

WESTERN WILDFIRE RESOURCES,)	AGBCA No. 2004-187-ADR
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Robert H. Dormody, Owner)	
Western Wildfire Resources)	
P.O. Box 22)	
Carmel Valley, California 93924)	
)	
Representing the Government:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

November 2, 2004

Opinion for the Board by Administrative Judge VERGILIO.

On July 8, 2004, the Board received a notice of appeal filed by Western Wildfire Resources of Carmel Valley, California (contractor). The contractor had provided a dozer at the Piru fire incident on the Los Padres National Forest in California under Emergency Equipment Rental Agreement 56-91Y9-2-2061 with the respondent, the U.S. Department of Agriculture, Forest Service (Government). During the fire incident, the dozer was damaged by a boulder dislodged by a different piece of equipment working uphill. The contractor submitted to the contracting officer a certified claim, later amended, to recover \$127,260.98 under the contract. The contracting officer determined that the contractor was entitled to recover \$69,297.98, which has been paid. The contractor here seeks to recover the balance, as it requests compensation for (1) potential earnings from the dozer on the fire not realized because of the damage, (2) time, travel costs, mileage, and associated expenses said to be incurred in overseeing and facilitating the repairs, and (3) what is described as a rental rate for a replacement machine.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, as amended (CDA). Following the submission of the appeal file, complaint, and answer, and telephone conferences, the parties opted to utilize an alternative dispute

resolution (ADR) technique; the parties would submit the dispute to the presiding judge to render a binding, non-appealable determination. During the resolution conference held on November 1, 2004, each party presented its position and engaged in a discussion of the applicable facts and law.

The presiding judge determined and stated that the contractor is entitled to no additional recovery. This decision reduces to writing the determination that resolves this dispute and by which the parties are bound.

JOSEPH A. VERGILIO

Administrative Judge

Issued at Washington, D.C.

November 2, 2004