

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DAN GRIGSBY, et al.,
Plaintiffs,

v.

CITY OF LOS ANGELES ACTING BY
AND THROUGH THE LOS ANGELES
DEPARTMENT OF WATER AND POWER,
a government entity; CITY OF LOS
ANGELES, a government entity;
CALIFORNIA DEPARTMENT OF PARKS
AND RECREATION, a government entity;
STATE OF CALIFORNIA; SOUTHERN
CALIFORNIA EDISON COMPANY, a
California corporation; EDISON
INTERNATIONAL, a California corporation;
CHARTER COMMUNICATIONS, a
Delaware corporation; FRONTIER
COMMUNICATIONS, a Delaware
corporation; AT&T, Inc., a Delaware,
corporation; COUNTY OF LOS ANGELES,
a government entity; LAS VIRGENES
MUNICIPAL WATER DISTRICT, a public
utility; SEMPRA ENERGY, a California
corporation; SOUTHERN CALIFORNIA
GAS COMPANY, a California corporation;
J. PAUL GETTY TRUST, a California
charitable trust; MOUNTAIN
RECREATION AND CONSERVATION
AUTHORITY, and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 25STCV00832

~~TENTATIVE~~ ORDER RE DEFENDANTS
CITY OF LOS ANGELES AND THE CITY
OF LOS ANGELES, ACTING BY AND
THROUGH THE LOS ANGELES
DEPARTMENT OF WATER AND
POWER'S DEMURRER TO THE MASTER
COMPLAINT

Hearing Date: February 5, 2026
Hearing Time: 8:30 a.m.
Dept.: 7

1 Defendants City of Los Angeles (the “City”) and City of Los Angeles, acting by and
2 through the Los Angeles Department of Water and Power (“LADWP”) demurrer to the
3 master complaint. The Individual Plaintiffs Dan Grigsby, et al.¹ who consist of “individuals
4 and other legal entities who were, at all relevant times, homeowners, renters, business
5 owners, and other individuals and entities who suffered and/or continue to suffer personal
6 injuries (including but not limited to physical injuries from smoke and other toxic substance
7 inhalation and exposure, as well as burn and heat injuries, and other physical injuries
8 suffered during evacuation, and emotional distress), property losses, and/or other
9 damages from the Palisades Fire and are estimated to number in excess of 10,000
10 individuals and/or other legal entities[,]” (Revised Master Complaint ¶ 9), (collectively
11 “Plaintiffs”) oppose the motion.

12 For the reasons explained below, the Court OVERRULES the City and LADWP’s
13 demurrer to the Revised Master Complaint.

14 I. Procedural History

15 This is the lead action for cases relating to the Palisades Fire. Plaintiffs allege that
16 Defendants conduct contributed to the Palisades Fire which resulted in the destruction of
17 6,837 homes and businesses, damage to another 973 structures, the death of thirteen
18 people, and caused injuries to civilians and firefighters.

19 On January 13, 2025, Plaintiffs filed the initial complaint. On October 8, 2025,
20 Plaintiffs filed a Master Complaint asserting fifty-three causes of action. On December 1,
21 2025, Plaintiffs filed the operative Revised Master Complaint asserting fifty-four causes
22 of action. In relevant part, Plaintiffs assert six causes of action against the City and
23 LADWP for: (5) Inverse Condemnation (Powerlines) against LADWP, (6) Inverse
24 Condemnation (Water Supply System) against LADWP, (7) Dangerous Condition of
25 Public Property (Powerlines) against LADWP, (8) Public Nuisance (Powerlines) against
26
27

28
29 ¹ Because the number of Individual Plaintiffs is in excess of 10,000 individuals and/or other legal entities,
the Court declines to name each Plaintiff individually.

1 LADWP, (9) Dangerous Condition of Public Property against the City, and (10) Public
2 Nuisance against the City.

3 On November 13, 2025, the City and LADWP filed the instant demurrer to claims
4 against them in the Master Complaint. On December 18, 2025, Plaintiffs filed an
5 opposition. On January 15, 2026, the City and LADWP filed a reply.

6 II. Master Complaint Allegations

7 In relevant part the Master Complaint alleges that:

8 LADWP is a public utility and the City is a charter city. (Revised Master Complaint
9 ¶¶ 15-16.)

10 On January 1, 2025, at approximately 12:07 am the Lachman Fire was reported
11 near Skull Rock on the Temescal Ridge Trail within Topanga State Park in the Pacific
12 Palisades. (*Id.* ¶¶ 62, 76.) After being contained, the Lachman Fire left smoldering embers
13 which reignited with the winds picking up on January 7, 2025. (*Id.* ¶¶ 69-78.) On January
14 7, 2025, the Palisades Fire erupted near where the Lachman Fire had burned six days
15 prior. (*Id.* ¶ 85.)

16 LADWP designed, constructed, and operated the water supply system in the
17 Pacific Palisades. (*Id.* ¶ 135.) As designed, the Santa Ynez Reservoir served a critical
18 role in the overall operation of the system in that it provided the sole source of 117 million
19 gallons of water but also “provided consistent static and dynamic pressures necessary
20 for the entire system to function as designed.” (*Id.* ¶ 135.) “The removal of water from
21 Santa Ynez Reservoir exposed an inherent risk in the design of the system, namely, a
22 substantial drop in water pressure, which rendered the system completely inoperable
23 during a high volume water demand event — such as the Palisades Fire. Stated
24 differently, the LADWP designed the system knowing that the system would completely
25 fail during a high-volume demand event if the Santa Ynez Reservoir was taken offline.
26 Not only would this eliminate 117 [million gallons] of available water to the public, it would
27 also cause a substantial drop in water pressure rendering the entire system inoperable
28 during a high-volume demand event.” (*Ibid.*)

1 “[T]he floating cover on the Santa Ynez Reservoir was defective and prone to
2 tears, and despite a history of tears in the cover, LADWP failed to perform detailed
3 monthly inspections or annual underwater inspections of the floating cover to check for
4 damage and tears.” (*Id.* ¶ 168.) On January 16, 2024, LADWP discovered a tear in the
5 floating cover. (*Id.* ¶ 169.) The tear was discovered to be larger than anticipated so
6 LADWP completely drained the Santa Ynez Reservoir by April 2, 2024 to perform repairs.
7 (*Id.* ¶¶ 169-175.) Because the Santa Ynez Reservoir had been drained, during the
8 Palisades Fire, LADWP’s water supply system for the Pacific Palisades “could not keep
9 pace with the demand placed on the water supply, including the fire hydrants, and were
10 a substantial cause of the uncontrolled spread of the Palisades Fire. (*Id.* ¶ 136.)

11 In addition, “LADWP’s wood utility poles which it designed, constructed and
12 maintained in Pacific Palisades did not meet [CPUC] GO 95 ‘will not fail’ wind speed
13 standards because they were overloaded, beyond their useful life and/or decayed and
14 not properly guyed or maintained, which resulted in a large number of wood poles
15 breaking, snapping and/or failing causing energized powerlines to fall onto structures and
16 flammable vegetation igniting additional fires throughout Pacific Palisades on January 7,
17 2025.” (*Id.* ¶ 207.)

18 “LADWP’s Wildfire Mitigation Plan required LADWP to block reclosers during Red
19 Flag Alerts by the LAFD.” (*Id.* ¶ 208.) “Blocking a recloser is a tool commonly used by
20 utility companies in Southern California to prevent wildfires by not allowing electricity to
21 be restored to a powerline after an initial fault has been detected from either a downed
22 powerline or from contact between a powerline and a tree limb.” (*Ibid.*)

23 At 1:47pm on January 7, 2025, LADWP’s Electric Trouble System “requested that
24 circuits at its Distribution Station 29 (‘DS-29’) located on Sunset Boulevard and Via De La
25 Paz in Pacific Palisades be de-energized ‘due to proximity to fire’.” (*Id.* ¶ 210.) LADWP
26 sent a Substation Operator to DS-29 to fulfill this de-energize request, but the Substation
27 Operator ran into traffic on the way. (*Id.* ¶¶ 214-215.) LADWP personnel informed
28 LADWP’s Energy Control Center that the Substation Operator to DS-29 and if could in an
29 emergency remotely de-energize the entire DS-29 station. (*Id.* ¶ 215.) However, “LADWP

1 never advised that there was an emergency such that DS-29 should be entirely de-
2 energized.” (*Id.* ¶ 217.) LADWP’s Substation Operator arrived at 6:03pm – four hours
3 after the request to de-energize. (*Id.* ¶ 218.) Due to a malfunction in the remote cord,
4 when LADWP’s Substation Operator “attempted to de-energize the circuits at DS-29 on
5 January 7th, LADWP’s energized powerlines arced, sparked and ignited multiple fires in
6 Pacific Palisades which caused the Plaintiffs’ damages as alleged herein.” (*Id.* ¶ 227.)

7 “[M]any of LADWP’s Distribution Stations had outdated and antiquated equipment
8 which could not be controlled remotely and required a substation operator to travel to
9 these stations and manually block their reclosers.” (*Id.* ¶ 228.) “LADWP’s broken and
10 failed equipment at its Distribution Stations, including but not limited to DS-29, DS-195 and
11 DS-198, was a substantial factor in causing the damage and destruction of thousands of
12 homes in Pacific Palisades.” (*Id.* ¶ 232.)

13 The City “owns numerous vacant lots in Pacific Palisades, including but not limited
14 to 17919 Porto Marina Way, 17857 Porto Marina Way, 17863 Porto Marina Way, 17908
15 Castellammare Drive, 17916 Castellammare Drive, and 17945 Porto Marina Way in
16 Pacific Palisades.” (Revised Master Complaint ¶ 269.) These City owned lots were
17 overgrown with brush in violation of the City’s own brush clearance ordinances on
18 January 7, 2025. (*Id.* ¶¶ 269-286.) The City’s brush clearance ordinances require the
19 removal and maintenance of vegetation within 100 feet of buildings and makes a violation
20 of these brush clearance ordinances a public nuisance. (*Id.* ¶¶ 281-283.) Plaintiffs allege
21 that the overgrown brush on the City’s property contributed to the spread and intensity of
22 the Palisades Fire. (*Id.* ¶ 284.)

23 III. Request for Judicial Notice

24 In conjunction with the moving papers, the City and LADWP request judicial notice
25 of the following:

- 26 A. The City of Los Angeles Department of Water and Power 2024 Wildfire
27 Mitigation Plan, published in June 2024.

1 B. A Screenshot Public Utilities Commission Fire Threat Map accessible at
2 [https://capuc.maps.arcgis.com/apps/webappviewer/index.html?id=5bdb921d7](https://capuc.maps.arcgis.com/apps/webappviewer/index.html?id=5bdb921d747a46929d9f00dbdb6d0fa2)
3 [47a46929d9f00dbdb 6d0fa2](https://capuc.maps.arcgis.com/apps/webappviewer/index.html?id=5bdb921d747a46929d9f00dbdb6d0fa2).

4 In conjunction with the opposition, Plaintiffs request that the Court take judicial
5 notice of the following:

6 A. Defendants' Reply In Support of Demurrer, *Fix the City, Inc. v. City of Los*
7 *Angeles et al.*, No. 23STCP03519 (Super. Ct. L.A. County, Central Dist., Dept.
8 86, filed Mar. 21, 2024) ("City's Reply Brief").

9 B. Ruling on Demurrer to Verified First Amended Petition for Writ of Mandate, *Fix*
10 *the City, Inc. v. City of Los Angeles et al.*, No. 23STCP03519 (Super. Ct. L.A.
11 Cnty., Central Dist., filed May 30, 3024).

12 C. Respondents' Brief, *Fix the City, Inc. v. City of Los Angeles et al.*, No. B339464
13 (Cal. Ct. App., 2d Dist., 1st Div., filed Oct. 20, 2025).

14 As the court may take judicial notice of court records and government records,
15 (See Evid. Code, § 452(c), (d)), the Plaintiffs' request for judicial notice and the City and
16 LADWP's request for judicial notice of LADWP's 2024 Wildfire Mitigation Plan is
17 GRANTED. However, the Court does not take judicial notice of the truth of assertions
18 within these records. (See *Herrera v. Deutsche Bank National Trust Co.* (2011) 196
19 Cal.App.4th 1366, 1375.)

20 The City and LADWP's request for judicial notice of Public Utilities Commission
21 Fire Threat Map must be DENIED. The Public Utilities Commission Fire Threat Map is a
22 screenshot from a website. (Levin Decl. ¶ 4.) A court "may not take judicial notice of the
23 truth of the contents of a website." (*LG Chem, Ltd. v. Superior Court of San Diego County*
24 (2022) 80 Cal.App.5th 348, 362.)

25 IV. Legal Standard

26 A demurrer can be used only to challenge defects that appear on the face of the
27 pleading under attack; or from matters outside the pleading that are judicially noticeable.
28 (*Blank v. Kirwan* (1985) 39 Cal 3d 311, 318.) No other extrinsic evidence can be
29

1 considered (i.e., no “speaking demurrers”). (*Ion Equipment Corp. v. Nelson* (1980) 110
2 Cal.App.3d 868, 881.)

3 A demurrer for sufficiency tests whether the complaint states a cause of action.
4 (*Hahn v. Mirda* (2007) 147 Cal. App. 4th 740, 747.) When considering demurrers, courts
5 “give the complaint a reasonable interpretation, and read it in context.” (*Schifando v. City*
6 *of Los Angeles* (2003) 31 Cal.4th 1074, 1081.) In a demurrer proceeding, the defects
7 must be apparent on the face of the pleading or via proper judicial notice. (*Donabedian v.*
8 *Mercury Ins. Co.* (2004) 116 Cal. App. 4th 968, 994.) “A demurrer tests the pleadings
9 alone and not the evidence or other extrinsic matters. Therefore, it lies only where the
10 defects appear on the face of the pleading or are judicially noticed.” (*SKF Farms v.*
11 *Superior Ct.* (1984) 153 Cal. App. 3d 902, 905.) “The only issue involved in a demurrer
12 hearing is whether the complaint, as it stands, unconnected with extraneous matters,
13 states a cause of action.” (*Hahn, supra*, 147 Cal.App.4th at p.747.)

14 V. Analysis

15 A. Inverse Condemnation (Water Supply System) – (Sixth Cause of Action)

16 LADWP argues that the inverse condemnation claim against it based on the failure
17 of the water supply system fails because (1) LADWP cannot be liable for failing to provide
18 water for firefighting, (2) there is no taking where the public improvement did not create
19 the danger to public property, (3) no precedent supports Plaintiffs’ failure to prevent
20 damage takings theory, (4) history and public policy weigh against recognizing Plaintiffs’
21 claim, and (5) Plaintiffs’ reservoir maintenance allegations do not state a takings claim.

22 Immunity and Inverse Condemnation

23 Under the public utility exemption, “a water company generally owes no duty to a
24 person, whose property is destroyed by fire, to supply water for the extinguishment of the
25 fire.” (*White v. Southern Cal. Edison Co.* (1994) 25 Cal.App.4th 442, 449.) “[N]o action *in*
26 *tort* for failure to have a supply of water ...[rather] where liability is sought to be created it
27 can only arise from a private contract between the company and a consumer, under which
28 an obligation to furnish water for a specific purpose is undertaken by the company.”
29 (*Niehaus Bros. Co. v. Contra Costa Water Co.* (1911) 159 Cal. 305, 313 [italics added].)

1 In other words, “in the absence of a contract between the utility and the consumer
2 expressly providing for the furnishing of a service for a specific purpose, a public utility
3 owes no duty to a person injured as a result of an interruption of service or a failure to
4 provide service.” (*State Lands Com. v. Plains Pipeline, L.P.* (2020) 57 Cal.App.5th 582,
5 587.)

6 Similarly, Government Code “[s]ections 850 and 850.2 provide an absolute
7 immunity from liability for injury resulting from failure to provide fire protection or from
8 failure to provide enough personnel, equipment or other fire protection facilities. Whether
9 fire protection should be provided at all, and the extent to which fire protection should be
10 provided, are political decisions which are committed to the policy-making officials of
11 government.” (*Cairns v. County of Los Angeles* (1997) 62 Cal.App.4th 330, 335.)

12 However, these tort immunities do not apply to a claim for inverse condemnation.
13 (*Pacific Bell v. City of San Diego* (2000) 81 Cal.App.4th 596, 602–603 [“the immunities
14 provided by the Tort Claims Act do not insulate a public entity from liability for inverse
15 condemnation; the constitutional provisions requiring compensation for property taken or
16 damaged by a public use overrides the Tort Claims Act and its statutory immunities.
17 [Citation.] Thus, a plaintiff who establishes the elements of an inverse condemnation
18 claim may recover for property damage even though his tort claim has been rejected.”].)
19 This is because “[t]he inverse condemnation action is independent of any right to sue
20 under traditional tort theories.” (*Thousand Trails, Inc. v. California Reclamation Dist. No.*
21 *17* (2004) 124 Cal.App.4th 450, 461.)

22 Accordingly, because Plaintiffs’ claim is for inverse condemnation, LADWP’s
23 reliance on tort immunities such as the public utility exemption or statutory immunities
24 under the Tort Claims Act is misplaced.

25 Sufficiency of Plaintiffs’ Allegations for Inverse Condemnation

26 “To state a claim for inverse condemnation, a plaintiff must allege “[1.] a public
27 entity [2.] has taken or damaged their property [3.] for a public use.” (*Simple Avo Paradise*
28 *Ranch, LLC v. Southern California Edison Co.* (2024) 102 Cal.App.5th 281, 289.)
29 However, “[p]ublic entities are not strictly or otherwise automatically liable for any

1 conceivable damage bearing some kind of connection, however remote, to a public
2 improvement. To succeed on an inverse condemnation action, a plaintiff must ordinarily
3 show — assuming the public entity made reasonable assumptions about the public
4 improvement in question — that the damage to private property was substantially caused
5 by inherent risks associated with the design, construction, or maintenance of the public
6 improvement.” (*City of Oroville v. Superior Court* (2019) 7 Cal.5th 1091, 1098.)

7 “The concepts of ‘inherent risk’ and ‘substantial causation’ address somewhat
8 overlapping considerations but play distinct roles in the analysis of inverse condemnation.
9 And both must be present for a public entity to be liable.” (*Id.* at p.1106.) “The inherent
10 risk assessment requires a reviewing court to consider whether the inherent dangers of
11 the public improvement as deliberately designed, constructed, or maintained materialized
12 and were the cause of the property damage.” (*Ibid.*) However, “[a] link to one of the
13 aforementioned ‘inherent risks’ is necessary, but not sufficient, for a successful inverse
14 condemnation claim. The plaintiff must also establish substantial causation.” (*Id.* at
15 p.1107.) “At the core of the test [for substantial causation] is the requirement that — even
16 in the case of multiple concurrent causes — the injury to private property is an
17 ‘inescapable or unavoidable consequence’ of the public improvement as planned and
18 constructed.” (*Id.* at p.1108.) “Accordingly, the substantial causation element of the
19 analysis ensures liability is imposed only in instances where there is a sufficiently
20 meaningful causal relationship between the damage to private property and the inherent
21 risks posed by the public improvement as designed, constructed, or maintained.” (*Ibid.*)

22 Here, Plaintiffs allege that LADWP “designed the water supply system for the
23 Pacific Palisades knowing that the system would completely fail during a high-volume
24 demand event if the Santa Ynez Reservoir was taken offline.” (Revised Master Complaint
25 ¶ 420.) As designed, the Santa Ynez Reservoir served a critical role in the overall
26 operation of the system in that it provided the sole source of 117 million gallons of water
27 but also “provided consistent static and dynamic pressures necessary for the entire
28 system to function as designed.” (*Id.* ¶ 135.) “The removal of water from Santa Ynez
29 Reservoir exposed an inherent risk in the design of the system, namely, a substantial

1 drop in water pressure, which rendered the system completely inoperable during a high
2 volume water demand event — such as the Palisades Fire. Stated differently, the LADWP
3 designed the system knowing that the system would completely fail during a high-volume
4 demand event if the Santa Ynez Reservoir was taken offline. Not only would this eliminate
5 117 [million gallons] of available water to the public, it would also cause a substantial drop
6 in water pressure rendering the entire system inoperable during a high-volume demand
7 event.” (*Ibid.*)

8 Prior to the Palisades Fire, the Santa Ynez Reservoir was emptied for maintenance
9 of a defective floating cover. (*Id.* ¶¶ 168-175.) Further, Plaintiffs allege that LADWP
10 “deliberately maintained the cistern at Pacific Palisades Reservoir in a way that allowed
11 it to crack and leak, and ultimately made the deliberate decision to drain that reservoir.”
12 (*Id.* ¶ 162.) Thus, LADWP was unable to use the Pacific Palisades Reservoir as a backup
13 for when LADWP emptied the Santa Ynez Reservoir. (*Id.* ¶ 174, 182, 185-186.) Plaintiffs
14 allege that as a result, during the Palisades Fire, LADWP’s water supply system for the
15 Pacific Palisades “could not keep pace with the demand placed on the water supply,
16 including the fire hydrants, and were a substantial cause of the uncontrolled spread of the
17 Palisades Fire. (*Id.* ¶ 136.)

18 In sum, Plaintiffs allege that the inherent risk associated with the design,
19 maintenance, and construction of the Pacific Palisades water supply system was that
20 emptying of the Santa Ynez Reservoir would cause a substantial drop in water pressure
21 and jeopardize the properties serviced by the water system. Plaintiffs’ detailed allegations
22 set forth in paragraphs 135-136, 198, and 420-421 constitute sufficient allegations of
23 inherent risk and substantial causation. At the demurrer stage, these allegations and
24 reasonable inferences that flow therefrom are sufficient.

25 LADWP also argues that plaintiffs have failed to cite a single published decision –
26 in California or anywhere else – recognizing an inverse condemnation claim based on a
27 failure to supply sufficient water to prevent fire damages. Defendants emphasize that
28 history (going back to the Constitutional Convention in 1879 which resulted in an
29 amendment to the Takings Clause) and public policy (to create municipal liability for failing

1 to provide water for firefighting would, especially when the public improvement does not
2 itself inflict damage, make water ratepayers the insurers of private property against fire
3 damages and would bankrupt municipalities) weigh against recognizing Plaintiffs' inverse
4 condemnation theory.

5 In Opposition, Plaintiffs respond that the elements of inverse condemnation do not
6 include the fabricated requirements that the LADWP "attempts to import," including, that
7 the public improvement be the initial source of danger or what creates the danger for
8 inverse condemnation and that municipalities face inverse condemnation liability only for
9 infrastructure they have a duty to provide. Plaintiffs also argue that inverse condemnation
10 aligns with the policy behind the just condemnation clause and chide the City's policy
11 arguments about the financial exposure to municipalities if inverse condemnation is
12 applied when a water system fails to aid in firefighting (using phrase like "caus[ing] the
13 sky to fall," "nonsensical hyperbole," and "parade of horrors").

14 At the pleadings stage, as discussed above, the Court considers whether the
15 elements of an inverse condemnation cause of action have been sufficiently pleaded.
16 While the Court is aware of the important policy considerations raised by defendants and
17 relating to municipal liability vis-à-vis fires, the Court will reserve consideration of policy
18 issues until an evidentiary and factual record has been developed to aid the Court in more
19 thoroughly analyzing these issues. At this stage, the pleadings are sufficient.

20 For these reasons, LADWP's demurrer to the sixth cause of action for inverse
21 condemnation is OVERRULED.

22 B. Inverse Condemnation (Powerlines) (Fifth Cause of Action)

23 LADWP contends that the fifth cause of action for inverse condemnation based on
24 the powerlines fails because of (1) the discretionary function immunity and (2) the
25 emergency response immunity.

26 Discretionary Function Immunity

27 "[P]ublic entities and their employees are immune from tort liability for legislative
28 action or discretionary ... activity." (*Danielson v. County of Humboldt* (2024) 103
29 Cal.App.5th 1, 13; see also Gov. Code, § 820.2 ["Except as otherwise provided by statute,

1 a public employee is not liable for an injury resulting from [his or her] act or omission
2 where the act or omission was the result of the exercise of the discretion vested in [him
3 or her], whether or not such discretion be abused.”]; Gov. Code, § 815.2, subd. (b) [public
4 entity not liable for an injury resulting from an act or omission by an employee where that
5 employee is immune from liability].)

6 However, this immunity set forth in the Torts Clams Act does not apply to a claim
7 for inverse condemnation. (*Pacific Bell v. City of San Diego* (2000) 81 Cal.App.4th 596,
8 602–603 [“the immunities provided by the Tort Claims Act do not insulate a public entity
9 from liability for inverse condemnation; the constitutional provisions requiring
10 compensation for property taken or damaged by a public use overrides the Tort Claims
11 Act and its statutory immunities. [Citation.] Thus, a plaintiff who establishes the elements
12 of an inverse condemnation claim may recover for property damage even though his tort
13 claim has been rejected.”].)

14 Accordingly, the discretionary function immunity under Government Code section
15 820.2 is inapplicable.

16 The Emergency Response Immunity

17 The California Emergency Services Act provides that “[t]he state or its political
18 subdivisions shall not be liable for any claim based upon the exercise or performance, or
19 the failure to exercise or perform, a discretionary function or duty on the part of a state or
20 local agency or any employee of the state or its political subdivisions in carrying out the
21 provisions of this chapter.” (Gov. Code, § 8655.) Government Code “[s]ection 8558
22 establishes three degrees of emergency: state of war emergency, state of emergency,
23 and local emergency.” (*Thousand Trails, Inc., supra*, 124 Cal.App.4th at p.458.)

24 “A state of emergency imposes severe time constraints, forcing decisions to be
25 made quickly and often without sufficient time to carefully analyze all potential
26 repercussions. Therefore, the immunity granted by the Act is broad and specifically
27 extended to encompass not only discretionary actions, but also the performance of or
28 failure to perform those discretionary actions.” (*Ibid.*)

1 “The inverse condemnation action is based upon the constitutional provision. It is
2 independent of any right to sue under traditional tort theories.” (*Odello Bros. v. County of*
3 *Monterey* (1998) 63 Cal.App.4th 778, 785–786.) “There are two general exceptions to this
4 rule of inverse condemnation liability. [Citation.] The first exception evolved from the
5 common-law right to inflict damage.” (*Id.* at p.786.) “The second exception to the just
6 compensation requirement, ..., is based upon the proper exercise of the public entity's
7 police power.” (*Id.* at p.788.) “A specific application of this rule concerns emergency
8 conditions, i.e., ‘when damage to private property is inflicted by government “under the
9 pressure of public necessity and to avert impending peril.” ’” (*Id.* at p.789.) “Courts
10 narrowly circumscribe the type of emergency that shields an entity from inverse
11 condemnation liability.” (*Thousand Trails, Inc., supra*, 124 Cal.App.4th at p.462.) “
12 “Instances of this character are the demolition of all or parts of buildings to prevent the
13 spread of conflagration, or the destruction of diseased animals, or rotten fruit, or infected
14 trees where life or health is jeopardized.” [Citations.]” (*Smith v. County of Los Angeles*
15 (1989) 214 Cal.App.3d 266, 286.)

16 “‘In certain circumstances, [] the taking or damaging of private property for such a
17 purpose is not prompted by so great a necessity as to be justified without proper
18 compensation to the owner. ... Thus there is recognized the incontestable proposition
19 that the exercise of the police power, though an essential attribute of sovereignty for the
20 public welfare and arbitrary in its nature, cannot extend beyond the necessities of the
21 case and be made a cloak to destroy constitutional rights as to the inviolateness of private
22 property.” (*House v. Los Angeles County Flood Control Dist.* (1944) 25 Cal.2d 384, 388–
23 389.)

24 Here, Plaintiffs allege that LADWP’s wood utility poles for powerlines “were
25 overloaded, beyond their useful life and/or decayed and not properly guyed or maintained,
26 which resulted in a large number of wood poles breaking, snapping and/or failing causing
27 energized powerlines to fall onto structures and flammable vegetation igniting additional
28 fires throughout Pacific Palisades on January 7, 2025.” (Revised Master Complaint ¶
29 207.) Further, Plaintiffs allege that “LADWP’s Wildfire Mitigation Plan required LADWP to

1 block reclosers during Red Flag Alerts by the LAFD.” (*Id.* ¶ 208.) “Blocking a recloser is
2 a tool commonly used by utility companies in Southern California to prevent wildfires by
3 not allowing electricity to be restored to a powerline after an initial fault has been detected
4 from either a downed powerline or from contact between a powerline and a tree limb.”
5 (*Ibid.*)

6 At 1:47pm on January 7, 2025, LADWP’s Electric Trouble System “requested that
7 circuits at its Distribution Station 29 (‘DS-29’) located on Sunset Boulevard and Via De La
8 Paz in Pacific Palisades be de-energized ‘due to proximity to fire’.” (*Id.* ¶ 210.) LADWP
9 sent a Substation Operator to DS-29 to fulfill this de-energize request, but the Substation
10 Operator ran into traffic on the way. (*Id.* ¶¶ 214-215.) LADWP personnel informed
11 LADWP’s Energy Control Center that the Substation Operator to DS-29 would continue
12 to DS-29 unless something changed and it became an emergency, in which case the
13 entire DS-29 station could be remotely de-energized. (*Id.* ¶ 215.) However, “LADWP
14 never advised that there was an emergency such that DS-29 should be entirely de-
15 energized.” (*Id.* ¶ 217.) LADWP’s Substation Operator arrived at 6:03 p.m. – four hours
16 after the request to de-energize. (*Id.* ¶ 218.) Due to a malfunction in the remote cord,
17 when LADWP’s Substation Operator “attempted to de-energize the circuits at DS-29 on
18 January 7th, LADWP’s energized powerlines arced, sparked and ignited multiple fires in
19 Pacific Palisades which caused the Plaintiffs’ damages as alleged herein.” (*Id.* ¶ 227.)

20 “[M]any of LADWP’s Distribution Stations had outdated and antiquated equipment
21 which could not be controlled remotely and required a substation operator to travel to
22 these stations and manually block their reclosers.” (*Id.* ¶ 228.) “LADWP’s broken and
23 failed equipment at its Distribution Stations, including but not limited to DS-29, DS-195
24 and DS-198, was a substantial factor in causing the damage and destruction of thousands
25 of homes in Pacific Palisades.” (*Id.* ¶ 232.)

26 These factual allegations set forth in the Revised Master Complaint do not show
27 that, as a matter of law, LADWP is entitled to immunity under the California Emergency
28 Services Act. Plaintiffs’ factual allegations do not establish that LADWP’s conduct was
29 prompted by such a great necessity to avert impending peril that LADWP’s damage to

1 Plaintiffs' properties was justified without compensation as a matter of law - e.g. such as
2 destroying livestock to prevent the outbreak of a deadly disease.

3 First, there is no allegation alleging that there was a declared state of emergency
4 such that the immunity under the California Emergency Services Act is applicable. Nor
5 has any party requested judicial notice of any such declared emergency. Thus, the fact
6 that there was a declared state of emergency is a fact outside the four corners of the
7 Revised Master Complaint or matters that have been judicially noticed and cannot be
8 considered on demurrer. (*Blank v. Kirwan* (1985) 39 Cal 3d 311, 318.)

9 Second, the only allegation involving any discretionary function or performance of
10 a discretionary function is the failure to de-energize DS-29. (Revised Master Complaint
11 ¶¶ 208-227.) However, Plaintiffs' claim for inverse condemnation (powerlines) is not only
12 premised on the failure to de-energize DS-29 but also the failure to maintain wooden
13 utility poles, and that some LADWP distribution stations had antiquated equipment that
14 prevented LADWP from remotely blocking its reclosers pursuant to LADWP's Wildfire
15 Mitigation Plan. (*Id.* ¶¶ 205-207, 228-247; 409-416.) Thus, even assuming that the
16 immunity under the California Emergency Services Act was applicable, given the
17 allegations in the Master Complaint, LADWP could only be insulated from liability from
18 the failure to de-energize DS-29. However, a demurrer does not lie to *part* of a cause of
19 action and can only be granted for an entirety of a cause of action. (See *Olson v.*
20 *Hornbrook Community Services Dist.* (2019) 33 Cal.App.5th 502, 522, Fn. 9.)

21 Accordingly, LADWP's demurrer to the fifth cause of action is OVERRULED.²

22 C. Dangerous Condition of Public Property (Powerlines) and Public Nuisance
23 (Powerlines) – (Seventh and Eighth Causes of Action)

24 LADWP contends that the tort claims based on the powerlines fail because it is
25 immune under (1) the discretionary function immunity and (2) the emergency response
26 immunity.

27 _____
28 ² Because the Court finds that the emergency response immunity does not apply, the Court declines to
29 address Plaintiffs' contention that LADWP and City are estopped from asserting the emergency response
immunity.

1 As noted above, “public entities and their employees are immune from tort liability
2 for legislative action or discretionary ... activity.” (*Danielson v. County of Humboldt* (2024)
3 103 Cal.App.5th 1, 13; see also Gov. Code, § 820.2 [“Except as otherwise provided by
4 statute, a public employee is not liable for an injury resulting from [his or her] act or
5 omission where the act or omission was the result of the exercise of the discretion vested
6 in [him or her], whether or not such discretion be abused.”]; Gov. Code, § 815.2, subd.
7 (b) [public entity not liable for an injury resulting from an act or omission by an employee
8 where that employee is immune from liability].)

9 However, to be entitled to discretionary immunity “the public agency must
10 demonstrate its employee in fact consciously exercised discretion in connection with the
11 negligent acts or omissions charged in order to invoke the ‘discretionary acts’ immunity
12 provisions of Government Code section 820.2.” (*Elton v. County of Orange* (1970) 3
13 Cal.App.3d 1053, 1058.) “Accordingly, to be entitled to immunity the state must make a
14 showing that such a policy decision, consciously balancing risks and advantages, took
15 place. The fact that an employee normally engages in ‘discretionary activity’ is irrelevant
16 if, in a given case, the employee did not render a considered decision.” (*Johnson v. State*
17 (1968) 69 Cal.2d 782, 795.)

18 Here, there are no allegations setting forth that a LADWP employee in fact
19 consciously exercised discretion in connection with the negligent acts or omissions
20 alleged. Such a showing was not and cannot be made on demurrer. (*Elton, supra*, 3
21 Cal.App.3d at p.1058 [holding that it was erroneous to sustain a demurrer by reason of
22 the immunity provisions of Government Code section 820.2.]) Thus, it would be error for
23 this Court to sustain the demurrer to these claims on this ground.

24 With regard to LADWP’s claim of emergency response immunity, as discussed
25 above, there is no allegation or request for judicial notice setting forth that there was a
26 declared state of emergency. Further, as noted above, the only allegation involving any
27 discretionary function or performance of a discretionary function is the failure to de-
28 energize DS-29. (Revised Master Complaint ¶¶ 208-227.) However, Plaintiffs’ claim for
29 dangerous condition of public property and public nuisance in relation to the powerlines

1 is not premised only on the failure to de-energize DS-29 but also on the failure to maintain
2 wooden utility poles, and that some LADWP distribution stations had antiquated
3 equipment that prevented LADWP from remotely blocking its reclosers pursuant to
4 LADWP's Wildfire Mitigation Plan. (*Id.* ¶¶ 205-207, 228-247; 425-444.) However, as
5 mentioned above, a demurrer does not lie to *part* of a cause of action and can only be
6 granted for an entirety of a cause of action. (See *Olson, supra*, 33 Cal.App.5th at p.522,
7 Fn. 9.)

8 LADWP further contends that Plaintiffs fail to allege that the DS-29 allegations are
9 insufficient to state a claim because "Plaintiffs must allege that the equipment failure
10 resulted from negligence, which they fail to do." (Demurrer at p. 25:6-7.) However, the
11 Revised Master Complaint does allege the equipment failure resulted from negligence.
12 (Revised Master Complaint ¶ 430 ["a negligent act or omission by an employee of LADWP
13 within the scope of his/her employment created the dangerous conditions."]) Moreover,
14 even assuming Plaintiffs did not allege that the equipment failure resulted from
15 negligence, the DS-29 allegations make up a part of a cause of action, and a demurrer
16 can only be granted for the entirety of a cause of action. (See *Olson, supra*, 33
17 Cal.App.5th at p.522, Fn. 9.)

18 Accordingly, LADWP's demurrer to the seventh and eighth causes of action is
19 OVERRULED.

20 D. Dangerous Condition of Public Property and Public Nuisance (Vacant City Lots)
21 – (Ninth and Tenth Causes of Action)

22 City contends that the two tort claims for dangerous condition of public property
23 and public nuisance fail because the City is immune under Government Code sections
24 831.2, 850, and 850.2.

25 Under the natural condition immunity, public entities are immune from liability for
26 injury caused from natural conditions from any unimproved public property. (Gov. Code,
27 § 831.2 ["Neither a public entity nor a public employee is liable for an injury caused by a
28 natural condition of any unimproved public property, including but not limited to any
29 natural condition of any lake, stream, bay, river or beach."]) "Section 831.2 provides for

1 absolute immunity and prevails over the liability provisions of the Government Claims
2 Act.” (*Alana M. v. State of California* (2016) 245 Cal.App.4th 1482, 1487.) “[T]he
3 Legislature intended section 831.2 to “‘continue and extend’ existing law, and, therefore,
4 the natural condition immunity should not be construed narrowly.” (*Ibid.*) Thus, “[t]he
5 natural condition immunity applies even ‘where the public entity had knowledge of a
6 dangerous condition which amounted to a hidden trap.’” (*Id.* at p.1488.)

7 However, the natural condition immunity does not apply to injuries that occurred
8 on adjacent properties. (*Milligan v. City of Laguna Beach* (1983) 34 Cal.3d 829, 835 [“We
9 conclude that the natural condition immunity of section 831.2 is inapplicable to injuries
10 caused to nonusers on adjacent property.”].) Because Plaintiffs’ injuries – the numerous
11 houses burning down – occurred on neighboring private properties, the natural conditions
12 immunity of Government Code section 831.2 is inapplicable.

13 Similarly, Government Code sections 850 and 850.2 are inapplicable. “These
14 sections ‘provide for a *broad* immunity from liability for injuries resulting in connection with
15 fire protection service. [¶] Sections 850 and 850.2 provide an absolute immunity from
16 liability for injury resulting from failure to provide fire protection or from failure to provide
17 enough personnel, equipment or other fire protection facilities. Whether fire protection
18 should be provided at all, and the extent to which fire protection should be provided, are
19 political decisions which are committed to the policy-making officials of government.”
20 (*Cairns v. County of Los Angeles* (1997) 62 Cal.App.4th 330, 335.) However, these
21 statutes “should not be applied to allow a public entity to escape responsibility for
22 damages resulting from its failure to provide fire protection on property which it owns and
23 manages itself, particularly where it has permitted a dangerous fire condition to exist on
24 the property.” (*Vedder v. County of Imperial* (1974) 36 Cal.App.3d 654, 660–661.)

25 In *Vedder* the plaintiffs leased business property at the defendants’ airport that was
26 damaged by a fire at the airport. (*Vedder, supra*, 36 Cal.App.3d at p.657.) In relevant
27 part, the plaintiffs alleged that their injuries were caused by a dangerous condition of
28 public property and for injury caused by nuisance. (*Ibid.*) The trial court sustained the
29 defendants’ demurrer to these claims on the grounds of immunity under Government

1 Code sections 850 and 850.2 without leave to amend, which the Court of Appeal
2 reversed. (*Id.* at p.658.)

3 For the claim of dangerous condition of public property, the plaintiffs' alleged that
4 the dangerous condition was "that normal airport operations and the operation of
5 businesses involving storage of large amounts of gasoline and other highly combustible
6 chemicals created a severe risk of fire and/or explosion; gasoline fires are controlled only
7 by use of special equipment; [and] [the defendants] 'caused, permitted and encouraged'
8 such operations with full knowledge that there were no means available to prevent or
9 control gasoline fires." (*Vedder, supra*, 36 Cal.App.3d at p.659.) The Court of Appeal
10 reasoned that "[o]ne who negligently stores gasoline and other highly combustible
11 chemicals on his property, or knowingly permits such negligent storage, may be liable to
12 others for a fire-incurred loss even though the fire was actually started by the negligent
13 conduct of others." (*Id.* at p.660.)

14 The Court of Appeal further concluded that Government Code sections
15 850 and 850.2 were inapplicable because "[t]he statutes must be strictly construed ...
16 [and] [the defendants] should not be applied to allow a public entity to escape
17 responsibility for damages resulting from its failure to provide fire protection on property
18 which it owns and manages itself, particularly where it has permitted a dangerous fire
19 condition to exist on the property. (*Id.* at pp.660-661.)

20 As to the nuisance claim, the Court of Appeal noted that "[a] fire hazard constitutes
21 a public nuisance." (*Id.* at p.661.) The Court further noted that it was "clear that plaintiffs
22 [we]re contending the public nuisance on the airport property resulted from a combination
23 of permitting the storage of gasoline and other highly combustible chemicals and not
24 requiring or providing adequate fire protection facilities. The Government Code sections
25 respondents rely upon are not intended to provide immunity under these circumstances,
26 nor do they preclude consideration of a lack of fire protection in determining whether a
27 public nuisance in fact existed." (*Ibid.*)

28 Here, Plaintiffs allege that the City "owns numerous vacant lots in Pacific
29 Palisades, including but not limited to 17919 Porto Marina Way, 17857 Porto Marina Way,

1 17863 Porto Marina Way, 17908 Castellammare Drive, 17916 Castellammare Drive, and
2 17945 Porto Marina Way in Pacific Palisades.” (Revised Master Complaint ¶ 269.) These
3 City-owned lots were overgrown with brush in violation of the City’s own brush clearance
4 ordinances on January 7, 2025. (*Id.* ¶¶ 269-286.) The City’s brush clearance ordinances
5 require the removal and maintenance of vegetation within 100 feet of buildings and makes
6 a violation of these brush clearance ordinances a public nuisance. (*Id.* ¶¶ 281-283.)
7 Plaintiffs allege that the overgrown brush on the City’s property contributed to the spread
8 and intensity of the Palisades Fire. (*Id.* ¶ 284.)

9 Like in *Vedder*, Plaintiffs have alleged that there was a dangerous condition on the
10 City’s property – i.e., overgrown brush in violation of the City’s own brush clearance
11 ordinance. Thus, Plaintiffs’ allegations are not premised on a failure to provide firefighting
12 services but rather a failure on the City’s part to “provide fire protection on property which
13 it owns and manages itself, particularly where it has permitted a dangerous fire condition
14 to exist on the property. In that situation, lack of fire protection is a proper factor to be
15 considered as contributing to the existence of a dangerous condition on the property.”
16 (*Vedder, supra*, 36 Cal.App.3d at pp.660–661.) Thus, Government Code sections
17 850 and 850.2 are inapplicable to the facts alleged.

18 Accordingly, the City’s demurrer to the ninth and tenth causes of action are
19 OVERRULED.

20 E. Entire Complaint – Lack of Particularity as to Causation

21 LADWP and the City contend that the entire complaint fails against them because
22 Plaintiffs have not alleged causation with sufficient particularity.

23 “A public entity is not liable for an injury, whether such injury arises out of an act
24 or omission of the public entity or a public employee or any other person.” (Gov. Code,
25 § 815(a).) Thus, “[a] public entity like the [State] is generally immune from liability, except
26 as provided by statute. (Gov. Code, § 815, subd. (a).)” (*Doe v. Lawndale Elementary*
27 *School Dist.* (2021) 72 Cal.App.5th 113, 126, Fn. 4.) Because “all government tort liability
28 is based on statute, the general rule that statutory causes of action must be pleaded with
29

1 particularity is applicable.” (*Lopez v. Southern Cal. Rapid Transit Dist.* (1985) 40 Cal.3d
2 780, 795.)

3 Here, LADWP and the City contend that the allegations of causation under each
4 cause of action are too conclusory and therefore not pleaded with sufficient particularity.
5 (See e.g., Revised Master Complaint ¶ 413 [“The damage to Plaintiffs’ properties was
6 proximately and substantially caused by Defendants’ actions in that Defendants’ design,
7 installation, ownership, operation, use, supply, maintenance, and/or control for public use
8 of its overhead electrical transmission and distribution equipment created an inherent risk
9 of damage to private property and was a substantial cause of damage to private
10 property.”]; *Id.* ¶ 421 [“The damage to Plaintiffs’ properties was proximately and
11 substantially caused by Defendants’ deliberate design, installation, ownership, operation,
12 use, supply, maintenance, and/or control for public use of its water supply systems. The
13 dangers inherent in the design of the water supply system, which materialized during the
14 Palisades were substantial factors in causing the damages sustained by Plaintiffs as a
15 result of the Palisades fire.”].) However, LADWP and City ignore the fact that each cause
16 of action incorporates the 361 paragraphs of allegations in the body of the Revised Master
17 Complaint. (See e.g., *Id.* ¶ 409 [“Plaintiffs hereby reallege and incorporate by reference
18 each and every allegation contained above as though fully set forth herein.”].) Nor do
19 LADWP and City identify any causation allegations in the body of the Revised Master
20 Complaint that it contends are not plead with sufficient particularity, other than as
21 discussed above in reference to the sufficiency of the inverse condemnation allegations
22 related to the water supply system.

23 Regardless, the allegations in the body of the Revised Master Complaint allege
24 causation with sufficient particularity. (See e.g., *Id.* ¶ 136 [“During the Palisades Fire, the
25 reservoirs, storage tanks and the pump stations that supply them could not keep pace
26 with the demand placed on the water supply, including the fire hydrants, and were a
27 substantial cause of the uncontrolled spread of the Palisades Fire. Catastrophically,
28 instead of receiving outflows from the Santa Ynez Reservoir downhill and simultaneously
29 charging the Westgate Trunk Line to higher dynamic pressure, water was redirected back

1 uphill until pumps eventually failed to lift water into the Trailer and Temescal Tanks. The
2 Marquez Knolls Tank suffered a similar fate when the Westgate Trunk Line pressure
3 dropped below the factory-rated net positive suction head required (NPSHr) at the
4 Marquez Knolls Pump Station. As a result of the Santa Ynez Reservoir being drained, the
5 Westgate Trunk Line was converted into an emergent lifeline operated as a radial (dead-
6 end) water transmission pipeline, a sole source of water volume and pressure, and
7 conveying fire flow in a single direction. This is contrary to a transmission pipeline
8 naturally responding to reversible, emergent high demands at any location in the system.
9 As a further result of the Santa Ynez Reservoir being drained and removed from the
10 system, when firefighters connected hoses and engine suction lines to numerous
11 hydrants which increased the total fire flow to a level that exceeded the capacity of the
12 Westgate Trunk Line, the system was constrained by a one-directional flow and
13 backpressure at Sunset Boulevard near North Barrington Avenue. This all occurred
14 because the Westgate Trunk Line was severed from the Santa Ynez Reservoir, the most
15 critical source of water volume and pressure for all of Pacific Palisades. The shortfall in
16 total water storage is grimly demonstrated by the fact that 10.13 miles of 36-inch pipeline
17 contains 2.8 MG of (moving) water between North Barrington Avenue and the Santa Ynez
18 Reservoir, yet only 3.0 MG was available to supply fire flows from 3 tanks at the highest
19 elevations of Pacific Palisades.”].)

20 , LADWP and the City’s demurrer to the Revised Master Complaint on the grounds
21 that Plaintiffs fail to allege causation with sufficient particularity is OVERRULED.

22 VII. Conclusion

23 For all the reasons discussed herein, the City and LADWP’s Demurrer is otherwise
24 OVERRULED. An answer must be filed within 30 days.

25 Dated: 02/19/2026
26 _____



A handwritten signature in black ink, appearing to read "Samantha Jessner".

Samantha Jessner / Judge

27 SAMANTHA P. JESSNER
28 JUDGE OF THE SUPERIOR COURT
29