

WEEKLY BROS., INC.,)	AGBCA Nos. 2001-144-3
)	2001-156-1
Appellant)	
)	
Representing the Appellant:)	
)	
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)	
Representing the Government:)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

September 27, 2001

Before HOURY, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge HOURY.

These appeals arose under Contract No. 50-04R4-8-9680 between the Forest Service, U. S. Department of Agriculture and Weekly Bros., Inc., of Idleyld Park, Oregon (Appellant). The contract was for the installation of utilities for the construction of the Middle Fork District Office Building in the Willamette National Forest in Oregon.

Appeal AGBCA No. 2001-144-3 arose from a Contracting Officer's (CO's) final decision dated March 23, 2001, assessing Appellant the cost of repairing an alleged latent defect, the improper installation of a gasket in a 4-inch water line. The defect was discovered after Appellant had left the site. The Government authorized the then on-site contractor to make the repair, without providing notice to Appellant. Appellant filed a timely appeal, alleging that the defect was not latent, and that the Government's lack of notice absolved Appellant of liability.

Appellant elected the Board's accelerated procedure under 7 CFR 24.21, Rule 12.3, requiring a decision within 180 days from receipt of the election, if possible. The target date for a decision was October 1, 2001.

The Board convened a telephone conference call to narrow the issues. A hearing was set for May 15, 2001. However, this hearing was later canceled to accommodate the consolidation of appeals described below.

Appeal AGBCA No. 2001-156-1 resulted from a CO's final decision dated May 30, 2000, denying 10 claims filed by Appellant based upon defective specifications and changes. Appellant filed a Complaint dated February 27, 2001, in the U.S. Court of Federal Claims. The Government filed an unopposed motion for consolidation with the case before the Board. By Order of the Court dated May 31, 2001, pursuant to 41 U.S.C. § 609(d), the court transferred the case to the Board.

The Board has jurisdiction under the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613, as amended. Complaints, Answers, and the Rule 4 File were filed. By letter dated September 19, 2001, Government counsel advised that the parties had reached a settlement of all matters and that the appeals should be dismissed.

DECISION

The appeals are dismissed as settled.

EDWARD HOURY
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
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