

1 **ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**

2 **RESOLUTION 2010-4**

3 **DECISION ON APPROVAL OF SETTLEMENT AND DISMISSAL OF APPEAL WITH**
4 **PREJUDICE IN THE MATTER OF THE PETITION FOR A HEARING ON THE MERITS**
5 **REGARDING AMERICAN CEMENT CORPORATION AIR QUALITY PERMIT**
6 **NO. 0902-M3**

7
8 **Whereas**, AQCB Petition No. 2009-7, Petition for a Hearing Regarding American Cement
9 Corporation Air Quality Permit #0902-M3 was timely filed on Nov. 2, 2009 with the Air Quality
10 Control Board (“Air Board”) Hearing Clerk; and

11 **Whereas**, the requested Hearing on the Merits was scheduled for March 9 and 10, 2010; and

12 **Whereas**, on February 26, 2010 a Settlement Agreement and Motion for Approval of
13 Settlement and Dismissal of Appeal with Prejudice was served upon the Hearing Clerk, the Hearing
14 Officer, and attorneys representing Appellants, Intervener, and the City of Albuquerque; and

15 **Whereas**, *ALTERNATE RESOLUTION*, Subsection C of 20.11.81.20 NMAC, *Adjudicatory*
16 *Procedures—Air Quality Control Board* requires that the Air Board approve a settlement that
17 modifies a permitting action only after evidence supporting such modification is presented at a public
18 hearing; and

19 **Whereas**, on March 10, 2010 the Air Board considered the evidence at a public hearing; and

20 **Whereas**, the parties are agreed that the permit amendments resulting from the settlement
21 agreement will be more stringent than permit No. 0902-M3;

22 **NOW, THEREFORE BE IT RESOLVED BY THE BOARD THAT:**

23 The Air Board approves the Settlement Agreement and orders the Air Quality Division of the
24 City of Albuquerque Environmental Health Department to modify Air Quality Permit No. 0902-M3 in
25 accordance with the terms of the Settlement Agreement and dismisses the Petitioners’ appeal with
26 prejudice.

1 [WITH THE FOLLOWING CHANGES:]

2
3 PASSED AND ADOPTED THIS 10th DAY OF MARCH, 2010
4 BY A VOTE OF ___ FOR AND ___ AGAINST.

5 Absent: _____

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7

8 _____
9 Jens Deichmann Chair
10 Albuquerque-Bernalillo County
11 Air Quality Control Board

12
13 Attest:

14 _____
15 Margaret Nieto, Board Secretary
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