

STOP SYAR EXPANSION

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October 16, 2015

Donald Barrella, Planner III

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Attn: Donald Barrella:

On October 9, 2015, Tivonna Stern, Deputy County Counsel, e-mailed to inform me the County possesses no records responsive to my September 30, 2015 CPRA Request.

The purpose of my September 30, 2015 CPRA Request was to obtain the empirical data and calculations, the objective records and information, necessary to independently verify whether or not Syar Napa Quarry has a sufficient supply of water and is applying sufficient water to comply with Mitigation Measure 1 in Table 5.3, Page 36, Final EIR, March 2015, Appendix B. (See Table 5.3, below.)

Under the heading “EIR Applicability”, the claim is made with assurance given that, “The facility already waters exposed surfaces two times per day and so this measure is part of the existing setting.” The “existing setting” referred to is the baseline setting in the vicinity of the Project at the time the Notice of Preparation was published, 6-10-09.

Table 5.3 Comparison of BAAQMD Basic Construction Mitigation Measures with EIR

Basic Construction Mitigation Measures	EIR Applicability
1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.	The facility already waters exposed surfaces two times per day and so this measure is part of the existing setting. MM 4.3-2B is more stringent because chemical dust suppressants may be applied to unpaved roads.

Please note: Mitigation Measure 1 is specific and declarative: “**All exposed surfaces** (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) **shall be watered two times per day.**” (My emphasis.) The purpose of Mitigation Measure 1 is to control fugitive dust generated from Syar Napa Quarry’s exposed surfaces.

The dust from the Project's exposed surfaces poses present and foreseeable, significant, potential, adverse environmental effects requiring implementation of this Mitigation Measure 1. Remarkably, without explanation, the empirical data and calculations necessary to quantify and qualify the water needed and used to fulfill the requirements of the Mitigation Measure 1 were omitted from the Draft EIR Vols. I & II.

Futhermore, Tivonna Stern, County Deputy Counsel, confirmed the County possesses no records responsive to my request for empirical data and calculations in order to verify Syar Napa Quarry's compliance with or ability to comply with Mitigation Measure 1.

The County, the lead agency, responsible for the contents and objectivity of the Syar EIR acted irresponsibly when it omitted this essential, factual information. By this omission, the County has deprived the governmental decision makers and the public their right to understand and independently verify statements, assumptions, and conclusions made by the applicant, the County, and the County's consultants.

In the context of an Environmental Impact Review (EIR) process and the California Environmental Quality Act (CEQA), the County's omission of this essential information is as inexplicable as it is inexcusable. To knowingly omit is to knowingly obstruct. To not even have this foundational information to produce reveals incompetence. Whereas the County may wish to excuse itself for not having this essential, factual information, there is no excuse for this egregious failure; the information must be produced.

Information foundational to the objectivity (factual basis) of an EIR must be produced, cannot be overlooked, omitted, or deferred. The very intent and purpose of an EIR is to objectively inform governmental decision makers and the public about a project's potential adverse environmental effects and/or impacts.

Objectivity derives from and depends on empirical (factual) data. Factual data can be studied and verified, independently. Subjective data cannot; it confounds independent study and verification.

When an EIR lacks or loses a factual basis, it loses its objectivity and becomes subjective, enabling confirmation bias and path dependency to dictate and dominate governmental decision-making. The EIR process and CEQA came into being to eliminate subjectivity in governmental decision-making. **An objective EIR is paramount and that is what our group is striving to achieve.**

Water is a critically deficient resource in the Napa Region, generally, and in the MST, specifically. With the drought and development, water availability will only become more critical.

Since the County has not produced the empirical data and calculations requested, and since the Deputy Counsel confirmed the County has no records to produce, below, is a brief analysis of water sufficiency, and usage for required dust control of the quarry's exposed surfaces based on the following limited information available in the EIR, as quoted:

Quoted References:

1. DEIR, Vol. I, August 2013, Page 3-1: “The Syar Industries, Inc. (Syar) Napa Quarry is located within an approximately 920-acre holding (870 acres east of SR 221 “the project site” and 49.9 acres west of SR 221) ...” “The project would result in an approximately 124-acre expansion of the existing 497 acres presently disturbed by mining at the 870-acre project site.”

Note: The “project site” must include dust control for the exposed surface areas within the 49.9 acres west of SR 221. Uncontrolled, fugitive dust is released by quarry operations where sand is barged in and from truck traffic on all of the quarry's paved roadways and out onto public roadways. Syar Napa Quarry is responsible for this dust pollution and must be made to control it.

2. DEIR, Vol. I, August 2013, Page 3-1: “The project would result in an approximately an 124 acre expansion of the existing 497 acres presently disturbed by mining at the 870-acre project site.”

3. DEIR, Vol. I, August 2013, Page 3-4: “... the existing 497-acre quarry area is heavily disturbed ...”

4. DEIR, Vol. I, August 2013, Page 3-7: “Consistent with the MRP, Syar proposes an Adaptive Management Mining Strategy for the project where active mining areas of the property would consist of no more than 25 percent (or approximately 218 acres) of the entire 870-acre property at any given time.⁴ Presently, approximately 57 percent of the 870-acre project site (or approximately 497 acres) contains active mining.”

5. FEIR, Vol. I, June 2015, Appendix B, Page 26: “Exhibit 1 shows a revised mining boundary within the Pasini Parcel of approximately 47.69 acres as compared to the Draft EIR project mining boundary totaling 51.97 acres.”

6. DEIR, August 2013, Page 4.8-18: Groundwater Use: “Existing usage under baseline conditions is approximately 45.8 million gallons per year (approximately 140.6 acre-ft).” Groundwater Use: “

7. DEIR, Vol. I, August 2013, Page 4.8-30: “If additional is required for the proposed project, this additional water will be obtained from off-site sources such as new wells

outside of the MST. Off-site sources of recycled water are available and water can be purchased from public or private sources. If additional water sources are not available then production volume will be reduced to the extent that the water use does not exceed the maximum allowable annual usage is 45.8 million gallons (140.6 acre-ft) per year.”

8. County Staff Report, October 14, 2015: “Because the Quarry’s water supply well is located within Milliken-Sarco-Tulucay (or MST) groundwater deficient area, mitigation (Mitigation Measure 4.8-4) as well as conditions of approval (#2D) have been proposed to limit (or cap) annual groundwater use to the baseline conditions of 140.6 acre-feet per year. In other words groundwater use will be mitigated and conditioned such that there will be no net increase in water use as a result of the project and from (sic) ongoing quarry operations. Additionally, this capped groundwater use is consistent with the Napa County Department of Public Works’ practice of requiring no net increase in groundwater use in the MST when new or expanded water uses are being considered. (sic) Both the mitigation measure and condition of approval include a monitoring program to ensure that the amount of annual groundwater use under this permit is not exceeded. Any water needed above the annual 140.6 acre-foot limit would need to come from other sources or through on-site water conservation. Any other proposed water source would need to be reviewed pursuant to CEQA and county policy and code prior to its installation and use.”

9. DEIR, Vol. I, August 2013, Page 4.8-30: “If additional water sources are not available then production volume will be reduced to the extent that the water does not exceed the maximum allowable annual usage is (sic) 45.8 million gallons (140.6 acre-ft) per year.”

10. DEIR Vol. II, August 2013, Page 22: “Moisture content of three percent (3%) is used based on the assumption that materials are watered as necessary to control dust.”

11. DEIR Vol. I, August 2013, Page 3-14: “It is anticipated that the quarry would typically operate approximately 250 days per year accounting for weekends, holidays, and other breaks in the production schedule.”...“The start and end of “construction season” hours fluctuate somewhat with weather and market conditions, but the typical “construction season” is from June to November, and the typical “off season” hours are from December to May.”

A Brief Analysis of Water Sufficiency and Usage for Required Dust Control:

Note: The quarry acreage is mountainous. The topography is varied. The acreage is not on a flat plane. Also, the aggregate and waste piles are not flat. So, the actual exposed surface area requiring watering to control dust is much greater than 497 acres. On-site measurements must be made so the acreage of exposed surface can be calculated, accurately, to determine the total water usage required for prescribed dust control.

The quarry's construction season is 250 days per year spanning a six-month period from June to November. However, there are numerous days requiring water for dust control December to May. Plus, during drought periods, the construction season is extended. So, the actual number of days requiring watering will be greater than 250 days per year. For the calculations below, to be conservative, the 250 days/year value was used.

Of course, the purpose of watering is to control Syar Napa Quarry's fugitive dust pollution in order to protect human health and well being, and to maintain a healthy environment for all life. So, depending on environmental conditions and quarry activities, effective dust control may require watering more than two times/day. Because the quarry faces south and west, with constant sun and wind exposure, it is foreseeable more frequent watering will be required to achieve effective dust control, requiring a larger quantity of water usage.

1. Exposed Surface Area: One Acre = 4,046.86 Square Meters.
2. Quantity of Water Needed/Square Meter. One Liter/Square Meter = 3% Moisture.
3. One Gallon = 3.7854 Liters.
4. One Acre Foot = 325,851 Gallons.
5. Present Area of Active Mining of 870 Acres = 497 Acres of Exposed Surface.
6. Proposed Area of Active Mining of 870 Acres = 218 Acres of Exposed Surface.
7. Proposed Area of Active Mining of Pasini Parcel = 47.69 Acres of Exposed Surface.

Present Area of Active Minin (SNQ) With 497 Acres of Exposed Surface:

497 acres x 4,046.86 square meters/acre = 2,011,289.42 square meters
2,011,289.42 square meters x 1 liter/meter = 2,011,289.42 liters of water
2,011,289.42 liters divided by 3.7854 liters/gallon = 531,328.11 gallons
531,328.11 gallons divided by 325,851 gallons/acre foot = 1.63 acre feet
1.63 acre feet x 250 days/year = 407.5 acre feet/year, watering once/day
407.5 acre feet/year x 2 = 815 acre feet/year, watering twice/day

Total: 815 acre feet/250 days/year for 497 acres of exposed surface

Proposed Area of Active Mining (SNQ)With 218 Acres of Exposed Surface:

218 acres x 4,046.86 square meters/acre = 882,215.48 square meters
882,215.48 liters x 1 liter/meter = 882,215.48 liters of water required
882,215.48 liters divided by 3.7854 liters/gallon = 233,057.40 gallons
233,057.40 gallons divided by 325,851 gallons/acre foot = .715 acre feet
.751 acre feet x 250 days/year = 187.75 acre feet/year, watering once/day
187.75 acre feet/year x 2 = 375.5 acre feet/year, watering twice/day

Total: 375.5 acre feet/250 days/year for 218 acres of exposed surface

Proposed Area of Active Mining (Pasini) With 47.69 Acres of Exposed Surface:

47.69 acres x 4,046.86 square meters/acre = 192,994.75 square meters
192,994.75 liters x 1 liter/meter = 192,994.75 liters of water required
192,994.75 liters divided by 3.7854 liters/gallon = 50,983.9779 gallons
50,983.9779 gallons divided by 325,851 gallons/acre foot = .1565 acre feet
.1565 acre feet x 250 days/year = 39.125 acre feet/year, watering once/day
39.125 acre feet/year x 2 = 78.25 acre feet/year, watering twice/day

Total: 78.25 acre feet/250 days/year for 47.69 acres of exposed surface

Water Required With No Project (SNQ):

- Currently, the 497 acres of exposed surface requires 815 acre feet of water per 250 days/year to fulfill the prescribed conditions of Mitigation Measure 1, as specified in Table 5.3, above.
- The quarry's maximum allowable quantity of water is 140.6 acre feet/year for all uses including dust control and quarry operations.
- Of the 815 acre feet/250 days/year required, minus the maximum allowable of 140.6 acre feet/year, leaves a balance of 674.4 additional acre feet/year of water required.
- So the quarry has available only 17 % of the water required to fulfill the Mitigation Measure 1. The 140.6 acre feet/year maximum allowable divided by 815 acre feet/year required = only 17 % of the required water/year is available.
- Even if the quarry uses its 140.6 acre feet/year maximum quantity of water allowable for no other purpose than watering exposed surfaces, the quarry still has only 17 percent of the water required/year to fulfill Mitigation Measure 1.
- Therefore, held to account by its own terms, the quarry must reduce its production season from 250 days/year to 42.5 days/year. $17\% \times 250 \text{ days/year} = 42.5 \text{ days/year}$. Or, the quarry must reduce its production volume to 137,700 tons/year. $17\% \times 810,000 \text{ tons/year total production} = \text{a reduction in production volume to } 137,700 \text{ tons/year}$. (See quotes, number 7 and 9, above)

Water Required With Proposed Project (SNQ & Pasini):

- With the proposed project there will be 218 acres + 47.69 acres of exposed surface = 453.75 acre feet of water needed per 250 days/year to fulfill the prescribed conditions of Mitigation Measure 1, as specified in Table 5.3, above.
- The quarry's maximum allowable quantity of water is 140.6 acre feet/year for all uses including dust control and quarry operations.
- Of the 453.75 acre feet/250 days/year required, minus the maximum allowable of 140.6 acre feet/year, leaves a balance of 313.15 additional acres feet/year of water required.

- So, the quarry will have available only 45% of the water required to fulfill the Mitigation Measure 1. The 140.6 acre feet/year maximum allowable divided by 453.75 acre feet/year required = only 45% of the required water/year will be available.
- Even if the quarry uses its 140.6 acre feet/year maximum quantity of water allowable for no other purpose than watering exposed surfaces, the quarry still will have only 45% of the water required/per year to fulfill Mitigation Measure 1.
- Therefore, held to account by its own terms, the quarry will be required to reduce its production season from 250 days/year to 112.5 days/year. $45\% \times 250 \text{ days/year} = 112.5 \text{ days/year}$. Or, the quarry will need to reduce its production volume to 364,500 tons/year. $45\% \times 810,000 \text{ tons/year} = \text{a reduction in production volume to } 364,500 \text{ tons/year}$. (See quotes, number 7 and 9, above)

Obviously, Syar Napa Quarry has not been implementing the prescribed Mitigation Measures to control its fugitive dust pollution. In fact, the quarry does not have the water, equipment, and manpower available to do so, even if it wanted to. Consequently, uncontrolled, fugitive dust is being released every day the quarry is in operation. (See the attached photographs, below.) This social abuse is in violation of prescribed dust control compliance conditions, going unacknowledged and unenforced by our government officials. Overcome with confirmation bias and path dependency, the County and BAAQMD are enabling this abuse to continue, marching lockstep together with the project applicant. So, we, the public, are left to bring forth fact and identify the fundamental flaws in the EIR's content and objectivity while holding the legal line to allow truth and justice to prevail.

Fortunately, the Napa County Board of Supervisors provided enforcement provisions to fine and/or imprison the person or persons at Syar Napa Quarry responsible for violating the prescribed conditions of Mitigation Measure 1 (See Table 5.3, above): "Article VI of the Napa County Code Chapter 16.12 (surface Mining and Reclamation). This section of the code spells out the procedural requirements and penalties specific to noncompliance and or/violation of an approved SMP, County code, or the Surface Mining and Reclamation Act (SMARA)." Below are two sections of the Code pertaining to Syar Napa Quarry's daily, public nuisance violation of Mitigation Measure 1 that has been going on for over 30 years:

16.12.650 Violation-Public Nuisance.

A. *The board of supervisors hereby declares that violation of the conditions regulating the operation and reclamation of mined lands within the county is a public nuisance in that compliance with such operating and reclamation conditions is necessary to prevent substantial harm to the environment and to protect the health, safety, and general welfare of the community.*

B. *Any person violating any term or condition of an approved master mining plan after receipt of a final notice of noncompliance pursuant to Section 16.12.61 O(C) shall be guilty*

of conducting a public nuisance, and shall be guilty of a separate offense for each and every day such nuisance is maintained. (Ord. 1150 Section 2 (part), 1998)

16.12.660 Violation-Penalty.

A. Any person who operates, maintains or causes to be operated or maintained any surface mining operation which is not in conformance with the provisions of this chapter, the exploration or surface mining permit issued, or any requirement, term or condition of a master mining plan approved for the site being mined is guilty of a misdemeanor.

B. Each person violating or contributing in any way to the violation of any of the provisions of this chapter shall be deemed guilty of a separate offense for each during which such violation continues, and such violation shall be deemed to be a misdemeanor and shall be punishable therefore as provided below.

C. Any person convicted of a misdemeanor under the provisions of this section shall be punished by a fine not exceeding one thousand dollars, imprisonment in the county jail not exceeding six months, or by both. (Ord. 1150 Section 2 (part), 1998)

Due to its past and present history of continual, flagrant pollution, Syar Napa Quarry must be required to hire an independent environmental emissions control company to design and manage the quarry's emissions prevention, control, and compliance program with the authority to shut down quarry operations when emission controls are not in compliance. The long history of continual, uncontrolled dust pollution emanating from the quarry has proved neither the County, BAAQMD nor Syar Industries, Inc. are willing and/or capable of effectively implementing or complying with the prescribed Mitigation Measures 1. Currently, proper oversight is lacking.

In good conscience, the Final EIR cannot be certified, approved, or permitted until foundational, empirical data and calculations germane to this water and dust control issue are fully vetted and made available to the governmental decision makers and the public for review and comment.

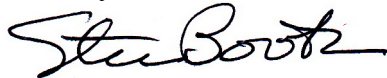
The County, the lead agency, is obligated to adhere to CEQA's prescribed procedure. It's the law. Neither the County, nor the applicant, shall be permitted to sidestep or pre-empt CEQA to get what they want driven by subjective desire. The EIR process and CEQA were designed and implemented to thwart such inappropriate, impulse-driven decision making and replace it with fact-based decision making.

If the County and the project applicant want an expeditious conclusion to this EIR process, they must be responsive and produce the fundamental, empirical data requested and required and stop obstructing and deferring. Without delay, they must get the facts out to the governmental decisions makers and the public for review and comment so factual decisions can be made without further waste of time and money.

The photographs below are typical of Syar Napa Quarry's uncontrolled, toxic dust pollution. The technology and feasible management practices exist to prevent the quarry's out-of-control, socially and environmentally abusive pollution. It would be helpful to have competent governmental oversight to compel Syar Napa Quarry to implement Mitigation Measure 1, as prescribed in Table 5.3, above.

Please enter this letter with photographs into the public/administrative record for the Syar EIR. Thank you.

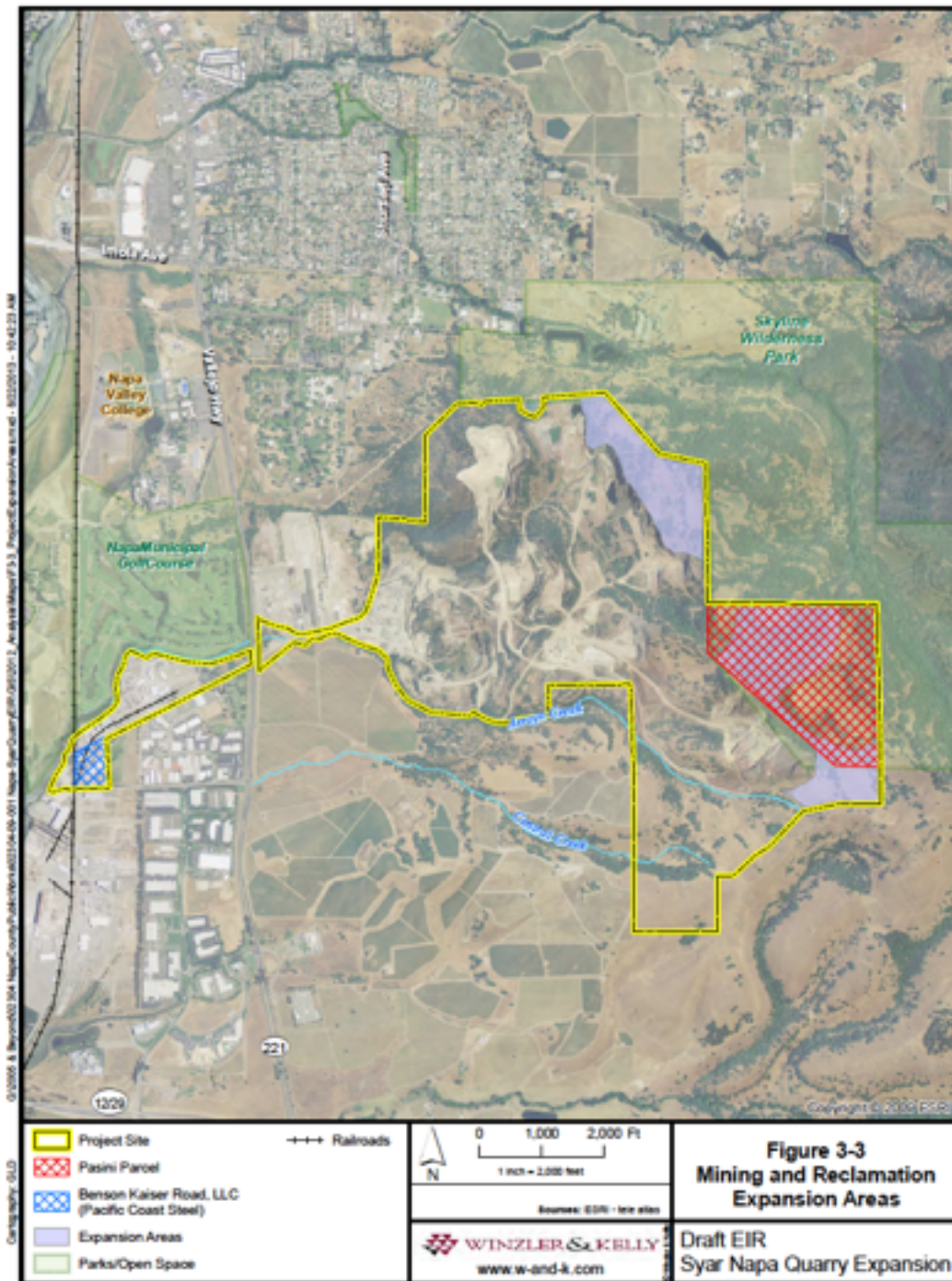
Sincerely,



Steven Booth
STOP SYAR EXPANSION
952 School Street, #297
Napa, CA 94559



October 26, 2009: This photo was taken from the River Trail behind Napa Valley College. Uncontrolled dust pollution emanating from Syar Napa Quarry is being released into the public air space.



This Map is from the Draft Environmental Impact Report showing the boundaries of Syar Napa Quarry. The red, crisscrossed area is the Pasini Parcel. Syar Industries wants to expand mining operations into the Pasini Parcel, encroaching closer to Skyline Wilderness Park. Dust must be controlled on the entire Syar Napa Quarry property.



This aerial image shows the boundaries (in yellow) of Syar Napa Quarry and the quarry's close proximity to surrounding businesses, residences, schools, and Skyline Wilderness Park. Syar Industries, Inc. proposes to expand mining into the Pasini Parcel (#3) and into areas #1 and #2. The need to expand into the Pasini Parcel has not been proved. An expansion into this area will encroach on Skyline Wilderness Park, exposing hikers, disc golfers, campers, mountain bikers, and those riding horses to toxic mining dust, emissions, and noise, ruining their recreational experience and harming their health.

See all of the exposed surfaces? These areas are required to be watered twice daily to control fugitive dust, uncontrolled toxic mining dust. This required watering is not being done in violation of the prescribed Mitigation Measure 1. (See Table 5.3 in the text of the letter above)

The white rectangular inset area in the image above pertains to the close up image on the next page.



This is a close up image of the area shown in the white rectangle of the image on the previous page. All of the exposed surface disturbed by mining and roadways are required to be watered twice daily. This is not being done. Syar Napa Quarry does not have the water, equipment, and manpower to comply with the prescribed Mitigation Measure to control its fugitive, toxic mining dust.

Also, old rusting materials and obsolete equipment are stored on the property contributing to toxic runoff after rainstorms. Is this a surface-mine or a junkyard?

There is no need to expand the mine's footprint. The mine just needs to be cleaned up, organized, and managed more efficiently. The Pasini Parcel must be left untouched by mining and, ideally, deeded to Skyline Wilderness Park to maintain a buffer between the mine and the Park.



September 8, 2015: This photograph was taken from Foster Road on the west side of the Napa Valley, facing east. This is a view from approx. 5 miles away. The uncontrolled, toxic dust pollution from Syar Napa Quarry's operations, containing significant quantities of cancer causing respirable crystalline silica (RCS), extends for square miles, blanketing the Napa Valley College, the Municipal Golf Course, Kennedy Park, Skyline Wilderness Park, Napa State Hospital, schools, pre-schools, businesses, all people traveling on Hwy.

The mountains surrounding Napa Valley trap and concentrate this toxic pollution. The Napa Valley's invasive cancer rate is 20 percent higher than the State average. Wonder why the County and Syar Industries, Inc. are doing all they can to avoid testing and monitoring of the air in the vicinity of the quarry?



September 8, 2015: This is closer view taken on the same day from the same location as the photograph on the previous page. Syar Napa Quarry's toxic dust pollution degrades the air quality of the entire Napa Valley. This is a form of public, social abuse affecting everyone living in, working in, and visiting Napa Valley.

The technology and management practices exist to prevent this uncontrolled dust pollution but are not being implemented. Governmental oversight is lacking. Syar Industries, Inc. is not being a good corporate neighbor. The health and general well being of thousands of people are being openly abused by this uncontrolled mining operation.



September 8, 2015: This photograph was taken from the middle parking lot at Kennedy Park facing northeast. At the time the photo was taken the air was quite still. But, soon after, the dust began moving north, over the large residential area, Napa State Hospital, schools, businesses, and Skyline Wilderness Park. This toxic dust fills the public air space degrading air quality and adversely affecting health of thousands of people. There is no rational justification for this blatant social abuse. This uncontrolled, toxic dust pollution is caused by a single business operation, Syar Napa Quarry.



September 9, 2015: This photograph was taken from the west side of the road across from the entrance/exit to Syar Napa Quarry, facing east. The uncontrolled, toxic dust pollution released into the air from the two trucks shown is typical. At the 9-2-15 Planning Commission Meeting, Syar representatives testified that this road dust was being controlled by use of a street sweeper. The County's EIR states the same. This photo was taken 7 days later. What is said to be the case by Syar and the County, is not what is happening in fact.



September 9, 2015: This photograph was taken from the west side of the roadway across from the entrance/exit to Syar Napa Quarry, facing south. This photo shows the uncontrolled, toxic dust pollution released into the air by a truck traveling down the merge lane to enter the traffic going south. Drivers and passengers, pedestrians and bicyclists, on the Napa-Vallejo Highway are involuntarily exposed to this toxic dust. The dust is continuously re-suspended in the air along the traffic corridor from Imola Avenue to the north and Kaiser Road to the south, and beyond. This is another example of Syar Napa Quarry's flagrant social abuse, releasing toxic dust into the public's common air space, repeatedly violating air quality standards.



March 31, 2015: This is a photograph taken along the south loop of the Kennedy Park River Trail facing southeast. The dust from around Syar Napa Quarry's sand piles, barged in from Richmond, CA, is being blown by the wind. The wind this day was coming from the east and carried this dust directly over the father and his son, and us. Syar Industries, Inc. has lax dust control management and releases vast quantities of dust into the public air space, regularly.

Public action is required to stop this social abuse because our governmental officials do not take this uncontrolled dust problem seriously.



June 12, 2015: This photograph was taken from the south loop of the River Trail in Kennedy Park. The uncontrolled dust pollution being released into the air is being generated by Syar Napa Quarry's AB Plant, where aggregate and recycled concrete is processed.

The quarry is required to control this toxic dust but refuses to do so, polluting at will, day-after-day.