Rec'd
8/3/15
PBES

July 29, 2015

Mr. Matt Pope, Chair
Napa County Planning Commission
1195 Third St, 2nd Flr
Napa, CA 94559

RE: THE CURRENTLY PROPOSED EXPANSION OF THE SYAR INDUSTRIES QUARRY OPERATIONS

Dear Mr. Pope:

In follow up to my letter to you in April, 2015, I am once again writing on behalf of Latinos Unidos del Valle de Napa y Solano. At that time, we expressed a number of clearly delineated concerns about the aforementioned matter. Most of those concerns continue to loom large before us still. Among those that we believe to be most urgent at this time are those with a significant impact on the transparency and accessibility of this process to many working class Napa County residents and even more so to those with limited or no English proficiency.

We have been told that there will be a limited number of public documents connected with this matter translated into Spanish and subsequently posted to the County's website. We were also told this was to happen this evening, although those were not available at the time this letter was drafted. Assuming that they are indeed made available later this evening, we would like to both thank you for making modest progress in the right direction and make the point that it is still woefully insufficient for the County to provide only a select number of these documents in Spanish. We urge you to provide *all* of the documents that pertain to this matter in Spanish without further delay.

We are also very concerned, and frankly disappointed, that the next meeting on this matter will take place at 4:00 pm, a time when most people are still at work, and that it is being held at the relocated County Offices (at the former Dey Labs facility), a location which is much harder to get to without a car than several other locations that the County has at its disposal. We ask that you either change the time and location of this particular meeting to make it more broadly accessible *or* schedule an additional supplemental meeting with that purpose in mind.

With all due respect, we believe that what we have seen thus far in your handling of this matter demonstrates a failure by the County of Napa to treat a

substantial part of its Latino Community as equally valued members of the larger community and we truly hope that there will be more comprehensive remedial action taken soon to eliminate the disparity that continues to exist in the manner of their treatment.

Thank you.

Yours truly,

Hector Olvera
Latinos Unidos del Valle de Napa y Solano

From: marlananda .
To: Barrella, Donald
Subject: Save Skyline
Date: Monday, July 27, 2015 10:54:24 AM

It is an unacceptable conflict of interest for Syar to self-monitor silica dust air emissions and runoff into the Napa River. There must as well be accountable independent monitoring!

Thank you~

CEASE (Coalition Engaged Against Syar Expansion)
Resolution of Mutual Agreement

The purpose of this document is to express the singular, unified opposition of our respective groups to the proposed expansion of the Syar quarry operation in Napa, California. We urge the Planning Commission and Napa County Supervisors to adopt the "No-Project Option" outlined in the Alternative Analysis Memo released July 2015 due to numerous deleterious effects, including:

- **The irreparable damage the project would cause to the sensitive wilderness areas nearby and to the enjoyment of these areas by the general population of Napa Valley and its many visitors**
- **The incompatibility of this project's goals with those of Skyline Park which is immediately adjacent to the area to be quarried**
- **The potential harmful effects to nearby residents of the East Imola Avenue neighborhood, including air, and noise pollution**
- **The "significant, and unavoidable" increase in GHG emissions at a time in which the County has renewed its commitment to decreasing these emissions**

Group: **Sierra Club, Napa Group**

Authorized Representative:

Nancy Tamarisk

Position: **Chair, Napa Sierra Club**

Date: **7/31/2015**

From: Morrison, David
To: Barrella, Donald; Bordona, Brian; Frost, Melissa
Subject: FW: Syar Expansion
Date: Wednesday, July 15, 2015 10:04:47 AM

Please add to comments

Sent with Good (www.good.com)

From: Jerry
Sent: Wednesday, July 15, 2015 9:03:09 AM
To: Morrison, David
Subject: Syar Expansion

Hi Mr. Morrison,
As a civil engineer, I understand the importance of a local source of aggregate. I would support Syar's continuing or expanded operations, but with the condition that no further disfigurment of the southeast Napa skyline take place. It has never seemed right to me that this can occur in such a scenic and conspicuous location, right at the entrance to the valley. They should work on a plan to dig deeper, or dig where the topography screens their operations, and the plan should include gradually restoring the scarred skyline, not making it worse.

-Jerry Fitch
5045 Coombsville Road

May 11, 2015

Donald Barrella, Project Planner
Napa County Conservation, Development and Planning Department
1195 Third Street, Suite 210
Napa, CA 94559
dbarrell@co.napa.us

Mr. Barrella:

Last month, the Napa County Republican Party voted unanimously to support Syar Industries effort to expand its operations on its property south of the City of Napa. We did so for the following reasons:

- Syar Industries is a long-established and highly trusted Napa area business. Their track record as both an employer and as a source of good philanthropic works demonstrates a strong commitment to our community. We support their efforts to improve our community and secure and expand our local work force.
- Aggregate is the lifeblood of all development operations, and as the only local supplier for most aggregate materials within the County, it is critical that local businesses and contractors have ready access to locally sourced materials.
- Syar has calculated that every 25-35 miles of additional truck delivery travel doubles the transportation cost of aggregate delivery for customers. If the expansion is not approved the costs to acquire aggregate from outside the county will be passed on to customers and ultimately consumers throughout the county.
- In 2012, Napa County voters approved Measure T to collect nearly $300 million in sales tax revenues for the maintenance and improvement of local roads. If Syar does not expand there will not be nearly enough locally sourced aggregate available within Napa County to use for these public works. Implementation of Measure T will become more difficult because of higher projected costs. This is not what Napa County voters envisioned when they voted in favor of Measure T. The County of Napa should not be a party to the mismanagement of sales tax dollars by denying Syar's expansion.
- Syar Industries has diligently adhered to the public environmental process required of this type of expansion request. It has complied at every turn with the requirements of the California Environmental Quality Act. It has coordinated with the County of Napa since 2008 to create a responsible and environmentally sensitive expansion and reclamation plan.
- The claims by some that Syar is encroaching upon Skyline Park are misleading and wrong. Parts of the existing Skyline trail meander onto Syar property and are in poor condition. Syar offered to move the trails and fund improvements for the park district in good faith, however project opponents shunned that offer and chose to demagogue Syar instead. Syar has since revised its plans and no longer intends to expand into the area that includes the existing trails.

Syar's expansion is critical to the economic future of Napa County. They are a good and responsible business that plays by the rules and treats others fairly. We discourage the attempts of some to hijack the process and paint Syar as something less than an excellent and responsible company. Thank you for your consideration.

Sincerely,

Billie Ruth Hurst

NAPA COUNTY **OFFICE OF SHERIFF-CORONER**

1535 AIRPORT BOULEVARD
NAPA, CALIFORNIA 94558-6292
(707) 253-4501

Commitment to Community

JOHN R. ROBERTSON
Sheriff - Coroner

Donald Barrella
Napa County Planning Department

Syar has given The Napa County Sheriff's Department the opportunity to use a portion of their property for firearms training for over 30 years. In a time where the ability to find areas to do firearms training is becoming increasingly more difficult, Syar has given the Sheriff's Department and other local agencies, including California Highway Patrol, The Napa County District Attorney's Office, The Napa Valley Community College Police and the Napa County Probation Department, the ability to offer exceptional firearms training in a safe and secure area.

The Napa County Sheriff's Department is very supportive of Syar Industries and all it does for our community.

Respectfully,

John R Robertson
Sheriff-Coroner

April 7, 2015

Mr. Don Barrella, Planner III
County of Napa
Conservation, Development & Planning Department
1195 Third Street, Suite 210
Napa, California 94559

Subject: Syar Industries, Inc. - Napa Quarry Permit

Dear Mr. Barrella:

My name is Larry Pyle and I served as President of the Skyline Park Citizens Association from 2003 to 2013. During these ten years of service, I had the day-to-day responsibility of overseeing the management of Skyline Park. These responsibilities included public relations with the public, the County of Napa, the many visitors to the park and, of course, our neighbor Syar Industries. I feel that Syar Industries is a good neighbor to Skyline Park and has worked with the park to resolve common issues. During my years as President, I never received any complaints regarding Syar Industries, the Napa Quarry, or their operations from any of the organizations that make up the Skyline Park Citizens Association. And I strongly feel that Syar will continue to be a good neighbor in the future!

At various times I had the opportunity to work with the people of Syar Industries to solve issues of mutual interest. Once, after a heavy rainy season, I contacted Syar to purchase rock that could be used to repair the damage the rains had caused to the park's trails. My concern was that the rock would be dumped in the parking lot of Skyline Park, then reloaded into smaller vehicles for delivery to the trail repair sites. This would have taken a considerable amount of time and energy to complete. So, I personally went to Syar to inquire if there was any way to deliver full dump truck loads directly to the damaged trails and Jim Syar himself agreed to meet with me. Together we went through Napa Quarry to a location near the Napa Sheriff's shooting range where an old gate had been established in years past. Jim Syar said that he would build a road to this gate so that dump trucks could go directly into the park and deliver full loads of rock to the repair sites. This worked very efficiently and saved the park a huge amount of money!

On another occasion, a homeless encampment was found near the River to Ridge Trail and on Syar property. This had become an eyesore to people using this trail to walk from Kennedy Park to Skyline Park. There was a large amount of debris at this location, so I contacted Syar and arranged for both Syar people and park personnel to remove and dispose of this encampment.

As President of Skyline Park, I had to review and approve the invoices for material purchases for the park; therefore, I knew how much Syar was charging the park for rock products delivered from the Napa Quarry. At one point a contractor showed me how much he was paying for rock materials on a project he had been working on somewhere in Napa. I could see that what he was paying was substantially more than what Syar had charged the Park for the same product. Over the years, this discounted price has saved Skyline Park a great deal of money.

Once I did hear a complaint about some loud banging coming from the quarry property. When I investigated the complaint, I found that the Napa County Sheriff's Department had been utilizing the shooting range in the Napa Quarry for some special training. Because Syar was

providing our law enforcement agencies with a free local place to practice and meet the qualification requirements for their use of fire arms, I didn't pursue this complaint any further. It was an isolated incident and one of the few complaints I had to deal with over the years.

Overall, I believe that Syar Industries is a good neighbor to Skyline Park that has demonstrated a willingness to listen and assist when asked. I encourage you to please approve their expansion plans, as it is my belief it will not have an adverse impact on Skyline Park. Please don't hesitate to contact me if you have any questions. Thank you.

Sincerely,

Larry Pyle
1046 Shetler Ave
Napa, CA 94559

707-255-3958

Omissions and Inadequacies in the Syar EIR for the Administrative Record
And Napa County Transportation and Planning Agency and other County Agencies, and Community Organizations, Date 6-15-15

1. The Syar Environmental Impact Report (EIR) does not state what our County need for aggregate is per year and the County must absolutely know how much aggregate it uses per year. Napa is a less populated, agricultural county with a need much less than our surrounding counties. The 8.8 tons/person/year figure that is used in the Syar EIR is way off the mark. Knowing the aggregate need is crucial to establish a conservation plan that sets a cap on the amount of our natural aggregate resources to make sure our resource is managed wisely. According to the Syar EIR, 85% of Napa Quarry truck trips are leaving the County, while southeastern Napa County and City pay in the wear and tear on our roads and all the added pollution created from production, added truck hauls and what about a management plan for the water it takes for production? The County needs to provide oversight, good stewardship and establish what percent of aggregate may leave the County.

2. A terrible inadequacy is Napa County does not have a real mining ordinance to help define mining regulations with any specificity. The State expects Napa County to care about the health and safety of its citizens above all others and include significant compliance terms in the agreement with Syar Industries.This means having enough qualified inspectors to check up unannounced to make sure all the mitigation equipment and practices at Syar Napa Quarry are operational. Syar does not have a "good neighbor" reputation in our neighborhood nor others because we have witnessed the poor practices at the quarry. The County should require Syar hire compliance employees, as well, who will maintain proper mitigation equipment on all mining equipment and make sure employees are respecting best mining practices.

3. How much known reserves exit on the Napa Quarry property? The Syar Napa Quarry figures from 2010, adjusting for the 50 feet rise over sea level, and accounting for mining 1 million tons of material which is way over our County's need per year according to the Syar EIR, cutting in half the total number of years still gives us 100 years-plus at this mining location at its current size without any expansion into our agricultural watershed and avoid further disruption of groundwater recharge of the southeastern quadrant and MST (Milliken-Sarco-Tulocay) basin which is already in distress. Extending beyond the current size of the Syar Napa Quarry is unwarranted. It is a disclosure that should be known because Jim Syar may have other obligations concerning the Passini Property: Jim Syar owns 50% of the 124-acre Passini Parcel that was inherited by Kimberly Passini Wood and in 2009 Ms. Wood gave Mr. Syar permission to mine the property. That is the reason Jim Syar wants to mine that parcel, not out of our County's need for an expansion of the mine, especially at this time when there is so much land

where basalt has been identified on the existing property that Syar has not mined yet. Information was obtained from the Assessors Office, a conversation of an associate with Kimberly Passini Wood and from other Syar documents. FIRST, complete the mining of existing pits and reclaim them before there is any consideration of expansion. Reducing the sprawling size of this mine is an essential part of the mitigation plan we expect the County to develop with dates set for completion of each phase. (See separate Mitigation Plan document).

4. How much water is needed at Syar Napa Quarry for operating under best mining practices, best available control technology of the dust from equipment and roads and the sand washing operation for the production of asphalt? How much water is available? This absolutely must be measured for a specific period of time. Neither Syar nor the County have any idea how much water is available or is needed. Syar Industries depends on ground water.

5. How much total acreage of exposed land is there? Our County absolutely has to develop a
mitigation plan for the large amount of bare ground dust to control on the mine property and require a prescribed maintenance program of mitigation using water and dust suppressant and interim reclamation plantings. We have to know how much water that too will take. Syar Industries records on water use are very spotty. Waiting until the end of the mining permit to start the reclamation process is UNSATISFACTORY.

6. Mitigations to be written into the requirements of the permit to operate: 1. Haul trucks entering the quarry can no longer drive all over the property on unpaved roads.That old concept has got to be retired and replaced with a centralized area that is paved where haul trucks enter the Napa Quarry for pick up of material, both aggregate and asphalt. All asphalt areas to be maintained by the sweeper. 2. There has to be a requirement for high pressure, low volume water spray systems on all crushing, separating equipment and conveyors. Where unpaved roads exist the speed limit should be 10 miles an hour or a lesser speed at which practically no dust is created. The prevailing winds routinely blow Syar dust (which includes respirable silica) into the southeastern quadrant of the City of Napa and it is time for recognition that the old insufficient mining practices have to be replaced. 3. Syar wants to continue to produce green house gases GHG's at the same rate with the new permit according to the Syar EIR, if you can believe it! Two things: the County must require upgrade of all Syar's fleet to tier 3 or better and only tier 3 or better vehicles be allowed into the quarry for pick up or delivery of material. Now is the time to reduce GHG and the tier 3 upgrade will help a lot. The first big problem with the Syar Napa Quarry is its location and the second big problem is the culture at Syar Napa Quarry and the attitude of the applicant toward control of the quarry and asphalt production pollution next to our settled population. I want to stress, the degree of attention to pollution control at Syar has got to grow by 1 to 2 magnitudes. (More in Mitigation Plan document).

7. So not right for Napa County is a 35 year mining permit. The Board of Supervisors would not approve of a 35 year winery permit and they definitely should not approve of an arbitrary 35 year permit to operate for Syar Napa Quarry. Environmental change, technological change, growth of the settled population, enough water—all point to the need to make the permit no more than 20 years as other counties have done. An end date has got to be included in the Syar EIR.

8. Syar Lake Herman Quarry is less than 15 miles away from the Syar Napa Quarry and produces higher quality material according to people we have spoken to from the City of American Canyon, City of Napa, County of Napa, surveyors, Napa Contractors, and some retired quarry employees. About 95% of the City of American Canyon aggregate and AC comes from Lake Herman Quarry. About 80% of the City of Napa comes from Lake Herman Quarry. (Info obtain from PRA requests). These are the two largest cities in the County. The cost of material from the Syar Lake Herman Quarry is essentially the same as from Syar Napa Quarry. Also, Syar Industries imports its sand by barge to Napa and interplant transfer of materials is routine.

9. At the June 6th CEQA workshop at the Napa Junior College, Head Planning Commissioner David Morrison said the EIR process is a 50-50 compromise situation. Well, the Syar EIR terms are provided by Syar Industries, Inc. Lots of papers have been processed but there is no 50% contribution from the County of Napa in the form of mitigation or compliance terms of significants to protect the public nor is there independent verification of data in the Syar EIR. CEQA says you have to assume the worst case scenario and plan for that when no sufficient local air monitoring studies have ever occurred for our large population with a mining operation next door. Balance is required between the private business desiring to make as much money as it can and the County's responsibility to manage its natural resources wisely and insure maximum best practices terms and compliance to reduce the fugitive pollution-caused health risk to our citizens and visitors and the need to reduce green house gases (GHG) as mandated by the State and common sense.

Sincerely,

Sandra Booth,
Member of the citizens group Stop Syar Expansion
P.O. Box 6063 Napa CA 94581
juniperbooth@hotmail.com

STOP SYAR EXPANSION
925 School St., Ste. 297
Napa, Ca 94559

June 2, 2015

David Morrison, Director,
Planning, Building and Environmental Services
1195 Third St., 2nd Floor
Napa, CA 94559

Dear Mr. Morrison,

Stop Syar Expansion, the Napa citizens group, is submitting for the Public Record the attached Technical Memorandum prepared by Parker Groundwater, dated, May 31, 2015.

This Memorandum addresses deficiencies related to Hydrology and the Water Availability Analysis in the Syar EIR.

We want the county staff to consider and respond to Mr. Parker's Technical Memorandum before the Planning Commission makes any decision concerning the Syar EIR.

Sincerely,

Kathy Felch
On behalf of Stop Syar Expansion

Technical Memorandum **May 31, 2015**

To: Stop Syar Expansion
From: Tim Parker, Parker Groundwater

Subject: Review of Syar Napa Quarry Expansion Project Draft and Final Environmental Impact Report (DEIR, FEIR) Specific to Hydrology and Groundwater Analysis

I am a California Professional Geologist (License #5584), Certified Engineering Geologist (License # EG 1926), and Certified Hydrogeologist (License #HG 12), with over 25 years of geologic and hydrologic professional experience, and on that basis, I submit that I am qualified to undertake this review (See attached Bio, Resume and Project Experience).

At the request of Stop Syar Expansion, a citizen's group, I have reviewed the hydrology and groundwater analysis in the Draft and Final Environmental Impact Report (DEIR, FEIR) for the Syar Napa Quarry Expansion Project, including the draft and final EIR and pertinent associated technical documents. My conclusions are listed below:

Summary Statements Regarding the DEIR and FEIR:

1) The Project area hydrogeology is very complex, and while there has been some considerable work conducted as part of the DEIR, there are significant unidentified uncertainties in groundwater demand, groundwater level trends, groundwater flowpaths and recharge to the adjacent groundwater deficient MST subarea, which is a Fatal Flaw of the EIR.
2) The Water Supply Assessment is a Fatal Flaw in the EIR as it is grossly inadequate, it is cobbled together and riddled with uncertainty, it does not contain substantial evidence to support the estimated baseline water demands, does not support the conclusions in the assessment, nor does it meet the requirements of the DWR Guidebook for such assessments (DWR 2003a).
3) Syar has a track record of conducting inadequate housekeeping and lacking best management practices resulting in chronic exceedance of benchmark levels, resulting in pollutant discharges from the Syar Napa Quarry facility into Arroyo Creek, which flows to the Napa River and San Francisco Bay. This should be corrected with a demonstrated track record or improvement prior to considering any increase in mining activities at the facility.
4) The Proposed Project will increase the potential for groundwater quality impacts due to the significant amount of increased land disturbance, greatly changing the surface hydraulics and direct recharge pathways, which will be difficult to predict and measure.
5) A portion of the project and the project groundwater supply wells reside within the MST subarea of the Napa Valley subbasin, which is a Napa County declared groundwater deficient subarea, within a medium priority basin under the new Sustainable Groundwater Management Act that requires high and medium priority basins and subbasins to be sustainably managed by 2042.

The Project area hydrogeology is very complex requiring additional studies

The hydrogeology of the project and regional area is very complex, with a geologic framework of fractured volcanic flows and tuffs, regionally and locally faulted, making it very difficult to map and predict flowpaths, recharge, and the availability of groundwater. Alluvial groundwater basins typically contain complex, multi-unit aquifer systems; but groundwater flowpaths in fractured rock systems are far more complex to understand, and develop water budgets for, because the fractures are so heterogeneous, storage volume is so small and hard to estimate, groundwater travel times so fast, and the fracture aperture and porosity so variable.

There has been a reasonable amount of study to the north in the "designated groundwater deficit" MST subarea, where groundwater declines are well known and worsening in some areas (LSCE, 2011), and a recycled water project is being implemented to reduce groundwater demand. And, while the EIR points out that groundwater levels in the south portion of the MST area adjacent to the Project site appear stable, in the central portion of the MST groundwater levels are in decline, and the whole MST area is hydraulically connected and in an overall state of depletion. The Project area has had insufficient groundwater investigation to understand and predict how the proposed dramatic landscape changes within a framework of fractured rock may affect groundwater availability just north and south of the Project area, and the DEIR acknowledges the need for collection of comprehensive groundwater monitoring data: "…until a series of long term groundwater level data are compiled, it is not known if an overall net deficit of the groundwater levels is occurring in this portion of the MST…." (DEIR Appendix J, Page 53). While there has been groundwater monitoring conducted over a period of more than a year at the Project site, the Latour Court Well that is listed as being where a good portion of groundwater extraction occurs, was not part of the 2010-2011 groundwater level monitoring assessment (DEIR Appendix J, Page 51), which along with the limited scope conducted, renders the groundwater investigation incomplete and inadequate, and this is a fatal flaw of the EIR.

Mitigation Measure 4.8-2 Avoid depleting groundwater supplies or interfering with groundwater recharge mechanisms including maintaining a 10-foot vertical separation between final grade and regional groundwater potentiometric elevation.

While we acknowledge it seems reasonable to protect groundwater with a 10-foot separation, in a fractured rock setting this may as well be zero feet as fracture flow is basically instantaneous, and it will be very difficult if not impossible for the Proposed Project to measure and document whether or not groundwater recharge mechanisms have been interfered with. So the mitigation measures without technical approaches and metrics to measure and document change are meaningless. We suggest that the Project proponent develop best management practices and approaches to monitor, measure, and document how the Proposed Project will avoid interfering with groundwater recharge mechanisms.

The Project proponent proposes to conduct annual groundwater monitoring on the Project site and report on an annual basis in order to quantify groundwater potentiometric surfaces in areas of mining as part of a mitigation measure. The proposed monitoring and reporting should be completed as an amendment to the DEIR and FEIR, along with several years of fully metered and measured water use at the

facility with varying wet and dry year hydrologic year data to provide an improved understanding of project hydrogeology and reasonable water demand baseline. It is particularly important to measure demand in wet and dry years, as dry years will increase demand with need for more water for dust control and more groundwater with less surface water available.

Mitigation Measure 4.8-4: Avoid depleting groundwater supplies by water reuse and obtaining new supplies of additional water for operations.
This mitigation measure also includes accommodating any additional water demands with a combination of water reuse, but there is no signed agreement or guarantee that such supplies will even be available to the Project, which makes it more likely that groundwater will be increasingly relied upon.

The water supply assessment is inadequate and is missing substantial evidence, and the Proposed Project water demand is riddled with uncertainty

The water supply assessment does not meet the requirements outlined in the California Department of Water Resources Guidelines (DWR 2003a), including the need to adequately document water demand, evaluate multiple dry years, and describe a plan for obtaining additional water supplies and amount. Of more importance than failing to conform with DWR Guidelines, the water demand estimate is riddled with uncertainty, gross assumptions and from Syar what could be best called, a "Syar rule-of-thumb". Syar uses the gross water demand "guess" of 120 acre-feet per year from low production year of 400,000 tons to a five times increase of production for the Proposed Project but with an unbelievable and unsupported 57% increase in water demand equal to 188 acre-feet per year. This is a key fatal flaw in the EIR and the overall analysis of water demand should be rejected as incomplete and inadequate.

1) The water demand estimates come from cobbling together two different years for the three water sources used at the facility (DEIR Appendix J Page 53).
    a. 2011 - Latour Court Well – "used to satisfy administrative facility demands"
    b. April- September 2009 –Quarry Well then 'scaled' from Latour Court Well records - however, the Latour Court Well is identified for "administrative facility demands" which appears to be for different purposes than the Quarry Well and scaling of volumes may not be justified
    c. May 2009 – truck counts for pond pumping – Napa Valley received 2.48 inches of rain, meaning dust suppression water demand would be low, making the overall water demand low and unrepresentative – http://www.napavintners.com/napa_valley/vintage_charts.asp
2) The estimates of water demand are based on low production years and extrapolated to higher production years based on estimate from Syar with no documentation or rationale for their estimate (DEIR Appendix J Page 53).
    a. 120 acre feet per year on 400,000 tons produced for 2009 and 2011
    b. 150 acre feet per year on 810,000 tons produced for estimated Baseline conditions based on Syar rule of thumb estimate of 25% increased water use for more then doubling of production
    c. 188 acre feet per year on 2,000,000 tons produced for estimated Proposed Project conditions based on Syar rule of thumb estimate of

25% increased water use for increase of production by 2 ½ times over estimated Baseline conditions

d. Total Math - 120 acre feet per year assumed (not measured) water demand on 400,000 tons produced for 2009 and 2011, to an unbelievably low 57% increased water use of 188 acre feet per year total on a five times increase of production to 2,000,000 tons produced for estimated Proposed Project

"Over the many years that the Syar Quarry has been in existence, there has not been a need to account for the amount of water that is required to facilitate the quarry operation's." (GHD 2013) It is unfortunate that Syar seems to have this attitude towards water, that it is abundant, and this underscores the need for accurate measurement of their actual baseline groundwater demand prior to moving forward with expansion. Groundwater is a limited resource, and without a full and accurate accounting it would be unreasonable to move forward with potentially expanding the groundwater demand of the Project. Again, this is a key fatal flaw in the EIR and the overall analysis of water demand and should be rejected as incomplete and inadequate. It would be reasonable to have the Project proponent commence metering and measuring the water use at the facility for several years to develop the water demand baseline needed. Napa County could also consider placing a pumping limit on the Project, monitored by the County or independently, and monitoring a small network of nearby wells for groundwater levels trends, to help assure protection of beneficial uses of groundwater and groundwater users with limited groundwater supplies in the groundwater deficient MST subarea.

Since the water demand estimate is so riddled with uncertainty, the adequacy of the water supply, the amount of supply needed and potential water sources for the Proposed Project are riddled with the same amount of uncertainty. The EIR indicates the Proposed Project will meet the demand with a combination of water conservation and reuse practices and recycled water supply, and not by pumping additional groundwater. However, there is no documentation to ensure recycled water will even be available to the Proposed project, and there is no detailed information or description of how the Proposed Project intends to conserve and onsite reuse its way out of the increased water demands. If the increase water demands for the Proposed Project cannot be met with conservation, water reuse and recycled water, then the Proposed Project will simply increase its groundwater extraction. It is the responsibility of the County and its elected Board to either reject the Proposed Project as Fatally Flawed, or if approved, to ensure and protect local groundwater users from being impacted by additional groundwater extractions by the Proposed Project.

Syar track record of not meeting benchmarks for pollutant discharges

SYAR Industries has a track record of not meeting stormwater discharge regulatory requirements with recorded violations at a number of its facilities including Healdsburg Terrace Pits, Madison Sand & Gravel, and the Napa Quarry with its proposed expansion and doubling of the aggregate output. In 2002, the Napa Quarry received a violation notice from the Regional Water Quality Control Board for having an inadequate Stormwater Pollution Prevention Plan (SWPPPP), and for discharge of asphaltic materials in an adjacent creek. It appears these deficiencies were blatantly never addressed, as Syar was successfully sued by the San Francisco Baykeeper in 2014 for a

lack of effective pollution control measures including the lack of effective Best Management Practices (BMPs), failure to implement an effective monitoring and reporting program and chronic pollution of creeks at the Napa Quarry (Complaint for Declaratory and Injunctive Relief and Civil Penalties, San Francisco v. Syar Industries, Inc, February 20, 2014). This lawsuit was subsequently settled in 2015 with a consent decree and order issued by the court between San Francisco Baykeeper and Syar Industries, Inc., which required, finally, that the Napa Quarry SWPP would be updated to include BMPs, adequate monitoring and reporting, and specific field inspection and recordation practices, vehicle and equipment management practices to reduce potential contamination of stormwater, maintenance of BMP structures, and training of Syar staff.

Syar has sampled and self-reported stormwater quality data from a total of seven (7) monitoring stations as a permittee under National Pollution Discharge Elimination System (NPDES) General Permit No CAS000001, State Water Resources Control Board Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ (Industrial Stormwater Permit). On a consistent basis, exceedances of U.S. Environmental Protection Agency (EPA) benchmarks for stormwater quality have been recorded from each monitoring station. Parameters for which exceedances have been recorded include total suspended solids (TSS), aluminum, iron, nitrate + nitrite nitrogen, copper, zinc, and lead (US District Court 2014 & 2015). These exceedances are not violations of a regulatory standard per se, but are an indication of inadequate design of detention and retention features, and chronic, long-term lack of sufficient housekeeping and stormwater best management practices. The DEIR mitigation measures propose to address this adequately, however, it would be risky for Napa County to assume that Syar will be capable of implementing stormwater best management practices to meet the needs of the proposed expanded operations when it has required a lawsuit to get their attention and refine their SWPPP and best management practices on the existing quarry operations. It remains to be seen whether their refined stormwater management practices will reduce the pollution flowing offsite to adjacent creeks and drainages. It would be premature to consider an expansion of the facility, when there is already a proven track record of polluting the environment by neglecting to conduct industry standard practices for stormwater pollution prevention. Expanding the facility and more than doubling production at this time could only lead to more serious environmental pollution. A demonstrated track record of several years of adequate housekeeping and best management practices is needed to demonstrate the ability to effectively manage the facility and prevent pollution prior to giving this facility the go ahead to double its production and potential pollution.

Infiltration from ponds is relatively large raising concerns about potential groundwater quality impacts, and increasing infiltration increases risk

The Project proposes work that will increase infiltration of surface water, with greater exposure of potential aquifers near the surface of active mining areas of the site. Surface water quality sampling suggests that some toxic constituents may be of concern in surface waters collected on the facility. These constituents include oil and gas, solids loading, nitrates and metals. The concern is that with increasing exposure of the underlying aquifers and increasing infiltration, with the well-documented, chronic inadequate housekeeping and lack of best management practices at the facility raises significant concern for these pollutants to potentially enter aquifers that provide

drinking water to MST subareas residents. The Proposed Project does not address this potential groundwater water quality issue, suggesting that even though the facility has had chronic problems for years, it will fix this issue now with improved housekeeping and best management practices.

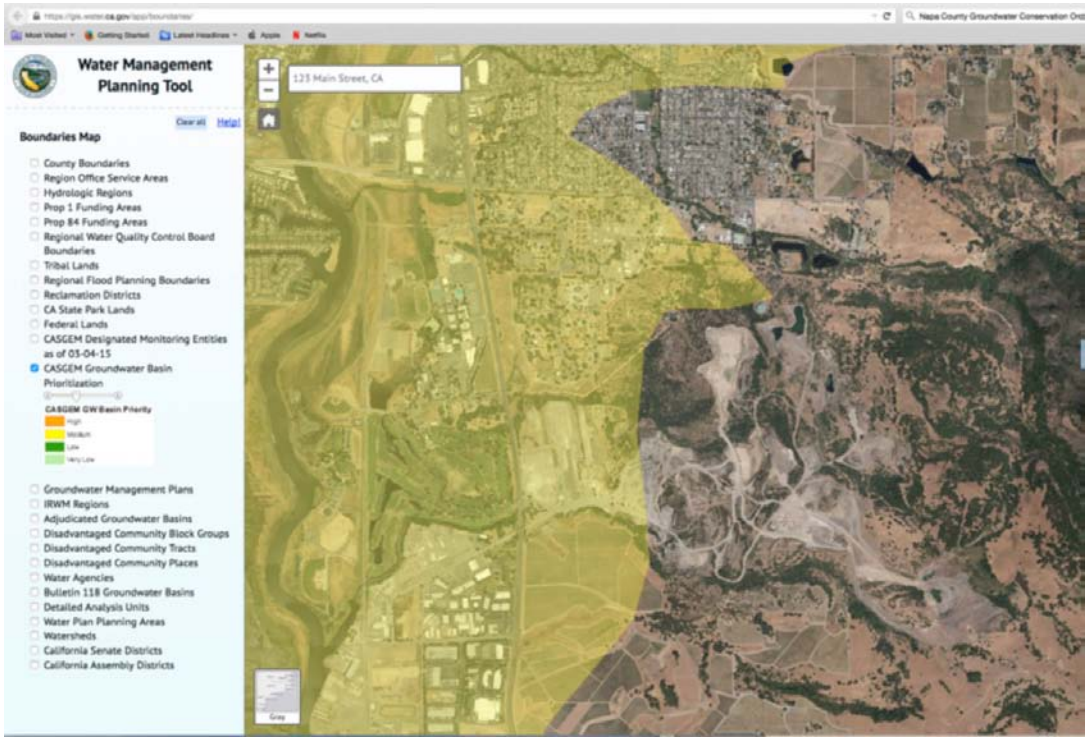
Even the currently induced infiltration of pond water collected at the Project site is relatively large, a little over 600 acre-feet per year based on Syar's approximations and not measurements or estimates. Considering the pollutants identified in the discharge points that exceed benchmarks for the existing Project operations, it seems reasonable to consider requiring that Syar install some shallow groundwater monitoring wells along the northern, western and southwestern portion of the property and conduct periodic groundwater quality and water level monitoring to ensure that the MST and other aquifers are not contaminated by Project site activities.

Consideration of new Sustainable Groundwater Management Act

In making its decision on whether or not to approve this Proposed Project, the County Board of Supervisors needs to consider the recent groundwater law that was signed by the Governor last Fall and changes the way groundwater is managed in California. With the passage of the Sustainable Groundwater Management Act (SGMA), effective January 1, 2015, land use decisions should be more fully vetted to consider groundwater resources, and all high and medium priority basin need to be sustainably managed in the future. A portion of the Project area and the groundwater supply wells for the Project lie within the Napa Valley groundwater subbasin which is a medium priority basin (figure below from California Department of Water Resources website). The SGMA requires that eligible local agencies, defined as having responsibility for water supply, water management and land use planning, establish new Groundwater Sustainability Agencies (GSAs) by June 30, 2017, prepare new Groundwater Sustainability Plans by January 30, 2022, and become sustainably managed by January 30, 2042. Sustainably managed for groundwater levels in essence means groundwater levels are stabilized and not in chronic decline.

The SGMA provides for additional authorities for new GSAs including the ability to charge fees, register wells, collect information, conduct studies, and manage groundwater extractions. The GSA also has the authority to require metering of wells that are not de minimis, defined as domestic wells pumping less than 2 acre feet per years. The SGMA requires the GSA to mitigate any significant or unreasonable conditions occurring after and not before January 1, 2015. If local agencies do not form a GSA by the required time, if the GSP is not developed by the required time and if the groundwater basin is not sustainable by the required time, the State Water Resources Control Board can intervene, declare the basin probationary and take other steps as it deems necessary. The Water Board can develop a plan for the basin, set groundwater and surface water rights and hand the management back to the local agencies. If eligible local agencies do not form a GSA, in rural areas not covered by other jurisdiction, the County is the default agency responsible for meeting the requirements of SGMA. One other option is that an agency can try to develop and submit an Alternative Plan, but only if the basin or subbasin is and has been stable with no undesirable and unreasonable impacts such as groundwater level declines for the past 10 years. An Alternative Plan would seem unlikely for the medium priority Napa Valley subbasin, as

DWR includes part of the groundwater deficient MST area in the groundwater subbasin (DWR 2003b), the MST area is recognized as a significant source of recharge and groundwater source area for the Napa Valley subbasin, and DWR identifies that "the overall trend in many of the monitored wells is downward" in the MST area (DWR 2003b).



Summary

In summary, because the Project site is so complex hydrogeologically without adequate subsurface data to reduce the uncertainty of future work, because of the lack of substantial and substantiating evidence of the Facility's past and current groundwater demand, because of the facility's chronic track record of not meeting water quality discharge benchmarks due to lack of best management practices, and considering new recently passed groundwater law, this information should be considered together as Fatal Flaws in the EIR that result in the Proposed Project being put on hold indefinitely, or until corrective actions are taken and additional studies are completed.

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BIO

Timothy K. Parker, PG, CEG, CHG
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Tim Parker is Principal Hydrogeologist, Parker Groundwater Management, Sacramento, California, specializing in groundwater resources assessment, development and management. His experience includes water policy analysis, strategic water resources planning, groundwater management plan development and program implementation, regional and project scale groundwater monitoring for quantity and quality, and groundwater recharge & storage projects. He formerly worked for Schlumberger Water Services bringing oil and gas industry geophysical tools and technologies to water industry clients, and prior to that he was with the California Department of Water Services Conjunctive Water Management Program. Tim serves Groundwater Resources Association of California as Director and Legislative Chairman, California Groundwater Coalition as Director, and National Ground Water Association as Scientist's and Engineer's Division Director. Tim is also actively involved with the Association of California Water Agencies Groundwater Committee activities, and served as a member of the Public Advisory Committee and Chaired the Groundwater Caucus on the California Water Plan Update 2013. He is principal writer on *Sustainability from the Ground Up, Groundwater Management in California, a Framework* (ACWA 2011), and co-authored the books *Potential Groundwater Quality Impacts Resulting from Geologic Carbon Sequestration* (WRF 2009), and *California Groundwater Management* (GRA 2005).

RESUME

Timothy K. Parker, PG, CEG, CHG
Principal Hydrogeologist

WORK EXPERIENCE

2009 – Present: **Parker Groundwater, President.** Sacramento, California. Privately owned business, specializing in strategic groundwater planning, groundwater monitoring, groundwater modeling, groundwater recharge and aquifer storage recovery projects, program implementation, stakeholder facilitation, groundwater monitoring, policy and regulatory analysis, and environmental document review. Provides strategic planning, policy consulting and groundwater technical expertise to public and private sector clients to develop effective, sustainable solutions to complex problems in the water and evolving environmental and energy industries.

2010: **Layne Christensen Company, Layne Hydro, National Groundwater Management Practice Leader.** Sacramento, California. Publicly traded, Layne Christensen Company is recognized as the nation's leading water well drilling company using the most advanced technologies to locate and produce resources, including water resources, water quality and treatment, energy, mineral exploration, and geoconstruction divisions. Mr. Parker provided policy and technical consultation to internal and external clients on groundwater recharge and aquifer storage recovery projects, and strategic planning and business development for the water, environmental, and evolving energy and carbon industries.

2005 – 2009: **Schlumberger Water Services, Principal Hydrogeologist.** Sacramento, California. Provided hydrogeologic expertise and project management on groundwater recharge and aquifer storage recovery projects, groundwater monitoring, groundwater resources management, and groundwater contaminant projects for public and private sector clientele. Application of advanced oilfield tools and technologies to groundwater projects. Integration of groundwater quality monitoring and protection on CO2 sequestration projects; liaison to Schlumberger Carbon Services, including planning, scope development, technical implementation, facilitation, and oversight. **Business Development** activities included strategic planning, prospect assessments, sales presentations, targeted workshops, client development and exploitation. Mentored and provided direction to staff; developed, tracked and controlled projects; worked closely with clients and other public and private organizations

to implement projects on schedule, on budget with high level of quality.

2001 – 2005: **California Department of Water Resources, Division of Planning and Local Assistance, Conjunctive Water Management Branch, Senior Engineering Geologist.** Provided local technical and economic assistance to Sacramento and San Joaquin Valley groundwater authorities and water districts planning, developing, and implementing conjunctive water projects, groundwater recharge and aquifer storage recovery projects, and local and regional groundwater monitoring programs. Elements include developing technical scope, implementing work, providing geologic and groundwater technical expertise, attending and speaking at public meetings. **Central District, Groundwater Planning Section**, Sacramento, California (early 2001 prior to joining CWMB). **Senior Engineering Geologist, Groundwater Planning Section**. Elements included: Integrated Storage Investigations Program conjunctive use project technical support, coordination, and project management; technical support on local groundwater monitoring and subsidence programs; technical support on Bulletin 118; Proposition 13 groundwater grant applications screening and ranking process for Central District geographic area. Supervised and provided direction to staff; developed, tracked and controlled program budgets; worked closely with other DWR groups, agencies and outside organizations to develop additional local assistance opportunities for DWR.

2000-2001: California Department of Conservation, Division of Mines and Geology, Sacramento, California. **Associate Engineering Geologist**. Responsible for: multi-year aerial photograph review, identification of landslides and potentially unstable areas, field reconnaissance and confirmation, preparation of maps and images using MapInfo, Vertical Mapper, ArcView, Spatial Analyst, Model Builder, and ArcInfo working closely with GIS specialists; assisting in development of GIS methodologies and database for Northern California watersheds assessment/restoration project; review of timber harvest plans and pre-harvest inspections; review of regional CEQA documents as related to engineering geologic issues; watershed assessment; technical presentations at multi-agency meetings and landslide/mass wasting public workshops.

1997-2000: CalEPA Department of Toxic Substances Control, Stringfellow Branch, Sacramento, California. **Hazardous Substances Engineering Geologist**. Responsible for: groundwater monitoring and analysis; developing approach and preparing a work plan for a

Stringfellow site revised hydrogeologic conceptual model; researching, providing, and maintaining a comprehensive environmental data management system; assembling and contracting with an expert panel for consultation on the site; evaluating an existing MODFLOW porous media groundwater flow model; providing direction on the strategy and approach for the development of a revised groundwater flow and fate & transport model for the Stringfellow site; providing input on an as needed basis in support of the litigation and community relations elements of the project.

1993 - 1997: Law Engineering & Environmental Services, Inc., Sacramento, California. **Manager Project Management.** Responsible for supervising and providing direction to senior project managers; maintaining appropriate tracking system and controls for assurance of successful execution of scope, schedule and budget of major projects; maintaining quality assurance and controls on projects. Responsibilities included development/implementation of group budget spending plan, establishing performance standards and evaluating program progress and quality, staff recruiting, mentoring, maintaining utilization, business development, proposal preparation, commercial and government project marketing, client maintenance. **Project Manager** and **Senior Hydrogeologist** on hydrogeologic evaluations, site and regional groundwater quality monitoring programs, hazardous substance site investigations and remediation. Responsibilities included technical direction of projects, project scoping, schedule, budget, supervision of field activities, preparation of documents, developing cost-effective strategies for follow-on investigations and removal actions, and negotiating with state regulators on three Beale Air Force projects totaling more than $15 million.

1988 - 1993: Dames & Moore, Sacramento and Los Angeles, California. **Senior Geologist.** Provided hydrogeologic technical support, project management, regulatory compliance, technical/regulatory strategy, and on a variety of commercial and industrial DTSC- and RWQCB-lead hazardous substance sites. Responsibilities included project technical direction, scope implementation, budgetary control, groundwater quality monitoring and analysis, supervision of field investigations, document preparation, client interface, negotiation with regulatory agencies on projects totaling approximately $5 million.

1986 - 1988: California Department of Health Services, Toxic Substances Control Division, Southern California Region, Assessment and Mitigation Unit, Los Angeles, California. **Project Manager** in the Assessment and Mitigation Unit. Responsibilities included development

and implementation of work plans and reports for, and regulatory oversight of, State Superfund preliminary site assessments, groundwater quality monitoring and analysis, remedial investigations, feasibility studies, remedial action, and interim remedial measures. **Engineering Geologist**. Provided technical support to Permitting, Enforcement, and Site Mitigation Unit staff, including evaluation of hydrogeologic assessments, groundwater quality monitoring programs, work plans, and reports on federal and state Superfund sites and active facilities; assistance in budget preparation; assistance in zone drilling contract review.

1983-86: Independent Consultant, Sacramento, California. Provided technical assistance on variety of geologic and geophysics projects to other independent consultants in local area.

1982: Gasch & Associates, Sacramento, California. Geologic assistant conducting shallow seismic reflection surveys in the Sierra Nevada for buried gold-bearing stream deposits.

1981 - 1982: Geologic Assistant, Coast Ranges, Avawatz Mountains, White Mountains, and Kinston Peak Range. Geologic Assistant on various geological field studies, including gravity surveys, magnetic surveys, landslide and geologic mapping projects.

PROFESSIONAL REGISTRATION

California Professional Geologist No. 5594
California Certified Engineering Geologist No. 1926
California Certified Hydrogeologist No. 0012

PROFESSIONAL AFFILIATIONS

California Department of Water Resources, Public Advisory Committee, Water Plan Update 2013
2010-2013: Appointed to participate on PAC and to lead new Groundwater Caucus

Department of Interior, Advisory Committee on Water Information, Subcommittee on Ground Water
2010-Present: Member – Work Group for Pilot Project Implementation, Nationwide Groundwater Monitoring Network
2007-2010: Co-Chair - Work Group on Implementation for development of the Framework for a Nationwide Ground Water Monitoring Network

2007-2010: Member - Work Group on Network Design for development of the Framework for a Nationwide Ground Water Monitoring Network

National Ground Water Association
2014-Present: Director - Scientists and Engineers Division
2007- 2010: Director - Scientists and Engineers Division
2007 - 2009: Member - Government Affairs Committee
2007 - Present: Chair - Groundwater Protection and Management Subcommittee
2005 – Present: Chair - Regional Groundwater Management Task Force, Government Affairs Committee
2004 – 2005, 2007,2009-10: Chair – Theis Conference Committee
2002 – Present: Member – Theis Conference Committee
2002 – Present: Member - Regional Groundwater Management Task Force, Government Affairs Committee
2003 – Present: Member – Groundwater Protection and Management Subcommittee
2009 – Present: Member - ASR Task Force
2009 – Present: Member - Hydraulic Fracturing Task Force
2008 – 2009: Member – CO2 Sequestration Task Force

American Ground Water Trust
2009 – 2012: Chair
2005 - 2013: Director

California Groundwater Coalition
2007-Present: Director

Groundwater Resources Association of California
2000 – Present: Director
2000 – 2001: President State Organization
2001 – Present: Legislative Committee Chair
1998-1999 Vice President
1996-1997 Secretary
1995-1996 President Sacramento Branch
1993-1994 Member-at-Large Sacramento Branch

ACADEMIC BACKGROUND

BS 1983, Geology, University of California, Davis
Graduate studies in hydrogeology, hydrology, engineering geology, waste management engineering

ADDITIONAL TRAINING

EPA, USAF, DTSC, NGWA and other organization sponsored courses, seminars, and conferences including: Carbon sequestration tools and technologies, PMI project management courses; artificial groundwater recharge workshops; conjunctive use conferences; focused symposiums on arsenic, chromium, perchlorate, MtBE, and nitrates; ACWA meetings; maintaining forest & ranch roads in the Sierra; CEQA; sexual harassment; front line leadership; risk communication; cultural diversity; community relations; geographic information systems analysis; spatial modeling techniques; digital image generation and analysis; data visualization techniques; ATV riders course; DNAPLs in fractured rock media; remediation by natural attenuation; project management; groundwater geochemistry; vadose zone and groundwater monitoring; fate and transport of contaminants in the subsurface; aquifer analysis; surface and subsurface geophysical methods; aquifer restoration, groundwater monitoring; geophysical methods; air instrumentation; toxicology and risk assessment; EPA/OSHA-approved health and safety training meeting Section 126 of SARA and 29 CFR 1910.120.

PRESENTATIONS/COURSES/PUBLICATIONS

Technical and non-technical presentations at numerous public forums and meetings, state Superfund site public meetings, monthly regulatory meetings, and professional organization meetings and symposiums in public/private sector.

Selected Publications

California Groundwater Management, Second Edition, Groundwater Resources Association of California, co-author and project manager, 2005.

Water Contamination by Low Level Organic Waste Compounds in the Hydrologic System, in *Water Encyclopedia*, Wiley, 2004.

Potential Groundwater Quality Impacts Resulting from Geologic Carbon Sequestration, Water Research Foundation, co-author, 2009.

Aquifer Storage and Recovery in the US, ASR 9, American Ground Water Trust, Orlando Florida, September 2009 – a compilation of key ASR issues on DVD, contributing editor and speaker, 2010.

Sustainability From The Ground Up – Groundwater Management In California – A Framework, Association of California Water Agencies, principal author, 2011.

Presentations

"Technical Lessons Learned and Experience Gained from Managed Aquifer Recharge in California, Nevada and Florida," International Seminar on Aquifer Artificial Recharge, Belo Horizonte, Brazil, June 2012.

"What is Working and What is Challenging Managed Aquifer Recharge Progress and Why in California, Florida and Texas," International Seminar on Aquifer Artificial Recharge, Belo Horizonte, Brazil, June 2012.

"Status of Groundwater Monitoring and Well Log Data in California," 2012 Water Technology Conference, Clovis, California, May 2012.

"California - State of the State – Groundwater Challenges," Aquifer Recharge Conference, Status of Projects, Issues, and Solutions, ASR 11, American Ground Water Trust, Orlando, Florida, September 2011.

"Overview of Recent Groundwater-Related Policy Documents," Groundwater Caucus Meeting, California Water Plan Update 2013, May 2011.

"State of the State of Groundwater Management in California," Statewide Issue Forum, *The Next Chapter: How Do We Really Sustain California's Groundwater?* - ACWA Spring Conference, Sacramento, California, May 2011.

"California Statewide Groundwater Elevation Monitoring (CASGEM)," National Ground Water Association, Groundwater Summit, Baltimore, MD, May 2011.

"NGWA Best Suggested Practice for Aquifer Storage & Recovery," National Ground Water Association, Groundwater Summit, Baltimore, MD, May 2011.

"Groundwater Management – New Initiatives at the State Capitol and in the Bay Area," Bay Area Water Forum, Oakland, CA, March 2011.

"Groundwater Monitoring: Can the State Plan Nice with the Locals?" California Water Policy Conference, Los Angeles, CA, March 2011.

"Santa Rosa Plain Preliminary Groundwater Management Planning Efforts," Santa Rosa Public Workshop, February 2011.

"Sonoma Valley Groundwater Management Program," California Roundtable on Water and Food Supply, Davis, CA, February, 2011.

"MAR Technical, Regulatory and Policy Challenges, Barriers and Evolving Solutions in the United States," ISMAR07, Abu Dhabi, United Arab emirates, October 2010.

"ASR Technical, Regulatory and Policy Challenges – Evolving Solutions," 40th Annual American Institute of Professional Geologists Meeting/10th Annual American Ground Water Trust ASR in Florida Meeting, Orlando Florida, September 2010.

"State of Sonoma County Water and Collaborative, Locally-Driven Solutions," NWRA 2010 Western Water Conference, Jackson, WY, July 2010.

"Development and Implementation of Pilots for a National Groundwater Monitoring Network," Towards Sustainable Groundwater in Agricultural, San Francisco, CA, June 2010.

Should There be a Separate Class of Underground Injection Well for Groundwater Replenishment?" NGWA Groundwater Summit, Denver, CO, April 2010.

"The California Legislature Mandates Statewide Comprehensive Groundwater Level Monitoring," NGWA Groundwater Summit, Denver, CO, April 2010.

"Sonoma's Buried Treasure: Groundwater," Water Wisdom and Energy workshop, Sonoma CA, February 2010.

"California ASR Status," Groundwater Protection Council Annual UIC Conference, Austin TX, January 2010.

"ACWA's Strategic Framework for Sustainable Groundwater Management," ACWA Fall Program, San Diego, California, December 2009.

"ASR Smorgasbord," Aquifer Storage and Recovery in the US, AGWT 9th Annual ASR Meeting, Orlando, FL, September 2009.

"National Water Quality Assessment Program Review," presented to National Academies of Science Committee to Review NAWQA Cycle 3 Proposed Program, on behalf of National Ground Water Association, Washington DC, September 2009.

"ASR Water Quality and Public Perception Challenges," ASR Issues Roundtable, Ground Water Protection Council, Salt Lake City, UT, September 2009.

"Opportunities and Challenges for Supplementing Water Supplies in California – a Local Approach," Ground Water Protection Council Energy and Water Forum, Salt Lake City, UT, September 2009.

"Managing Groundwater in the Wine Country: A Successful Approach in the Sonoma Valley," Napa Engineer's Society, Napa CA, September 2009.

"Wells and Monitoring – With Limited Groundwater Supplies How Do We Manage Our Resource Sustainably," Wine Country Water Forum, Rohnert Park, CA, July 2009.

"Sonoma Valley Groundwater Management Program," Sonoma Valley Citizen's Advisory Committee, Sonoma CA, April 2009.

"Geologic Carbon Sequestration Characterization and Monitoring Tools and Technologies," Groundwater Resources Association of California Groundwater Monitoring Conference, March 2009.

"Issues Surrounding Implementation of the Technology (ASR)", and moderator for ASR session, Ground Water Protection UIC Conference, San Antonio TX, January 2009.

"AWWA Research Foundation Study on The Potential Impacts of Geologic Carbon Sequestration on the Quality of Groundwater: A Summary of the Approach and Open Discussion of State Agency Stakeholders" (co-author), Ground Water Protection Council Annual Meeting, New Orleans, September 2008.

"Adapting to Increasing Demands in a Changing Climate with Managed Aquifer Recharge and Groundwater Storage: Do We Have the Right Tools?", Ground Water Protection Council Annual Meeting, New Orleans, September 2008.

"Implementation: Structure for Operation, Management and Oversight of the Nationwide Groundwater Monitoring Network," Ground Water Meeting, Department of the Interior, Advisory Committee on Water Information, Subcommittee on Ground Water, Sixth National Water Monitoring Conference, Atlantic City, New Jersey, May 2008.

"Implementation Structure Evolution, Framework for a Nationwide Ground Water Monitoring Network," Ground Water Monitoring Meeting, Department of the Interior, Advisory Committee on Water Information, Subcommittee on Ground Water, Reston, Virginia, March 2008.

"Citizen-Based Groundwater Resources Planning in California," Ground Water Summit, National Ground Water Association, Memphis, Tennessee, March 2008.

"Citizen-Based Groundwater Resources Planning on a Basin Scale, Sonoma Valley, California," co-author, Ground Water Summit, National Ground Water Association, Memphis, Tennessee, March 2008.

"Water Management Options Analysis Using a MODFLOW Ground Water Flow Model for the Sonoma Valley Groundwater Basin," co-author, Ground Water Summit, National Ground Water Association, Memphis, Tennessee, March 2008.

"Florida - Land Abundant in Water Resources, Drought and Regulation," National Ground Water Association EXPO, Orlando, Florida, December 2007.

"California's Quandary: Managed Aquifer Recharge under a Very Complex Regulatory Environment – Will it Work?" International Symposium on Managed Aquifer Recharge, Phoenix, Arizona, October 2007.

"So Many Tools, So Little time - Overview of Oilfield Tools and Technologies Applicable to Water Resources in Fractured Rock," Workshop, National Ground Water Association/EPA Fractured Rock Conference, Portland, Maine, September 2007.

"Technical and Policy Aspects of Managed Aquifer Recharge in California," National Ground Water Association Theis Conference, Park City, Utah, September 2007.

"California Ground Water Management - A Continuing Challenge in a Changing Environment," Keynote Presentation, Ground Water

Protection Council Annual Forum, San Diego, California, September 2007.

"Integrated Regional Water Management and Sustainability in California - Can We Have It All?" 2007 Southwest Regional Water Symposium, Tucson, Arizona, August 2007.

"Integrated Regional Water Management California Style: How is it Working?" Pima Association of Governments, Tucson, Arizona, June 2007.

"Increasing Groundwater Storage to Meet California's Future Demand - Introduction to the Challenges and Solutions," Long Beach, California, June 2007.

"California Groundwater Monitoring Programs", Ground Water Meeting, Department of the Interior, Advisory Committee on Water Information, Subcommittee on Ground Water, Reston, Virginia, May 2007.

"Oilfield Tools and Technologies: Applications to Contaminant Sites," Department of Energy, Research and Development, Washington DC, March 2007.

"High Resolution Characterization, Simulation, and Monitoring of Water Resources Projects", Groundwater Resources Association of California High Resolution Characterization and Monitoring Symposium, Long Beach, California, November 2006.

"Future Expertise and Resource Needs for a Developing Technology Environment," National Ground Water Association 21st Century Water Systems, Irvine, California, October 2006.

"California Groundwater Monitoring Programs," Ground Water Monitoring Meeting, Department of Interior, Advisory Committee on Water Information, Subcommittee on Groundwater, Washington DC, May 2006.

"Groundwater Tools and Technologies - From the Archaic to the Sublime," Texas Ground Water Management Workshop, National Ground Water Association Groundwater Summit, San Antonio, Texas, April 2006.

"Groundwater Management Goals, Objectives, and Actions - How Do You Get There?" Texas Ground Water Management Workshop, National

Ground Water Association Groundwater Summit, San Antonio, Texas, April 2006.

"Introduction to California Groundwater Policy Development", Groundwater Institute for Teachers, Sponsor American Groundwater Trust, Fresno. California, June 2005.

"Importance of Groundwater to the American River System," American River Science Conference, Public Session, April 2005.

"Some Groundwater Challenges for Conjunctive Use: ASR, Underground Storage Regulation, Arsenic, Viagra, and Yes There is More," California Department of Water Resources Workshop, Kern, November 2004.

"Groundwater 101" – Rohnert Park Public Session, Sponsored by Groundwater Resources Association of California, September 2004.

"California, Water and Sustainability in the 21st Century", Workshop on Water Sustainability in Silicon Valley: Vision for the Future, San Jose, California, April 2004.

"How Do We Balance Competing Needs on the Lower American River – Groundwater and Conjunctive Use", Lower American River Conference, Sacramento, California, June 2003.

"Levee Cutoff Walls and Groundwater Recharge", NGWA Southwest Focus Conference, Phoenix, Arizona, February 2003.

"Low Concentrations of Organic Compounds in the Hydrologic System," Groundwater Resources Association of California Annual Meeting, Newport Beach, California, September 2002.

"Comparing Two GIS Applications to Develop Relative Landslide Potential", ESRI Users Conference, San Diego, California, July 2002.

"Conjunctive Management of Groundwater and Surface Water", Central Sacramento County Groundwater Forum, Elk Grove, May 2002.

"Groundwater Wells Surveying or Mapping: Why We Need Flexibility in Well Location Data", California Land Surveyors Association, Lake Tahoe, March 2002.

"Overview of Groundwater Management Issues in California", Groundwater Resources Association, Fresno, California, January 2002.

"Where are we in West and Central Coast Basins?", Groundwater Law and Policy in California: Update on Recent Developments, Anaheim, California, October 2001.

"Groundwater Quality & Well Maintenance", Water Well Workshop, Sacramento, California, September 2001.

"Now That You Have Your Data What Do You Want to Do with it?", Association of California Water Agencies Workshop, Sacramento, California, August 2001.

"GIS in Developing a Relative Landslide Potential Framework, North Coast Ranges, California", ESRI Users Conference, San Diego, California, July 2001.

"Engineering Geologic Aspects of Timber Harvest in the Sierra Nevada", Association of Engineering Geologists/Groundwater Resources Association Annual Meeting, San Jose, California, September 2000.

"Industry Trends for Groundwater Cleanups: Where Have We Come From and Where Are We Going", Groundwater Resources Association Fifth Annual Meeting, Costa Mesa, California, October 1996.

"Selection, Design, Installation And Evaluation of Dedicated Groundwater Sampling Systems: a Case Study", Proceedings of the National Groundwater Sampling Symposium, Washington, DC, November 1992.

"Energy Dispersive X-Ray Fluorescence Analysis of Lead In Soil, Dust, and Paint Using Secondary Target Excitation and Scattered X-Ray Ratio Normalization", Workshop Proceedings, XRF Workshop, Denver X-ray Conference, 1994.

Workshops, Symposia and Courses

Hydraulic Fracturing and Water Resources – A California Perspective, Conference Co-Chair and Moderator, GRA Symposium, Long Beach, California, July 2012.

"Groundwater-Surface Water Interaction: California's Legal and Scientific Disconnection," Co-Chair, GRA Symposium, April 2011.

"Thinking Outside the Pipe – Exploring and Protecting Local Water Supplies," Conference Chair, GRA Annual Meeting, San Francisco, California, September 2010.

"ASR Issues Session," Session Moderator, 40th Annual American Institute of Professional Geologists Meeting/10th Annual American Ground Water Trust ASR in Florida Meeting, Orlando Florida, September 2010.

"Geophysics at the Beach," Conference Co-Chair and Moderator, GRA Symposium, Santa Ana, California, May 2010.

"Groundwater Monitoring: Methods, Needs, and Answers," Session Moderator, Sixth National Monitoring Conference, National Water Quality Monitoring Council, Atlantic City, New Jersey, May 2008.

"Geophysics for Fractured Rock Groundwater Systems," Session Moderator, Ground Water Summit, National Ground Water Association, Memphis, Tennessee, March 2008.

"The Changing Landscape of Regulatory Authority," Session Moderator, Long Range Policy and Water Planning in California, American Ground Water Trust, Ontario, California, February 2008.

"Groundwater Policy and Regional Management in Florida: a Changing World," Session Moderator, NGWA EXPO, Orlando, Florida, December 2007.

"Conjunctive Management of Ground Water and Surface Water: Application of Science to Policy," Co-Convener, National Ground Water Association Theis Conference, Park City, Utah, September 2007.

"Investing in Infrastructure - Pay Now or Pay Later," Session Moderator, Groundwater Biennial, Sacramento, California, September 2007.

"Increasing Groundwater Storage to Meet California's Future Demand - Challenges and Solutions," Chair Groundwater Resources Association of California Workshop, Long Beach, California, June 2007."

"Groundwater Management in New Mexico in the Year of Water - A Challenge of Increasing Demand, Limited Supply, and Statewide

Implementation," Workshop, Chair, National Ground Water Association Groundwater Summit, Albuquerque, New Mexico, May 2007.

"Geophysics in the Groundwater Industry: Basic Theory, Current and Future Application of Tools and Technology," Session Moderator, National Ground Water Association EXPO, Las Vegas, Nevada, December 2006.

"Groundwater Policy and Management in the Southwest – Focus on Nevada" Session Moderator, National Ground Water Association EXPO, Las Vegas, Nevada, December 2006.

"High Resolution Site Characterization and Monitoring," Co-Chair, Groundwater Resources Association of California Symposium, Long Beach, California, November 2006.

"Groundwater Management in Texas - A Continuing Challenge in a Changing Environment," Workshop Chair, National Ground Water Association Groundwater Summit, San Antonio, Texas, April 2006.

"Salinity Issues: Past Practices and Future Strategies," Session Moderator, 2005 Groundwater Biennial, Sacramento, California, October 2005.

"Basin Yield and Overdraft: Technical and Legal Perspectives," Chair Groundwater Resources Association of California Workshop, Pasadena, California, September 2005.

"Groundwater Policy, Law and Science: What Can be Done About the Disconnect?" Moderator, Water Education Foundation Water Law and Policy Briefing, San Diego, California, July 2005.

"California Groundwater Management Course", Instructor, Groundwater Resources Association of California Course, Glendale, California, May 2005.

"California Groundwater Management Course", Instructor, Association of California Water Agencies Pre-conference, San Jose, California, May 2005.

"Groundwater Law, Policy and the Tragedy of the Commons: Obstacles and Some Possible Solutions to Sustainable Groundwater Management in the Southwest," Session Chair, National Ground Water Association Groundwater Summit, San Antonio, Texas, April 2005.

"Artificial Recharge Workshop," Workshop Chair, Groundwater Resources Association of California, Sacramento, California, March 2005.

"Basic Groundwater Hydrology", California Department of Water Resources Basic Groundwater Course Sacramento, California, May 2004.

"Artificial Recharge Workshop," California Department of Water Resources –US Geological Survey Joint Sponsorship, Workshop Chair, Sacramento, April 2003.

WATER POLICY ANALYSIS, PRESENTATIONS, LEGISLATIVE TESTIMONY and BRIEFINGS

Reviews Federal and California State water and groundwater policy and legislation and provides comment and information dissemination to the groundwater industry through activities associated with the National Ground Water Association, American Ground Water Trust, and Ground Water Resources Association of California, and California Ground Water Coalition.

Annual National Groundwater Legislative Symposium - Presentations by Members of Congress and Staff, and Federal Administration - Visits to Congressional Offices at Capitol Hill - Groundwater Resources Association of California – attended years 2003-2011.

Annual State Groundwater Legislative Symposium - Presentations by State Legislators and Staff, and State Administration - Visits to Legislator Offices at the Capitol - Groundwater Resources Association of California – attended years 2002-2011.

"California Water Management Issues and Managed Underground Storage: Water Use and Water Rights Session," National Research Council Forum on Managed Underground Storage, Washington D.C., March 2008.

"Groundwater Storage in California," National Research Council Forum on Managed Underground Storage, Washington D.C., March 2008.

"Geologic Carbon Sequestration," 11th Annual Ground Water Industry Legislative Conference, National Ground Water Association, Washington D.C. - 2008.

California State Legislative Staff Briefing - California, Water, Sustainability, and Groundwater Basics - 2005.

California State Senate Select Committee on Air and Quality - Hearing on Status of Groundwater Management in California - 2005.

"California, Water, and Sustainability", Legislative Staff Briefing, State Capitol, Sacramento, California - 2004.

California State Senate Select Committee on Water Management, Storage, Conservation and Supply - Hearing on Perchlorate - 2004.

"California's Hidden Resource: Groundwater," Hearing on Perchlorate, Assembly Select Committee on Water Management, Storage, Conservation and Supply, State Capitol, August 2003.

"Now What! The Conundrum of the Contaminant Du Jour and Emerging Contaminants in Groundwater", Assembly Committee Hearing on AB599, State Capitol, California - 2003.

California State Senate Select Committee on Water Management, Storage, Conservation and Supply - Hearing on Groundwater Basics, Regulatory, and Drinking Water Issues and Challenges - 2003.

California State Assembly Select Committee on Water Quality and Availability - Hearing on California Groundwater Management Challenges and Issues - 2003.

"California's Hidden Resource: Groundwater", Legislative Staff Briefing, Sacramento, California - 2003.

California State Assembly Select Committee on Water Quality and Availability - Hearing on Life Cycle of a Contaminant - 2003.

California State Assembly Select Committee on Water Quality and Availability - Hearing on Groundwater Basics, Groundwater Demand, Management and Monitoring - 2002.

PROJECT EXPERIENCE

Timothy K. Parker, PG, CEG, CHG
Principal Hydrogeologist

EXPERTISE
Hydrogeologic Evaluation
Managed Aquifer Recharge
Conjunctive Water Management
Environmental Document Review
Groundwater Monitoring and Aquifer Testing
Groundwater Management Planning & Implementation
Contaminant Hydrogeology/Groundwater Remediation
Special Project Research, Design and Management

2009 - Present: Parker Groundwater, Inc., Sacramento, California.

- **Sonoma County Water Agency -** Groundwater Management Planning, Program Implementation, and Technical Support.
  - *Sonoma Valley Groundwater Management Program* - The project involves providing technical support, strategic consulting and facilitation for groundwater management program implementation part of a larger county conjunctive use program, and includes optimizing the groundwater monitoring program, evaluating managed aquifer recharge, assessing groundwater extraction-related subsidence, installing additional monitoring wells, and pursuing other studies as described in the Plan.
  - *Santa Rosa Plain Groundwater Management Planning* **–** The project involves working with the SCWA, a facilitator and stakeholders on a Basin Advisory Panel and Technical Advisory Committee for developing a groundwater management plan development in the Santa Rosa Plain groundwater basin, part of a county conjunctive use strategy. This effort includes developing Basin Management Objectives (BMOs) for groundwater levels, water quality, surface water-groundwater interaction, inelastic land subsidence, and recharge area mapping. The project also involves a review of the preparation of a study by the US Geological Survey, including the development of a GSFlow model for the Santa Rosa Plain. =The Groundwater Management Plan was completed August 2014 and goes to the Sonoma County Water Agency Board for adoption in early October 2014.
- **Kern County** – Groundwater Sustainability Agency Development Support

  - Providing strategic consulting and technical support to assist eligible public agencies in forming a Groundwater Sustainability Agency in the Indian Wells Valley groundwater basin. Prepared a work plan and budget and in the process of developing a stakeholder assessment.
- **Cadiz Inc. –** Cadiz Valley Water Conservation, Recovery, and Storage Project - Groundwater Stewardship Committee - Member of Groundwater Stewardship Council to review operations and maintenance plan for the EIR for the Cadiz basin water conservation and groundwater-banking project. The goal of the Groundwater Stewardship Committee (GSC) is to provide an independent review, as well as evaluation and technical support, for the groundwater planning area for the Cadiz Valley Water Conservation, Recovery, & Storage project. The panel will ensure the project is implemented with best management practices while protecting Mojave Desert.
- **GEI Consultants –** Team member on groundwater banking feasibility study for Sonoma County Water Agency to evaluate potential conjunctive use opportunities, groundwater recharge, aquifer storage and recovery, and other strategies in the Santa Rosa Plain and Sonoma Valley groundwater basins.
- **ESA-PWA –** Team member on flood control and groundwater recharge scoping study for Sonoma County Water Agency to evaluate potential flood control and groundwater replenishment strategies in the Sonoma Creek watershed.
- **Indian Wells Valley Water District –** Hydrogeologic Consultant to the District. Provides technical support and legislative/policy updates. Assisting with development of a brackish water project. Provided leadership and input in the development of a revised groundwater management plan and BMOs. Completed a Water Supply Improvement Plan to redistribute pumping stresses spatially in the Indian Wells Valley. Assisted with preliminary planning for development of a basin wide groundwater management program, conjunctive use and managed aquifer recharge opportunities and strategies. Provides legislative and water policy updates & advice.
- **Law Offices of Michael W. Stamp – DEIR & FEIR Reviews –**
  - Ventana Inn Proposed Wastewater Collection and Treatment System - Technical review specific to hydrologic and groundwater analysis for omissions and whether the EIR process failed to fully consider and identify supporting evidence of lack thereof, and provided a brief narrative technical summary.
  - Corral De Tierra Neighborhood Retail Village Project – Technical review specific to hydrologic and groundwater analysis for omissions and whether the EIR process failed to fully consider and

identify supporting evidence of lack thereof, and provided a brief narrative technical summary.

- **City of West Sacramento –** Regulatory interface and evaluation of hydraulic effects of a managed aquifer recharge facility consisting of a rainfall rooftop capture and infiltration system on the shallow groundwater flow field and possible interference with an adjacent in situ groundwater remediation system.
- **Eddie Robbins, P.E. –** Provided assistance with well siting, drilling and capacity testing of bedrock water supply wells in Marin County.
- **Kenyon Yeates -** Provided evaluation of cement batch plant draft EIR for groundwater resources sustainability issues and impacts.

2010: Layne Christensen Company, Sacramento, California.

- **Department of Toxic Substances Control –** Assisted with high-level oversight of Stringfellow hazardous waste site groundwater remediation system, including well maintenance, system operation and optimization.
- **Desert Sands Unified School District –** Provided regulatory and technical assistance for former underground tank monitoring and closure.
- **Yuima Water District –** Assisted with new water supply well siting and drilling along the Elsinore Fault zone.
- **AGLand –** Assisted with well siting and regulatory interface for new irrigation well installations along Ventura River.
- **Water Replenishment District of Southern California –** Provided groundwater flow modeling evaluation for comparative analysis of vertical versus horizontal well field for brackish water recovery and recharge project in West Coast Basin.
- **Confidential Site –** Provided evaluation of properties for well field capacity and preliminary estimate of safe yield.
- **Kenyon Yeates** – Provided evaluation of Monterey County draft EIR for water resources, and groundwater recharge and recovery issues and impacts.

2005 - 2009: Schlumberger Water Services, Sacramento, California.

- **Sonoma County Water Agency -** Groundwater Management Planning, Program Implementation and Technical Support of the broader Sonoma County Water Agency Conjunctive Use Strategy – Sonoma county currently uses considerable groundwater for residential and predominantly agriculture (grape growing for the

wine industry), but had no groundwater management program. The area faces several groundwater management challenges including: groundwater quality degradation; localized groundwater overdraft; saline water intrusion; and population increase accompanied by increasing groundwater demands. The project involved development over a 16-moth period of an AB3030/SB1938 compliant, voluntary groundwater management plan, through a facilitated process with a broad-based group of local stakeholders. The resulting GMP was adopted by SCWA, City of Sonoma and Valley of the Moon Water District.

- **MWH Global, Inc./AWWARF -** Study on Potential Groundwater Quality Impacts Resulting from Geologic Carbon Sequestration **-** This was a Rapid Research Study jointly funded by the Water Research Foundation and the AWWA under Cooperative Agreement conducted jointly with MWH Global, Inc. The objectives of this study were (1) document and assess the technology and understanding of the GCS process, (2) identify and characterize potential impacts of GCS on quality of groundwater supplies, (3) review existing approaches and recommendations for assessing and mitigating these impacts, and develop a monitoring guideline, and (4) perform a comprehensive evaluation of this information to ascertain knowledge gaps and research priorities. The report, *Potential Groundwater Quality Impacts from Geologic Carbon Sequestration*, was published in 2009 by the Water Research Foundation.
- **Water Replenishment District of Southern California -** The project involved geophysical logging of multiple boreholes ranging in depth from 1,000 feet to 2,000 feet below ground surface. Logging suites include the array induction tool, micro-cylindrically focused log, magnetic resonance, natural gamma ray, scintillation gamma ray, full-bore formation micro-imager, and sonic scanner. Services included interpretation of geophysical logs and consultation on monitoring well design, and aquifer yield.
- **Nobis Engineering, Inc. -** Focused technical review of a groundwater flow model developed for the OLIN Chemical Superfund Site, Wilmington, Massachusetts – This site involves dense aqueous phase liquid (similar to brine) contamination of a local glacial drift drinking water aquifer, with some drinking water wells shut down and a remedial program initiated. A finite element groundwater flow model, intended to be used in the future to support contaminant transport and remediation simulations, was developed and calibrated for the site by the RP consultant. The project involved detailed review of model documentation on behalf of US EPA to(1) identify potential documentation gaps, (2) identify

potential flaws in the site conceptualization and, (3) identify possible problems with implementation of the numerical model.

- **MWH Global, Inc. - City of Roseville Aquifer Storage and Recovery Program** – City of Roseville plans to meet the future water demand of the growing population with a conjunctive use program involving a 10 to 15 well aquifer storage recovery program. The project involved providing advanced geophysical logging and interpretation of ASR and monitoring wells, consultation on monitoring well and wellfield design, and technical support and policy for the city in development and pilot testing of the ASR well field.
- **Schlumberger Remediation - MEW Superfund Site, San Jose, California -** The MEW Superfund Site is a Silicon Valley semiconductor faculties, multi-site solvent-contaminated groundwater project. The program involved assessing and assimilating 25 years of groundwater monitoring and remedial data, developing a refined 3D hydrogeologic conceptual model, developing a revised groundwater flow model, and developing a fate and transport model. The data were evaluated and assimilated, conceptual and flow model completed and fate and transport modeling conducted.
- **Mojave Water Agency -** Mojave Water Agency Groundwater Model Development and Advanced Geophysical Logging for R-Cubed Groundwater Recharge Project – The project included advanced geophysical logging of one to two 1200-foot boreholes through a thick unsaturated zone (~600 feet), development of a conceptual site model using Petrel, and develop a groundwater flow model using Eclipse. The assignment was to provide hydrogeologic and conjunctive use consulting on an as-needed basis to support feasibility and planning level design of a groundwater recharge project in the desert.
- **City of Corona -** HydroGeoAnalyst project development. the project involved bringing limited groundwater and surface water data sets into HydrGeoAnalyst, installing the software and preliminary training of staff.
- **Confidential Client -** Beneficial Use of Coal Bed Methane Produced Water, Wyoming. the project involved field inspection, geophysical log evaluation, preliminary Petrel model development, water resources, legal and regulatory assessment, groundwater monitoring review and evaluation, treatment options and cost analysis, and recommendations for CBM produced water use and reuse.

2001 - 2005: California Department of Water Resources, Division of Planning and Local Assistance, Conjunctive Water Management Branch, Sacramento, California.

- **Sacramento Groundwater Authority (SGA)/American River Basin Cooperating Agencies Partnership Projects.** Technical consultation and oversight on Proposition 13 $21 million grant regional conjunctive use program involving aquifer-storage-recovery wells, and infrastructure expansion. Provided input on groundwater management plan development. Provided technical assistance on SGA groundwater banking & exchange pilot project, groundwater monitoring program, and groundwater data management system development. Other tasks consisted of review of technical reports, interface with SGA and CWMB, coordination on source water assessment, coordination on multi-agency VOC and ambient monitoring programs.
- **Central Sacramento County Groundwater Forum – (Sacramento) Water Forum Successor Effort.** Worked with (Sacramento) Water Forum Successor Effort and Groundwater Forum through facilitated, consensus-based approach involving a group of 30 broad-based stakeholders charged with the assignment of selecting groundwater management governance in the Central Sacramento County area. Worked with the Center for Collaborative Policy facilitator, Water Forum Successor Effort and Contractor to conduct stakeholder identification, stakeholder assessment, and develop and implement educational and conjunctive use programs for Groundwater Forum**.** Assisted with groundwater management plan; completed and the GMP is currently being implemented.
- **San Joaquin County.** Worked with San Joaquin County, local water districts and agencies, CCP facilitator and Contractor to facilitate conjunctive water management projects and groundwater management program development in the San Joaquin County area. Groundwater management program included conjunctive use and groundwater recharge feasibility. Activities included attendance of coordinating committee meetings and public meetings, and assisting in development of stakeholder assessment. Worked with San Joaquin County to develop approach and managed installation of six groundwater-monitoring wells in Stockton area for salinity evaluation. Involved LLNL and USGS in initial well sampling and analysis. Developed cooperative approach with local agencies, USGS, and DWR for five year $2.6 million salinity assessment, groundwater monitoring, groundwater flowpath and geochemical conceptualization. Also assisted in developing groundwater

management plan, including development of BMOs and initial groundwater management program implementation.

- **Stockton East Water District Proposition 13 Project.** Worked with the SEWD to implement a $7M pipeline and injection/extraction well program in the northeast San Joaquin County area, to be completed under a $3.5M Proposition 13 grant.
- **California State University of Sacramento Groundwater Monitoring Well Installation for Groundwater and Stream-Aquifer Interaction Evaluations.** Cooperative effort involving CSUS, LLNL, USGS, SGA, and SAFCA. Developed approach and managed installation of 12-groundwater monitoring wells at CSUS. Well installation funded by CWMB. Wells are used for assessment of groundwater flow and stream-aquifer interaction by CSUS and DWR, with data provided to SGA and SAFCA.
- **Yolo County Integrated Storage Investigation Project.** Provided technical consultation on the Water Resources Association of Yolo County technical group to prepare a preliminary white paper to summarize adequacy of the data for completing a basin analysis, conjunctive use and groundwater recharge opportunities, and the level of effort necessary to compile, organize, and interpret the data. The main emphasis of the basin analysis was potential conjunctive use and managed aquifer recharge project development in Yolo County, and evaluation of groundwater monitoring program in Yolo.
- **Proposition 13 and AB 303 Groundwater Grant Application Review and Ranking.** Reviewed and ranked Proposition 13 and AB 303 groundwater conjunctive use grant applications, including managed aquifer recharge feasibility and pilots, groundwater monitoring well installations, groundwater monitoring program reviews, groundwater management planning and recharge evaluations. Worked closely with the CWMB to complete the screening and ranking of groundwater grant applications submitted within the Central District.
- **Bulletin 118.** Provided technical support for Central District geographic coverage Bulletin 118 update, a "state of the data approach" to develop a revised groundwater budget for each basin including review and summary of boundaries and hydrographic features, hydrogeologic units, yield data, water budgets, managed aquifer recharge potential, well production characteristics, water quality and monitoring data, and ground subsidence information if available.

2000 - 2001: California Department of Conservation, Division of Mines and Geology, Watershed Assessment/Restoration, Sacramento, California.

- **Co-Founder of the Watersheds of the DMG's Component of the Interagency North Coast Watersheds Assessment Program (NCWAP).** Assisted with budget change proposals, program work plans and budgets; acquisition of capital support items, response to questions from the Legislature and Resources Agency; attended interagency management meetings; helped develop presentations on landslide and fluvial geomorphology issues; participated watershed pilot studies; developed and tested GIS mapping and database protocols.
- **Researched methods and approach for on-screen mapping of landslides from stereo photographs**. Standard practice involved mapping landslides from stereo imagery on plastic overlays. Proposed approach involved use of software and high-end graphics workstation with stereo-analyst application to conduct the work on-screen, to reduce time required and improve work quality.
- **Responsible for aerial photograph review of a portion of the Noyo River Watershed, and field reconnaissance of geology.** Provided a quality control review of portions of the Noyo River watershed, through aerial photo review, and field geologic reconnaissance and landslide mapping.
- **Review of timber harvest plans for potential soil erosion and slope stability issues related to engineering geology, and proposed timber harvest activities**. Provided comments and recommendations to the California Department of Forestry and Fire Protection (CDF). Attended pre-harvest inspections on as-needed basis, and prepared reports describing the engineering geologic conditions observed and recommendations when warranted.
- **Responsible for review of multiple CEQA type documents for engineering geologic issues related to public safety.** Reviewed negative declarations, mitigated negative declarations, environmental impact statements, and environmental impact reports on various types of projects for engineering geologic issues relating to public safety and conformance with CEQA.
- **Review of Sustained Yield Plan, Red River Forests.** Responsible for review and comment on soil erosion and slope stability issues regarding forest harvesting practices, forest road construction and maintenance in relation to timber harvesting in the Modoc Plateau.

- **Review of Option A, Hawthorne Forests.** Responsible for review and comment on soil erosion and slope stability issues regarding forest harvesting practices, forest road construction and maintenance in relation to timber harvesting in the Northern California.

1997-2000: Cal EPA Department of Toxic Substances Control, Stringfellow Branch, Sacramento, California.

- **Task Manager for preparing an approach to develop a Stringfellow site revised hydrogeologic conceptual model.** Responsible for in-house preparation of a work plan for a revised hydrogeologic conceptual model of the Stringfellow site, utilizing oriented core, well installation, aquifer testing data, and other existing pertinent geohydrochemical data.
- **Task Manager for providing a comprehensive environmental data management system.** Established need, gained support and sponsorship from management, prepared scope and managed the development of a Stringfellow comprehensive environmental data management system for hydrologic, geologic, chemical, meteorological, geographic information. Established the need to develop standard operating procedures for data input into the data management system as the data are generated, which includes specifications for electronic data deliverables format. A variety of approaches were considered including acquiring Earth Visions. The approach taken was to have one of our Zone Contractors provide an existing, customizable data management system. The system utilized Map Info Professional as a platform and links with software applications such as MS Access and DBASE, EXCEL, SURFER, provides a 2-D and 3-D statistical geospatial interpolation module, and could write various groundwater modeling and visualization file formats including MODFLOW and AVS.
- **Task Manager for assembling a panel of experts and getting them on-board and contracts in-place. .** Established need, gained support and sponsorship from management, prepared scope and managed the development of a panel of experts to provide technical support on the Stringfellow project. Contracted with Lawrence Livermore National Laboratory (LLNL) to obtain public and private sector industry expertise. Worked with LLNL to put together a panel of experts for technical support on the various aspects of the projects including regional and local geology and structure; fractured rock media characterization; hydrogeologic conceptualization; contaminant fate & transport; remedial design and cleanup optimization.

- **Task Manager for 3-D visualization of 3-D seismic and electronic goniometer fracture data.** Data collected at the site include 3-D seismic and oriented core electronic goniometer fracture data. Responsible for developing approach to evaluate the two sets of corresponding fracture data. The approach involved overlaying the fracture data into a 3-D visualization model utilizing Advanced Visualization Systems software. Developed scope and managed project through a Contract with Lawrence Berkeley National Laboratory to complete the work.
- **Task Manager to re-evaluate and photo-document all Stringfellow site core.** Geological investigations had been conducted at the site for nearly two decades, and involved many different geologists and correspondingly dissimilar interpretations of the geology. The objective was to evaluate all of the core and geology consistently, in order to provide a uniform understanding of the site geology in the hydrogeologic conceptualization. The cores were also photographed in digital and 35mm slide format to provide electronic as well as standard film record of the core for database storage and readily available future review.
- **Task Manager for 2-Phase Extraction Treatability Test.** Responsible for oversight and direction of Contractors to develop approach and work plans to perform a 2-Phase Extraction (TPE) treatability test at the site. A treatability test consisting of the Xerox TPE technology was conducted to support the Supplemental Feasibility Study. The objective of the tests was to collect the data necessary to assess if TPE is a viable remedial solution for the site. The test involved extraction from nine existing wells and monitoring eight to ten wells at each extraction point.
- **Task Manager for Soil Flushing Treatability Test.** Responsible for oversight and direction of Contractors to develop approach and work plans to perform a Soil Flushing treatability test at the site. A treatability test consisting of a variety of bench-scale tests was conducted to support the Supplemental Feasibility Study. The objective of the testing was to assess is natural soil flushing will enhance the remediation of the site. The testing involved soil physical and chemical analysis, bench-scale soil column flushing, and sequential extraction tests in a laboratory setting.
- **Responsible for groundwater modeling.** Responsible for: (1) technical review of existing MODFLOW porous media groundwater flow model; and (2) developing options and providing a recommended approach for a groundwater flow and fate & transport model utilizing the revised hydrogeologic conceptual model.

- **Responsible for oversight of coring and well installation activities/oriented core electronic goniometer data collection.** One of four geologists responsible for oversight of Contractor field activities at the Stringfellow site involving: (1) completion of 31 oriented core holes using rotary wash drilling methods; design and installation of 72 groundwater monitoring and extraction wells using dual tube percussion and air rotary casing hammer drilling methods; development and sampling of the new wells. Also provided options and recommended approach for obtaining electronic goniometer data (versus mechanical with hard copy data) for the fracture information from the oriented core holes.

1993 – 1997: Law Engineering & Environmental Services, Inc., Sacramento, California

- **Delivery Order (D.O.) 4 Manager for Site and Basewide Investigations, Beale Air Force Base, California.** The D.O. 4 project consisted of conducting a basewide groundwater operable unit hydrogeologic evaluation; basewide groundwater monitoring program; basewide groundwater flow/fate & transport modeling; conducting a basewide background soil evaluation; developing/negotiating a risk consensus statement; conducting remedial investigation, feasibility study and remedial action plan on six sites; engineering evaluation/cost analysis on four sites; and supplementary remedial investigation of three sites. The sites included an aircraft ground equipment maintenance area, a bulk fuel storage area, a transportation refueling vehicle maintenance shop, vehicle fuel station, a fire protection training area, a jet test cell, an inactive hazardous waste landfill, and an inactive non-hazardous waste landfill. Contaminants included fuel hydrocarbons, metals, aromatic and chlorinated volatile organic compounds.
- **D.O. 16 Manager for Site 13 Investigations, Beale Air Force Base, California.** The D.O. 16 project consisted of the remedial investigation, feasibility study, preparation of the remedial action plan, design and implementation of a groundwater interim removal action at a 13 acre inactive hazardous waste landfill site. Site contaminants include chlorinated volatile organics, heavy metals, diesel- and jet-fuel range hydrocarbons, semivolatile organic compounds, and M-5 ointment. The soil and groundwater investigation included the completion of approximately 60 exploratory test pits, 30 soil borings, 20 soil boring/Hydropunch sample locations, 30 groundwater monitoring well installations and sampling, and aquifer testing. The groundwater removal action consisted of

extracting TCE-impacted groundwater from nine wells, filtering and treating the water by air stripping, and discharging to the base waste water treatment facility.

- **D.O. 21 Manager for Site 13 Remedial Design, Beale Air Force Base, California.** The D.O. 21 project consisted of the preparation of the remedial design for soil remedial action at Site 13. The project also included a soil treatability test, and one year of operation & maintenance of the Site 13 groundwater interim removal action system.

1988 - 1993: Dames & Moore, Sacramento and Los Angeles, California.

- **Senior Geologist and Project Manager for the Remedial Investigation (RI), Feasibility Study (FS), and preparation of the Remedial Action Plan (RAP) for the Union Pacific Railroad Yard Superfund site in Sacramento, California.** The former railroad maintenance yard is a 90-acre site consisting of an inactive area and active switching yard, situated on weakly consolidated fluvial sediments. Managed geological and hydrogeological evaluations, ancillary investigations, removal actions, interim remedial measures, and quarterly groundwater monitoring at the site. The soil and groundwater investigation included the completion of approximately 300 exploratory test pits, 26 soil borings, and 42 groundwater monitoring wells. Groundwater investigations also included the completion of more than 100 cone penetration test/Hydropunch in-situ groundwater sampling locations to assess the extent of off-site groundwater contamination and development of a MODFLOW groundwater flow and fate & transport model to effectively locate long-term groundwater monitoring wells, and refine the understanding of on-site groundwater contamination and potential sources. Additional evaluations/actions at the site have included:
  - Speciation and dissolution kinetics evaluation of selected samples - mineralogy and chemistry by X-ray fluorescence (XRF), X-ray diffraction (XRD), scanning electron microscopy (SEM), X-ray photoelectron spectroscopy (XPS), and surface analyses by laser ionization (SALI), phase association of metals by sequential extraction, and dissolution kinetics of metals by column rate studies at five different pH - results of the evaluation were utilized to assess potential environmental and human health impacts associated with slag present at the site.
  - Ambient air assessment for total suspended particulates, arsenic, lead, and asbestos by low volume samplers, and analysis for metals by XRF and for asbestos by transmission electron microscopy (TEM)

- Removal of 1,000 yards of metal impacted soil from vacant and residential lots adjacent to the site
- Classification and removal of 2,500 yards of non-hazardous material from the site
- Removal of a 72,000 gallon concrete underground storage tank
- Abandonment of a former yard water supply well which included an underground concrete water storage vault
- Installation of dedicated sampling systems in selected quarterly groundwater monitoring wells
- Preparation of Final RI/FS and submittal to the Cal EPA in 1991
- Preparation of Draft RAP and submittal to Cal EPA in 1991
- Preparation of Revised Draft RAP and submittal to Cal EPA in 1993
- Implementation of on-site groundwater interim remedial measure to minimize off-site migration of impacted groundwater in 1993. Shallow groundwater is extracted from two existing groundwater monitoring wells, treated by a shallow-tray air stripper on site, and treated water discharged to the sanitary sewer. Effluent air from the shallow-tray unit is scrubbed through liquid-phase carbon.
- Planning and implementation of an extensive community relations effort, including numerous public meetings, quarterly reports, issuing fact sheets on all site related activities to approximately 3,000 surrounding neighbors

- **Technical Support on two railyard investigation and remediation projects involving hydrocarbons, heavy metals and asbestos.** The projects involved development and implementation of site investigation work plans, groundwater monitoring programs, remedial action plans, impoundment closure plans, risk assessment hazardous waste characterization and regulatory compliance. Field activities included mitigation and impoundment closure activities, air, soil, and groundwater investigations.
- **Project Manager for the Defense Fuel Supply Point Ozol facility, (near) Martinez, California, Follow-on Investigation.** The facility is a jet fuel bulk storage and transfer terminal situated on complexly folded and faulted marine sediments. The California Regional Water Quality Control Board is the lead agency for the project. Managed preparation of work plans to complete additional soil borings, install additional groundwater monitoring wells, conduct groundwater monitoring and free product removal assessments, and evaluate site hydrogeology.
- **Technical Support on confidential truck stop leaking underground fuel tank site.** Provided litigation support for multiple

responsible party cost apportionment based on review of existing documents, groundwater monitoring program data, and hydrogeological and contaminant fate and transport assessment.

- **Task Manager for a confidential evaluation of a former mining site.** Speciation and dissolution kinetics evaluation ongoing to assess form of arsenic in mine tailings, soil, and bedrock to preliminarily assess potential environmental and human health impacts from arsenic in mine tailings. Microanalytical testing by XRD to evaluate mineralogy; SEM and EMPA to evaluate micromorphology, microchemistry, metal distribution within particles, and evidence of weathering on particle surfaces; XPS and SALI to evaluate metal distribution and form on particle surfaces. Chemical analysis by XRF for total metal concentrations; sequential extractions in a series of progressively more aggressive solvents to assess major metal phase associations; dissolution rate studies to evaluate dissolution kinetics and solubility of metals at several different pH levels.
- **Project Manager for a confidential site evaluation involving slag utilized as sandblasting material.** Initial evaluation to preliminarily assess type of slag, and to identify presence and distribution of metals in the slag. Speciation of metals in slag by XRF to evaluate chemistry and SEM to assess micromorphology, microchemistry, metal distribution within particles, and evidence of weathering on particle surfaces.
- **Project Manager for a confidential residential site evaluation involving lead contamination.** Evaluation conducted to characterize lead contamination, assess source of lead contamination, and to provide litigation support disputing claim that a nearby state Superfund had impacted the residential site. Speciation of soil, dust, and paint samples by XRF to evaluate chemistry, and SEM to assess micromorphology, microchemistry, and metal source distribution in dust and soil samples.
- **Project Manager for second party review of United Heckathorn, Federal Superfund Site, Richmond, CA,** former pesticide formulating and packaging facility located on Richmond Inner Harbor. Soils, sediments and biota in channels and the San Francisco Bay contaminated by DDT, dieldrin, aldrin and other pesticides. Reviewed RI/FS and provided interpretation of contaminant distribution, recommendations regarding suggested remedial strategies, proposed alternatives, interim remedial measures, and final remedial action for the site.
- **Project Manager for evaluation of potential for waste re-classification of molybdenum waste produced at the Cyprus Mine.** The molybdenum waste was classified as hazardous by the standard waste classification approach. However, the material was

largely inert, available chemical data suggested the waste should not necessarily be classified as hazardous, and cost and other waste re-classifications supported additional testing and literature searches to assess the potential to re-classify the waste as non-hazardous. This project involved specialized chemical testing, including evaluation of the solubility of the waste at various pH and in a variety of solutions. Additionally, the project included speciation of the waste to determine what species the molybdenum and associated trace chemicals were present as, and a literature search of the DTSC files to assess what successful waste re-classifications had been completed.

- **Project Manager** for numerous preliminary **site assessments for property transfers**.
- **Site Field Manager** for **aquifer testing and water quality investigation and groundwater monitoring** of a leaking underground storage tank site in Los Angeles, California.
- **Site Field Manager** for **aquifer testing and water quality investigation and groundwater monitoring** of a former manufactured gas plant Superfund site in Venice, California.
- **Field Geologist** for a **remedial investigation of a former manufactured gas plant** Superfund site in Venice, California.
- **Task Manager** for preparation of Work Plans for Remedial Investigations at hazardous waste sites in Norwalk and Dinuba, California.

1986 - 1988: California Department of Health Services, Toxic Substances Control Division, Southern California Region, Assessment and Mitigation Unit, Los Angeles, California

- **Geologist on Burmah Castrol, Inc., Richmond,** a petroleum lubricant storage and transfer facility. Reviewed hydrogeological evaluation and groundwater monitoring program of the proposed remedial action for the site.
- **Geologist on Chem Clear, Los Angeles,** a hazardous waste treatment facility. Reviewed seismic risk evaluation for the facility.
- **Geologist on Lockheed, Burbank,** an aircraft manufacturing facility. Reviewed groundwater monitoring program report for the site.
- **Geologist on Los Angeles Air Force Station, Los Angeles,** an aerospace research and development facility. Reviewed RI Work Plan.
- **Geologist on McColl, Fullerton,** an acid petroleum sludge waste site. Provided contractor oversight of well installation and groundwater sampling activities, and reviewed groundwater monitoring reports.

- **Geologist on McKesson, Santa Fe Springs,** a former chemical-blending and packaging facility. Reviewed site investigation work plan and groundwater monitoring program.
- **Geologist on Orange County Steel, Anaheim,** an auto shredder facility. Reviewed RI Work Plan and groundwater monitoring program
- **Geologist on San Fernando Valley Ground Water Basin,** a 20,000-acre groundwater basin impacted by solvents. Provided oversight of contractor well installations and reviewed and groundwater monitoring program, and groundwater remedial action design documents.
- **Geologist on Thomas Ranch, Corona,** an acid petroleum sludge waste site. Provided oversight of RI/FS activities and review of groundwater monitoring program and other documents.
- **Geologist on Marine Corps Air Stations, Tustin and El Toro**. Provided oversight of RI/FS activities, groundwater monitoring program and review of documents.
- **Project Manager on Bortz Oil Company, Los Angeles,** a former solvent-blending and packaging facility. Provided oversight of RI/FS activities, groundwater monitoring program and review of documents.
- **Project Manager on Chem-O-Lene, Ventura,** a specialty oil-drilling products blending and packaging facility. Provided oversight of RI/FS activities, groundwater monitoring program and review of documents.
- **Project Manager on Facet Energy, Long Beach,** a former oil recycling facility. Provided oversight of RI/FS activities, groundwater monitoring program and review of documents.
- **Project Manager on Southland Oil, Los Angeles,** a former oil recycling facility. Provided oversight of RI/FS activities, groundwater monitoring program and review of documents.

1983-1986: Private Consultant, Sacramento, California

Provided geologic and hydrogeologic consulting on a variety of geotechnical and hazardous waste site projects in northern California.

1982: Gasch & Associates, Sacramento, California

Geologic Assistant on various shallow seismic surveys in the northern Sierra Nevada providing geologic research and geologic field mapping, geophone placement and removal.

1981-1982: Geologic Assistant, Sacramento, California

Geologic Assistant on various field studies including gravity and magnetic surveys in the North Coast Range and Avawatz Mountains,

landslide mapping in the Coast Range, and geologic mapping in the Coast Range, White Mountains, and Kinston Peak Range. Work involved providing geologic research and geologic field mapping, and surveying with gravity and magnetic instrumentation.

Barrella, Donald

From: Ruth Matz <ra1018@aol.com>
Sent: Sunday, May 17, 2015 6:16 PM
To: Barrella, Donald; mattpope384@gmail.com; tkscottco@aol.com; napacommissioner@yahoo.com; McDowell, John; heather@vinehillranch.com; Wagenknecht, Brad; Luce, Mark; Dillon, Diane; Pedroza, Alfredo; Caldwell, Keith
Subject: Syar Quarry Expansion

Dear Napa County Supervisors and Commissioners,
I am writing to share my lack of support for the above project. It is not in the best interest of a mmcounity that values agriculture and the enjoyment of open spaces for all its citizens.

The EIR that has been published and clearly the dramatic scaling back by Syar in response to it is proof enough that there is a lot more at stake than 49 jobs and asphalt for Napa Roads. In fact, the majority of their product is sold for roads outside of Napa County.

As I am not in a position to know the entire economic impact of this project on the community, I believe that Syar has been disingenuous from the start in selling this project to the community aggressively at the expense of locals who have a local park to enjoy as well as homes and businesses whose lives and activities will be disrupted at the expense of this single enterprise.

Since we are in a current position of clearly needing affordable housing for those on very low and extremely low incomes, perhaps an arrangement whereby Syar commits to half of the profits going to homes for the homeless might be an option to explore with them.

If you have more current information on the project and what its new impact will be I am open to hearing your solidly supported opinions on this issue.

Sincerely yours,
Ruth A. Matz
Napa Resident
3356 Brittany Circle
Napa CA 94558

May 11, 2015

Donald Barrella, Project Planner
Napa County Conservation, Development and Planning Department
1195 Third Street, Suite 210
Napa, CA 94559
dbarrell@co.napa.us

Mr. Barrella:

Last month, the Napa County Republican Party voted unanimously to support Syar Industries effort to expand its operations on its property south of the City of Napa. We did so for the following reasons:

- Syar Industries is a long-established and highly trusted Napa area business. Their track record as both an employer and as a source of good philanthropic works demonstrates a strong commitment to our community. We support their efforts to improve our community and secure and expand our local work force.
- Aggregate is the lifeblood of ~~all~~ development operations, and as the only local supplier for most aggregate materials within the County, it is critical that local businesses and contractors have ready access to locally sourced materials.
- Syar has calculated that every 25-35 miles of additional truck delivery travel doubles the transportation cost of aggregate delivery for customers. If the expansion is not approved the costs to acquire aggregate from outside the county will be passed on to customers and ultimately consumers throughout the county.
- In 2012, Napa County voters approved Measure T to collect nearly $300 million in sales tax revenues for the maintenance and improvement of local roads. If Syar does not expand there will not be nearly enough locally sourced aggregate available within Napa County to use for these public works. Implementation of Measure T will become more difficult because of higher projected costs. This is not what Napa County voters envisioned when they voted in favor of Measure T. The County of Napa should not be a party to the mismanagement of sales tax dollars by denying Syar's expansion.
- Syar Industries has diligently adhered to the public environmental process required of this type of expansion request. It has complied at every turn with the requirements of the California Environmental Quality Act. It has coordinated with the County of Napa since 2008 to create a responsible and environmentally sensitive expansion and reclamation plan.
- The claims by some that Syar is encroaching upon Skyline Park are misleading and wrong. Parts of the existing Skyline trail meander onto Syar property and are in poor condition. Syar offered to move the trails and fund improvements for the park district in good faith, however project opponents shunned that offer and chose to demagogue Syar instead. Syar has since revised its plans and no longer intends to expand into the area that includes the existing trails.

Syar's expansion is critical to the economic future of Napa County. They are a good and responsible business that plays by the rules and treats others fairly. We discourage the attempts of some to hijack the process and paint Syar as something less than an excellent and responsible company. Thank you for your consideration.

Very
Sincerely,

Barrella, Donald

From: Matt Pope <mattpope384@gmail.com>
Sent: Wednesday, May 13, 2015 12:57 PM
To: McDowell, John; Barrella, Donald
Subject: Fwd: Citizens for Safe Neighborhoods
Attachments: CFSN Letter Napa Signed.pdf; Opening final.pdf

Hi John/ Don,

Would you please add the attached letter and documents to the public record and distribute to the other commissioners.

Thank You,
Matt

---------- Forwarded message ----------
From: **Harrison, Dave** <dharrison@oe3.org>
Date: Wed, May 13, 2015 at 12:29 PM
Subject: Citizens for Safe Neighborhoods
To: Matt Pope <mattpope384@gmail.com>

Matt,

Attached is a letter from Citizens For Safe Neighborhoods (CFSN) to the Board of Supervisors and the Planning Commission regarding the BoDean Asphalt plant in Santa Rosa. Also attached is a copy of the lawsuit filed by CFSN against the city of Santa Rosa. The focus of these documents is to show you and the others just how bad BoDean is as we keep hearing their name thrown around in Napa as a reasonable alternative to the Syar Quarry materials. I've already hand delivered this to the Board of Supervisors and I would greatly appreciate if you could share them with the other Planning Commissioners and planning dept. staff. Please call me anytime should you have any questions or would like to discuss these documents in more detail.

Keep in mind that our goal is to promote Syar Industries in the most responsible way possible.

Sincerely,

Dave Harrison

Operating Engineers Local #3

District Representative

(707) 429-5008 office

Citizens For Safe Neighborhoods

3/23/2015

Allen Thomas
306 Boyce Street
Santa Rosa, CA 95401
srallen@sonic.net

To: Napa County Board of Supervisors and Napa County Planning Commissioners
Re: BoDean Company Asphalt Plant, Santa Rosa, CA

Sirs:

I write to you as a concerned citizen hoping to provide a quick history and education on a matter that may be of note in the upcoming Syar Quarry permit decision.

My name is Allen Thomas and I have been a member of Citizens for Safe Neighborhoods (CFSN) since 2011. We are a group of residents who work together to promote environmental protection and the development of safe neighborhoods in Santa Rosa. On 9/13/2013 we filed suit in Superior Court of the State of California for the County of Sonoma over numerous violations concerning the expansion of an Asphalt Plant, a non-conforming heavy industrial use, in our midst.(Please see attached Lawsuit copy).

Here is a brief history of the matter:

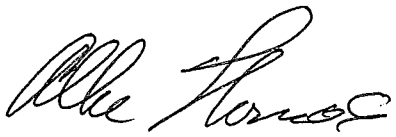
2011-BoDean applies for Conditional Use Permit for three new 82 foot silo structures that exceed height restrictions, installation of new equipment that will greatly increase their average annual production.
2011- CFSN sends letter to SR Director of Community development recounting existing violations and requesting and environmental review.
2012-CFSN comments to SR Planning commission objecting to expansion of existing us and lack of environmental review.
2012- SR Planning Commission approves the Conditional Use Permit on 3-2 vote without EIR.
2012- CFSN filed appeal to SR City Council who denied appeal, approved the project on 4-3 vote without EIR.

We feel that BoDean Company Asphalt Plant has circumvented all California Environmental Quality Act (CEQA) processes yet still attempts to portray themselves as a responsible business and it is especially galling to us that they portray themselves as "green" when clearly they are not. We also find it curious that BoDean's hired political consultant also continues to be a consultant for several current Santa Rosa City Councilpersons.

Please feel free to contact me should you have questions, concerns I may help you with or if you desire further information.

Sincerely,

Allen Thomas
Citizens for Safe Neighborhoods



Rachel Mansfield-Howlett/SBN 248809
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Marc Chytilo/SBN 132742
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Phone: 805-682-0585 Fax: 805-682-2379
Email: marc@lomcsb.com; ana@lomcsb.com

Attorneys for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SONOMA

CITIZENS FOR SAFE NEIGHBORHOODS, *et al.;*

Petitioner,

v.

CITY OF SANTA ROSA, *et al.*;

Respondents;

_____/

BODEAN COMPANY, INC., *et al.;*

Real Parties in Interest.

_____/

Case No. CASE NO. SCV-252028

PETITIONER'S OPENING BRIEF IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

California Environmental Quality Act [CEQA]

CCP § 1094.5(g)

Hearing: September 13, 2013
Time: 8:30 a.m.
Courtroom: 16

Assigned for all purposes to the Honorable Elliot Lee Daum

I. INTRODUCTION

The basis of this action concerns Citizens for Safe Neighborhood's ("Citizens") challenge to the City of Santa Rosa's approval of Categorical CEQA Exemptions 15301 and 15302 and a Minor Conditional Use Permit for the nonconforming asphalt plant ("Project") operated by BoDean Company, Inc., ("BoDean") without first conducting environmental review, and in violation of City of Santa Rosa Code that bars the City from allowing a legal nonconforming use to expand or intensify the negative effects of its nonconformance.

The impacts of the Heavy Manufacturing asphalt plant are of substantial concern because the Project is situated adjacent to sensitive residential communities, three schools, next door to a day care facility, and within view of the historic DeTurk Round Barn and its historic environs.

Citizens, numerous concerned residents, Planning Commissioners and Councilmembers all attested to the lack of environmental review conducted for the Project and that potentially significant and harmful environmental impacts of the Project have not been adequately disclosed or studied.

The cursory studies prepared for the Project are inadequate as a matter of law because they failed to disclose current or proposed levels of asphalt production, truck traffic, and emissions, and did not include all areas of the plant's production in the analyses.

The Project proposes a substantial increase in the proposed plant production *via* the installation of three new 82-foot storage silos and equipment that removes a bottleneck in production that will allow the plant to greatly expand its operations and sales of asphalt and other products. Substantial evidence in the record confirms that the Project may result in and exacerbate already harmful environmental impacts of the plant in the areas of aesthetics, air quality and climate change, truck traffic, noise, dust, odor, and impacts that may be cumulatively considerable.

Citizens request the Court issue a peremptory writ to enforce the mandates of CEQA and City laws to require the City to set aside and vacate the Project approvals until the City establishes a level of use that may not be exceeded without detrimentally intensifying the nonconforming effects of the Project and which includes preparation of an EIR which will provide full disclosure of the plant's potentially harmful environmental impacts.

II. STATEMENT OF FACTS

Project Description

The BoDean plant is located at 1040, 1044, 1056, 1060 Maxwell Drive and 50 West College in Santa Rosa. (AR1:96[1].) The subject property consists of seven parcels totaling approximately 6.5 level acres and is located within the Maxwell Court commercial industrial neighborhood. (AR1:98; 2:221.) The neighborhood is an area bound by College Avenue to the north, North Dutton Avenue to the west, West Ninth Street to the south and the Sonoma Marin Area Rail Transit (SMART) Railroad to the east. (AR1:98.) The SMART rail line forms the property's eastern boundary, single-family residential is located to the west and east, commercial to the north and light industrial transitioning to residential to the south. (AR1:96, 98.)

The land underlying the existing plant is designated Light Industrial, whereas asphalt production is considered Heavy Manufacturing. (AR1:100; 2:350.) Permissible uses on lands zoned Light Industrial do not include Heavy Manufacturing. (*Ibid;* AR1: 156.) The City grandfathered in the facility in 1968 and made the determination that it was a legal nonconforming use. (AR1:99; 101; 2:426.) The Zoning Code establishes a height limit of 55 feet for any structure on lands designated Light Industrial. (AR1:103; 2:223.) The proposed height of the proposed 3 new towers is 82 feet. (AR1:96, 145-148; 2:299, 301; 3:529-531.)

The Project entails the installation of ten new pieces of heavy equipment, a new drag conveyor, two new horizontal conveyor pieces, and three new batchers, that will allow operating throughput of up to 759,000 tons of asphalt annually, increasing the 2011 production rate by three times and increasing the 2006 production rate by six times. (AR1:96; 145-148, 177-182; 2:299, 301; 3:529-531.) Bill Williams stated that the annual limit (of 759,000 tons) is three times higher than what the plant is currently producing. (AR3:347.) The Project also entails the installation of three massive 82-foot high silos – equivalent to three 8-story buildings – that exceed the City Code's maximum height limitation of 55 feet by 27 feet. (AR1:96, 103; 2:308, 312.)

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[1] The Administrative Record of Proceedings (AR) lodged with the Court is cited to as: (AR[VOLUME #]:[PAGE NUMBER(S)].)

[2] Due to political pressure, the Union later retracted this statement and stated that they supported

In November 2011, the applicants filed for a Minor Conditional Use Permit application, the current Project, which purported to involve equipment upgrades at the Project site. (AR1:96; 2:221.) The plant is in continuing violation of numerous City Codes that have occurred over an inordinately long period of time. (*See* Santa Rosa City Code §§ 18-16-108.4.1, 18-16-108.4.4, 18-16-108.4.14, 20-52.030B.1, 20-52.050B, 20-24.030; AR1:112-114; 2:426-429.) Councilmember Gorin later stated she was frustrated with the lingering code enforcement issues. (AR2:426-429.)

Adoption of Categorical Exemptions

The adoption of the Project was proposed *via* CEQA Guidelines Article 9 section 15301, Categorical Exemption Class I, for existing facilities, and section 15302, Categorical Exemption, Class II, for the reconstruction of existing structures and facilities. (AR2:223.)

A traffic study, air quality assessment and visual impact analysis were prepared for the Project. (AR1:25-26 [Traffic Study]; AR1:27-84 [Air Quality and Climate Change Impact Assessment]; AR1:85-94 [Visual Impact letter].)

Citizens submitted evidence that the studies conducted for the Project had not established current levels of production and did not include all areas of plant production; the Project was not a minor alteration and therefore did not fit within the scope of the claimed categorical exemptions; substantial evidence supporting a "fair argument" that the Project would result in increased production of asphalt and other products that may impact aesthetics, air quality, noise, odor, health and safety, and traffic. (AR1: 124, 130, 135, 136-139, 145-148, 149-150, 152, 177-182, 184, 186, 187, 188-189, 192, 193, 201-202, 203, 205-207.)

In April 2012, the Planning Commission considered the Project. (AR1:96-109; 2:214-298.) Commissioner Caroline Bañuelos found that the Planning Commission had a duty to protect the residents who live in proximity to the site and that an EIR should be prepared for the Project to provide the needed environmental analysis. (AR2:292.) Commissioner Curtis Byrd found there would be an increase in asphalt production, "we don't have the correct information," and an EIR should be prepared that analyzes the plant's significant environmental impacts. (AR2:218, 271-272, 274, 280, 292-294.) Commissioner Byrd stated he would not support the Project without further environmental analysis. (*Ibid.*) Commissioner Peter Stanley found that an EIR was necessary to provide adequate analysis of several

potential impacts. (AR2:293-294.)

Operating Engineers Local Union No.3 stated, "We are writing to express our concern of expanded operations proposed by the BoDean Company to their Santa Rosa facility…. The current application is NOT a minor alteration. Each overhead storage bin has capacity of 280 tons of hot mix asphalt [sic] this could increase the number of asphalt loads each night by 66 truck trips." (AR3:540-541.)[2] The Union asked for a complete environmental review of the Project. (*Ibid.*)

Citizens and others confirmed existing significant noise and odor impacts in the surrounding neighborhoods and that the proposed increase in production would only intensify these effects. (AR1:189, 205-206.)

The Planning Commission approved the Project and Categorical Exemption on a 3-2 vote. Thereafter, Citizens appealed the decision to the City Council. (AR1:214-217.)

On June 19, 2012, the City Council considered Citizens' Appeal. (AR2:299-433.) Councilmembers Gary Wysocky, Susan Gorin, and Marsha Vas Dupre voted to adopt the appeal of the Planning Commission's decision, and noted, among other things, the Project did not fit within the scope of a minor use permit or the claimed exemptions; the production of asphalt would expand and may lead to more severe environmental impacts; and the applicant should consider relocating the plant in order to be consistent with the City's policies that require legal nonconforming users to plan to shift to conforming status. (AR2:299; 3:347-349, 355, 356-357, 406-407.) Councilmember Gorin stated the residents' concerns warranted an EIR to be prepared for the Project to study these things. (AR2:299.)

Citizens, residents, and sand and gravel expert Richard Love testified that, among other things, the new silos will allow for increased truck load outs and sale of asphalt; the City failed to analyze current levels of asphalt production and thus failed to establish a baseline for the required comparison between current use and proposed use; failed to include a complete project description that included all uses at the plant; and failed to adequately analyze the effects of increased truck traffic. (AR2: 360, 362, 371-372, 375, 377, 386-387, 388, 391, 396, 397, 400; 3: 549-550, 552-557, 560-561, 566-570, 575-576; 578-599, 609-611, 632.)

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[2] Due to political pressure, the Union later retracted this statement and stated that they supported the Project. (AR3:613.)

On June 19, 2012, the City Council denied the appeal, approved the Project and Categorical Exemptions on a 4-3 vote, and made findings and determinations *via* Resolution 11608. (AR1:5-24.) Thereafter, on June 22, 2012, the City filed the Notice of Exemption. (AR1:2.) The City's findings asserted that the Project would be energy efficient, increase recycled material, produce less blue smoke and truck idling times, facilitate faster loading times, would not result in air quality, traffic, or visual changes, and would not intensify the effects of the nonconforming use. (AR1:5-9.)

III. STANDARD OF REVIEW

In deciding whether to issue a writ for the First Cause of Action, Violation of CEQA, and the Second Cause of Action, Violation of the City Municipal Code, the Court shall determine whether the City committed a prejudicial abuse of its discretion.

Such abuse is proven if the City did not proceed in the manner required by law, if its decision was not adequately supported by findings, or if its findings were not supported by substantial evidence in light of the whole record. (Code of Civil Procedure § 1094.5; Pub. Res. Code § 21168.) Substantial evidence includes "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." (Pub. Res. Code 21080, subd.(e), 21082.2, subd.(c).)

In this case, the Court will determine whether the City abused it's discretion and failed to act in the manner required by law concerning violations of CEQA *via* (1) adoption of exemptions that were outside the scope of the claimed exemptions, and (2) adopting an exemption when the potentially significant effects of the Project required review in an EIR.

Under the second cause of action, Violation of City of Santa Rosa Municipal Code, the Court will determine whether the City's findings are supported by substantial evidence.

A. Standard of Review — Violations of CEQA

1. Standard of Review — Scope of Claimed Exemption

When a court is interpreting the *scope* of a categorical exemption, it is considering a "question of law" and, therefore the review is *de novo*. (*Save Our Carmel River v. Monterey Peninsula Water Mgmt. Dist.* (2006) 141 Cal.App.4th 677, 793.) Whereas, review of the agency's factual determination that a project *fits within an exempt category* is under the substantial evidence standard of review. (*San Lorenzo Valley Unified School Dist.* (2006)139 Cal.App.4th 1356

at 1382.)

2. Standard of Review — Potentially Significant Effects of Claimed Exemptions

CEQA Guideline [14 Cal.Code Regs.] section 15300.2 (c) provides that a categorical exemption will not lie "where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

Therefore, even if the Project is found to meet the scope of a categorical exemption, environmental is required as a matter of law when an Exception to the Categorical Exemption is supported by a "fair argument" of environmental impacts. (*Berkeley Hillside Preservation v. City of Berkeley* (2012) 203 Cal. App. 4th 656; *Wildlife Alive v. Chickering* (1976)18 Cal.3d 190.)

In recent years some courts have inquired, as a separate issue of law, whether a project being considered for the Significant Effects Exception is substantially different from other routine projects in its class: in other words, whether there are "unusual circumstances." A Project would be considered "unusual" when compared with the other typically exempt projects enumerated in the claimed CEQA exemptions categories (*see* CEQA Guidelines §§ 15301 and 15302). While the Project readily meets the "unusual circumstance" test, due to the unusual circumstance of allowing expansion of a Heavy Manufacturing facility adjacent to residences, schools, and daycare centers, the two-step review is an unnecessary part of the Court's review. The Legislature has simply and unequivocally mandated that approval of a project with potentially significant environmental impacts must be informed by an environmental impact report process. (Pub. Resources Code,§§ 21082.2, 21100, 21151.)

CEQA's categorical exemption statute was adopted in 1972. It streamlines approvals for projects that are determined to have no significant environmental impacts. (Pub. Resources Code, § 21084.) A "two-step" *exception* process requiring an initial finding of unusual circumstances was initiated two decades later in *Azusa Land Reclamation Company v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 720. The *Azusa* decision, issued without benefit of the 1980 rule-making file for the significant effects exception that has been provided by appellants, is both without statutory basis and inconsistent with this court decisions interpreting CEQA exemptions. The two-step process has engendered confusion and uncertainty, and allows environmental harm by condoning categorical exemptions for projects with significant impacts. The relevant law is simple and salutary. Upon a fair argument of

significant environmental impacts, projects must be studied and mitigated in a public EIR process.

The genesis of the exception was the California Supreme Court's holding in *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247 (before the CEQA Guidelines were adopted) which held that "common sense tells us" that the majority of private projects needing permits, like those "relating to the operation of an individual dwelling or small business" are "minor in scope" and "in the absence of unusual circumstances have little or no effect on the environment" and require no CEQA review. (*Id*. at 272.) The Supreme Court tied "unusual circumstances" to potential effects on the environment.

A few years later, another landmark decision from the Supreme Court in *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190 held that "… where there is *any reasonable possibility* that a project or activity *may* have a significant effect on the environment, a [categorical] exemption would be improper." (*Id*. at 205-206, italics added.) *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677, 689, notes that "Guidelines section 15300.2 was adopted in recognition of this rule." (*See* CEQA Guidelines "Discussion," AA: 133.) *Wildlife Alive* was reinforced by the Supreme Court in *Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105:

> [A] categorical exemption represents a determination by [an agency] that a particular project *does not* have a significant effect on the environment. (*ß 21084*.) It follows that an activity that *may* have a significant effect on the environment cannot be categorically exempt.(*Id*. at 124, italics added.)

Therefore, projects within a defined categorical exemption class do not receive an automatic free pass from CEQA. The point of each category is to streamline the approval of projects fairly assumed to be of minor effect. Exemptions dissolve upon evidence of a specific project's potentially significant environmental impacts. Such has always been required by Public Resources Code section 21082.2 and decades of judicial precedent. And that is the whole point of the "Significant Impacts Exception."

City attorney Caroline Fowler advised the City that there was substantial evidence in record to support the exemptions. (AR2:331.) She applied the wrong standard of review.

The Fair Argument Standard

The low-threshold "fair argument" standard is applied as to whether an exception applies. (*Banker's Hill v. City of San Diego* (2006) 139 Cal.App.4th 249, 266; Opp. at 9, citing to pg. 261 of *Banker's Hill*.) *Banker's Hill* comprehensively reviewed the standard of review for categorical exemptions, applying the substantial evidence standard to the initial question of whether a project fit within an exemption category. The Court then applied the fair argument standard to the question of whether any exception should be applied.

Any proposed categorical exemption is subordinate to an overriding legislative mandate: a fair argument of potentially significant environmental impacts always triggers the favored EIR process.

In *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4th 105, 124, the Supreme Court held that "an activity that may have a significant effect on the environment cannot be categorically exempt," and repeatedly cited *Dunn Edwards Corporation v. Bay Area Air Quality Management District* (1992) 9 Cal.App.4th 644, with approval. *Dunn Edwards* applied the fair argument standard to categorical exemptions. (*Id*. at 656; *see* also *Friends of the Old Trees v. Department of Forestry and Fire Prevention* (1997) 52 Cal.App.4th 1383, 1393-1394.)

The unique "fair argument" standard gives no deference to the agency and instead mandates the preparation of an EIR if there is any substantial evidence in the "whole record" of proceedings that supports a "fair argument" that a project "may" have a significant effect on the environment. (Guideline §15064(f)(1); *No Oil, Inc,. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75.) If there is substantial evidence that the proposed project *may* have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an initial study. (*Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002.)

"Application of the fair argument standard of review presents a question of law, not fact, and we do not defer to the agency's or the trial court's determinations on this issue." [Cite.] 'Rather, we independently "review the record and determine whether there is substantial evidence in support of a fair argument [the proposed project] may have a significant environmental impact …'" (*Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 900.) A low-threshold fair argument is achieved if

the record contains facts or fact-based assumptions or expert opinions of any potentially significant environmental impact, regardless of substantial evidence to the contrary. (*League for Protection v. City of Oakland* (1997) 52 Cal.App.4th 896, 905; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 310.)

Fact-based opinions of appointed officials who have knowledge of relevant environmental matters qualify as substantial evidence under CEQA. In *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, the Court found that it was

> not unreasonable to presume the agency relied upon by the County to study and evaluate development proposals, in light of its prior experience in the area, has expertise upon the subject and is qualified to assess the data presented and to render opinions thereon. (*See*, *e.g.*, Evidence Code § 720.) … It is undisputed that members of the planning commission are experienced in matters of planning and development. The commission members reviewed the initial and revised initial studies as well as the documentation provided by [Real Party]. Therefore, [a Commissioner's] expressed opinion during a formal hearing . . . is significant.

(*Id.* at 155.) In *Oro Fino Gold Mining Corporation v. County of El Dorado* (1990) 225 Cal.App.3d 872, the fact-based opinions of a County supervisor were substantial evidence adequately supporting a fair argument. (*Id.* at 883.) Here, the fact-based opinions of the Planning Commission and Council Members qualify to support a fair argument.

Personal observations of residents

The *Oro Fino* court also found lay testimony of area residents to be substantial evidence as to matters within their personal knowledge. (*Id.* at 884.) In *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1211, the court stated:

> While these individuals are not experts in any sense of the word, their firsthand observations should not casually be dismissed as immaterial because "relevant personal observations are evidence." (Quoting *Citizens Assn. for Sensible Development of Bishop Area v. City of Inyo* (1985) 172 Cal.App.3d 151, 173; *see also Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 402.)

Testimony of area residents who are not qualified environmental experts qualifies as substantial evidence when based on relevant personal observations. (*E.g., City of Carmel By-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 246 n.8; *Oro Fino Gold Mining*

Corporation v. County of El Dorado (1990) 225 Cal.App.3d 872, 882; *Citizens Association for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 173 (". . . an adjacent property owner may testify to traffic conditions based upon personal knowledge. . . . "); *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* 29 Cal.App.4th 1597, 1604-1605; *Arviv Enterprises v. South Valley Planning Commission* (2000) 101 Cal.App.4th 1333 (Relevant personal observations of neighbors regarding slope, dust, erosion, and access problems supported EIR.); *Ocean View Estates Homeowner's Association v. Montecito Water District* (2004) 116 Cal.App.4th 396 (EIR required based on affecting private views and public hiking trail.); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903 (EIR triggered by fair argument of aesthetic impacts of housing project and its arguable inconsistency with adopted plans) Under these cases, input from non-experts can be substantial evidence where such input is credible and does not purport to embody analysis requiring special training. Thus, for example, a lay person could credibly relate firsthand perceptions that gridlock routinely occurs on a particular roadway at particular times, or that a project may have significant adverse aesthetic effects.

First-hand lay perceptions are consistent with legislative definitions of substantial evidence because they qualify as "facts [and] reasonable assumptions based on facts" under Public Resources Code §§ 21080(e)(1) and 21082.2(c). Such perceptions are distinguishable from "argument, speculation, unsubstantiated opinion or narrative, [and] evidence that is clearly inaccurate or erroneous," that do not constitute substantial evidence. (PRC § 21080(e)(2).) Generalized complaints, speculation and unsupported conclusions do not constitute substantial evidence.

Here, abundant record evidence – facts and fact-based reasonable assumptions and expert opinions – supports a fair argument that the project may have significant environmental impacts and thus, an EIR is required as a matter of law to analyze potential environmental impacts and to inform the City's consideration and adoption of feasible mitigations and project alternatives. CEQA requires discretionary projects with potentially significant environmental impacts to be analyzed within a public EIR process. (Pub. Resources Code, §§ 21082.2 subd.(d), 21100 subd.(a), 21151 subd.(a).) The goal is for public agencies to make informed land use decisions that reduce adverse environmental effects to the extent

feasible. (*Id*., §§ 21002, 21151.)

EIRs are practical. They assist our elected decision-makers and "demonstrate to an apprehensive citizenry that the agency has in fact analyzed and considered the ecological implications of its action." (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, pg. 86.) The EIR remains "the heart of CEQA." (*Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, p. 1123.) CEQA and its Guidelines "embody California's strong policy of protecting the environment." (*Tomlinson v. County of Alameda*, *supra*, 54 Cal.4th 281, pg. 286.) Proposed categorical exemptions must harmonize with CEQA's low-threshold EIR requirement, consistently affirmed in scores of California cases for over four decades.

IV. VIOLATIONS OF CEQA

A. The City Failed to Adequately Review the Project

1. Failure to Consider All Aspects of the Asphalt Plant

The City neglected to consider all aspects of the Project in its review and permitting process, including, proposed 30-foot mounds of debris piles, grinding of asphalt, recycling of tires, emissions from asphalt vapors, particulate emissions, analysis of peak operating impacts, activities of outside contractors performing work at the site, and expansion to 24-7 operation, which may result in increased truck traffic, grinding, pollution, noise, and odors. (AR1:177, 178; 2:242-243, 271-272, 360, 362, 377.)

Prior use permit applications limited the stored material to the height of the fences surrounding the asphalt plant. The visual impact of the proposed 30-foot mounds of debris has not been analyzed. (AR1:178.)

The proposed grinding of old asphalt is a new use and potential impacts related to this portion of the operation have not been analyzed. BoDean also allows other asphalt companies to set up equipment and manufacture asphalt and this too has not been analyzed. (AR1:178.)

A project is "the whole of an action" that has a potential for resulting in a physical change in the environment, directly or ultimately and includes the overall activity that is being approved. (Guideline §15378; *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170.)

The project description must include future activities that may become part of the

project. (*Arviv Enterprises Inc. v. South Valley Planning Commission* (2002) 101 Cal.App.4th 1333.) For instance, Councilmember Wysocky wondered what the likelihood is for the operation to expand to loading two trucks at a time instead of one. (AR2:406-407.) Similarly, since the Project did not entail refitting the old equipment that is still in place, there is a potential for increased use when those pieces of equipment are upgraded.

2. Failure to Analyze Current Levels of Production Against Proposed Levels.

Neither BoDean nor the City divulged the actual level of current asphalt production. The total emissions (tons per year) for air pollutants are not presented at any point. None of the analyses performed calculate the current production rate.

Nor is there any estimate given of what the likely output of the plant will be with the new equipment and silos. The City and BoDean state that the plant may operate at the capacity imposed by the Bay Area Quality Management District (BAAQMD). BAAQMD sets the capacity limits for air quality purposes via permit, but the City is the lead agency under CEQA that issues the construction permits and conducts CEQA review.

In its application for the Project, BoDean requested asphalt production of 759,000 tons per year. (AR3:468-471.) Some of the reports submitted to the City also estimated production capacity at 759,000 tons of asphalt per year. (AR1:2-59; AR3:468.) Therefore, one must assume that BoDean's request is the foreseeable proposed use of the plant.

Numerous commentors stated it was patently obvious the production levels of the plant would increase with the proposed expansion. (AR1:146-147, 184, 192, 203; 2:274, 279, 280, 282, 309, 360, 375, 386-387, 397; 3:406, 609, see discussion, *infra at* pages 18-21.) Moreover, had BoDean intended to remain at current levels they would not have requested such an increase in production.

Utilizing data gathered from past BAAQMD permits, Citizens found the highest production level occurred in 2011 at 250,000 tons/year, and production levels in prior years were much lower. (AR1:148; 2:246.) Average production over the last five years totals 171,748 tons of asphalt per year. (AR1:148.) In testimony, BoDean concedes that 759,000 tons would triple current production levels. (AR2:347.)

The fact of the plant's *production capacity* under the existing permit is irrelevant. Here, no study compared the existing use of the plant to the proposed expanded use and thus the

City failed to consider potentially significant environmental impacts of the increase in production with attendant impacts concerning traffic, air quality, noise, dust and odors.

Resident Jenny Bard stated, the City should have verification of current emissions as to type and amounts. "Otherwise, there is no way to compare before and after." (AR1:136.)

The air quality study enumerated the percentage of emission reduction proposed by the fiberbed blue smoke system, but did not divulge the amount of emissions that would remain. (AR2:362.) Resident Kate Shoal stated, "This statistic [amount of emission reduction] tells you nothing." (*Ibid.*) Indeed, unless one knows the amount of the emissions produced, quantification of a percentage reduction is a meaningless exercise. (AR2:362.)

As a hypothetical example, consider a plant that produces 10 widgets per year and proposes to increase that amount to 100 widgets per year. New equipment proposes to reduce emissions by 50% per widget/year. During production, each unit results in emissions of 5 tons/year, therefore 10 widgets would result in 50 tons/year of emissions; 100 widgets net 500 tons/year. A 50% reduction of 500 tons equals a reduction of 250 tons/year, leaving 250 tons/year of emissions in the air. Whereas, the original production of 10 widgets only resulted in 50 tons/year of emissions without aid of the new equipment. Therefore, a reduction of 50% in emission rate, does not outweigh the negative effects of the greater production level in this example. So it may be here. (AR1:136.) Even a larger reduction of 75% does not equate to a lower percentage of total emissions compared with the emissions of the fewer number of widgets. A 75% reduction applied to our hypothetical would result in 125 tons of emissions from the 100 widgets while the 10 widgets would net only 50 tons. If you use a hypothetical with less difference between the actual and proposed emissions, the result, of course, would be different. Petitioners' point is that when there has been no comparison between actual emissions and proposed, there is no basis for the City's findings that the Project would produce fewer emissions over current use.

While Citizens agree that production capacity will not increase, permitted capacity level is unrelated to the application of the standard by which environmental impacts are adjudged. Whether the plant will increase production in comparison to past years, not whether the proposed production will be at or below capacity, is the germane question applicable to CEQA standards. Without the critical comparison of actual to proposed use, it is impossible to fairly

review the environmental impacts of any project. Therefore, the City's processing of the Project without requiring CEQA review, violated the law.

There was confusion between the capacity issues and production level issues throughout the testimony at the hearings. (AR2:218-298, 225.) Plant manager, Bill Williams illustrates this point in his testimony. "We have no production limitation so we are not requesting an increase." (AR2:278-279.) The reasoning appears to be that the plant is not going to increase its capacity, therefore, it should not be viewed as a production increase. City Planner, Bill Rose confirmed that the City determined there would be no increase in production because the Project would not increase "production capacity." (AR2:225.)

In the recent California Supreme Court case *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal. 4th 310, the court found that the relevant comparison for the purpose of evaluating environmental impacts is the comparison between ***existing use (not permitted use) and the proposed use***. The level of operations authorized by prior permits is not the baseline for a new approval when the actual levels of production are considerably less than the levels of production allowed under permit. *Communities for a Better Environment* held that the maximum amount of emissions allowed to a facility under its existing permit was not part of the baseline against which future environmental impacts should be assessed, when current operations had never reached that level and the allowed level of emissions under the permit had never been subject to CEQA review. So too here, the plant has never reached the level of permitted capacity amounts.

Rather than reviewing actual production and emissions totals, the City erred in relying on BoDean's vague and nonsensical illustrations of why production would remain the same; they were confused by the statement that capacity and production were the same; and the Council was swayed that installation of new equipment would reduce emissions, even though production figures would skyrocket compared with actual use.

3. Failure to Analyze Current Hours of Operation Against Proposed Use.

The City and BoDean claim the plant has a right to operate 24-7, although neither party can point to any permit that authorizes this use. (AR1:100.) Plant manager, Bill Williams admitted that the plant does not normally operate 24-7. (AR1:96, 100; 2:233, 308, 322 [Normal

hours of operation are 7:00am to 4:30pm; some larger operations occur during nighttime hours.].)

Even if the City could establish that BoDean has the right to operate 24-7, it is apparent that BoDean does not currently operate at this level. Again, the crucial comparison for correctly adjudging environmental impacts is to evaluate the current state of the plant's operation (the "baseline" use) against the proposed expanded use, not to compare what is permitted to what is proposed.

Earlier permits failed to list the hours of operation and other memoranda explained that the right to operate was restricted to certain hours during of the day. (AR1: 140, 147.) The Project description fails to state any hours of operation, but merely claims they will be the same. (AR1:100; AR2:223.) The City must analyze the effects of the average current use against the proposed use, and did not.

In the 1987 Use Permit, the hours of operation are listed as 6:00am to 6:00pm. (AR1:140.) City Planner, Bill Rose oddly opined that these hours of operation were not intended as a restriction. (AR2:265.) And Rose claimed that the 1987 permit did not restrict hours of operation. (*Ibid*.) There is no evidence that there has been any permit issued by the City for the plant in which the hours of operation allowed 24-7 use. Therefore, the request for 24/7 use is a new feature of this application that may cause environmental impacts that requires environmental review.

B. Inconsistency with Scope of Claimed Exemptions.

CEQA Guidelines Article 9 section 15301, Class 1 Exemption provides, in relevant part:

> Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.
>
> Examples include but are not limited to:
>
> (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities,

or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

(e) Additions to existing structures provided that the addition will not result in an increase of more than:

(1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or

(2) 10,000 square feet if:

(A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and

(B) The area in which the project is located is not environmentally sensitive.

Discussion: This section describes the class of projects wherein the proposed activity will involve negligible or no expansion of the use existing at the time the exemption is granted. Application of this exemption, as all categorical exemptions, is limited by the factors described in section 15300.2. Accordingly, a project with significant cumulative impacts or which otherwise has a reasonable possibility of resulting in a significant effect does not quality for a Class 1 exemption.

CEQA Guideline Article 9 section 15302, Class II Exemption provides in relevant part:

Class II Replacement or Reconstruction:

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

(b) Replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity.

(c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

Similarly, under the non-conforming use provision of the City Code section 20-61.020(C)(2), under certain conditions, and with Minor Conditional Use Permit approval, changes to a nonconforming use of a structure by addition, enlargement extension,

reconstruction, or relocation may be allowed." (AR1:96-161, 102.)

Here, the erection of three new silos cannot be considered the replacement of an existing structure because the existing silo tower will not be removed. Nor can the new silos be considered an addition, reconstruction, or rehabilitation of the existing silo.

The City asserts that the silos are structures and at other times, that they are equipment. "Staff finds the proposed silos to be in the form of towers or similar structures." (AR1:96-161, 103.) Alternatively, the City stated, "The addition of three silos and associated conveyors, three batchers, as well as the installation of a fiberbed blue smoke control system, is an enhancement of the facility's existing mechanical equipment." (AR1:96-161, 104.)

Expert, Scott Stegeman confirmed that, " By Zoning Code definition, the towers are not equipment, they are structures." (AR2:252.) The Santa Rosa Zoning Code defines a structure as, "Anything constructed or erected, the use of which requires attachment to the ground or attachment to something located on the ground." (Santa Rosa Zoning Code Chapter 20-70 Definitions.) The new silos should be considered structures because they match the definition under the Code: they are erected, their use requires attachment to the ground by bolts; and they are anchored to concrete foundations located on the ground. (AR1:160; 2:326) Jean Kapolchok stated that the silos could be unbolted and moved, however, this does not convert the silos to equipment, because, movable or not, they meet each prong of the definition of a structure. (AR2:326.)

Conversely, the conveyor belts, batchers and fiberbed smoke system are not structures, but equipment. One member of the public stated that a tower is not a shovel; if you asked a child which one was a tool and which one was a building, they would easily be able to tell the difference. (AR2:400.)

The claimed Exemptions do not allow the erection of "new structures." The towers are new structures. Therefore the City's findings – that concluded the Project is consistent with the claimed Exemptions which do not allow new structures – are not supported by substantial evidence.

The City further asserted that the Project consists of a minor alteration. "[S]taff finds the proposed equipment upgrade to be categorically exempt CEQA because it is a minor alteration to an existing facility…" (AR1:96-161, 104 .) Whereas, Senior Planner, Joel Galbraith was

quoted as stating, with "the 82-foot height of the new silos, even a conforming project would require a Major Conditional Use Permit to exceed the maximum height requirements, which makes it hard to justify a lesser procedure for something nonconforming." (AR2:308, *371*-372.)

Adding three, 82 foot silos, which add 280 tons of asphalt storage, each, substantially expands the use of the plant. The increase in storage capacity facilitates the continuous production of asphalt, compared to the current intermittent use, and therefore represents the expansion of use disallowed under the Exemptions and the Code. (AR2:299, 301, 308, 371-372.) Therefore, neither of the claimed Categorical Exemptions applies; the City should have processed the application as a Major Conditional Use Permit that requires the applicant to conduct environmental review. (*Ibid.*)

In her comments on the City Staff's findings, Councilmember Marsha Vas Dupre emphasized that the word "minor" had taken on a whole new set of meaning. (AR2:318-433, 428.)

Section 15301 of the guidelines defines a minor alteration as, "a minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination ... The key consideration is whether the project involves negligible or no expansion of an existing use."

The addition of three 82 ft. silos with expanded ability for asphalt throughput, cannot constitute a "minor" alteration of an existing facility involving negligible expansion of use beyond that existing at the time of the lead agency's determination.

One resident commented, "This is being presented as a Minor Conditional Use Permit, yet it comes with 100 pages of attachments (without counting the letters from the public). It would appear that any project requiring this much background detail and analysis could hardly be considered 'Minor.' At the very least, it is troubling to know that our Community Development Department would designate a project of this magnitude as a 'Minor' CUP." (AR1:201.)

C. Exception to the Exemptions Applies.

As the Project proposes erection of three new silos and an increase in the Heavy Manufacturing and Industrial production of asphalt and other materials within a residential

neighborhood, the Project falls under the "unusual circumstance" test and together with the establishment of a "fair argument" of environmental impacts, an exception to the categorical exemption applies.

The Project is "unusual" when compared with the other typically exempt projects enumerated in the claimed CEQA exemptions categories (*see* CEQA Guidelines §§ 15301 and 15302).

Relevant personal observations from Citizens and numerous residents, and expert testimony, easily and abundantly meets the "fair argument" test that establishes the Project's potential to result in impacts to: aesthetics and views, air quality, greenhouse gas emissions, traffic, noise and odors, cultural and historic, health and safety, cumulative impacts, and inconsistency with area plans and policies such that an EIR must be prepared as a matter of law. (AR1: 124, 130, 135, 136-139, 145-148, 149-150, 152, 177-182, 184, 186, 187, 188-189, 192, 193, 201-202, 203, 205-207; 2: 360, 362, 371-372, 375, 377, 386-387, 388, 391, 396, 397, 400; 3:549-550, 552-557, 560-561, 566-570, 575-576; 578-599, 609-611, 632.)

1. The Project Will Result in Increased Production Levels

BAAQMD documentation reflected the following production level by year in tons per year. (AR1:148.)

1999 – 148,851	2008 – 171,170
2000 – 142,650	2009 – 134,757
2001 – 132,474	2010 – 133,337
2006 – 134,121	2011 – 250,000
2007 – 169,470	

Year 2011 reflected the highest production level of 250,000 tons per year. An average of the last five years yielded a total of 171,748 tons per year. The proposed production of 759,000 tons per year is clearly a substantial increase from past years. Numerous residents attested to the increased production the Project would allow. (AR1:146, 147, 148, 203.) The Project is "clearly an expansion of their storage capacity and peak demand time production and is not maintenance." (AR1:150.)

Commissioner Byrd stated that the proposed cap is "more than you are currently doing." (AR2:282.) Councilmember Wysocky stated, "Your cap is not close to your

production," "You're well under [capacity]." (AR2:348.) Bill Williams concurred that the plant was under "the limit, correct." (AR2:348.) Councilmember Wysocky stated production would increase because the Project components remove the bottleneck in production. (AR2:348.) Councilmember Wysocky noted that once the silos were empty, there would be no impediment to reloading the silos and thereby increasing production. (AR2:357.) He asked John Hecht, the preparer of their quality and climate change analysis, "Couldn't you draw down the silos and fire it back up?" Hecht: "You could." (AR2:357.) Abundant substantial evidence shows that the Project will allow for increase in plant production levels.

But Williams repeatedly argued that actual production wouldn't increase to that level because there would be no increase in the orders and "asphalt sales are made by order." (AR2:218-298, 232.) Jean Kapolchok, who authored the visual assessment of the plant, also stated that asphalt is a demand driven industry. (AR1:25-26.) Kapolchok opined that the changes being sought by BoDean do not increase demand and, therefore, do not increase production. (AR2:218-298, 238.) BoDean states that asphalt is produced based upon customer orders, they don't produce a large amount of asphalt, store it in the silos and wait for a customer to take it away. (AR2:218-298, 281-282.)

That sales are governed by demand seems to be only stating the obvious, however, it does not forward the analysis of the Project's potential impacts. Instead, it begs the question, what if demand and sales go up? Would the Project facilitate the delivery of more product? The evidence undeniably shows that it will. There was a large jump in the production in asphalt in 2011 and there is no evidence in the record to suggest that sales won't be higher in coming years. The very fact that BoDean has requested a production level of 759,000 tons belies their assertion that sales will remain flat.

In his statement before the Planning Commission, plant manager, Bill Williams explained that one batch is equal to 280 tons of asphalt and it takes one hour to make the batch. Each silo holds 280 tons of asphalt. With four silos, it will take approximately four hours to produce 1,120 tons (280 x 4). (AR2:282.) Currently, with one silo, it takes eight to ten hours to produce the 1,120 tons. This is due to the necessity of emptying the one silo to let it cool and then heat it up again before refilling it with the next 280 tons of asphalt. (AR2:283-284.)

Williams stated that on a large job of 10,000 tons, BoDean currently produces about 2,000 tons per day. BoDean loads the one silo to capacity (280 tons). The customer comes in and loads up the trucks with the 280 tons, emptying the silo. BoDean then reloads the silo with another 280 tons, so that the customer can come back and refill their trucks. (AR2:218-295, 281.) It will take about 16 to 20 hours to complete the production of 2,000 tons because of the start and stop process. (AR2:218-295, 283.)

Now let's add three silos. As previously indicated, each silo holds 280 tons. But instead of filling one silo, emptying it, cooling it down, heating it up again, and then refilling it, BoDean can fill one silo after the other without stopping. Because the plant can operate for 24 hours, seven days a week, BoDean has the potential to make another 4,400 tons of asphalt that day. BoDean will be able to make 6,600 tons a day, thus taking two days to complete an order that used to take approximately five days to complete.

Remember, the current system allows production of 1,100 tons every four hours, but there are start and stop times involved that will require eight to ten-hours to complete the batch. (AR2:218-298, 284.) This is because after the asphalt is made, there is only one silo to store it and they must wait for it to be emptied and cleaned before making a new batch. (AR2:218-298, 287.) If it takes eight to ten hours to complete the 1,100-ton batch, this means that roughly two 1,100-ton batches are produced per day under the existing system. The new silos will allow up to six, 1,100-ton batches per day, which would triple the output. With the new equipment, there will be less cool down and heat up periods. The production would be continuous, taking less time, and freeing up the ability to make more asphalt. As noted by Councilmember Gary Wysocky, the capacity of the plant is limited by the presence of only one storage silo and the Project removes a bottleneck in the production. (AR2:349.) One commentor noted the obvious, that an increase to 24 hours of use equals more production. (AR2:360.)

One commentor noted that if BoDean did not really intend to use the new silos to increase production, shouldn't BoDean be willing to commit to current production levels? This would give them the operational efficiency of the new equipment they desire without impinging upon their stated goals. (AR1:192.)

Resident Pat Bailey used a coffee thermos analogy to describe the ability of the Project to produce more product. (AR2:218-298.) If you have a coffee pot that only makes 30 cups of coffee an hour, then only 30 cups of coffee can be sold in that hour. But if you have three

thermoses that each hold 30 cups of coffee, then 120 cups of coffee can be sold in that hour. The storage of coffee allows for dealing with coffee rushes and peaks in the coffee business. (AR2:218-298, 245.)

2. Aesthetic Impacts

The Project entails the installation of three massive 82-foot high silos – equivalent to three eight-story buildings – that exceed the City Code's maximum height limitation of 55 feet by 27 feet. This may result in aesthetic and views impacts. (AR1: 96, 103, 145-147, 150, 177-182, 189; 2:308, 312; 3:529-531.)

CEQA Appendix G Initial Study Checklist lists aesthetics as the first of its "environmental factors potentially affected." (*See* Appendix G, Environmental Checklist Form, at 1.) Courts have found that aesthetic impacts are proper subjects for environmental review, and that subjectivity should not preclude review of aesthetic impacts. (*The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903.) "Relevant personal observations of area residents on nontechnical subjects may qualify as substantial evidence for a fair argument. (CEQA Guidelines §15064(g); *Id.* at 921, *Ocean View Estates Homeowner's Association v. Montecito Water District* (2004) 116 Cal.App.4th 396, 402; *Arviv Enterprises v. South Valley Planning Commission* (2000) 101 Cal.App.4th 1333, 1347; *Friends of the Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1398-1399 & fn 10.)

Jean Kapolchok submitted a visual assessment letter to the City that stated the Project would not result in aesthetic impacts primarily because "… the profile of the silos" would be "essentially identical to the existing silo …" even though the proposed silos are taller than the existing silo by 4 feet (82 feet as opposed to 78 feet). (AR1:86.)

But under the fair argument standard, the determination of no impact rendered by Kapolchok regarding the aesthetic impacts of the silo towers can not undercut the extensive first hand testimony submitted by Citizens and other concerned residents that found the new silos are equivalent to three, eight-story buildings, constituting a substantial impairment in aesthetic quality to the areas in view of the plant.

3. Air Quality, Health and Safety, Noise, and Odor Impacts

The Air Quality analysis preformed by SESPE Consulting, Inc., in April 2012 purported to analyze the impacts of the erection of the three new storage silos and the fiberbed blue smoke control system. (AR27-84.) The analysis is inadequate in a number of respects: the study

utilized an improper "net benefit" analysis, failed to adequately disclose the existing emissions of the Project, failed to analyze the existing emissions and compare it with the proposed production emissions, and failed to consider all of the plant operations. In *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170 the court found that a "net benefit" analysis is not the proper standard.

The study forecast the percentage of emission reduction proposed by the fiberbed blue smoke system and reduction in truck idling times, but did not divulge the amount of emissions that would remain. (AR2:362.) As noted, *supra,* residents were concerned that the analysis did compare actual emissions with total proposed emissions. (AR1:136; 2:362.) When more asphalt is sold, emission reduction rates may be overly optimistic. (*See* discussion, *supra* at pg. 13-14.) The conclusion that the Project will result in a beneficial impact is not supported and the actual concentration of the air pollutants to which the resident or worker or child would be exposed has not been tallied.

Over the years numerous area residents have expressed their personal first-hand observations of the current, noise, odor, pollution, dust, traffic, and smoke problems related to the operation of the plant and have submitted comments to the City that the proposed expanded use may exacerbate each of these impacts such that an EIR should be prepared to address these concerns and propose adequate mitigation and alternatives to the current proposal. (AR1: 136-137, 140, 141, 146, 151, 152, 180, 193.) The following includes a sampling of resident's common concerns about the plant:

- "I strongly oppose granting the plant's request for three new silos for asphalt storage because it will negatively impact everything we are trying to promote and protect in our neighborhood. … it spews out a horrid plume of white smoke … whatever it is, it deposits on our window sills, our flower beds and no doubt our lungs." (AR1:193.)
- "I have seen an increase in dust and noise in our neighborhood since BoDean took over the plan in 2001." (AR1:190.)
- "I live near the plant, at 124 10th Street, and want to tell you: I don't think this is a good idea. I moved here in 2009. Since that time I have regularly been aware of the output from the plant. Once the smell was so bad we thought there was a building on fire, and called the fire department. I am also aware of a coating that accumulates on my white vehicle. Further, I have experienced an increase of respiratory discomfort." (AR1:184.)

- "We know that Asphalt is not good for human health and particularly for young children. So does an Asphalt plant belong in a neighborhood with families and many schools with in less than 3 miles? There are 3 schools and a youth center only blocks away from this plant." (AR1:187.)

Citizens and others noted that residents had filed frequent complaints with the Bay Area Air Quality Management District (BAAQMD) regarding the Project's existing emissions, dust, smoke, particulate matter, and foul odors which constituted a health and safety hazard to themselves and their children. (AR2:387-388.) The District inspector visited the site and verified the necessity to write up a complaint regarding the excessive production of noxious odors emitting from the plant. (AR2:388.) The cancer causing health risks of blue smoke were enumerated in testimony. (AR2:269.)

Bill Williams conceded there may be impacts with the Project. "Recently we have been working with City of Santa Rosa on ideas that we can do on our end that would lesson our impacts to our neighbors especially during the summer months when night paving is conducted on Hwy 101." Williams stated it may be a good time to start a "Good Neighbor Program" to "minimize impacts ... as they arise". (AR1:117.)

4. Traffic Impacts

The scant one-page traffic study prepared by W-Trans is wholly inadequate and does not accurately adjudge potential traffic impacts of the Project. (AR1:25.) The study failed to adequately take into account existing and cumulative Level of Service traffic congestion conditions on all potentially impacted residential streets, highway corridors, and intersections; failed to adequately consider the effects of increased truck traffic due to the proposed and future foreseeable expanded use; and faied to consider traffic generation from all Project components. (AR1:181.)

The report contains no data as to the amount of current production or how many truck trips the Project currently generates. The report contains no data about proposed production figures, but concludes that the number of trucks leaving the site during the course of the day would be unchanged. (AR1:25-26.) W-Trans concluded that "under typical conditions, there may be three to five additional trucks arriving and departing during morning peak hour." (AR1:25-26.) What production figure was utilized to generate this estimate? The report opined that there would be limited increase in truck traffic due to "a finite need for asphalt directly

associated with the amount of construction occurring … the site's production cannot increase beyond what is needed for local projects." (AR1:25.) As stated, there is no evidence in the record that sales of asphalt are stagnant or will remain so. Nonetheless, a study that fails to include the data it relied upon to reach its conclusions is inadequate as a matter of law.

Sonoma County is in the process of upgrading Highway 101, and there are number of large projects currently proposed that would bring increased sales.

Bill Williams testified that each truck carries from 20 to 25 tons, depending on its size. An additional five trucks would only result in additional 100 to 125 tons of asphalt conveyed during peak hours. Whereas, if Williams' figure is used, a plant that produced 759,000 tons/year would result in 30,360 to 37,950 trucks per year! The air quality study comes up with different figures all together; there are 2,325 trucks/year based upon 750 tons/day, 17,000 trucks/year based upon 2,500 tons/day, and 18,000 trucks/year based upon 6,000 tons/day. (AR1:84.) There has been no study conducted that accurately compares the current level of truck traffic and the proposed. Even using the air quality report's figures, there is quite a bit of difference between the traffic impacts generated by 2,325 trucks per year and 18,000 trucks per year.

The traffic report also claimed that the production capacity of 300 tons per hour will remain unchanged. (AR1:25-26.) As noted, the extra storage capacity relieves a bottleneck in the production and would allow for speedier load outs, thus increasing production and sales. And if production levels will remain the same, as asserted, why would truck traffic increase by any amount?

Numerous residents attested to the existing problems with the plant and the potential for the Project to increase truck traffic and other impacts. (AR2:244, 246, 249, 1:141, 146, 152, 189.)

- "The West End is a high-density housing/residential neighborhood and the BoDean Plant generates noise pollution, traffic from large trucks and smoke." (AR1:151.)
- "[W]ould [you want] increased traffic and increased pollution comes that comes with increased production without even consider the environmental impact on the area?" (AR1:152.)
- "With the prevailing westerly winds, I and my immediate neighborhood are directly downwind from a heavy industrial activity that produces serious

negative impacts including: heavy truck traffic, smelly smoke, dust, noise, and air pollution. … For these and other reasons, I urge the Commission to request an Environmental Impact Report (EIR) before deciding whether to approve or deny the application." (AR1:186.)

- "The West End is a high-density housing/residential neighborhood and the BoDean Plant generates noise pollution, traffic from large trucks and smoke. It is disgusting to look at and takes away from what a beautiful neighborhood the West End is. The West End residents have worked hard to create the wonderful community we call the West End. We have monthly Santa Rosa Creak Clean ups, we hold community meetings, have park clean up days, graffiti removal, and endless community outreach; all of which has turned our neighborhood around and into a desirable place to live. Please do not allow this plant to expand and pollute our neighborhood any more then it does already."

5. Claim of Net Benefit

BoDean claims there will be a net benefit to the environment with the Project due to the implementation of the fiberbed blue smoke system and the reduction in idling times for trucks. Again, this is not determinative of whether environmental review should be conducted. In *Lighthouse Field Beach Rescue v. City of Santa Cruz* the court ruled that the need for an EIR for amendments to a beach plan could not be evaluated on the basis of "net" environmental analysis; *any* potentially significant environmental effect triggers an EIR even if the project provides a "net" or overall positive impact. Here, there is no current analysis of the base line effects of the plant; the analyses failed to compare current production levels against proposed levels and failed to disclose or review all components of the Project.

The existing plant already has significant air quality, noise, dust, and odor impacts that impact surrounding residential neighborhoods, including historically important districts; and is proximate to the proposed SMART train station and rail line. The construction of the silo towers and the plant's proposed increase in production and hours of operation may exacerbate the negative effects of truck traffic, noise, noxious odors, and air quality on sensitive residential receptors, such that the law requires environmental review.

V. VIOLATION OF Santa Rosa Zoning Code § 20-61.020(C)(2); Intensification of the Detrimental Effects of the Legal Nonconforming Use

This section of the local code bars the intensification of the effects of a nonconforming use. The City's zoning ordinance provides that "continuance of a nonconforming use or

structure is generally detrimental to the orderly development of the City and the general welfare of its residents *and is particularly detrimental to the welfare of persons and property in the vicinity of any nonconformity*." (Santa Rosa Zoning Code § 20-61.010(C), emphasis added.)

The zoning ordinance allows changes to a nonconforming structure or use in only limited exceptions. Changes to a nonconforming structure "may be allowed only if the changes comply with all of the regulations of the applicable zoning district" and "[t]he enlargement, expansion, extension, or increase would not increase the degree or the detrimental effects of the nonconformity." (Santa Rosa Zoning Code § 20-61.020(C)(2) and § 20-61.020(C)(2)(b), respectively.) The City abused its discretion and violated Santa Rosa Zoning Code section 20-61.020(C)(2) by approving changes to a nonconforming use that do not comply with the applicable zoning district regulations, including but not limited to, exceeding the maximum allowable height by 27 feet that increases the degree and the detrimental effects of a nonconforming use.

The City found that the Project "would be compatible with the existing and future land uses in the vicinity in that operational efficiencies are anticipated with the installation of the new silos which will effectively result in a more sensitive interface between the asphalt plant and the surrounding neighborhood by reducing the intermittent operation of the processing equipment, and the installation of new equipment will facilitate better emission controls." (AR1:67.) The City found that the Project would not increase "production capacity" and as such, would be expected to increase the degree or the detrimental effects of the nonconformity. (AR1:6.)

The City based its findings on "production capacity" rather than comparing the actual use to the proposed use. (AR1:6.) And as numerous commentors, commission and council members attested, the Project does not provide a sensitive interface with the surrounding neighborhood, but will further intensify the detrimental effects of the nonconformance by enabling the erection of towers that are considerably over the height limit and an increase in asphalt production and hours of operation, as compared to the existing and past operation of the plant. (See discussion, *supra*, at pages 11-24.) The expansion and intensification will foreseeably result in impacts to aesthetics, air quality and climate change, traffic, noise, dust, odor, health and safety and cumulatively considerable effects. (*Ibid.*) The City has not fully disclosed or analyzed the potential intensifying effects of the Project, therefore, the City's

findings that the Project will not intensify these effects are not supported by substantial evidence. (*Ibid.*)

The following comments expressed common concerns about the intensification of the asphalt plant. Resident, Stacia Okura stated that if the City grants a permit that allows production level to increase far beyond past levels of production "the City will be directly allowing BoDean to increase the degree and the detrimental effects of their nonconformity." (AR1:146-148.) Resident, Allen Thomas stated, "I observe the current impacts produced by the operations of the plant first hand. The existing silo is visible from my property and the installation of the three more [sic] silos will increase the impacts of the visual aesthetics of my environment. The increased storage capacity of the new silos will severely increase truck traffic of nearby roads during peak delivery periods and increase traffic congestion at the these times. The silos will also increase the intensity of the operation of the batch plant and thus have a higher air quality impact on surrounding residents during these peak production times." (AR1:150.)

CONCLUSION

For the reasons stated herein, Citizens request the Court issue a peremptory writ to enforce the mandates of CEQA and City laws to require the City to set aside and vacate the Project approvals until the City establishes a level of use that may not be exceeded without detrimentally intensifying the nonconforming effects of the asphalt plant, which includes preparation of an EIR which will provide full disclosure of the plant's potentially harmful environmental impacts, and will recommend appropriate mitigation and alternatives.

Dated: July 3, 2013

_____

Rachel Mansfield-Howlett
Provencher & Flatt, LLP
Attorney for Petitioner

May 11, 2015

RECEIVED
MAY 15 2015
TB
Napa County Planning, Building
& Environmental Services

Donald Barrella, Project Planner
Napa County Conservation, Development and Planning Department
1195 Third Street, Suite 210
Napa, CA 94559
dbarrell@co.napa.us

Mr. Barrella:

Last month, the Napa County Republican Party voted unanimously to support Syar Industries effort to expand its operations on its property south of the City of Napa. We did so for the following reasons:

- Syar Industries is a long-established and highly trusted Napa area business. Their track record as both an employer and as a source of good philanthropic works demonstrates a strong commitment to our community. We support their efforts to improve our community and secure and expand our local work force.
- Aggregate is the lifeblood of all development operations, and as the only local supplier for most aggregate materials within the County, it is critical that local businesses and contractors have ready access to locally sourced materials.
- Syar has calculated that every 25-35 miles of additional truck delivery travel doubles the transportation cost of aggregate delivery for customers. If the expansion is not approved the costs to acquire aggregate from outside the county will be passed on to customers and ultimately consumers throughout the county.
- In 2012, Napa County voters approved Measure T to collect nearly $300 million in sales tax revenues for the maintenance and improvement of local roads. If Syar does not expand there will not be nearly enough locally sourced aggregate available within Napa County to use for these public works. Implementation of Measure T will become more difficult because of higher projected costs. This is not what Napa County voters envisioned when they voted in favor of Measure T. The County of Napa should not be a party to the mismanagement of sales tax dollars by denying Syar's expansion.
- Syar Industries has diligently adhered to the public environmental process required of this type of expansion request. It has complied at every turn with the requirements of the California Environmental Quality Act. It has coordinated with the County of Napa since 2008 to create a responsible and environmentally sensitive expansion and reclamation plan.
- The claims by some that Syar is encroaching upon Skyline Park are misleading and wrong. Parts of the existing Skyline trail meander onto Syar property and are in poor condition. Syar offered to move the trails and fund improvements for the park district in good faith, however project opponents shunned that offer and chose to demagogue Syar instead. Syar has since revised its plans and no longer intends to expand into the area that includes the existing trails.

Syar's expansion is critical to the economic future of Napa County. They are a good and responsible business that plays by the rules and treats others fairly. We discourage the attempts of some to hijack the process and paint Syar as something less than an excellent and responsible company. Thank you for your consideration.

Very
Sincerely,

Marcia Sire

May 11, 2015

Donald Barrella, Project Planner
Napa County Conservation, Development and Planning Department
1195 Third Street, Suite 210
Napa, CA 94559
dbarrell@co.napa.us

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Sincerely,

Glenn Ellen Smith
Secretary
Napa County Republican Party

Emailed **dust complaint** sent to **BAAQMD**, 5-12-15 for Enforcement Division

The high silica content of the mining dust from **Syar Napa Quarry** is a Class I mutagenic carcinogen. It causes lung and kidney cancer, respiratory diseases and silicosis (OSHA). This video still taken 4-4-15 around 11:30 AM on a Saturday during the off season at Syar Napa Quarry shows dust billowing into the air. This example shows Syar Napa Quarry's poor equipment and bad operating practices. When Syar Napa Quarry is in full production with multiple trucks being loaded and driving on unpaved roads to and from, the dust released is exponentially greater. All the *established roads* at Syar Napa Quarry need to be paved, an infrastructure upgrade that should have been done all along. This will reduce dust and will reduce the amount of water needed for watering roads. Delivery and pick up vehicles must stay on paved roads only. For the **Syar EIR Adm. Record**.

3-23-15, Sandra Booth
2100 Seville Dr. Napa CA 94559, juniperbooth@hotmail.com

Amended 5-1-15 Dust Complaint Reported to the City of Napa, BAAQMD and submitted for the Syar EIR Record

Syar Napa Quarry Fugitive Mining Dust in our Neighborhoods

We bought our home in the southeast quadrant of the City of Napa in1989. We did not know that a quarry was located nearby, out of sight. We now know mining dust is a health risk and the few mitigation practices at Syar Napa Quarry are not stopping respirable silica dust from entering our neighborhood air space and exposing the people in our neighborhood to this health threat involuntarily.

I had always wondered where all the dust we were experiencing in our neighborhood was coming from. We have since learned that mining dust is not like agricultural dust and the difference is mining dust produces man-made respirable, micron-sized and smaller crystalline silica particles. Newest findings confirm it causes cancer and other serious health affects. But we didn't know that then. We went about our lives and didn't ask ourselves if there was anything we should be doing about it.

In 2005, we started walking along the Napa River Trail and by 2006 we were walking there two or three times a week. On the days of the week when Syar Napa Quarry was in operation, we routinely noticed clouds of dust in the direction of the eastern hills being blown to the north. And in 2009, because we live close to the Quarry, we received the County's notice about Syar's request to expand and extend its permit. That is when we became very concerned and realized the extent of the health hazard Syar Quarry posed to our residential area and the greater Napa region.

We saw Napa Quarry was either not mitigating the mining dust or doing so little that it was useless, especially when we saw truck after truck going way too fast up and down the long unpaved roads kicking up dust hundreds of feet into the air. Occasionally, we took our camera with us on our walks and took some photos of the dust being created by Syar Quarry. In speaking with a gentleman from the Bay Area Air Quality Management District (BAAQMD), we learned the dust we witnessed leaving the boundaries of the quarry property was a violation of Syar Napa Quarry's operating permit. We have observed these violations in excess of 150 occasions while on our walks along the river.

Daily, when Syar's open-pit surface mine is operating, mining dust rises up into the air and is carried by the prevailing winds over areas where thousands of people live and work and where tourists visit: residential neighborhoods, Napa State Hospital, the Napa County Office of Education, hotels and resorts, schools, businesses, Napa Valley College, Cakebread Vineyards and Skyline Wilderness Park.

Syar Napa Quarry's pollution and bad practices in such close proximity to a human population is intolerable and must be corrected. We have learned complaints should be filed using the BAAQMD website at www.baaqmd.gov , or call the complaint number at 800-334-6367, or write: BAAQMD Headquarters, 939 Ellis St., San Francisco CA 94109 Attn: Enforcement Division. Request how to send in your photos and/or videos. BAAQMD is a complaint driven agency and is required by law to act on complaints. They need to hear from us. We have learned that the public should report sightings of dust from the Napa Quarry as well as excessive noise, vibrations and odors from the asphalt plants, or any other nuisances.

Before 2009 to the present, the County of Napa has been working on an Environmental Impact Report (EIR) as part of the mining permit process required by CEQA, the California Environmental Quality Act. CEQA encourages citizens to participate in this process. During the time this CEQA process has been going on, we have observed that Syar Napa Quarry has not, in good faith, attempted to control its dust even after serious, avoidable problems have been brought to their attention. While on our walks on the Napa River Trail we have been eyewitnesses to Syar's dust violations from 2006 to the present. Syar continues to create fugitive dust in violation of its operating permit.

In the EIR, Napa County *has left out* available strict mitigation and monitoring required of other mines nearby by other counties for control of the mining dust *routinely blown* into our Napa City neighborhoods and Skyline Park. The County has not fulfilled its oversight responsibilities in this EIR process. And it is purely negligent of our County to unfairly discriminate against the southeastern neighborhoods by continuing to disregard our health and safety and our right to breathe clean air.

Syar's interest as a private business is in making money from the Quarry and doesn't want to acknowledge that it's pollution is a problem. The current equipment and operating practices at Syar Napa Quarry are out-dated and dangerous for our community's health. Syar Napa Quarry has not applied the updates available in infrastructure and technology that a responsible corporation would have implemented over the course of the years to increase efficiency and reduce pollution, including green house gas emissions.

Napa County is the lead agency charged with insuring safety and health and good management of our natural resource. The Syar EIR is missing that required language. The County Planners and Supervisors must pursue the goal to protect, first, the health of our citizens and, secondly, protect our environment and conserve our natural resources and require reduction in greenhouse gases. Syar Industries, Inc., undoubtedly, is the worst single polluter in the Napa Valley. We need to see stiff measures written into this permit to change their behavior and protect ourselves from their abuse.

Syar Napa Quarry was given a permit to operate for 30 years, starting in 1989, with no explicit end date. The lack of a specified end date is the fault of the County. Essentially, the Quarry has been operating for 6 years without a permit, without upgrading oversight or mitigation of its pollution and practices.

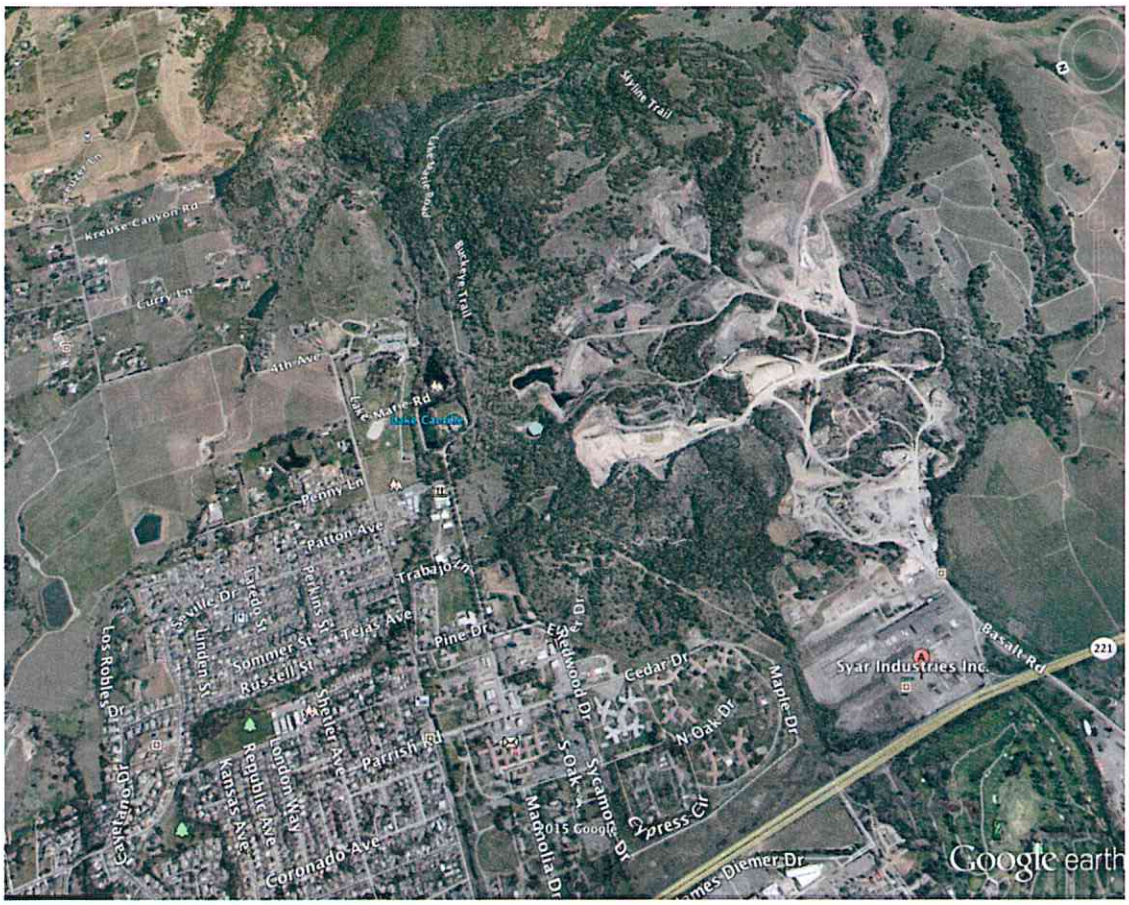
Above: An image of a typical day of operation showing Syar's mining dust as it escapes into the air in violation of Syar's operating permit. Photo taken from the Napa River Trail by S.J. Booth, 2009.

Our Napa Valley is a small, closed valley; the dust concentrates and stays suspended for weeks. We really need to find out through *local* testing if the concentration of respirable silica is below permissible levels per cubic meter. Syar EIR testing used a controlled test study done at another location where the silica content of the rock processed is not representative of the rock processed or the conditions present locally at the Napa Quarry.

As an eyewitness I can definitively say the Syar EIR overstates its mitigation and understates the pollution coming off the Napa Quarry property. And our unfortunate situation of the Napa Quarry being adjacent to the City of Napa, where thousands of people are affected, has never been tested nor monitored on the perimeters of the mine nor in our neighborhoods. CEQA says that one should err on the side of health and safety especially when it is a health issue. And this is a problem that has been witnessed and identified. It is essential that mitigation using maximum best available technology and practices is put in place along with

monitoring and compliance. The County must require Syar to upgrade all aspects of its operation and replace all of its old tier 0 and tier 1 vehicles; this is something that already should have happened. Also, all vehicles are to be driven at reduced speeds to mitigate the dust problem. The rule must be if dust is visible, reduce speed until visible dust is not present. Or, stop driving until dust control (water or chemical suppressant) is applied.

Another aspect poorly addressed is that the Quarry has been mined for 30 years by Syar with very little reclamation and Syar has continued to enlarge the area of surface mining with vast exposed areas. Currently, approximately 500 acres are bare, dusty ground. See aerial view below:



This image shows how close Syar Napa Quarry is located to the human population.

Dust gets blown off the bare, dusty surfaces of the Quarry into the neighborhoods whether the mine is in operation or not. This additional source of uncontrolled dust multiplies the exposure to our population increasing respiratory infections, harmful chronic respiratory conditions and diseases including lung and kidney cancer. Sensitive groups are at higher risk. It is important to realize, the

mining dust is blown from a higher elevation onto the residential areas, schools and businesses positioned at a lower elevation.

This intolerable, unhealthy dust problem - being denied by some - but which truly exists has got to be eliminated. Syar Napa Quarry's infringement of our air space in the City and County of Napa has got to end. And, the proposed expansion of the Quarry is absolutely unnecessary and must be denied.

Sincerely,

Sandra Booth

3-23-15, Sandra Booth
2100 Seville Dr. Napa CA 94559, juniperbooth@hotmail.com

Dust Complaint Reported to the City of Napa, BAAQMD and submitted for the Syar EIR Record

Syar Napa Quarry Fugitive Mining Dust in our Neighborhoods

We bought our home in the southeast quadrant of the City of Napa in 1989. We did not know that Napa Quarry located near our home was mining the same way mining had been done since the turn of the century before homes, schools or businesses existed near it---mining in a way that did not properly mitigate for all the dust that was created. It was not known back then that mining dust is a real health threat.

There were many things we did not know in 1989 about Syar's Napa Quarry that we do know now. I always wondered about all the dust we were experiencing in our neighborhood. We have lived near vineyards before and never experienced agricultural dust compared to anything like this dust. We have also learned that mining dust is not like agricultural dust and the difference is mining dust produces man-made respirable, micron-sized and fractions of a micron sized crystalline silica particles. Newest findings confirm it causes cancer and other bad health affects. But we didn't know that then. We went about our lives and didn't ask ourselves if there was anything we should be doing about it.

Then in 2005, we started walking the Napa River Trail and by 2006 we were walking there two or three times a week during Syar Napa Quarry times of operation. On the days during the week, we routinely noticed clouds of dust in the direction of the eastern hills. And in 2009, because we live close to the Quarry, we got the County's notice about Syar's request to extend its permit. That is when we realized it was Napa Quarry creating all the dust we saw when we were out on our Napa River Trail walks. So, we started looking into it.

We saw Napa Quarry was either not mitigating the mining dust or doing so little that it was useless, especially when we saw trucks going way too fast up and down the long unpaved switchbacks kicking up dust hundreds of feet into the air, nothing you would ever see in a vineyard. We took our camera with us sometimes on our walks. Steve Booth called BAAQMD and spoke with a gentleman there who told Steve that what he described was a violation of Syar Napa Quarry's operating permit.

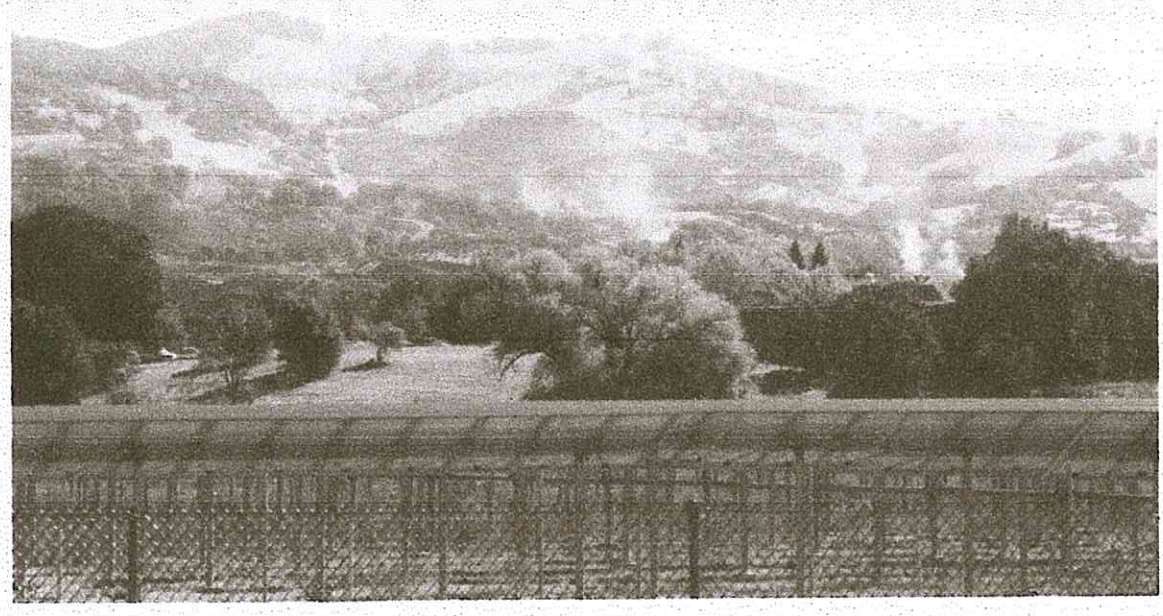
We now realize that the public should report sightings of dust from the Napa Quarry as well as excessive noise, vibrations, and odors from the asphalt plants, or any other nuisances. Mining dust rises up and is blown by the prevailing winds into our neighborhoods regularly, where thousands of people live and work just north of the Syar Napa Quarry.

From 2009 to the present the County of Napa has been working on an EIR as part of the mining permit process required by CEQA. CEQA encourages citizens to participate in this process. During this process time we have observed that Syar Napa Quarry has not, in good faith, attempted to control its dust even after the problem has been brought to its attention and there still aren't mitigation practices being implemented to control dust any better in April 2006 clear through to January 2015. Steven Booth and I have been eyewitnesses all this time during our walks on the Napa River Trail, which is about one mile from where all the dust is generated.

It is totally inappropriate for this quarry to create huge amounts of air born dust and allow it to routinely blow off its property over our Napa City neighborhoods and Skyline Park. And it is purely negligent that the people in our southeastern neighborhoods continue to experience this disregard for our health. Self-monitoring by Syar has been the same as going un-monitored and unregulated and without any consequences to the operation of this quarry for its years of bad neighbor behavior. Syar's employees have obviously not been properly trained.

The City and the County are charged with the safety and health of its citizens. The Syar EIR does not have any language in it to insure the protection of the City, the County or the people from the intolerable, fugitive mining dust problem. The County Planners and Supervisors and BAAQMD goal to protect comes first.

Below: Image of Syar's mining dust fills the sky and clouds up all of the view of hills with dust in this photo taken from the Napa River Trail by S.J. Booth, 2009.



Another aspect to this is that the area has been mined for a long time and Syar has continued to expand the acreage of surface area that resembles desert covered with small particles down to the very small respirable dust size particles that gets blown off the bare, grainy surfaces of the quarry in the prevailing south wind and into the neighborhoods whether the mine is in operation or not. This multiplies the exposure of our population to greater potential of contracting harmful chronic conditions and diseases including lung and kidney cancer from the mining dust that is continually blown from the higher elevation of the mine into the lower elevation of our Napa neighborhoods, and thereby reducing life expectancy for many. See recent OSHA studies and others on respirable silica.

As an eyewitness I can definitively say the Syar EIR overstates the mitigations and understate the pollution coming off the Napa Quarry property. And our unique situation of the Napa Quarry being adjacent to the City of Napa, where thousands of people are affected, has never been tested or monitored on the perimeters of the mine nor in our neighborhoods. CEQA says that you err on the side of health and safety and when it is a health issue that has been witnessed, identified and untested, maximum best practices have to be put in place to protect our thousands of residents and our thousands of visitors. I would add that redesigning and upgrading all aspects including all vehicles used at the Syar Napa Quarry is a must to help mitigate the problem.

In looking at the big picture, what would good planning look like, and why do we need the Napa Quarry anymore when Syar Lake Herman Quarry is so close and available to cover the needs of the south Napa Valley, and BoDean's Mark West Quarry covers the north Napa Valley? Reducing Syar Napa Quarry's area of mining would be appropriate and help reduce the dust volume problem, while expansion would be totally inappropriate. We have been told by an ever growing number of Napa professionals that use aggregate that the aggregate from both Lake Herman and Mark West is reliably better than Napa Quarry's aggregate.

The intolerable, unhealthy dust problem has got to be tackled and Syar Napa Quarry's infringement of our air space in the City and County of Napa has got to stop.

Sincerely,

Sandra Booth

Sandra Booth

Latinos Unidos del Valle de Napa y Solano
790 Lincoln Ave Apt 85
Napa, CA 94558

April 14, 2015

Mr. Matt Pope, Chair
c/o Mr. John McDowell, Deputy Planning Director
Napa County Planning Commission
1195 Third Street, Suite 210
Napa, CA 94559

RE: PROPOSED EXPANSION OF SYAR QUARRY ACTIVITIES

Dear Mr. Pope:

I am writing on behalf of Latinos Unidos del Valle de Napa y Solano. As you may know, we regularly serve as advocates for the interests of many of the members of the growing Latino community in Napa County. And it is in this capacity that we are contacting you today,

We are gravely concerned about the currently proposed expansion of the Syar quarry activities that is now under consideration by your commission. That concern is precipitated by several primary issues that we believe are currently unresolved in connection with this matter: transparency and accessibility to the process for, and, should it be approved, the possible diminishment to the quality of life and the potentially deleterious effects on the health and welfare of, the members of this community that live closest to the proposed expansion site. And we are seeking your thoughtful consideration of these concerns before this process continues any further.

As you are no doubt aware, the residential area near the proposed expansion site has a very large Latino population. Many who live in this area are not proficient in the use of the English language, especially the kind of language that often is associated with the kind of complex documents and processes that are connected with the formal consideration of a proposal such as this. We, therefore, believe that it is essential that the County of Napa take the following steps to ensure that *all* the potentially effected residents receive a fair opportunity to fully understand the issues that are likely to be of concern to them, as well as to voice their concerns about them.

- Vigorous outreach efforts to the Latino Community should be made in both Spanish and English;
- All written advisory and informational materials should be available and distributed in both English *and* Spanish;
- A bilingual member of the commission's support staff should be consistently available during regular business hours to speak with anyone who is not proficient in English on an ongoing basis, and;

- A Spanish language interpreter should be available at all public meetings during which this matter is being considered.

We further request that you schedule any (or at least a meaningful portion of the) meetings at which this matter is undertaken at a time when most working people can actually attend, such as evenings during the week or over the weekend.

Finally, we are additionally concerned about what we believe will be the increasingly disruptive character of this proposed expansion on the quality of life for the people who live and work close to the quarry, from significant increases in the noise level to increased dust levels in the air from its enlarged operation. Worse still: there is meaningful evidence to suggest that the increased particulate matter that will result from such operations could have serious long term health implications for the people who are exposed to it. And, as you know, there are also several schools within fairly close proximity to this location, too, which will regularly put many of the children in this community at increased risk, as well.

We, therefore, ask that you give these very important issues your prompt and very thoughtful consideration in this matter.

Yours truly,

Hector Olvera, President
Latinos Unidos del Valle de Napa y Solano

From:	Kelly Decker
To:	Barrella, Donald
Cc:	Matt Pope; tkscottco@aol.com; napacommissioner@yahoo.com; McDowell, John; heather@vinehillranch.com; Wagenknecht, Brad; Luce, Mark; Dillon, Diane; Pedroza, Alfredo; Caldwell, Keith
Subject:	Please Vote NO on Syar Expansion
Date:	Friday, April 17, 2015 9:18:27 AM

Dear Mr. Barrella, Planning Commissioners, and Supervisors,

WATER usage for Syar quarry operations from 2009-2011 was 39,109,900 gallons per year. Syar estimates that water use after the expansion (at full capacity) will require an ADDITIONAL 50% water, making it 61,109,219 gallons per year). Apparently there is a recycled water pipe that travels past the property, but they use groundwater to wash down their dust and equipment instead and there are no plans to change that fact. Data Source: Draft Syar EIR Vol 2 Appendix J page 52-53 (http://www.countyofnapa.org/Syar/).

Furthermore, In December 2014, Syar settled a lawsuit with SF Baykeepers because they had been allowing their industrial runoff to enter Arroyo Creek and into the Napa River for FIVE YEARS. We are not sure if they acted on this agreement yet, so the pollution may still be an on-going issue. (http://baykeeper.org/…/baykeepers-legal-action-clean-indust…)

Syar Napa Quarry has a very bad environmental record and they should not be trusted to expand closer to Skyline Park, the Napa State Hospital, the County Office of education, and the East Imola neighborhoods.

Please vote "NO" on the Syar expansion.

Kelly Decker

1029 Summit Ave.

Napa, CA

94559

Bay Area Ridge Trail Council

April 1, 2015

Donald Barrella
Napa County Department of Planning, Building & Environmental Services
Engineering and Conservation Division
1195 Third St. #210
Napa CA 94559

Subject: Syar Napa Quarry Expansion Project

Dear Mr. Barrella:

Thank you for the opportunity to comment on the subject project. The Bay Area Ridge Trail Council is a 501(c)(3) non-profit organization dedicated to completing a continuous 550-mile public trail on the ridge lines surrounding San Francisco Bay. The trail will connect open spaces and parklands, and afford stunning views and recreational opportunities for hikers, mountain bicyclists, and equestrians of all ages and abilities.

In addition to its bay-wide primary alignment, the Ridge Trail combines with "sister" trail systems such as the San Francisco Bay Trail and the Napa Valley Vine Trail to create smaller regional trail loops that are critical links for recreational and alternative-transportation opportunities. Connector trail segments in Skyline Wilderness Park that link to the Bay Trail and Vine Trail around Napa, Kennedy Park, and American Canyon may be adversely affected by the proposed project's expansion as it passes the Pasini property (APN 046-390-002).

The Ridge Trail is particularly concerned about potential adverse physical and aesthetic impacts to trail users and the entire Skyline Wilderness Park as a whole (impacts such as noise, dust, odors, habitat removal, oak woodland degradation). We therefore respectfully request that the knoll portion of the Pasini property be removed from the expansion project, thereby preserving a critical physical/geographic barrier between incompatible quarry and public access uses.

Please contact Ridge Trail staff if you'd like further information, and we will stay tuned as to the rescheduling of the public hearing.

Cordially,

Janet McBride

Janet McBride
Executive Director
Bay Area Ridge Trail Council

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