

<b>DAVID SMERSKI</b>	)	<b>AGBCA No. 2000-132-1</b>
<b>d/b/a SMERSKI LOGGING,</b>	)	
	)	
Appellant	)	
	)	
<b>Representing the Appellant:</b>	)	
	)	
Charles R. Schrader	)	
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	)	
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	)	
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**DECISION OF THE BOARD OF CONTRACT APPEALS**

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 July 12, 2000  
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**Before HOURY, VERGILIO, and WESTBROOK, Administrative Judges.**

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

This appeal arose under Contract No. 073106 between the Forest Service, U. S. Department of Agriculture, and David Smerski d/b/a Smerski Logging, of Burns, Oregon (Appellant). The contract was for the sale of timber in the Malheur National Forest in Oregon. Appellant’s \$950,000 bid for the timber was \$178,085 greater than the \$771,915 base rate value of the timber.

Under the contract, Appellant was required to construct roads for the removal of the timber. The contract provided that Appellant would receive a “purchaser credit limit” of \$404,048.37 for this road construction. However, under the terms of the contract, Appellant could use only the \$178,085 portion above the base rate value of the purchaser credit, in lieu of cash, to purchase the timber. The \$225,963.37 balance was considered “ineffective purchaser credit.” During contract performance changes in the volume of timber harvested, the road design, and other factors, caused the purchaser credit limit and the ineffective purchaser credit to decrease.

Appellant filed a claim seeking either an “adjustment in the contract purchaser road credits and/or the compensation in monies for road work performed in excess of that needed to remove the timber.” Appellant claimed the actual amount of ineffective purchaser credit was \$255,000. The Contracting Officer denied Appellant’s claim and Appellant filed a timely appeal. The Board has jurisdiction over this matter. 41 U.S.C. §§ 601-613.

The Complaint and Rule 4 file (7 C.F.R. § 24.21, Rule 4) were submitted.

By letter dated May 17, 2000, the Board was advised that the parties had reached an agreement to settle the dispute. By letter dated June 27, 2000, the Board was advised by Appellant that the appeal should be dismissed.

**DECISION**

The appeal is dismissed.

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**EDWARD HOURY**  
Administrative Judge

**Concurring:**

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**JOSEPH A. VERGILIO**  
Administrative Judge

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**ANNE W. WESTBROOK**  
Administrative Judge

**Issued at Washington, D.C.**  
**July 12, 2000**