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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

FRIENDS OF ROEDING PARK, et al., No. 2:11-cv-02083-MCE-CKD  
Plaintiffs,  
v. MEMORANDUM AND ORDER  
CITY OF FRESNO, et al.,  
Defendants.

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Before the Court are (1) December 9, 2011, Defendant City of Fresno's Motion to Dismiss for Lack of Jurisdiction, ECF No. 15; (2) December 9, 2011 Defendant County of Fresno's Motion to Dismiss, ECF No. 17; (3) Defendant California Department of Parks and Recreation's Motion to Dismiss, ECF No. 20; and (4) Defendant Fresno's Chaffee Zoo Corp.'s Motion to Change Venue, ECF No. 22.<sup>1</sup>

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<sup>1</sup> Because oral argument will not be of material assistance, the Court orders this matter submitted on the briefs. E.D. Cal. Local Rule 78-230(h).

1 The Motions are fully briefed. Because the Court finds that  
2 venue is improper, this action will be transferred to Fresno.  
3 All other motions, requests, or stipulations, are therefore moot.

4 Friends of Roeding Park is an unincorporated association  
5 located in Fresno, California. Each of the individual plaintiffs  
6 reside in Fresno. Roeding Park is located in Fresno and the  
7 Fresno County Zoo is located within Roeding Park. Plaintiffs'  
8 allegations in the "Amended Petition for Writ of Mandate and  
9 Complaint for Violation of Federal Statutes and Pendent State  
10 Claims" (the "Amended Complaint"), ECF No. 13, concern the Fresno  
11 County Zoo's expansion in Roeding Park and the environmental  
12 impact of that expansion. With the exception of the United  
13 States Department of the Interior and California's Department of  
14 Parks and Recreation, all of the other defendants in Plaintiffs'  
15 First Amended Complaint are Fresno entities.<sup>2</sup>

16 The U.S. District Court for the Eastern District of  
17 California has divisional offices for the filing of civil actions  
18 in Sacramento and Fresno. Local Rule ("L.R.") 120(d) generally  
19 provides that actions that arise in certain specified counties  
20 "shall" be filed in the Fresno Office and actions arising in  
21 other specified counties "shall" be filed in the Sacramento  
22 Office.<sup>3</sup>

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25 <sup>2</sup> These defendants are the: (1) City Of Fresno; (2) Fresno  
26 County Zoo Authority; (3) County of Fresno; (4) Fresno's Chaffee  
Zoo Corporation; (5) Roeding Park Playland; and (6) Fresno  
Storyland.

27 <sup>3</sup> Filing in Fresno is required for actions arising in  
28 Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced,  
Stanislaus, Tulare and Tuolumne counties. See L.R. 120(d).

1 Specifically, L.R. 120(d) provides, in relevant part, that  
2 "proceedings of every nature and kind cognizable in the United  
3 States District Court for the Eastern District of California  
4 arising in" Fresno shall be commenced in the Fresno District  
5 Court. Further, L.R. 120(f) states that:

6 Whenever in any action the Court finds upon its own  
7 motion, motion of any party, or stipulation that the  
8 action has not been commenced in the proper court in  
9 accordance with this Rule, or for other good cause, the  
10 Court may transfer the action to another venue within  
11 the District.

12 There is no dispute that this action "arises" in Fresno.

13 See First Amended Complaint, ECF No. 13 at 1; Plaintiffs/  
14 Petitioners' Response to Order to Show Cause re Dismissal,  
15 ECF No. 28 at 2-3, 5-6.<sup>4</sup> Rather, in response to the motion to  
16 transfer venue, Plaintiffs request that the Court bifurcate this  
17 action by transferring venue to Fresno for certain claims, while  
18 retaining jurisdiction over the claims relating to Secretary of  
19 the Interior and the National Environmental Policy Act.  
20 ECF No. 28 at 2-3, 5-6.

21 Plaintiffs do not, however, provide any reason why venue in  
22 this Court would be proper under Local Rule 120 for those claims,  
23 which also arise from the Zoo's expansion and the environmental  
24 impact of that expansion.

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27 <sup>4</sup> In their First Amended Complaint, Plaintiffs do not allege  
28 that venue is proper in Sacramento because the action "arises" in  
Sacramento. Rather, Plaintiffs contend that venue is proper  
because both the U.S. Department of the Interior and California's  
Department of Parks and Recreation have offices in Sacramento and  
actions against state agencies may be brought in the County of  
Sacramento. See ECF No. 13 at 1.

1 Furthermore, Plaintiffs have made no showing that the U.S.  
2 Department of the Interior and California's Department of Parks  
3 and Recreation could not appear in Fresno, nor have they shown  
4 that bifurcating their claims would promote the goals of judicial  
5 economy, convenience, and fairness to litigants. See  
6 Fed. R. Civ. P. 42(d) ("For convenience, to avoid prejudice, or  
7 to expedite and economize, the court may order a separate trial  
8 of one or more separate issues, claims, crossclaims,  
9 counterclaims, or third-party claims.").

10 In sum, Plaintiffs are located in Fresno, the real property  
11 (i.e., Roeding Park and the Fresno Zoo) at issue is located in  
12 Fresno, the allegations regarding the expansion and the  
13 environmental impact all relate to Roeding Park and the Fresno  
14 Zoo, and all but two of the defendants are located in Fresno.  
15 The Court concludes that this action "arises" in Fresno and  
16 should have been filed in Fresno. Transfer to Fresno is  
17 therefore appropriate and the Court finds good cause to transfer  
18 this case to Fresno pursuant to Local Rule 120(f).

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1 The Court therefore GRANTS defendant Fresno's Chaffee Zoo  
2 Corp.'s Motion to Change Venue, ECF No. 22, and DISMISSES AS MOOT  
3 (1) Defendant City of Fresno's Motion to Dismiss for Lack of  
4 Jurisdiction, ECF No. 15; (2) Defendant County of Fresno's Motion  
5 to Dismiss, ECF No. 17; (3) Defendant California Department of  
6 Parks and Recreation's Motion to Dismiss, ECF No. 20, and any  
7 other motions, requests, or stipulations that may be pending.

8 IT IS SO ORDERED.

9 Dated: December 15, 2011

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12 MORRISON C. ENGLAND, JR.  
13 UNITED STATES DISTRICT JUDGE  
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