

BLUESTONE GRAIN COMPANY,)	AGBCA Nos. 2000-171-1
)	2000-172-1
Appellant)	
)	
Representing the Appellant:)	
)	
Robert L. Cochran)	
Vice President)	
Bluestone Grain Company)	
P.O. Box 1085)	
Beckley, West Virginia 25801)	
)	
Representing the Government:)	
)	
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RULING ON GOVERNMENT’S MOTION TO DISMISS

 March 26, 2001

Before HOURY, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK.

These appeals arise under Uniform Grain and Rice Storage Agreement Nos. A51-3-CCC-0096 and A54-3CCC-0010 between Bluestone Grain Company of Beckley, West Virginia (Appellant), and the Commodity Credit Corporation (CCC), a wholly-owned Government corporation (Respondent) and an “executive agency” as defined by Section 2 of the Contract Disputes Act (CDA), 41 U.S.C. §§ 601-613. The Board has jurisdiction pursuant to the Act. On August 9, 2000, the Board received an appeal from the Contracting Officer’s decision to terminate the agreements for failure to comply with the terms and conditions of the agreements.

The Board’s August 15, 2000 docketing letter provided Appellant with a copy of the Board’s Rules of Procedure, but omitted to include the customary statement advising Appellant of Rule 6. Thereafter, by letter of September 27, 2000, the Board requested that Appellant file a Complaint with

the Board in accordance with Rule 6. Appellant failed to file a Complaint as requested. On November 17, 2000, Respondent filed a Motion to Dismiss pursuant to Board Rule 31, Dismissal for Failure to Prosecute or Defend. By letter dated November 30, 2000, the Board provided Appellant 30 days from receipt of that letter to file a response to the motion. Appellant has filed no response. On February 26, 2001, by certified mail, return receipt requested, the Board served on Appellant an Order to Show Cause within 10 days of receipt why the appeals should not be dismissed for failure to prosecute. The return receipt indicates that Appellant received the Order to Show Cause March 1, 2001. Appellant has failed to respond within the time allotted. Appellant failed to show cause why the appeals should not be dismissed, or respond in any manner to the Board's Order. A dismissal for failure to prosecute is in order under such circumstances pursuant to Board Rule 31. Kennon Heard, AGBCA No. 95-133-1, 96-1 BCA ¶ 28,071.

RULING

These appeals are dismissed for failure to prosecute pursuant to Board Rule 31.

ANNE W. WESTBROOK
Administrative Judge

Concurring:

EDWARD HOURY
Administrative Judge

JOSEPH A. VERGILIO
Administrative Judge

Issued at Washington, D.C.
March 26, 2001