

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
 PRO-TECH, INC.,) Docket CWA-IX-FY92-37
)
 Respondent)

ORDER DENYING MOTION FOR DEFAULT
AND ACCEPTING PREHEARING EXCHANGE

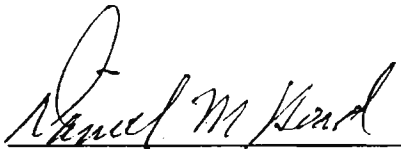
There is currently pending a motion for a default order filed by Complainant. The basis for the motion is that the Respondent has not filed a prehearing exchange as required by the Order Setting Prehearing Procedures issued herein. The Respondent filed an opposition to the motion for default and has requested time to file the prehearing exchange and to reply to the Complainant's prehearing exchange. Subsequently, Respondent did submit its prehearing exchange and reply to the Complainant's prehearing exchange. The opposition indicates that counsel for the Respondent misread the Order Setting Prehearing Procedures and, upon realizing a default was involved, prepared the opposition to the motion for default and the request for extension of time.

Complainant in its motion for default argues good cause has not been shown by the Respondent since the requirements of the Order Setting Prehearing Procedures were unambiguous. Complainant further opposes Respondent's motion for extension of time as not timely presented and as not justified by good cause.

Upon analysis, the motion for default will be denied. Defaults are not favored and the Respondent has given a reasonable explanation as to why it failed to comply with the prehearing exchange requirements of the Order Setting Prehearing Procedures. Moreover, no prejudice to the Complainant has been shown as a result of the Respondent's not filing the prehearing exchange on time.

Accordingly, the Respondent's prehearing exchange and reply to Complainant's prehearing exchange is accepted for filing.

SO ORDERED.



Daniel M. Head
Administrative Law Judge

Dated: September 8, 1994
Washington, DC

PRO-TECH, INC., Respondent
Docket No. CWA-IX-FY92-37

CERTIFICATE OF SERVICE

I certify that the foregoing Order Denying Motion for Default and Accepting Prehearing Exchange, dated Sept. 8, 1994, was sent in the following manner to the addressees listed below:

Original by Regular Mail to:

Steven Armsey
Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

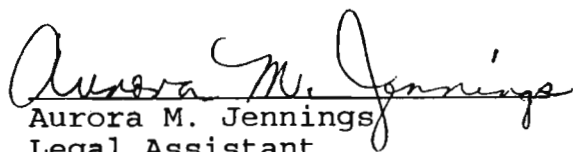
Copy by Certified Mail-Return
Receipt Requested to:

Counsel for Complainant:

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Office of Regional Counsel
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Agency, Region IX
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Aurora M. Jennings
Legal Assistant
Office of the Administrative
Law Judges

Dated:

Sept. 8, 1994
Washington, DC