

**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: 

JUDY HOLZER HERSHER  
Judge of the Superior Court

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

ORIGINAL

FILED  
ENDORSED  
MAY - 3 2004  
Deputy Clerk

1 BILL LOCKYER, Attorney General  
of the State of California  
2 MARY HACKENBRACHT  
Senior Assistant Attorney General  
3 TERI H. ASHBY (SBN 114624)  
Deputy Attorney General  
4 P.O. Box 944255  
Sacramento, California 94244-2550  
5 Telephone: (916) 327-4254  
Facsimile: (916) 327-2319

6 Attorneys for Respondent  
7 California Department of Parks and Recreation

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 IN AND FOR THE COUNTY OF SACRAMENTO

11 Case No. 03CS01366

12 CITIZENS FOR THE PRESERVATION OF THE  
13 FOREST OF NISENE MARKS STATE PARK, an  
unincorporated association,

14 Petitioners,

15 v.

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

18 Respondents.

19  
20 STIPULATION AND  
[PROPOSED] ORDER SETTING  
BRIEFING SCHEDULE AND  
HEARING DATE

Date: August 13, 2004  
Time: 10:00 am  
Dept.: 16  
Judge: Hon. Judy Holzer Hersher

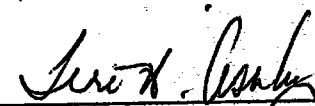
21 Respondents/Defendants, California Department of Parks and Recreation and  
22 State Park and Recreation Commission and Petitioners/Plaintiffs, Citizens for the Preservation of  
23 The Forest of Nisene Marks State Park and Sandy Henn, (collectively "Parties"), by and through  
their attorneys stipulate as follows:

- 24 1. Hearing on this matter was originally set for June 11, 2004.  
25 2. Petitioners/Plaintiffs' opening brief has been filed and the Administrative  
26 Record has been lodged with the court.  
27 3. At the request of Resondents/Defendants, the parties agree to modify the  
28 present briefing schedule and change the hearing date.

- 1                   4.       Respondents/Defendants shall file and serve their opposition brief no later
- 2 than May 26, 2004.
- 3                   5.       Petitioners/Plaintiffs shall file and serve their reply brief no later than June
- 4 21, 2004.
- 5                   6.       The hearing on the petition/complaint shall be held in Department 16 on
- 6 August 13, 2004 at 10:00 a.m.
- 7                   7.       Respondents/Defendants shall file and serve their response to the Second
- 8 Amended Petition for Writ of Mandamus and Complaint for Declaratory Relief no later than May
- 9 5, 2004.
- 10                  8.       This stipulation may be executed in counter parts and filed with facsimile
- 11 signatures.

12 Dated: April 28, 2004

BILL LOCKYER  
Attorney General of the State of California

  
\_\_\_\_\_  
TERI H. ASHBY, Deputy Attorney General  
Attorneys for Respondent  
California Department of Parks and Recreation

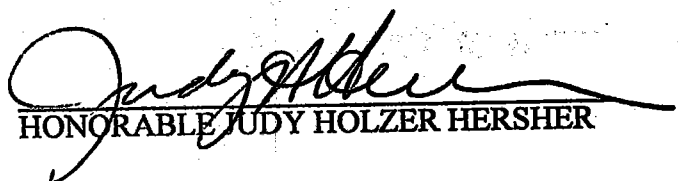
18 Dated:

WITTWER & PARKIN, LLP

\_\_\_\_\_  
ANDREA M. KENDRICK  
Attorneys for Petitioner  
Citizens for the Preservation of the Forest  
of Nisene Marks State Park

25 IT IS SO ORDERED.

26 Date: MAY - 4 2004

  
\_\_\_\_\_  
HONORABLE JUDY HOLZER HERSHER

JUDY HOLZER HERSHER

DECLARATION OF SERVICE

Case Name: Citizens for the Preservation of the Forest of Nisene Marks State Park v.  
California Department of Parks & Recreation

Court No.: Sacramento County Superior Court Case No. 03CS01366

I declare that I am employed in the County of Sacramento, California. I am over the age of 18 years and not a party to the within entitled cause. My business address is 1300 I Street, Sacramento, California 95814. I am readily 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 postal service in the ordinary course of business on the same day on which it is placed for mailing.

On April 30, 2004, I served the following documents:

STIPULATION AND [PROPOSED] ORDER SETTING BRIEFING  
SCHEDULE AND HEARING DATE

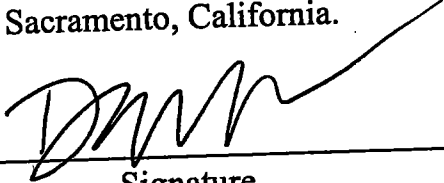
on the parties in said action as follows:

XX (REGULAR MAIL) by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system, addressed as shown below:

ANDREA M. KENDRICK  
Wittwer & Parkin, LLP  
147 South River Street, Suite 221  
Santa Cruz, CA 95060

I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on April 30, 2004, at Sacramento, California.

DONNA CAROLO  
Name

  
Signature

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

DATE/TIME : MARCH 4, 2004  
JUDGE : MICHAEL G. VIRGA  
REPORTER : NONE

DEPT. NO : 26 / 47  
CLERK : C. SCHELLENGER  
BAILIFF : NONE

CITIZENS FOR THE PRESERVATION OF THE FOREST  
OF NISENE MARKS STATE PARK, et al.,  
Petitioners,

COUNSEL OF RECORD:  
WILLIAM P. PARKIN

VS. Case No.: 03CS01366

CALIFORNIA DEPARTMENT OF PARKS AND  
RECREATION, et al.,  
Respondents.

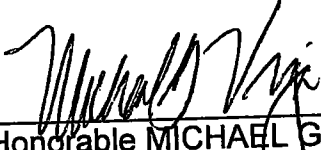
TERI ASHBY

Nature of Proceedings: ORDER REASSIGNING PETITION FOR WRIT OF MANDATE  
FOR ALL PURPOSES

As a result of Judge Burger-Plavan taking on other assignments, effective May 1, 2004, Petitions for Writs of Mandate previously assigned to the Honorable Trena H. Burger-Plavan are reassigned to the Honorable Judy Holzer Hersher. Therefore, this matter is hereby reassigned to Department 16 for all purposes, and the hearing set for **June 11, 2004** will be heard in **Department 16** at 10:00 a.m.

All subsequent documents in this cause shall be filed with the clerk of **Department 16** located on the third floor of the courthouse. These documents include, but are not limited to Answers, Memo of Points and Authorities, Demurrers, any pre-hearing motions, and lodging of Administrative Records. **Please provide one courtesy copy of each document filed in this action.** For those documents requiring payment of a fee (i.e., Answers, Motions, and Demurrers), the fee shall be paid to the cashier located in Room 102 of the courthouse before filing in **Department 16**.

Dated: MAR - 8 2004

  
Honorable MICHAEL G. VIRGA,  
Judge of the Superior Court of California,  
County of Sacramento

BOOK : 26 / 47  
PAGE :  
DATE : MARCH 4, 2004  
CASE NO. : 03CS01366  
CASE TITLE : CITIZENS VS. CALIF. DEPT. PARKS

Superior Court of California, County of  
Sacramento

BY: C. SCHELLENGER,  
Deputy Clerk

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

I, the undersigned deputy clerk of the Superior Court of California, County of Sacramento, do declare under penalty of perjury that I did this date place a copy of the above entitled notice in envelopes addressed to each of the parties, or their counsel of record as stated below, with sufficient postage affixed thereto and deposited the same in the United States Post Office at Sacramento, California.

William P. Parkin, Esq.  
WITTWER & PARKIN, LLP  
147 South River Street, Suite 221  
Santa Cruz, CA 95060

Teri Ashby  
OFFICE OF THE ATTORNEY GENERAL  
1300 "I" Street  
Sacramento, CA 95814

Dated: **MAR - 9 2004**

Superior Court of California,  
County of Sacramento

By:   
C. SCHELLENGER,  
Deputy Clerk

**ORDER ASSIGNING PETITION FOR WRIT OF MANDATE  
TO ONE JUDGE FOR ALL PURPOSES**

CASE NAME: MAMS State Park vs. CA Dept of Public and Rec, et al  
Citizen for the preservation of The forest of Nisene

CASE NUMBER: 03CS01366

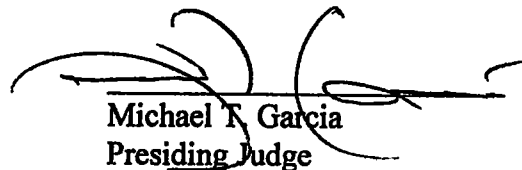
This matter is hereby assigned to the **Honorable Trena H. Burger-Plavan**, of Department 26 for all purposes.

All subsequent documents in this cause shall be filed with the clerk of Department 26 located on the fourth floor of the courthouse. These documents include, but are not limited to: Answers, Memoranda of Points and Authorities, Administrative Records, Demurrers, and any prehearing motions. For those documents requiring the payment of a fee (i.e. Answers, Motions, Demurrers), the fee shall be paid to the cashier located in Room 102 of the courthouse before filing in Department 26.

**The petitioner in land use and environmental actions**, at the time of the deadline for the response to the petition, shall prepare and lodge with the assigned department a notice form for the court's signature inviting mediation pursuant to Government Code section 66031, subdivision (b). A sample form may be obtained from the clerk in the assigned department.

A copy of this order shall be served on the respondent by the petitioner.

Dated: SEP 18 2003

  
Michael T. Garcia  
Presiding Judge

You have any questions, please refer to the Sacramento Superior Court Procedures for Executing Petitions for Writ of Mandate available in Room 102 of the courthouse, as well as in Department your case has been assigned.

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO**

**DATE/TIME : AUGUST 13, 2004 10:00 A.M.**  
**JUDGE : JUDY HERSHER**  
**REPORTER : C. SWITZER, #2112**

**DEPT. NO : 16**  
**CLERK : D. AHEE**  
**BAILIFF :**

**CITIZENS FOR THE PRESERVATION OF THE FOREST  
OF NISENE MARKS STATE PARK, et al.,**  
**Petitioner,**

**PRESENT:**  
**WILLIAM P. PARKIN**

**VS. Case No.: 03CS01366**

**CALIFORNIA DEPARTMENT OF PARKS AND  
RECREATION, et al.,**  
**Respondent.**

**TERI ASHBY**

**Nature of Proceedings: PETITION FOR WRIT OF MANDATE**

The above-entitled matter came on calendar this day with the above named parties present as indicated.

Both counsel made arguments to the Court.

Thereafter, the Court ordered this matter continued to November 19, 2004 at 9:00 a.m. in this department for further argument. The Court set a briefing schedule as stated into the record.

**BOOK : 16**  
**PAGE :**  
**DATE : AUGUST 13, 2004 10:00 A.M.**  
**CASE NO. : 03CS01366**  
**CASE TITLE : CITIZENS VS. CALIF. DEPT. PARKS**

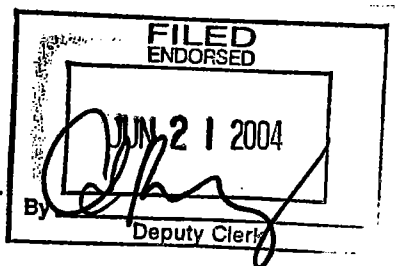
**Superior Court of California, County of  
Sacramento**

**BY:  D. AHEE,**  
**Deputy Clerk**

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William P. Parkin, State Bar No. 139718  
Andrea M. Kendrick, State Bar No. 225688  
WITTWER & PARKIN, LLP  
147 South River Street, Suite 221  
Santa Cruz, California 95060  
Telephone: (831) 429-4055

Attorney for Petitioners  
CITIZENS FOR THE PRESERVATION OF THE FOREST  
OF NISENE MARKS STATE PARK



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

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

Petitioners,

vs.

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

Respondents,

No. 03CS01366

**BY FAX**

PROOF OF SERVICE

Date: August 13, 2004  
Time: 10:00 a.m.  
Dept: 16  
Judge: Hon. Judy Holzer Hersher

Filed By  
One Legal

**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 June 21, 2004, the following document(s):

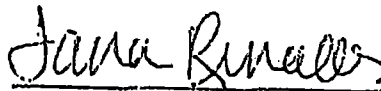
1. PETITIONER'S REPLY BRIEF
2. PETITIONER'S OBJECTION TO DECLARATIONS OF KARL KNAPP AND THOMAS P. WARD IN SUPPORT OF STATE PARK'S OPPOSITION
3. PETITIONER'S OBJECTION TO RESPONDENTS' MOTION FOR REQUEST FOR JUDICIAL NOTICE
4. REPLY TO RESPONDENTS' OBJECTION TO EVIDENCE SUBMITTED BY PETITIONER IN SUPPORT OF COMPLAINT FOR DECLARATORY RELIEF AND SECTION 1085 WRIT OF PETITION FOR MANDAMUS

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: June 21, 2004

  
\_\_\_\_\_  
Jana Rinaldi