

<b>MILLER LAND SURVEYING COMPANY,</b>	)	<b>AGBCA Nos. 97-189-1</b>
	)	<b>98-177-1</b>
Appellant	)	
	)	
<b>Representing the Appellant:</b>	)	
	)	
John W. Jennison, Jr.	)	
LAW4U, Incorporated	)	
3010 Lincoln Blvd.	)	
Santa Monica, California 90405-5735	)	
	)	
<b>Representing the Government:</b>	)	
	)	
Jim Kauble	)	
Office of the General Counsel	)	
U. S. Department of Agriculture	)	
1734 Federal Building	)	
1220 S.W. Third Avenue	)	
Portland, Oregon 97204-2825	)	

**DECISION OF THE BOARD OF CONTRACT APPEALS**

\_\_\_\_\_  
 May 16, 2000  
 \_\_\_\_\_

**Before HOURY, VERGILIO, and WESTBROOK, Administrative Judges.**

**Opinion for the Board by Administrative Judge WESTBROOK.**

These appeals arise out of Contract No. 53-04M3-3-0121, the Catherine Creek II Cadastral Survey, between the U. S. Department of Agriculture, Forest Service, and Miller Land Surveying Company of Bend, Oregon, later of Las Vegas, Nevada. Appellant's initial appeal, docketed as AGBCA No. 97-189-1, timely appealed the Contracting Officer's (CO's) decision of June 20, 1997, terminating the contract for default. AGBCA No. 98-177-1 is a timely appeal of the CO's deemed denial of the Appellant's claim for an equitable adjustment for alleged changes to the contract and breach of contract.

The Board has jurisdiction of the appeals pursuant to the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613.

After docketing the appeals, the Board held several telephonic conferences with the parties. There were delays in the proceedings related to change of counsel for both parties and the retirement of the original presiding judge. In March 1999, the parties requested, and the new presiding judge granted, an extension of time for the purpose of settlement negotiations. When the parties were unable to reach agreement, the Board scheduled a hearing to be held in Portland, Oregon, October 5-7, 1999. By letter dated September 22, 1999, Government counsel informed the Board that the appeals had been settled. In a February 8, 2000 letter, Government counsel requested that the appeals be dismissed as settled. Appellant's counsel was furnished a copy of both letters. In addition, the Board contacted Appellant's counsel by telephone and requested a written request for a dismissal. Appellant's counsel agreed to submit a request for dismissal promptly. To date, Appellant's counsel has neither furnished a request for dismissal nor objected to the Government's representations that the appeals have been settled.

**DECISION**

Accordingly, in the absence of objection from Appellant, the appeals are dismissed with prejudice.

\_\_\_\_\_  
**ANNE W. WESTBROOK**

Administrative Judge

**Concurring:**

\_\_\_\_\_  
**EDWARD HOURY**

Administrative Judge

\_\_\_\_\_  
**JOSEPH A. VERGILIO**

Administrative Judge

**Issued at Washington, D.C.**

**May 16, 2000**