

Exhibit 3

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16 *[Additional Counsel Appear on Signature Page]*

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

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

22 Plaintiffs,

23 v.

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

25 Defendants.

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

**[PROPOSED] PLAN OF
DISTRIBUTION FOR THE
WATERFRONT TOURISM CLASS**

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I. BACKGROUND

1. This document describes the Plan of Distribution for the Waterfront Tourism Class (“Waterfront Tourism Plan” or “Distribution Plan”). The Waterfront Tourism Plan shall govern the distribution of the Settlement funds provided for the Waterfront Tourism Class in accordance with the Settlement Agreement executed on October 16, 2022, between Plaintiffs and the Amplify Defendants in the above-captioned case (“Settlement Agreement” or “Settlement”). This Settlement relates to an oil spill in October 2021 from Amplify’s P00547 Pipeline in San Pedro Bay that Plaintiffs allege caused damage to waterfront tourism businesses (“Oil Spill” or “Spill”). Settlement Agreement, Article I.6. The Settlement Agreement is attached as Exhibit 1 to the Declaration of Lexi J. Hazam in Support of Plaintiffs’ Motion for Preliminary Approval [Dkt. 476-4].

2. The Settlement Agreement provides that Plains shall pay \$7 million to the Waterfront Tourism Class (the “Waterfront Tourism Class Settlement Amount”), in exchange for a full release of claims alleged on behalf of the Waterfront Tourism Class in this litigation.

3. The Waterfront Tourism Class Common Fund shall be administered by the Settlement Administrator. The Settlement provides that the Settlement Administrator shall disburse funds from the Waterfront Tourism Class Common Fund pursuant to the terms of the Settlement Agreement and in accordance with the orders of the Court. Settlement Agreement, Article III.

4. The Settlement Agreement also directs that Class Counsel shall propose a method for distributing the Waterfront Tourism Class Common Fund to members of the Waterfront Tourism Class before Class Members must decide whether to object to the Settlement. The Parties further agreed that “the rulings of the Court regarding the Plans of Distribution, and any claim or dispute relating thereto, will be considered by the Court separately from the approval of the

1 Settlement Agreement,” and that Final Approval of the Settlement is not contingent
2 upon resolution of any appeals, modifications, or reversal of orders regarding the
3 Plan of Distribution. Settlement Agreement, Articles V.1; V.2.

4 5. The Distribution Plan utilizes records previously obtained by Class
5 Counsel to identify Waterfront Tourism Class members and establish each
6 individual member’s pro-rata share of the Settlement, based upon their business’s
7 performance before the Spill.

8 6. As set forth in Article V.3 of the Settlement Agreement, portions of
9 the Settlement Fund shall be used to pay certain costs and fees prior to determining
10 a net amount that is available for distribution to class members, to include:

- 11 a. Fees and Costs Awards, subject to Court approval;
- 12 b. Service Awards to Class Representatives, subject to Court
13 approval; and
- 14 c. Costs of Notice and administration of the Settlement, including
15 fees and expenses of the Settlement Administrator, costs of generating and mailing
16 checks, fees, and costs of escrow, if any.

17 7. The net amount available for distribution will depend upon the amount
18 of costs deducted for items listed above. The mechanics of the Distribution Plan are
19 not dependent upon the amount available for distribution.

20 **II. DEFINITIONS**

21 8. The capitalized terms used in this Plan of Distribution for the
22 Waterfront Tourism Class have the same meaning as defined in the Settlement
23 Agreement and Order Granting Preliminary Approval of the Proposed Settlement
24 [Dkt. 599] unless otherwise indicated.

25 9. “Damages Period” means the period after the Spill, from October 2,
26 2021, through December 31, 2021.

27 10. “Distribution Plan” means the process and procedures established by
28 this Plan as effectuated by the Settlement Administrator.

1 11. “Distribution Share” means the share allocated to each eligible
2 Waterfront Tourism Class Member.

3 12. “Preliminary Approval Order” means the Order entered by this Court
4 on December 8, 2022 [Dkt. 599], which directs the procedures and schedule for
5 approval of the Settlement, including submission of this Distribution Plan.

6 13. “Recovery” is the net distribution attributed to a Waterfront Tourism
7 Class Member by the Settlement Administrator, reflecting the Distribution Share,
8 less any necessary adjustments or deductions (such as an OPA offset).

9 14. “Release” means the release of claims reflected in the Settlement
10 Agreement. Settlement Agreement, Article VIII.

11 15. “Settlement Administration” means actions carried out by JND Legal
12 Administration in its capacity as Settlement Administrator.

13 16. “Settlement Administrator” means JND Legal Administration, the
14 administrator selected by Class Counsel and appointed by this Court. [Dkt. 599 at
15 ¶8].

16 17. “Settlement Agreement,” “Settlement,” or “Agreement” means the
17 Settlement Agreement executed on October 17, 2022 and attached as Exhibit 1 to
18 the Declaration of Lexi J. Hazam in Support of Plaintiffs’ Motion for Preliminary
19 Approval [Dkt. 476-4].

20 18. “Settlement Website” means the dedicated website maintained by the
21 Settlement Administrator at www.OCOilSpillSettlement.com.

22 19. “Spill” means the October 2021 oil spill from Amplify’s P00547
23 Pipeline in San Pedro Bay that Plaintiffs allege caused damage to waterfront
24 tourism businesses.

25 20. “Waterfront Tourism Class” or “Waterfront Tourism Class
26 Definition” means the definition of the Class as defined in Plaintiffs’ Second
27 Amended Consolidated Class Action Complaint [Dkt. 454]:
28

1 Persons or entities in operation between October 2, 2021, and December
2 31, 2021, who: (a) owned or worked on a sea vessel engaged in the
3 business of ocean water tourism (including sport fishing, sea life
4 observation, and leisure cruising) and accessed the water between the
5 San Gabriel River and San Juan Creek in Dana Point; or (b) owned
6 businesses that offered surfing, paddle boarding, recreational fishing,
7 and/or other beach or ocean equipment rentals and/or lessons or
8 activities; sold food or beverages; sold fishing bait or equipment,
9 swimwear or surfing apparel, and/or other retail goods; or provided
10 visitor accommodations south of the San Gabriel River, north of the San
11 Juan Creek, and west of: (1) Highway 1 in Seal Beach; (2) Orange
12 Avenue and Pacific View Avenue in Huntington Beach; and (3)
13 Highway 1 south of Huntington Beach.¹

14 21. “Waterfront Tourism Class Member” means a business that meets the
15 Waterfront Tourism Class Definition.

16 22. “Waterfront Tourism Net Settlement Fund” means the amount
17 available for distribution to the Waterfront Tourism Class, after deduction of the
18 Fees and Costs Awards, Service Awards, and administrative costs, as contemplated
19 by the Settlement Agreement, subject to Court approval.

20 **III. DISTRIBUTION PLAN OVERVIEW**

21 23. Subject to Court approval, the Waterfront Tourism Net Settlement
22 Fund will be paid to Waterfront Tourism Class Members.

23 24. The Distribution Plan utilizes records previously obtained by Class
24 Counsel to identify Waterfront Tourism Class Members and establish each
25 Waterfront Tourism Class Member’s share of the Settlement, based upon their
26 business activity before the Spill.

27 ¹ Excluded from the proposed Classes are: (1) Defendants, any entity or division in
28 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.

1 25. The Distribution Plan is intended to be user-friendly. Many Waterfront
2 Tourism Class Members do not have to submit claims at all because their damages
3 distribution can be determined through publicly available information. These
4 Members include businesses that engage in whale-watching cruises, sunset cruises,
5 party boats, six-pack charters, other luxury boat rentals and charters, and hotels.

6 26. Certain categories of Waterfront Tourism Class Members will have to
7 submit claims because their damages cannot be determined in the same manner
8 through available information: bait and tackle shops, surf schools, food and
9 beverage establishments, and retail establishments. These Class Members can file
10 their claims electronically on the settlement website, www.OCSpillSettlement.com,
11 using their unique identifier on their short-form notice. The Claims administrator
12 will accept any form of documents that demonstrate revenue for the third quarter of
13 2021, in “whatever form they are kept in the normal course of business.” *See*
14 Attachment A (claims form).

15 27. If an individual believes that they or their business is a Waterfront
16 Tourism Class Member but did not receive a notice or received a notice without an
17 identifier on their notice, they may contact the Settlement Administrator to
18 determine their eligibility. If the Settlement Administrator determines that an
19 individual or business is a Waterfront Tourism Class Member but did not receive
20 notice, that individual or business will be entitled to a payment as a Waterfront
21 Tourism Class member.

22 28. The Settlement Administrator will rely on publicly available records to
23 identify Waterfront Tourism Class members and determine Distribution Shares and
24 eligibility.

25 **IV. DETERMINATION OF SETTLEMENT PROCEEDS**

26 29. Within 30 days of this Court’s order granting final approval, the
27 Settlement Administrator shall calculate the amount available for Distribution by
28 deducting the cost of Court-approved Notice, Settlement Administration and other

1 expenses, as well as approved attorneys' Fees and Costs and Service Awards. The
2 remaining balance available for Distribution (the "Net Waterfront Tourism
3 Distribution Balance") will then be allocated as follows.

4 30. Class Counsel identified ten categories of businesses in the Waterfront
5 Tourism Class. They are (1) marina or "landing" operations servicing fishing and
6 sightseeing vessels, (2) whale and/or dolphin watch vessels and sunset cruise
7 vessels, (3) vessels providing sportfishing operations (with more than 6 passengers
8 and requiring a Coast Guard Certification of Inspection), (4) "six-pack" fishing
9 vessels offering charters for 6 or fewer anglers, (5) bait and tackle shops, (6) surf
10 schools, (7) leisure boat rentals/charters, (8) hotel and lodging accommodations, (9)
11 food and beverage establishments, and (10) retail establishments within the class
12 definition.

13 31. The total estimated lost profits of each Waterfront Tourism Business
14 category during the Damages Period was calculated by examining financial
15 information provided by the Settlement Class Representatives combined with
16 publicly available research such as advertised vessels and capacity ("seats"),
17 reported hotel occupancy and average daily room rates, and consumer spending
18 research conducted for local municipalities. By adding up the estimated lost profits
19 of each category, the total estimated lost profits for the Waterfront Tourism Class
20 has been determined.

21 32. Accordingly, the pro rata share of the Settlement funds allocated to
22 each category has been determined by taking each category's estimated lost profits
23 as a percentage of the total estimated lost profits of the entire Waterfront Tourism
24 Class (the "Percentage Category Share").

25 33. The Percentage Category Share for each category will be multiplied by
26 the Net Waterfront Tourism Distribution Balance to determine the total amount to
27 be disbursed to each category of the Waterfront Tourism Class.

28 34. The Settlement Administrator has identified the total number of

1 businesses in each category.

2 35. Waterfront Tourism Class members who do not fit into an enumerated
3 category can reach out to the Settlement Administrator who shall confer with Class
4 Counsel in good faith to determine eligibility and compensation under the
5 Settlement. The Settlement Website will direct such members to contact the
6 Settlement Administrator.

7 **V. CATEGORIES FOR WHICH NO CLAIM FORM IS REQUIRED**

8 36. For entities engaged in whale and/or dolphin watching/sunset cruising,
9 sportfishing operations, “six-pack” fishing, leisure boat rentals/charters, and hotel
10 and lodging accommodations, no claim form is necessary. The allocation of
11 Settlement funds within these categories will be determined by calculating each
12 entity’s pro-rata share of the total number of seats (for boats) or rooms (for hotels)
13 multiplied by the Net Waterfront Tourism Distribution Balance for each respective
14 category.

15 37. The marina and landing entities will similarly not need to file claims.
16 These entities will receive a percentage of the funds allocated to the entities being
17 serviced through the Marinas. Marinas may be contacted directly by the Settlement
18 Administrator to confirm membership and percentage payable to the landing.

19 **VI. CATEGORIES FOR WHICH A CLAIM FORM IS REQUIRED**

20 38. Surf schools, food and beverage entities, bait and tackle shops, and
21 other retail establishments will be required to submit a simple claim form and
22 accompanying revenue information for the third quarter of 2021 in order to
23 determine each entity’s pre-Spill market share of its respective category.

24 39. From this information, the Settlement Administrator will determine the
25 allocation of the Net Waterfront Tourism Distribution Balance for each respective
26 category.

27 40. Pro-rata shares will be issued by check. To the extent that any
28 Waterfront Tourism Class Member has side agreements with other individuals or

1 entities that guarantee those individuals or entities a proportion of recovery,
2 Waterfront Tourism Class Members are responsible for upholding their side
3 agreements.

4 **VII. OPT OUTS AND DISTRIBUTION OFFSETS**

5 Waterfront Tourism Class Members who previously opted out of the
6 Waterfront Tourism Class or have already executed a full release of all claims
7 against Amplify, for example, as part of a prior individual settlement or a payment
8 pursuant to the OPA claims program, shall not be entitled to participate in the
9 Settlement. Waterfront Tourism Class Members that have received payments
10 through the OPA claims process, but have not fully released their respective
11 individual claims, are entitled to participate in the Settlement; however, any such
12 Recovery will be reduced by the amount of the prior payment.

13 **VIII. CLAIM DEADLINE AND UNCLAIMED FUNDS**

14 41. The deadline for any claim for payment by any Waterfront Tourism
15 Class Member who needs to file one to participate shall be June 9, 2023, or as the
16 Court directs.

17 42. To the extent that any part of the Waterfront Tourism Settlement Fund
18 remains uncashed more than 180 days after the Settlement Administrator has
19 distributed funds to all Waterfront Tourism Class Members, Class Counsel will
20 seek Court approval for distributing the remainder of the Waterfront Tourism Net
21 Settlement Fund. The Settlement Administrator will follow the directions approved
22 by the Court.

23 **IX. COURT REVIEW**

24 43. All proceedings with respect to the administration, processing, and
25 determination of Claims, and the determinations of all controversies relating
26 thereto, including disputed questions of law and fact with respect to the validity of
27 Claims, shall be subject to the jurisdiction of the Court. All Claimants expressly
28 waive trial by jury (to the extent any such right may exist) and any right of appeal

1 or review with respect to the Court’s determination.

2 Dated: December 16, 2022

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4 Wylie A. Aitken

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6 Lexi J. Hazam

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Attachment A

Must be postmarked or submitted online no later than June 9, 2023

ORANGE COUNTY OIL SPILL
SETTLEMENT
C/O JND LEGAL ADMINISTRATION
P.O. Box 91202
SEATTLE, WA 98111
OCOilSpillSettlement.com

Orange County Oil Spill Settlement Waterfront Tourism Class Claim Form

Every person or entity that fits the following description is a member of the 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".

The Settlement Administrator will determine your eligibility for a settlement payment and the amount of the payment. You are required to submit proof of income and financial records to obtain a payment. Specifically, you are required to submit revenue statements, in whatever form they are kept in the normal course of business, from July 2021 through December 2021 for each business that seeks a settlement payment.

For more information and complete instructions, please review the **Plan of Distribution for the Waterfront Tourism Class**, available at www.OCOilSpillSettlement.com.

Claims must be submitted online or postmarked by mail no later than June 9, 2023. Use the address at the top of this form for mailed claims.

Please note that the Settlement Administrator may contact you to request additional documents to process your claim.

Questions? Visit OCOilSpillSettlement.com or call 877-917-0133
To view JND's privacy policy, please visit [REDACTED].

SECTION 1: CLAIMANT NAME AND CONTACT INFORMATION

We will use this information to contact you and process your Tourism Class claim. It will not be used for any other purpose. If any of the following information changes, you must promptly notify us by emailing info@OCOilSpillSettlement.com.

1. CLAIMANT NAME:	
2. ALTERNATIVE NAME(S) (IF ANY):	
3. MAILING ADDRESS:	Street Address
	Apt. No.
	City
	State
	Zip
4. PHONE NUMBERS:	() - -
	() - - <small>Area Code</small>
5. EMAIL ADDRESS:	
6. SSN, EIN, TAXPAYER ID OR FOREIGN ID NUMBER (IF NOT A U.S. CITIZEN):	
7. DATE OF BIRTH (IF APPLICABLE):	_____ _____ _____ <small style="margin-left: 100px;">Month</small> <small style="margin-left: 150px;">Day</small> <small style="margin-left: 150px;">Year</small>
8. CLAIMANT ID NUMBER (FOUND ON THE UPPER LEFT HAND SIDE OF THE NOTICE YOU RECEIVED*)	

*If you did not receive a Notice containing a Claimant ID number, you may request one by contacting the Settlement Administrator.

**SECTION 2: ATTESTATION OF ECONOMIC IMPACT
& DESCRIPTION OF LOSS
(ALL CLAIMANTS MUST COMPLETE THIS SECTION)**

To be eligible to receive a settlement payment, you must, on penalty of perjury, attest that you and/or your business(es) suffered economic harm because of the Spill and were in operation after the Spill, or would have been in operation but for the Spill. If you are claiming losses as a business, you must provide the Claims Administrator with copies of documents demonstrating revenue, in whatever form they are kept in the normal course of business (for example, QuickBooks sales reports, Point of Sale system reports, and/or quarterly Sales and Use Tax Returns filed with the State of California), for July 2021 through December 2021 for each business that seeks Recovery from this Settlement. If you are claiming losses as an individual, you must provide the Claims Administrator with copies of individual tax returns for 2021.

Those who have already received reimbursement and fully released all claims against Amplify through a prior individual settlement (for example through the OPA claims process) are not entitled to a Recovery from this Settlement. Amounts received as partial or interim payment, without a full release of claims, will be treated as an offset to Recovery from this Settlement.

Check box below to attest:

I attest that I have not executed a full release of all claims against Amplify as a result of receiving a prior individual settlement payment.

Please describe how the Orange County Oil Spill impacted your individual and/or business income. If claiming as a business, please list the name of your business(es):

SECTION 3: SIGNATURE

I affirm, on penalty of perjury, that I am the person for which recovery is sought, that I am entitled to the Recovery requested, and that all of the information contained in this claim form is true and correct to the best of my knowledge.

I understand that I may be asked to provide more information to the Settlement Administrator before my claim is complete.

Signature:	Dated:
Print Name:	