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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO HERRING
ASSOCIATION,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
THE INTERIOR, et al.,

Defendants.


Case No. 13-cv-01750-JST

**ADDITIONAL NOTICE REGARDING
DECEMBER 12 HEARING**

In addition to the issues identified in the Court’s December 5 notice, the parties should also be prepared to address the following additional issues in their oral argument:

1. Is 28 U.S.C. § 2401(a) a jurisdictional prerequisite to the Court exercising subject-matter jurisdiction over this action? *See Wong v. Beebe*, 732 F.3d 1030, 1038 (9th Cir. 2013) (en banc) (“*Cedars-Sinai Medical Center v. Shalala*, 125 F.3d 765, 770 (9th Cir.1997), held [28 U.S.C. § 2401] subsection (a) nonjurisdictional, emphasizing that it ‘does not speak of jurisdiction, but erects only a procedural bar.’”)
2. If 28 U.S.C. § 2401(a) is not jurisdictional, should the Court address the question of the statute of limitations in ruling on the parties’ motions for summary judgment on the question of N.P.S.’s jurisdiction over the waters at issue in this action?

Dated: December 11, 2013


JON S. TIGAR
United States District Judge