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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF )  
 )  
BASIN CO-OP, INC., )  
 )  
Respondent )

Docket No. IF&R-VIII  
93-335-C


ORDER TO SHOW CAUSE AND REQUIRING DISCOVERY COMPLIANCE

On November 14, 1994, Complainant filed a motion requesting an extension of time until November 18, 1994, to comply with the September 8, 1994 Order Granting Motion for Discovery (Discovery Order). The Discovery Order required Complainant to produce certain documents for Respondent's counsel, and compliance therewith was required within 30 days of the date of the Order. Complainant in its motion for extension indicates that the Discovery Order had been inadvertently placed in the file of another case and the compliance date had not been noted on the calendar of Complainant's counsel.

Respondent opposes the Complainant's request for an extension of time and, as a sanction for the noncompliance with the Discovery Order, seeks a dismissal of the Complaint with prejudice. Respondent attaches to its opposition a letter of September 15, 1994 sent to Complainant's counsel attempting to arrange for compliance with the Discovery Order and a follow up letter of September 26, 1994 for the same purpose. Respondent argues that this is evidence of bad faith and, therefore, requests the sanction of dismissal.

Complainant, in its motion for extension, makes no mention of the two letters from Respondent's counsel and the assertions made in Respondent's opposition to the request for extension should be addressed. Accordingly, Complainant is ordered to show cause, on or before November 30, 1994, why it did not reply to the Respondent's attempts to complete the discovery that was ordered and to show cause why the sanction of dismissal should not be entered herein. Also, Complainant is directed to contact Respondent's counsel and to make appropriate arrangements to comply, on or before November 30, 1994, with the document production that was required by the Discovery Order. Complainant is further ordered to report on its compliance with the Discovery Order in its November 30, 1994 response to this Order to Show Cause. While the above matters are pending, Respondent's request for dismissal of the Complaint with prejudice will remain under advisement.

SO ORDERED.

  
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Daniel M. Head  
Administrative Law Judge.

Dated:

November 23, 1994  
Washington, DC