 failing to implement reasonable safety and spill prevention practices; failing to
24 conduct reasonable safety and spill inspections; and failing to promptly contain the
25 Spill. These breaches caused the Spill, which lead to the physical injury of Plaintiffs'
26 and Class Members' business, commercial, and property rights.

27 84. In doing so, Defendants have violated several statutes and/or regulations
28 including Cal Civ. Code § 3479 (prohibiting obstruction to the free use of property,

1 so as to interfere with the comfortable enjoyment of life or property), Cal. Health &
2 Safety Code § 25510(a) (requiring handlers of hazardous material to immediately
3 report the release or threatened release thereof to the unified program agency), and
4 California Government Code section 8670.56.5 (imposing liability for any damages
5 or injury resulting from an oil spill).

6 85. Plaintiffs and Class Members, as property owners or lessors affected by
7 Defendants' violation of the above statutes, are within the class of persons these
8 statutes are designed to protect.

9 86. As a direct and proximate result of Defendants' violation of these
10 statutes, Plaintiffs' and Class Members' properties were, and are, being physically
11 invaded by the Spill.

12 87. As a direct and proximate result of Defendants' foregoing statutory
13 violations, Plaintiffs and Class Members suffered property damages as alleged herein,
14 including physical injury to their property; as corroborated by the presence of odor
15 and crude oil tracked onto their properties and chattels.

16 88. As a direct and proximate result of Defendants' statutory violations,
17 Plaintiffs and Class Members suffered and will continue to suffer, the loss of the quiet
18 use and enjoyment of their property rights as well as enjoyment of public properties
19 located in the California coastal cities impacted by the Spill (including but not limited
20 to Huntington Beach, Newport Beach, Dana Point, and Laguna Beach, California).

21 89. As a direct and proximate result of Defendants' statutory violations,
22 Plaintiffs and Class Members have suffered legal injury and damages, in an amount
23 to be proven at trial, including, but not limited to, business and reputational damage,
24 diminution of value of business property, the cost to repair the damage and restore
25 business property to its condition prior to the Spill, plus the value of their lost earnings
26 as a result of Defendants' statutory violations.

27 90. Defendants are liable to Plaintiffs and Class Members for all damages
28 arising from their violation of Cal Civ. Code § 3479, Cal. Health & Safety Code §

1 25510(a), and Cal. Gov. Code § 8670.56.5, including compensatory and injunctive
2 relief, punitive damages pursuant to Cal. Civ. Code § 3294, and attorneys' fees
3 pursuant to Cal. Civ. Proc. Code § 1021.5.

4 **FOURTH CAUSE OF ACTION**

5 **Trespass**

6 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

7 91. Plaintiffs and Class Members incorporate by reference all allegations of
8 the preceding paragraphs as though fully set forth herein.

9 92. Plaintiffs and Class Members have now and had at the time of the Spill a
10 possessory interest in their real, personal, and business property, and bring this cause
11 of action on behalf of themselves and all other Class members with a possessory
12 ownership or leasehold interest in property.

13 93. Defendants caused a trespass by discharging through the Spill crude oil
14 and other potential unknown chemicals and matter; outside the Pipeline and beyond
15 the boundary of Elly in such a manner that it was reasonably foreseeable that the
16 pollutants would, in due course, invade Plaintiffs' and Class Members' real property
17 and cause physical injury to that property.

18 94. The Spill invaded the property of Plaintiffs and the Class, and interfered
19 with their possessory interests of that property.

20 95. The Spill invaded the real property of Plaintiffs and the Class caused
21 physical damage to their property by casting over and infusing their real property with
22 a distinct smell and causing crude oil to be tracked onto their property and chattels
23 from the Pacific ocean and beach.

24 96. The Spill caused Defendants to enter, invade, and intrude on the real
25 properties of Plaintiffs and the Class Members without their privilege, permission,
26 consent, authorization, invitation, or justification.

27 97. Defendants had a duty to use reasonable care not to enter, invade, or
28 intrude on the real property of Plaintiffs and the members of the proposed Class.

1 Defendants also owed a duty to Plaintiffs and members of the Class to exercise
2 reasonable care in the construction, maintenance, and operation of Elly and the
3 Pipeline because of the close proximity to coastal cities.

4 98. Defendants had a heightened duty of care to Plaintiffs and the Class
5 because of the great danger associated with processing and transporting crude oil.
6 Defendants' maintenance and operation of Elly and the Pipeline was inherently
7 dangerous, posed a significant risk of harm to Plaintiffs and members of the Class and
8 their property, and constituted an ultrahazardous activity.

9 99. Defendants breached the duty they owed to Plaintiffs and members of the
10 Class when they failed to exercise reasonable care in the construction, maintenance,
11 and operation of the Pipeline, which conduct resulted in entry, intrusion, or invasion
12 of Plaintiffs' and Class Members' real properties.

13 100. Defendants knew or should have known that their conduct and the
14 ongoing operation and maintenance of the Pipeline would foreseeably result in the
15 disastrous Spill, causing damage to the real properties and economic interests of
16 persons in the area affected by the Spill. As a direct and proximate result of
17 Defendants' trespass, Plaintiffs and Class Members have suffered legal injury and
18 damages, in an amount to be proven at trial, including, but not limited to, property
19 damage, diminution of value of real estate, the cost to repair the damage and restore
20 the property to its pre-trespass condition, the costs of recovering possession of the
21 property, plus the value of their lost use of the property as a result of all trespass and
22 for Defendants' ongoing trespass, if any, and attorneys' fees pursuant to Cal. Civ.
23 Proc. Code § 1021.5.

24 101. Defendants' wanton or reckless conduct, as described herein, entitles
25 Plaintiffs and Class members to punitive damages.

26 ///

27 ///

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FIFTH CAUSE OF ACTION

Permanent Private Nuisance

(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)

1
2
3
4 102. Plaintiffs and Class Members incorporate by reference all allegations of
5 the preceding paragraphs as though fully set forth herein.

6 103. The Spill and Defendants’ and operation of Elly and the Pipeline have
7 created a condition that is harmful to health and interferes with the comfortable
8 enjoyment of life and property, and where another catastrophic discharge is likely to
9 happen at any moment. As a result of Defendants’ actions and inactions, Plaintiffs and
10 Class Members have suffered a permanent loss of use and enjoyment of their property.

11 104. Defendants’ operation of the Pipeline is a condition that would
12 reasonably annoy and disturb an ordinary person, as shown, for example, by the major
13 event cancellations, business closures, community outrage in response to the Spill,
14 and the nationwide interest in the impact of the Spill on the environment.

15 105. The seriousness and gravity of the harm associated with the Spill and
16 continued operation of the Pipeline outweigh the public benefit of Defendants’
17 conduct. There is no social utility associated with the release of hundreds of thousands
18 of gallons of crude oil into the Pacific Ocean and onto nearby coastal communities.

19 106. Plaintiffs and the Class suffered and continue to suffer a harm and injury
20 to their residential properties to which they did not consent and which is different from
21 the type of harm suffered by the general public.

22 107. Defendants’ conduct was a substantial factor in causing harm to Plaintiffs
23 and the Class to suffer and to continue to suffer economic harm, injury, and losses,
24 including injury to property.

25 108. The contamination described herein constitutes a nuisance within the
26 meaning of Section 3479 of the California Civil Code.

27 109. Plaintiffs and the Class are informed and believe, and on that basis allege,
28 that the nuisance is permanent and unabatable.

1 **SIXTH CAUSE OF ACTION**

2 **Permanent Public Nuisance**

3 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

4 110. Plaintiffs and Class Members incorporate by reference all allegations of
5 the preceding paragraphs as though fully set forth herein.

6 111. The Spill and Defendants’ operation of Elly and the Pipeline have created
7 a condition that is harmful to health and interferes with the comfortable enjoyment of
8 life and property, and where another catastrophic discharge is likely to happen at any
9 moment. As a result of Defendants’ actions and inactions, Plaintiffs and Class
10 Members have suffered a permanent loss of use and enjoyment of their property.

11 112. Defendants’ operation of the Pipeline is a condition that would
12 reasonably annoy and disturb an ordinary person, as shown, for example, by the major
13 event cancellations, business closures, community outrage in response to the Spill,
14 and the nationwide interest in the impact of the Spill on the environment.

15 113. The seriousness and gravity of the harm associated with the Spill and
16 continued operation of the Pipeline outweigh the public benefit of Defendants’
17 conduct. There is no social utility associated with the release of hundreds of thousands
18 of gallons of crude oil into the Pacific Ocean and onto nearby coastal communities.

19 114. Plaintiffs and the Class suffered and continue to suffer a harm and injury
20 to their residential properties to which they did not consent and which is different from
21 the type of harm suffered by the general public.

22 115. The Spill also affects and continues to affect the public at large, causing
23 massive environmental damage to the Orange County area and the State of California.

24 116. Defendants’ conduct is a substantial factor in causing Plaintiffs and the
25 Class to suffer and to continue to suffer economic harm, injury, and losses, including
26 injury to property, loss of use and enjoyment of their property, and diminution in
27 property values. Plaintiffs and the Class are entitled to damages for all such past,
28 present, and future injuries.

1 117. The contamination described herein constitutes a nuisance within the
2 meaning of Section 3479 of the California Civil Code.

3 118. Plaintiffs and Class Members are informed and believe, and on that basis
4 allege, that the nuisance is permanent and unabatable.

5 **SEVENTH CAUSE OF ACTION**

6 **Continuing Private Nuisance**

7 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

8 119. Plaintiffs and Class Members incorporate by reference all allegations of
9 the preceding paragraphs as though fully set forth herein. This count is pled in the
10 alternative.

11 120. The Spill and Defendants' operation of Elly and the Pipeline have created
12 an ongoing condition that is harmful to health and interferes with the comfortable
13 enjoyment of life and property. Absent abatement, Defendants' actions and inactions
14 will likely soon result in another catastrophic discharge. As a result of Defendants'
15 actions and inactions, Plaintiffs and Class Members have suffered a loss of use and
16 enjoyment of their property.

17 121. Defendants' operation of the Pipeline is a condition that would
18 reasonably annoy and disturb an ordinary person, as shown, for example, by the major
19 event cancellations, business closures, community outrage in response to the Spill,
20 and the nationwide interest in the impact of the Spill on the environment.

21 122. The seriousness and gravity of the harm associated with the Spill and
22 continued operation of the Pipeline outweigh the public benefit of Defendants'
23 conduct. There is no social utility associated with the release of hundreds of thousands
24 of gallons of crude oil into the Pacific Ocean and onto nearby coastal communities.

25 123. Plaintiffs and the Class have suffered and, absent abatement, will
26 continue to suffer a harm and injury to their residential properties to which they did
27 not consent, and which is different from the type of harm suffered by the general
28 public.

1 124. The Spill has also affected the public at large, causing massive
2 environmental damage to the Orange County area and the State of California.

3 125. Defendants' conduct was a substantial factor in causing harm to Plaintiffs
4 and the Class to suffer and to continue to suffer economic harm, injury, and losses,
5 including injury to property. Plaintiffs and the Class are entitled to damages for all
6 such past and present injuries.

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

9 127. Plaintiffs and Class Members are informed and believe, and on that basis
10 allege, that the nuisance is continuing and unabatable.

11 **EIGHTH CAUSE OF ACTION**

12 **Continuing Public Nuisance**

13 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

14 128. Plaintiffs and Class Members incorporate by reference all allegations of
15 the preceding paragraphs as though fully set forth herein. This count is pled in the
16 alternative.

17 129. The Spill and Defendants' operation of the Facility have created an
18 ongoing condition that is harmful to health and interferes with the comfortable
19 enjoyment of life and property. Absent abatement, Defendants' actions and inactions
20 will likely soon result in another catastrophic discharge. As a result of Defendants'
21 actions and inactions, Plaintiffs and Class Members have suffered a loss of use and
22 enjoyment of their property.

23 130. Defendants' operation of the Pipeline is a condition that would
24 reasonably annoy and disturb an ordinary person, as shown, for example, by the major
25 event cancellations, business closures, community outrage in response to the Spill,
26 and the nationwide interest in the impact of the Spill on the environment.

27 131. The seriousness and gravity of the harm associated with the Spill and
28 continued operation of the Pipeline outweigh the public benefit of Defendants'

1 conduct. There is no social utility associated with the release of hundreds of thousands
2 of gallons of crude oil into the Pacific Ocean and onto nearby coastal communities.

3 132. Plaintiffs and Class Members have suffered and absent abatement will
4 continue to suffer a harm and injury to their residential properties to which they did
5 not consent, and which is different from the type of harm suffered by the general
6 public.

7 133. The Spill has also affected the public at large, causing massive
8 environmental damage to the Orange County area and the State of California.

9 134. Defendants' conduct is a substantial factor in causing harm to Plaintiffs
10 and Class Members to suffer and to continue to suffer economic harm, injury, and
11 losses, including injury to property, loss of use and enjoyment of property, and
12 diminution in property values. Plaintiffs and Class Members are entitled to damages
13 for all such past and present injuries.

14 135. The contamination described herein constitutes a nuisance within the
15 meaning of Section 3479 of the California Civil Code.

16 136. Plaintiffs and Class Members are informed and believe, and on that basis
17 allege, that the nuisance is continuing and abatable.

18 **NINTH CAUSE OF ACTION**

19 **Violations of California's Unfair Competition Law**

20 **Cal. Bus. & Prof. Code §§ 17200, et seq.**

21 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

22 137. Plaintiffs and Class Members incorporate by reference all allegations of
23 the preceding paragraphs as though fully set forth herein.

24 138. Defendants have engaged in and continue to engage in unfair competition
25 in violation of California's Unfair Competition Law ("UCL").

26 139. Defendants' conduct constitutes unlawful and unfair business practices
27 within the meaning of the UCL.

28

1 140. Defendants’ conduct amounts to unlawful conduct because their conduct
2 constitutes common law negligence, trespass, and nuisance, and they violated Civ.
3 Code § 3479 (prohibiting obstruction to the free use of property, so as to interfere with
4 the comfortable enjoyment of life or property), Cal. Health & Safety Code § 25510(a)
5 (requiring handlers of hazardous material to immediately report the release or
6 threatened release thereof to the unified program agency), and California Government
7 Code section 8670.56.5 (imposing liability for any damages or injury resulting from
8 an oil spill)

9 141. Defendants’ conduct amounts to “unfair” business practices because the
10 policies underlying the statutes and the common law are implicated by Defendants’
11 misconduct. Defendants’ practices offend established public policies, are dishonest,
12 unfair, and do not comport with standards of care embodied in various statutes and
13 common laws, including negligence. The impact of Defendants’ practices on
14 Plaintiffs and the Class Members, and the environment has been sustained and
15 substantial, and is in no way mitigated by any justifications, reason, or motives.
16 Defendants’ conduct relating to the Spill has no utility when compared to the harm
17 done to Plaintiffs and members of the Class.

18 142. As a direct and proximate result of Defendants’ unfair and unlawful
19 methods of competition, acts or practices, Plaintiffs and Class Members have
20 sustained injury to property and are entitled to injunctive relief pursuant to Cal. Bus.
21 & Prof. Code §§ 17203 and 17204.

22 **TENTH CAUSE OF ACTION**

23 **Lost Profits and Earning Capacity Damages Under Federal Oil Pollution Act of**
24 **1990, §§ 1002, 1006**
25 **(Against Defendants Amplify, Beta, and San Pedro Bay Pipeline)**

26 143. Plaintiffs and Class Members incorporate by reference all allegations of
27 the preceding paragraphs as though fully set forth herein.
28

1 144. At all times herein, Defendants were the owners and operators of the
2 Pipeline and Elly.

3 145. The Pipeline constitutes a “facility” under the Federal Oil Pollution Act
4 of 1990 (“OPA”), 33 U.S.C. § 2701(9), which defines “facility” as “any structure,
5 group of structures, equipment, or device (other than a vessel) which is used
6 for...exploring for, drilling for, producing, storing, handling, transferring, processing,
7 or transporting oil,” including pipelines.

8 146. The Spill from the Pipeline constitutes a “discharge” under the OPA,
9 which defines “discharge” as “any emission (other than natural seepage), intentional
10 or unintentional, and includes, but is not limited to, spilling, leaking, pumping,
11 pouring, emitting, emptying, or dumping.” 33 U.S.C. § 2701(7).

12 147. The oil discharged by the Pipeline constitutes “oil” under the OPA, which
13 defines “oil” as “oil of any kind or in any form, including petroleum, fuel oil, sludge,
14 oil refuse, and oil mixed with wastes other than dredged spoil” 33 U.S.C. §
15 2701(23).

16 148. The waters of the Pacific Ocean off the Southern California coast
17 constitute “navigable waters” under the OPA, which defines “navigable waters” as
18 “the waters of the United States, including the territorial sea.” 33 U.S.C. § 2701(21).

19 149. Defendants Amplify, Beta, and San Pedro Bay each constitutes a
20 “responsible party” under the OPA, which defines “responsible party” as, in pertinent
21 part, “In the case of a pipeline, any person owning or operating the pipeline.” 33
22 U.S.C. § 2701(32)(F).

23 150. By virtue of the acts and omissions alleged in this Complaint,
24 culminating in the Pipeline discharging at least 144,000 gallons of oil in the Pacific
25 Ocean, causing it to wash on shore in Orange County, Defendants have caused the
26 loss of profits or impairment of earning capacity due to the injury, destruction, or loss
27 of real property, personal property, or natural resources.

28

1 151. Under the OPA, Defendants are responsible for a facility (the Pipeline)
2 from which oil was discharged into or on the navigable waters or adjoining shorelines
3 of Orange County, California, and Defendants are thus strictly liable to Plaintiffs and
4 Class Members for the resulting damages, including, but not limited to, damages equal
5 to the loss of profits or impairment of earning capacity due to the injury, destruction,
6 or loss of real property, personal property, or natural resources. 33 U.S.C §§ 2702(a)-
7 (c).

8 152. By virtue of the acts and omissions alleged in this Complaint, Defendants
9 are jointly and severally liable and/or vicariously liable for each other's acts and
10 omissions, and consequently for the mentioned damages under the OPA.

11 **IX. PRAYER FOR RELIEF**

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

14 A. For an order certifying the Class and appointing Plaintiffs as
15 representatives of the Class and appointing the undersigned as Class Counsel;

16 B. For an order enjoining Defendants to stop trespassing on the properties
17 of Plaintiffs and the Class, to remove the contaminants from their property interests
18 and assets;

19 C. For all recoverable compensatory, statutory, and other damages sustained
20 by Plaintiffs and the Class, including disgorgement, unjust enrichment, and all other
21 relief allowed under applicable laws;

22 D. For costs;

23 E. For both pre-judgment and post-judgment interest on any amounts
24 awarded at the highest allowable rate;

25 F. For appropriate injunctive relief, including public injunctive relief;

26 G. For damages insofar as they are allowed by applicable laws;

27 H. For payment of attorneys' fees as may be allowable under applicable law;

28 I. For payment of expert fees as may be allowable under applicable law;

1 J. For exemplary or punitive damages under Cal. Civ. Code Section 3294
2 for the oppression, fraud, or malice alleged above; and

3 K. For such other and further relief including declaratory relief, as the Court
4 may deem just and proper.

5 **REQUEST FOR JURY TRIAL**

6 Plaintiffs, individually, and on behalf of a Class of others similarly situated,
7 hereby respectfully request a trial by jury of all causes of action and issues so triable.

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11 Dated: October 12, 2021

COTCHETT, PITRE & McCARTHY, LLP

12 By: /s/ Kelly W. Weil
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