

AZ FIRE SUPPRESSION, INC.,)	AGBCA No. 2004-186-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

October 28, 2004

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK.

This appeal arises out of Emergency Equipment Rental Agreement (EERA) No. AAE020010, between the Bureau of Land Management, of the Department of the Interior, and AZ Fire Suppression, Inc. of Phoenix, Arizona (Appellant). In accordance with the Interagency Incident Business Management Handbook, a fire engine subject to the EERA was assigned for use of the U. S. Department of Agriculture, Forest Service (FS), Northern Province Operations, Redding, California, in fighting the Shasta Lake fire. During that period, the unmanned fire engine rolled backward, struck an embankment and rolled over, sustaining damage. Claiming the vehicle to be a total loss, Appellant made a claim to the FS in the amount of \$65,000. A FS Contracting Officer denied the claim and provided a recitation of appeal rights to this Board. Appellant filed a timely appeal. Pleadings and an appeal file were filed. Thereafter, Appellant requested a stay of proceedings pending an attempt by Appellant to obtain insurance coverage for the fire engine

from Appellant's automobile insurance carrier. The stay was granted.

The Board has now received from the parties a copy of an executed settlement agreement. Therein, Appellant agreed to dismiss the appeal and to release the FS and any and all other federal agencies from all claims arising out of the accident. The FS consented to the dismissal and released Appellant from any claims of damage arising out of the accident. The parties agreed that the release is intended to have the effect of releasing any and all claims of subrogation by Appellant's insurance carriers. Appellant also agreed to remove the fire engine from FS property.

The agreement by the parties to dismiss the appeal moots any issue of jurisdiction which may exist.

DECISION

Pursuant to the agreement of the parties, the appeal is hereby dismissed.

ANNE W. WESTBROOK
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

JOSEPH A. VERGILIO
Administrative Judge

Issued at Washington, D.C.
October 28, 2004