

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
ALLIED ENVIRONMENTAL, INC.,) **Docket No. TSCA 09-99-0004**
)
Respondent)

ORDER DISMISSING COMPLAINT WITH PREJUDICE

This case was instituted on September 30, 1999. A Prehearing Order was issued on March 13, 2000, ordering Complainant to file either a fully executed Consent Agreement and Final Order or its Initial Prehearing Exchange on or before June 8, 2000. In a Status Report dated May 31, 2000, the Complainant reported that the parties had settled and that “[i]t is anticipated that the Consent Agreement and Final Order will be signed and filed by June 8, 2000 in accord with the Prehearing Order.” However, to date, Complainant has failed to file either a Consent Agreement or its Prehearing Exchange, nor has Complainant filed a Motion for Extension of the filing deadline.

While such circumstances in isolation might normally result in a courteous order to show cause for the failure directed to the Complainant, this case is one of three this month alone in which Complainant, represented by the same Assistant Regional Counsel, Kate Nooney, has blatantly disregarded the Orders established by this Tribunal and failed to meet filing deadlines, for no apparent good cause. *See also, Order Terminating Proceedings Before the Chief Administrative Law Judge dated June 19, 2000 in Bayview Environmental Services, Inc., TSCA-09-99-0005; and Order Dismissing Complaint With Prejudice dated June 20, 2000 in Eric Tate, FIFRA-09-99-0005.*

Section 22.17 (a) of the Consolidated Rules of Practice Governing The Administrative Assessment of Penalties, 40 C.F.R. § 22.17(a), as amended, 64 Fed. Reg. 40176 (July 23, 1999) provides that “A party may be found to be in default . . . upon failure to comply with . . . an order of the Presiding Officer,” and that “[default by complainant constitutes a waiver of complainant’s right to proceed on the merits of the action, and *shall result in the dismissal of the complaint with prejudice*” (emphasis added). Accordingly, for the reasons stated above, I find Complainant to be in default under the provisions of Section 22.17(a). Pursuant to that Section of the Rules of

Practice, the Complaint in this matter is hereby **Dismissed With Prejudice**.¹

Susan L. Biro
Chief Administrative Law Judge

Dated: June 20, 2000
Washington, D.C.

¹ Pursuant to 40 C.F.R. §§ 22.17(a) and 22.27(b), respectively, this Order Dismissing Complaint With Prejudice constitutes an Initial Decision that shall become the final Order of the Agency unless appeal is taken pursuant to 40 C.F.R. § 22.30 or the Environmental Appeals Board elects *sua sponte*, to review this decision.