

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



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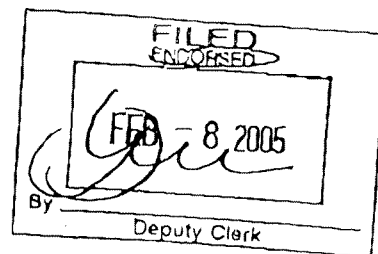
MESSAGE/INSTRUCTIONS

Attached is a copy of the file-endorsed judgment in Citizens for the Preservation of the Forest of Nisene Marks State Park et al v. Calif. Dept. of Parks & Recreation et al - Sacramento Superior Court No. 03CS01366.

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PLEASE DELIVER AS SOON AS POSSIBLE
FOR ASSISTANCE WITH THIS FAX, PLEASE CALL THE SENDER

1 William P. Parkin, State Bar No. 139718
 2 WITTWER & PARKIN, LLP
 3 147 South River Street, Suite 221
 Santa Cruz, California 95060
 Telephone: (831) 429-4055



4 Attorney for Petitioners
 5 CITIZENS FOR THE PRESERVATION OF THE FOREST
 OF NISENE MARKS STATE PARK and SANDY HENN

6
 7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 8 **FOR THE COUNTY OF SACRAMENTO**
 9

10
 11 CITIZENS FOR THE PRESERVATION OF
 THE FOREST OF NISENE MARKS STATE
 12 PARK, an unincorporated association, and
 SANDY HENN, a Citizen Resident of the
 13 County of Santa Cruz, acting individually and
 on behalf of all others similarly situated

No. 03CS01366

[PROPOSED] JUDGMENT

14 Petitioners,

15 vs.

16 CALIFORNIA DEPARTMENT OF PARKS
 AND RECREATION; STATE PARK AND
 17 RECREATION COMMISSION;
 18 and DOES 1 THROUGH 15,

19 Respondents,

20 _____)
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1 This matter came on regularly for hearing on August 13, 2004 and November 19, 2004
2 before the Honorable Judy Holzer Hersher. William P. Parkin appeared on behalf of Petitioners,
3 Citizens for the Preservation of The Forest of Nisene Marks State Park and Sandy Henn
4 ("Petitioners"), and Teri H. Ashby, Deputy Attorney General, appeared on behalf of
5 Respondents, California Department of Parks and Recreation and State Park and Recreation
6 Commission ("Respondents").

7 The Court issued an Order Granting in Part and Denying in Part the Petition for Writ of
8 Mandate in this proceeding, and based on this Order:

- 9 1. Judgment is entered in favor of Petitioners in this proceeding.
- 10 2. Mountain biking is prohibited by deed restrictions conveying the Dedicated
11 Property to the State and the use of mountain biking cannot be authorized in the deed restricted
12 portions of The Forest of Nisene Marks State Park ("the Park"). "Dedicated Property" is defined
13 as the four separate conveyances by grant and gift deeds from Agnes K. Marks, Herman H.
14 Marks and Andrew P. Marks conveying property to the State of California set out in the
15 Administrative Record at pp. 58 - 141.
- 16 3. Respondents have abused their discretion in adopting the General Plan/Final
17 Environmental Impact Report ("General Plan") to the extent the General Plan identifies mountain
18 bikers as legitimate users in the deed restricted portions of the Park. A peremptory writ of
19 mandate shall issue directing Respondents to set aside their August 22, 2003 approval of the
20 General Plan to the extent the General Plan designates certain areas within the Dedicated
21 Property where mountain biking may be allowed.
- 22 4. Respondents shall refrain from implementing the General Plan until
23 Respondents have reconsidered their interpretation of the deeds in light of this Court's ruling and
24 revised its General Plan accordingly.
- 25 5. Petitioners shall be awarded their costs of suit upon appropriate application
26 and may file a motion for attorneys fees.
- 27 6. Respondents shall file a return to this peremptory writ of mandate within 180
28 days describing what steps Respondents have taken to comply with this writ. The Court shall
retain jurisdiction over this proceeding until the Court has determined that Respondents have
complied with this Court's decision and this Judgment.

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JUDY HOLZER HERSHER

Dated: *2/16/05*

Judge of the Superior Court

Approved as to Form:

Teri H. Ashby

Teri H. Ashby
Attorney for Respondents

PROOF OF SERVICE BY MAIL

I certify and declare as follows:

I am over the age of 18, and not a party to this action. My business address is Wittwer & Parkin, LLP, 147 South River Street, Suite 221, Santa Cruz, CA 95060, which is located in Santa Cruz County where the mailing described below took place.

I am familiar with the business practice at my place of business for the collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On February 11, 2005, the following document(s):

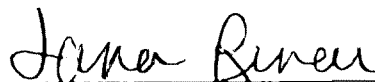
1. Judgment

was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully paid to:

Teri Ashby
Attorney General of the State of California
1300 I Street
Sacramento, CA 95814

I certify and declare under penalty of perjury that the forgoing is true and correct.

Dated: February 11, 2005



Jana Rinaldi

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