

Bureau of Reclamation, Interior

§ 431.9

available without further appropriation, and shall be disbursed from the Fund to accomplish the Uprating Program.

(d) The Fund shall be administered and managed in accordance with applicable Federal laws and regulations, by the Secretary acting through the Commissioner.

[51 FR 23962, July 1, 1986; 51 FR 24531, July 7, 1986]

§ 431.8 Disputes.

(a) All actions by Reclamation or the Secretary shall be binding unless and until reversed or modified in accordance with the provisions herein.

(b) Any disputes or disagreements as to interpretation or performance of the provisions of these General Regulations under the responsibility of the Secretary shall first be presented to and decided by the Commissioner. The Commissioner shall be deemed to have denied the Contractor's contention or claim if it is not acted upon within 60 days of its having been presented. The decision of the Commissioner shall be subject to appeal to the Secretary by a notice of appeal accompanied by a statement of reasons filed with the Secretary within 30 days after such decision. The Secretary shall be deemed to have denied the appeal if it is not acted upon within 60 days of its having been presented.

(c) The decision of the Secretary shall be final unless, within 30 days from the date of such decision, a written request for arbitration is received by the Secretary. The Secretary shall have 90 days from the date of receipt of a request for arbitration either to concur in or deny in writing the request for such arbitration. Failure by the Secretary to take any action within the 90 day period shall be deemed a denial of the request for arbitration. In the event of a denial of a request for arbitration, the decision of the Secretary shall become final. Upon a decision becoming final, the disputing Contractor's remedy lies with the appropriate Federal court. Any claim that a final decision of the Secretary violates any right accorded the Contractor under the Project Act, the Adjustment Act, or title I of the Hoover Power Plant Act is barred unless suit assert-

ing such claim is filed in a Federal court of competent jurisdiction within one year after final refusal by the Secretary to correct the action complained of, in accordance with section 105(h) of the Hoover Power Plant Act.

(d) When a timely request for arbitration is received by the Secretary and the Secretary concurs in the request, the disputing Contractor and the Secretary shall, within 30 days of receipt of such notice of concurrence, each name one arbitrator to the panel of arbitrators which will decide the dispute. All arbitrators shall be skilled and experienced in the field pertaining to the dispute. In the event there is more than one disputing Contractor in addition to the Secretary, the disputing Contractors shall collectively name one arbitrator to the panel of arbitrators. In the event of their failure collectively to name such arbitrator within 15 days after their first meeting, that arbitrator shall be named as provided in the Commercial Arbitration Rules of the American Arbitration Association. The two arbitrators thus selected shall name a third arbitrator within 30 days of their first meeting. In the event of their failure to so name such third arbitrator, that arbitrator shall be named as provided in the Commercial Arbitration Rules of the American Arbitration Association. The third arbitrator shall act as chairperson of the panel. The arbitration shall be governed by the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be limited to the issue submitted. The panel of arbitrators shall render a final decision in this dispute within 60 days after the date of the naming of the third arbitrator. A decision of any two of the three arbitrators named to the panel shall be final and binding on all parties involved in the dispute.

§ 431.9 Future regulations.

(a) Reclamation may from time to time promulgate additional or amendatory regulations deemed necessary for the administration of the Project, in accordance with applicable law; *Provided*, That no right under any contract made under the Hoover Power Plant Act shall be impaired or obligation thereunder be extended thereby.