



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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GRANTED IN PART: January 4, 2011

CBCA 1779

NORTH WIND, INC.,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Margaret B. Hinman of North Wind, Inc., Idaho Falls, ID, counsel for Appellant.

Heather R. Hinton-Taylor, Office of the General Counsel, Department of Agriculture, Ogden, UT, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **BORWICK**, and **GOODMAN**.

**DANIELS**, Board Judge.

The Department of Agriculture's Forest Service contracted with North Wind, Inc. for reconstruction of the Little Mill Campground and North Mill Day Use Area in the Uinta National Forest, Utah. In performing this contract, North Wind used more fill material from outside the site (called "select borrow") than specified in the contract or, the contractor says, than it could reasonably have expected to use. North Wind claimed reimbursement in the amount of \$95,910 for the cost of the additional material and associated overhead. A Forest Service contracting officer denied the claim, and the contractor appealed.

After the Board denied cross-motions for summary relief, *North Wind, Inc. v. Department of Agriculture*, CBCA 1779, 10-1 BCA ¶ 34,419, the parties requested that the

presiding judge assist them in resolving the dispute by providing mediation services. Representatives of the parties and the judge walked through the campground, discussed the strengths and weaknesses of each side's position, and, seated at campground picnic tables, came to agreement as to resolution.

The Forest Service has agreed to pay to North Wind the sum of \$12,372, and the parties have filed a joint stipulation that the Board issue a decision requiring the agency to pay an additional \$25,628 to North Wind from the permanent indefinite judgment fund. The parties have stated that they will not seek reconsideration of, or relief from, a Board decision which directs this payment, and that they will not appeal such a decision. Rule 25(b) (48 CFR 6101.25(b) (2009)).

### Decision

The appeal is **GRANTED IN PART**. The Forest Service shall pay to North Wind, Inc. the sum of \$25,628. This money shall be paid from the permanent indefinite judgment fund. 31 U.S.C. § 1304 (2006).

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STEPHEN M. DANIELS  
Board Judge

We concur:

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ANTHONY S. BORWICK  
Board Judge

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ALLAN H. GOODMAN  
Board Judge