

INCA CONSTRUCTION COMPANY)	AGBCA Nos. 1999-103-1
INCORPORATED,)	1999-119-1
)	1999-168-ADR
Appellant)	1999-169-ADR
)	
Representing the Appellant:)	
)	
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)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

September 29, 1999

OPINION BY ADMINISTRATIVE JUDGE EDWARD HOURY

These appeals arose from Contract No. 50-8371-3-67 between Inca Construction Company Incorporated of Albuquerque, New Mexico (Appellant), and the Forest Service, U. S. Department of Agriculture. The contract work involved the Lake Roberts Rehabilitation project in the Gila National Forest in New Mexico, and was awarded to Appellant as a set-aside under Section 8(a) of the Small Business Act. The work required excavation of an estimated 239,403 cubic yards of sediment to deepen the lake and enlarge the surface area of the lake. The work also required construction of a siltation dam and a parking area.

Disputes arose between the parties over the amount of excavation the Government was required to pay for (AGBCA No. 1999-103-1), the number of feet the Government was required to lower the lake level to facilitate excavation, and the alleged impact of the Government's alleged failure to adequately lower the lake level (AGBCA No. 1999-119-1). Appellant filed claims which were

denied by the Contracting Officer (CO) and Appellant filed timely appeals.¹ The Board has jurisdiction under the Contract Disputes Act, 41 U.S.C. §§ 601-613.

The Board convened a number of telephone conference calls to facilitate settlement. After the parties were unable to settle the appeals, the parties agreed to have the presiding judge act as a mediator to assist in a settlement. Docket numbers 1999-168-ADR and 1999-169-ADR were assigned to the mediation effort which was conducted in Albuquerque, New Mexico, on August 3, 1999. The mediation resulted in a settlement of the appeals. By Motions to Dismiss With Prejudice signed by both parties and received by the Board September 14, 1999, the parties requested that the appeals be dismissed.

DECISION

All appeals are dismissed as settled; the mediations are closed.

EDWARD HOURY
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
September 29, 1999

¹ Appeal AGBCA No. 1999-103-1 was filed on the basis that Appellant's claim had been deemed denied by the CO. Although the CO had actually denied Appellant's claim, the Government conceded that Appellant had not received the CO's decision.