

JUL 22 2026

David W. Slayton, Executive Officer/Clerk of Court

By: A. Morales, Deputy

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

DAN GRIGSBY, et al.,

Plaintiffs,

vs.

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 ON
DEFENDANT MOUNTAINS
RECREATION AND CONSERVATION
AUTHORITY'S DEMURRER &
MOTION TO STRIKE

Hearing Date: July 15, 2026

Hearing Time: 1:45 p.m.

Dept.: 7

1 Defendant Mountains Recreation and Conservation Authority demurs to counts 32 through 38
2 of Plaintiffs' Revised Master Complaint on the grounds that Plaintiffs do not state facts sufficient to
3 constitute those causes of action against it. MRCA also moves to strike portions of the Complaint.
4 Plaintiffs oppose the demurrer, but not the motion to strike.

5 The Court heard argument on this demurrer at the hearing on July 15, 2026. The Court now
6 issues its final ruling.

7 For the reasons discussed below, MRCA's demurrer is OVERRULED. MRCA's motion to strike
8 is GRANTED.

9 I. Master Complaint Allegations

10 In relevant part, the Complaint alleges that:

11 MRCA is a local public entity that owns properties in the Santa Monica Mountains.
12 (Complaint ¶ 19.) Specifically, MRCA owns several vacant lots in the Pacific
13 Palisades and Malibu which had not been maintained for several years prior to the
14 fire and were in disrepair with overgrown brush when the Palisades Fire started.
15 (*Id.*, ¶ 297.)

16 On January 1, 2025, at approximately 12:07 a.m. the Lachman Fire was reported
17 near Skull Rock on the Temescal Ridge Trail within Topanga State Park in the
18 Pacific Palisades. (*Id.*, ¶¶ 62, 76.) By 4:48 a.m., the Los Angeles Fire Department
19 reported that it had fully contained the Lachman Fire. (*Id.*, ¶ 63.) After being
20 contained, the Lachman Fire left smoldering embers which reignited with the winds
21 picking up on January 7, 2025. (*Id.*, ¶¶ 69-78.) On January 7, 2025, the Palisades
22 Fire erupted near where the Lachman Fire had burned six days prior. (*Id.*, ¶ 85.)

23 Embers from the Palisades Fire landed in overgrown brush on MRCA's properties
24 located in the Pacific Palisades and Malibu, starting spot fires. (*Id.*, ¶ 299.) The fire
25 on the MRCA-owned properties contributed to the overall spread of the fire to
26 adjacent homes in the Palisades and Malibu. (*Id.*, ¶ 300.)

27 The overgrown and/or cut brush that was "left in situ" and not removed from these
28 MRCA-owned lots created a fire hazard and violated the City of Los Angeles's
brush clearance ordinance, Los Angeles Municipal Code section 57.4906.5.1. (*Id.*,
¶¶ 301-302.)

The City of Los Angeles's brush clearance ordinances require the removal and
maintenance of vegetation within 100 feet of buildings. (*Id.*, ¶¶ 291-293.) MRCA's
failure to remove the overgrown and/or cut brush created a dangerous condition
and constituted a public nuisance. (*Id.*, ¶¶ 303-304.)

II. Request for Judicial Notice

MRCA requests judicial notice of the following:

A. MRCA Joint Exercise of Powers Agreement (RJN, Exhibit A);

- 1 B. Recorded “CERTIFICATE OF ACCEPTANCE AND DECLARATION OF
2 RESTRICTIONS AGREEMENT” confirming transfer of title of APNs: 4431-023-028
3 and 4431-022-003 (located in the Pacific Palisades) (RJN, Exhibit B);
4 C. Criminal Complaint, filed 10/2/25, in the action *United States of America v. Jonathan*
5 *Rinderknecht*, USDC Case No. 2:25-cr-833-AH (RJN, Exhibit C);
6 D. March 25, 2025 Resolution signed by Los Angeles Councilmember John S. Lee
7 confirming that the LAMC brush requirements are not applicable to the MRCA (Supp.
8 RJN, Exhibit D); and
9 E. April 14, 2025 Chief Legislative Analyst report confirming that the LAMC brush
10 requirements are not applicable to the MRCA (Supp. RJN, Exhibit E).

11 MRCA’s uncontested requests for judicial notice are GRANTED pursuant to Evidence Code, §
12 452 subdivisions (c) and (d). However, the Court does not take judicial notice of the truth of assertions
13 within these records. (See *Herrera v. Deutsche Bank National Trust Co.* (2011) 196 Cal.App.4th 1366,
14 1375.) As the Court noted at the hearing, the Request for Judicial Notice was filed with the Reply brief
15 which is not permissible.

16 III. Analysis

17 A. Public Entity Immunity

18 First, MRCA argues that all of Plaintiffs’ claims are barred by public entity immunity under
19 Government Code section 815, subd. (a).

20 “A public entity is not liable for an injury, whether such injury arises out of an act or omission
21 of the public entity or a public employee or any other person.” (Gov. Code, § 815(a).) Thus, “[a] public
22 entity like the [MRCA] is generally immune from liability, except as provided by statute. (Gov. Code,
23 § 815, subd. (a).)” (*Doe v. Lawndale Elementary School Dist.* (2021) 72 Cal.App.5th 113, 126, fn. 4.)
24 Because “all government tort liability is based on statute, the general rule that statutory causes of action
25 must be pleaded with particularity is applicable.” (*Lopez v. Southern Cal. Rapid Transit Dist.* (1985) 40
26 Cal.3d 780, 795.)

27 “The sole statutory basis for imposing liability on public entities as property owners is
28 Government Code section 835.” (*City of Los Angeles v. Superior Court* (2021) 62 Cal.App.5th 129,
139.) “To establish liability under section 835, a plaintiff must prove that, at the time of injury, a
dangerous condition existed on public property, that it created a reasonably foreseeable risk of the kind
of injury suffered, and that it proximately caused the injury.” (*Restivo v. City of Petaluma* (2025) 111
Cal.App.5th 267, 274.) “A plaintiff must also prove that a public employee’s negligence or misconduct

1 created the dangerous condition, or that the public entity had actual or constructive notice of the
2 condition a sufficient time before the injury to protect against it.” (*Id.*, at p. 275.)

3 Here, Plaintiffs’ claims are not barred by public entity immunity because, as explained below,
4 Plaintiffs have sufficiently alleged liability for a dangerous condition on MRCA’s properties pursuant
5 to Government Code section 835. MRCA’s additional theories of immunity under Government Code
6 sections 831.2 (natural condition immunity), 831.4 (trail immunity), and 831.25 (land failure immunity)
7 are discussed below.

8 Plaintiffs argue that, in addition to the “dangerous condition” exception provided under
9 Government Code section 835, Government Code section 815.6 provides them an additional exception
10 to public entity immunity. Government Code section 815.6 states, “Where a public entity is under a
11 mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind
12 of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge
13 the duty.” Section 815.6 imposes liability where (i) the enactment is “obligatory, rather than merely
14 discretionary or permissive,” and (ii) the duty is “designed” to protect against the kind of injury that
15 occurred. (*Haggis v. City of Los Angeles* (2000) 22 Cal.4th 490, 498–499.)

16 Plaintiffs argue that they can pursue claims against MRCA pursuant to Government Code section
17 815.6 because MRCA was under a mandatory duty imposed by Los Angeles Municipal Code (LAMC)
18 section 57.4906.5.1 to remove the hazardous brush on its property. LAMC states, in relevant part, “No
19 person who has any ownership or possessory interest in, or control of, a parcel of land shall allow to
20 exist thereon any hazardous refuse or hazardous weeds, trees, or other vegetation which, by reason of
21 proximity to a building or structure, constitutes a fire hazard. For purposes of this section hazardous
22 weeds, trees, or other vegetation are defined as weeds, trees, or other vegetation which are in such
23 condition and location as to provide a ready fuel supply to augment the spread or intensity of a fire.”
24 (Los Angeles Mun. Code, § 57.4906.5.1.) LAMC further provides requirements to clear hazardous
25 vegetation within 100 feet of any building or structure and reduce the same within 200 feet of any
26 building or structure. (*Id.*, §§ 57.4906.5.1.1.1, 57.4906.5.1.1.7.)

27 In reply, MRCA argues that these requirements of LAMC 57.4906.5.1, *et seq.* do not apply to it,
28 and therefore, Plaintiffs cannot pursue claims pursuant to Government Code section 815.6. First, MRCA
argues the code does not apply to it because it is not a “person” as defined by the code. The code defines
a “person” as “natural person, joint venture, joint stock company, partnership, association, club,
company, corporation, business trust, or organization, or the manager, lessee, agent, servant, officer or
employee of any of them.” (*Id.*, § 11.01.) However, MRCA does not adequately explain what about this
definition indicates that it is not a “person.” MRCA seems to argue that because it is a “Joint Powers

1 Authority,” it cannot be “person” as defined by the code. MRCA has not provided any authority
2 suggesting that a “Joint Powers Authority” cannot constitute, for example, an “association” or
3 “organization.”

4 Next, MRCA argues that the code does not apply to it because there are no “dwellings, buildings,
5 or structures” on its property at issue. This argument is also unconvincing because MRCA does not point
6 to any part of the code suggesting that it only applies to “persons” with “dwellings, buildings, or
7 structures” on its property. Instead, MRCA argues that Government Code section 51182 and California
8 Public Resources Code section 4291, which “track” the LAMC, apply to land with “occupied dwellings
9 or structures” and “building[s] or structure[s].” MRCA does not explain the relevance of Government
10 Code § 51182 or why the Court should apply its terms in interpreting the LAMC other than that it “tracks
11 the LAMC.” (Reply, 2:15.) As to Public Resources Code section 4291, MRCA argues, “LAMC section
12 57.4906 adopts California Public Resources Code section 42906 (the general section preceding
13 California Public Resources Code section 4291) in its entirety.” (*Id.*, 3:15-16.) Then, in a footnote,
14 MRCA states, “However, the Public Resources Code section 4291 ONLY applies to buildings or
15 structures.” (*Id.*, 3:28, fn. 4.) Based on MRCA’s own representations of Public Resources Code section
16 4291, it is unclear why MRCA relies on it and why it asks the Court to apply its terms in interpreting
17 the LAMC.

18 Finally, MRCA argues that the code does not apply to it because a “Resolution of the Los
19 Angeles City Council” signed on March 25, 2025, expressly acknowledges, “the Mountains and
20 Recreation Conservation Authority (MRCA) is not subject to brush clearance requirements....” (Supp.
21 RJN, Exhibit D.) Additionally, a Chief Legislative Analyst report from April 14, 2025 confirms that the
22 LAMC brush requirements are not applicable to the MRCA. (*Id.*, Exhibit E.) The report states, “Unlike
23 private owners of property that fall within the Very High Fire Hazard Severity Zone, as a public
24 government entity, the MRCA is not subject to the 100-foot brush clearance requirement, or the [Los
25 Angeles] City’s more robust 200-foot level requirement per L.A.M.C. Section 57.4906.5.1.1.7, even for
26 property that falls within the highest severity zone.” (*Ibid.*) Notably, the analyst’s report indicates that
27 the “recent Los Angeles Wildfires” provoked the recommendation to require MRCA to adhere to brush
28 clearance requirements. (*Ibid.*) The City Council resolution similarly indicates that it is intended to
address the “threat posed by wildfires originating on [MRCA’s] lands.” (Supp. RJN, Exhibit D.)

It is not entirely clear to the Court what impact the City’s post-fire proclamation has on this
Court’s determination on demurrer as MRCA’s reply fails to provide guidance to the Court. In other
words, the Court is not aware of any authority requiring it to treat a City analyst’s post-fire, unsupported
legal conclusion regarding the applicability of the LAMC at issue to the MRCA as controlling authority

1 or determinative of anything. Plaintiffs have pleaded sufficient allegations to pierce public entity
2 immunity through Government Code section 835. The Court need not decide whether Plaintiffs may
3 rely on Section 815.6 in asserting liability today.

4 B. Counts 32, 36-38: Negligence, Premises Liability, Health & Safety Code § 13007, and
5 Dangerous Condition of Public Property

6 MRCA argues these causes of action are insufficiently alleged because Plaintiffs fail to establish
7 (1) a dangerous condition, and (2) MRCA's actual or constructive notice of a dangerous condition.

8 a) Dangerous Condition

9 A "[d]angerous condition' means a condition of property that creates a substantial (as
10 distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent
11 property is used with due care in a manner in which it is reasonably foreseeable that it will be used."
12 (Gov. Code, § 830, subd. (a).) "A plaintiff's allegations, and ultimately the evidence, must establish a
13 physical deficiency in the property itself." (*Cerna v. City of Oakland* (2008) 161 Cal.App.4th 1340,
14 1347.) "Most obviously, a dangerous condition exists when public property is physically damaged,
15 deteriorated, or defective in such a way as to foreseeably endanger those using the property itself."
16 (*Bonanno v. Central Contra Costa Transit Authority* (2003) 30 Cal.4th 139, 148.) In addition, "public
17 property has also been considered to be in a dangerous condition 'because of the design or location of
18 the improvement, the interrelationship of its structural or natural features, or the presence of latent
19 hazards associated with its normal use.'" (*Id.* at p.149 [italics removed].)

20 "The existence of a dangerous condition ordinarily is a question of fact, but the issue may be
21 resolved as a matter of law if reasonable minds can come to only one conclusion." (*Zelig v. County of*
22 *Los Angeles* (2002) 27 Cal.4th 1112, 1133.) "Accordingly, if the facts pleaded by the plaintiff as a matter
23 of law cannot support the finding of the existence of a dangerous condition within the meaning of the
24 statutory scheme, a court may properly sustain a demurrer to the complaint." (*Brenner v. City of El*
25 *Cajon* (2003) 113 Cal.App.4th 434, 440.)

26 Here, Plaintiffs' claims are premised on the allegations that MRCA owns several vacant lots in
27 the Pacific Palisades and Malibu that had overgrown and/or cut brush which was not removed and
28 created a fire hazard. (Complaint, ¶¶ 300-304.) MRCA maintains that such overgrown or cut brush does
not constitute a dangerous condition on its land.

MRCA primarily relies on *Avedon v. State of California* (2010) 186 Cal.App.4th 1336, in arguing
that Plaintiffs have not sufficiently alleged a dangerous condition. In *Avedon*, a wildfire that started as a
bonfire inside a cave at Malibu Creek State Park destroyed more than 50 homes and damaged many

1 others. (*Id.*, at p. 1339.) The homeowners sued the state for dangerous condition of public property and
2 for public nuisance. (*Ibid.*)

3 “According to [the homeowners] the cave and the surrounding area ha[d] been popular for late-
4 night parties and bonfires for decades.” (*Ibid.*) In their first cause of action for dangerous condition of
5 public property, the homeowners alleged that “the State maintained a dangerous condition by allowing
6 access to the cave, when it could have placed bars or other barriers to block the entrance.” (*Id.*, at p.
7 1340.) “The second cause of action alleged that the State created the nuisance of a severe fire hazard by
8 allowing unrestricted and easy access to the top of Corral Canyon Road and the cave, resulting in the
9 fire damage to [the homeowners’] property.” (*Ibid.*) The trial court sustained the state’s demurrer
10 without leave to amend. (*Ibid.*)

11 The Court of Appeal affirmed. (*Id.*, at p. 1346.) With regard to the homeowners’ claim for
12 dangerous condition of public property, the Court of Appeal noted that the allegations “suggest[ed] no
13 inherent defect in the property itself. [The homeowners] ma[d]e no claim that the cave, the fire road, or
14 the parking lot was unsafe.” (*Id.*, at p.1342.) Rather, “[t]he dangerous conditions alleged [we]re the lack
15 of barriers to prevent vehicular access and parking near the cave, and the lack of a barrier to prevent
16 entry into the cave itself. The purpose of these barriers was not to protect individuals from any danger
17 or defect of the property, but to prevent third parties from lighting bonfires in the cave. Barring the
18 entrance to the cave might have prevented third parties from building a bonfire inside the cave, but it
19 would not have prevented them from building a bonfire outside the cave, thereby presenting the same
20 (or even greater) risk of a brush fire. Similarly, blocking nearby vehicular access with a gate might have
21 impeded entry from that particular location, but it would not have prevented individuals from entering
22 the park, or from bringing firewood and alcohol into the park.” (*Id.*, at p. 1342.) Thus, “the absence of
23 barriers did not increase or intensify the risk of injury.” (*Ibid.*) Accordingly, the Court of Appeal
24 concluded that “in the absence of a defect in the property, [the homeowners] c[ould not] allege facts
25 establishing a causal connection between the defect and the injuries sustained.” (*Id.*, at p. 1344.)

26 Similar to *Avedon*, the Complaint suggests that the Lachman Fire may have been caused by a
27 third party. (Complaint, ¶ 75.) However, unlike *Avedon*, Plaintiffs’ claim based on a dangerous condition
28 of public property is not premised on the fact that MRCA failed to stop this third-party from starting the
Lachman Fire. Rather, Plaintiffs allege that the overgrown and/or cut brush which was not removed
from MRCA’s land created a fire hazard and contributed to the overall spread of the fire to adjacent
homes in the Palisades and Malibu. Therefore, MRCA’s reliance on *Avedon* is not persuasive and
contrary to MRCA’s argument, Plaintiffs have articulated a dangerous condition on MRCA’s land apart
from the wrongful acts of a third person.

1 MRCA further argues that it is protected by the “natural condition” immunity provided under
2 Government Code section 831.2. Under the natural condition immunity, public entities are immune from
3 liability for injury caused from natural conditions from any unimproved public property. (Gov. Code, §
4 831.2 [“Neither a public entity nor a public employee is liable for an injury caused by a natural condition
5 of any unimproved public property, including but not limited to any natural condition of any lake,
6 stream, bay, river or beach.”].) “Section 831.2 provides for absolute immunity and prevails over the
7 liability provisions of the Government Claims Act.” (*Alana M. v. State of California* (2016) 245
8 Cal.App.4th 1482, 1487.) “[T]he Legislature intended section 831.2 to “‘continue and extend’ existing
9 law, and, therefore, the natural condition immunity should not be construed narrowly.” (*Ibid.*) Thus,
10 “[t]he natural condition immunity applies even ‘where the public entity had knowledge of a dangerous
11 condition which amounted to a hidden trap.’” (*Id.*, at p. 1488.)

12 MRCA relies on *City of Chico v. Superior Court* (2021) 68 Cal.App.5th 352, to support the
13 proposition that “[t]he brush at issue is naturally occurring growth of plants such as chaparral and other
14 vegetation in a natural habitat in a park which is a natural condition of the land.” (Demurrer, 8:19-20
15 [citing *Id.*, at pp. 362-363].) MRCA also relies on Public Resources Code section 5019.53, which states,
16 in relevant part, “The purpose of state parks shall be to preserve outstanding natural, scenic, and cultural
17 values, indigenous aquatic and terrestrial fauna and flora Each state park shall be managed as a
18 composite whole in order to restore, protect, and maintain its native environmental complexes to the
19 extent compatible with the primary purpose for which the park was established.” (Pub. Resources Code,
20 § 5019.53.)

21 MRCA’s argument that it is protected by the “natural condition” immunity fails for several
22 reasons.

23 First, to the extent MRCA relies on Public Resources Code section 5019.53, Plaintiffs point out
24 in opposition that the statute only applies to state parks. (See Opposition, 1:19-23.) Plaintiffs do not
25 allege that the MRCA-owned land at issue is part of any state park and none of MRCA’s judicially
26 noticed documents establish that the land at issue is part of any state park.

27 Second, while overgrown brush is naturally occurring, MRCA fails to consider that Plaintiffs
28 allege not only that MRCA allowed its land to become overgrown with brush, but also that MRCA *cut*
brush and left it. (Complaint, ¶ 301 [“Plaintiffs are informed and believe that the overgrown and/or cut
brush which was left in situ and not removed from these MRCA-owned lots violated law...”].) The
Complaint also states, “Plaintiffs allege the dangerous condition on MRCA’s property *was a change*
from the natural condition of MRCA’s property. The Palisades Fire and the associated damage to
Plaintiffs’ properties were *due to the changed condition* of the MRCA property and not the natural

condition of the property.” (*Id.*, ¶ 712 [italics added].) In reply, MRCA appears to argue that the “cut-and-left” brush is still a natural condition pursuant to *Schooler v. State of California* (2000) 85 Cal.App.4th 1004, in which the court explained, “Generally, conditions that occur in nature but happen to be produced by a combination of human and natural forces are natural conditions as a matter of law.” (*Id.*, at p. 1009.) However, the *Schooler* court then went on to explain how, in other cases, “the courts concluded injury-causing sandbars were natural conditions for purposes of section 831.2, even though they formed due to a combination of wave action, tides, and human activity. [Citation.] The courts reasoned that because sandbar formations occur in nature even in the absence of human activity, any contributing human activity does not alter the natural character of the condition.” (*Ibid.*) MRCA’s reliance on *Schooler* is misplaced because, unlike sandbar formations which can occur in nature absent human activity, brush is not cut absent human activity.

Third, the natural condition immunity does not apply to injuries that occurred on adjacent properties. (*Milligan v. City of Laguna Beach* (1983) 34 Cal.3d 829, 835 [“We conclude that the natural condition immunity of section 831.2 is inapplicable to injuries caused to nonusers on adjacent property.”].) Here, Plaintiffs’ injuries (their homes that were destroyed in the fire) occurred on neighboring private properties, not MRCA’s properties.

For the foregoing reasons, the natural condition immunity of Government Code section 831.2 is inapplicable.

Similarly, Government Code sections 831.4 (trail immunity) and 831.25 (land failure immunity) are inapplicable.¹ Government Code section 831.4 immunizes public entities for injuries caused by “a condition of” recreational trails and unpaved access roads, and its purpose is to encourage public entities to keep trails and access roads open. (See *Hartt v. County of Los Angeles* (2011) 197 Cal.App.4th 1391, 1399-1400.) Although MRCA relies on *Hartt*, the case only highlights why the trail immunity does not apply. In *Hartt*, a cyclist was killed after he collided with a county-owned vehicle on a park road. (*Id.*, at p. 1393.) Here, on the other hand, Plaintiffs’ injuries do not arise out of any condition or use of trails or unpaved roads on MRCA’s land. Thus, the trail immunity under section 831.4 does not apply.

As to the land failure immunity, Government Code section 831.25 immunizes public entities from claims for damage to property “caused by land failure on any unimproved public property....” (Gov. Code § 831.25, subd. (a).) The statute defines “land failure” as “any movement of land, including

¹ In their opposition, Plaintiffs argue that the “fire protection immunity” provided under Government Code sections 850 and 850.2 is inapplicable. However, MRCA does not assert the fire protection immunity in its demurrer. The only immunities asserted in the demurrer are the general public entity immunity, the natural condition immunity, the trail immunity, and the land failure immunity. Plaintiffs’ allegations with regard to MRCA are not premised on a failure to provide firefighting services, therefore, the fire protection immunity is inapplicable.

1 a landslide, mudslide, creep, subsidence, and any other gradual or rapid movement of land.” (*Id.*, subd.
2 (c).) MRCA relies on *Schooler*, in which the court held bluff erosion that damaged an adjacent property
3 fell under the land-failure immunity. (*Schooler*, *supra*, 85 Cal.App.4th at pp. 1012–1013.) Here,
4 Plaintiffs do not allege that their injuries were caused by any land failure as defined by section 831.25
or described in *Schooler*. Thus, the land failure immunity under section 831.25 does not apply.

5 Based on the foregoing, Plaintiffs have sufficiently pleaded a dangerous condition and MRCA
6 has failed to show it has immunity.

7 b) Actual or Constructive Notice

8 As noted above, to state a claim under Government Code section 835, “[a] plaintiff must also
9 prove that a public employee’s negligence or misconduct created the dangerous condition, or that the
10 public entity had actual or constructive notice of the condition a sufficient time before the injury to
11 protect against it.” (*Restivo*, *supra*, 111 Cal.App.5th 267 at p. 275.) “A public entity had actual notice
12 of a dangerous condition within the meaning of subdivision (b) of Section 835 if it had actual knowledge
13 of the existence of the condition and knew or should have known of its dangerous character.” (Gov.
14 Code, § 835.2, subd. (a).) “A public entity had constructive notice of a dangerous condition within the
15 meaning of subdivision (b) of Section 835 only if the plaintiff establishes that the condition had existed
16 for such a period of time and was of such an obvious nature that the public entity, in the exercise of due
care, should have discovered the condition and its dangerous character.” (Gov. Code, § 835.2, subd.
(b).)

17 MRCA argues, “Here, plaintiffs have not and cannot allege that the MRCA had actual notice of
18 any arsonist starting the fire on January 1 or that it had actual notice of the rekindling of the fire on
19 January 7.” (Demurrer, 9:15-17.) This argument misunderstands what the alleged dangerous condition
20 is. Because Plaintiffs allege the dangerous condition was “overgrown and/or cut brush,” Plaintiffs must
21 allege that MRCA had actual or constructive notice of the overgrown and/or cut brush, not of the fire or
rekindling of the fire.

22 Plaintiffs sufficiently allege that MRCA had actual notice. The Complaint states, “Plaintiffs are
23 informed and believe that certain Plaintiffs repeatedly sent emails to MRCA complaining about the lack
24 of brush clearance on these properties, in the months and years before the Palisades Fire.” (Complaint,
25 ¶¶ 298.) Thus, Plaintiffs have sufficiently alleged actual notice.

26 The Court finds that Plaintiffs have adequately pleaded a dangerous condition, that is, the
27 overgrown and/or cut brush which was not removed, as well as MRCA’s actual or constructive
knowledge of this condition. Therefore, MCRA’s demurrer to counts 32 and 36-38 is OVERRULED.

28 C. Count 33: Trespass

1 “The elements of trespass are: (1) the plaintiff’s ownership or control of the property; (2) the
2 defendant’s intentional, reckless, or negligent entry onto the property; (3) lack of permission for the
3 entry or acts in excess of permission; (4) harm; and (5) the defendant’s conduct was a substantial factor
4 in causing the harm.” (*Ralphs Grocery Co. v. Victory Consultants, Inc.* (2017) 17 Cal.App.5th 245, 262.)

5 MRCA devotes one sentence to this analysis. MRCA seems to argue this cause of action fails
6 because Plaintiffs fail to allege any intentional intrusion without permission. In opposition, Plaintiffs
7 argue MRCA overlooks the well-settled rule that *Ralphs Grocery* itself recognizes: the elements of
8 trespass include the defendant’s “intentional, reckless, or *negligent*” entry onto the property. (*Ibid.*) In
9 the Complaint, Plaintiffs allege that “Defendants negligently allowed the Palisades Fire to ignite and/or
10 spread out of control, causing injury to Plaintiffs” and that “the spread of a negligently caused fire to
11 wrongfully occupy land of another constitutes a trespass.” (Complaint, ¶ 674.)

12 Plaintiffs rely on *Elton v. Anheuser-Busch Beverage Group, Inc.* (1996) 50 Cal.App.4th 1301,
13 in which the court held that “a negligent invasion by fire which causes damage to real property
14 constitutes a trespass.” (*Id.*, at pp. 1305–1307.) The *Elton* court explained that it could not find a “reason
15 why a fire cannot constitute the agent by which a trespass is committed.” (*Id.*, at p. 1306.) The court
16 further explained, “The interference need not take the form of a personal entry onto the property by the
17 wrongdoer. Instead, it ‘may be accomplished by the casting of substances or objects upon the plaintiff’s
18 property from without its boundaries.’ [Citation.] For instance, a trespassory invasion may take the form
19 of ginning lint [citation], cement dust [citation], and even invisible particles of fluoride compounds
20 [citation].” (*Ibid.*) The court further explained, “‘An entry may also be accomplished by setting in
21 motion an agency which, when put in operation, extends its energy to the plaintiff’s premises to its
22 material injury.’ [Citation.] Thus, intangible intrusions such as noise or vibrations may constitute a
23 trespass if they cause actual physical damage....” (*Id.*, at pp. 1306-1307.) If lint, dust, fluoride
24 compounds, noise, and vibrations are considered substances, objects, or energy that can intrude into the
25 boundaries of a neighboring property, the Court sees no reason, at this stage of the proceedings, to
26 conclude that allegations that fire fueled by overgrown and cut brush on MRCA’s property can similarly
27 intrude into the boundaries of Plaintiffs’ properties are sufficient.

28 Plaintiffs also argue that Health & Safety Code section 13007 supplies an independent statutory
predicate to support this claim. The statute states, “Any person who personally or through another
willfully, negligently, or in violation of law, sets fire to, allows fire to be set to, or allows a fire kindled
or attended by him to escape to, the property of another, whether privately or publicly owned, is liable
to the owner of such property for any damages to the property caused by the fire.” (Health & Saf. Code,

1 § 13007.) Plaintiffs' reliance on this statute is inapposite because MRCA did not set the fire or "allow"
2 the fire to be set.

3 Based on the foregoing, MCRA's demurrer to cause of action 33 is OVERRULED.

4 D. Counts 34 and 35: Private Nuisance & Public Nuisance

5 "Anything which is injurious to health, including, but not limited to, the illegal sale of controlled
6 substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as
7 to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage
8 or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any
9 public park, square, street, or highway, is a nuisance." (Civ. Code, § 3479.) "A nuisance is considered a
10 'public nuisance' when it 'affects at the same time an entire community or neighborhood, or any
11 considerable number of persons, although the extent of the annoyance or damage inflicted upon
12 individuals may be unequal.'" (Civ. Code, § 3480.)

13 Here, Plaintiffs' claims for "private and public nuisance are premised on the dangerous condition
14 caused by the overgrown brush on the MRCA's unimproved parcels." (Demurrer, 11:7-8 [citing
15 Complaint, ¶¶ 680-698].)

16 First, MRCA argues the nuisance claims must fail "because a nuisance cause of action cannot be
17 stated when the claim is based on an alleged dangerous condition of public property for which there is
18 no liability in tort." (*Id.*, 11:9-11 [citing *Longfellow v. County of San Luis Obispo* (1983) 144 Cal.App.3d
19 379; *Mikkelsen v. State of California* (1976) 59 Cal.App.3d 621; *Avedon, supra*, 186 Cal.App.4th at p.
20 1345].) MRCA relies on *Avedon* to the extent the court found that because the "appellants cannot
21 proceed on their claim for dangerous condition of public property, it follows that the nuisance claim
22 which mirrors that cause of action also cannot proceed." (*Avedon, supra*, 186 Cal.App.4th at p. 1345.)
MRCA's argument is essentially that the nuisance claims are deficient because they are based on a
dangerous condition for which MRCA has no liability. However, as discussed above, Plaintiffs have
sufficiently alleged a dangerous condition and MRCA has failed to show that it cannot be held liable
(because of an applicable immunity) for allowing the alleged dangerous condition to exist.

23 Second, MRCA argues that "immunity under Civil Code Section 3482 precludes a nuisance
24 cause of action against the MRCA because the MRCA is authorized by statute to operate open land and
25 unimproved parks." (Demurrer, 11:17-19.) Civil Code section 3482 states, "Nothing which is done or
26 maintained under the express authority of a statute can be deemed a nuisance."

27 MRCA relies on *Avedon*, in which the court held that a cause of action for nuisance against the
28 state was precluded by Civil Code section 3482. The court explained, "Respondent is authorized to
operate Malibu Creek State Park under Public Resources Code section 5001 et seq. Under section 5003,

1 'The department shall administer, protect, develop, and interpret the property under its jurisdiction for
2 the use and enjoyment of the public.' Section 5001 gives the Department of Parks and Recreation control
3 of the state park system. Respondent's operation of the park, including its decision to allow access to
4 the cave and to the road near the cave, fall squarely within its statutory authority. A nuisance claim
5 cannot be predicated on these actions." (*Avedon, supra*, 186 Cal.App.4th at p. 1345.) MRCA argues that
6 similarly, here, the alleged parcels are open land held by it "pursuant to the Recreation and Park District
7 Law found at Public Resources Code see, §§ 5780–5796.20, and as reflected in the MRCA JPA, see,
8 Exhibit 'A' to Request for Judicial Notice, section 2, page 2, section 4 at page 3. As such, the MRCA is
9 authorized to conserve open space lands." (Demurrer, 12:3-6.)

10 MRCA fails to identify which statute gives it express authority to allow the alleged nuisance,
11 that is, failing to remove overgrown and/or cut brush. In *Avedon*, the court referenced specific statutes—
12 Public Resources Code sections 5001 and 5003—and explained how those statutes gave the defendant
13 express authority to operate Malibu Creek State Park. (*Avedon, supra*, 186 Cal.App.4th at p. 1345.) The
14 *Avedon* court also explained how the defendant's decision to allow access to the cave fell squarely within
15 the statutory authority of section 5001. (*Ibid.*) Here, MRCA merely asserts—without directing the court
16 to a specific statute—that its conduct is expressly authorized by "the Recreation and Park District Law
17 found at Public Resources Code [] §§ 5780-5796.20." The Court cannot conduct an analysis like that in
18 *Avedon* without a specific statute on which to base the analysis.

19 Although not entirely clear, MRCA seems to argue that pursuant to Public Resources Code §§
20 5780–5796.20, it "is authorized to conserve open space lands." (Demurrer, 12:6.) Even if MRCA had
21 properly identified a statute within Public Resources Code §§ 5780–5796.20 authorizing it to "conserve
22 open space lands," it would still need to show that the statute expressly authorizes *the alleged conduct*.
23 (See *Greater Westchester Homeowners Assn. v. City of Los Angeles* (1979) 26 Cal.3d 86, 100-101;
24 *Varjabedian v. City of Madera* (1977) 20 Cal.3d 285, 291; *Nestle v. City of Santa Monica* (1972) 6
25 Cal.3d 920 at fn 16; *Hassell v. San Francisco* (1938) 11 Cal.2d 168, 171.) That the Public Resources
26 Code might authorize MTCA to "conserve open space lands," is not enough to show immunity under
27 Civil Code Section 3482. Plaintiff directs the Court to *Greater Westchester*, in which the California
28 Supreme Court explained,

We have consistently applied a narrow construction to section 3482 and to the principle
therein embodied. Thus, a number of years ago we observed, 'A statutory sanction cannot
be pleaded in justification of acts which by the general rules of law constitute a nuisance,
unless the acts complained of are authorized by the express terms of the statute under which
the justification is made, or by the plainest and most necessary implication from the powers
expressly conferred, so that it can be fairly stated that the legislature contemplated the
doing of the very act which occasions the injury.' [Citations.]

1 As we recently confirmed in *Varjabedian*, 'A requirement of "express" authorization
2 embodied in the statute itself insures that an unequivocal legislative intent to sanction a
3 nuisance will be effectuated, while avoiding the uncertainty that would result were every
4 generally worded statute a source of undetermined immunity from nuisance liability.'
5 [Citation.] In a similarly restricted fashion an appellate court has noted that 'Accordingly,
although an activity authorized by statute cannot be a nuisance, the manner in which the
activity is performed may constitute a nuisance.' [Citation.]

6 (*Greater Westchester, supra*, 26 Cal.3d at pp. 100-101.)

7 MRCA has not shown that there is a statute which expressly authorizes the conduct Plaintiffs
8 allege constituted a nuisance. Thus, MRCA has not shown that immunity under Civil Code Section 3482
9 precludes the nuisance claims against it.

10 Based on the foregoing, MRCA's demurrer to counts 34 and 35 is OVERRULED.

11 IV. Motion to Strike

12 MRCA moves to strike paragraph 671 of the Complaint in its entirety. In the paragraph, Plaintiffs
13 request punitive damages under the 32nd cause of action asserted against MRCA. Plaintiffs did not file
an opposition to this motion to strike. The motion is GRANTED.

14 V. Conclusion

15 In conclusion, MRCA's demurrer is OVERRULED. MRCA's motion to strike is GRANTED.

16
17 Dated: JUL 22 2026



SAMANTHA P. JESSNER
HON. SAMANTHA P. JESSNER
JUDGE OF THE SUPERIOR COURT