



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

July 2, 2007

Ms. Diane F. Boyer-Vine
Legislative Counsel
State of California
State Capitol, Suite 3021
Sacramento, California 95814

Mr. Gregory P. Schmidt
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California 95814

Re: Report on Flood Control and Water Conservation Liability

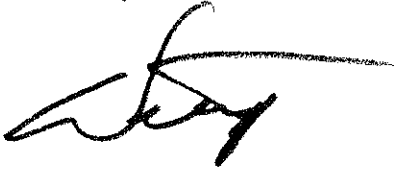
Dear Ms. Boyer-Vine, Mr. Schmidt, and Mr. Wilson:

Attached is the Judicial Council report required under 2001 Statutes, chapter 756, on flood control and water conservation liability. The content of this report is based on documentation received from the County of Los Angeles Department of Public Works, the agency that is subject to the provisions of chapter 756.

Ms. Boyer-Vine, Mr. Schmidt, and Mr. Wilson
July 2, 2007
Page 2

If you have any questions related to this report, please contact David Smith, Ph.D., senior research analyst at the Administrative Office of the Courts, Office of Court Research, at 415-865-7696 or at david.smith@jud.ca.gov.

Sincerely,

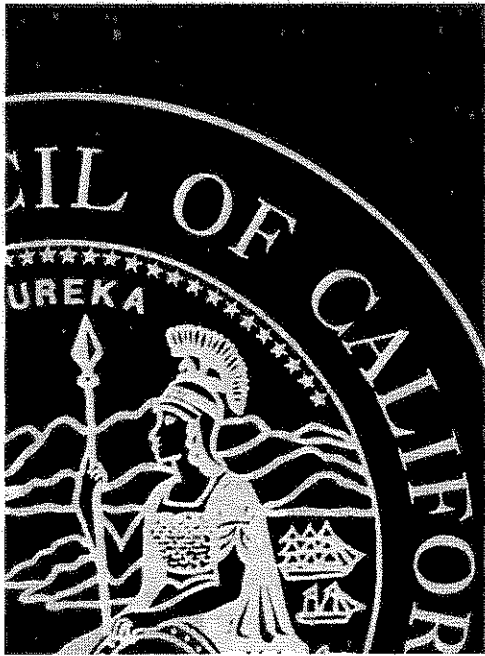
A handwritten signature in black ink, appearing to read 'W. Vickrey', with a long horizontal flourish extending to the right.

William C. Vickrey
Administrative Director of the Courts

WCV/DAS/sh

Enclosures

cc: Members of the Judicial Council
Kathleen T. Howard, Director, AOC Office of Governmental Affairs
Judicial Administration Library (2 copies)



Flood Control and Water Conservation Liability

REPORT TO THE LEGISLATURE UNDER
ASSEMBLY BILL 92, GOVERNMENT
CODE SECTIONS 831.8 AND 831.9



JUDICIAL COUNCIL
OF CALIFORNIA

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Flood Control and Water Conservation Liability

Report to the Legislature

Assembly Bill 92

Government Code Sections 831.8 and 831.9

Background

Assembly Bill 92 amends Government Code sections 831.8 and 831.9 (see Appendix A) by extending the operative date of the provisions of these codes to January 1, 2007. These codes provide that neither a public agency that operates flood control and water conservation facilities nor its employees shall be liable for injuries caused by the condition or use of unlined flood control channels or adjacent groundwater recharge spreading grounds under prescribed conditions.

Existing law requires that the County of Los Angeles Department of Public Works maintain a record of injuries, and the results of any civil actions ensuing therefrom, that are incurred by the public in the unlined flood control channels or adjacent groundwater recharge spreading grounds during groundwater recharge activities. Further, the department must annually file a copy of that record with the Judicial Council. This report summarizes these records in compliance with existing statute.

Summary of Findings

The Administrative Office of the Courts has received reports from the County of Los Angeles under the requirements of Government Code sections 831.8 and 831.9, covering the calendar years 2000 through 2005 (see Appendix B). These reports indicate that the department has undertaken the following preventative actions to ensure the safety of the public:

- Warning signs have been posted in 114 areas, informing and cautioning the public of any increase in water flows in unlined flood control channels and adjacent spreading grounds. (See maps in Appendix C, detailing channels and sign locations.)
- A reporting procedure has been implemented for all Department of Public Works field personnel.

The results of the monitoring and recording process implemented by Los Angeles County indicate the following.

Claims or Lawsuits

- There is no record of any claims or lawsuits having been filed against the Department of Public Works in relation to injuries or deaths in unlined flood control channels or adjacent spreading grounds during calendar years 2001–2005.

Injuries and Fatalities

2001—No injuries or deaths were reported in unlined flood control channels in Los Angeles County during calendar year 2001.

2002—In November 2002 a single automobile accident was reported adjacent to an unlined flood control channel, by the Los Angeles Department of Public Works. The collision, between two cars, occurred on San Gabriel Canyon Road in the City of Azusa, California. After the initial collision both cars slid into the riverbed paralleling the highway, with minor injuries reported by one motorist.

2003—In May 2003 an accidental drowning death was reported by the Los Angeles Department of Public Works. The drowning occurred near the flood control basin of Santa Fe Dam located in the City of Irwindale, California.

2004—In November 2004 an apparent suicide was reported by the Los Angeles Department of Public Works. The suicide occurred near the Morris Dam Facility near Highway 39, in the Angeles National Forest.

2005—In January 2005 an apparent suicide was reported by the Los Angeles Department of Public Works. The suicide occurred in the Eaton Canyon Wash, in the City of Hawthorn, California.

Independent Verification of Accidents and Claims

Filings and disposition data received by the Administrative Office of the Courts do not allow for the identification of civil cases related to injuries or deaths occurring in the types of facilities specified by Government Code sections 831.8 or 831.9. A search of Westlaw and Lexis databases revealed no case filings in California involving injuries or deaths in unlined flood control channels in Los Angeles or any other California county. On that basis the reports submitted by the Los Angeles Department of Public Work constitute the record of accident and case activity related to the reporting requirements of AB 92 and Government Code sections 831.8 and 831.9.

APPENDIX A

Government Code

Sections 831.8 and 831.9

Section 831.8

831.8. (a) Subject to subdivisions (d) and (e), neither a public entity nor a public employee is liable under this chapter for an injury caused by the condition of a reservoir if at the time of the injury the person injured was using the property for any purpose other than that for which the public entity intended or permitted the property to be used.

(b) Subject to subdivisions (d) and (e), neither an irrigation district nor an employee thereof nor the state nor a state employee is liable under this chapter for an injury caused by the condition of canals, conduits or drains used for the distribution of water if at the time of the injury the person injured was using the property for any purpose other than that for which the district or state intended it to be used.

(c) Subject to subdivisions (d) and (e), neither a public agency operating flood control and water conservation facilities nor its employees are liable under this chapter for an injury caused by the condition or use of unlined flood control channels or adjacent groundwater recharge spreading grounds if, at the time of the injury, the person injured was using the property for any purpose other than that for which the public entity intended it to be used, and, if all of the following conditions are met:

- (1) The public agency operates and maintains dams, pipes, channels, and appurtenant facilities to provide flood control protection and water conservation for a county whose population exceeds nine million residents.
- (2) The public agency operates facilities to recharge a groundwater basin system which is the primary water supply for more than one million residents.
- (3) The groundwater supply is dependent on imported water recharge which must be conducted in accordance with court-imposed basin management restrictions.
- (4) The basin recharge activities allow the conservation and storage of both local and imported water supplies when these waters are available.
- (5) The public agency posts conspicuous signs warning of any increase in waterflow levels of an unlined flood control channel or any spreading ground receiving water.

(d) Nothing in this section exonerates a public entity or a public employee from liability for injury proximately caused by a dangerous condition of property if all of the following occur:

- (1) The injured person was not guilty of a criminal offense under Article 1 (commencing with Section 552) of Chapter 12 of Title 13 of Part 1 of the Penal Code in entering on or using the property.
- (2) The condition created a substantial and unreasonable risk of death or serious bodily harm when the property or adjacent property was used with due care in a manner in which it was reasonably foreseeable that it would be used.

(3) The dangerous character of the condition was not reasonably apparent to, and would not have been anticipated by, a mature, reasonable person using the property with due care.

(4) The public entity or the public employee had actual knowledge of the condition and knew or should have known of its dangerous character a sufficient time prior to the injury to have taken measures to protect against the condition.

(e) Nothing in this section exonerates a public entity or a public employee from liability for injury proximately caused by a dangerous condition of property if all of the following occur:

(1) The person injured was less than 12 years of age.

(2) The dangerous condition created a substantial and unreasonable risk of death or serious bodily harm to children under 12 years of age using the property or adjacent property with due care in a manner in which it was reasonably foreseeable that it would be used.

(3) The person injured, because of his or her immaturity, did not discover the condition or did not appreciate its dangerous character.

(4) The public entity or the public employee had actual knowledge of the condition and knew or should have known of its dangerous character a sufficient time prior to the injury to have taken measures to protect against the condition.

(f) Subdivision (c) shall become inoperative on and after January 1, 2007.

Section 831.9

Section 831.9 (a) The County of Los Angeles Department of Public Works shall maintain a record of all known or reported injuries incurred by the public in the unlined flood control channels or adjacent groundwater recharge spreading grounds during the activities of groundwater recharge. The County of Los Angeles Department of Public Works shall also maintain a record of all claims, paid and not paid, including any civil actions or proceedings and their results, arising from those incidents, that were filed against the county. Copies of these records shall be filed annually, no later than January 1 of each year, with the Judicial Council, which shall then submit a report to the Legislature on or before January 31, 2006, on the incidences of injuries incurred, claims asserted, and the results of any civil action or proceeding filed, by persons injured at these facilities.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

APPENDIX B

Annual Reports for 2000 to 2005:

**Liability Related to Injuries, Deaths, and Claims in Unlined Channels
and Spreading Grounds**

Department of Public Works, County of Los Angeles



COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100

JAMES A. NOYES, Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE: **MP-4**
2-15.21CR

December 31, 2001

Confidential

Ms. Francine Byrne
Judicial Council of California
Administrative Office of the Court
455 Golden Gate Avenue
San Francisco, CA 91402-3660

Dear Ms. Byrne:

ASSEMBLY BILL 2023 AND ASSEMBLY BILL 92

Pursuant to a conversation with a member of your staff, we understand that you have assumed Ms. Jacquelyn Harbert's responsibilities regarding Assembly Bill 2023. In the past two years, we have corresponded with her regarding this Assembly Bill.

Assembly Bill 2023 liability reporting procedure requires the Department of Public Works to record and report injuries incurred by the public in our unlined channels and adjacent spreading grounds, record any claims, paid and not paid, for injuries that have occurred in those facilities and submit an annual report to the Judicial Council due this year by January 1, 2002. We are also required to post conspicuous signs warning of any increase in water level flows within our unlined flood control channel and adjacent spreading grounds.

The County of Los Angeles Department of Public Works has satisfied all requirements outlined within Assembly Bill 2023. We have implemented a reporting procedure for all field personnel and posted warning signs as required. We have no records of any claims or injuries incurred by the public in these facilities during the 2001 calendar year.

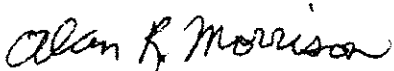
Please note that Assembly Bill 92 (copy enclosed) has extended the annual County reporting requirement to the Judicial Council which in future years will be due by January 1, 2003, 2004, 2005, 2006, and 2007.

Ms. Francine Byrne
December 31, 2001
Page 2

If you require additional information, please call me at (626) 458-7015.

Very truly yours,

JAMES A. NOYES
Director of Public Works



ALAN R. MORRISON, Principal Civil Engineering Assistant
Claims & Litigation Section
Mapping & Property Management Division

ARM:in
P4.AB2023and92

Enc.



COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
www.ladpw.org

JAMES A. NOYES, Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

December 23, 2002

IN REPLY PLEASE
REFER TO FILE:

MP-4
2-15.21

Ms. Francine Byrne
Judicial Council of California
Administrative Office of the Court
455 Golden Gate Avenue
San Francisco, CA 91402-3660

Dear Ms. Byrne:

ASSEMBLY BILL 2023 AND ASSEMBLY BILL 92

Assembly Bill 2023 liability reporting procedure requires the County of Los Angeles Department of Public Works to record and report injuries incurred by the public in our unlined channels and adjacent spreading grounds, record any claims, paid and not paid, for injuries which have occurred in those facilities and submit an annual report to the Judicial Council due this year by January 1, 2003. We are also required to post conspicuous signs warning of any increase in water level flows within our unlined flood control channel and adjacent spreading grounds.

The County of Los Angeles Department of Public Works has satisfied all requirements outlined within Assembly Bill 2023. We have implemented a reporting procedure for all field personnel and posted warning signs as required.

We have no record of injury incurred by the public in these facilities during the 2002 calendar year. Furthermore, we have not received any claims or lawsuits against the County of Los Angeles as a result of injury to the public in these facilities.

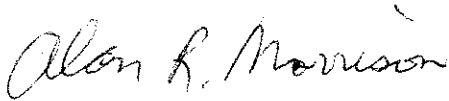
Please note that Assembly Bill 92 (copy enclosed) has extended the annual County reporting requirement to the Judicial Council which in future years will be due by January 1, 2004, 2005, 2006, and 2007.

Ms. Francine Byrne
December 23, 2002
Page 2

If you require additional information, please telephone me at (626) 458-7015.

Very truly yours,

JAMES A. NOYES
Director of Public Works

A handwritten signature in cursive script that reads "Alan R. Morrison".

ALAN R. MORRISON, Principal Civil Engineering Assistant
Claims & Litigation Section
Mapping & Property Management Division

ARM:jb
P4/ciARM3

Enc.



COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5106
www.ladpw.org

JAMES A. NOYES, Director

ADDRESS ALL CORRESPONDENCE TO
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

January 21, 2003

IN REPLY PLEASE
REFER TO FILE:

MP-4
2-15.21

Ms. Francine Byrne
Judicial Council of California
Administrative Office of the Court
455 Golden Gate Avenue
San Francisco, CA 91402-3660

Dear Ms. Byrne:

ASSEMBLY BILL 2023 AND ASSEMBLY BILL 92

Recently, we sent you a December 23, 2002, letter (enclosed) regarding our response to Assembly Bill 2023 and Assembly Bill 92. Recently, it came to our attention that there was an incident on November 18, 2002, involving two drivers whose vehicles collided on San Gabriel Canyon Road approximately 4,000 feet north of Sierra Madre Road in the City of Azusa and ended up in the unlined San Gabriel riverbed that is maintained by our Los Angeles County Flood Control District. The enclosed Azusa Police Department Report No. 2002-6506 indicates that only one of the drivers was injured (Mr. Bastedo). Also enclosed is our Department's "Report for Injuries or Deaths in Unlined Channels and Spreading Grounds" dated December 12, 2002. Currently, we have no record of any claim or lawsuit filed against our Department regarding this incident.

If you require additional information, please telephone me at (626) 458-7015.

Very truly yours,

JAMES A. NOYES
Director of Public Works

A handwritten signature in cursive script that reads "Alan R. Morrison".

ALAN R. MORRISON, Principal Civil Engineering Assistant
Claims & Litigation Section
Mapping & Property Management Division

ARM:jb
P4/clARM4

Enc.



MAPPING & PROPERTY MANAGEMENT DIVISION

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
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ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

April 11, 2005

IN REPLY PLEASE
REFER TO FILE: MP-4
2-15.21

Ms. Francine Byrne
Judicial Council of California
Administrative Office of the Court
455 Golden Gate Avenue
San Francisco, CA 91402-3660

Dear Ms. Byrne:

ASSEMBLY BILL 2023 AND ASSEMBLY BILL 92

Assembly Bill 2023 liability reporting procedure requires the County of Los Angeles Department of Public Works to record and report injuries incurred by the public in our unlined channels and adjacent spreading grounds, record any claims, paid and unpaid, for injuries that have occurred in those facilities and submit an annual report to the Judicial Council by January 1 of each year. We are also required to post conspicuous signs warning of any increase in water level flows within our unlined flood control channel and adjacent spreading grounds.

The County of Los Angeles Department of Public Works has satisfied all requirements outlined within Assembly Bill 2023. We have implemented a reporting procedure for all field personnel and posted warning signs as required.

Please allow this correspondence to serve as a report for both the 2003 and 2004 calendar year. Our records indicate there was a fatal drowning accident on May 18, 2003 wherein a 15-year old male victim fell into the lower flood basin of the Santa Fe Dam maintained by our Los Angeles County Flood Control District. Enclosed is County of Los Angeles Sheriff's Department Incident Report and our Department's "Report for Injuries or Deaths in Unlined Channels and Spreading Grounds." Currently we have no record of any claim or lawsuit filed against our Department regarding this incident. We have no records of any claims or injuries incurred by the public in these facilities during the 2004 calendar year.

Ms. Francine Byrne
April 11, 2005
Page 2

If you require additional information, please contact me at (626) 458-7010.

Very truly yours,

DONALD L. WOLFE
Acting Director of Public Works

SIGNED AND SENT

DENA M. VENEGAS, Administrative Assistant II
Claims & Litigation Section
Mapping & Property Management Division

DMV:mr
4:\ab2023

Enc.



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
www.ladpw.org

June 13, 2005

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE #

MP-4
2-15.21CR

Confidential

Ms. Francine Byrne
Judicial Council of California
Administrative Office of the Court
455 Golden Gate Avenue
San Francisco, CA 91402-3660

Dear Ms. Byrne:

ASSEMBLY BILL 2023 AND ASSEMBLY BILL 92

On April 11, 2005, the County of Los Angeles Department of Public Works submitted a letter to you in response to Assembly Bill 2023 liability reporting procedures. We reported no injuries or deaths in our unlined channels or spreading grounds for the 2004 calendar year. It has recently come to our attention that there was an incident involving a possible suicide at our Morris Dam facility near Highway 39 and Mile Marker 19.10 in the Angeles National Forest on November 29, 2004. Enclosed are our revised Report for Injuries or Deaths in Unlined Channels and Spreading Grounds and the County of Los Angeles Sheriff's Department Incident Report. Currently, we have no record of any claim or lawsuit filed against Public Works regarding this incident.

If you require additional information, please contact me at (626) 458-7010.

Very truly yours,

DONALD L. WOLFE
Interim Director of Public Works

DENA M. VENEGAS, Administrative Assistant II
Claims & Litigation Section
Mapping & Property Management Division

DMV:mr:
4:\ab2023-2

Enc.



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

DONALD L. WOLFE, Director

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
www.ladpw.org

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

January 18, 2006

IN REPLY PLEASE
REFER TO FILE: **MP-4**
2-15.21CR

Confidential

Mr. David A. Smith
Office of Court Research
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102

Dear Mr. Smith:

ASSEMBLY BILL 2023 AND ASSEMBLY BILL 92

Assembly Bill 2023 liability reporting procedure requires the County of Los Angeles Department of Public Works (DPW) to record and report injuries incurred by the public in our unlined channels and adjacent spreading grounds, record any claims, paid and unpaid, for injuries that have occurred in those facilities and submit an annual report to the Judicial Council by January 1 of each year. We are also required to post conspicuous signs warning of any increase in water level flows within our unlined flood control channel and adjacent spreading grounds.

DPW has satisfied all requirements outlined within Assembly Bill 2023. We have implemented a reporting procedure for all field personnel and posted warning signs as required. We have installed 114 signs warning the public of any increase in water flows in our unlined flood control channels and adjacent spreading grounds (see enclosed Advisory Sign Location Maps).

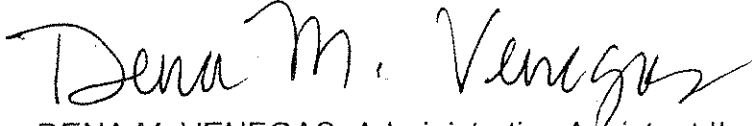
Our records indicated there was an apparent suicide on December 20, 2005, wherein a 24-year old male jumped off a roadway bridge and landed in Eaton Channel, a facility owned and maintained by DPW. Enclosed are the County of Los Angeles Sheriff's Department's Incident Report and our Report for Injuries or Deaths in Unlined Channel and Spreading Grounds in connection with this incident. Currently, we have no record of any claim or lawsuit filed against DPW regarding this incident.

Mr. David A. Smith
January 18, 2006
Page 2

If you have any questions concerning this matter, please contact me at (626) 458-7010.

Very truly yours,

DONALD L. WOLFE
Director of Public Works

A handwritten signature in black ink that reads "Dena M. Venegas". The signature is written in a cursive style with a large, stylized "D" and "V".

DENA M. VENEGAS, Administrative Assistant II
Claims & Litigation Section
Mapping & Property Management Division

DMV:sl
MP-4/L dmv 3

Enc.

APPENDIX C

**Advisory Sign Location Maps for Unlined Channels
and Adjacent Spreading Facilities**

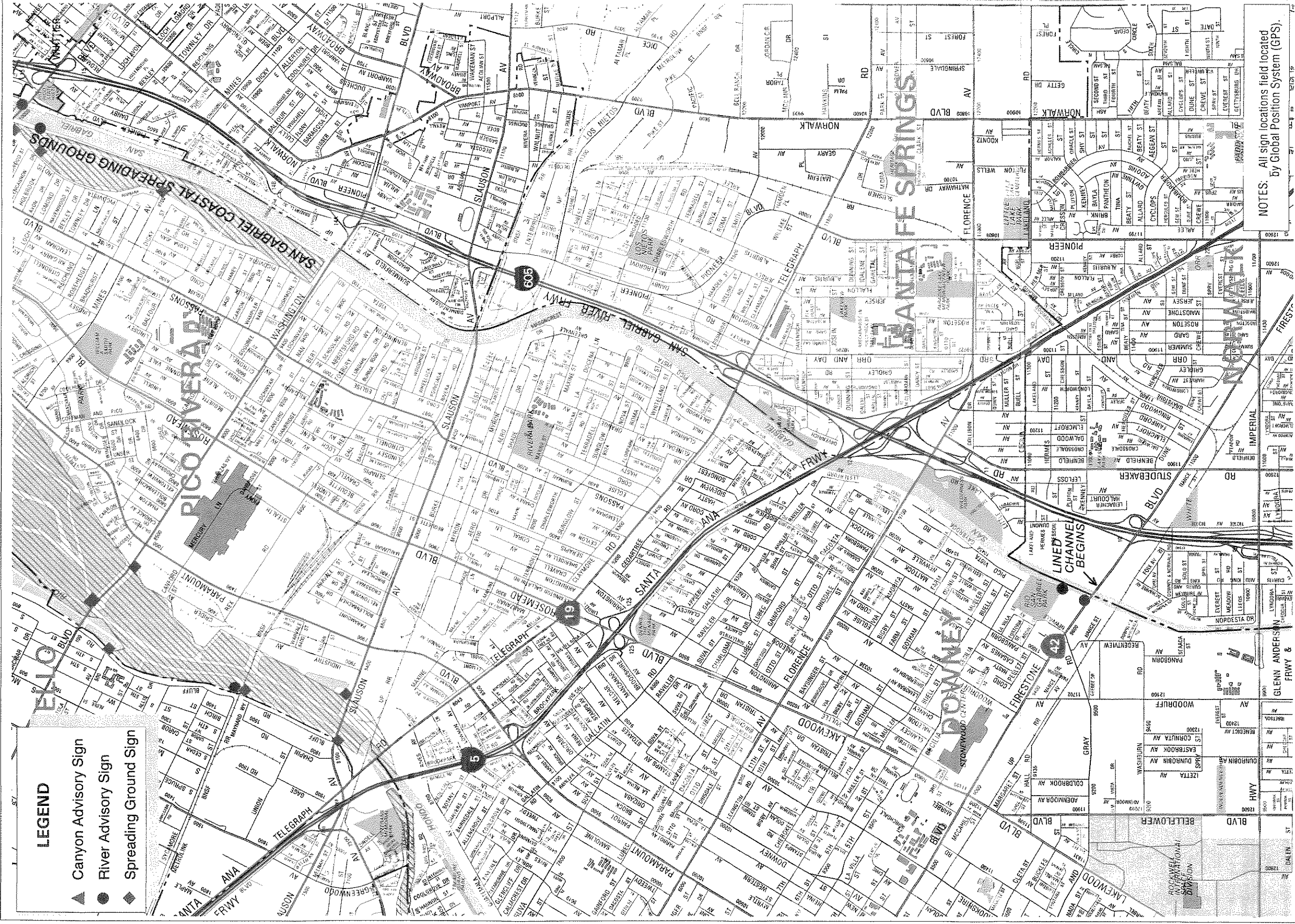
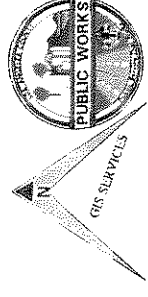
Los Angeles County

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AB2023 LIABILITY COMPLIANCE PLAN ADVISORY SIGN LOCATION MAP

FOR UNLINED CHANNELS AND ADJACENT SPREADING FACILITIES



LEGEND

- ▲ Canyon Advisory Sign
- River Advisory Sign
- ◆ Spreading Ground Sign

NOTES: All sign locations field located by Global Position System (GPS).

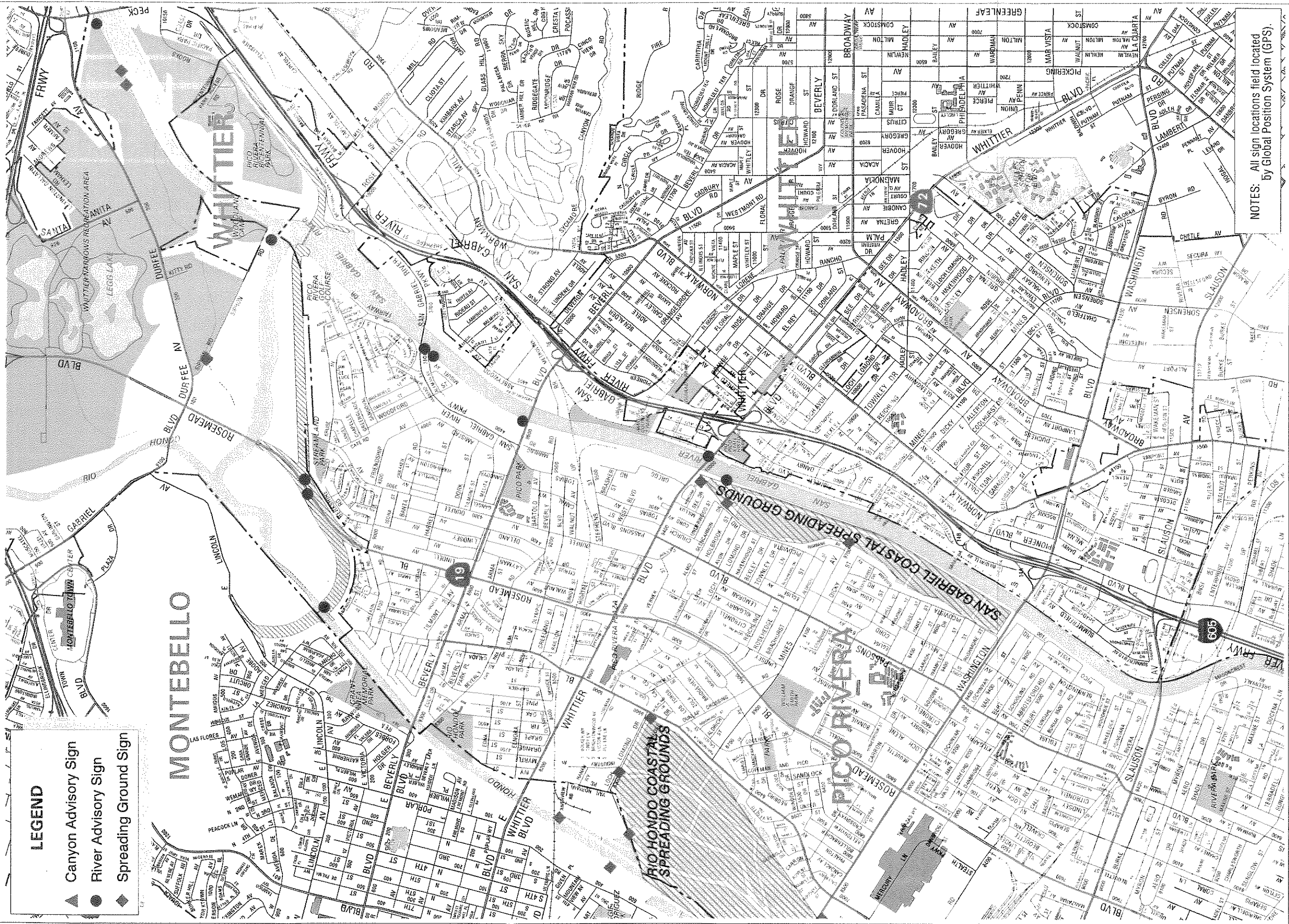
This map was prepared by the Public Works Department of the City of Whittier. All rights reserved.

AB2023 LIABILITY COMPLIANCE PLAN ADVISORY SIGN LOCATION MAP

FOR UNLINED CHANNELS AND ADJACENT SPREADING FACILITIES



FEET 2000
MILES 0.379



LEGEND

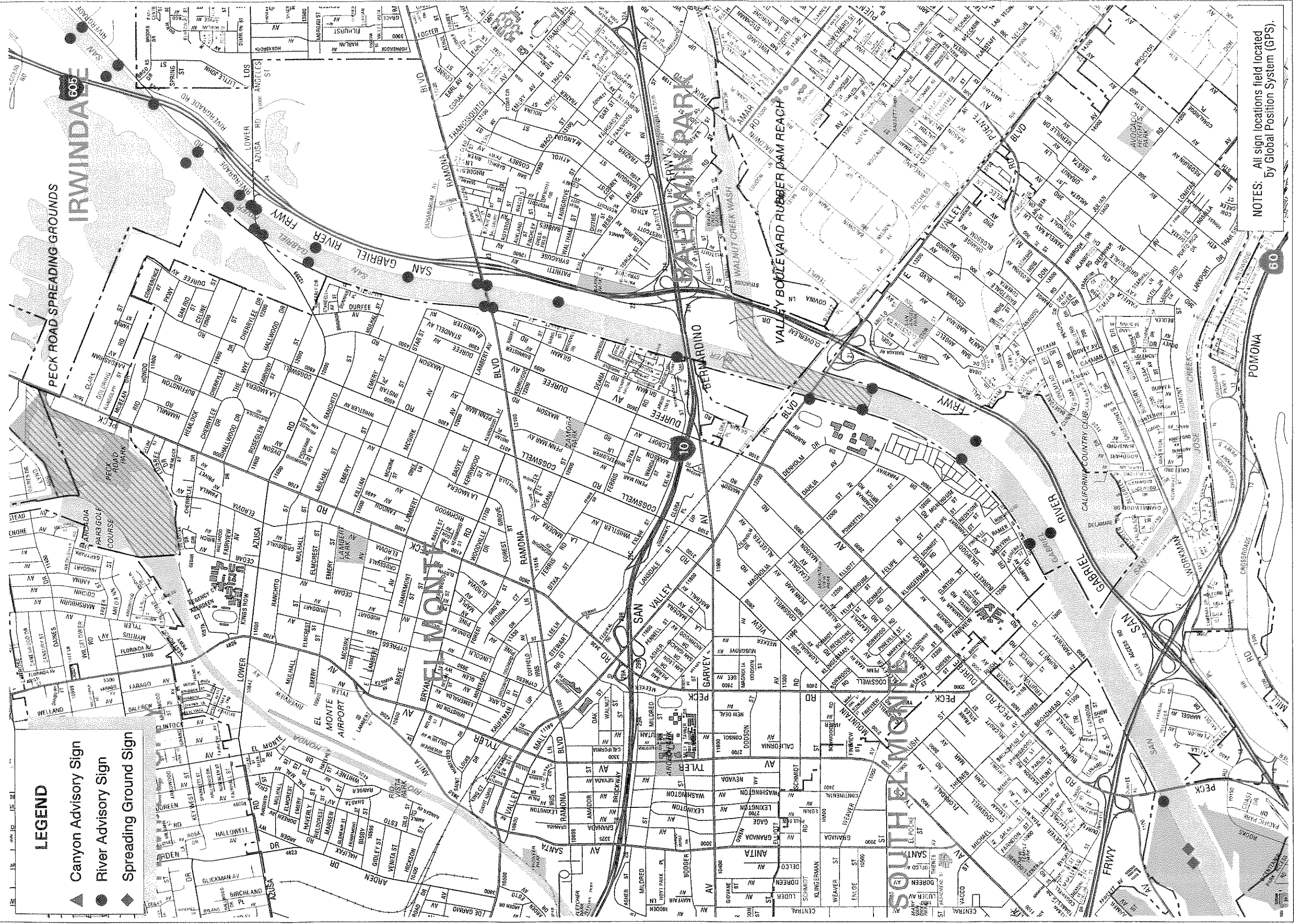
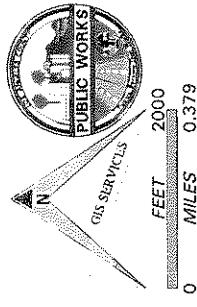
- ▲ Canyon Advisory Sign
- River Advisory Sign
- ◆ Spreading Ground Sign

NOTES: All sign locations field located by Global Position System (GPS).

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AB2023 LIABILITY COMPLIANCE PLAN ADVISORY SIGN LOCATION MAP

FOR UNLINED CHANNELS AND ADJACENT SPREADING FACILITIES



LEGEND

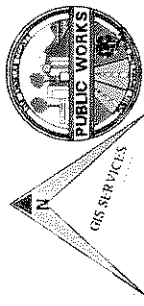
- ▲ Canyon Advisory Sign
- River Advisory Sign
- ◆ Spreading Ground Sign

NOTES: All sign locations field located by Global Position System (GPS).

Data contained in this map was produced in whole or in part from the Los Angeles County Department of Public Works Digital Database.

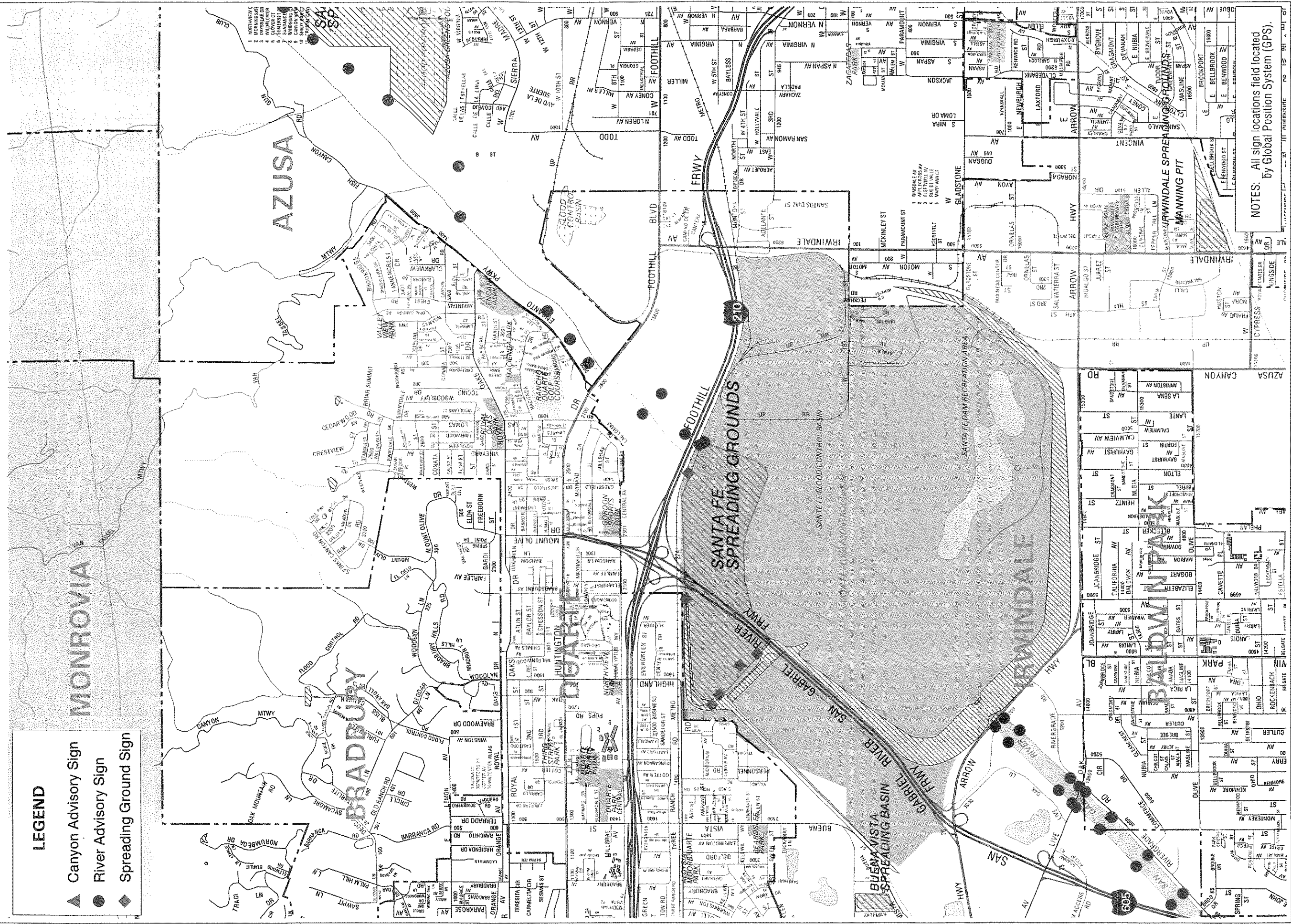
Data contained in this map is produced in whole or in part from the Thomas Line, Mapco Digital Database. This data was provided by Thomas Line, Mapco. All rights reserved.

AB2023 LIABILITY COMPLIANCE PLAN ADVISORY SIGN LOCATION MAP FOR UNLINED CHANNELS AND ADJACENT SPREADING FACILITIES



LEGEND

- ▲ Canyon Advisory Sign
- River Advisory Sign
- ◆ Spreading Ground Sign



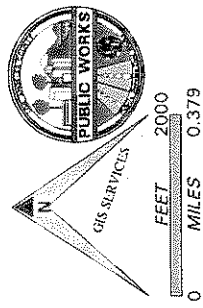
NOTES: All sign locations field located by Global Position System (GPS).

This material in this map was produced in whole or in part by Public Works' digital database.

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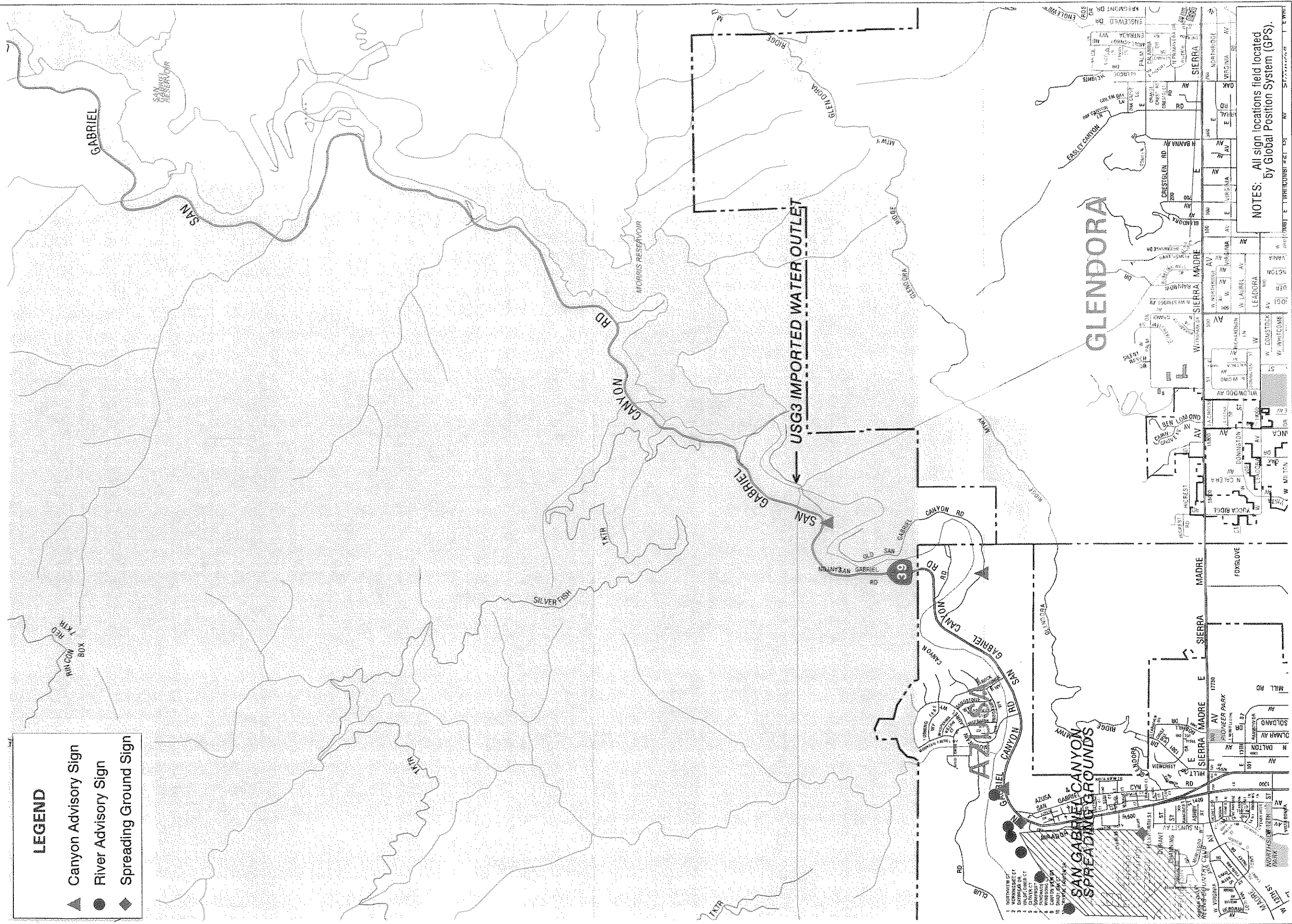
AB2023 LIABILITY COMPLIANCE PLAN ADVISORY SIGN LOCATION MAP

FOR UNLINED CHANNELS AND ADJACENT SPREADING FACILITIES



LEGEND

- ▲ Canyon Advisory Sign
- River Advisory Sign
- ◆ Spreading Ground Sign



NOTES: All sign locations field located by Global Position System (GPS).