

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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ORFF ET AL. *v.* UNITED STATES ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 03–1566. Argued February 23, 2005—Decided June 23, 2005

Petitioner California farmers and farming entities purchase water from respondent Westlands Water District, which receives its water from the United States Bureau of Reclamation under a 1963 contract between Westlands and the Bureau. In 1993, Westlands and other water districts sued the Bureau for reducing their water supply. Petitioners, though not parties to the 1963 contract, intervened as plaintiffs. After negotiations, all parties except petitioners stipulated to dismissal of the districts' complaint. Petitioners pressed forward with, as relevant here, the claim that the United States had breached the contract. They contended that they were third-party beneficiaries entitled to enforce the contract and that the United States had waived its sovereign immunity from breach of contract suits in a provision of the Reclamation Reform Act of 1982, 43 U. S. C. §390uu. The District Court ultimately held that petitioners were neither contracting parties nor intended third-party beneficiaries of the contract and therefore could not benefit from §390uu's waiver. The Ninth Circuit affirmed in relevant part.

Held: Section 390uu does not waive the United States' sovereign immunity from petitioners' suit. The provision grants consent "to *join* the United States *as a necessary party defendant* in any suit to adjudicate" certain rights under a federal reclamation contract. (Emphasis added.) A waiver of sovereign immunity must be strictly construed in favor of the sovereign. See, *e.g.*, *Department of Army v. Blue Fox, Inc.*, 525 U. S. 255, 261. In light of this principle, §390uu is best interpreted to grant consent to join the United States in an action between other parties when the action requires construction of a reclamation contract and joinder of the United States is necessary. It does not permit a plaintiff to sue the United States alone.

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This interpretation draws support from §390uu’s use of the words “necessary party,” a term of art whose meaning calls to mind Federal Rule of Civil Procedure 19(a)’s requirements for joinder of parties. The interpretation also draws support from the contrast between §390uu’s language, which speaks in terms of joinder, and the broader phrasing of other statutes, *e.g.*, the Tucker Act, that waive immunity from suits against the United States alone. Petitioners’ suit, brought solely against the United States and its agents, is not an attempt to “join the United States as a necessary party defendant” under §390uu. Pp. 5–8.

358 F. 3d 1137, affirmed.

THOMAS, J., delivered the opinion for a unanimous Court.