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8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
9 COUNTY OF ORANGE

6 NATURIST ACTION COMMITTEE (an) Case No.: _____
7 Unincorporated Association);)
8 FRIENDS OF SAN ONOFRE BEACH (an) EX PARTE APPLICATION FOR ISSUANCE
9 Unincorporated Association); R.) OF ALTERNATIVE WRIT OF MANDATE
10 ALLEN BAYLIS and GERDA HAYES) (CCP 1087); PROPOSED ORDER TO SHOW
11 (Individuals)) CAUSE; PROPOSED ALTERNATIVE WRIT;
12) DECLARATION OF R. ALLEN BAYLIS;
13) DECLARATION OF GERDA HAYES;
14) DECLARATION OF ELVA P. KOPACZ RE.
15) NOTICE OF EX PARTE APPLICATION.
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6 Petitioners,
7 v.
8 CALIFORNIA STATE DEPARTMENT OF) Hearing Date:
9 PARKS & RECREATION; RUTH COLEMAN) Time:
10 in her Official Capacity as) Dept:
11 DIRECTOR of the CALIFORNIA STATE)
12 DEPARTMENT OF PARKS & RECREATION,)
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14)
15 Respondents
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18 1. Moving Parties are in Imminent Danger and will be Irreparably
19 Harmed if the Requested Alternative writ is not Issued Forthwith.

20 Moving parties are organizations of individuals and individuals
21 who routinely visit San Onofre State Beach for the purpose of nude
22 sunbathing. If the State Department of Parks and Recreation proceeds
23 with its stated intent to prosecute nude sunbathers at San Onofre,
24 moving parties (and the public at large) will be subject to arrest and
25 prosecution for a criminal act without prior notice. [Exhibit "A",
26 Declaration of R. Allen Baylis] [Exhibit "B", Declaration of Gerda
27 Hayes].
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1 The San Onofre Bluffs (Trail 6) Enforcement Proposal, obtained by
2 moving parties through a public records request (after several
3 attempts at informal requests for information were denied); states the
4 intent to immediately and without further process to rescind the
5 "Cahill Policy" by:

- 6 (1) Performing a "high profile sweep";
- 7 (2) Videotaping and/or photographing "offenders" (naturists);
- 8 (3) Arresting and booking "violators" into the Vista Detention
9 Facility;
- 10 (4) Towing and impounding "violators'" vehicles; and
- 11 (5) Involving Federal Agents and the San Diego Sheriff's Department.

12 A true and correct copy of said Enforcement Proposal is attached
13 hereto at Exhibit "C". It should be noted that this proposal appears
14 to be going into effect without any public comment or notice; or any
15 compliance with the California Administrative Procedure Act at all.

16 2. An Alternative Writ of Mandate may be Issued Ex Parte.

17 An Alternative Writ of Mandate is correctly issued by the court
18 when a petitioner is heard ex parte. Cal. Code of Civ. Pro. §1088
19 (West, 2008). An alternate writ should be issued upon showing made,
20 any doubt arises as to the rights of the parties. Tingley v. Superior
21 Court, 8 Cal.App. 47 (1908). In the instant case, the petitioners
22 face arrest, prosecution, photographing, videotaping, and vehicle
23 impound if the regulation that has governed state parks for almost 30
24 years is summarily and unilaterally rescinded without required public
25 notice and hearing.

26 Based on the Points and Authorities included herein and any other
27 argument which may be heard by the court, the above-named Petitioners
28

1 come in their *ex parte* motion requesting that this court issue an
2 Alternative Writ of Mandate directing the CALIFORNIA STATE DEPARTMENT
3 OF PARKS & RECREATION and RUTH COLEMAN in her Official Capacity as
4 DIRECTOR of the CALIFORNIA STATE DEPARTMENT OF PARKS & RECREATION, to
5 comply with California Government Code §§54950, et. seq. regarding
6 quasi-legislative action within the meaning of the California
7 Administrative Procedure Act. Specifically, that the Department be
8 ordered to give notice to Petitioners herein as "interested parties";
9 and, give notice and hold a public hearing prior to recession or
10 modification of its regulation of nude sunbathing at San Onofre State
11 Beach or Show Cause why said public notice and hearing should not be
12 held.

13
14 Dated: _____

Elva P. Kopacz, Attorney for
Petitioners