

FOREST PRODUCTS, INC.,)	AGBCA No. 98-178-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
W. J. Robinson, President)	
Forest Products, Inc.)	
P.O. Box 541)	
Corbin, Kentucky 40702)	
)	
Representing the Government:)	
)	
Jay McWhirter)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
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Atlanta, Georgia 30309-2409)	

DECISION OF THE BOARD OF CONTRACT APPEALS

 March 5, 1999

OPINION BY ADMINISTRATIVE JUDGE JOSEPH A. VERGILIO

On June 15, 1998, Forest Products, Inc. (Appellant) of Corbin, Kentucky, filed this appeal with the Board, concerning the Flatwoods Timber Sale contract, No. 6627, with the U. S. Department of Agriculture, Forest Service (Respondent or Government). The Government terminated a portion of the contract, which required work within the Daniel Boone National Forest, Redbird Ranger District, Clay County, Kentucky. Forest Products filed a claim to recover costs to acquire and monitor the sale, lost profits, move-in/move-out costs, and investment losses (costs to acquire and maintain a piece of equipment). The Contracting Officer (CO) granted in part and denied in part the claim. Forest Products here seeks to recover \$19,756.09.

On March 14, 1998, Forest Products received the CO's decision. (Appeal File at 135.) Forest Products filed this appeal with the Board on Monday, June 15, 1998. More than 90 days elapsed between Forest Products' receipt of the CO's decision and its filing of the appeal. The ninetieth day following receipt was Friday, June 12. By statute, this Board has jurisdiction over such an appeal only if filed within 90 days from the date of receipt of the CO's decision. 41 U.S.C. § 606 (1994); Cosmic Construction Co. v. United States, 697 F.2d 1389, 1390 (90-day appeal deadline is

jurisdictional and cannot be waived). Therefore, this Board lacks jurisdiction over this untimely filed appeal.

DECISION

The Board dismisses this appeal for lack of jurisdiction.

JOSEPH A. VERGILIO

Administrative Judge

Concurring:

EDWARD HOURY

Administrative Judge

HOWARD A. POLLACK

Administrative Judge

Issued at Washington, D.C.

March 5, 1999