

NAVIGATING FROM CLOSED TO OPEN WATERWORKS PROJECTS

Walt Young

**Mountains Recreation and
Conservation Authority**

WALT.YOUNG@MRCA.CA.GOV

OBJECTIVES

PROVIDE HISTORICAL OVERVIEW
(1800, 1900, 2000,)

EXPLORE ENGINEERING CONSEQUENCES
(Safety, Law, Resource Protection, Recreation)

DISCUSS CHANGING PUBLIC PERCEPTIONS
(Ongoing Process)

CASE STUDIES

HISTORICAL OVERVIEW

LOS ANGELES RIVER

1887



RIVERS AS HISTORIC TRAILS

**“Alta California, In the
Beginning...”**

Los Angeles River (MRCAs parks)

(Headwaters two miles north on Topanga Blvd)

San Gabriel River (MRCAs parks)

Rio Hondo River (MRCAs parks)

Ballona Wetlands (MRCAs parks)

Big Tujunga Canyon (MRCAs parks)

HISTORIC OVERVIEW STATEHOOD

September 9, 1850

- ▣ **PUBLIC TRUST DOCTRINE** “ It is a title held in trust for the State that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing...”
- ▣ **CASE LAW** “use of navigable waters of the State for bathing, swimming, boating and general recreational purposes...”
- ▣ **NAVIGABLE “IN FACT” TEST**
- ▣ **EPA L.A RIVER (RECENT) DETERMINATION**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Dear Colonel Toy:

This letter transmits the Clean Water Act (CWA) jurisdictional determination for the Los Angeles River.

On August 17, 2008, Pursuant to the MOA, designation of the "Special Case" made EPA responsible for determining the extent to which the Los Angeles River was protected as a "water of the United States." Specifically, EPA analyzed the river's status as a "Traditional Navigable Water," one of several categories of jurisdictional waters under the Act.

We conclude that the mainstem of the Los Angeles River is a "Traditional Navigable Water" from its origins at the confluence of Arroyo Calabazas and Bell Creek to San Pedro Bay at the Pacific Ocean, a distance of approximately 51 miles .

CALIFORNIA STATEHOOD

September 9, 1850

- ▣ TREATY OF GUADALUPE HIDALGO (1848)
- ▣ THE ACT OF 1851 (US Govt implementation)
- ▣ “The Public Trust easement exists over lands to which California acquired title by virtue of its sovereignty upon admission to the Union. California did not acquire such title to lands which were subject of a prior Mexican land grant...”
- ▣ PRIVATE PROPERTY RIGHT NULLIFYING PUBLIC TRUST DOCTRINE WHEN APPLICABLE

SOUTHERN CALIFORNIA CLIMATE AND TOPOGRAPHY

- ▣ MEDITERRANEAN ECOSYSTEM
- ▣ RAINFALL -15.11 INCHES City
35.00 INCHES Mountains
- ▣ 7,000 foot mountain range (RISE)/40 miles to the ocean (RUN)
- ▣ 7,000 foot mountain range (RISE)/2 air miles to Valley floor (RUN).

FLOODS OF 1913/1914

- 
- ▣ **Los Angeles County Flood Control Act (1915)**
 - ▣ **120,000 catch basins**
 - ▣ **500 miles of open channels**
 - ▣ **2,800 miles of underground storm drains**

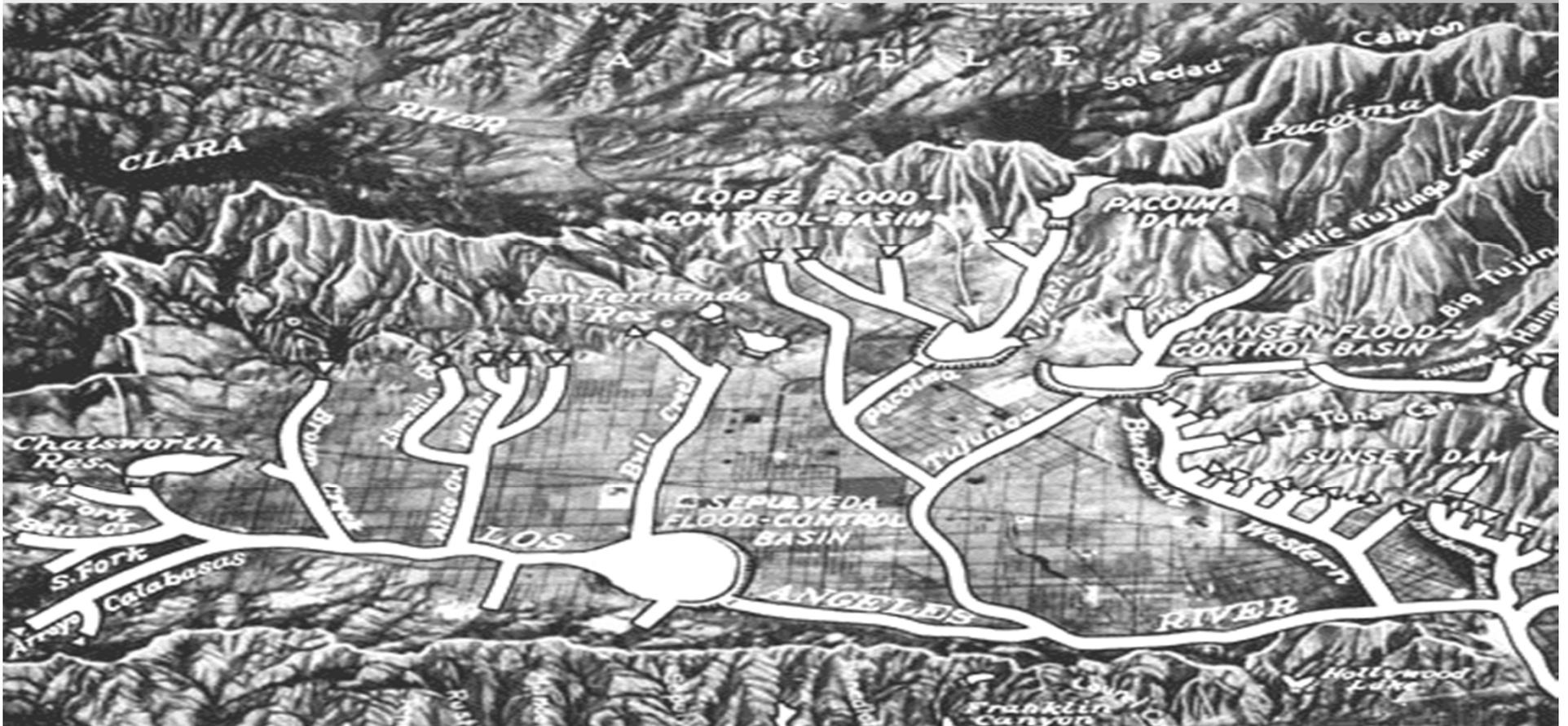
FLOODS OF 1938



- ▣ **113 DEAD**
- ▣ **\$40 MILLION IN DAMAGES (1938 dollars)**
- ▣ **FIFTH LARGEST FLOOD IN HISTORY**
- ▣ **5,601 HOUSES DESTROYED**

FLOODING LEADS TO ENGINEERING SOLUTIONS

- ▣ 80% OF THE LOS ANGELES RIVER CHANNELIZED



ENGINEERED PROJECTS CHANGE PUBLIC PERCEPTION



PUBLIC WORKS PROJECTS PROTECTED BY REGULATION



Penal Code 602

“Traveling only” Sections

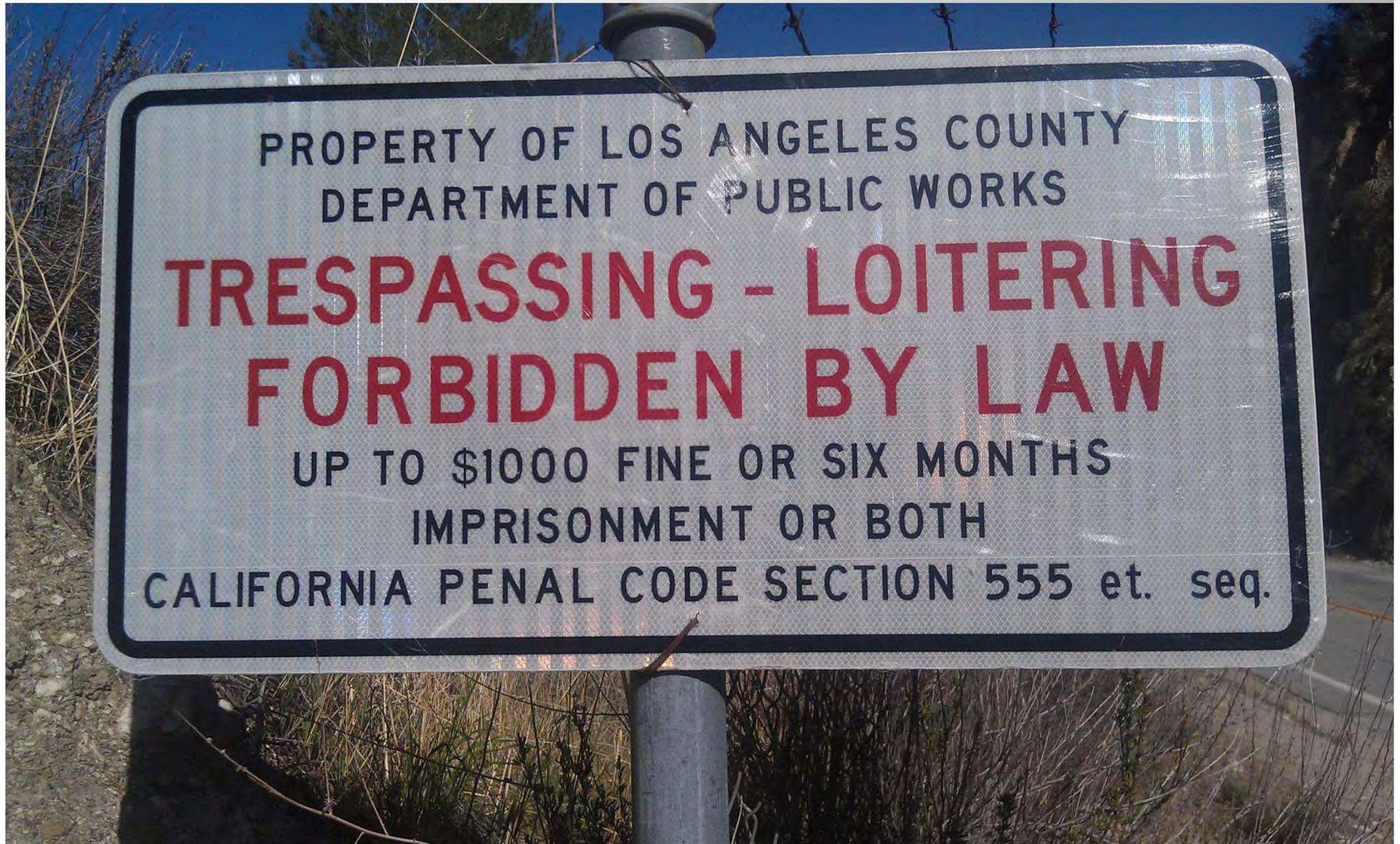
602(2) Property must be posted three signs per mile and points of entry

602(I)(1) Refusing or failing to leave the lands immediately upon being requested by...

(Must refuse to leave for crime to be committed)

PENAL CODE 602 “INSUFFICIENT” TO PROHIBIT PUBLIC USE OF AND ACCESS TO PUBLIC WORK PROJECTS

PENAL CODES 554(e) & 555



PROPERTY OF LOS ANGELES COUNTY
DEPARTMENT OF PUBLIC WORKS

**TRESPASSING - LOITERING
FORBIDDEN BY LAW**

UP TO \$1000 FINE OR SIX MONTHS
IMPRISONMENT OR BOTH

CALIFORNIA PENAL CODE SECTION 555 et. seq.

Penal Code 555 – It is unlawful to ENTER or remain upon any posted property...

(Failure to leave when requested NOT required)

Penal Code 554 - Any property..., may be posted against trespassing and loitering, if the property is used...

Penal Code 554(e) – A water well, dam, reservoir, pumping plant, aqueduct, canal... or any other conductor for conveying water.

Penal Code 554.1(d) – Intervals (posted) of not more than 600 feet

City of Los Angeles River Regulation

LAMC SEC. 41.22 LOITERING—RIVER BED.

No person shall camp, lodge, make or kindle a fire, wash and cloth or bedding, bathe, sleep, lay any bed or any blanket, quilt, straw or branches for the purpose of resting or sleeping thereon, or remain or loiter in the official bed of the Los Angeles River.

LAMC 41.22

- ▣ No person shall camp, lodge, make or kindle a fire, wash any clothes or bedding, bathe, sleep, lay any bed or any blanket, quilt, straw or branches for the purpose of resting or sleeping thereon, or remain or loiter in the official bed of the Los Angeles River.
- ▣ State/Fed Public Trust Doctrine conflict?
- ▣ “Or Remain” legislative intent? (Estrella)
(non-binding trial court decision ONLY)
Fishing in the Los Angeles River case

RECLAIMING PUBLIC USE

GOVERNMENT - LIABILITY CONCERNS

GENERAL PUBLIC – RIVER PERCEPTIONS

PUBLIC SAFETY VERSUS RECREATION

ENVIRONMENTAL/RESOURCE PROTECTION

GOVERNMENTAL IMMUNITIES

GOVERNMENT CODE 831.7

“Hazardous Recreational Activity”

- ▣ (a) Neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity...
- ▣ (c) Notwithstanding the provisions of subdivision (a)...
- ▣ Failure to warn, participation “specific fee”, gross negligence...

GOVERNMENTAL IMMUNITIES

SENATE BILL 1201(De Leon)

“Would require that stretches of navigable rivers with unpaved riverbeds to be deemed to be in a natural condition and unimproved notwithstanding...” (Govt Code 831.22)

Rivers with engineered sides and natural bottoms

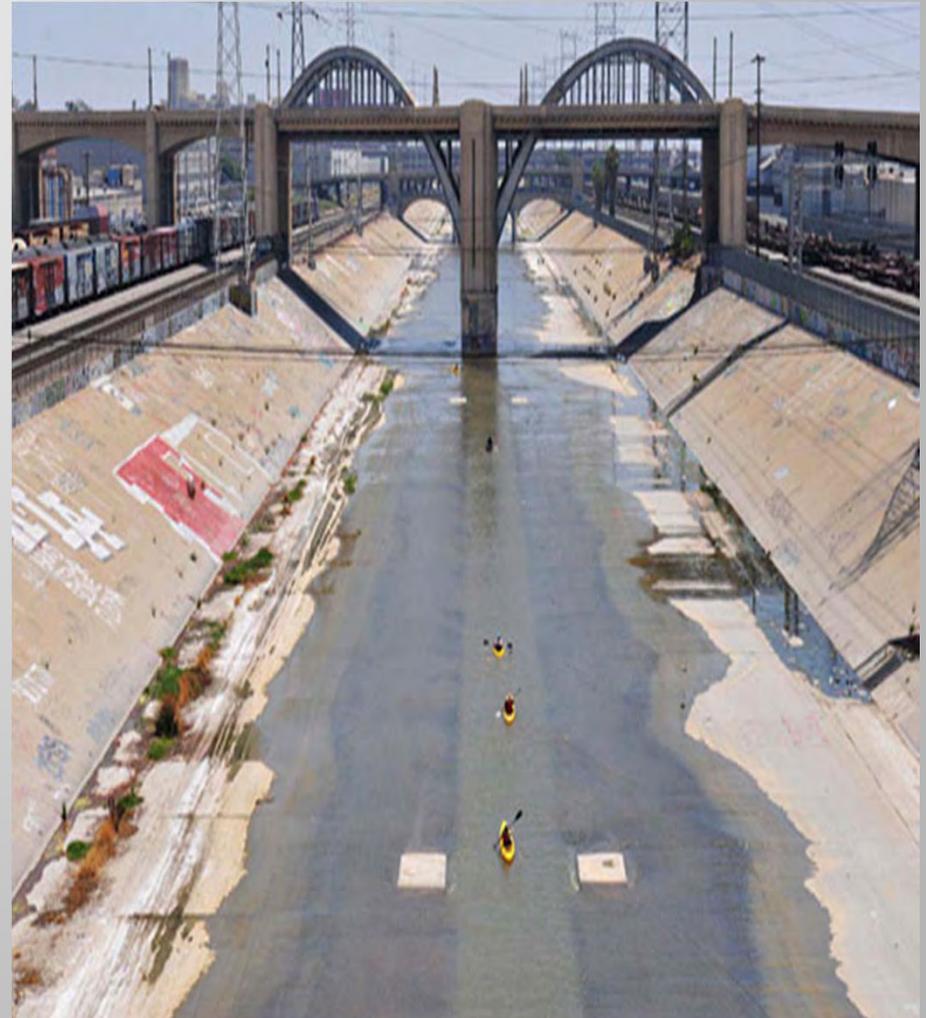
FOLAR

Changing Hearts and Minds

- ▣ Friends of the Los Angeles River is a 501(c)3 non-profit organization founded in 1986.
- ▣ *“Our overall recommendation for the long term is a policy of open public access and use of the entire Los Angeles River, compatible with essential safety considerations.”*

ROCK THE BOAT 2008 GEORGE WOLFE

(Civil Disobedience or Constitutional Right?)



A photograph of two people in a blue kayak on a river. The person in the front is wearing a yellow helmet and a blue life vest. The person in the back is wearing a white hat and a green life vest. The kayak is on a river with a stone bridge in the background. The water is dark and reflects the kayak and the bridge.

LACC AND MRCA Kayak Pilot Program

16,000 “HITS” the first morning

Sold out in the first hours

**Program popularity exceeded all
expectations**

**Tremendous media interest and public
support**

Kayak Pilot Program

- ▣ MRCA providing Interpretation and Safety

- ▣ MRCA satisfying Army Corps key requirements



Kayak Pilot Program

Political Office trips:

Ed P. Reyes, Council District 1

Tony Cardenas, Council District 6

Paul Krekorian, Council District 2

Senator Fran Pavley, 23rd District

Mayor Antonio R. Villaraigosa

▪



A photograph of a concrete bridge over a river. Two kayakers are visible in the foreground, one in a blue kayak and one in a red kayak. The bridge has a series of cables or supports running across its length. The background shows a lush green forest and a clear blue sky.

Press Coverage

CNN

KNBC-TV

KABC-TV

The BBC

The New York Times

The Los Angeles Daily News

Out & About With Roger Martin

KNX Radio

Times Union

Washington Examiner

San Luis Obispo Tribune

KWST- Dessert News

KCAL-TV

KMEX- Univision

KTLA-TV

The Associated Press

The Los Angeles Times

The Glendale News Press

KCRW Radio

San Jose Mercury News

KMPH Fox Channel 26

The Modesto Bee

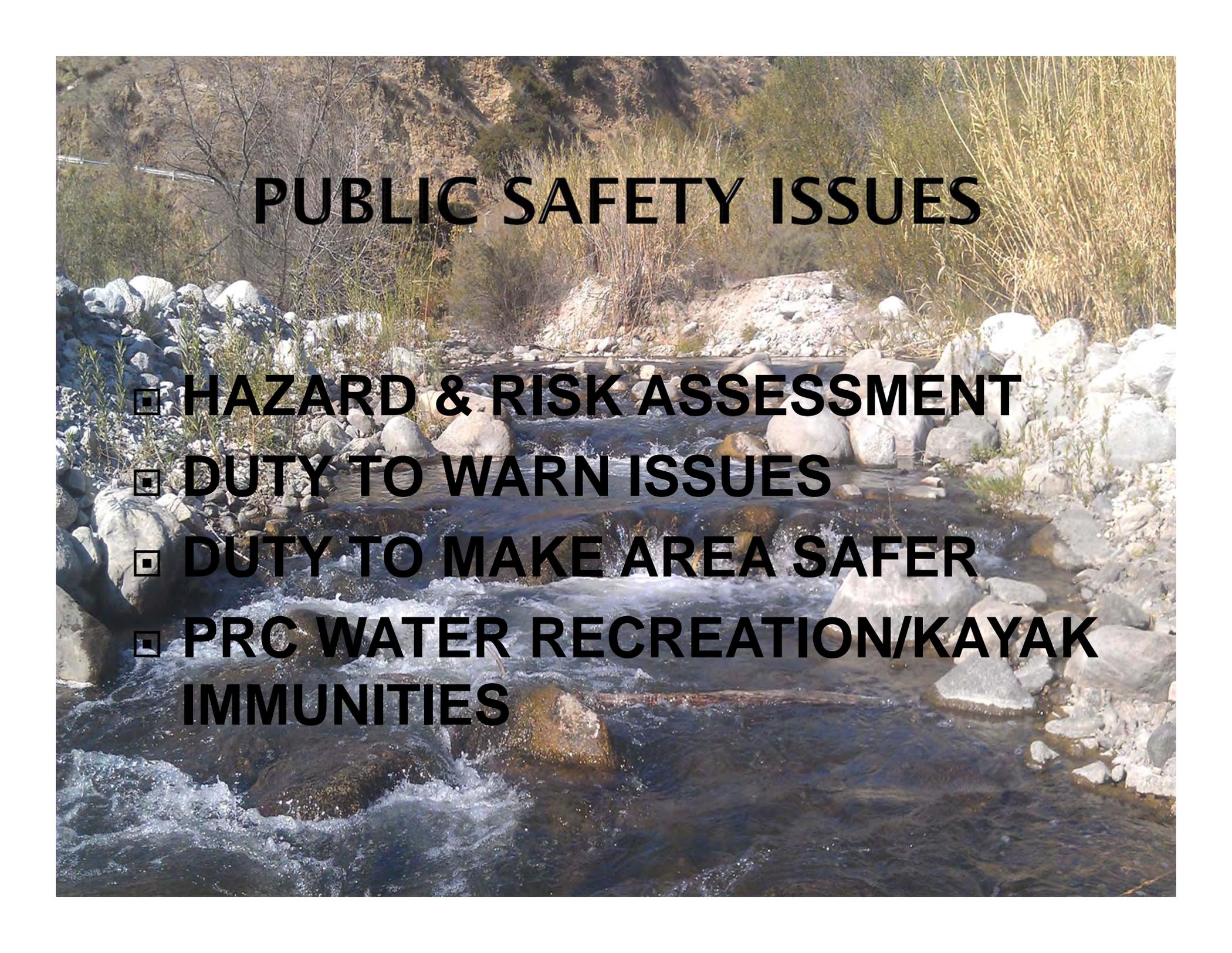
KTVN – Channel 2

Contra Costa Times

MRCA BIG T CASE STUDY Management Model for L.A. River?







PUBLIC SAFETY ISSUES

- ▣ **HAZARD & RISK ASSESSMENT**
- ▣ **DUTY TO WARN ISSUES**
- ▣ **DUTY TO MAKE AREA SAFER**
- ▣ **PRC WATER RECREATION/KAYAK IMMUNITIES**

MANAGEMENT & OPERATIONS (hazard assessment)

STILL WATER & STATIC HAZARDS

- ▣ DROWNING
- ▣ SLIP AND FALLS
- ▣ ENTRAPMENT
- ▣ CRIME
- ▣ WATER QUALITY

MOVING WATER HAZARDS

- ▣ HYDROLOGY
CAUSED HAZARDS:
HELICAL FLOW
STRAINERS
HOLES
LOW HEAD DAMS

(no flow-hazard)



PUBLIC ACCESS ISSUES

- ▣ **PUBLIC TRUST DOCTRINE/PUBLIC ACCESS (lawful entry element)**
- ▣ **REGULATE LAND USE, NOT WATER USE**
- ▣ **STATE HARBORS & NAVIGATION CODE SAFETY REGULATIONS**
- ▣ **PERMIT ISSUES – Group Use**

THE END RESULT
MRCRA River Adjacent Parkland
Management Plan

STANDARD RULES SIGN

SPECIAL RULES SIGN

(Focused and limited by design)

Guided by the experience that “signs are fine” but Ranger Patrol makes the difference (Red Flag example).

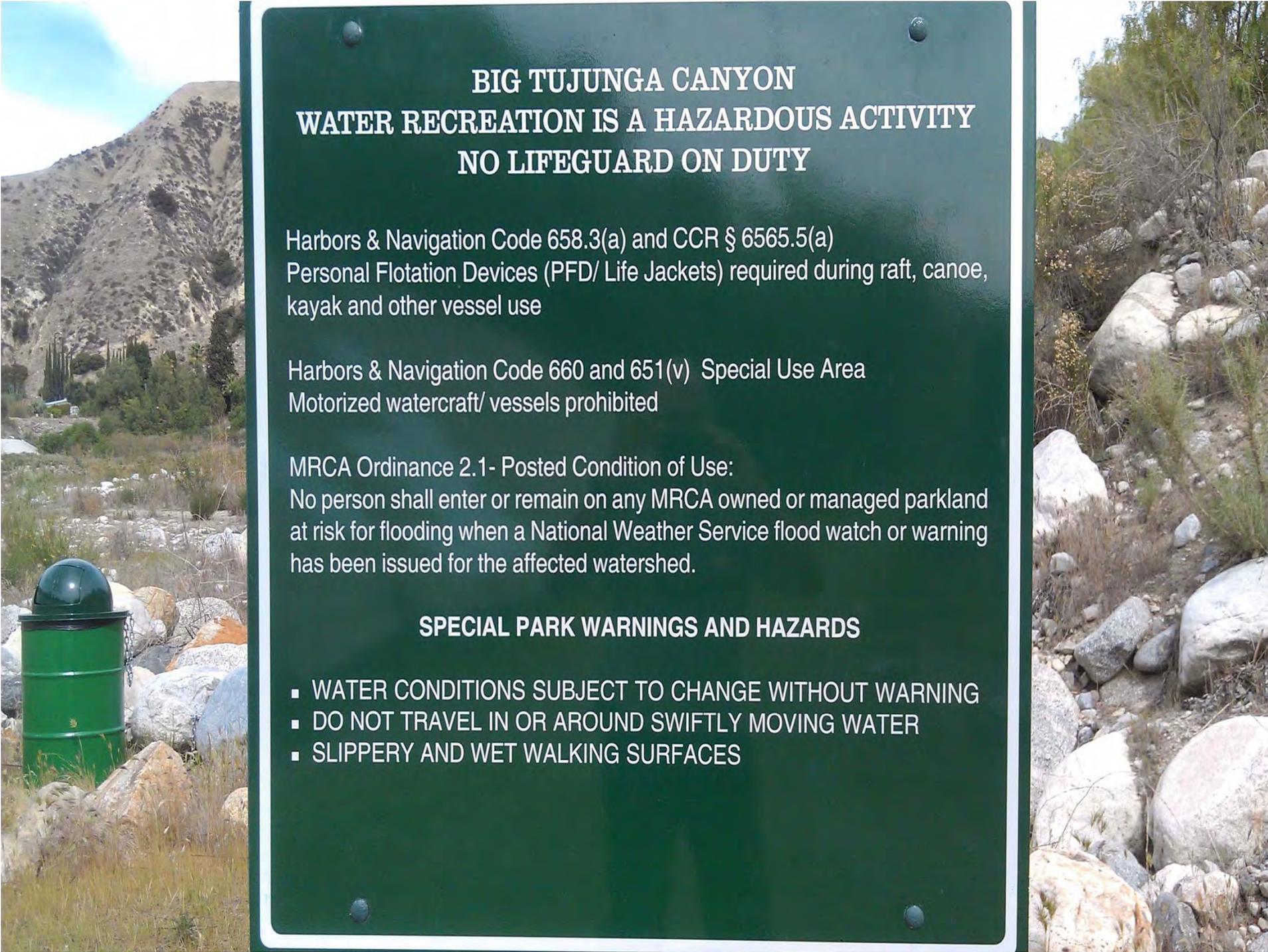
Santa Monica Mountains Conservancy Zone Parkland



Mountains
Recreation &
Conservation
Authority

- Park closed: sunset to sunrise.
- No smoking or fires.
- No alcoholic beverages.
- No littering or dumping.
- No unauthorized vehicle use.
- No defacing or destroying property.
- Dogs must be on leash and cleaned up after.
- Possession of firearms, bow and arrow prohibited.

For information or emergencies: (310) 456-7049
Owned and managed by Mountains Recreation & Conservation Authority
Violation is a misdemeanor punishable by fine and/or imprisonment.



BIG TUJUNGA CANYON
WATER RECREATION IS A HAZARDOUS ACTIVITY
NO LIFEGUARD ON DUTY

Harbors & Navigation Code 658.3(a) and CCR § 6565.5(a)
Personal Flotation Devices (PFD/ Life Jackets) required during raft, canoe,
kayak and other vessel use

Harbors & Navigation Code 660 and 651(v) Special Use Area
Motorized watercraft/ vessels prohibited

MRCA Ordinance 2.1- Posted Condition of Use:

No person shall enter or remain on any MRCA owned or managed parkland
at risk for flooding when a National Weather Service flood watch or warning
has been issued for the affected watershed.

SPECIAL PARK WARNINGS AND HAZARDS

- WATER CONDITIONS SUBJECT TO CHANGE WITHOUT WARNING
- DO NOT TRAVEL IN OR AROUND SWIFTLY MOVING WATER
- SLIPPERY AND WET WALKING SURFACES



