

JOHN R. WOOD TRUCKING INC.,)	AGBCA No. 97-158-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
John R. Wood, <u>pro se</u>)	
_____ John R. Wood Trucking Inc.)	
12310 Williams Hwy.)	
Grants Pass, Oregon 97527)	
)	
Representing the Government:)	
)	
Michael E. Trow)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
1734 Federal Building)	
1220 S. W. Third Avenue)	
Portland, Oregon 97204)	

DECISION OF THE BOARD OF CONTRACT APPEALS

November 20, 1998

OPINION BY ADMINISTRATIVE JUDGE HOWARD A. POLLACK

This appeal arises under Contract No. 075243, between the Forest Service (FS), U. S. Department of Agriculture, and John R. Wood Trucking Inc. (Wood or Appellant) of Grants Pass, Oregon. The FS awarded the Big Pine Density Management Timber Sale in the Galice Ranger District, Siskiyou National Forest, to Appellant on October 19, 1995. After harvesting had been completed, the FS billed Wood for escalation to the stumpage rates which Wood was required to pay for the timber. Wood disputed that the contract was an escalated sale. As a result, Wood submitted a claim for \$8,903.68, which was the difference between what it believes it should have paid and what the FS required it to pay.

On June 30, 1997, the Government filed a Motion for Summary Judgment, asserting those contract documents unambiguously defined the sale as an escalated sale and thus the Board could render a decision in favor of the FS on interpretation as a matter of law. Appellant defended, (1) raising questions as to what documents it had been provided by the FS, (2) contending that the documents it had been given did not indicate an escalated sale, and finally (3) contending that even if the

documents allegedly provided by the FS had been given it, the language of the solicitation was ambiguous and susceptible to Appellant's interpretation.

On March 26, 1998, the Board denied the FS Motion for Summary Judgment, ruling that there were material facts in dispute among which were what documents were received by Appellant, the meaning of the word "tentative" and whether Appellant, in reaching its interpretation, should have been aware of a patent ambiguity. John R. Wood Trucking Inc., AGBCA No. 97-158-1, 98-1 BCA ¶ 29,644.

Thereafter, the parties engaged in settlement discussions, exchanging correspondence in an attempt to resolve differences holding up consummation of an agreement. By letter of June 5, 1998, the Board was advised by Appellant that the FS had made an offer of settlement which Appellant had accepted.

By letter of July 15, 1998, a Stipulation Re: Settlement, executed by the parties was forwarded to the Board by the FS. The Stipulation provided that the claim was settled and called for the appeal to be dismissed with prejudice.

DECISION

The appeal is dismissed with prejudice pursuant to the settlement agreement.

HOWARD A. POLLACK
Administrative Judge

Concurring:

EDWARD HOURY
Administrative Judge

JOSEPH A. VERGILIO
Administrative Judge

Issued at Washington, D. C.
November 20, 1998