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 No. 2009-7**

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NOTICE OF FILING OF PETITIONERS' WAIVER AND RELEASE

Attached to this Notice is the original Waiver and Release, signed and dated by Kyle Silfer on behalf of all of the Petitioners. The Waiver and Release waives the Petitioners' right to a public hearing that begins within 30 days of receipt of Petitioners' *Appeal Petition for Hearing*. And warrants that Kyle Silfer is authorized to represent the two organizations and three individuals named as appellants/petitioners in the *Appeal Petition for Hearing*.

Respectfully submitted,

CITY OF ALBUQUERQUE
Robert M. White, City Attorney

Adelia W. Kearny

Adelia W. Kearny
Deputy City Attorney
P.O. Box 2248
Albuquerque, NM 87103
(505) 768-4530
akearny@cabq.gov

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2009, a true and correct copy of the above Notice was mailed by regular mail, postage prepaid to:

Kyle Silfer, individually, and as
President of Greater Gardner NA
4465 Jupiter NW
Albuquerque, NM 87107

and a copy was sent by electronic mail to Kyle Silfer at kyle@rtoads.com.

by: _____
Adelia W. Kearny, Deputy City Attorney

WAIVER AND RELEASE

Regarding Extension of Deadline for Holding Hearing

The Air Quality Division (AQD) of the City of Albuquerque (City) Environmental Health Department issued American Cement Authority-to-Construct Permit modification # 0902-M3, effective September 15, 2009. Kyle received the participant notification letter sent by AQD informing Mr. Silfer that the permit modification had been issued, the process followed by AQD during its review, the conditions incorporated in the permit modification, and the deadline for requesting a hearing before the Albuquerque-Bernalillo County Air Quality Control Board (Air Board). On November 2, 2009, Kyle Silfer filed an *Appeal Petition for Hearing* dated November 1, 2009 with the Air Board Hearing Clerk.

The Air Board is directed by subsection F of 20.11.41.14 NMAC and paragraph (1) of subsection F of 20.11.81.14 NMAC to hold a public hearing regarding an authority-to-construct permit challenge within 30 days of receipt of the request for public hearing unless the Petitioner waives the deadline pursuant to 20.11.81.14.C NMAC. By signing this Waiver and Release, Kyle Silfer, on behalf of the two organizations and three individuals named as Appellants (petitioners) in the Appeal Petition for Hearing filed November 2, 2009, hereby waives the 30-day deadline, and forever waives, releases and discharges any and all rights and claims for damages or other relief that the Appellants/petitioners may have against the Air Board, each individual member of the Board, the City, and all City officials, officers, employees, contractors and agents as a result of the Air Board not holding the public hearing within 30 days of receipt of the Appeal Petition for Hearing.

The individual signing this Waiver and Release warrants he is authorized to represent the two organizations and three individuals named as Appellants/petitioners in the Appeal Petition for Hearing and has full legal authority to execute this Waiver and Release on behalf of the Greater Gardner Neighborhood Association (GGNA), the North Valley Coalition of Neighborhood Associations (NVCNA), David Wood individually and Marcia Finical individually, and to bind GGNA, NVCNA, David Wood, Marcia Finical, and himself to its terms.

By: _____
Kyle Silfer, individually, and
as authorized representative of
Greater Gardner Neighborhood Association,
North Valley Coalition of Neighborhood Associations,
David Wood individually, and
Marcia Finical individually

Date: 11/10/09