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Lead Counsel for Plaintiff Class

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

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 19
 20 KEITH ANDREWS, an individual,
 TIFFANI ANDREWS, an individual,
 21 BACIU FAMILY LLC, a California
 limited liability company, ROBERT
 BOYDSTON, an individual,
 22 CAPTAIN JACK'S SANTA
 BARBARA TOURS, LLC, a
 23 California limited liability company,
 MORGAN CASTAGNOLA, an
 24 individual, THE EAGLE FLEET,
 LLC, a California limited liability
 25 company, ZACHARY FRAZIER, an
 individual, MIKE GANDALL, an
 26 individual, ALEXANDRA B.
 GEREMIA, as Trustee for the
 27 Alexandra Geremia Family Trust
 dated 8/5/1998, JIM GUELKER, an
 28 individual, JACQUES HABRA, an

Case No. 2:15-cv-04113-PSG-JEM

[Consolidated with Case Nos. 2:15-CV-
 04573 PSG (JEMx), 2:15-CV-4759 PSG
 (JEMx), 2:15-CV-4989 PSG (JEMx), 2:15-
 CV-05118 PSG (JEMx), 2:15-CV- 07051-
 PSG (JEMx)]

**PLAINTIFFS' NOTICE OF MOTION
AND RENEWED MOTION FOR
CLASS CERTIFICATION OF REAL
PROPERTY SUBCLASS**

Date: April 23, 2018
 Time: 1:30 p.m.
 Judge: Hon. Philip S. Gutierrez
 Courtroom: 6A

1 individual, ISURF, LLC, a California
 2 limited liability company, MARK
 3 KIRKHART, an individual, MARY
 4 KIRKHART, an individual,
 5 RICHARD LILYGREN, an
 6 individual, HWA HONG MUH, an
 7 individual, OCEAN ANGEL IV,
 8 LLC, a California limited liability
 9 company, PACIFIC RIM
 10 FISHERIES, INC., a California
 11 corporation, SARAH RATHBONE,
 12 an individual, COMMUNITY
 13 SEAFOOD LLC, a California
 14 limited liability company, SANTA
 15 BARBARA UNI, INC., a California
 16 corporation, SOUTHERN CAL
 17 SEAFOOD, INC., a California
 18 corporation, TRACTIDE MARINE
 19 CORP., a California corporation,
 20 WEI INTERNATIONAL TRADING
 21 INC., a California corporation and
 22 STEPHEN WILSON, an individual,
 23 individually and on behalf of others
 24 similarly situated,

25 Plaintiffs,

26 v.

27 PLAINS ALL AMERICAN
 28 PIPELINE, L.P., a Delaware limited
 partnership, PLAINS PIPELINE,
 L.P., a Texas limited partnership, and
 JOHN DOES 1 through 10,

Defendants.

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 23, 2018, at 1:30 p.m., or as soon
3 thereafter as the matter may be heard before the Honorable Philip S. Gutierrez, in
4 Courtroom 6A of the United States District Court, Central District of California,
5 located at 350 West 1st Street, Los Angeles, CA 90012-3332, Plaintiffs, by and
6 through their attorneys of record, will move this Court for an order granting their
7 motion for class certification.

8 Plaintiffs' motion is based on this Notice of Motion and Motion, the
9 accompanying Memorandum In Support, the Declaration of Robert J. Nelson In
10 Support of Plaintiffs' Renewed Motion for Class Certification and attached exhibits
11 (Dkt. 300-2), the Declaration of Igor Mezić, Ph.D., in Support of Plaintiffs'
12 Renewed Motion for Class Certification (Dkt. 300-4), the Declaration of Peter
13 Rupert, Ph.D., in Support of Plaintiffs' Renewed Motion for Class Certification
14 (Dkt. 300-5), the Declaration of Randall Bell in Support of Plaintiffs' Renewed
15 Motion for Class Certification (Dkt. 300-3), the Declaration of Shannon R.
16 Wheatman in Support of Plaintiffs' Renewed Motion for Class Certification (Dkt.
17 300-6), all pleadings previously submitted, including all materials previously
18 submitted in support of Plaintiffs' prior Motions for Class Certification, the oral
19 argument of counsel, and any other matters the Court may consider.

20 This motion is made following the conference of counsel pursuant to LR 7-3,
21 which took place between March 2017 and June 2017, and again in February 2018.

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Dated: March 5, 2018

Respectfully submitted,

KELLER ROHRBACK L.L.P.

By: /s/Juli E. Farris
Juli E. Farris

Juli Farris (CSB No. 141716)
Matthew J. Preusch (CSB No. 298144)
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Lead Trial Counsel

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CERTIFICATE OF SERVICE

I, Juli Farris, hereby certify that on March 5, 2018, I electronically filed **PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION** with the Clerk of the United States District Court for the Central District of California using the CM/Dkt. system, which shall send electronic notification to all counsel of record.

/s/ Juli Farris
Juli Farris

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18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 KEITH ANDREWS, an individual,
TIFFANI ANDREWS, an individual,
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24 individual, THE EAGLE FLEET,
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26 individual, ALEXANDRA B.
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28 individual, JACQUES HABRA, an

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**PLAINTIFFS' MEMORANDUM IN
SUPPORT OF RENEWED MOTION
FOR CLASS CERTIFICATION OF
REAL PROPERTY SUBCLASS**

Date: April 23, 2018
Time: 1:30 p.m.
Judge: Hon. Philip S. Gutierrez
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Plaintiffs,

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Defendants.

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1 **INTRODUCTION**

2 In its February 9, 2018 Order, the Court denied certification of a proposed
3 Real Property subclass comprised of both beachfront and inland properties. Dkt.
4 419 at 22. The Court noted, however, that it would “likely certify a subclass
5 consisting *only* of (1) residential beachfront properties on beaches that experienced
6 oiling and (2) residential properties with a private easement to beaches that
7 experienced oiling.” Dkt. 419 at 21. With inland properties excluded, any variation
8 in the Subclass’s injuries –“the value and nature of the beach amenity” – would be
9 “less pronounced,” clearing the way for a finding of predominance. *Id.* The Court
10 reasoned that “[w]here the oil was distributed, and how much oil invaded the
11 properties, are questions that are subject to common proof, but only if the subclass
12 is restricted to beachfront properties and properties with easements.” *Id.*

13 Plaintiffs now move to certify precisely this subclass under Rule 23(b)(3). As
14 discussed below, the narrowed Real Property Subclass, consisting only of
15 beachfront and beach easement property holders, readily satisfies the requirements
16 of Rules 23(a) and 23(b)(3).

17 **RELEVANT BACKGROUND**

18 Properties with direct access to California coastal beaches are highly
19 desirable. In Santa Barbara County, Ventura County, and Los Angeles County,
20 coastal residents pay top dollar for the ability to use the beach. *See* Declaration of
21 Randall Bell, Ph.D., MAI in Support of Plaintiffs’ Renewed Motion for Class
22 Certification (“Bell Decl.”), Dkt. 300-3, at ¶¶ 15, 17.

23 In May of 2015, Plains’ on-shore pipeline (the “Pipeline”) ruptured, spilling
24 at least 140,000 gallons of thick crude oil laced with toxic additives onto the shore
25 of a protected state beach and into the ocean. Complaint, Dkt. 88, ¶¶ 37, 49, 50.
26 Transported south and east by ocean currents, the toxic oil plume washed up onto
27 coastal beaches during the peak summer beach season. *See* Declaration of Igor
28 Mezić, Ph.D., in Support of Plaintiffs’ Renewed Motion for Class Certification

1 (“Mezić Decl.”), Dkt. 300-4 at ¶ 43; Notion of Manual Filing or Lodging, Dkt.
2 301;¹ Bell Decl. at ¶¶ 15-17, 32. As a result, property owners and lessees were
3 unable to use and enjoy their beachfront properties and private beach easements.
4 *Id.*

5 THE PROPOSED REAL PROPERTY SUBCLASS

6 Pursuant to Fed. R. Civ. P. 23(b)(3), Plaintiffs move the Court for
7 certification of a Real Property Subclass defined as:

8 Residential beachfront properties on a beach and residential properties
9 with a private easement to a beach (collectively “Included Properties”)
10 where oil from the 2015 Santa Barbara oil spill washed up, and where
11 the oiling was categorized as Heavy, Moderate or Light, as identified
12 in Exhibit A.

13
14 Excluded from the proposed Subclass are: (1) Defendants, any entity or
15 division in which Defendants have a controlling interest, and their legal
16 representatives, officers, directors, employees, assigns and successors; and (2) the
17 judge to whom this case is assigned, the judge’s staff, and any member of the
18 judge’s immediate family.

19 ARGUMENT

20 I. The proposed Real Property Subclass satisfies Rule 23(a).

21 This Court has already held that the Fisher and Oil Industry Subclasses
22 satisfy Rule 23(a). Order I at 24-27; Order II at 7-9.² The same is true of the Real
23 Property Subclass, and for many of the same reasons.

24 **Numerosity.** Rule 23(a)(1) requires a proposed class be “so numerous that

25 _____
26 ¹ Plaintiffs’ manually filed a video on a zip drive with the Court that shows the
27 evolution of oil particles present on the ocean surface for 90 days after the spill.
The video was styled as Exhibit B to Attachment A to the Mezić Decl., Dkt 300-4,
and manually filed as Dkt. 301.

28 ² In Order I, Dkt. 257, this Court certified Plaintiffs’ Fisher Subclass. In Order II,
Dkt. 419, this Court certified Plaintiffs’ Oil Industry Subclass.

1 joinder of all members is impracticable.” When the number of class members
2 exceeds 40, the numerosity requirement is generally met. *See* Order I at 24 (citing
3 *Rannis v. Recchia*, 380 Fed. App’x 646, 651 (9th Cir. 2010)). Here, numerosity is
4 satisfied because the narrowed Subclass still includes thousands of coastal real
5 private property owners and lessees. Bell Decl. at ¶ 48.

6 **Commonality.** Rule 23(a)(2) requires Plaintiffs show that “there are
7 questions of law or fact common to the class.” This only requires that the class
8 members’ claims “depend on a common contention.” *See* Order I, Dkt. 257, at 25
9 (citing *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011)). The key
10 common liability questions for this proposed Subclass are the same as those raised
11 by the certified Fisher and Oil Industry Subclasses: whether Plains acted
12 negligently, recklessly, and/or maliciously with regard to the design, inspection,
13 repair, and/or maintenance of the Pipeline. *See* Complaint, Dkt. 88 at ¶ 254; Order I
14 at 25; Order II at 7-8. As with the Fisher and Oil Industry Subclasses, the litigation
15 will result “in at least one common answer” to these questions, yes or no. Order I at
16 25; Order II at 7-8. Commonality is met.

17 **Typicality.** Rule 23(a)(3) requires that the claims of the named Plaintiffs be
18 typical of the claims of the rest of the class. “[R]epresentative claims are ‘typical’ if
19 they are reasonably co-extensive with those of absent class members, [but] they
20 need not be substantially identical.” Order I at 26 (quoting *Hanlon v. Chrysler*
21 *Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998)). Here, the Subclass includes owners
22 and lessees of private residential property located on, or with direct deeded access
23 to, coastal beaches soiled by Plains’ Spill. *See* Bell Decl. at ¶¶ 16, 47, and Ex. 14;
24 *see also* Dkt. 301, Exhibit B. All named Plaintiffs in this Subclass—Baciu Family
25 LLC, Alexandra Geremia, Jacques Habra, and Mark and Mary Kirkhart—own or
26 rented residential property that is either on or has deeded access to this coastline.
27 Bell Decl. at ¶ 33; MacLeod Declaration., Dkt. 124- 15 at ¶ 1; Geremia Declaration,
28 Dkt. 124-8 at ¶ 1; Habra Declaration, Dkt. 124-11 at ¶ 1; Kirkhart Declaration, Dkt.

1 124-13 at ¶ 1. Their injuries and damages are typical of the Subclass, all of whom
2 were unable to use and enjoy the beach amenity when the Spill soiled beaches. *See*
3 Bell Decl. at ¶ 57; Order I at 26-27; Order II at 8. Typicality is met.

4 **Adequacy.** Rule 23(a)(4) requires that the class representatives “fairly and
5 adequately protect the interests of the class.” Representation is adequate when
6 “class representatives do not have conflicts of interest with other class members,
7 and the Court is confident the representatives will prosecute the action vigorously
8 on behalf of the class.” *See* Order I at 27 (citing *Evon v. Law Offices of Sidney*
9 *Mickell*, 688 F.3d 1015, 1031 (9th Cir. 2012)). The proposed Subclass
10 representatives are all adequate. Each has volunteered to represent the Subclass and
11 is committed to pursuing this litigation. There are no conflicts among them: their
12 claims turn on the same core liability inquiries, and the same sources of proof
13 regarding Plains’ alleged misconduct and the scope of the Spill. Additionally, Class
14 Counsel, whom this Court has appointed to represent the other certified subclasses
15 (Order I at 21; Order II at 9), are equally committed to vigorously pursuing the
16 claims of this Subclass. Adequacy is thus satisfied.

17 Plaintiffs therefore satisfy all requirements of Rule 23(a).

18 **II. The Proposed Subclass satisfies Rule 23(b)(3).**

19 Plaintiffs seek class certification under Fed. R. Civ. P. 23(b)(3), which
20 requires that “[q]uestions of law or fact common to members of the class
21 predominate over any questions affecting only individual members, and that a class
22 action is superior to other available methods for the fair and efficient adjudication
23 of the controversy.” Both requirements are readily satisfied.

24 **A. Common issues predominate.**

25 Rule 23(b)(3) predominance “tests whether proposed classes are sufficiently
26 cohesive to warrant adjudication by representation.” Order I at 6 (quoting *Amchem*
27 *Prods. Inc. v. Windsor*, 521 U.S. 591, 623 (1997)). “The predominance inquiry
28 ‘asks whether the common, aggregation-enabling, issues in the case are more

1 prevalent or important than the non-common, aggregation-defeating, individual
2 issues.’ When ‘one or more of the central issues in the action are common to the
3 class and can be said to predominate, the action may be considered proper under
4 Rule 23(b)(3) even though other important matters will have to be tried separately,
5 such as damages or some affirmative defenses peculiar to some individual class
6 members.’” *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016)
7 (citations omitted).

8 **1. Liability is a common inquiry.**

9 Even with inland properties included, the Court found that “[l]iability as to
10 each cause of action is [] a Subclass-wide and not an individualized issue, or at
11 least is ascertainable as to large subsets of the Subclass.” Order II at 18. That
12 conclusion is certainly stronger as to this narrowed Subclass, because any issues
13 unique to inland property owners no longer matter. Regarding the scope of the Spill
14 in particular, not only is it *susceptible* to common proof, Plaintiffs have almost
15 completed the analysis. Dr. Igor Mezić’s model demonstrates where the oil from
16 Plains’ Pipeline went, and to what degree, along the California coastline. *See Mezić*
17 *Decl.* at ¶¶ 34-35; *see also* Dkt. 301, Ex. B. The accuracy of his model has been
18 confirmed by government data from both the U.S. Department of Commerce’s
19 National Oceanic and Atmospheric Administration (“NOAA”) flyovers and
20 NOAA’s Shoreline Cleanup Assessment Team (“SCAT”). *See Mezić Decl.* at ¶¶
21 36, 53. Plains may seek to challenge his model, and the results of his analysis, but
22 the accuracy of his model and possible challenges to it represent issues common to
23 this Subclass.

24 **2. Injury is a predominantly common inquiry.**

25 As the Ninth Circuit has explained, “[s]o long as the plaintiffs were harmed
26 by the same conduct, disparities in how or by how much they were harmed [do] not
27 defeat class certification.” *Jimenez v. Allstate Ins. Co.*, 765 F.3d 1161, 1168 (9th
28 Cir. 2014). Here, as the Court observed in its last Order, any variation in the “value

1 and nature of the beach amenity” – the injury Plaintiffs and the Subclass claim –
2 becomes “less pronounced” once inland properties are excluded. Order II at 21. For
3 the beachfront and beach easement properties that remain in the Class, “[w]here the
4 oil was distributed, and how much oil invaded the properties, are questions that are
5 subject to common proof...” *Id.*

6 Plaintiffs have refined the injury analysis still further. Properties that only
7 experienced very light oiling are excluded, thereby limiting the Subclass to
8 properties directly on, or with private direct access to, a beach soiled by the Spill.³
9 Additionally, Plaintiffs can and will control for duration of injury: Dr. Mezić will
10 run a durational analysis to determine the volume and duration of Plains’ Spill on
11 the affected beaches. Mezić Decl. at ¶ 35, n.3; Mezić Reb. Decl., Dkt. 399 at ¶ 47.

12 Plaintiffs’ new definition, moreover, greatly mitigates any concern that
13 vacant lots have been injured differently from developed property. Order II at 19.
14 Of course, vacant properties on the coast share crucial similarities with occupied
15 ones: they were oiled and they have valuable direct access to the beach. With this
16 commonality in place, to the extent any injury or causation issues distinct to vacant
17 properties arise, they are easily managed through ordinary trial techniques. §
18 II.B.4., *infra*. Indeed, the distinction matters primary to damages, and Dr. Bell’s
19 methodology is capable of accounting for that variation. Bell Decl. ¶¶ 97-98. To the
20 extent any individual damages issues remain, that does not undermine class
21 certification at any rate. § II.A.3., *infra*.

22 **3. Damages are susceptible to common proof.**

23 Consistent with longstanding Ninth Circuit law, the Court “does not require
24 individualized damage assessments at the class certification stage.” Order II at 6.
25 Nonetheless, damages assessments for the narrowed Subclass are susceptible to

26
27 ³ Dr. Mezić’s model determined the level of soiling along the entire affected
28 coastline for the first 90 days after the Spill, broken down into portions that
received heavy oiling, medium oiling, light oiling, and very light oiling. *See* Dkt.
300-1, Exhibit A; Mezić Decl. ¶¶ 40-43.

1 classwide proof. Relying on Dr. Mezić’s analysis showing where Plain’s oil spilled,
2 to what degree, and for how long, Dr. Bell can identify the Subclass properties. Bell
3 Decl. at ¶ 92. He will then use standard real estate appraiser techniques, including
4 rental value, to determine the damages the Subclass incurred. *Id.* This methodology
5 is not only standard in the industry, but a proper measure of damages in the Ninth
6 Circuit. *Cal. v. Kinder Morgan Energy Partners, LP*, 613 Fed. App’x 561, 564-65
7 (9th Cir. 2015) (holding that damages for loss of use of real property “can be
8 proved through estimates of a property’s rental value based on hypothetical
9 assumptions rather than its actual use.”).

10 In sum, as narrowed, this proposed Subclass is identical to the one this Court
11 indicated it would certify, and substantially similar (in kind, if not degree) to the
12 coastal real property class certified in *In re Oil Spill by Oil Rig Deepwater Horizon*
13 *in Gulf of Mexico, on Apr. 20, 2010*, 910 F. Supp. 2d 891, 906-07 (E.D. La. 2012).
14 As with the certified Fisher and Oil Industry Subclasses, common issues
15 predominate for the proposed Real Property Subclass.

16 **B. A class action is vastly superior to the alternative of multiple trials**
17 **involving the same evidence.**

18 Rule 23(b)(3) also requires Plaintiffs to demonstrate that the class action is
19 “superior to other available methods for fairly and efficiently adjudicating the
20 controversy.” *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1127 (9th Cir.
21 2017). Courts consider four non-exhaustive factors. Fed. R. Civ. P. 23(b)(3)(A-D).
22 As with the Fisher and Oil Industry Subclasses, each favors certification here.

23 **1. Interest of class members in individual control.**

24 This factor weighs in favor of class treatment for the same reasons it did for
25 the Fisher and Oil Industry Subclasses: the potential benefit of individually
26 pursuing litigation against Plains does not outweigh the cost. *See* Order I at 22-23;
27 Order II at 15-16. Individuals would have to incur enormous expense to litigate
28 their individual claims in this complex disaster action against Plains, including

1 hiring expensive liability and damages experts. *See, e.g., Deepwater Horizon*, 910
2 F. Supp. 2d at 929 (“Litigation of this type is extraordinarily complex and
3 expensive, and the class action device was designed to allow individuals with
4 comparatively modest claims to band together to bring such claims.”); *Wehner v.*
5 *Syntex Corp.*, 117 F.R.D. 641, 645 (N.D. Cal. 1987) (“Significant judicial
6 economies are served by trying the common issues [of contamination].”). The cost
7 of experts alone would far exceed the value of any individual Subclass member’s
8 claims, making individual litigation cost-prohibitive. Litigating this action as a class
9 also spares the judicial system years of docket-clogging litigation. *Id.*

10 **2. Extent of any litigation already begun.**

11 This factor also weighs in favor of class treatment for the same reasons the
12 Court identified in prior orders. Order I at 23; Order II at 16. None of the other
13 pending Oil Spill lawsuits in federal court includes members of the Real Property
14 Subclass, except potentially *Grey Fox*, whose class members are owners of the
15 properties through which the Pipeline runs, who allege claims related to easement
16 contracts that the proposed Subclass do not have. *Grey Fox, LLC et al. v. Plains All*
17 *American Pipeline LP, et al.*, CV 16-3157 PSG (JEMx). A ruling in any of the
18 other active cases before this Court likely will not affect the proposed Subclass.

19 **3. Desirability of concentration in this forum.**

20 This is the superior forum to safeguard the Subclass members’ due process
21 rights. With respect to the Fisher Subclass, this Court joined many others in holding
22 that the Oil Pollution Act (“OPA”) claims process was inferior to a class action
23 because the party responsible for the spill acts as judge and jury. *See* Order I at 23
24 (“Courts have considered OPA and found it inferior to Rule 23 class actions
25 because the party responsible for the oil spill is also the party that adjudicates the
26 claims – at least on the first round of review.”). These same deficiencies apply here,
27 and perhaps more so given the Court’s prior findings of misleading conduct tied to
28 the OPA process. Dkt. 76 at 8. In sum, unrepresented class members negotiating

1 against a sophisticated defendant with unilateral authority to decline to pay have
2 little assurance that the OPA process will fairly evaluate their damages claims, or
3 that they will receive full and fair compensation for their losses.

4 **4. Likely difficulties of managing a class action.**

5 As with the other certified Subclasses, this last factor also weighs in favor of
6 a class action. Because the key factual and legal issues are common to this
7 Subclass, individuals will not have to litigate these issues separately. *See Gintis v.*
8 *Bouchard Transp. Co.*, 596 F.3d 64, 67 (1st Cir. 2010) (Souter, J.) (noting in oil
9 spill case that defendant’s objections to plaintiffs’ proof “show that substantial and
10 serious common issues would arise over and over in potential individual cases”).
11 Any variations within the Subclass are easily handled through ordinary trial
12 procedures. *See Rodriguez v. It’s Just Lunch, Int’l*, 300 F.R.D. 125, 141 (S.D.N.Y.
13 2014) (holding that common issues can be “litigated collectively” and “predictable
14 patterns” among a class can be “handled by special interrogatories or special verdict
15 forms”); *Good v. Am. Water Works Co., Inc.*, No. 14-1374, Mem. Opinion and
16 Ord., ECF 1146 at 38 (S.D.W. Va. Jul. 6, 2017) (noting in pollution case that while
17 defendants “may be liable under somewhat different duties, both residential and
18 business class members allege breach of similar duties”).

19 Further, as the Court has already noted, even if separate proceedings are
20 warranted for damages, that does not defeat class certification. Order II at 17 (citing
21 *Leyva v. Medline Indus. Inc.*, 716 F.3d 510, 513 (9th Cir. 2013)). Finally, providing
22 notice to these Subclasses is straightforward and manageable. *See Declaration of*
23 *Shannon Wheatman, Ph.D., in Support of Plaintiffs’ Renewed Motion for Class*
24 *Certification. Dkt. 300-6.*

25 As with the Fisher and Oil Industry Subclasses, a class action is a vastly
26 superior forum to resolve the claims of the proposed Subclass.

27 **CONCLUSION**

28 Plaintiffs request that this Court grant their motion for class certification and

1 enter an order certifying the proposed Real Property Subclass, appointing the
2 moving Plaintiffs as Subclass representatives, and appointing Class Counsel.

3
4 Dated: March 5, 2018

Respectfully submitted,

5 KELLER ROHRBACK L.L.P.

6
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EXHIBIT A

Exhibit 14: Beach Segments Characterized Heavy, Moderate, or Light Oiling

<u>Division/ SCAT Segment*</u>	<u>Oiling Category</u>	<u>START Latitude</u>	<u>START Longitude</u>	<u>END Latitude</u>	<u>END Longitude</u>
SBIS		34.4607857739	-120.0732672820	34.4707655696	-120.2287086870
SBIS-IS-001	Heavy				
SBIS-IS-002	Heavy				
SBIS-IS-002	Light				
SBIS-IS-002	Moderate				
SBIS-IS-003	Heavy				
SBIS-IS-003	Moderate				
SBIS-IS-004	Heavy				
SBIS-IS-005	Heavy				
SBIS-IS-005	Moderate				
SBJS		34.4621698998	-120.0472030950	34.4607857739	-120.0732672820
SBJS-JS-001	Heavy				
SBJS-JS-001	Moderate				
SBKS		34.4609701808	-120.0113755610	34.4621698998	-120.0472030950
SBKS-KS-001	Heavy				
SBKS-KS-001	Moderate				
SBLS		34.4410686462	-119.9645973530	34.4609701808	-120.0113755610
SBLS-LS-001	Heavy				
SBLS-LS-001	Moderate				
SBLS-LS-002	Heavy				
SBLS-LS-002	Moderate				
SBMS		34.4312790554	-119.9166332130	34.4410686462	-119.9645973530
SBMS-MS-001	Heavy				
SBMS-MS-002	Heavy				
SBNS		34.4091771342	-119.8646121630	34.4312790554	-119.9166332130
SBNS-NS-001	Heavy				
SBNS-NS-001	Moderate				

SBNS-NS-002	Heavy				
SBNS-NS-003	Heavy				
SBOS		34.4048251988	-119.8444901950	34.4091771342	-119.8646121630
SBOS-OS-001	Heavy				
SBOS-OS-001	Moderate				
SBPS		34.4164738844	-119.8118951050	34.4048251988	-119.8444901950
SBPS-PS-001	Heavy				
SBPS-PS-002	Moderate				
SBQS		34.3995030406	-119.7022430150	34.4164738844	-119.8118951050
SBQS-QS-001	Heavy				
SBQS-QS-001	Moderate				
SBQS-QS-002	Heavy				
SBQS-QS-002	Light				
SBQS-QS-002	Moderate				
SBQS-QS-003	Heavy				
SBQS-QS-003	Light				
SBQS-QS-003	Moderate				
SBQS-QS-004	Heavy				
SBQS-QS-004	Light				
SBQS-QS-004	Moderate				
SBRS		34.4199711742	-119.6050517510	34.3994982320	-119.7022305590
SBRS-RS-001	Light				
SBRS-RS-002	Light				
SBRS-RS-003	Heavy				
SBRS-RS-003	Light				
SBRS-RS-004	Light				
SBRS-RS-005	Moderate				
SBSS		34.4052763743	-119.5479549640	34.4199711742	-119.6050517510
SBSS-SS-001	Light				
SBSS-SS-002	Light				
SBTS		34.3732227262	-119.4768891550	34.3958446894	-119.5317510530
SBTS-TS-001	Light				
SBTS-TS-003	Moderate				
SBTS-TS-004	Light				

VNAS		34.3555465982	-119.4429483840	34.3732227262	-119.4768891550
VNAS-AS-001	Heavy				
VNAS-AS-001	Moderate				
VNBS		34.3179640729	-119.3899335200	34.3551674854	-119.4428475460
VNBS-BS-001	Heavy				
VNBS-BS-001	Light				
VNBS-BS-001	Moderate				
VNCS		34.2756171300	-119.3106334290	34.3179640729	-119.3899335200
VNCS-CS-001	Heavy				
VNCS-CS-001	Light				
VNCS-CS-001	Moderate				
VNDS		34.2503834394	-119.2692209130	34.2744695330	-119.3077399560
VNDS-DS-001	Heavy				
VNDS-DS-001	Light				
VNDS-DS-001	Moderate				
VNDS-DS-002	Heavy				
VNDS-DS-002	Light				
VNDS-DS-003	Light				
VNES		34.1577264779	-119.2276149830	34.2482611347	-119.2682821050
VNES-ES-001	Light				
VNES-ES-002	Light				
VNES-ES-002	Moderate				
VNES-ES-003	Heavy				
VNES-ES-003	Light				
VNES-ES-003	Moderate				
VNFS		34.1457568360	-119.2131105060	34.1570414877	-119.2255397290
VNFS-FS-005	Heavy				
VNFS-FS-005	Light				
VNFS-FS-005	Moderate				
VNFS-FS-006	Heavy				
VNFS-FS-006	Moderate				
VNGS		34.1195461103	-119.1598856670	34.1447451751	-119.2098069910
VNGS-GS-002	Light				
VNHS		34.1195461100	-119.1598856670	34.1080563628	-119.1424781230

VNHS-HS-001	Heavy				
VNHS-HS-002	Heavy				
VNHS-HS-003	Moderate				
LA-A		34.0002678609	-118.8069453140	34.0457794029	-118.9447340090
LA-A-S001	Moderate				
LA-A-S002	Moderate				
LA-A-S005	Moderate				
LA-A-S006	Moderate				
LA-A-S008	Moderate				
LA-A-S009	Moderate				
LA-A-S010	Moderate				
LA-A-S011	Moderate				
LA-A-S012	Moderate				
LA-B		34.0319557987	-118.6981184630	34.0002678609	-118.8069453140
LA-B-S001	Moderate				
LA-B-S002	Moderate				
LA-B-S003	Moderate				
LA-B-S005	Moderate				
LA-B-S006	Moderate				
LA-B-S007	Moderate				
LA-B-S008	Moderate				
LA-C		34.0380204660	-118.5559758240	34.0308728009	-118.6825704140
LA-C-S001	Moderate				
LA-C-S002	Moderate				
LA-C-S005	Moderate				
LA-C-S006	Moderate				
LA-C-S008	Moderate				
LA-C-S009	Moderate				
LA-D		33.9683869420	-118.4465102110	34.0380204660	-118.5559758240
LA-D-S001	Moderate				
LA-D-S002	Moderate				
LA-D-S003	Moderate				
LA-D-S004	Moderate				
LA-D-S005	Moderate				

LA-D-S006	Moderate				
LA-D-S007	Moderate				
LA-D-S008	Moderate				
LA-E		33.7534077553	-118.2666355250	33.9683869420	-118.4465102110
LA-E-S001	Moderate				
LA-E-S002	Moderate				
LA-E-S003	Moderate				
LA-E-S004	Moderate				
LA-E-S005	Moderate				
LA-E-S006	Heavy				
LA-E-S007	Heavy				
LA-E-S010	Moderate				

Mezić Segment**	Oiling Category	Latitude	Longitude
M-2	Light	34.468799	-120.246732
M-2	Light	34.449933	-120.430554
M-3	Moderate	34.046950	-118.957352
M-3	Moderate	34.092746	-119.080640
M-4	Moderate	33.714085	-118.317855
M-4	Moderate	33.802416	-118.404986
M-5	Light	33.652583	-118.000000
M-5	Light	33.713709	-118.316114

* Oiling Divisions and Segments Created by NOAA for Cleanup and Remediation; Latitude and Longitude endpoints available for Division level only.

** Oiling Segments for Missing SCAT Segments as Determined by Dr. Mezić

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17
18 **UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

19 KEITH ANDREWS, an individual,
20 TIFFANI ANDREWS, an individual,
BACIU FAMILY LLC, a California
limited liability company, ROBERT
21 BOYDSTON, an individual, CAPTAIN
JACK'S SANTA BARBARA TOURS,
22 LLC, a California limited liability
company, MORGAN CASTAGNOLA, an
23 individual, THE EAGLE FLEET, LLC, a
California limited liability company,
24 ZACHARY FRAZIER, an individual,
MIKE GANDALL, an individual,
25 ALEXANDRA B. GEREMIA, as Trustee
for the Alexandra Geremia Family Trust
26 dated 8/5/1998, JIM GUELKER, an
individual, JACQUES HABRA, an
27 individual, ISURF, LLC, a California
limited liability company, MARK
28 KIRKHART, an individual, MARY

Case No. 2:15-cv-04113-PSG-JEM

[Consolidated with Case Nos. 2:15-
CV- 04573 PSG (JEMx), 2:15-CV-
4759 PSG (JEMx), 2:15-CV-4989
PSG (JEMx), 2:15-CV-05118 PSG
(JEMx), 2:15-CV- 07051- PSG
(JEMx)]

**[PROPOSED] ORDER
GRANTING CLASS
CERTIFICATION**

Date: April 23, 2018
Time: 1:30 p.m.
Judge: Hon. Philip S. Gutierrez
Courtroom: 6A

1 KIRKHART, an individual, RICHARD
2 LILYGREN, an individual, HWA HONG
3 MUH, an individual, OCEAN ANGEL IV,
4 LLC, a California limited liability
5 company, PACIFIC RIM FISHERIES,
6 INC., a California corporation, SARAH
7 RATHBONE, an individual,
8 COMMUNITY SEAFOOD LLC, a
9 California limited liability company,
10 SANTA BARBARA UNI, INC., a
11 California corporation, SOUTHERN CAL
12 SEAFOOD, INC., a California
13 corporation, TRACTIDE MARINE
14 CORP., a California corporation, WEI
15 INTERNATIONAL TRADING INC., a
16 California corporation and STEPHEN
17 WILSON, an individual, individually and
18 on behalf of others similarly situated,

19 Plaintiffs,

20 v.

21 PLAINS ALL AMERICAN PIPELINE,
22 L.P., a Delaware limited partnership,
23 PLAINS PIPELINE, L.P., a Texas limited
24 partnership, and JOHN DOES 1 through
25 10,

26 Defendants.

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28 Before the Court is Plaintiffs’ second renewed motion for class certification. After carefully considering the papers, evidence, and oral argument presented by the parties, the Court finds and orders that the proposed Real Property Subclass satisfies the requirements of Rule 23(a) and Rule (b)(3) of the Federal Rules of Civil Procedure. *See Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 979-80 (9th Cir. 2011). Accordingly, the Court **grants** Plaintiffs’ motion and certifies the following Real Property Subclass pursuant to Rule 23(b)(3):

Residential beachfront properties on a beach and residential properties with a private easement to a beach (collectively “Included Properties”) where oil from the 2015 Santa Barbara oil spill washed up, and where the oiling was categorized as Heavy, Moderate or Light, as identified in Exhibit A.

1 Excluded from the proposed Subclass are: (1) Defendants, any entity or
2 division in which Defendants have a controlling interest, and their legal
3 representatives, officers, directors, employees, assigns and successors; and (2) the
4 judge to whom this case is assigned, the judge’s staff, and any member of the
5 judge’s immediate family.

6 Plaintiffs Baci Family LLC, Alexandra Geremia, Jacques Habra, and Mark
7 and Mary Kirkhart are appointed to serve as Subclass representatives. Lief
8 Cabraser Heimann & Bernstein, LLP, Keller Rohrback L.L.P., Cappello & Noël,
9 and Audet & Partners are appointed to serve as Class Counsel.

10 Within thirty days of entry of this order, Class Counsel shall submit a Notice
11 Plan and proposed form of notice to be disseminated to class members in
12 accordance with Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure.

13
14 **IT IS SO ORDERED.**

15
16 Dated: _____

17 Hon. Philip S. Gutierrez
18 United States District Judge
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