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2014 MAR -3 PM 3:14

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
HEARING CLERK

1 ROBERT MOYER  
Acting Regional Counsel  
2 United States Environmental Protection Agency, Region 9

3 JULIA JACKSON  
Assistant Regional Counsel  
4 United States Environmental Protection Agency, Region 9  
5 75 Hawthorne Street  
San Francisco, California 94105  
6 (415) 972-3948

7 Attorneys for Complainant

8  
9 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 9**

10 In re the Matter of:	)	Docket No. CWA-09-2013-0002
	)	
	)	
11	)	
12 <b>AIR LOUVERS/ACTIVAR</b>	)	<b>MOTION TO APPROVE FINAL ORDER</b>
13 <b>CONSTRUCTION PRODUCTS GROUP,</b>	)	<b>AND PROOF OF COMPLIANCE WITH</b>
14 <b>INC.</b>	)	<b>PUBLIC NOTICE REQUIREMENTS OF</b>
	)	<b>40 C.F.R. § 22.45(b)</b>
15 Commerce, California	)	
	)	
16 Respondent.	)	Proceedings Under Section 309(g) of the
	)	Clean Water Act, 33 U.S.C. §1319(g).
17	)	

18 Complainant hereby moves the Presiding Officer in this matter to issue the proposed  
19 Final Order to make effective the attached Consent Agreement (“proposed CA/FO”). The  
20 Consent Agreement has been executed by Complainant, United States Environmental Protection  
21 Agency Region 9, and Respondent, Air Louvers/Activar Construction Products Group, Inc.

22 **Compliance with Public Notice Requirements.**

23 Administrative proceedings for the assessment of a civil penalty under Section 1319(g) of  
24 the Clean Water Act, 33 U.S.C. §1319(g), are subject to the supplemental rule at 40 C.F.R. §  
25 22.45(b)(1), which requires Complainant to notify the public before assessing a civil penalty, and

1 provides, in relevant part, that: "Such notice shall be provided ... in the case of a proceeding  
2 proposed to be commenced pursuant to § 22.13(b), no less than 40 days before the issuance of an  
3 order assessing a civil penalty." Further, such notice must be made to the public "by a method  
4 reasonably calculated to provide notice" and must include:

- 5 (i) The docket number of the proceeding;
- 6 (ii) The name and address of the complainant and respondent, and the person  
7 from whom information on the proceeding may be obtained, and the  
8 address of the Regional Hearing Clerk to whom appropriate comments  
9 shall be directed;
- 10 (iii) The location of the site or facility from which the violations are alleged,  
11 and any applicable permit number;
- 12 (iv) A description of the violation alleged and the relief sought; and
- 13 (v) A notice that persons shall submit comments to the Regional Hearing  
14 Clerk, and the deadline for such submissions.

15 *See* 40 C.F.R. § 22.45(b)(2).

16 Public notices required under 40 C.F.R. § 22.45(b) may be provided via the internet. *See*  
17 71 Fed. Reg. 51193 (Aug. 29, 2006) ("Notice of Intent To Provide Internet Publication of  
18 Proposed Penalties under the Clean Water Act and Safe Drinking Water Act"). On January 13,  
19 2014, EPA posted the public notice of the proposed CA/FO on EPA's Region 9 website. A true  
20 and correct copy of the public notice is attached as **Exhibit A** to the Declaration of Julia Jackson  
21 (**Attachment 1**). The public notice included the information required by 40 C.F.R. § 22.45(b)(i)  
22 through (v), described above.

23 On February 12, 2011, the 40-day public notice comment period closed, and no public  
24 comments were received by EPA Region 9, as shown by the email from Steven Armsey,  
25 Regional Hearing Clerk for EPA Region 9, dated February 20, 2014, attached as **Exhibit B** to  
the Jackson Declaration.

Upon this showing of sufficient proof that Complainant complied with the public notice

1 requirements of 40 C.F.R. § 22.45(b), and that no public comments were received, Complainant  
2 hereby respectfully moves the Presiding Officer to approve the Final Order in this matter.

3 Respectfully submitted this 3<sup>rd</sup> day of March, 2014.

4  
5 By:



6 Julia A. Jackson  
7 Assistant Regional Counsel  
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9 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
10 **REGION 9**

11 In re the Matter of:

) Docket No.: CWA-09-2013-0002

12 Air Louvers/Activar Construction  
Products Group, Inc.

)  
) **DECLARATION OF JULIA A. JACKSON**  
) **IN SUPPORT OF COMPLAINANT'S**  
) **MOTION TO APPROVE FINAL ORDER**

15 Respondent.

) Proceedings Under Section 319(g) of the  
) Clean Water Act, as amended 33 U.S.C. §  
) 1319(g).  
)

18 I, Julia A. Jackson, declare:

19 1. I am an attorney at law, licensed to practice in the State of California and the State of  
20 Texas. I am an attorney with Region 9 of the United States Environmental Protection Agency  
21 ("EPA").

22 2. On or about January 13, 2014, EPA and Respondent entered into the attached Consent  
23 Agreement and Proposed Final Order ("proposed CA/FO") to resolve this matter.

24 3. On January 13, 2014, EPA placed public notice of the Consent Agreement and  
25 Proposed Final Order in this matter on EPA Region 9's website. An archive version of this

ATTACHMENT 1

1 public notice may still be viewed on EPA Region 9's website at:

2 <http://www.epa.gov/region9/enforcement/pubnotices/pubnotice-air-louvers.html>. A true and  
3 correct copy of this public notice is attached. (**Exhibit A.**)

4 4. The internet public notice contained all the information required by 40 C.F.R. § 22.45(b)  
5 and was legally sufficient.

6 5. On or around February 20, 2014, after the end of the 40-day public comment period on  
7 February 12, 2014, I confirmed with the Region 9 Regional Hearing Clerk that no comments had  
8 been received in response to the public notice. *See* attached email from Steven Armsey, Region  
9 9 Regional Hearing Clerk, to me, dated February 20, 2014. (**Exhibit B.**)

10 I declare under penalty of perjury, according to the laws of the State of California, that  
11 the foregoing is true and correct, and is known to me of my own personal knowledge.

12 Executed this 24<sup>th</sup> day of February, 2014, at San Francisco, California.

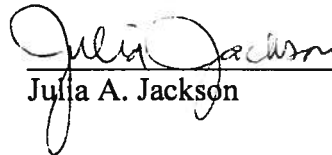
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Exhibit A

http://www.epa.gov/region9/enforcement/pubnotices/pubnotice-air-louvers.html



Pacific Southwest, Region 9

Serving: Arizona, California, Hawaii, Nevada, Pacific Islands, Tribal Nations

Notice of Proposed Consent Agreement for Clean Water Act Violations and Opportunity to Comment in the Matter of Air Louvers/Activar Construction Products Group, Inc., Commerce, California

Publication Date: January 13, 2014

Public Comment Closes: February 12, 2014

You will need Adobe Reader to view some of the files on this page. See EPA's PDF page to learn more about PDF, and for a link to the free Adobe Reader.

In the Matter of Air Louvers/Activar Construction Products Group, Inc.

Docket No. CWA-09-2013-0002

EPA is authorized under Section 309(g) of the Clean Water Act (the "Act"), 33 U.S.C. Section 1319(g), to assess administrative penalties against any person who fails to comply with the requirements of regulations enacted in accordance with Section 301 of the Act, 33 U.S.C. Section 1311. This action under Section 309(g) is conducted in accordance with "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("Consolidated Rules"), set forth at 40 C.F.R. Part 22. EPA is hereby providing public notice of and opportunity to comment on this proposed Consent Agreement in the following matter:

In the Matter of Air Louvers/Activar Construction Products Group, Inc. Docket No. CWA-09-2013-0002

Complainant: Kathleen H. Johnson, Director, Enforcement Division, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Respondents: Air Louvers/Activar Construction Products Group, Inc., 6285 Randolph Street, Commerce, California 90040

Description of Business or Activity Conducted by the Respondents: Manufacturing.

Alleged Violations: In the proposed Consent Agreement (PDF) (10 pp, 288K), EPA alleges that Air Louvers/Activar Construction Products Group, Inc. discharged process wastewater from its Commerce, California facility to the Los Angeles County Sanitation District sewer system which violated the categorical metal pretreatment standards for copper and zinc on ten occasions between May 2006 and January 2011.

Proposed Order and Penalty: \$43,000.

Name, Mailing Address, Telephone Number, and Email of Regional Hearing Clerk

Steven Arnsay
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street (ORC-1)
San Francisco, CA 94105
(415) 972-3919
r9hearingclerk@epa.gov

Please provide the following information along with your comments and submit them in accordance with Part 22: Your full name, mailing address, telephone number, email address, the Docket Number (CWA-9-2013-0002), and a concise statement of the basis for and relevant facts supporting any comment for the case to which you are commenting. Persons wishing to comment on this case, including comments on the amount or basis of the proposed penalty, are invited to submit a statement to the EPA Regional Administrator, attention of the Regional Hearing Clerk (address above), within 30 days of the date of this public notice. All comments received within this 30-day period will be considered in the issuance of the final order. If the 30th day of the comment period falls on a Saturday, Sunday or federal holiday, the deadline shall be extended to the next business day. See 40 C.F.R. 22.7(a).

For More Information

Persons wishing to receive a copy of Part 22, review the documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the Regional Hearing Clerk identified above. Unless otherwise noted the public record for the proceeding is located in the EPA Regional Office at 75 Hawthorne Street, San Francisco, California 94105, and the file will be open for public inspection during normal business hours.

Pacific Southwest Newsroom Pacific Southwest Programs Grants & Funding US-Mexico Border Media Center Careers About EPA Pacific Southwest A-Z Index

Last updated on Monday, January 13, 2014

**Jackson, Julia**

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**From:** Armsey, Steven  
**Sent:** Thursday, February 20, 2014 2:35 PM  
**To:** Jackson, Julia  
**Cc:** Tolentino, Corazon  
**Subject:** FW: Air Louvers (CWA-09-2013-0002)

**From:** Steven Armsey, Cora Tolentino, Interim Regional Hearing Clerk Team

**To:** Julia Jackson, Associate Counsel, EPA, Region 9

**Re:** Air Louvers (CWA-09-2013-0002)

**Date:** February 20, 2014

After searching the Regional Hearing Clerk physical files regarding the matter of Air Louvers (CWA-09-2013-0002), no comments or correspondence were located.

Have also checked the e-mail account of Bryan Goodwin, and likewise, no electronic comments or correspondence are present regarding Air Louvers (CWA-09-2013-0002).

Please let us know if you need anything more. Thanks.

---

**From:** Tolentino, Corazon  
**Sent:** Thursday, February 20, 2014 2:19 PM  
**To:** Armsey, Steven  
**Cc:** Jackson, Julia  
**Subject:** RE: Air Louvers (CWA-09-2013-0002)

There were no comments received on this case.

*Corazon (Cora) Tolentino*  
HWB Secretary  
Office of Regional Counsel  
Mail Code: ORC-3  
415-972-3879/FAX 415-947-3570

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**From:** Armsey, Steven  
**Sent:** Thursday, February 20, 2014 2:05 PM  
**To:** Tolentino, Corazon  
**Cc:** Jackson, Julia  
**Subject:** FW: Air Louvers (CWA-09-2013-0002)

**Cora:**

Do you know of any comments or other correspondence received by the Regional Hearing Clerk regarding Air Louvers (CWA-09-2013-0002)? Thanks.

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**From:** Jackson, Julia  
**Sent:** Thursday, February 20, 2014 11:06 AM  
**To:** Armsey, Steven; Tolentino, Aileen  
**Subject:** Air Louvers ?

In the Matter of Air Louvers/Activar Construction Products Group, Inc.  
Docket No. CWA-09-2013-0002

**EPA REGION 9 COLLECTION INFORMATION:**

**ELECTRONIC FUNDS TRANSFERS**

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency "

**CHECK PAYMENTS**

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

**OVERNIGHT MAIL**

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Contact: Natalie Pearson  
314-418-4087