

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

| | | |
|-----------------------------|---|----------------------------------|
| IN THE MATTER OF |) | |
| |) | |
| MAC WHEELER AND |) | Docket No. FIFRA-09-0843-C-93-18 |
| RAYMOND L. FRENCH |) | |
| d/b/a/ SUNDAYS DISTRIBUTING |) | |
| |) | |
| Respondents |) | |

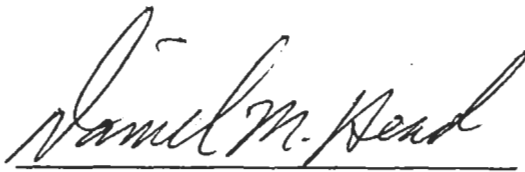
ORDER REQUIRING FURTHER PROCEDURAL FILING

On April 24, 1996, an Order to Show Cause was issued to Respondents as to why they should not be held in default for failure to submit their Prehearing Exchange by the due date in the Order Setting Prehearing Procedures. The Respondents, on May 23, 1996, filed their response to the Order to Show Cause, in which they indicated that their business premises were heavily damaged by flooding in March of 1995 and that, because of this disruption, they lost track of the due date for the Prehearing Exchange. The Respondents also note their and their counsel's inexperience with EPA enforcement actions. Further, the Respondents did include their Prehearing Exchange with their response to the Order to Show Cause. In light of the above, the Respondents have shown good cause for the failure to submit their Prehearing Exchange on a timely basis.

With the Prehearing Exchange now having occurred, this case is ready to be set for hearing. The Respondent has requested that the hearing be held in Santa Barbara, California, its place of business. Complainant asks that the hearing be conducted in San Francisco, California, the site of EPA's Regional Office. Pursuant to Section 22.21(d) of EPA's Rules of Practice, 40 C.F.R. § 22.21(d), Santa Barbara is the more preferred location and the hearing will be set there.

In addition, the parties are directed to confer and to suggest either an agreed upon or separate suggestions for a hearing date this Fall. In this regard, the parties are hereby advised that the Presiding Judge will be unavailable during the following periods: September 9-13; September 23-October 4; October 28-November 1; and November 14-20. The parties shall submit either their agreed upon or separate suggested hearing dates on or before September 3, 1996.

SO ORDERED.



Daniel M. Head
Administrative Law Judge

Dated: August 7, 1996

Washington, D.C.

IN THE MATTER OF MAC WHEELER AND RAYMOND L. FRENCH d/b/a SUNDAYS
DISTRIBUTING, Respondents
Docket No. FIFRA-09-0843-C-93-18

CERTIFICATE OF SERVICE

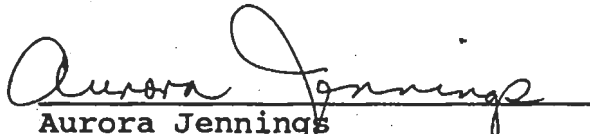
I certify that the foregoing Order Requiring Further Procedural Filing, dated, August 1, 1996, was sent in the following manner to the addressees listed below:

Original by Pouch Mail to: Mr. Steven Armsey
Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Copy by Certified Mail, Return
Receipt Requested to:

Counsel for Complainant: David M. Jones, Esquire
Office of Regional Counsel
U.S. Environmental Protection
Agency, Region 9
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San Francisco, CA 94105

Counsel for Respondent: John E. Buttolph, Esquire
Attorney at Law
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Santa Barbara, CA 93101


Aurora Jennings
Legal Staff Assistant
Office of Admin Law Judges
U.S. EPA
401 M Street, SW
Washington, DC 20460

Dated: August 1, 1996
Washington, DC