



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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DISMISSED WITH PREJUDICE: May 30, 2007

CBCA 108

DARBY LUMBER INCORPORATED,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Richard A. Reep of Reep & Bell, P.C., Missoula, MT, counsel for Appellant.

Jennifer T. Newbold, Office of the General Counsel, Department of Agriculture, Missoula, MT, counsel for Respondent.

**VERGILIO**, Board Judge.<sup>1</sup>

ORDER

By letter dated February 3, 2000, Darby Lumber Company (also referred to as Darby Lumber Incorporated) (purchaser), submitted a timely notice of appeal. Darby was the purchaser under the Mudd-York Salvage Timber Sale contract, 02-009255, with the Department of Agriculture, Forest Service (Government). The timber was located in the Beaverhead-Deerlodge National Forest in the Wise River Ranger District, Montana. Finding that the purchaser had improperly cut timber, the Government completed a collection action against a \$100,000 letter of credit submitted under the contract. The purchaser appeals that action, alleging that the Government miscalculated the amount of timber cut, breached the

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<sup>1</sup> This case was reassigned after the retirement of Administrative Judge Westbrook.

contract, violated the covenant of good faith and fair dealing, and caused both the purchaser and its president to suffer damages. Following board consolidation, this Board has jurisdiction over this appeal pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, as amended (CDA). *Darby Lumber Inc.*, AGBCA 2000-131-1, 03-2 BCA ¶ 32,399 (finding jurisdiction), 05-1 BCA ¶ 32,953 (denying Government motion to dismiss).

On May 29, 2007, the Board received written notice that the parties have settled this dispute. The parties request that the matter be dismissed with prejudice, with each party to bear its own costs and attorney fees. Accordingly, the Board **DISMISSES WITH PREJUDICE** this appeal.

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JOSEPH A. VERGILIO  
Board Judge