

## ORANGE COUNTY OIL SPILL CULMINATES IN MULTIFACETED LAWSUIT

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On the morning of October 2, 2021, Orange County residents awoke to a coastal oil spill of approximately 25,000 gallons, measuring an expansive 5.8 miles in length. This tragedy, referred to as Orange County Oil Spill, was caused as a result of two container ships making contact with an underwater pipeline, and the subsequent negligence on the part of the pipeline's management team responsible for reporting the incident. Months later, the repercussions of the spill have culminated in a class action lawsuit involving the various individuals and businesses afflicted by the spill. The Houston-based oil company that owns the damaged pipeline, Amplify Energy, claims that the accident was never reported to the company; if it had, they would have taken appropriate measures to respond to the spill immediately. A spokesperson for Amplify Energy commented on the issue, claiming, "This release event should never have happened and had these parties not been grossly negligent and had any party notified Amplify, this entire event could have been avoided." Nevertheless, this suit serves as a radical illustration of a lawsuit that has potential to reframe the criteria for negligence claims, as well as cause large-scale decommissioning of seabed fossil fuel extraction.

### **Record of Events Leading to the Spill**

The origins of the incident can be traced back to a coastal storm in Orange County in January of 2021. Reports indicate that the tumultuous conditions caused many of the freightliners to retreat to deeper waters, however, this precautionary measure was taken by all but two ships: the MSC Danit and the Cosco Beijing. The 63 mph winds and 17-foot waves caused these two vessels, both anchored near the San Pedro Bay Pipeline, to become displaced. Amplify Energy reported that the anchors of these two ships more than likely collided with the pipeline and caused damage to the concrete casing around the pipeline. However, the organization that monitors marine traffic, the Marine Exchange of Southern California, was supposedly aware of the proximity of the two vessels in relation to the pipeline, yet, neglected to inform Amplify of this. This detail of the case has been a major source of support for Amplify's defense team, which asserts that the negligent actions fall upon the owners, crew members and operators of the ships, as well as the Marine Exchange.

### **Charges Against Amplify Energy and Remediation Requirements**

The three-page indictment involving Amplify Energy and its two subsidiary firms, Beta Operating Co. and San Pedro Bay Pipeline Co., charges the three companies with criminal negligence, stating that staff members on the rig were grossly understaffed and fatigued. The allegation additionally claims that Amplify Energy crew members were not provided with sufficient training regarding the pipeline's automated leak detection system, a factor that could prompt the jury to find Amplify responsible. A charge of this magnitude could carry a statutory maximum penalty of five years of probation. On October 11, 2021, a federal class action was filed on behalf of local property owners and fishers against Amplify and its subsidiaries on four counts: (1) Negligence, (2) CERCLA, (3) Medical Monitoring, and (4) Private Nuisance/Trespassing. The plaintiffs of this case are seeking damages in the form of compensatory, punitive, statutory, medical monitoring, and remediation costs. However, as CERCLA does not regulate oil, plaintiffs must plead that a hazardous substance other than oil, but still covered by CERCLA, had been released. These substances will most likely include sulfur dioxide, hydrogen sulfide, and

volatile organic compounds.

Amplify has filed a report with the U.S. Securities and Exchange Commission claiming that it has paid approximately \$17.3 million dollars in remediation efforts, however, the contamination of local waterways and disturbances to wildlife is irreversible. The UC Davis Oiled Wildlife Care Network has reported the recovery of 82 dead birds, six dead mammals (including a bottlenose dolphin and California Sea Lions), and numerous living mammals afflicted by oil contamination. Aside from this, the USC Sea Grant Program has reported 5,540 gallons of collected oil, alongside 546,782 pounds of oil sand debris. These damages, which no amount of reparations can resolve, have caused tremendous backlash in the Orange County community, leaving many to point fingers at Amplify, despite the company's defenses. "I am outraged by the complete and utter failure of Amplify Energy to do their job," said Laguna Beach Assemblywoman Cottie Petrie-Norris. "Their absolute negligence caused devastation in our coastal community. Among the naysayers are those who believe that Amplify was well informed on the spill from the beginning, yet failed to take appropriate action. An open investigation from the office of District Attorney Todd Spitzer claims that alarms signaling the leak were activated 12 times between the first alarm at 4:10 p.m. on October 1 until action was taken at 8:09 am on October 2. Additionally, Amplify's failure to engage in the California State Assembly's hearing for the Orange County Oil Spill has given rise to many raised eyebrows. Petrie-Norris commented on this absence by claiming, "A, [they] don't care. B, [they] have something to hide."

## **Long Term Ramifications of the Ruling**

As the events of this case continue to unfold, there is renewed discussion regarding the banning of seabed extraction of fossil fuels, as California lawmakers have expressed interest in prohibiting all oil and gas drilling within three miles of the coastline. Governor Gavin Newsome has additionally weighed in, noting his desire to end all onshore and offshore drilling by 2045. This initiative arises due to the fact that many current drilling platforms are outdated, thus naturally more susceptible to weakening and breakage, as is the case with the Orange County Oil Spill. Yet, the decommissioning of oil rigs would undoubtedly cost billions of dollars for the state to discontinue, plug and abandon these sites. This sentiment is shared by California Senator, Diane Feinstein, as well, who introduced legislation in 2021 to amend both the Outer Continental Shelf Lands Act, the West Coast Ocean Protection Act; this revision would prohibit the construction of new drilling sites, yet would not disestablish current oil drilling.

The investigation into the Orange County Oil Spill is still under investigation, however, the most recent events include Amplify Energy filing a federal lawsuit against the owners of both the MSC Danit and the Cosco Beijing on February 28, claiming that the negligence falls on the ships' failure to relocate during the storm. The dispute will continue to be argued as evidence is gathered and the extent of damage is calculated.