



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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GRANTED IN PART: October 21, 2008

CBCA 993

CRAIG THOMAS,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Richard W. Goeken of Saltman & Stevens, PC, Washington, DC, counsel for Appellant.

Jennifer T. Newbold, Office of the General Counsel, Department of Agriculture, Missoula, MT, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **POLLACK**, and **SHERIDAN**.

**POLLACK**, Board Judge.

This appeal arises out of timber sale contract no. 03-023511 between Craig Thomas and the United States Department of Agriculture, Forest Service (FS). On January 12, 2007, Mr. Thomas submitted his certified claim in the amount of \$2,052,016.80 for lost profits. He also provided at that time alternative damage calculations, on a non-breach theory. On December 6, 2007, Mr. Thomas filed a timely appeal to a contracting officer's decision denying all but \$7978.84 of his claim.

After engaging in initial discussions with the presiding judge, the parties elected in June 2008 to request mediation with a Board judge. A judge was thereafter assigned. In September 2008, the requested mediation was conducted. The mediation was successful, and as a result the parties entered into an agreement to settle the dispute. Under cover letter of October 9, 2008, the parties filed with the Board a Joint Stipulation And Request For Judgment Granting The Appeal In Part. The referenced document was executed by counsel on October 8 and 9, 2008, respectively. Under it, the parties have agreed to the settlement of any and all claims by either party arising out of or relating to the referenced contract. Further, the parties have agreed to abide by a Board decision requiring the FS to pay appellant \$300,300 plus interest on this amount calculated from January 10, 2007, until paid in accordance with the provisions of the Contract Disputes Act. Each party has agreed to bear its own costs and attorney fees. The parties have additionally stipulated that the decision of the Board will be final and binding upon the parties and not subject to further appeal.

Decision

Accordingly, the appeal is **GRANTED IN PART**. In accordance with the parties' joint stipulation, the Board awards the sum of \$300,300 plus interest on said amount under the Contract Disputes Act, 41 U.S.C. § 611 (2000), beginning January 10, 2007. Payment is to be made from the permanent indefinite judgment fund, 31 U.S.C. § 1304.

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HOWARD A. POLLACK  
Board Judge

We concur:

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STEPHEN M. DANIELS  
Board Judge

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PATRICIA J. SHERIDAN  
Board Judge