

<b>SUMMITT DEVELOPMENT</b>	)	<b>AGBCA No. 98-198-1</b>
<b>CORPORATION,</b>	)	
	)	
Appellant	)	
	)	
<b>Representing the Appellant:</b>	)	
	)	
Barry C. Johnson	)	
President	)	
Summitt Development Corporation	)	
1153 Hilltop Drive	)	
Redding, California 96003	)	
	)	
<b>Representing the Government:</b>	)	
	)	
James E. Andrews	)	
Office of the General Counsel	)	
U. S. Department of Agriculture	)	
33 New Montgomery Street, 17 <sup>th</sup> Floor	)	
San Francisco, California 94105-4511	)	

**DECISION OF THE BOARD OF CONTRACT APPEALS**

\_\_\_\_\_  
January 26, 1999  
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**OPINION BY ADMINISTRATIVE JUDGE EDWARD HOURY**

This appeal arose under Lease No. 57-9JHA-7-1F39 between the Forest Service, U. S. Department of Agriculture, and Summitt Development Corporation of Redding, California (Appellant). The lease was entered into on August 22, 1997, for space for the Lassen National Forest Supervisor's office. Under the lease, Appellant was required to make the space available by November 1, 1998.

By decision dated June 9, 1998, the Contracting Officer (CO) terminated the lease for default because Appellant had failed to show progress in meeting the occupancy date. The CO also concluded that such failure was not excusable. Appellant filed a timely appeal dated September 2, 1998.

After the appeal was docketed, the parties requested and were granted various filing extensions because the parties were attempting to negotiate a settlement of the appeal. By letter dated January 8, 1999, Government counsel forwarded a Joint Release and Request for Dismissal, advising that the appeal had been settled, and requesting "that the subject appeal be dismissed with prejudice."

**DECISION**

The appeal is dismissed as settled.

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**EDWARD HOURY**  
Administrative Judge

**Concurring:**

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**ANNE W. WESTBROOK**  
Administrative Judge

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**HOWARD A. POLLACK**  
Administrative Judge

**Issued at Washington, D.C.**  
**January 26, 1999**