

**CENTER FOR BIOLOGICAL DIVERSITY, etc., et al. v. CALIFORNIA  
DEPARTMENT OF PARKS AND RECREATION, et al.**

Case No. 07CS00077

January 26, 2007

11:00 a.m.

Department 11

Judge Gail Ohanesian

Petitioners' Ex Parte Application for Stay and TRO

**Tentative Ruling**

Petitioners' application for a stay, a temporary restraining order and an order to show cause why a preliminary injunction should not issue is denied.

The court is persuaded that petitioners are unlikely to prevail on the merits and that petitioners have not established a sufficient basis for interim relief. Petitioners' challenge to respondents' issuance of a Notice of Exemption regarding the acquisition of the property in question appears to be barred by the statute of limitations, Public Resources Code section 21167, subdivision (d). They also allege that respondent violated Public Resources Code section 5019.53 by allowing uses of the property which are not appropriate for a state park. However, respondents in their opposition contend that the property has not yet been classified as either a state park or a recreation area. Petitioners now seek to stay the issuance of approvals or permits for off-road vehicle use, but the evidence does not show that respondent has issued any such approvals or permits. The oppositions filed by respondents and by real party in interest are persuasive that the Truckaven Challenge event did not go forward on January 20 and 21, 2007. Respondents have submitted declarations which show that the current use of the property is consistent with its use before acquisition by the state. In this respect a temporary restraining order would change the status quo, rather than preserve it.

The court concludes that petitioners have not made a prima facie case for injunctive relief so as to justify the issuance of an order to show cause re preliminary injunction.

However, this ruling is without prejudice to a noticed motion for interim relief, should petitioners believe they will be able to establish a sufficient factual and legal basis.

On January 25, 2007, petitioners filed a Notice Dismissing California Off Road Vehicle Association as Real Party in Interest. In order to dismiss a party, petitioners must use the mandatory Judicial Council form CIV-110. (California Rules of Court, Rule 1.31 and Appendix A.) The court deems the document filed January 25, 2007, ineffective. CORVA remains a party to this action.

The court is also in receipt of petitioners Request for Hearing and proposed Order. Petitioners shall consult with the other parties and with the clerk of this Department to select an available hearing date.