

**Assembly Joint Resolution**

**No. 70**

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**Introduced by Assembly Member Brownley**

July 1, 2008

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Assembly Joint Resolution No. 70—Relative to the Los Angeles River.

LEGISLATIVE COUNSEL'S DIGEST

AJR 70, as introduced, Brownley. Los Angeles River.

This measure would memorialize the Congress and President of the United States to support a special case review by the federal Environmental Protection Agency of the determination of the U.S. Army Corps of Engineers issued on June 4, 2008, finding that 2 sections of the Los Angeles River are traditional navigable waters, and to support any efforts of Congress to seek a review of this determination.

Fiscal committee: no.

- 1       WHEREAS, The Los Angeles River flows roughly 51 miles  
2 from its origin in the West San Fernando Valley, through the City  
3 of Los Angeles and 11 other cities along the way to Long Beach  
4 Harbor and the Pacific Ocean and is the original source of life for  
5 the City of Los Angeles; and  
6       WHEREAS, The first Native Americans in the area and, later  
7 the Spanish, built their early settlements along the Los Angeles  
8 River, and the river later powered industry and served as a major  
9 transportation corridor, creating economic value and growth; and  
10       WHEREAS, With development and encroachment into the flood  
11 plain, numerous homes and businesses were flooded by the Los  
12 Angeles River in the early 20th century, causing the U.S. Army

1 Corps of Engineers and the Los Angeles County Flood Control  
2 District to construct the concrete-lined channel that now carries  
3 the river for most of its 51-mile length; and

4 WHEREAS, Over time, the Los Angeles River corridor has  
5 become blighted with rail yards, warehouse districts, and other  
6 unsightly industrial uses that have reduced, and eliminated in most  
7 places, the opportunities for the public to enjoy the Los Angeles  
8 River as a place of natural and environmental beauty and for  
9 recreational and other activities that would otherwise bring  
10 neighborhoods back and restore a sense of place and pride to the  
11 families who live along the Los Angeles River; and

12 WHEREAS, Over the past two decades, there has been a  
13 renewed effort by a broad coalition of governmental agencies and  
14 nongovernmental organizations to revitalize the Los Angeles River,  
15 including, but not limited to, projects by the City of Los Angeles  
16 to invest in parks, bicycle paths, bridges, equestrian trails, and  
17 other amenities. These projects include multibenefit water quality  
18 projects that capture stormwater runoff onsite and provide natural  
19 treatment systems to clean stormwater before it runs into the Los  
20 Angeles River, as well as projects to clean water from those  
21 ephemeral and intermittent streams and tributaries leading to the  
22 Los Angeles River; and

23 WHEREAS, The City of Los Angeles and the County of Los  
24 Angeles are working together to implement the Los Angeles River  
25 Master Plan, which was adopted by the Los Angeles County Board  
26 of Supervisors in 1996, and the city's Los Angeles River  
27 Revitalization Master Plan, which was adopted by the Los Angeles  
28 City Council in 2007. The plans recognize that the Los Angeles  
29 River is a unique regional ecological resource that serves many  
30 purposes, including flood protection, recreation, open space,  
31 habitat, groundwater recharge, water quality, and more. The Los  
32 Angeles River projects adopted in the plan are designed to enhance  
33 multiple beneficial uses and integrate multiple objectives.  
34 Revitalization of the Los Angeles River would enhance and restore  
35 the river's nature and acknowledge the interconnectedness of the  
36 watershed from the mountains to the sea; and

37 WHEREAS, Cities that have the Los Angeles River or the river's  
38 streams and tributaries running through them are being encouraged  
39 to develop and are developing local land use ordinances that are  
40 protective of the watersheds, streams, and tributaries as part of the

1 overall recognition by the communities and their leaders of the  
2 positive impacts and values of having a clean and revitalized Los  
3 Angeles River running through those cities; and

4 WHEREAS, On June 4, 2008, the U.S. Army Corps of Engineers  
5 (Corps) issued a determination finding that two sections of the Los  
6 Angeles River are “traditional navigable waters” (TNW), a term  
7 that has both legal and regulatory importance relating to the  
8 jurisdiction of the Corps over water bodies derived from the federal  
9 Clean Water Act (42 U.S.C. Sec. 1251 et seq.) and recent United  
10 States Supreme Court cases, particularly *Rapanos v. United States*  
11 (2006) 547 U.S. 715; and

12 WHEREAS, The determination of the Corps was limited to only  
13 two sections of the Los Angeles River, and has called into question  
14 federal jurisdiction over the majority of the Los Angeles River and  
15 whether any, or all of the balance of the 51 miles are TNW, putting  
16 into serious jeopardy the water quality and ecosystems in, and  
17 impacting, the Los Angeles River; and

18 WHEREAS, The Corps has stated that there are approximately  
19 400 pending permit determinations throughout the Los Angeles  
20 River watershed, with profound water quality impacts if those  
21 determinations are not subject to, and controlled by, the  
22 environmental review applied to TNW; and

23 WHEREAS, The term “traditional navigable water” is critical  
24 to both the Corps and the federal Environmental Protection Agency  
25 jurisdiction of wetlands, rivers, and tributaries. A TNW  
26 determination is fundamental and sets the stage for later  
27 determinations; and

28 WHEREAS, Determinating that two segments along the Los  
29 Angeles River are TNW has created uncertainty as to the status of  
30 the majority of the length of the river, which must be resolved;  
31 now, therefore, be it

32 *Resolved by the Assembly and the Senate of the State of*  
33 *California, jointly*, That the Legislature respectfully memorializes  
34 the Congress and President of the United States to support a special  
35 case review by the federal Environmental Protection Agency of  
36 the determination of the U.S. Army Corps of Engineers issued on  
37 June 4, 2008, finding that two sections of the Los Angeles River  
38 are traditional navigable waters, and to support any efforts of  
39 Congress to seek a review of this determination; and be it further

1     *Resolved*, That the Chief Clerk of the Assembly transmit copies  
2 of this resolution to the President and Vice President of the United  
3 States, to the Speaker of the House of Representatives, to the  
4 Majority Leader of the Senate, and to each Senator and  
5 Representative from California in the Congress of the United  
6 States.

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