

DONALD B. MOONEY (SBN 153721)  
LAW OFFICES OF DONALD B. MOONEY  
129 C Street, Suite 2  
Davis, California 95616  
Telephone: (530) 758-2377  
Facsimile: (530) 758-7169

Attorney for Petitioner  
Save the American River

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

SAVE THE AMERICAN RIVER  
ASSOCIATION, a California not-for profit  
Corporation

Petitioner/Plaintiff

v.

SACRAMENTO COUNTY DEPARTMENT OF  
REGIONAL PARKS; COUNTY OF  
SACRAMENTO; SACRAMENTO COUNTY  
BOARD OF SUPERVISORS and,  
DOES 1 through 20;

Respondents/Defendants

SACRAMENTO RUNNING ASSOCIATION;  
and, DOES 21 through 100;

Real Parties in Interest/Defendant

Case No. \_\_\_\_\_

**VERIFIED PETITION FOR  
WRIT OF MANDATE AND  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

1 By this action, Petitioner/Plaintiff SAVE THE AMERICAN RIVER ASSOCIATION  
2 ("SARA" or "Petitioner") petitions this Court for a Writ of Mandate, directed to  
3 Respondents/Defendants SACRAMENTO COUNTY REGIONAL PARKS DEPARTMENT,  
4 COUNTY OF SACRAMENTO, and SACRAMENTO COUNTY BOARD OF SUPERVISORS  
5 (collectively "Respondents"). Petitioner challenges Respondents' approval of a permit First  
6 Annual 100k Gold Rush Run on the grounds that Respondents failed to comply with  
7 requirements of the American River Parkway Plan. By this Petition, Petitioner/Plaintiff alleges:

### 8 PARTIES

9 1. Petitioner/Plaintiff Save the American River Association is a California non-profit  
10 corporation. SARA is a grass roots organization established in 1961 to spearhead establishment  
11 of the American River Parkway (the "crown jewel" of the Sacramento County Park System) and  
12 adoption of the Parkway Plan. SARA's mission is to protect and enhance the wildlife habitat,  
13 fishery, and recreational resources of the American River Parkway. SARA's volunteer non-  
14 profit group of over 400 members and Board of Directors work to ensure that the American  
15 River Parkway will survive and prosper for the benefit of future generations. Petitioner SARA  
16 and its members have a direct and substantial beneficial interest in ensuring that Respondents  
17 comply with the laws relating to environmental protection, particularly CEQA. Petitioner SARA  
18 and its members are affected by Respondents' failure to prepare an EIR for the Project.  
19 Petitioner SARA participated in the administrative process herein, and has exhausted her  
20 administrative remedies.

21 2. Respondent/Defendant Sacramento County Regional Parks Department is the  
22 County agency in charge of overseeing parks within the County of Sacramento and issues  
23 permits for events within the American River Parkway.

24 3. Respondent/Defendant County of Sacramento is a political subdivision of the State  
25 of California and a body corporate and politic exercising local government power.

26 4. Respondent/Defendant Sacramento County Board of Supervisors is a legislative  
27 body duly authorized under the California Constitution and the laws of the State of California to  
28 act on behalf of the County of Sacramento. Respondent Sacramento County Board of

1 Supervisors are responsible for overseeing the Sacramento County Regional Parks Department,  
2 including, but not limited to, implementing and complying with the provisions of the American  
3 River Parkway Plan.

4 5. Real Party in Interest/Defendant the Sacramento Running Association ("SRA") is a  
5 California not-for-profit corporation that organizes running event to the Sacramento area. SRA  
6 obtained a permit from the Sacramento County Regional Parks Department to operate the 100k  
7 Gold Rush scheduled for May 11, 2013.

8 6. Petitioner is unaware of the true names and identities of DOES 1 through 20 and 21  
9 through 100, inclusive, and sues such unnamed Respondents and Real Parties in Interest  
10 respectively, by their fictitious names. Petitioner is informed and believes, and based thereon  
11 alleges, that fictitiously named Respondents and Real Parties in Interest also are responsible for  
12 all acts and omissions described above. When the true identities and capacities of Respondents  
13 and Real Parties in Interest have been determined, Petitioner will, with leave of Court if  
14 necessary, amend this Petition to include such identities and capacities.

#### 15 **JURISDICTION AND VENUE**

16 7. This Court has jurisdiction over the matters alleged in this Petition pursuant to Code  
17 of Civil Procedure section 1085. In the alternative, this Court has jurisdiction pursuant to Code  
18 of Civil Procedure section 1094.5.

19 8. Venue for this action properly lies in the Superior Court for the State of California  
20 in and for the County of Sacramento pursuant to section 394 of the Code of Civil Procedure.

#### 21 **BACKGROUND INFORMATION**

22 9. SRA filed an application dated November 1, 2012 for a Special Trail Event for the  
23 May 11, 2013, First Annual 100K Gold Rush Run, a portion of which uses the American River  
24 Parkway.

25 10. The Sacramento County Department of Regional Parks issued a "Special Event –  
26 Trail Permit" dated February 26, 2013. A copy of the February 26, 2013, permit signed by  
27 Amber Veselka, Recreation Supervisor, Sacramento County Parks is attached to this Petition as  
28 Exhibit A.

1           11.     The event is a Large Group Activity under the American River Parkway Plan. (See  
2 American River Parkway Plan at p. 120.)

3           12.     SRA's inaugural Gold Rush 100K event is scheduled for Saturday, May 11, 2013  
4 and SRA plans to hold the event annually on the second Saturday of each May.

5           13.     Runners will start at Sutter's Mill and finish at Sutter's Fort. The course will run  
6 along the north side of Lake Natoma, cross the River at Hazel, and enter the County managed  
7 portion of the Parkway. The course will run along the south side of the River, crosses to the  
8 north side at William B. Pond Recreation Area, continues on the north side until crossing back to  
9 the south side at Guy West Bridge, pass River Park and exit the Parkway at Sutter's Landing at  
10 28<sup>th</sup> street.

11          14.     The event will use established equestrian and pedestrian dirt trails with small  
12 sections of pavement in areas where the trail system does not support a dirt path course and  
13 portions of the Bicycle Trail. Aid stations will be located at Mile 6 at Ethan, Mile 13 at William  
14 B. Pond, Mile 18 at El Manto, and Mile 23 at Hazel. Volunteers will be used to staff aid stations  
15 and for safety sweeps on the trail.

16          15.     The event is footrace and awards will be presented to the overall male and female  
17 winners, the masters male and female winners, and to the top three finishers in six age groups.  
18 The race is limited to 300 runners.

19          16.     The event will begin in the Parkway with setup at 9:00 a.m. on the day of the race.  
20 SRA expects the first runner to reach the Hazel Avenue Bridge at about 10:00 a.m. and the last  
21 runners to reach Hazel Avenue at about 2:00 p.m. Final cutoff for the last runner to finish the  
22 course at Sutter's Fort is 8:00 p.m. Event Breakdown is to begin at 8:00 p.m.

23          17.     The event will be open to the public and the entry fee is \$150 per person.

24          18.     The Permit provides that the event is not to occur in sensitive habitat areas.  
25 (Exhibit A, Permit Requirement No. 10)

26          19.     The Permit further states that the Bike Trail will not be closed and requires that  
27 SRA "make sure that all participants are aware that other people will be using the bike trail as  
28 your event." (Exhibit A, Permit Requirement No. 12).

1           20.     On March 7, 2013, Petitioner filed an administrative appeal with the Sacramento  
2 County Board of Supervisors requesting that the Permit be vacated and rescinded.

3           21.     On April 9, 2013, the Sacramento County Board of Supervisors heard the matter  
4 and determined that there was no administrative appeal required for the permit. The Board of  
5 Supervisors took no action on Petitioner's appeal and let the Permit stand.

6                   **EXHAUSTION OF ADMINISTRATIVE REMEDIES**  
7                   **AND INADEQUACY OF REMEDY**

8           22.     Petitioner has performed any and all conditions precedent to filing the instant action  
9 and has exhausted any and all available administrative remedies to the extent required by law.

10                   **STANDING**

11           23.     Petitioner has standing to assert the claims raised in this Petition because Petitioner  
12 and its members' aesthetic and environmental interests are directly and adversely affected by  
13 Respondents' approval of the Project.

14                   **CAUSES OF ACTION**

15                   **FIRST CAUSE OF ACTION**  
16                   **(Violation of the American River Parkway Plan,**  
                      **Public Resources Code, section 5480 *et seq.*)**

17           24.     Petitioner realleges and incorporates by reference Paragraphs 1 through 23,  
18 inclusive, of this Petition, as if fully set forth below.

19           25.     Respondents' issuance of the Permit is inconsistent with and violates the American  
20 River Parkway Plan. (See Pub. Resources Code, § 5482(a).)

21           26.     The American River Parkway is a unique regional feature which shall be managed  
22 to balance the goal of persevering open space and environmental quality within the urban  
23 environment. (American River Parkway Plan, Policy 1.1.)

24           27.     Public Resources Code section 5842(a) requires that the County's actions with  
25 regard to land decisions shall be consistent with the American River Parkway Plan.

26           28.     The Parkway Plan specifies that "all uses and facilities in the Parkway shall be  
27 compatible with the goals and policies of this Plan." (American River Parkway Plan 2008,  
28 Policy 11.2.) "Implementation", page 213, Policy 11.2.)

1           29.     To be compatible with the Goals and Policies of the Parkway Plan and allowable in  
2 the Parkway, proposed uses and facilities must (a) not interfere with the attainment of the Goals  
3 of the Plan, (b) not conflict with the Concept Policies, and (c) be found to be in accordance with  
4 the detailed Parkway Plan policies.

5           30.     The Parkway Plan provides that

6                     Land use designations provide the fundamental framework to regulate the  
7                     types of use, location, level of facility development, or degree of natural  
8                     resource protection throughout the Parkway. Land use designations create  
9                     the broader vision of what activities may be permitted and locations where  
                      protection of the aesthetic, cultural, historical and natural resources of the  
                      Parkway are of utmost importance. (Plan, Chapter 7 at p. 109.)

10          31.     The Parkway Plan divides the Parkway into six categories to describe land use  
11 suitability: Open Space Preserve; Nature Study Area; Protected Area; Limited Recreation;  
12 Developed Recreation; and Recreation Reserves. (Plan, Chapter 7, at p. 115.)

13          32.     Table 7-1 identifies the allowable recreational activities and user groups based upon  
14 the land use designation. Pursuant to Table 7-1, "Large Groups" are limited to Developed  
15 Recreation areas.

16          33.     The 100 K Gold Rush run is designated as a "Large Group" activity. As permitted,  
17 is not limited to Developed Recreation areas. As such, the event, as permitted, is inconsistent  
18 with the American River Parkway Plan.

19          34.     The Parkway Plan permits competitive events on the bicycle trail. (Plan, Policy  
20 5.31.) The Plan further limits competitive events to fund-raising by non-profit or charitable  
21 organizations with public and civic interests; or competitive recreation for which no event entry  
22 fee is charged. (Plan, Policy 5.31(a), (b).)

23          35.     The Plan further provides that competitive events on the bicycle trail shall not  
24 exceed one per month. (Plan, Policy 5.32.)

25          36.     The Plan also states that "the absence of an activity or facility from the prohibited  
26 list does not imply that the activity or facility is permitted." (Plan, Chapter 5 at p. 93.)

27          37.     The Permit authorizes the use of the Bike Trail for 100K Gold Rush run. The  
28 County has previously authorized another competitive event, SacFit, for the bicycle trail in the

1 month of May 2013. As such, the approval and permit is inconsistent the Parkway Plan's  
2 limitation of one competitive event a month on the Bike Trail. (Plan, Policy 5.32.)

3 38. The 100k Gold Rush Run will also take place on the Equestrian/Hiking Trail. The  
4 permit has been granted for a competitive event where time is the determining factor. Nothing  
5 within the Parkway Plan authorizes the use of the equestrian/hiking trail for competitive running  
6 events. As such, Respondents' approval of the Permit is inconsistent with the Parkway Plan.

7 39. Prior to issuing a Permit for a competitive event on the equestrian trail, the Director  
8 of Regional Parks must determine that the event or activity will occur in a manner that:

9 a) Minimizes the impacts on other Parkway users, natural resources and  
10 aesthetics of the Parkway (American River Parkway Plan 2008, Chapter 5, at p. 101);

11 b) Is in accordance Public Resources Code, section 5480 et seq. (i.e. the  
12 American River Parkway Plan) and applicable County Ordinances; and

13 c) Is compatible with the Goals and Policies of the Parkway Plan. American  
14 River Parkway Plan (Plan, Policy 11.2, p. 213).

15 40. Respondents failed to make the necessary findings prior to issuance of the Permit  
16 for the 100K Gold Rush Run.

17 41. To the extent, Respondents claim that such findings exist, substantial evidence in  
18 the record does not support any such findings.

19 42. Respondents' approval of the 100k Gold Rush Run is arbitrary and capricious,  
20 constitutes a prejudicial abuse of discretion and is contrary to law.

21 **SECOND CAUSE OF ACTION**  
22 **(Declaratory Judgment)**

23 43. Petitioner realleges and incorporates by reference Paragraphs 1 through 42,  
24 inclusive, of this Petition, as if fully set forth below.

25 44. Petitioner brings suit for declaratory relief pursuant to Code of Civil Procedure  
26 section 1060 and requests a determination regarding the rights and duties of Petitioner and the  
27 Defendants with respect to the annual 100K Gold Rush Run which utilizes the American River  
28 Parkway.

1           45.     A present controversy exists between the Save the American River Association, the  
2     Sacramento County Department of Regional Parks and the Sacramento Running Association  
3     regarding the use of American River Parkway for large group competitive running events on the  
4     Equestrian/Hiking and Bicycling Trails. Specifically, a controversy exists between the parties  
5     regarding whether the annual 100K Gold Rush run, as approved, is consistent with the American  
6     River Parkway Plan.

7           46.     The controversy described in the preceding paragraphs is ripe for adjudication  
8     because the County has issued the Permit and the Sacramento Running Association has indicated  
9     that it intends to conduct the event on the second Saturday of every May.

10                                   **THIRD CAUSE OF ACTION**  
11                                   **(Preliminary Injunction)**

12           47.     Petitioner realleges and incorporates by reference Paragraphs 1 through 46,  
13     inclusive, of this Petition, as if fully set forth below.

14           48.     Respondents intend to allow the 100K Gold Rush Run to take place on May 11,  
15     2013, without having required it comply with the American River Parkway Plan.

16           49.     Petitioner and its representatives have repeatedly requested that the County revoke  
17     the Permit. The County has refused these requests.

18           50.     Defendants' threatened and actual actions, unless and until enjoined and restrained  
19     by an order of this Court, will cause irreparable harm to Save the American River's interests and  
20     to the American River Parkway.

21           51.     Petitioner has no adequate remedy at law for the injuries that Defendants have  
22     caused and threaten to cause. Without a preliminary injunction, the 100K Gold Rush Run will  
23     take place in a manner that is inconsistent with the American River Parkway Plan.

24           52.     Petitioner respectfully requests that this Court issue a preliminary injunction  
25     prohibiting Defendants from conducting the 100k Gold Rush Run through the American River  
26     Parkway, pending the resolution of this action.



**FOURTH CAUSE OF ACTION**  
**(Permanent Injunction)**

53. Petitioner realleges and incorporates by reference Paragraphs 1 through 52, inclusive, of this Petition, as if fully set forth below.

56. Petitioner respectfully requests that this Court issue a permanent injunction forbidding Defendants, including their agents, employees, contractors and anyone acting on their behalf, from conducting the 100k Gold Rush Run as it fails to comply with the American River Parkway.

**PRAAYER FOR RELIEF**

WHEREFORE, Petitioner prays for judgment as follows:

1. On the First Cause of Action, that this Court issue a peremptory writ of mandate ordering Respondents to vacate and rescind approval of the Special Event-Trail Permit issued February 26, 2013 to the Sacramento Running Association.

2. On the Second Cause of Action, for an order that the County's issuance of the Permit for the 100k Gold Rush Run fails to comply with the American River Parkway Plan and Public Resources Code section 5480 et seq.

3. On the Third Cause of Action, for a preliminary injunction enjoining the May 11, 2013, 100K Gold Rush Run from taking place within the American River Parkway.

4. On the Fourth Cause of Action, for a permanent injunction enjoining the May 11, 2013, 100K Gold Rush Run, as permitted, and in subsequent years from taking place within the American River Parkway,

5. For Petitioner's costs associated with this action;

6. For an award of reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5; and

7. For such other and further relief as the Court may deem just and proper.

//

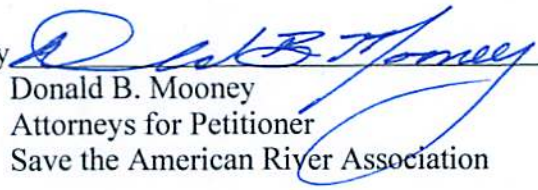
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1 Dated: April 22, 2013

Respectfully submitted,

2 LAW OFFICES OF DONALD B. MOONEY

3  
4 By

  
Donald B. Mooney

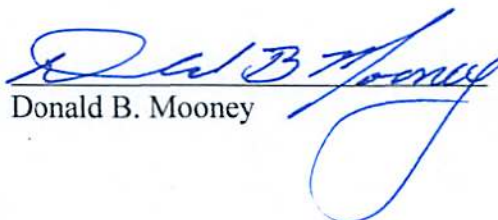
Attorneys for Petitioner

Save the American River Association

VERIFICATION

I am the attorney for Petitioner Save the American River Association who is located outside the County of Yolo, State of California, where I have my office. For that reason, I make this verification for and on their behalf pursuant to the California Code of Civil Procedure section 446. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. The matters stated in this Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief are true of my own knowledge except those matters stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the above is true and correct. Executed this 22<sup>nd</sup> day of April 2013, at Davis, California.

  
Donald B. Mooney

# **EXHIBIT A**

**EXHIBIT A**

Municipal Services Agency

Department of Regional Parks  
Jeffrey R. Leatherman, Director



Bradley J. Hudson,  
County Executive

Robert B. Leonard,  
Chief Deputy County Executive

## County of Sacramento

### ***SPECIAL EVENT- TRAIL PERMIT***

**Permit Due Date: April 19, 2013**

February 26, 2013

Sacramento Running Association

Bill Hambrick

5641 Tumbridge Way

Carmichael CA 95608

Dear Bill Hambrick,

Thank you for your interest in Sacramento County Regional Parks & Bike trail. This letter is in response to your request to hold Gold Rush 100K Endurance Run along the American River Parkway trails on May 11<sup>th</sup> of 2013. Your request has been **approved**, and this letter will serve as your permit for the day. Please bring this permit with you to the event it is only valid when all pages are attached, and both parties sign the last page. **Please review, sign and return a copy of this form for final approval. This signed permit should be received back by April 19<sup>th</sup>, 2013. \_\_\_\_ Initial**

**(The 2013 Fee Schedule has not been approved by the Board of Supervisors at this time; therefore we will be required to use the approved 2010 Fee Schedule for your 2013 event).**

Please note the following conditions **must** be met in order to protect participants, wildlife, and other users of the parkway.

1. Verification of \$1,000,000 General Liability Insurance for the event listing the County of Sacramento Regional Parks as the Certificate Holder and as an Additional Insured needs to be on file in our office before your event may take place.
2. All areas you requested are available on first come first serve basis. Your group is utilizing County Property at its own risk. The County of Sacramento is not liable for injury or property damage.
3. Permittee/Renter shall defend, indemnify and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all demands, claims, actions, losses, liabilities, damages, and costs, including reasonable attorney's fees, arising out of or resulting from the use of the premises, except and in proportion to the extent caused by the negligence of the COUNTY, its Board of Supervisors, officers, directors, employees, agents, or volunteers.
4. The fee for this Special Event Permit Application of \$50.00 has been received, but the remaining \$ 570.00 for the trail event fee and special event permit fee is now due. \_\_\_\_ Initial

5. Please inform participants and spectators that all vehicles entering the park are subject to the standard vehicles fee of \$5.00 per vehicle. Event with post payment parking, your participants will be able to enter the park with parking pass/chit. You will be billed after the event for each parking pass received. All vehicles involved with your event must park in legal parking spaces.
6. Please make arrangements to have course monitors, as there are blind spots on parts of the trail and use of monitors will ensure safety of both participants and the public.
7. A sound permit has not been issued for the activity.
8. Please discuss the placement of vendor booths/vehicles with County Parks staff. Please advise vendors that they may drive only on designated areas. **NO PAINT IS ALLOWED TO MARK VENDOR SPACES!** Please use chalk or a material that can be easily removed.
9. Please instruct all vendors that they will need to provide their own generators for electrical needs.
10. Please stay out of designated sensitive habitat areas.
11. Your group may not use ropes, cones, or barricades of any kind within the park or bike trail. The use of signs on trees or stakes inserted into the ground is strictly prohibited. Paint or spray chalk may not be used to mark the course in any way.
12. The Bike Trail **WILL NOT** be closed solely for your events use. Make sure that all participants are aware that other people will be using the bike trail the same day as your event. Your activity should not negatively impact other users of the American River. \_\_\_\_ Initial
13. In order to reduce the impact of your event, staggered race starts are required. This will help to reduce traffic and spread out participants along the trail.
14. When using Bike Trail, runners and walkers should stay filed on the correct side of the trail, not using the whole trail for the run. (Single or double filed, walking/running towards oncoming traffic). \_\_\_\_ Initial
15. All debris associated with this activity is to be removed and placed in proper receptacles. You will be billed if extra County staff is required for your activity.
16. If there are any problems or concerns on the day of your event please contact Sacramento County Rangers at (916) 875-PARK.

County Parks wants this event to be successful, safe, and well organized for the enjoyment of the community. Please work closely with County Parks' staff in keeping them updated and informed of any changes.

All stipulations listed above should be followed in order to insure a safe and fun event. Should you have any questions concerning the above, please contact me at 875-6336. Best of luck for a successful activity!





I have read the above agreements, stipulations and conditions, and agree to comply with fees, deposits, charges and stipulations outlined above.

**Applicant:**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Bill Hambrick  
Sacramento Running Association

**Permit Granted:**

Signature: \_\_\_\_\_ Date: 2/26/13

Amber Veselka  
Recreation Supervisor  
Sacramento County Regional Parks

