



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR FAILURE TO PROSECUTE: April 17, 2014

CBCA 3285

ANTHONY MOORE,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Anthony Moore, pro se, Alamosa, CO.

Daniel B. Rosenbluth, Office of the General Counsel, Department of Agriculture,
Golden, CO, counsel for Respondent.

Before Board Judges **GOODMAN**, **STEEL**, and **SHERIDAN**.

STEEL, Board Judge.

Appellant, Anthony Moore¹, appealed a decision regarding the purchase of timber from the Department of Agriculture under the Hunter Gulch Timber Sale contract no. 1202-120984.

¹This case was initially docketed, incorrectly, as Hunter Gulch Salvage Sale v. Department of Agriculture. The name of the appellant is corrected with this decision.

Discussion

The Board initially issued an order dated March 19, 2013, requesting the complaint be filed on or before April 19, 2013. Appellant subsequently requested three extensions of time in which to file the complaint. The Board granted these requests, but appellant has failed to file a complaint. The Board has since issued several orders requesting appellant to either file a complaint or explain why this matter should not be dismissed for failure to prosecute. On March 20, 2014, the Board issued an order to show cause, ordering appellant to either file the complaint or show cause on or before April 1, 2014, why this appeal should not be dismissed for failure to prosecute. Appellant has failed to comply with any of the Board's orders since this matter was docketed.

Board Rule 33(c), Sanctions, provides:

When a party or its representative or attorney . . . fails to comply with any direction or order issued by the Board . . . , the Board may make such orders as are just, including the imposition of appropriate sanctions. The sanctions may include:

...

(6) Dismissing the case.

48 CFR 6101.33(c) (2013).

This rule makes clear that the Board has authority to dismiss a case for failure to prosecute. As this Board has held, this authority is reserved for situations where parties have repeatedly failed to comply with the tribunal's orders. *Medtek, Inc. v. Department of Veterans Affairs*, CBCA 1544, 09-2 BCA ¶ 34,285; see *Kadin Corp. v. United States*, 782 F.2d 175, 176 (Fed. Cir. 1986). This is such a situation, as appellant has failed to comply with any of the Board's orders or otherwise prosecute this appeal.

Decision

This appeal is **DISMISSED FOR FAILURE TO PROSECUTE**.

CANDIDA S. STEEL
Board Judge

We concur:

ALLAN H. GOODMAN
Board Judge

PATRICIA J. SHERIDAN
Board Judge