

<b>EMPIRE LUMBER COMPANY DBA</b>	)	<b>AGBCA No. 1999-196-1</b>
<b>KAMIAH MILLS,</b>	)	
	)	
Appellant	)	
	)	
<b>Representing the Appellant:</b>	)	
	)	
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**DECISION OF THE BOARD OF CONTRACT APPEALS**

**December 22, 2000**

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

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

This appeal arises under Contract No. 026066, Brushy Creek Timber Sale, between Empire Lumber Company dba Kamiah Mills of Kamiah, Idaho, and the United States Department of Agriculture, Forest Service (FS), Clearwater National Forest, Idaho. The contract was executed between the parties on October 28, 1993, and cancelled by the FS on October 13, 1998, due to environmental considerations. The appeal is from a June 28, 1999 denial by the Contracting Officer of Appellant's claim for \$172,412.64 which Appellant claimed due it, as a result of the cancellation of the sale. Appellant's claim essentially was for interest on the down payment it made on the sale, costs associated with maintaining the performance and payment bonds and administrative costs. Among the issues in dispute were whether Appellant had the responsibility to have proceeded with the harvest prior to the environmental matter arising, and the effect of agreed to modifications in the length of the contract period.

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

After filing pleadings the parties initially elected to proceed with a hearing on the appeal. On May 9, 2000, the Board held a telephone conference with counsel regarding further scheduling. At that time the matter of possible settlement was discussed and the parties agreed to a framework whereby the parties would first engage in a formal settlement process, prior to proceeding with a hearing. The Board then set a mediation conference for Spokane, Washington. The parties each provided confidential statements to the Board, and the parties and Board then engaged in a successful mediation of the dispute.

On September 12, 2000, counsel for Appellant forwarded a Stipulation for Dismissal signed by counsel for the parties. The Stipulation recited that the action before the Board had been completely and fully settled and called for the appeal to be dismissed with prejudice.

**DECISION**

Pursuant to the Stipulation for Dismissal, the appeal is dismissed with prejudice.

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**HOWARD A POLLACK**  
Administrative Judge

**Concurring:**

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**EDWARD HOURY**  
Administrative Judge

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**ANNE W. WESTBROOK**  
Administrative Judge

**Issued at Washington, D. C.  
December 22, 2000**