

POLLUTION CONTROL HEARINGS BOARD
FOR THE STATE OF WASHINGTON

DUWAMISH RIVER COMMUNITY COALITION;	)	
and FRONT AND CENTERED,	)	PCHB NO. 26-001
	)	
Appellants,	)	
	)	
v.	)	APPELLANTS' MOTION TO
	)	VOLUNTARILY DISMISS APPEAL
PUGET SOUND CLEAN AIR AGENCY; and ASH	)	
GROVE CEMENT COMPANY	)	
	)	
Respondents.	)	
	)	

Duwamish River Community Coalition and Front and Centered (“Appellants”) move to voluntarily dismiss their appeal of Puget Sound Clean Air Agency’s (“PSCAA”) Final Notice of Construction Order of Approval No. 12003 (“NOC Order”) issued to Ash Grove Cement Company (“Ash Grove”) on December 5, 2025, regarding operations at its cement plant located at 3801 E. Marginal Way S, Seattle, Washington, 98134–1113 in the above-captioned matter without prejudice, pursuant to WAC 371-08-465 and Washington Rule of Civil Procedure (“CR”) 41. Appellants move to dismiss in light of the August 20, 2026, letter from PSCAA to Ash Grove directing that “the previously established tire consumption limit of 30% by weight on a daily average remains in place” and “any possibility of increasing the permitted tire consumption rate” under the order challenged in the appeal “is hereby foreclosed.” Dkt. 24, Attachment at 2 (PSCAA’s August 20, 2026 letter).

1 On January 2, 2026, Appellants filed a Notice of Appeal with the Pollution Control
2 Hearings Board (the “Board”), appealing NOC Order No. 12003. Dkt. 1. That appeal challenged
3 PSCAA’s compliance with state and federal clean air laws in issuing the NOC Order, which
4 would have allowed Ash Grove to increase its tire combustion rate to an operational maximum
5 set through a Fuel Monitoring Plan and removed the previously established 30% cap on whole
6 tire combustion as a percentage of total fuel. Appellants challenged the agency’s findings that the
7 increased tire combustion—that would have resulted from this fuel change—would not result in
8 any increase in air pollutant emissions, and on that basis also challenged PSCAA’s compliance
9 with the State Environmental Policy Act.

10 Shortly after the appeal was filed, the Board granted joint requests by the parties to stay
11 the proceedings for six months. Dkts. 12, 15. On August 12, 2026, the Board set dates for both
12 the submission of proposed legal issue and for a prehearing conference. Dkt. 23. However, in
13 light of PSCAA’s August 20, 2026 letter, and at the request of all parties, the Board rescheduled
14 both dates by two weeks, to September 9, 2026, and September 11, 2026, respectively. Dkt. 25.
15 To date, no party has submitted proposed legal issues, nor has there been a prehearing
16 conference.

17 As indicated in PSCAA’s August 20, 2026 letter, tire combustion cannot be increased
18 pursuant to NOC Order No. 12003, because doing so will increase heavy metals emissions. As a
19 result, the original 30% limit on tire combustion remains in place. NOC Order No. 12003
20 contains Condition 5, which requires Ash Grove to “complete a study” to determine if the
21 increased tire combustion allowed under the permit “results in an increase in the emission rate of
22 metallic [toxic air pollutants] listed in WAC 173-460-150[.]” Dkt. 1, Attachment 1 at 1. Pursuant
23 to Condition 5.b, if metals testing shows an increase in emissions, then the previously established
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1 limit of 30% on whole tire combustion remains in place.

2 Testing for metals in fact showed an increase in emissions. On June 16–18, 2026, Ash
3 Grove conducted testing as required by Condition 5 of air emissions rates of eight metals at two
4 different rates of tire fuel consumption—including the maximum tire combustion rate allowable
5 pursuant to the Fuel Monitoring Plan. Dkt. 24, Attachment at 1. PSCAA received the report
6 summarizing the results of this test on August 17, 2026. *Id.* In response, on August 20, 2026,
7 PSCAA sent a letter to Ash Grove stating that the “Agency has determined that the increased tire
8 consumption rate caused an increase in the emission rate of cadmium.” *Id.* As a result of the
9 increase, under Condition 5.b of NOC Order No. 12003, “the previously established tire
10 consumption limit of 30% by weight on a daily average remains in place.” *Id.* at 2. Further, the
11 letter states that “any possibility of increasing the permitted tire consumption rate under NOC
12 OOA No. 12003 is hereby foreclosed.” *Id.*

13 In light of the fact that Ash Grove cannot increase its permitted tire consumption rate
14 under the challenged order, Appellants request to voluntarily dismiss and withdraw their appeal
15 of NOC Order No. 12003 without prejudice under WAC 371-08-465 and CR 41.

16 DATE: September 9, 2026

17 *s/ Jaimini Parekh*

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1 **CERTIFICATE OF SERVICE**

2 I, Maile Kim, hereby certify that on this 9th day of September, 2026, the foregoing
3 APPELLANTS' MOTION TO VOLUNTARILY DISMISS APPEAL was filed electronically
4 through the Environmental and Land Use Hearing Office Case Management System and served
5 on all parties or their counsel via e-Filing and email as follows:

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