

Reclamation Manual

Policy

Subject: Court Confirmation of Contract

Purpose: Establishes requirement for Court Confirmation of all water service and repayment contracts with irrigation districts and assurance that contracts with non-irrigation districts are valid and binding.

Authority: The Reclamation Act of 1902 (Act of June 17, 1902; 32 Stat. 388), Irrigation Districts and Farm Loans Act (Act of May 15, 1922, 42 Stat. 541), and The Omnibus Adjustment Act (Act of May 25, 1926; 44 Stat. 649).

Contact: Contract Services Office, D-5600

1. **Introduction.** Section 1 of the Irrigation Districts and Farm Loans Act and Section 46 of The Omnibus Adjustment Act provide that no contract with an irrigation district shall be binding on the United States until the proceedings on the part of the district for the authorization of the execution of the contract “*shall have been confirmed by decree of a court of competent jurisdiction.*” For other contracts, such as those pursuant to the authority of subsection 9(c) of the Reclamation Project Act of 1939, court confirmation is not required. However, evidence satisfactory to the regional or field solicitor that the contract is lawful and binding on the contractor and the contractor is legally capable of contracting with the United States should be addressed in the basis of negotiation.
2. **Irrigation District.** For the purposes of this policy, the term “Irrigation District” shall mean any conservancy district, water users association, or other organization, which is organized under State law and has the capacity and desire to enter into a contract(s) with the United States pursuant to the Federal reclamation laws for the recovery of construction or safety-of-dams modification costs allocated to irrigation, or for the advance payment of operation and maintenance of irrigation works.
3. **Purpose of Article.** The purpose of this standard article is to ensure irrigation and non-irrigation districts have the authority under State law to perform according to the contract and that the contract is lawful, valid, and binding on the contracting entity.
4. **Contract Requirements.** Except for the exemptions listed in paragraph 5, “Exceptions or Exemptions,” the *Confirmation of Court* standard article will be required to be included in all irrigation water service and repayment contracts.
5. **Standard Article Language.** The *Confirmation of Court* standard contract article for water service and repayment contracts with irrigation districts will read as follows:

“The Contractor, after execution of this contract, shall promptly seek to secure a decree of a court of competent jurisdiction of the State of _____ confirming the

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execution of this contract. The Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and all pertinent supporting records of the court approving and confirming this contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor. This contract shall not be binding on the United States until such final decree has been secured.”

6. **Exceptions or Exemptions.** The following types of contracts are exempt from the confirmation of court requirement:
 - A. Contracts executed pursuant to Drainage and Minor Construction (Act of June 13, 1956, ch. 382, 70 Stat. 274)
 - B. Contracts with entities, other than irrigation districts, are exempt **if** the contractor provides evidence acceptable to the regional or field solicitor that the proposed contract will be lawful, valid, and binding on the contractor. This evidence shall be addressed in the basis of negotiation.
 - C. Contracts with Federally-recognized Indian tribes.
 - D. Amendatory or supplementary contracts where the only result is to implement an administrative or financial practice or change, as specifically allowed or directed by Federal law, which does not increase or decrease the original obligation, nor extend the repayment term beyond the term of the existing contract; examples may include a contract for the deferment of payments pursuant to the Secretary’s authority (Act of September 21, 1959, P.L. 86-308, 73 Stat. 584), or an amendment to modify water delivery dates or times. However, all bases of negotiation and approval memoranda shall discuss and consider court confirmation requirements on a case-by-case basis.