

# Los Angeles County Supreme Court Ruling: Potential Impacts

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# Los Angeles River: 1894





# Los Angeles River: 1940





# Los Angeles River Today





# Los Angeles River Today





# Los Angeles River Today



# Clean Water Act Citizen Suit

- Los Angeles County Flood Control District  
v. Natural Resources Defense Council &  
Santa Monica Baykeeper
- District was Liable for Self-Reported Violations  
of the NPDES Permit
- Discharge of Pollutants into Downstream  
Unlined Channels

# District Court

## Summary Judgment to the District

- Water quality standards repeatedly exceeded
- Runoff from “thousand of permitted dischargers”
- Insufficient record to find the District (solely) discharged pollutants identified at downstream monitoring stations



# Ninth Circuit

## Reversed Judgment

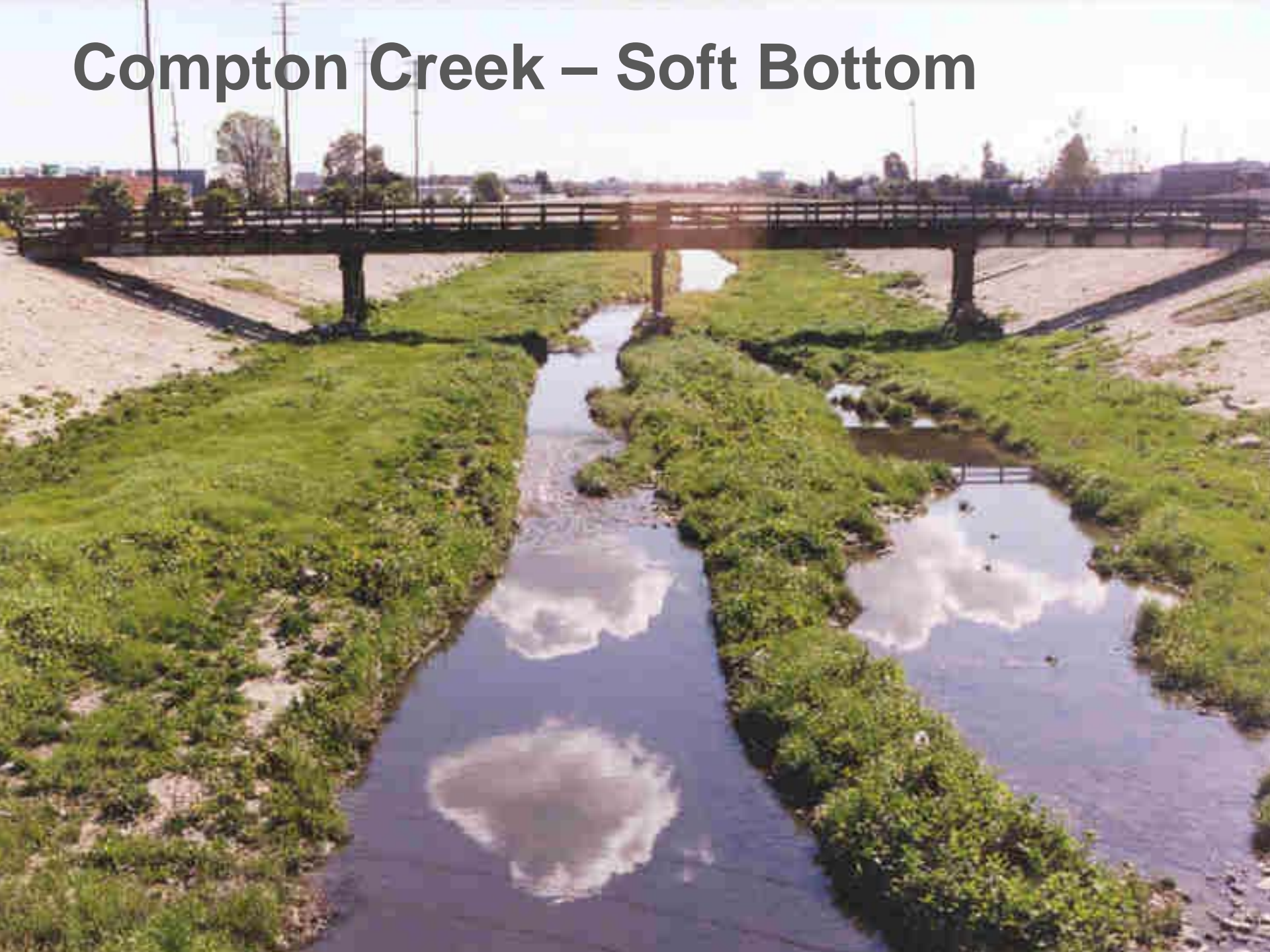
- Monitoring stations in “concrete channels” constructed for flood-control purposes
- Runoff “flowed out of the concrete channels” and entered downstream portions lacking concrete linings
- District was liable, because it exercised control over the concrete lined portions

# Compton Creek





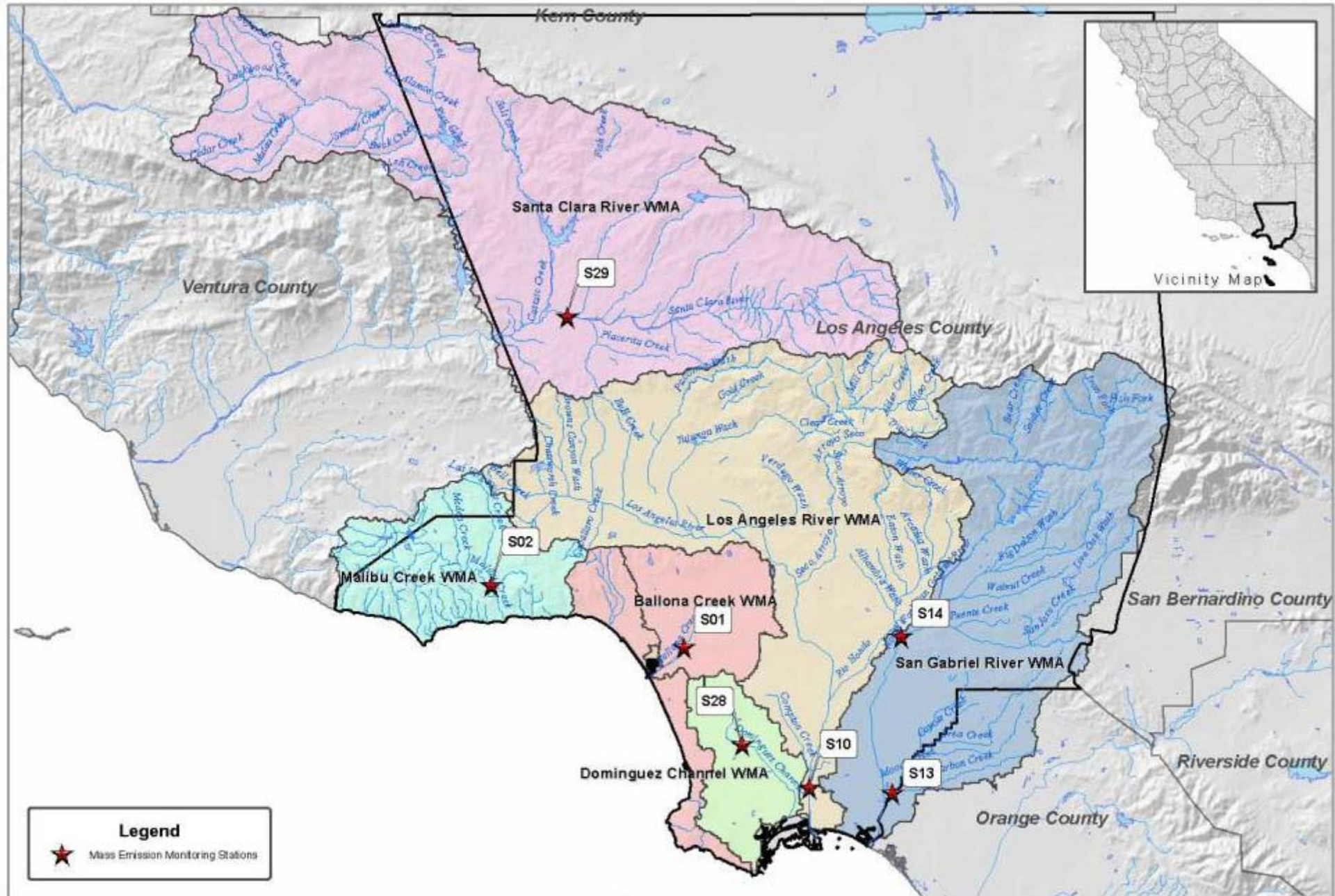
# Compton Creek – Soft Bottom



# Compton Creek – Los Angeles River Confluence





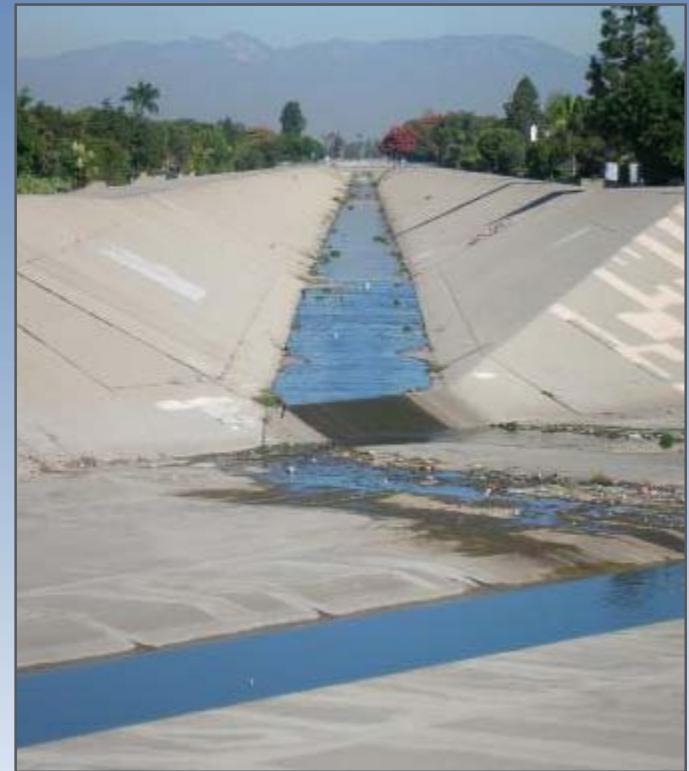


**Figure 2-1**  
Mass Emission Monitoring Stations



# Supreme Court

- Agreed to Hear One Question
- Did a “Discharge of Pollutants” Occur?
  - “flows from one portion of a river that is navigable water of the United States, through a concrete channel or other engineered improvement in the river,” and then “into a lower portion of the same river”?
- Parties (& US) Agreed: No





# Did a Discharge Occur?

Supreme Court Precedent:  
South Florida Water Management District v.  
Miccosukee Tribe

- The transfer of polluted water between “two parts of the same water body” does not constitute a discharge of pollutants under the CWA

# Supreme Court Decision

“We hold, therefore, that the flow of water from an improved portion of a navigable waterway into an unimproved portion of the very same waterway does not qualify as a discharge of pollutants under the CWA”



# Supreme Court Decision

- Reversed Judgment and Remanded
- NRDC and Baykeeper Argument
  - “It is not embraced within, or even touched by, the narrow question on which we granted certiorari. We therefore do not address, and indicate no opinion on the issue...”

# Potential Impacts?

- Miccosukee Case
  - A water transfer would count as a discharge of pollutants under the CWA only if the canal and the reservoir were “meaningfully distinct water bodies”
- District admitted water quality standards in the permit were exceeded
  - Case was remanded...



# Questions?

