



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED WITH PREJUDICE: December 4, 2007

CBCA 820

R. B. GAY CONSTRUCTION CO., INC.,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

William Alan Reaves, Vice President of R. B. Gay Construction Co., Inc., Jacksonville, FL, appearing for Appellant.

Mark R. Simpson, Office of the General Counsel, Department of Agriculture, Atlanta, GA, counsel for Respondent.

DANIELS, Board Judge (Chairman).

ORDER

This appeal involves claims made under a contract for construction at the Lake City (Florida) Air Tanker Base. Work performed by the contractor, R. B. Gay Construction Co., Inc. (Gay Construction), on retention ponds at the base did not meet with the satisfaction of the Department of Agriculture's Forest Service. The Forest Service eventually had another contractor perform additional work on the retention ponds. Gay Construction claimed entitlement to the portion of the contract amount which the Forest Service had withheld to cover costs incurred by the other contractor, plus costs of extra work Gay Construction itself had done to solve the problems identified by the Forest Service before that agency had hired the other contractor. The Forest Service contracting officer denied that claim and made a

claim of her own against Gay Construction for the added expense of the other contractor's work.

After the appeal was filed, the Board suggested that the parties' representatives meet with experts engaged by the two sides in an effort to understand each other's point of view and discuss voluntary settlement of the case. The parties followed this suggestion and quickly reached a settlement. Gay Construction then asked the Board to dismiss the appeal with prejudice to its reinstatement.

The request is granted. The appeal is **DISMISSED WITH PREJUDICE**.

STEPHEN M. DANIELS
Board Judge