

# Exhibit 1

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

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

21 Plaintiffs,

22 v.

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

24 Defendants.  
25

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

**[PROPOSED] PLAN OF  
DISTRIBUTION FOR THE FISHER  
CLASS**

1 **I. BACKGROUND**

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

13 2. The Settlement Agreement provides that Amplify shall pay \$34  
14 million to the Fisher Class (the “Fisher Class Settlement Amount”), in exchange for  
15 a full release of claims alleged on behalf of the Fisher Class in this litigation.

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

21 4. The Settlement Agreement also directs that Class Counsel shall  
22 propose a method for distributing the Fisher Class Common Fund to members of  
23 the Fisher Class before Class Members must decide whether to object to the  
24 Settlement. The Parties further agreed that “the rulings of the Court regarding the  
25 Plans of Distribution, and any claim or dispute relating thereto, will be considered  
26 by the Court separately from the approval of the Settlement Agreement,” and that  
27 Final Approval of the Settlement is not contingent upon resolution of any appeals,  
28 modifications, or reversal of orders regarding the Plan of Distribution. Settlement

1 Agreement, Articles V.1; V.2.

2 5. The Distribution Plan utilizes California Department of Fish and  
3 Wildlife (“CDFW”) landings receipt records previously obtained by Class Counsel  
4 to identify Fisher Class members and establish each individual fisher’s pro-rata  
5 share of the Settlement, based upon their fishing activity before and after the Spill.

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

9 a. Fees and Costs Awards, subject to Court approval;

10 b. Service Awards to Class Representatives, subject to Court  
11 approval; and

12 c. Costs of Notice and administration of the Settlement, including  
13 fees and expenses of the Settlement Administrator, costs of generating and mailing  
14 checks, fees, and costs of escrow, if any.

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

18 **II. DEFINITIONS**

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

23 9. “CDFW” means the California Department of Fish and Wildlife.

24 10. “CDFW Landing Records” means the landings receipt data provided  
25 by the California Department of Fish and Wildlife for the period of 2016-2021,  
26 consistent with the definition of the Commercial Fisher Class as defined in  
27 Plaintiffs’ Second Amended Consolidated Class Action Complaint [Dkt. 454].

28 11. “Class Catch” are landings reflected in the CDFW Landing Records,

1 during the period from October 2, 2016 through December 31, 2021 (before and  
2 after the Spill), from blocks that are identified in the Fisher Class Definition, for the  
3 purpose of determining the Settlement Distribution.

4 12. “Damage Period” means the period after the Spill, from October 2,  
5 2021, through December 31, 2021, used to determine Distribution Shares.

6 13. “Distribution Plan” means the process and procedures established by  
7 this Plan as effectuated by the Settlement Administrator.

8 14. “Distribution Share” means the share allocated to each license or  
9 vessel based on fishing or purchasing activity reflected in the CDFW Landing  
10 Records during the Damage Period.

11 15. “Fisher,” unless otherwise noted, refers to each member of the Fisher  
12 Class who holds a Commercial Fishing License and has any of the Qualifying  
13 Catch attributable to their license. When used to modify another defined term,  
14 Fisher refers to all members of the Fisher Class to whom the defined term applies.

15 16. “Fisher Class” or “Fisher Class Definition” means the definition of the  
16 Commercial Fisher Class as defined in Plaintiffs’ Second Amended Consolidated  
17 Class Action Complaint [Dkt. 454]:

18 Persons or entities who owned or worked on a commercial fishing vessel  
19 docked in Newport Harbor or Dana Point Harbor as of October 2, 2021,  
20 and/or who landed seafood within the California Department of Fish &  
21 Wildlife fishing blocks 718-720, 737-741, 756-761, 801-806, and 821-  
22 827 between October 2, 2016 and October 2, 2021, and were in  
23 operation as of October 2, 2021, as well as those persons and businesses  
24 who purchased and resold commercial seafood so landed, at the retail or  
25 wholesale level, that were in operation as of October 2, 2021.<sup>1</sup>

24  
25 <sup>1</sup> Excluded from the Fisher Class are: (1) Defendants, any entity or division in  
26 which Defendants have a controlling interest, and their legal representatives,  
27 officers, directors, employees, assigns and successors; (2) the judge to whom this  
28 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 17. “Fisher Net Settlement Fund” means the amount available for  
2 distribution to the Fisher Class, after deduction of the Fees and Costs Awards,  
3 Service Awards, and administrative costs, as contemplated by the Settlement  
4 Agreement, subject to Court approval.

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

8 19. “Processor,” unless otherwise noted, refers to each member of the  
9 Fisher Class who holds a CDFW Fishing Business License. When used to modify  
10 another defined term, Processor refers to all Processor members of the Fisher Class  
11 to whom the defined term applies.

12 20. “Qualifying Catch” refers to the total landings from all Fisher Class  
13 Members reflected in the CDFW Landing Records from the relevant fishing blocks  
14 identified in the Fisher Class Definition, during the period from October 2, 2016  
15 through October 2, 2021 (before the Spill).

16 21. “Recovery” is the net distribution attributed to a Fisher by the  
17 Settlement Administrator, reflecting the Distribution Share, less any necessary  
18 adjustments or deductions (such as an OPA offset).

19 22. “Release” means the release of claims reflected in the Settlement  
20 Agreement. Settlement Agreement, Article VIII.

21 23. “Settlement Administration” means actions carried out by JND Legal  
22 Administration in its capacity as Settlement Administrator.

23 24. “Settlement Administrator” means JND Legal Administration, the  
24 administrator selected by Class Counsel and appointed by this Court [Dkt. 599 at  
25 ¶8].

26 25. “Settlement Agreement,” “Settlement,” or “Agreement” means the  
27 Settlement Agreement executed on October 17, 2022 and attached as Exhibit 1 to  
28 the Declaration of Lexi J. Hazam in Support of Plaintiffs’ Motion for Preliminary

1 Approval [Dkt. 476-4].

2 26. “Settlement Website” means the dedicated website maintained by the  
3 Settlement Administrator at [www.OCOilSpillSettlement.com](http://www.OCOilSpillSettlement.com).

4 27. “Spill” means the October 2021 oil spill from Amplify’s P00547  
5 Pipeline in San Pedro Bay that Plaintiffs allege caused damage to commercial  
6 fishers and processors.

7 28. “Vessel,” unless otherwise noted, refers to each member of the Fisher  
8 Class who holds a CDFW Vessel ID. When used to modify another defined term,  
9 Vessel refers to all Vessel ID holders of the Fisher Class to whom the defined term  
10 applies.

11 **III. DISTRIBUTION PLAN**

12 29. Subject to Court approval, the Fisher Net Settlement Fund will be paid  
13 to Fishers, Processors, and Vessels.

14 30. The Distribution Plan utilizes CDFW Landing Records previously  
15 obtained by Class Counsel to identify Fisher Class members and establish each  
16 Fisher Class member’s share of the Settlement, based upon their fishing activity  
17 before and after the Spill.

18 31. The Settlement Administrator will rely on CDFW landing and  
19 licensing records to identify Fisher Class members and determine Distribution  
20 Shares and eligibility. This information has already been obtained from the CDFW.

21 32. The Settlement Administrator may, at its discretion and in consultation  
22 with Class Counsel, or as directed by the Court, implement additional procedures to  
23 protect the Settlement and Distribution.

24 33. The Fisher Class Definition requires a determination that the Fisher is  
25 “in operation as of October 2, 2021” [Dkt. 454 at 77]. The Settlement Administrator  
26 will presume that any Fisher for whom the CDFW Landing Records reflects any  
27 catch or sales of catch in the twelve months before or two months after October 2,  
28 2021 was “in operation as of October 2, 2021.”

1           34. Within 30 days of this Court’s order granting final approval, the  
2 Settlement Administrator shall calculate the amount available for Distribution by  
3 deducting the cost of Court-approved Notice, Settlement Administration and other  
4 expenses, as well as approved attorneys’ Fees and Costs Awards and Service  
5 Awards. The remaining balance available for Distribution will then be allocated as  
6 follows.

7           35. To calculate each Fisher, Processor, and Vessel’s pro-rata share of the  
8 Fisher Net Settlement Fund (the “Recovery”), the Settlement Administrator will  
9 first allocate the available funds between Fishers and Vessels on the one hand, and  
10 Processors on the other, consistent with the method determined by Dr. Peter Rupert,  
11 the economic expert retained by the Plaintiffs to calculate damages alleged by the  
12 Fisher Class in the Plains oil spill litigation, [*see Andrews et al v. Plains et al*, 15-  
13 CV-04113, Dkt. 951-1, ¶ 61]. Dr. Rupert’s analysis indicates that based on industry  
14 guidelines Processors retain as profit approximately 10% of gross catch amounts.  
15 Accordingly, the Settlement Administrator will allocate 10% of the Fisher Net  
16 Settlement Amount to the Processors. *Id.*

17           36. After allocating to Processors, the remainder of the Fisher Net  
18 Settlement will be distributed between Vessels and Fishers. Again, using the  
19 industry guidelines identified by Dr. Rupert in the Plains oil spill litigation, the  
20 conventional proportional division of revenue between Vessels and Fishers is  
21 80%/20% with the larger share to Vessels [*see id.*, ¶ 62]. Accordingly, after  
22 deducting the Processor Share, the Settlement Administrator will allocate 80% of  
23 the remainder of the Fisher Net Settlement Funds as the Vessel Share and 20% as  
24 the Fisher Share.

25           37. Each entity or individual’s pro-rata share of the Processor Share,  
26 Vessel Share, and/or Fisher Share is calculated by taking the Processor, Vessel, or  
27 Fisher’s average annual proportional share of the Qualifying Catch in comparison  
28 to other Processors, Vessels, and Fishers within that category (Processor, Vessel or



1 Fisher), for each year during which Class Catch is attributed to the license.

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

10 39. Pro-rata Recoveries will be issued by check issued to the Processor,  
11 Vessel, or Fisher that corresponds to the CDFW license. To the extent that any  
12 Processor, Vessel, or Fisher has side agreements with other individuals or entities  
13 that guarantee those individuals or entities a proportion of recovery, Processors,  
14 Vessels, and Fishers are responsible for upholding their side agreements.

15 40. Fisher Class members without Class Catch attributable their CDFW  
16 license can reach out to the Settlement Administrator by June 9, 2023, who shall  
17 confer with Class Counsel in good faith to determine eligibility and compensation  
18 under the Settlement. The Settlement website will direct these Fisher Class  
19 members to contact the Settlement Administrator.

20 41. To the extent that any part of the Fisher Settlement Fund remains  
21 uncashed more than 180 days after the Settlement Administrator has distributed  
22 funds to all Processors, Vessels, and Fishers, Class Counsel will seek Court  
23 approval for distributing the remainder of the Fisher Net Settlement Fund. The  
24 Settlement Administrator will follow the directions approved by the Court.

25 **IV. COURT REVIEW**

26 42. All proceedings with respect to the administration, processing, and  
27 determination of Claims, and the determination of all controversies relating thereto,  
28 including disputed questions of law and fact with respect to the validity of Claims,

1 shall be subject to the jurisdiction of the Court. All Claimants expressly waive trial  
2 by jury (to the extent any such right may exist) and any right of appeal or review  
3 with respect to the Court’s determination.

4 Dated: December 16, 2022

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