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ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD **RESOLUTION 2010-3**

3 4	DECISION ON THE <i>MOTION TO DISQUALIFY MEMBER BRINKMAN</i> REGARDING AQCB PETITION NO. 2009-7
5 6	Whereas, AQCB Petition No. 2009-7, Petition for a Hearing Regarding American Cement
7	Corporation Air Quality Permit #0902-M3 was timely filed on Nov. 2, 2009 with the Air Quality
8	Control Board ("Air Board") Hearing Clerk; and
9	Whereas, on January 22, 2010, a Motion to Disqualify Member Brinkman was filed with the
10	Air Quality Control Board Hearing Clerk by Brownstein, Hyatt, Farber, Schreck, LLP, Adam DeVoe
11	representing American Cement Corporation; and
12	Whereas, on January 26, 2010, Air Board Member Jim Brinkman timely filed his Response to
13	Motion to Disqualify Member Brinkman; and
14	Whereas, on February 1, 2010, Hearing Officer, Mr. Bill Grantham filed the Hearing Officer's
15	Recommendation on the Motion to Disqualify Member Brinkman, wherein he recommended that the
16	Motion to Disqualify Member Brinkman be sustained by the Air Board; and
17	Whereas, on February 3, 2010, Appellant's Response in Opposition to Intervener's Motion to
18	Disqualify, Member Brinkman's Response, and Hearing Officer's Recommendations on the Motion
19	was filed by the New Mexico Environmental Law Center, Jonathon Block of behalf of the
20	Petitioners/Appellants, Greater Gardner Neighborhood Association, North Valley Coalition of
21	Neighborhood Associations, Kyle Silfer, David Wood, Marcia Finical, as individuals; and
22	Whereas, 20.11.81.B(3)(a) NMAC, Adjudicatory Procedures—Air Quality Control Board
23	requires the Air Board to vote on a motion to disqualify a Member of the Board when certain criteria
24	listed in 20.11.81.B(3)(a) NMAC are established; and

Whereas, on February 10, 2010 the Air Board considered the Motion, Mr. Brinkman's

1	Response, the Hearing	Officer's Recommendation,	and the A	ppellant's Resp	ponse;
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2 NOW, THEREFORE BE IT RESOLVED BY THE BOARD THAT:

3 The Motion to Disqualify Member Brinkman is SUSTAINED / NOT SUSTAINED.

4 [WITH THE FOLLOWING CHANGES:]

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6	PASSED AND ADOPTED THIS 10 th	DAY OF FEBRUARY, 2010
7	BY A VOTE OF FOR AND A	AGAINST.
8	Absent:	
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12		Jens Deichmann Chair
13		Albuquerque-Bernalillo County
14		Air Quality Control Board
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16	Attest:	
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18	Margaret Nieto, Board Secretary	
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