STATE OF NEW MEXICO
ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION FOR A HEARING ON THE MERITS REGARDING AMERICAN CEMENT CORPORATION AIR QUALITY PERMIT No. 0902-M3

Greater Gardner Neighborhood Association, North Valley Coalition of Neighborhood Associations, Kyle Silfer, David Wood, Marcia Finical, as individuals, **Petitioners/Appellants,** **v.** **City of Albuquerque Environmental Health Department, Air Quality Division,** **Respondent/Appellee**	**AQCB Petition No. 2009-7**

SCHEDULING ORDER

THIS MATTER having come before the Chairman of the Albuquerque-Bernalillo County Air Quality Control Board (Air Board), who is acting as interim hearing officer in the above-captioned matter pursuant to Paragraph (2) of Subsection (B) of 20.11.81.12 NMAC, upon Petitioners' *Appeal Petition for Hearing* filed November 2, 2009, and being apprised of the filing of Petitioners' *Waiver and Release* dated November 11, 2009, finds as follows:

1. The Petition was timely filed.

2. The 30-day deadline for beginning the hearing on the merits, which is established by Subsection F of 20.11.41.15 NMAC and Paragraph (1) of Subsection F of 20.11.81.14 NMAC, is stayed by the filing of the *Waiver and Release* pursuant to Subsection C of 20.11.81.14 NMAC.

3. The next regularly-scheduled Air Board meeting is December 9, 2009.

4. December 9, 2009 falls within the extended, additional 30-day period allowed by Subsection C of 20.11.81.14 NMAC, and provides an opportunity for the Air Board to: appoint a Hearing Officer or authorize the Hearing Clerk to obtain a Hearing Officer; establish the date, time and location of the hearing on the merits in the above-captioned matter, or authorize the

Hearing Officer to set the date, time and location of the hearing; direct the Hearing Clerk to secure a court reporter; and decide any other procedural decisions regarding the hearing on the merits that are necessary at this stage in the proceedings.

THEREFORE, IT IS ORDERED that:

1. At the December 9, 2009 Air Board meeting, the Board shall: appoint a Hearing Officer or authorize the Hearing Clerk to obtain a Hearing Officer; establish the date, time and location of the hearing on the merits in the above-captioned matter, or authorize the Hearing Officer to set the date, time and location of the hearing; direct the Hearing Clerk to secure a court reporter; and decide any other procedural decisions regarding the hearing on the merits that are necessary at this stage in the proceedings.

2. Pursuant to Subsection C of 20.11.81.14 NMAC and Paragraph (1) of Subsection F of 20.11.81.12 NMAC, the hearing on the merits will begin on Monday, January 4, 2010, unless the hearing officer or the Air Board, as appropriate for the stage of the proceeding, extends the deadline for an additional period for good reason and an amended Scheduling Order is issued.

3. All prehearing deadlines set forth in 20.11.81.14 NMAC related to the 30-day hearing procedure will remain in effect, based on the January 4, 2010 hearing date.

Jens Deichmann
Chairman/Interim Hearing Officer
Air Quality Division
Environmental Health Department
City of Albuquerque
Mailing Address:
P. O. Box 1293
Albuquerque, NM 87103
Physical Address:
1 Civic Plaza NW
City/County Building
3rd Floor, Room 3023
Albuquerque, NM 87102

If any person requires assistance, an interpreter, or auxiliary aid to participate in this process, please contact Hearing Clerk Janice Wright at least ten days before the hearing date at P.O. Box 1293, Albuquerque, New Mexico 87103. Ms. Wright's telephone number is (505) 768-2601. TDY users, please access Ms. Wright's number through the New Mexico Relay Network at 1-800-659-8331.

CERTIFICATE OF SERVICE

I hereby certify that I have mailed, hand delivered, and e-mailed a true and correct copy of the foregoing pleading on this 30th day of November, 2009 to the following parties of record:

Mailed and e-mailed:
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Janice C. Wright

Janice C. Wright, Hearing Clerk