

FILED
SEP 20 2004
By *[Signature]*
DEPUTY CLERK

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

CITIZENS FOR THE PRESERVATION OF
THE FOREST OF NISENE MARKS STATE
PARK, et al.,
Petitioner,
vs. Case No.: 03CS01366
CALIFORNIA DEPARTMENT OF PARKS
AND RECREATION, et al.,
Respondent.

Case No. 03CS01366

**ORDER DIRECTING ISSUANCE OF
ALTERNATIVE WRIT OF
ADMINISTRATIVE MANDAMUS AND
ISSUANCE OF STAY.**

**TO THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION AND
THE STATE PARK AND RECREATION COMMISSION:**

Good cause appearing from the verified Petition for a Writ of Mandamus and after preliminary briefing, argument and hearing before the Court, the Court having found that Respondents are unlikely to prevail on the merits and the public interest will not suffer,

YOU ARE HEREBY COMMANDED that immediately on the service of this Alternative Writ and Stay, you shall refrain from engaging in any activity and/or proceeding with the implementation of any plan pursuant to the adoption of the Preliminary and/or Final General Plan/Final EIR approved by the State Park and Recreation Commission on August 22, 2003 with respect to the Forest of Nisene Marks State Park until further order of this Court.

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1 This Alternative Writ and Stay is issued in that the Court has found that Respondents
2 have failed to consider and act in compliance with the intent of the donors, the Marks family,
3 that 9000 acres of the park shall be preserved for use limited to camping, nature study, hiking
4 and associated activities. Under these and other terms of the various grant and gift deeds, there
5 shall be no mountain biking within that portion of the Nisene Marks State Park as provided for in
6 the relevant grant and gift deeds.

7 This Alternative Writ and Stay is effective until the Court has rendered a written ruling
8 on the deeds and on the appropriate remedy regarding the Preliminary Plan/EIR in light of the
9 Court's interpretation of the grant deeds. The parties have been ordered to brief for the Court the
10 limited issue only of their respective positions on the extent of the remedy regarding the
11 Plan/EIR in light of the Court's interpretation of the relevant deeds.

12 The matter is hereby continued to November 12, 2004, at 10 a.m., in Department 16.
13 Respondents California Department of Parks and Recreation and State Park and Recreation
14 Commission shall file a supplemental brief on October 1, 2004 by 5 p.m., Petitioners shall a brief
15 in response by October 20, 2004 by 5 p.m., and Respondents shall file a reply by November 1,
16 2004 by 5:00.

17 This order shall be personally served on Respondents by Petitioner.

18 Dated: 9/20/04.

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21 By: 
22 JUDY HOLZER HERSHER
23 Judge of the Superior Court
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Case Title: CITIZENS FOR PRESERVATION OF THE FOREST
OF NISENE MARKS STATE PARK v. CA. DEPT. OF PARKS AND RECREATION.

CERTIFICATE OF SERVICE BY MAILING
(C.C.P. Sec. 1013a(3))

I, the Clerk of the Superior Court of California, County of Sacramento, certify that I am not a party to this cause, and on the date shown below I served the foregoing ORDER DIRECTING ISSUANCE OF ALTERNATIVE WRIT OF ADMINISTRATIVE MANDAMUS AND ISSUANCE OF STAY, by depositing true copies thereof, enclosed in separate, sealed envelopes with the postage fully prepaid, in the United States Mail at Sacramento, California, each of which envelopes was addressed respectively to the persons and addresses shown below:

MARY HACKENBRACHT
Senior Assistant Attorney General
P.O.Box 944255
Sacramento, CA 94244-2550

WILLIAM P. PARKIN
Witter Parkin, LLP
147 S River St., Ste.221
Santa Cruz, CA 95060-4540

I, the undersigned deputy clerk, declare under penalty of perjury that the foregoing is true and correct.

Dated: 9/21/04

Superior Court of California, County of
Sacramento

By: N.SMITH
Deputy Clerk