

**BEFORE THE BOARD OF SUPERVISORS  
OF NAPA COUNTY**

In the Matter of:

An Appeal by Skyline Park Citizens Association, Inc. and Dorothy Glaros (hereafter Appellant Skyline Park Citizens) to (A) a decision by the Planning Commission on October 21, 2015, to certify an environmental impact report (EIR) prepared in connection with Syar Industries, Inc.'s Surface Mining Permit (SMP) to modify the mining and reclamation plan and associated quarry operations, including aggregate processing, production and sales as currently permitted under UP-128182, UP-27374, and County Agreement 2225 to allow: (1) an approximate 106-acre expansion of the current surface mining and reclamation plan for a 35 year term; (2) an increase in mining depth from approximately 300 feet and 150 feet above mean sea level (msl) to no greater than 50 feet above msl; (3) an increase in production of aggregate and aggregate-related materials from approximately 1 million tons per year (tpy) to 1.3 million tpy; and (4) add reclaimed asphalt pavement handling equipment to the existing asphalt batch plant and an increase in asphalt production up to approximately 300,000 tpy (inclusive of total annual production). This SMP replaces UP-128182, UP-27374, and County Agreement No. 2225, and brings existing and expanded mining and reclamation areas and associated quarry operations, including aggregate processing, production, and sales under one permit; and (B) a decision made by the Planning Commission on November 18, 2015, to adopt Resolution No. 2015-03 regarding the Syar Project: (1) Adopting Findings and Rejecting the Proposed Project, the No Project Alternative, and the Reduced Footprint/Conservation Alternative pursuant to the California Environmental Quality Act (CEQA); (2) Finding the Syar Modified Project Plus Area C consistent with the Napa County General Plan; (3) Adopting the Mitigation Monitoring and Reporting Program; (4) Adopting the Syar Modified Project Plus Area C; and (5) Approving Surface Mining Permit No. P08-00337-SMP. The Syar Project site is located on the east side of State Highway 221 (Napa-Vallejo Highway) at its intersection with Basalt Road east of 2301 Napa-Vallejo Highway, within the unincorporated portion of Napa County, Assessor's Parcel Numbers 045-360-005,046-370-012, -013, -015, -022, -025, 046-390-002, -

**RESOLUTION NO. 2016-153**

**FINDINGS OF FACT AND  
DECISION ON APPEAL**

WHEREAS, on or about May 7, 2008, Syar Industries, Inc. (Syar, Applicant, or Permittee) submitted an application for Surface Mining Permit No. P08-00337-SMP (SMP No. P08-00337-SMP or Permit) to the Napa County Planning, Building and Environmental Services (PBES) Department (formerly the Conservation, Development and Planning Department) requesting approval of a Surface Mining Permit (SMP) to modify the mining and reclamation plan and associated aggregate processing, production and sales as currently permitted under County Permit Nos. UP-128182, UP-27374, and County Agreement No. 2225 to allow: a) an approximate 124 acre expansion of the current surfacing mining and reclamation plan for a 35 year term; b) an increase in mining depth from approximately 300 feet and 150 feet above mean sea level (msl) to no greater than 50 feet above msl; c) an increase in production of aggregate materials from approximately 1 million tons per year to 2 million tons per year; d) add Reclaimed Asphalt Pavement (RAP) handling equipment to the existing asphalt batch plant; and e) relocate and improve portions of Skyline Trail that were originally constructed on the quarry property back onto Skyline Wilderness Park lands (the 2008 Syar Project, proposed Project or Project);

WHEREAS, the proposed Project is located on the east side of State Highway 221 (Napa-Vallejo Highway) at its intersection with Basalt Road at 2301 Napa-Vallejo Highway, within the unincorporated portion of Napa County and zoned Agricultural Watershed (AW) on parcel numbers 045-360-005, 046-370-012, -013, -015, 046-390-002, -003, and 046-450-071, and zoned Industrial (I) on parcels 046-370-022 and -025. The southern end of parcel number 045-360-005 is within the Airport Compatibility Combination District (Zone D); however, no Project activities are proposed in this area (the Project Site);

WHEREAS, in March 2009, the PBES Department assisted by planning consultant GHD (formerly Winzler & Kelly) initiated the environmental review process required by the California Environmental Quality Act (CEQA), to analyze the potential environmental impacts of the 2008 Syar Project;

WHEREAS, in June 2009, an Initial Study/Environmental Checklist was prepared to identify areas to be further discussed in an environmental impact report (EIR);

WHEREAS, on June 10, 2009, a formal Notice of Preparation of an EIR (NOP) was issued soliciting public input regarding the Draft EIR (or DEIR) for the 2008 Syar Project. The comment period ran from June 10, 2009 through July 14, 2009;

WHEREAS, on July 1, 2009, the Napa County Planning Commission (or Planning Commission) held a public scoping session, in conjunction with circulation of the NOP, to elicit additional comments from the public on the scope and content of the DEIR;

WHEREAS, during the NOP period and scoping session (June 10 through July 14, 2009) the County received over 150 comments. These comments were considered in the preparation of the DEIR;

WHEREAS, on September 23, 2009, the PBES Department held a public informational meeting on the 2008 Syar Project;

WHEREAS, the County, as lead agency, caused to be prepared a Draft EIR for the 2008 Syar Project entitled “The Syar Napa Quarry Expansion Surface Mining Permit No. P08-00337 Project (August 2013) (State Clearinghouse No. 2009062054)”;

WHEREAS, in accordance with CEQA, the Draft EIR was released for public and agency review on September 6, 2013. The public comment period ran from September 6, 2013 through December 5, 2013;

WHEREAS, on October 2, 2013, the County held two public hearings on the Draft EIR for purposes of receiving public comment: one hearing was held in the morning before the Planning Commission and one was held in the evening before the Director of the PBES Department;

WHEREAS, between the start of the public comment period on September 6, 2013, and its end on December 5, 2013, the County received 26 public and agency written comments on the Draft EIR;

WHEREAS, in accordance with CEQA, all comments received on the Draft EIR during the comment period were responded to and included in a Final EIR or FEIR. The Final EIR included the Draft EIR and comments and responses to comments on the Draft EIR and minor text changes to the Draft EIR;

WHEREAS, on November 11, 2014, in accordance with CEQA, the Final EIR (November 2014) was mailed to all commenting state and local agencies, organizations and individuals at least ten days prior to the Planning Commission’s action on the 2008 Syar Project;

WHEREAS, on November 21, 2014, notice of a public hearing on the 2008 Syar Project before the Napa County Planning Commission was mailed, published and posted in accordance with County Code Section 16.12.370;

WHEREAS, in accordance with Government Code Section 65402, the PBES Department prepared a written report for the Planning Commission’s consideration regarding implementing the 2008 Syar Project and its consistency with the Napa County General Plan;

WHEREAS, on January 7, 2015, the Commission conducted a public hearing to consider certification of the EIR and the merits of the 2008 Syar Project and associated SMP. Prior to the hearing, comments were received on the 2008 Syar Project, as well as, the adequacy of the proposed Final EIR (November 2014). During the hearing, there were several hours of testimony presented primarily by interested parties. At the conclusion of the public testimony, the Commission continued the hearing to February 18, 2015 and directed staff to: a) evaluate and respond to public comments; b) clarify potential impacts and how they were assessed; c) clarify the benefits and disadvantages of the Project alternatives identified in the EIR; d) provide a

hybrid project alternative for consideration; and e) clarify and refine proposed mitigation measures and conditions of approval;

WHEREAS, at the continued public hearing on February 18, 2015, the Commission received additional testimony and comments from interested parties on the Final EIR and 2008 Syar Project. At staff's request, the Commission continued the item to the April 1, 2015 to allow staff and the environmental consultant additional time to evaluate and respond to comments. The Commission also directed staff, at the request of interested parties, to explore the option of conducting a special meeting to allow a more convenient opportunity for the public to attend and participate in the hearing process;

WHEREAS, on March 17, 2015, in response to concerns raised by the public, Syar modified the 2008 Syar Project by: (1) reducing the proposed annual production level from 2 million tons per year to 1.3 million tons per year consistent with the Reduced Production Alternative; (2) reducing the size of the proposed expansion areas by approximately 15 acres; (3) clarifying hours of operation; (4) providing additional tree planting areas; (5) committing to provide prior notice of blasting activities; and (5) agreeing to suspend blasting during windy periods<sup>1</sup> (hereafter referred to as the Syar Modified Project);

WHEREAS, the Syar Modified Project has less environmental impacts and a smaller footprint than the 2008 Syar Project. The Syar Modified Project also incorporates and captures all of the Project features and mitigation measures contained in the Reduced Project Alternative with some operational changes and additional tree plantings;

WHEREAS, on April 1, 2015, the Commission dropped the item from its agenda so that it could be re-noticed for a special meeting in the late afternoon to allow staff adequate time to evaluate the Syar Modified Project;

WHEREAS, on August 12, 2015, the Commission conducted a special meeting to consider certification of the EIR and the merits of the proposed quarry expansion including the Syar Modified Project and associated SMP. Public notice of this meeting was mailed, posted and published on July 11, 2015. Immediately prior to the hearing, extensive comments and technical reports were received. The Commission heard and considered several hours of testimony. After listening to all comments from the Applicant, public and interested parties, the Commission continued the hearing to September 2, 2015, to allow time for staff and County consultants to review and evaluate the comments;

WHEREAS, at the continued public hearing on September 2, 2015, the Commission received additional testimony and comments from interested parties on the Final EIR and Project. At staff's request, the Commission continued the item to the October 21, 2015, Commission meeting, to allow staff and the consultants time to adequately review materials submitted and comments received;

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<sup>1</sup> Please see Syar letter dated March 17, 2015 for further details of the Syar Modified Project.

WHEREAS, pursuant to State CEQA Guidelines Section 15132, the FEIR consists of the following documents and records: the Draft EIR for the Syar Napa Quarry Expansion Project (August 2013) (State Clearinghouse No. 2009062054); the FEIR and Appendix A (November 2014), Appendix B to the FEIR (June 2015), Appendix C to the FEIR (October 2015); the following Planning Commission staff reports including attachments: January 1, February 18, August 12, and October 21, 2015; and the related planning and other County records, minutes, and files constituting the record of proceedings which is incorporated herein by this reference. The DEIR and FEIR are hereafter referred to as the FEIR or Final EIR;

WHEREAS, on October 21, 2015 at a duly noticed public hearing, the Planning Commission heard and considered all public comments including from the Applicant team, environmental consultants, public and interested parties. The Commission tentatively considered approval of the Syar Modified Project plus an additional four acre buffer area to protect the Pasini Pond, which can be viewed from Skyline Wilderness Park in Area C, which is hereafter referred to as the Syar Modified Project Plus Area C;

WHEREAS, at the October 21st meeting, after considering all comments, the Planning Commission closed the public hearing and adopted Resolution No. 2015-02 and certified the Final EIR (October 2015);

WHEREAS, on November 3, 2015, within the prescribed period, Skyline Park Citizens Association, Inc., and Dorothy Glaros (hereafter Appellant SPCA) submitted a timely Notice of Intent to Appeal the Planning Commission's adoption of Resolution No. 2015-02 certifying the Final EIR. On November 18, 2015, Appellant SPCA submitted a timely Appeal packet;

WHEREAS, on November 18, 2015, the Commission adopted Resolution No. 2015-03 which (1) Adopted Findings and Rejected the 2008 Syar Project, the No Project Alternative, and the Reduced Footprint/Conservation Alternative Pursuant to the CEQA; (2) Found the Syar Modified Project Plus Area C Consistent with the Napa County General Plan; (3) Adopted the Mitigation Monitoring and Reporting Program; (4) Adopted the Syar Modified Project Plus Area C; and (5) Approved Surface Mining Permit No. P08-00337-SMP subject to conditions of approval;

WHEREAS, on December 3, 2015, within the prescribed period, Appellant SPCA submitted a timely Notice of Intent to Appeal the Planning Commission's adoption of Resolution No. 2015-03 adopting CEQA findings and approving the Syar Modified Project Plus Area C. On December 16, 2015, Appellant SPCA submitted a timely Appeal packet;

WHEREAS, timely appeals to the Planning Commission decisions were also submitted by Stop Syar Expansion, Steven Booth, Sandra Booth, Julia Winiarski, Kathy Felch, Richard S. Blair, Susanne M. von Gymnich-Rosenberg, and David Lopez (hereafter Appellant SSE);

WHEREAS, because the two Commission actions being appealed (e.g., certification of the Final EIR and the CEQA findings and project approval) are interrelated and most of the grounds raised in the appeals overlap each other, the Chairman of the Board consolidated the

appeals. Appellant SSE, Appellant SPCA, the Applicant and Staff all supported consolidation of the appeals;

WHEREAS, in accordance with Napa County Code Section 2.88.080 (A), a hearing on all four appeals was scheduled before the Board of Supervisors (the Board) on February 9, 2016, a date at least 15 but no more than 90 days from the date of submittal of the appeals;

WHEREAS, on February 9, 2016, the Board opened the public hearing and with the concurrence of Appellant SSE, Appellant SPCA, the Applicant, and Staff, continued the public hearing to March 22, 2016, to accommodate all parties' schedules;

WHEREAS, on March 22, 2016, at the continued public hearing, the Board heard and considered the Staff report including a presentation from GHD and the presentation from Appellant SSE. Because of the length of the presentations, the Board continued the hearing to April 26<sup>th</sup>;

WHEREAS, on April 26, 2016, at the continued public hearing, the Board heard and considered the presentation from Appellant SPCA, comments from the public and a portion of Applicant Syar's presentation. Because of the length of the presentations, the Board continued the hearing to May 10<sup>th</sup> for the sole purpose of setting and announcing a future meeting date for the continued hearing because a consensus on the future meeting date could not be reached during the April 26<sup>th</sup> hearing;

WHEREAS, on May 10, 2016, at the continued public hearing, the Board, in agreement with Appellant SSE, Appellant SPCA, Applicant and Staff continued the hearing to a special meeting on July 11, 2016 so as to hear Applicant Syar's remaining presentation rebuttal from both Appellants and conducted deliberations;

WHEREAS, on July 11, 2016, the Board heard and considered the remainder of Applicant Syar's presentation and rebuttal from both Appellants. In addition, because a report was recently prepared and released by the Cancer Registry of Greater California entitled "Findings from the Napa County Cancer Concern Evaluation" dated June 1, 2016, (the Cancer Report), the Board invited members of the public to comment on the Cancer Report even though it did not contradict the findings contained in the EIR and did not rise to the level of being significant new information under CEQA Guidelines Section 15088.5. No members of the public commented on the Report. After considering all comments, the Board closed the public hearing, deliberated, and adopted a motion of intent to: (1) deny Appellant SSE's appeal dated November 18, 2015, seeking to decertify the EIR; (2) deny Appellant SSE's appeal dated December 4, 2015, requesting that the CEQA findings and Planning Commission's approval of the Syar Modified Project Plus Area C be vacated; (3) deny Appellant SPCA's appeal dated November 18, 2015, seeking to decertify the EIR; (4) deny Appellant SPCA's appeal dated December 16, 2015, requesting that the CEQA findings and Planning Commission's approval of the Syar Modified Project Plus Area C be vacated; (5) certify the EIR; (6) adopt a resolution making CEQA findings and upholding the Planning Commission's approval of the Syar Modified Project Plus Area C subject to modified conditions of approval;

WHEREAS, the Board further directed Staff to return on October 18, 2016, with documents consistent with the Board's expressed intent;

WHEREAS, this proposed Resolution containing the Findings of Fact and Decision on Appeal having been presented to the Board for possible adoption at a regular meeting of the Board on October 18, 2016, and interested persons having been given an opportunity to address the Board regarding this proposed Resolution;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors finds, determines, concludes and decides as follows:

**Section 1. Recitals.**

The Board hereby finds and determines that the foregoing recitals are true and correct.

**Section 2. Conduct of Appeal.**

A. Section 2.88.090 (B) provides that if the hearing before the approving authority was recorded electronically or by a certified court reporter then upon request by the Appellant or any interested party and upon a showing of good cause, the Board may permit additional evidence to be presented which could have been presented at the time of the decision appealed from was made, but was not.

B. Because of a software malfunction, there is no recording of the October 21, 2015 Planning Commission's final hearing regarding the Syar Project. Pursuant to Napa County Code Section 2.88.090 (A), if the hearing held before the approving authority (e.g., Planning Commission) was not recorded electronically or by a certified court reporter, the hearing on the appeal shall be de novo. Although the public hearings before the Commission on October 2, 2013, January 7, 2015, February 18, 2015, April 1, 2015, August 12, 2015, September 2, 2015, and November 18, 2015 were recorded and transcripts were made available to the Board and the public, the final hearing on October 21st was not recorded. As a result, the Chairman of the Board determined that the appeal hearing would be held de novo. Appellant SPCA and Appellant SSE concurred with the Chairman's decision to conduct the hearing de novo.

**Section 3. Findings of Fact and Conclusions of Law on Appeal.**

The Board hereby makes the following findings of fact and conclusions of law concerning each of the grounds for appeal as stated by Appellant in its Appeal.

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**PART I: APPELLANT SPCA'S STATED BASIS FOR APPEAL TO PLANNING COMMISSION'S OCTOBER 21, 2015 DECISION TO CERTIFY THE EIR.**

**A. First Ground of Appeal.**

**Appellant's Position:** Appellant SPCA asserts that due to the lack of a record of Planning Commission hearing on October 21, 2015, the Planning Commission decision violates applicable law and Board must conduct a de novo hearing of the appeal.

**Findings and Decision:** The Board finds and determines that the lack of a single video and transcript for one of numerous Commission hearing does not violate applicable law. Notwithstanding, the Board conducted the appeal hearing on a de novo basis. The County provided the parties with sufficient notice that the appeal hearing would be de novo at a pre-hearing conference.

**Citations:** Napa County, Staff Report to Planning Commission on Project (Nov. 18, 2015).

**Conclusions:**

For the foregoing reasons, the Board denies the first ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A."

**B. Second Ground of Appeal.**

**Appellant's Position:** Appellant SPCA contends that a Revised or Supplemental EIR should be conducted and recirculated to evaluate the potential environmental impacts of the Project in light of the State's October 22, 2015 application to Rezone the Skyline Park property, removing the Skyline Wilderness Park Combination District.

**Findings and Decision.**

The Board finds and determines as follows:

CEQA Guidelines Section 15125(a) requires that an EIR include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation (NOP) is published. The CEQA Guidelines also specify that this description of the physical environmental conditions normally serve as the baseline physical conditions by which a lead agency determines whether impacts of a project are considered significant.

The NOP for the Project was published in June 2009. As noted above, the County did not learn of the State's rezone request until October 2015 which was more than 6 years after the Syar NOP was published and therefore it was not a reasonably foreseeable project that required evaluation in the EIR. A proposal that has not crystalized to the point that it would be reasonable and practical to evaluate its cumulative impacts need not be treated as a probable future project.

*(City of Maywood v. Los Angeles Unified School Dist. (2012) 208 Cal.App.4th 362.)* An EIR's discussion of cumulative impacts need not provide the same level of detail as provided for project-specific effects. (CEQA Guidelines Section 15130(b).)

The State's application is wholly independent of the Project. The Project does not affect the zoning of Skyline Park and the rezoning, if approved would not affect the Project. No mining activities currently occur or are proposed to take place within Skyline Park. Regardless of the State's application for rezoning, surface mining is allowed with the approval of a surface mining permit. (Napa County Code Section 18.120.010(B)(3).) Neither the State's application nor the Project does anything to change this fact and therefore, the submittal of the State's application 7 years after the Project application was submitted to the County does not rise to a substantial change, new information of substantial importance, or significant new information requiring the preparation of a Supplemental EIR or recirculation of the Draft EIR. (CEQA Guidelines Sections 15088.5, 15162 and 15163.) This determination is based on the fact that removal of the Skyline Wilderness Park Combination District overlay, if approved by the County, would not in itself change the use of Skyline Park or the terms of the lease with the State. Further, the Appellant SPCA identified no environmental impacts caused by the Project that would result from such a change in zoning if it was approved. Without evidence of a new significant impact or substantial increase in the severity of an environmental impact caused by the Project or new mitigation measure that would result from the rezoning, recirculation of the Draft EIR or preparation of a Supplemental EIR is not required.

Further, none of the Project parcels are zoned AW:SWP. The parcels within the Syar holding have the following General Plan Designations: Parcels 045-360-005, 046-370-012, -013, -015, 046-390-002, -003, Agriculture, Watershed and Open Space (AWOS); Parcel 046-370-022 Industrial (I); Parcel 046-370-025 AWOS and I; Parcel 046-450-071 AWOS and Public-Institutional (PI). The Skyline Wilderness Park Combination District overlay zone (SWP Overlay) is specific to the following six Assessor's Parcel Numbers: 046-450-042, 046-390-001, 045-350-002, 045-360-001, 046-380-001, and portions of 046-450-041. Contrary to the claims of the Appellant SSE, no Syar parcels are within the SWP Overlay.

**Citations:** Staff Report to Planning Commission on General Plan & Zoning Designation (Aug. 4, 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan, Section 1 (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and July 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the second ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A."

### C. Third Ground of Appeal.

**Appellant's Position:** Appellant SPCA claims the EIR erroneously concludes that the project is consistent with the General Plan and Zoning and fails to identify General Plan and Zoning inconsistencies, related environmental impacts and mitigation measures.

#### **Findings and Decision.**

The Board finds and determines as follows:

The general plan and zoning consistency analysis in the EIR is for informational purposes only and to disclose potential conflicts. (CEQA Guidelines Section 15125(d).) It is not binding on the Commission or the Board which are the bodies charged by law with interpreting the County's land use policies and rendering the final determination on a project's consistency or lack thereof. (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 668.) Accordingly, even if such conflicts existed, which as discussed herein they do not, CEQA does not require evaluation of mitigation measures to address such potential conflicts.

The General Plan policies contemplate and encourage mining and the long-term production of aggregate resources. The Project site's current land use and zoning designations allow mining, and neither a general plan land use re-designation nor a rezoning of the property is necessary to accommodate the project. Furthermore, the project site, and portions thereof, are also mapped or classified by 1) the State Geologist as Resource Sector H, Mineral Resource Zone MRZ-2 (a), which indicates that significant deposits are present, and 2) the County Land Use Map as a Mineral Resource (MR) area, which is applied to known mineral resources based on mapping prepared by the State of California. These MR designations further reinforce that mining within the Project land use and zoning designations is a contemplated and allowed use under the existing General Plan policies.

The zoning code allows aggregate mining and processing activities on the Project site with a surface mining permit. The Project site has "AW," "AW:AC," and "I" zoning designations and pursuant to the Napa County Code Section 18.120.010(B)(3): "the commercial excavation or extraction of natural materials may be permitted in any zoning district upon the granting of a use permit [surface mining permit]." In addition, County Code Section 18.108.050(P) exempts earthmoving activities associated with mining and mining-related activities conducted pursuant to and in compliance with an approved surface mining and reclamation permit pursuant to Chapter 16.12. Therefore, surface mining operations including the proposed expansion of mining and reclamation activities of the project is allowed pursuant to the zoning code.

The Board examined all of the relevant General Plan policies and the Board considered and based their decision on their own judgment and interpretation of those policies. It is well established that the Board has considerable discretion in interpreting their own General Plan.

**Citations:** Draft EIR Vol. 1, Section 4.0, 4.2, 4.9 (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Napa County, Staff Report to Planning Commission on General Plan & Zoning Designation (Aug. 4, 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan, Section 1 (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and July 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the third ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

**D. Fourth Ground of Appeal.**

**Appellant's Position:** Appellant SPCA states the EIR fails to identify an adequate water supply to serve the Project at approved levels, fails to evaluate the environmental impacts of reasonably foreseeable means whereby the Project's existing water supply can and will need to be supplemented to sustain those production levels, and fails to adequately protect groundwater resources in the MST groundwater deficient area.

**Findings and Decision.**

The Board finds and determines as follows:

Water is used at the Napa Quarry for several purposes including dust suppression (roads, stock piles, and process equipment), material washing (sand and gravel), and minor utility uses at the site offices (bathrooms). The sources for this water include groundwater extraction from one well and surface water pumping from onsite ponds located in the MST groundwater deficient area. An additional well that is used by the Napa Quarry is located outside of the MST groundwater deficient area but conservatively was determined to be close enough that it was treated as hydrologically connected to the MST for purpose of the impact assumptions.

Estimates of existing and future groundwater extraction rates were based on the available data derived from several sources, as cited in the Draft EIR, including well meter readings and truck counts for water suppression. The Syar Napa Quarry Water Supply Assessment found in the Draft EIR, Appendix K describes the development of the baseline conditions water demand and the Project future water demand. Existing usage under baseline conditions is approximately 140.6 acre-ft per year. The Draft EIR evaluated water supply demands for production levels of up to 2 million tons per year (approximately 700,000 tons per year more than the level ultimately approved by the Commission) and determined that an additional 50-acre feet of water would be used at the full production of 2 million tons per year. The Draft EIR concluded that any increase above the baseline water use of 140.6 acre-feet per year, including groundwater pumping and

pumping from open water bodies would constitute an increased demand on groundwater resources that would result in a potentially significant impact. In order to mitigate this potential impact the Draft EIR required that no additional groundwater be utilized by the Project and that the maximum allowable annual groundwater usage for all quarry operations and associated activities shall not exceed the baseline water use of 140.6 acre-feet. Due to the fact that increased production would require either additional water or more efficient use of the existing baseline maximum, the mitigation measure also included provisions for accommodating additional water demands with a combination of water reuse, new water sources or water conservation methods, including gravel and surfactant application to roadways and production areas to reduce dust generation and the need for dust suppression by water application.

The Draft EIR also discussed the reuse of sand wash water rather than allowing the water to drain off as surface water or to allow it to evaporate in shallow ponds that have low infiltration benefit. However, the Draft EIR also stated that if additional water is required for the Project, the additional water will be obtained from off-site sources such as new wells outside of the MST. It went on to explain that off-site sources of recycled water are available and water can be purchased from public or private sources. The mitigation measure and conditions of approval before the Planning Commission and Board of Supervisors also require that if additional sources of water were needed, that such use would require a modification of the surface mining permit and be subject to additional environmental review by the County. 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 of 140.6 acre-feet. The mitigation measure also required strict monitoring and reporting of groundwater use. (Draft EIR, Impact and Mitigation Measure 4.8-4.)

In response to the Appellant SPCA's concerns regarding the Draft EIR's evaluation of the environmental impacts associated with the mitigation measure's allowance for the potential use of alternative water sources located outside of the MST (conditioned on additional environmental review and use permit modification), the Applicant proposed a modified mitigation measure in correspondence dated April 25, 2016 and June 30, 2016 that deleted the provision that allowed for the use of additional offsite sources of groundwater. The Applicant determined it could feasibly achieve the reduced maximum annual production rate of 1.3 million tons without exceeding baseline water use via water conservation technologies, as discussed in the Draft EIR mitigation measures, Water Availability Analysis, and Air Quality Analysis. The water conservation technologies include graveling or paving roads, using surfactants, reusing wash water, and other methods that reduce the use of water for dust suppression. The Applicant and County EIR Consultant provided evidence regarding the feasibility of achieving full production within the maximum water use limitations. The Applicant's evidence of feasibility was focused on the use of surfactants on heavy traffic areas due to the readily available information regarding its effectiveness in reducing water demand. In practice, the Applicant would use numerous technologies to increase water use efficiency and make adjustments based on monitoring data to achieve compliance with the maximum allowable groundwater use of 140.6 acre-feet per year.

In response to the Applicant agreeing not to exceed its baseline water use via increased efficiencies and water conservation, the Appellant's raised concerns that the use of such technologies, like surfactants on road surfaces was a change in the mitigation measure or new

information that would require additional environmental review. The Board received evidence from both the Applicant and Appellants and heard testimony from the County EIR Consultant. The County EIR Consultant stated that the EIR already considered the use of surfactants and other technologies in the project's Water Availability Analysis and Air Quality Modeling and that such use was consistent with the proposed mitigation measures. Notably, under Mitigation Measure 4.3-2B, the Applicant may only use dust suppressants that the California Water Quality Control Board, the California Air Resources Board and the United State Environmental Protection Agency has approved. While some types of surfactants could have environmental impacts, the EIR Consultant stated that many surfactants were composed of nontoxic plant material and do not result in any impacts. The Board also heard from County staff that environmentally friendly surfactants were in common use throughout the Napa Valley in agricultural areas. Further, the Project's Industrial Storm Water Permit monitors water quality impacts and would effectively address any possible impacts. The EIR Consultant also clarified that the use of surfactants was not new information since the use of surfactants was expressly provided for in air quality mitigation and discussed in the Draft EIR and its appendices.

In response, the Board of Supervisors directed staff to clarify in the mitigation measures, consistent with the analysis in the Draft EIR, that only non-toxic surfactants would be allowed and Applicant's commitment to water conservation measures as follows (new text shown as underlined and deletions shown as strike-through):

**Mitigation Measure 4.8-4: Avoid depleting groundwater supplies by water reuse, ~~and obtaining new supplies of additional water for operations.~~**

No additional groundwater from existing sources is available to accommodate the additional water demand of the proposed Project. The Permittee's maximum allowable annual groundwater usage for all quarry operation and associated activities shall not exceed 45.8 million gallons (or 140.6 acre-ft) per year. This mitigation measure includes metering to verify that demands upon water resources are not exceeded. This mitigation measure also includes accommodating any additional water demands with a combination of water reuse, ~~new water sources~~ or water conservation methods.

In order to document the use of the existing water sources, the Permittee shall continuously monitor, meter and maintain records of all water use at the Quarry site. The Permittee shall review the monitoring data on a monthly basis to confirm the status of its annual water use. The total of groundwater/surface water used for quarry operations shall be totaled and reported monthly to the County. These monitored sources shall include:

1. Groundwater from the Quarry Well and Latour Well, or any other existing groundwater well related to the project that could have a similar impact (i.e. Well #4 ~~and/or the Latour Court well~~);
2. Water collected from open water bodies in contact with the regional groundwater potentiometric elevation (as identified in Mitigation Measures 4.8-2 and 4.8-3); and/ or
3. Impounded surface water that would otherwise infiltrate to groundwater.

Monitoring reports required by this measure shall be submitted to the County within 312 months of approval of this permit and shall also be included within the Annual Groundwater Elevation Monitoring and Use Report required pursuant to Mitigation Measure 4.8-2. Additionally, reports required by this mitigation measure shall also be included in the Annual Compliance Report required by Condition of Approval #2L, and as requested by the County to demonstrate compliance.

~~If new wells are installed and/or if any existing wells, (i.e. Well #4) are brought into production due to the Quarry Well or Latour Well becoming inactive due to necessary repairs or other circumstances. The extraction from these wells shall be included in the annual usage total that is not to exceed 140.6 acre-ft. The total of groundwater/surface water used for quarry operations shall be totaled and reported monthly to the County. Any nNew groundwater well(s) shall not be drilled pursuant to this permit, subject to additional environmental review pursuant to CEQA and modification of this surface mining permit. All consumptive use of groundwater shall not exceed 140.6 acre-ft per year.~~

On-site water that is used which can be used non-consumptively such as a controlled process where the water is used for sand washing and then recharged to the groundwater through a detention basin would not be included in the total of water used for the Quarry if it can be demonstrated through monitoring and reporting as part of the annual water usage report that it is recharged to groundwater.

The Permittee shall also off-set additional water demands by reusing water and increasing processing efficiencies. This could include gravel, pavement, and surfactant application to roadways and production areas to reduce dust generation and the need for dust suppression by water application, as discussed in Mitigation Measure 4.3-2b and Draft EIR, Appendix J. It could also include process revisions to increase efficiencies and reuse sand wash water rather than allow the water to drain off as surface water or to allow it to evaporate in shallow ponds that have low infiltration benefit.

~~This permit does not authorize the consumptive use of water for any source in excess of 140.6 acre-ft per year, regardless if obtained from outside the MST. If additional water is required for the Project, the additional water shall be obtained from offsite 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 the Permittee shall reduce its production volume to a level that the water use does not exceed the maximum allowable annual usage of 45.8 million gallons (140.6 acre feet) per year. Any new or additional water sources for Quarry operations shall subject to additional environmental review pursuant to CEQA and modification of this surface mining permit.~~

The County Engineering and Conservation Division shall monitor this requirement. Compliance of this measure shall be subject to Article VI (Enforcement) of Napa County Code Chapter 16.12 (Surface Mining and Reclamation).

**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.** The Applicant shall maintain existing volumes of groundwater recharge and shall ensure that a vertical buffer of undisturbed native soil/rock remains in place which maintains the final grade elevation no closer than ten (10) feet above the spring season regional groundwater potentiometric elevation. The Applicant shall not excavate and/or mine material within ten (10) feet of the regional groundwater potentiometric surface to prevent the creation or expansions of open water bodies subject to evaporation or springs which can drain regional groundwater to surface drainages or creeks.

To avoid depleting groundwater supplies in all mined areas within the Syar Napa Quarry the grade of the excavation shall be maintained at a minimum of ten (10) feet above the elevation of the regional groundwater potentiometric elevation. This mitigation will preclude regional groundwater from discharging as surface water. To ensure that groundwater infiltration/recharge volumes are maintained, pre-Project (baseline) infiltration volumes shall be compared with Project groundwater infiltration volumes. If there is a deficit, BMPs shall be adjusted or consumptive use of water shall be curtailed until groundwater recharge volumes are greater than or equal to pre-Project volumes. Pre-Project infiltration volumes were calculated at 685 acre-feet in the Arroyo Creek watershed/drainage and 442 acre-feet in the State Blue watershed/drainage, totaling 1,067 acre-feet.

For the upper reaches of the site, this mitigation measure shall be achieved through a combination of BMPs that entail: managing recharge areas (or detention/infiltration ponds) so that pre-Project (baseline) groundwater infiltration volumes are maintained, limiting the depths of excavation and or mining to ten (10) feet above the regional groundwater table and, limiting the depths of excavation and or mining near Arroyo Creek so as not to change the flow path of the creek.

For the lower reaches of the site (and any offsite interactions), this mitigation measure shall be achieved by maintaining pre-Project flow conditions in Arroyo Creek. These conditions include the flow rates, timing of peak runoff, and volume of water in the creek. This mitigation measure requires the monitoring of stream flow in the lower reach of Arroyo Creek. Impacts to the amount of water and timing of peak flows entering the creek are managed through the use of surface grading, surface cover, and detention basins.

It is expected that the actual elevation of regional groundwater potentiometric elevation will vary from the estimates provided in DEIR Figure 4.8-6. Adherence with this mitigation measure requires accurate and contemporary understanding of the regional groundwater potentiometric elevation under the Syar Napa Quarry to avoid excavating into the 10 foot vertical buffer zone. To accomplish this and to obtain the data necessary to comply with this mitigation measure, the Applicant shall provide the County with an Annual Groundwater Elevation Monitoring and Use Report, prepared under the direction of a qualified Professional Engineer or Professional Geologist (at the Applicant's expense), that quantifies the groundwater potentiometric elevations during spring of each year (when groundwater elevations are expected to be highest at the Syar Napa Quarry) and through the following means:

1. The Applicant shall monitor stream flow and pond elevation throughout every year the quarry is in operation. This information, along with publicly available climactic data, shall be used to calculate the groundwater infiltration volumes quarterly, in a manner consistent with Appendix J of the DEIR. The results of the monitoring and water balance infiltration analysis shall be provided to the County quarterly and be included in the Annual Groundwater Elevation Monitoring and Use Report.

2. The Applicant shall install piezometers or monitoring wells as required to quantify the regional groundwater potentiometric elevation in areas of active mining prior to any mining excavation that will cause an increase in mining depth beyond existing conditions and/or is likely to extend to within 50 feet of the groundwater elevations presented on Figure 4.8-6. The results of groundwater potentiometric elevation monitoring shall be provided to the County quarterly and be included in the Annual Groundwater Elevation Monitoring and Use Report which is required by this mitigation measure. All excavation activity at the Syar Napa Quarry shall be conducted to maintain a 10 foot separation of undisturbed native soil/rock between the finished grade and the underlying groundwater potentiometric elevation as determined by the most recent Annual Groundwater Elevation Monitoring and Use Report. Increased mining depth in areas that are already at or below the groundwater potentiometric elevation, including but not limited to the State Blue Pit, shall not occur.

3. To determine the location, number, and timing of piezometer or monitoring well installations that are necessary to accurately determine the groundwater potentiometric elevation in areas of active mining, the Applicant shall provide a monitoring piezometer/well plan prepared by a qualified Professional Engineer, Professional Geologist, or Professional Hydrogeologist to the County for review and approval prior to commencing any mining activities that would increase the depth of mining beyond existing conditions. The monitoring piezometer/well plan shall also be included in the Annual Groundwater Elevation Monitoring and Use Report.

4. To avoid interfering with the groundwater recharge mechanisms, the Applicant shall also ensure that any subsurface flow in fractures or soil that is exposed or intercepted by the excavation shall be reinfiltred within the same watershed boundaries. Any surface water that is not the direct result of surface water runoff during rain events shall be infiltrated or directed to areas that provide groundwater infiltration onsite (such as Project detention ponds/basins) and within the same watershed and as depicted on Figure 4.8-10 of the DEIR. Surface water which is the direct result of rain events shall be infiltrated to groundwater or directed to the existing channels. Spring season monitoring shall be conducted by the Applicant concurrent with SWPPP monitoring (required by Mitigation Measure 4.8-1) to verify that springs and subsurface flow exposed as a result of mining activities is infiltrated back into the subsurface before reaching the surface flow channels. If persistent springs are formed by mining activities the Applicant shall hire a qualified professional (at the Applicant's expense) to assess springs and provide an evaluation to the County to determine if the elevation of these springs is part of the regional groundwater potentiometric surface; if so, mining shall not advance further below this elevation.

5. ~~While no direct groundwater extraction has been proposed or approved in the Arroyo Creek vicinity, e~~Existing Well No. 4 could be activated for groundwater extraction. ~~or an additional well could be installed.~~ The extraction of groundwater from Well No. 4 ~~or from any~~

~~additional well at the Project Site, including in the Arroyo Creek vicinity,~~ shall be subject to the maximum groundwater extraction limitation of 140.6 acre-feet per year pursuant to Mitigation Measure 4.4-8 and COA Nos. 2(D) and 11 (V).

Any monitoring reports, including annual documentation of groundwater infiltration/recharge volumes and mining elevations in relation to the estimated regional groundwater potentiometric elevations (presented in DEIR Figure 4.8-6), and documentation of any exploratory borings and/or monitoring wells required to be installed or that have been installed, shall be submitted within 12 months of approval of the Project and shall be included within the Annual Groundwater Elevation Monitoring and Use Report required by this measure. Additionally, any documentation required by this mitigation measure shall also be included in the Annual Compliance Report required by COA No. 2(L), or as requested by the County to demonstrate compliance.

**Mitigation Measure 4.3-2b: Reduce Fugitive Dust (PM<sub>10</sub> and PM<sub>2.5</sub>):**

Any time production of 810,363 tons (i.e. the Baseline condition) has been achieved within the previous 12-month period, the Permittee shall demonstrate that PM<sub>10</sub> and PM<sub>2.5</sub> emissions have not increased above baseline levels. If the County finds that PM<sub>10</sub> or PM<sub>2.5</sub> emissions have increased then monthly production shall be scaled back immediately to the level that will reduce the rolling 12-month PM<sub>10</sub> and/or PM<sub>2.5</sub> emissions to less than baseline level within two months. Reduced production levels that result in emission compliance shall be maintained as long as necessary until the Permittee provides documentation demonstrating that increased production levels would result in no increase of PM<sub>10</sub> and PM<sub>2.5</sub> emissions above baseline levels. The Permittee shall reduce PM<sub>10</sub> and PM<sub>2.5</sub> through compliance with Items 1 through 4 below, and one or more of the methods listed in 5 through 6, below:

1. The Permittee shall clean internal paved roads daily using a particulate matter efficient street sweeper.
2. Blasting shall be prohibited during high wind conditions. High wind conditions means when two-minute average wind speed exceeds 20 miles per hour as measured using the methods described by South Coast Air Quality Management District in Attachment A to the Rule 403 Implementation Handbook.
3. The Permittee shall apply water to blast sites where and when feasible prior to detonation.
4. The Permittee shall limit speeds on unpaved areas to less than 15 MPH.
5. The Permittee shall maintain chemical dust suppressant, or equivalent dust suppressant that achieves similar control, on the unpaved road surfaces, as described in the manufacturer's specifications. Materials used for chemical dust suppressant shall include any non-toxic chemical or organic dust suppressant or stabilizer and shall not violate State Water Quality Control Board standards. Materials accepted by the California Air Resources Board and the U.S. EPA, and which meet State water quality standards shall

be considered acceptable. The Permittee shall maintain records on dust suppressant use and any other supporting documentation to verify compliance with the conditions above. Such records shall include type of control measure(s) used, location and extent of coverage, date of use, amount, and frequency of application, including product information sheets that identify the name of the dust suppressant(s) and application instructions. Records shall be maintained for five (5) years, and shall be submitted to the PBES Department annually, as required by COA No. 2(L).

6. The Permittee shall reduce on-site emissions by some other means (e.g. surface moisture content performance standard, watering frequency, installing or utilizing water spray systems), or electrifying processes that require off-road equipment (such as automated load-out conveyor systems to reduce haul truck emissions). Stationary source emissions of particulates can be reduced by: installing baghouses to aggregate processing equipment; installing bags with higher removal efficiencies in existing baghouses (such as the asphalt plants); installing scrubbers; or, installing water spray systems.

The effectiveness of this measure shall be demonstrated to the County by submittal of an Emissions Calculations report that has been prepared by a qualified professional (at the expense of the Permittee). The Emissions Calculations report shall be submitted to the County for review in the Annual Compliance Report required by Condition of Approval #2L, or as requested by the County to demonstrate compliance. As necessary the County will either hire a consultant (at the operator's/permittee's expense) or enlist the BAAQMD to assess compliance.

**Citations:** Draft EIR, Sections 2, 4 (Nov. 2014); Final EIR, Appendix B, Sections 2, 6 (Jun. 2015); Final EIR, Appendix C, Section 2 (Oct. 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); GHD, Presentation to Board of Supervisors on Hydrology (Mar. 22, 2016); GHD, Memorandum to Board of Supervisors on Appeal Hearing Response to Comments, pp. 20-23 (Jul. 1, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, p. 5-6 (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016); Thomas S. Adams, Letter to Deputy County Counsel Laura Anderson on Groundwater Mitigation (Jun. 30, 2016); GHD, Presentation to Board of Supervisors on Groundwater Mitigation & Use of Surfactants (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Jul. 11, 2016).

### **Conclusions:**

For the foregoing reasons, the Board denies the fourth ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

## **E. Fifth Ground of Appeal.**

**Appellant's Position:** Appellant SPCA contends that the EIR fails to identify significant Aesthetic and Recreational Impacts caused by mining of the Pasini Knoll and fails to propose mitigation measures, such as, timely reclamation and permanent 100 foot buffers along the entire park boundary.

### **Findings and Decision.**

The Board finds and determines as follows:

#### *Regarding Aesthetic Impacts:*

The EIR adequately evaluated the visual character of the Project site and vicinity, as well as the potential impact to visual resources that could result due to the Project. It is important to note that the Project includes expansion of existing quarrying operations that have been occurring at the Syar Napa Quarry site since the 1800s. As such, the existing quarry is already visible from multiple geographic orientations throughout the vicinity primarily from the west and southwest, including from portions of Skyline Park. These conditions represent the baseline from which the County measured impacts.

Under the Project, the Applicant will retain existing Oak woodland, grassland, and chamise (that Syar could have mined under current entitlements), which block views of the quarry. Retaining these “no mining areas” and topographic features and vegetation located immediately west of the Pasini Knoll will provide visual relief and screening of the quarry. Additionally, the Applicant will plant oak trees in the exclusion areas around Pasini Knoll in those areas where Skyline Park trail users would have new views of Project activities from the existing trail. It should also be noted those areas are located on Syar's property, not on Skyline Park property. In the remaining one area where trail users will have new views of quarry operations looking west onto Syar property, the impacts have been determined to be less than significant based on the fact that it is only one location out of over 25 miles of trail and the existing visual character of the Park includes both natural and developed landscapes, including existing views of the quarry. For example, visitors to the Park have views of the City of Napa, the State Hospital, agriculture, existing mining, and regional highways. Further, the trail in this location is also located on Syar's property and after the completion of mining the area will be replanted with native vegetation as part of reclamation.

The permit setbacks and exclusion areas, which range from 50 to in excess of 500 feet around the perimeter of the quarry property, will also limit any aesthetic impacts. Syar will continue to employ several strategies to minimize visual impacts, such as implementing vegetative screening of exposed quarry walls and directional quarrying. While the Project could modify views of the site based on existing conditions, the Project completion would not substantially degrade the existing visual character or quality of the site and its surroundings given the existing visual characteristics of the immediate area including existing quarry faces and operations.

The Draft EIR included 231 GIS modeled viewpoints and 12 viewpoints with photo simulations in support of its analysis concluding that the Project results in no significant aesthetic impacts. However, based on comments received from the public regarding aesthetic impacts in the Imola Avenue area a 13<sup>th</sup> photo simulation was prepared and the Applicant voluntarily reduced the Project footprint to further address this impact.

**Citations:** Draft EIR Vol. 1, Sections 4.1, Appendix F (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Final EIR, Appendix B, Sections 2, 3 (Jun. 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan, Section 4 (Nov. 9, 2015); Syar Industries, Letter to County Staff on Reduced Project (Mar. 17, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); James Alcorn, GHD, Presentation to Board of Supervisors on Aesthetics (Mar. 22, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016).

*Regarding Recreational Impacts:*

The EIR adequately evaluated impacts to recreational facilities. Pursuant to CEQA Guidelines, Appendix G, the project would not cause an increase in the use of the Park or any other recreational facility or require the construction or expansion of recreational facilities. This is the correct CEQA analysis, impacts to Skyline Park were not ignored but rather addressed in each of the resource specific sections of the EIR, that is Aesthetics, Noise, Air Quality, etc. In each of these sections of the Draft EIR, Skyline Park and its users were appropriately identified as sensitive receptors and evaluated accordingly.

The Project establishes a buffer area on the quarry side of the property boundary anywhere from 50 feet to in excess of 500 feet depending on the location. This buffer helps to maintain users' recreational experience in the Park, even as future quarrying operations approach the Park boundary. While there are trails that encroach onto Syar's property, there will be no change to the configuration of those trails and trail users will be permitted by the public under a license granted by Syar. Further, mitigation measures were modified and strengthened to further reduce already less than significant air quality, noise and aesthetic impacts to Park users.

**Citations:** Draft EIR Vol. 1, Sections 4.1, 4.3, 4.11, 4.14 (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Final EIR, Appendix B, Sections 2, 3 (Jun. 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan, Section 4 (Nov. 9, 2015); Syar Industries, Letter to County Staff on Reduced Project (Mar. 17, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); James Alcorn, GHD, Presentation to Board of Supervisors on Aesthetics (Mar. 22, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016).

## **Conclusions:**

For the foregoing reasons, the Board denies the fifth ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

### **F. Sixth Ground of Appeal.**

**Appellant's Position:** Appellant SPCA alleges that the grant of the license to the County is infeasible and inadequate mitigation because it diminishes the rights of the public in those trails, which have already been permanently deducted for public benefit and use, or are protected as prescriptive easements.

## **Findings and Decision.**

The Board finds and determines as follows:

Syar voluntarily proposed the license agreement as part of the Project; it was not a mitigation measure. Currently Skyline Park trail users have not established any legal access rights over those portions of the trail that encroach onto Syar's property. The grant of a license to Skyline Park preserves the existing trails currently located on Syar's property and allows public access to those trails through the life of the permit. As a result, park users will continue to use the existing trail network. The County will review the license agreement as to form prior to its approval and recordation to ensure it contains adequate provisions to allow continued trail access and use. (See COA No. 1(D).)

The Board considered all aspects of public health, safety and welfare. The Board will impose just under 200 Conditions of Approval on the Project relating to issues such as air quality; dust suppression; blasting hours; groundwater levels; buffer areas to reduce noise and visual impacts; commencement of reclamation; and the replanting of oak woodlands and other vegetation. Additionally, the Project has been voluntarily reduced in both acreage and production levels to reduce impacts in most cases below what was already considered less than significant. Conditions of Approval will increase monitoring, reporting duties, and oversight of quarry operations to insure that park users will continue to be able enjoy the Skyline Park trails located on Syar property.

**Citations:** Draft EIR Vol. 1, Sections 4.1, 4.14 (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Final EIR, Appendix B, Sections 2, 3.7 (Jun. 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); James Alcorn, GHD, Presentation to Board of Supervisors on Aesthetics (Mar. 22, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the sixth ground of appeal and upholds the Planning Commission’s decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit “A”.

**B) APPELLANT SPCA’S STATED BASIS FOR APPEAL TO PLANNING COMMISSION’S CEQA FINDINGS AND APPROVAL OF SYAR MODIFIED PROJECT PLUS AREA C.**

**A. First Ground of Appeal.**

**Appellant’s Position:** Appellant SPCA asserts that the approval of the permit violates Public Resources Code Section 2762 because the County does not have Mineral Resource Management Policies that were properly adopted, reviewed by the State Mining and Geology Board, and comply with state law (14 CCR 3676).

**Findings and Decision.**

The Board finds and determines as follows:

The State or the County does not need to designate an area as a mineral resource area for mining operations. Public Resources Code Section 2762 only requires the lead agency to establish mineral resource management policies, incorporate those policies in its general plan, and recognize mineral information classified by the State Geologist. Pursuant to Public Resources Code Section 2762(d) any areas classified by the State Geologist as having important minerals to be protected, whether or not it has been formally identified in the General Plan as a mineral resource zone, requires the County, prior to permitting a use that could threaten the potential to extract minerals in that area, to prepare a statement specifying its reasons for permitting the proposed use.

All parcels within the Project property except for 046-390-002 (the Pasini Parcel) and 046-370-022 (a 5-acre parcel at the entrance of the quarry) have been designated in the Napa General Plan as a Mineral Resource (MR) area. This was consistent with the 1987 State Mineral Resource Designation. During the County General Plan update process (adopted in 2008), the County forwarded its proposed mineral resource goals and policies to the State for review. In 2013, *Special Report 205*, prepared by California Geological Survey, classified an additional 513-acres of land located immediately east of the quarry as MRZ-2 for construction aggregates, including the entirety of the Pasini Parcel.

General Plan Conservation Policy CON-37(b) specifies that the General Plan Land Use Map identify mineral resources based on State of California mapping and Policy CON-37(c) encourages the application of zoning for mineral resources areas and appropriate surrounding areas to allow for resource management and future resource availability. While the Local and State MR Designation do not require or otherwise obligate the County to approve mineral

extraction uses in these areas, it does obligate the County to consider the underlying mineral resource when considering uses that could inhibit its future extraction.

As detailed above, the State or the County does not need to designate an area as a mineral resource area to conduct mining. Accordingly, because the Project is not proposing a use that would threaten the potential to extract mineral resources (such as residential, commercial, or industrial) either within the County's identified MR Zone or the newly identified State Mineral Resource Zone, the Project is consistent with the MR designation and complies with Public Resources Code Section 2762

**Citations:** Draft EIR Vol. 1, Sections 4.0, 4.2, 4.9 (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Napa County, Staff Report to Planning Commission on General Plan & Zoning Designation (Aug. 4, 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan, Section 1 (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the first ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the conditions of approval attached as Exhibit "A".

**B. Second Ground of Appeal.**

**Appellant's Position:** Appellant SPCA contends that the Project is inconsistent with the General Plan, violates the Zoning Ordinance in that mining is neither a permitted nor conditional use in the AW zoning district, and County Code Section 18.120.010(A)(3) was rendered inoperative by section 3(A) of Measure P.

**Findings and Decision.**

The Board finds and determines as follows:

The Board is the local government body charged by law with interpreting the County's land use policies and rendering the final determination on a project's consistency or lack thereof. (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 668.) Further, the Board has significant discretion in interpreting the County's land use policies.

The General Plan policies contemplate and encourage mining and the long-term production of aggregate resources. Furthermore, the Project site, and portions thereof, are mapped or classified by (1) the State Geologist as Resource Sector H, Mineral Resource Zone

MRZ-2 (indicating significant deposits are present), and (2) the County Land Use Map as a Mineral Resource (MR) area (applied to known mineral resources based on mapping prepared by the State of California).

The Project site has “AW,” “AW:AC,” and “I” zoning designations. These land use and zoning designations allow mining on the property with a surface mining permit pursuant to County Code Section 18.120.010(B)(3). Since 1955 the County Code has permitted surface mining in any zoning district with an approved surface mining permit and Measures J and P did not change this provision of the County Code. Measure J amended the Napa County General Plan to ensure that designated agricultural, watershed, and open space land could not be redesignated and made available for more intense development without a vote of the people. Measure P adopted in 2008 reaffirmed the protections contained in Measure J. Because the Project does not require the County to change the site’s general plan land use or zoning designation, there is no redesignation required and therefore Measure P does not apply. Furthermore, since the Quarry pre-dates Measures J and P and the Project does not alter the maximum building intensity, change or reduce the minimum parcel size or otherwise seek to redesignate agricultural lands, the provisions of Measure P do not apply. (See also response to Part I, Third Ground of Appeal, above.)

**Citations:** Draft EIR Vol. 1, Sections 4.0, 4.2, 4.9 (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Napa County, Staff Report to Planning Commission on General Plan & Zoning Designation (Aug. 4, 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan, Section 1 (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016).

### **Conclusions:**

For the foregoing reasons, the Board denies the second ground of appeal and upholds the Planning Commission’s decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit “A”.

### **C. Third Ground of Appeal.**

#### **Appellant’s Position:**

Appellant SPCA claims that the EIR fails to consider consistency with Skyline Wilderness Park Master Plan (the Park Master Plan) and the Skyline Wilderness Park Combination District for the purpose of assuring the protection of Skyline Wilderness Park.

## **Findings and Decision.**

The Board finds and determines as follows:

The Project does not affect the zoning of Skyline Park, nor does it involve any mining activities within the Skyline Wilderness Park Combination District. The Skyline Wilderness Park Master Plan is applicable only to Skyline Park, not surrounding properties. Skyline Park is located on land owned by the State of California. The lands were leased to the County in 1980, with a stipulation in the lease that the holding/property be developed and used as a “public park” consistent with a development plan, as amended. Since most of any major development for the Park has already occurred, the Park Master Plan focuses less on development and more on identifying principles and guidelines for future maintenance, operations, and management of the Park, not surrounding properties.

The Park Master Plan does not contain any policy direction or recommendations specific to land uses adjacent to Skyline Park, or considerations specific to the adjacent quarry, including encroaching trails. The CEQA Guidelines, Appendix G, consistent with the Draft EIR analysis requires analysis of whether the Project conflicts with any applicable land use plan adopted for the purpose of avoiding or mitigating environmental impacts. The Skyline Wilderness Park Master Plan was adopted for the limited purpose of providing a framework for the future use and management of the lands encompassing the Park. As a result, the County did not need to consider the Project in the context of the Park Master Plan but that said the EIR appropriately focused on the potential environmental impacts to the Park and its users resulting from the Project.

**Citations:** Draft EIR Vol. 1, Section 4.9 (Aug. 2013); Napa County, Staff Report to Planning Commission on General Plan & Zoning Designation (Aug. 4, 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan, Section 1 (Nov. 9, 2015); Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016).

## **Conclusions:**

For the foregoing reasons only, the Board denies the third ground of appeal and upholds the Planning Commission’s decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit “A”.

### **D. Fourth Ground of Appeal.**

#### **Appellant’s Position:**

Appellant SPCA asserts that the water assessment conducted for the Project fails to comply with Water Code Sections 10910 and 10911.

### **Findings and Decision:**

The Board finds and determines as follows:

The Draft EIR included a Water Supply Assessment (Draft EIR, Appendix K.) The Draft EIR, Final EIR and Appendices all demonstrate that groundwater impacts and supply were comprehensively and thoroughly studied in even detail than what SB 610 (Water Code Section 10910 and 10911) requires. The requirements of SB 221 only apply to projects that include a subdivision as defined by Government Code Section 66473.7(a)(1). The Project is for an extension of its existing surface mining permit and approval of the reclamation plan and involves no subdivision and therefore, SB 221 does not apply. Water assessments must be furnished to local governments for inclusion in environmental documentation for certain large development projects (as defined in Water Code 10912 (a).) The Project as mitigated does not involve either a new or increased water use due to this being an ongoing operation and the Draft EIR mitigation measure restricting groundwater use to the baseline amount. Lastly, Appellant SPCA has provided no evidence or argument to support its assertion that the Project has failed to comply with SB 610 and 221.

**Citations:** Draft EIR Vol. 1, Section 4.8, Appendices J & K (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Final EIR, Appendix B, Sections 2, 6 (Jun. 2015); Final EIR, Appendix C, Section 2 (Oct. 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); GHD, Presentation to Board of Supervisors on Hydrology (Mar. 22, 2016); GHD, Memorandum to Board of Supervisors on Appeal Hearing Response to Comments, pp. 20-23 (Jul. 1, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, p. 5-6 (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016).

### **Conclusions:**

For the foregoing reasons, the Board denies the fourth ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

### **E. Fifth Ground of Appeal.**

#### **Appellant's Position:**

Appellant SPCA claims that the EIR's analysis of water supply and demand in the EIR relies on confusing and inconsistent baseline and other data.

## **Findings and Decision:**

The Board finds and determines as follows:

The Draft EIR, Final EIR and Appendices consistently relied on an estimated groundwater baseline of 140.6 acre-feet of water per year, which did not change throughout the application review process. The Draft EIR based its estimates of groundwater extraction rates on the available data derived from several sources. The Syar Napa Quarry Water Supply Assessment found in the Draft EIR in Appendix K describes the development of the baseline conditions water demand and the Project conditions water demand. Existing usage under baseline conditions is approximately 140.6 acre-ft per year. The Draft EIR evaluated water supply demands for production levels of up to 2 million tons per year (approximately 700,000 tons per year more than the level approved by the Commission). The baseline water use has remained consistent throughout the environmental review process. As discussed in the Water Supply Assessment the baseline groundwater use was based on a combination of available well monitoring data, truck trip counts to account for pumping from surface water bodies. During months when well data was not available for the Quarry Well, water use was scaled based on the data from the Latour Well. Accordingly, as required by CEQA, the baseline groundwater use amount is based on substantial evidence and therefore, was appropriately relied upon by the County in the preparation of the EIR.

Syar is subject to mitigation (e.g., Mitigation Measure 4.8-4) as well as conditions of approval (e.g., COA No. 2(D)) that limits permittee's annual groundwater use to 140.6 acre-feet per year, resulting in no net increase in groundwater use. The permit includes a monitoring program to ensure that Syar does not exceed the amount of annual groundwater use and ample studies prepared by hydrologists and other experts have confirmed that the project will not exceed that level. Water experts and the Applicant also provided substantial evidence regarding the feasibility of increasing production and sales without increasing groundwater use or obtaining other sources of groundwater. Further, additional clarifications of the methodology utilized in the Draft EIR for determining baseline water use of Project demand were provided in response to comments as appendices to the Final EIR and in a memorandum prepared by the EIR Consultant.

**Citations:** Draft EIR Vol. 1, Section 4.8, Appendices J & K (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Final EIR, Appendix B, Sections 2, 6 (Jun. 2015); Final EIR, Appendix C, Section 2 (Oct. 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); GHD, Presentation to Board of Supervisors on Hydrology (Mar. 22, 2016); GHD, Memorandum to Board of Supervisors on Appeal Hearing Response to Comments, pp. 20-23 (Jul. 1, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, p. 5-6 (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016); Thomas S. Adams, Letter to Deputy County Counsel Laura Anderson on Groundwater Mitigation (Jun. 30, 2016); GHD, Presentation to

Board of Supervisors on Groundwater Mitigation & Use of Surfactants (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the fifth ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

**F. Sixth Ground of Appeal.**

**Appellant's Position:** Appellant SPCA asserts that the surface mining permit approves a production level for which the existing water supply is inadequate yet fails to analyze the likelihood that additional water supplies will be available, discuss the related uncertainties, impacts of developing the new source, the impacts if additional water is not available, or a discussion of water conservation or other measures to increase efficiency of water use.

**Findings and Decision.**

The Board finds and determines as follows:

Water is used at the Napa Quarry for several purposes including dust suppression (roads, stock piles, and process equipment), material washing (sand and gravel), and minor utility uses at the site offices (bathrooms). The sources for this water include groundwater extraction from wells and surface water pumping from onsite ponds.

Estimates of groundwater extraction rates were based on the available data derived from several sources, as cited in the Draft EIR. The Syar Napa Quarry Water Supply Assessment found in the Draft EIR describes the development of the baseline water demand and the Project water demand. Existing usage under baseline conditions is approximately 140.6 acre-ft per year. The Draft EIR evaluated a water supply demands for production levels of up to 2 million tons per year (approximately 700,000 tons per year more than the level approved by the Commission) without any depletion of groundwater supplies or substantial interference with groundwater recharge.

Syar is subject to mitigation (e.g., Mitigation Measure 4.8-4) as well as conditions of approval (e.g., COA No. 2(D)) that limits permittee's annual groundwater use to 140.6 acre-feet per year, resulting in no net increase in groundwater use. The permit includes a monitoring program to ensure that Syar does not exceed the amount of annual groundwater use and ample studies prepared by hydrologists and other experts have confirmed that the Project will not exceed that level. After submitting this ground of appeal, the Project was revised to omit any reference to Syar's use of new supplies of water and instead requires the Project to utilize water conservation measures, as discussed in Mitigation Measure 4.8-4 and the Water Availability Analysis. Water experts and the Applicant provided substantial evidence regarding the feasibility of increasing production and sales without increasing groundwater use or obtaining other sources of water. Further, the Conditions of Approval were revised to clarify that the use of surfactants

for dust suppression is limited to those determined to be non-toxic. (See Part I, Fourth Ground of Appeal Findings and Decision, above.)

**Citations:** Draft EIR Vol. 1, Section 4.8, Appendices J & K (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Final EIR, Appendix B, Sections 2, 6 (Jun. 2015); Final EIR, Appendix C, Section 2 (Oct. 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); GHD, Presentation to Board of Supervisors on Hydrology (Mar. 22, 2016); GHD, Memorandum to Board of Supervisors on Appeal Hearing Response to Comments, pp. 20-23 (Jul. 1, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, p. 5-6 (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016); Thomas S. Adams, Letter to Deputy County Counsel Laura Anderson on Groundwater Mitigation (Jun. 30, 2016); GHD, Presentation to Board of Supervisors on Groundwater Mitigation & Use of Surfactants (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the sixth ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

**G. Seventh Ground of Appeal.**

**Appellant's Position:** Appellant SPCA claims that the Project EIR does not comply with CEQA and the conditions of approval do not adequately avoid or mitigate the Project's impacts for the reasons stated in its Appeal of the Final EIR Certification and companion appeals of Stop Syar Expansion.

**Findings and Decision.**

The Board finds and determines as follows:

An EIR's analysis must be specific enough to permit informed decision-making and public participation to comply with CEQA. The need for thorough discussion and analysis is not to be construed unreasonably, to serve as an easy way of defeating projects. (*Laurel Heights Improvement Ass'n v. Regents of University of California* (1988) 47 Cal. 3d 376, 406.) An EIR does not require absolute perfection, nor does a lead agency need to select the most environmentally superior alternative. (See *Residents Ad Hoc Stadium Com. v. Board of Trustees* (1979) 89 Cal. App. 3d 274, 285-287.) The Project EIR is not perfect but it does comply with CEQA as it provided informed decision-making and public participation and made a good faith effort to discuss potential impacts resulting from the Syar Modified Project Plus Area C and feasible mitigation measures and alternatives.

When an EIR identifies significant environmental impacts that may result from a project, the lead agency must make one or more of the following specific findings: (1) that changes or alterations have been required or incorporated into the project that avoid or substantially lessen the significant environmental impact identified in the EIR; (2) such changes or alterations are within the responsibility and jurisdiction of another public agency that has adopted, or can and should adopt, such changes; or (3) specific economic, social, legal, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR. (CEQA Guidelines Section 15091(a).) Planning Commission Resolution No. 2016-03 identifies each potentially significant impact, the applicable mitigation measure needed to avoid or reduce the impact to a less than significant level and the corresponding condition of approval that imposes the mitigation measure on the Project.

The Conditions of Approval are detailed, voluminous, enforceable and subject to review every five years at a noticed public hearing before the Planning Commission. (See COA No. 1(F).) This review is in addition to the Annual Compliance and Assurance Update Report submitted to the Planning, Building and Environmental Services Department.

As discussed in response to both Appellant SPCA's and SSE's Grounds of Appeal the EIR has adequately identified, evaluated, and mitigated the Syar Modified Project Plus Area Cs significant environmental impacts and complied with the public disclosure and informational purposes of CEQA. The Appellants' contentions as asserted by their representatives and witnesses have been adequately responded to, in many cases multiple times in the Final EIR Response to Comments, its Appendices, and by County Staff, its EIR Consultants, and the Applicant. In many cases, the County's position is at variance with those of the Appellants and the County in those instances has provided a good faith, reasoned analysis based on substantial evidence in the record in response. In other situations where the County determined issues raised by the Appellants were justified, mitigation measures were clarified or amplified to insure that any potential impacts were adequately mitigated. In some cases the Project Applicant voluntarily modified the Syar Modified Project Plus Area C by reducing the size and production amounts to strengthen or clarify the mitigation measures and address public concerns. However, in other situations the County and the Appellants have not resolved their differences of opinion and in those situations, the County has provided response to comments articulating the basis for its conclusions. CEQA addresses the later situation in the EIR context by recognizing that the County may rely on substantial evidence to support the conclusions in the EIR irrespective of the fact that experts disagree. (See CEQA Guidelines Section 15151, *Cadiz Land Company v. Rail Cycle* (2000) 83 Cal. App. 4<sup>th</sup> 74, 97.) As explained and discussed in the responses to the Appellants' Grounds of Appeal and as supported by the voluminous administrative record, the County has complied with CEQA.

**Citations:** Napa County, Staff Report to Planning Commission on Project Background (Aug. 4, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings (approved Nov. 18, 2015); Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Syar Industries, Letter to County Staff on Reduced Project (Mar. 17, 2015); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016).

## **Conclusions:**

For the foregoing reasons, the Board denies the seventh ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

### **H. Eighth Ground of Appeal.**

**Appellant's Position:** Appellant SPCA alleges that the County has not imposed appropriate conditions of approval to protect the public health, safety and welfare and character of Skyline Park. In particular, the County should require conditions of approval to exclude the Pasini Parcel from the Project, require that the trail license be irrevocable, impose a permanent buffer between the Park and the Napa Quarry, require that a specific portion of the quarry output be sold in Napa County, and mandating a local hiring preference.

## **Findings and Decision.**

The Board finds and determines as follows:

The Planning Commission and Board considered all aspects of public health, safety and welfare. The Board will impose just under 200 Conditions of Approval on the Project relating to issues such as air quality; NOx emissions; dust suppression; blasting hours; groundwater levels; buffer areas to reduce noise and visual impacts; commencement of reclamation; license agreement allowing public use of existing trails located on Syar's property, and the replanting of oak woodlands and other vegetation. Additionally, the Conditions of Approval will increase monitoring, reporting duties, and oversight of quarry operations by providing for annual monitoring and reporting, 5-year Planning Commission hearing on to evaluate effectiveness of mitigation measures and allowing for additional conditions of approval as determined necessary to protect the public.

### *Regarding Excluding Pasini Parcel:*

The partial mining of the Pasini Parcel would not result in any potentially significant unavoidable impacts to the public health, safety and welfare so excluding it from the Project is unnecessary as discussed in the Draft EIR and Final EIR and appendices. Further, the Project's primary purpose is to gain access to additional high quality basalt which is located primarily on the Pasini Parcel and the availability of a local source of high quality basalt material provides many benefits, both environmental and economic to the County and its citizens.

### *Regarding Requiring the Trail License be Irrevocable:*

Syar voluntarily proposed the license agreement as part of the Project; it was not a mitigation measure. Currently Skyline Park trail users do not have legal access over certain trail portions that encroach onto Syar's property. The grant of a license to Skyline Park preserves the existing trails currently located on Syar's property and allows public access through the life of

the permit. As a result, park users will continue to use the same trails throughout the life of the permit. The County will review the license agreement as to form prior to its approval and recordation to ensure it contains adequate provisions to allow continued trail access and use. (See COA No. 1(D).) Based on the absence of any significant impacts to trail users, there is no legal nexus that would allow the County to require continued public access to the Syar property beyond the life of the permit.

*Regarding Imposing a Continuous Buffer between Park and Quarry:*

The buffer between Skyline Park and the Project property lasts for the life of the permit. The County cannot impose a permanent buffer along the Skyline Park boundary because there is no identifiable environmental impact requiring a buffer that would be in place once mining has stopped. Such an action would likely constitute an illegal taking because there is no legal nexus for requiring a perpetual buffer to protect the Park from a mining permit that will expire in 35 years.

*Regarding Output Only Sold For Use in Napa County:*

Napa County projects overwhelmingly use Napa Quarry aggregate. This is generally because construction aggregate is a high bulk, low cost commodity, which results in significant haul costs. Local projects use local aggregate to avoid unnecessary haul costs. As a result, it is unnecessary to restrict to whom Syar sells aggregate.

*Regarding Mandate of Local Hiring Preferences:*

Local and state laws do not require the preferential hiring of local residents. However, as noted in the Draft EIR, it is likely that local residents would predominantly fill most of the jobs created directly and indirectly from the Project. As a result, a local hiring preference is unnecessary and is outside the purview of CEQA.

**Citations:** Draft EIR Vol. 1, Sections 3, 4.12, 4.14, (Aug. 2013); Napa County, Staff Report to Planning Commission on Project Background, (Aug. 4, 2015); Jim Syar, Letter to Planning Commission on Project (Aug. 7, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings (approved Nov. 18, 2015); Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the eighth ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

## **I. Ninth Ground of Appeal.**

**Appellant's Position:** Appellant SPCA claims that Syar should complete reclamation as soon as feasible the permit, fails to provide for incremental remediation, the Project underestimates reclamation costs, and the financial assurances are inadequate.

### **Findings and Decision:**

The Board finds and determines as follows:

Reclamation activities at the site will consist of three types of reclamation: short-term reclamation (interim reclamation), mid-term final reclamation (will occur during the permit term), and final reclamation (following the cessation of mining). Pursuant to the Project's conditions of approval and the Mining and Reclamation Plan (MRP), Syar must begin reclamation within 12 months of the effective date of the permit approval. However, some reclamation activities are already ongoing. The Conditions of Approval also require Syar to submit an updated MRP to the County that incorporates all conditions of approval and mitigation measures within 12 months of the effective date of the permit. The County shall review the updated MRP to confirm that it conforms to Project conditions and mitigation measures.

Pursuant to Public Resources Code Section 2773.1 and County Code Section 16.12.400, the County must maintain adequate financial assurances (FACE) for surface mining operations to ensure reclamation occurs in accordance with MRP. The County recalculates the FACE annually to account for total acreage of newly-disturbed lands, plus what is anticipated to be disturbed in the next year; annual inflation; and, any lands reclaimed. (County Code Section 16.12.500 and CCR 3504.5) The County will review and approve the FACE annually. When the County determines the FACE is adequate, it will submit the FACE to OMR for approval. If OMR disagrees with the County's determination, it will describe the inadequacies to the County. Prior to approval of the FACE, the County must provide written responses to OMR's comments describing the disposition of the issues raised by OMR. This 3<sup>rd</sup> party oversight assures the FACE will be adequate for the Project. In addition to the FACE requirements, County Code Section 16.12.060 provides that the owner and operator of the mining operation (including successors-in-interest) are financially liable for reclamation of the site.

The Conditions of Approval authorize the County to either hire a third party to prepare an Annual Compliance and Assurance Update Report and provide third party independent review of the report in assessing and determining compliance with the permit, conditions of approval, mitigation measures, and the County Code.

**Citations:** Final EIR, Appendix B, Sections 1-2 (Jun. 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings (approved Nov. 18, 2015); Syar Napa Quarry No. P08-00337-SMP Conditions of Approval, Sections 1-3 (adopted Nov. 18, 2015) [COAs 1(c), No. 2(L), 3(b)]; Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Syar Industries, Presentation to Board of Supervisors on Appeal of Project (Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the ninth ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

**J. Tenth Ground of Appeal.**

**Appellant's Position:** Appellant SPCA alleges that the Mining and Reclamation Plan (MRP) has not been reviewed by the Department of Conservation (DOC) such that the amended MRP does not take into account DOC's comments.

**Findings and Decision.**

The Board finds and determines as follows:

The DOC reviewed the 2012 MRP and Syar incorporated DOC's recommendations into the MRP. The 2012 MRP included all necessary components and information per state and local regulations and guidelines and the DOC did not identify any components of the MRP that were inconsistent with SMARA. Syar updated the MRP in November 2015 and submitted it to the DOC. The updated 2015 MRP included all necessary components and information per state and local regulations and guidelines, including SMARA.

**Citations:** Cal. Dept. of Conservation, letter to County of Napa (Aug. 31, 2012); Syar Industries, letter to Napa County on MRP (Sep. 20, 2012); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A, p. 56 (Mar. 22, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the tenth ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

**K. Eleventh Ground of Appeal.**

**Appellant's Position:** Appellant SPCA asserts that the annual inspection and monitoring reports are insufficient because they are over-reliant on self-monitoring by Syar, do not provide transparency, and do not enable adequate public participation and oversight.

**Findings and Decision.**

The Board finds and determines as follows:

The Project has significantly greater oversight and monitoring of the facility than under its current entitlements. The County has designed certain mitigation measures so that environmental impacts remain at existing condition levels (baseline) or are limited to recognized thresholds. The County adjusted the Project's mitigation measures throughout the application and hearing process in response to public comments to provide clarity, a better understanding of implementation and timing, and to make the measures more effective. For example, the mitigation measures require monitoring and public reporting of groundwater use and elevations annually. This is a requirement not usually imposed on industrial users of groundwater in the County and it is not required under the existing permit.

The County made similar adjustments to the Conditions of Approval for the Project, which are detailed, voluminous, enforceable, and subject to review every five years at a noticed public hearing before the Planning Commission. This review is in addition to the Annual Compliance and Assurance Update Report submitted to the PBES.

Self-reporting under a professional registration is the standard for environmental compliance reports in California. Various government agencies have required Syar to self-report throughout their history of operating the Napa Quarry. Syar has done so, even if it results in enforcement actions against them. The Project's mitigation measures and conditions of approval provide adequate controls, as well as the flexibility to further refine monitoring provisions should self-monitoring result in insufficiencies or non-compliance. In many instances the conditions of approval and mitigation measures provide for the County to require the Applicant to pay for third party consultants to prepare or review the reports as determined necessary by the County.

**Citations:** Napa County, Staff Report to Planning Commission on Project Background (Aug. 4, 2015); Jim Syar, Letter to Planning Commission on Project (Aug. 7, 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan (Nov. 9, 2015); Syar Napa Quarry No. P08-00337-SMP Conditions of Approval (adopted Nov. 18, 2015) [note COA No. 1(F)]; Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A, pp. 56-57 (Mar. 22, 2016); GHD, Memorandum to Board of Supervisors on Appeal Hearing Response to Comments, GHD, Memorandum to Board, pp. 15-16 (Jul. 1, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the eleventh ground of appeal and upholds the Planning Commission's decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit "A".

**L. Twelfth Ground of Appeal.**

**Appellant’s Position:** Appellant SPCA alleges that the County should postpone consideration of the permit until it can act on the State’s application to rezone Skyline Park in order to evaluate the need for additional mining permit conditions of approval in light of that zoning decision.

**Findings and Decision:** The Board finds and determines that the State’s application to rezone Skyline Park is wholly independent of the Project. The Project does not affect the zoning of Skyline Park and the zoning of Skyline Park does not affect the Project. As a result, there is no legal nexus between the rezoning of Skyline Park and the Project or evidence that has been provided by the Appellants that would change the conclusions of the environmental analysis because the rezoning of Skyline Park is irrelevant to both the ongoing use of the park pursuant to its current lease and the impacts of the Project on the park. (See Part I, Second Ground of Appeal, Findings and Decision, above.)

**Citations:** Draft EIR Vol. 1, Sections 4.0, 4.2, 4.9 (Aug. 2013); Final EIR, Sections 2, 4 (Nov. 2014); Napa County, Staff Report to Planning Commission on General Plan & Zoning Designation (Aug. 4, 2015); Syar Industries, Napa Quarry Mining & Reclamation Plan, Section 1 (Nov. 9, 2015); Napa County Planning Commission, Resolution 2015-03 adopting CEQA and Project Findings, Sections 5-6, 8; Staff Report to Board of Supervisors on Syar Appeal Hearing, Exhibit A (Mar. 22, 2016); Napa County, Staff Presentation to Board of Supervisors on Project (Mar. 22, 2016); Napa County, Staff Report to Board of Supervisors on Syar Appeal Hearing (Jul. 11, 2016); Syar Industries, Presentations to Board of Supervisors on Appeal of Project (Apr. 26, 2016 and Jul. 11, 2016).

**Conclusions:**

For the foregoing reasons, the Board denies the twelfth ground of appeal and upholds the Planning Commission’s decision to approve the Syar Modified Project Plus Area C subject to the modified conditions of approval attached as Exhibit “A”.

**Section 4. Incorporation of SSE Appeal Decision by Reference.**

The Board hereby incorporates by reference all findings and decisions made in connection with Appellant SSE’s Appeal as set forth in Resolution No. 2016-152.

**Section 5. Conditions of Approval.**

The Board modifies the Planning Commission’s conditions of approval as set forth in Exhibit “A” attached and incorporated here by reference.

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**Section 6. Substantial Evidence.**

Substantial evidence supporting each and every finding made herein is contained in the record of proceedings. All of the files and records that comprise the administrative record for the Syar Modified Project Plus Area C are incorporated herein by reference.

**Section 7. Summary of Decision.**

Based on the foregoing facts, findings, and determinations, the Board of Supervisors:

- A. Adopts the findings of facts and rationales as set forth in this Resolution;
- B. Denies the first through sixth grounds of appeal to SPCA’s November 18, 2015, Appeal as set forth in Section 3, Part I above;
- C. Denies the first through twelfth grounds of appeal to SPCA’s December 16, 2015, Appeal as set forth in Section 3, Part II above;
- D. Upholds the Planning Commission’s approval of the Syar Modified Project Plus Area C;
- E. Approves Surface Mining Permit No. P08-00337-SMP and the Mining and Reclamation Plan prepared by Yolano Engineers, Incorporated dated September 29, 2016, subject to the attached modified Conditions of Approval attached as Exhibit “A” and incorporated here by reference;
- F. Modifies the Conditions of Approval adopted by the Planning Commission and finds that the Modified Conditions of Approval attached as Exhibit “A” are both necessary and well justified; and
- G. Adopts the Modified Conditions of Approval attached as Exhibit “A”.

**Section 8. Effective Date.**

This resolution shall take effect in accordance with the provisions of Napa County Code Section 2.88.090.

**Section 9. Judicial Challenge.**

Unless a shorter period applies, any judicial challenge to this decision is governed by

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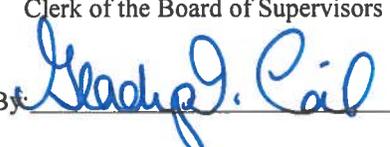
California Code of Civil Procedure Section 1094.6.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** by the Napa County Board of Supervisors, State of California, at a regular meeting of said Board held on the 18<sup>th</sup> day of October, 2016, by the following vote:

AYES:	SUPERVISORS	WAGENKNECHT, CALDWELL, DILLON, LUCE and PEDROZA
NOES:	SUPERVISORS	NONE
ABSENT:	SUPERVISORS	NONE
ABSTAIN:	SUPERVISORS	NONE

NAPA COUNTY, a political subdivision of the State of California

By:   
ALFREDO PEDROZA, Chairman of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Laura J. Anderson</u> Deputy County Counsel</p> <p>Date: <u>October 10, 2016</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: October 18, 2016 Processed By:  Deputy Clerk of the Board</p>	<p>ATTEST: GLADYS I. COIL Clerk of the Board of Supervisors</p> <p>By: </p>
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Attachment:

Exhibit "A" – Modified Conditions of Approval

## Exhibit "A"

### CONDITIONS OF APPROVAL Board of Supervisors: October 18, 2016

**Syar Napa Quarry  
Surface Mining Permit No. P08-00337  
2301 Napa Vallejo Highway  
APNs: 045-360-005, 046-370-012, -013, -015, -022, -025,  
046-390-002, -003, and 046-450-071**

#### 1. SCOPE:

- A. The Permittee is authorized to operate the Syar Napa Quarry (the Quarry) facility in accordance with the scope of this Surface Mining Permit (or SMP or Permit) which shall be limited to the mining, associated aggregate processing and production activities, aggregate and asphalt sales, and reclamation of the Quarry as follows:
1. The excavation, production, processing, and sales of up to a maximum of 1.3 million tons of aggregate and related aggregate materials (including recycled concrete, asphalt, and reclaimed asphaltic product) from the Quarry annually for the next 35 years beginning on the Effective Date of this Permit;
  2. Annual production levels shall not exceed 1.3 million tons per year (tpy) for aggregate and aggregate-related materials, and asphalt production shall not exceed 300,000 tpy which shall be inclusive of the overall 1.3 million tpy limitation;
  3. An approximate 106-acre expansion of the current surface mining and reclamation areas and continued mining and associated operations within the mining areas identified in the "Syar Industries Inc., Napa Quarry Mining and Reclamation Plan dated September 14, 2016" (the 2016 Mining and Reclamation Plan) and excavation limits identified in Figure 3-5 (Limits of Vertical Excavation) of the project's EIR (attached as Figure 1) as modified by these conditions of approval and mitigation measures in this Permit
  4. An increase in mining depth from approximately 300 feet and 150 feet above mean sea level (msl) to no greater than 50 feet above msl;
  5. Installation and operation of Reclaimed Asphaltic Product (RAP) handling equipment at the facility's existing asphaltic batch plant;
  6. Provide additional visual screening in the Pasini Parcel expansion area by planting oak trees as shown in Figure 3F of the 2016 Mining and Reclamation Plan). A qualified biologist shall prepare a planting plan subject to County approval that describes the methods of implementation, planting details including tree species to be planted and container size, propagule source(s), watering (schedule/amounts/duration), maintenance including measures to avoid deer browsing, and monitoring protocol. The planting plan shall also specify minimum success criteria consistent with those identified in Section 6.3.2 (Planting Success Criteria) of the 2016 Mining and Reclamation Plan

- and Condition of Approval (COA) No. 3(C). These trees shall be planted within 24 months of the Effective Date of this Permit;
7. Ongoing operation of existing aggregate processing support facilities as identified in Section 3.5.4 of the project EIR (incorporated herein by reference) and attached as Figure 3, including the placement and utilization of portable equipment necessary for Quarry Operations and reclamation; and the installation, maintenance and realignment of internal access and mine roads on the site including those shown on Figure 3-5 of the project's EIR (attached as Figure 1);
  8. Reclamation of all areas disturbed both henceforth and in the past in conformance with and identified in the 2016 Mining and Reclamation Plan, as modified by these conditions of approval and mitigation measures in this Permit. In the event there is a conflict between the 2016 Mining and Reclamation Plan and the conditions of approval or project Mitigation Measures the conditions of approval shall control; and
  9. An increase in Quarry Operation employees from approximately 55 to a maximum of 75 total Quarry employees.
- B. The mining operation and reclamation shall be carried out in substantial conformance with the 2016 Mining and Reclamation Plan as modified by these conditions of approval and/or required project mitigation measures, including, but not limited to, maximum production amounts and identified excavation limits (both vertically and horizontally).
- It is the responsibility of the Permittee to communicate the requirements of these conditions of approval and all mitigation measures to all contractors, employees, and customers of the Quarry (as applicable) to ensure compliance is achieved.
- Any expansion or change in excavation limits, any increase in production amounts, and/or expansion or change in use of the Quarry (including aggregate production and processing support facilities) shall require a modification to the approved SMP, pursuant to Chapter 16.12 of the Napa County Code (NCC), the Surface Mining and Reclamation Act (Public Resources Code (PRC) Section 2710 et seq. (SMARA)), and the State Mining and Geology Board Regulations (California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1). Any deviation or modification of the 2016 Mining and Reclamation Plan or to the "Quarry Operations" identified in this Permit shall be subject to the permit revision or amendment process in NCC Sections 16.12.520 and 16.12.530.
- C. [Reserved.]
- D. Within 12 months of the Effective Date of this Permit and prior to the initiation of any vegetation or Overburden removal, earthmoving or earth-disturbing activities, or quarrying or mining activities occurring in any undisturbed areas (including any expansion area), the Permittee shall develop and execute a License Agreement

with the County (in cooperation with the Napa County Parks and Open Space District and the Skyline Park Citizens Association) that shall allow all the existing trails currently located on Syar holdings to remain in place for the life of this Permit and to allow continued public access. The County shall review the License Agreement as to form prior to its approval and prior to the Permittee's recordation.

- E. The Permittee shall protect all lands identified as "Exclusion Areas" (including areas that overlap oak woodland protection areas) as identified within Figure 3f of the 2016 Mining and Reclamation Plan via a deed restriction in a form acceptable to County Counsel. The deed restriction shall be recorded within 12 months of the Effective Date of this Permit and prior to the initiation of any vegetation or Overburden removal, earthmoving or earth-disturbing activities, or quarrying or mining activities occurring in any undisturbed areas (including any expansion area) of the Quarry property. Also see DEIR Figure 3-4 (project Activities/Areas) and Figure 3-5 (Limits of Vertical Excavation) attached as Figure 1 for details of the Exclusion Areas.
- F. This project and Permit shall be reviewed by the Planning Commission every 5 years at a noticed public hearing to determine compliance with the conditions of approval, project mitigation measures, and the approved 2016 Mining and Reclamation Plan. The Commission may impose additional conditions as necessary to address compliance issues. A fee for said review and public hearing shall be charged consistent with the fees in effect at the time of the hearing and shall be paid by the Permittee. Said hearings shall commence in April 2020.

If after conducting inspections required by NCC Section 16.12.500, review of the Annual Compliance and Assurance Update Report required pursuant to COA No. 2(L) (below), or other inspections as may be undertaken, or upon the receipt of a verified complaint, the Planning Director finds that Quarry Operations are not in substantial compliance with this Permit, NCC Chapter 16.12 and/or SMARA, the procedures prescribed in Article VI (Enforcement) (NCC Section 16.12.600 et seq.) shall be immediately commenced so that any significant compliance issues can be brought before the Planning Commission at the earliest opportunity provided Permittee has failed to timely cure the violation.

- G. All prior mining-related discretionary permits on the Property including, but not limited to, Permit Numbers UP-128182 and UP-27374 authorizing current mining, quarrying, associated operation of the Quarry, and reclamation shall be superseded and replaced by this Permit.

## **2. PROJECT SPECIFIC CONDITIONS:**

The following project specific conditions of approval shall apply to all operational activities and subsequent reclamation of the facility. The Permittee shall comply with all County Division, Departments and Agency requirements including all applicable

building codes, zoning standards, and requirements. The determination as to whether or not the Permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those Divisions, Departments or Agencies. The inability of Permittee to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify this Permit.

A. Permit Compliance.

The Permittee shall comply with all of the conditions of approval of this Permit and the mitigation measures and mitigation monitoring and reporting program adopted in connection with the project.

The Permittee shall also comply with the provisions of NCC Chapter 16.12, SMARA, and the State Mining and Geology Board Regulations (CCR, Title 14, Division 2, Chapter 8) during and throughout mining and reclamation activities at the Quarry site.

B. Permit Term.

All Quarry Operations, related material processing and production, storage, sales and shipping, including asphalt production and sales shall permanently cease onsite and reclamation shall begin upon expiration of this Permit, unless continued mining and/or mine-related activities after that time are authorized by a separate surface mining permit approved by the County or a modification to this Permit approved by the County.

C. Permit Limitation.

The introduction of additional uses, production of products other than those specified in this Permit, expansion of the area to be mined/excavated into other areas of the site (including the parking, stockpiling, or storage of vehicles, equipment, and materials), installation of equipment or construction of facilities including roads and access ways outside of the identified excavation areas shown in the 2016 Mining and Reclamation Plan and Figure 3-5 (Limits of Vertical Excavation) in areas other than those identified in the project site plans of the project's EIR, or other changes to Quarry Operations shall be prohibited, unless such modification(s) to this Permit are first approved by the County pursuant to the permit revision or amendment process in NCC Sections 16.12.520 and 16.12.530.

D. Groundwater Supply and Use.

Groundwater use and pumping for all Quarry Operations and reclamation shall not exceed 140.6 acre-feet per year.

The Permittee shall monitor groundwater levels continuously at all Quarry wells with automated pressure transducers and at least semi-annually (i.e., in spring and fall) by manual measurement to confirm the transducer data. Groundwater levels shall be measured to record the annual range of levels typically observed

in aquifer systems in the region and to develop a record of groundwater conditions at the Quarry over time. The Permittee shall also record annual groundwater usage/pumpage with flow meters at all wells in production for the Quarry and create an annual summary report based on this data. All monitoring reports and data specified herein shall be submitted to the Planning Building and Environmental Services (PBES) Department monthly and as prescribed pursuant to COA No. 2(L) (below), and as necessary to demonstrate compliance.

The Permittee shall implement the following monitoring, data collection, and reporting measures within 3 months of the Effective Date of this Permit continuing for the duration of the Permit. These data will enable evaluation of groundwater levels to identify trends associated with seasonal weather patterns and precipitation totals, water year types, and groundwater use by the Permittee.

1. Monitoring devices, protocol and reporting shall be done in accordance with the recommendations of a qualified hydrogeologist and as specified in Mitigation Measures 4.8-2 and 4.8-3. The hydrogeologist referenced in this condition of approval shall be selected by and contracted to the County and paid for by the Permittee.
2. Permittee shall monitor groundwater levels continuously at all Quarry wells with automated pressure transducers and at least quarterly (and including spring and fall measurements) by manual measurement to confirm the transducer data. When measured manually at the Quarry wells, groundwater levels will be recorded no sooner than 48 hours after the well last operated in order to collect data representative of aquifer conditions (static groundwater levels).
3. Permittee shall monitor precipitation onsite or compile precipitation data records from the nearest publically available source.
4. Permittee shall record annual groundwater pumpage with flow meters at all wells in production at the Quarry and any other consumptive use of groundwater (such as water collected from open water bodies in contact with the regional groundwater potentiometric elevation). Groundwater pumpage and use shall not exceed 140.6 acre-feet per year.
5. Permittee shall create an annual summary report of groundwater conditions at the Quarry based on the data described above.

If the monitoring data and reports referenced in this condition of approval show an ongoing impact on spring and fall season groundwater levels (continual lowering regardless of water year types) due to groundwater use at the Quarry, a qualified hydrogeologist (paid for by the Permittee) shall recommend ways, or reduction measures, in which water usage can be reduced to stabilize groundwater levels. The Permittee shall implement recommended reduction measures until groundwater levels show stable conditions on a multi-year basis. All recommendations shall be immediately implemented to the satisfaction of the PBES Director.

- E. Hours of Operation (See Section 12 below for Definitions of the activities specified below).
1. Aggregate Mining Operations:
    - a) Construction Season, Monday through Friday only from 6:00 AM to 6:00 PM
    - b) Off Season, Monday through Friday only from 7:00 AM to 3:30 PM
    - c) Aggregate Mining Operations shall be prohibited on weekends and recognized Major Holidays.
    - d) Within 400 feet of the project's common property lines with Skyline Wilderness Park (or SWP) and where vegetation and Overburden removal are visible from SWP or SWP Trails, said activities shall be limited to 7:00 AM to 12:00 PM (noon) on weekdays only.
  2. Aggregate Processing Operations:
    - a) Construction Season, Monday through Friday only from 6:00 AM to 6:00 PM.
    - b) Off Season, Monday through Friday only from 7:00 AM to 3:30 PM.
    - c) As necessary to accommodate customer requirements and market conditions, aggregate processing operations may occur 7 days a week 24 hours per day provided the Permittee informs the PBES Department at least 48 hours in advance of these activities occurring to ensure said activities are conducted in accordance with this Permit.
  3. Asphalt Plant Operations:
    - a) Year-round, Monday through Friday only from 7:00 AM to 3:30 PM.
    - b) As necessary to accommodate customer requirements and market conditions, asphalt plant operations, including the production, transport and loading of asphalt, located within the asphalt plant area of the facility, may occur 7 days a week 24 hours per day provided the Permittee informs the PBES Department at least 48 hours in advance of these activities occurring to ensure said activities are conducted in accordance with this Permit.
  4. Aggregate Sales and Asphalt Sales:
    - a) Year-round, Monday through Friday only 7:00 AM to 3:30 PM.
  5. For Quarry Operations occurring during non-traditional hours of operation (i.e., between 6:00 PM and 7:00 AM) equipment shall utilize discriminating back-up alarms, night silent back-up alarms, or other back-up alarm system (as opposed to conventional back-up alarms) to minimize noise emissions from this source.
  6. Maintenance and repair work may be conducted outside of identified hours and days provided that noise levels do not exceed 50dBA at the northern and eastern property lines.

7. The limitations on operational hours and days specified above may, in case of an Emergency, be temporarily waived by the PBES Director.

F. Blasting.

Blasting operations shall be conducted as specified below and in accordance with Syar's Blasting Procedures (see Figure 4 attached and incorporated here by reference):

1. Year-round, Monday through Friday only from 10:00 AM to 3:00 PM (for areas within 400 feet of common property lines with Skyline Wilderness Park from 12:00 PM to 3:00 PM): blasting shall not occur outside of these hours, or on the weekends, or on any Major Holidays.
2. Blasting shall be prohibited during high wind conditions. High wind conditions are deemed to occur when the 2-minute average wind speed exceeds 20 miles per hour as measured using the methods described by the South Coast Air Quality Management District in Attachment A to the Rule 403 Implementation Handbook.
3. The Permittee shall measure and record wind speeds continually throughout the day during blast events to ensure compliance with this COA. Wind speed measurements, including average wind speeds shall be included in required blasting logs.
4. The Permittee shall notify via e-mail the PBES Department, Skyline Wilderness Park, Napa County Office of Education, Chamberlain High School, Liberty High School, Creekside Middle School, the Napa Preschool Program, the Napa Child Development Center, Napa State Hospital, and any agencies, businesses, and local residents requiring or requesting such notice via e-mail, at least 48 hours in advance of any blasting events.
5. The Permittee shall record each blast event and maintain blasting logs for 5 years. Blasting logs/records shall be submitted to the PBES Department annually as required by COA No. 2(L) below.

G. Safety and Security.

1. The Permittee shall install fencing along the perimeter of Quarry boundaries and/or exclusion areas to the extent necessary to prevent the public from accessing active Quarry areas. The location of said fencing shall not prevent use of existing Skyline Wilderness Park trails.
  - a) The fencing shall generally consist of three strand wire with metal and/or wood fence stakes/posts.
  - b) "No Trespassing" signs shall be appropriately posted around the perimeter of the Quarry in association with security fencing.
  - c) The precise locations and design of security fencing shall be inspected and approved by the Planning Division prior to the installation of any new or relocated security fencing.

H. Contact List.

Within 30 days of the Effective Date of this Permit, the Permittee shall mail a Quarry contact list with Quarry contact names and phone numbers to the

following: each property owner within a 3,000 foot radius of the exterior boundary of the project site as listed on the most recent tax roll listing, the PBES Department, Skyline Wilderness Park, Napa County Office of Education, Chamberlain High School, Liberty High School, Creekside Middle School, the Napa Preschool Program, the Napa Child Development Center, the Napa State Hospital, and those persons or organizations who have requested to be on the Quarry contact list. The contact list shall have at least 2 Quarry Operations contacts that include the name, local phone number, and email address that can be contacted regarding Quarry Operations and compliance. It shall be the responsibility of the Permittee and the Quarry contact to respond to any inquiries within 24 hours of receiving them. The Permittee shall update the Quarry contact list every 5 years to coincide with the monitoring report required pursuant to COA No. 1(F) and any time there are changes in personnel and/or contact information listed in the Quarry contact list, and re-send the contact list to all property owners within a 3,000 foot radius of the project site and entities identified herein.

I. Site Maintenance.

All trash, unnecessary or un-useable equipment, scrap, and installations of the Quarry operation shall be removed as necessary in a timely manner, and properly disposed of to maintain a neat and orderly site.

J. Public Roads.

All loaded trucks leaving the site shall be properly trimmed, maintain the required 2 feet of freeboard, and/or secured so as to prevent spillage of materials onto the public roadway. In the event that spillage onto the road does occur, Permittee shall immediately remove said spillage.

K. Other Regulatory Permits.

The Permittee shall obtain and maintain permits from State, Federal, and local regulatory agencies as applicable to the activities authorized herein, including but not limited to permits and approvals from: the Napa County Building Division; the Napa County Public Works Department; the Napa County Engineering and Conservation Division; the U.S. Army Corps of Engineers; the California Department of Fish and Wildlife; the Bay Area Air Quality Management District; the Regional Water Quality Control Board; and the U.S. Fish and Wildlife Service.

L. Annual Compliance and Assurance Update Report (Annual Compliance Report).

During the life of this Permit, the Permittee shall annually prepare and submit a written report to the PBES Department, as part of the Quarry Operations annual inspection reporting requirements pursuant to NCC Section 16.12.500, PRC Section 2774, and the project's Annual Mining Plan demonstrating compliance with all of the conditions of approval and mitigation measures for this Permit. Said report shall also include an updated Financial Assurance Cost Estimate (FACE) as required pursuant to NCC Section 16.12.415 and PRC Section

2773.1(a)(3) for review and approval by the County and verification of the following from the Permittee:

1. That the operation has maintained an adequate FACE pursuant to NCC Sections 16.12.400 and 16.12.435 in the amount of the most recently approved FACE.
2. That the operation is in compliance with Napa County's Stormwater Management and Discharge Control Program (NCC Chapter 16.28).
3. That the Storm Water Pollution Prevention Plan (SWPPP – WDID No. 228I005111) under which the facility operates has been updated as necessary to accommodate changing conditions and is in compliance with National Pollutant Discharge Elimination System (NPDES) requirements.
4. That Quarry Operations and practices are conducted in compliance with the safety requirements of the Mine Safety and Health Administration, the California Division of Occupational Safety and Health (Cal-OSHA), the State Division of Industrial Safety, and California Mine Safety Orders.
5. That the Permittee has maintained a public liability policy for both the mining and reclamation operations which provides for personal injury and property protection to compensate all persons injured or for property damaged as a result of such operations and that has a minimum \$2 million coverage for each occurrence and a minimum umbrella coverage of \$5 million or as required by the County's Risk Manager.

The Annual Compliance Report shall accompany the Annual Mining Plan specified in the project's MRP dated September 2016.

The first Annual Compliance Report shall be submitted to the County within 12 months of the Effective Date of this Permit. Thereafter the Annual Compliance Report shall be submitted annually, and as necessary at the request of the County, to demonstrate compliance.

If determined necessary by the PBES Director, the County may either hire a consultant (at the Permittee's expense) to prepare this Annual Compliance Report and/or retain a third party independent review of the report to assess and determine compliance with this Permit, conditions of approval, mitigation measures, and NCC Chapter 16.12.

#### M. Air Quality.

The Permittee shall implement the following Air Quality Best Management Practices (BMPs) during Quarry operational activities and reclamation in addition to Mitigation Measures 4.3-2a, 4.3-2b, and 4.3-3:

1. All exposed surfaces (graded areas, staging areas, stockpiles, and unpaved roads) shall be covered, vegetated, or watered or treated with dust suppressants as necessary to minimize particulate (dust) emissions. Ensure that all trucks hauling soil, sand and other loose materials from the site shall

- be covered in accordance with Vehicle Code Section 23114 or maintain at least 2 feet of freeboard.
2. The site access road, adjacent public roads, and paved areas within the proximity of the scale house and Quarry office shall be swept daily with a high efficacy or wet power vacuum street sweepers at least twice per day and if visible soil material is carried/tracked out onto roadways.
  3. Traffic on unpaved areas and roads shall be limited to 15 mph. Speed limit signs shall be placed as necessary on unpaved roads to adequately identify and control speeds within the Quarry. The locations and spacing of such signs shall be at the discretion of the County.
  4. Grading and earthmoving activities shall be suspended when 2-minute average wind speed exceeds 20 mph.
  5. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes, as required by the California airborne toxics control measure - Title 13, Section 2485 of CCR. Signs clearly indicating this provision shall be installed at all access points or appropriate facility locations.
  6. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  7. A sign with the telephone numbers and persons to contact at Napa County and the BAAQMD regarding dust and odor complaints shall be visibly posted at the site. This sign shall be posted within 30 days of approval of this Permit.
  8. Within 5 years of the Effective Date of this Permit, the Permittee shall retire at least 3 pieces of mobile quarrying equipment from the Quarry fleet that have Tier 0 motors and replace with Quarry equipment that has higher Tier motors (i.e., Tiers 1, 2, 3, or 4), and as necessary to comply with applicable project Mitigation Measures. Preference shall be given to equipment that is utilized the most in on-going aggregate mining and processing operations as identified in the "Horsepower-Hour Log" required pursuant to COA No. 11(A) (Mitigation Measure 4.3-2a). Thereafter, Tier 0 motors will be replaced as necessary to comply with project specific Mitigation Measures and/or State requirements.

**N. Creek Protection.**

The Permittee shall implement the following measures to prevent the inadvertent encroachment into specified creek setbacks during Quarry Operations and reclamation:

1. Prior to any earthmoving or mining activities adjacent to Arroyo Creek, the location of the 60 foot creek setback for Lower Arroyo Creek and the 85 foot creek setback for Upper Arroyo Creek (as specified pursuant to Mitigation Measures 4.4-7 and 4.4-10, and as shown in Figure 4.4-4 of the project EIR), shall be clearly demarcated in the field with temporary construction fencing, which shall be placed at the outermost edge of required setbacks shown on the project plans. The precise locations of said fences shall be inspected and

approved by the Planning Division prior to any earthmoving and/or mining activities occurring adjacent to creeks. No disturbance, including vegetation or Overburden removal, grading, placement of fill material, storage of equipment, etc. shall occur within the designated areas for the duration of Quarry Operations and reclamation activities. The protective fencing shall remain in place for the duration of Quarry Operations and reclamation, and shall be removed upon completion of reclamation.

O. Tree and Woodland Protection.

The Permittee shall implement the following Tree/Woodland Protection measures:

1. Prior to any vegetation or Overburden removal, or mining activities occurring adjacent to trees or woodlands to be retained, the Permittee shall install temporary fencing at the edge of the dripline of the trees to be retained that are located within 50-feet of the project area. The precise locations of said fences shall be inspected and approved by the Planning Division prior to the commencement of any earthmoving activities. No disturbance, including grading, placement of fill material, storage of equipment, etc. shall occur within the designated areas for the duration of Quarry Operations and reclamation activities. Protective fencing shall be removed upon completion of reclamation.
2. The Permittee shall refrain from severely trimming trees and vegetation which are to be retained and are adjacent to mining and quarrying activities.
3. In accordance with NCC Section 18.108.100 (Erosion hazard areas – Vegetation preservation and replacement) trees that are inadvertently removed that are not within the project boundary (or footprint) and/or not identified for removal as part of this Permit shall be replaced onsite with fifteen-gallon trees at a ratio of 2:1 at locations approved by the PBES Director.

- P. Because this Permit supersedes prior surface mining approvals, the Permittee shall cooperate with the County in terminating Napa County Agreement No. 2225 to the extent such action is deemed necessary by the County.

### 3. RECLAMATION

A. Applicability.

Reclamation of all mined and quarried areas shall be in conformance with the 2016 Mining and Reclamation Plan.

B. Timing.

Commencement of reclamation in areas where mining is complete shall be initiated by the Permittee within 12 months of completion of aggregate Quarry Operations within that area. Said areas shall be identified in the 2016 Mining and Reclamation Plan and/or the project's Annual Mining Plan specified within the 2016 Mining and Reclamation Plan as amended. For the purpose of this Permit the Completion of Mining shall mean when identified or active Aggregate Mining

Operational areas have reached the Limits of Vertical Excavation identified in the MRP and/or where they have reached the minimum 10 feet vertical separation from the regional groundwater potentiometric elevation prescribed by Mitigation Measure 4.8-2. The determination that Aggregate Mining Operations are complete in any given operational area of the Quarry shall be at the discretion of the PBES Director. Aggregate Mining Operations areas that have been determined to be complete shall be identified in the Annual Mining Plan.

Final reclamation shall commence in the following areas within the identified timeframes:

1. Short-term (i.e., within 12 months of the Effective Date of this Permit) - areas north and west of the State Blue Pit including the area identified R-3 in the 2016 MRP and any surrounding areas that are within 10 feet of the groundwater potentiometric elevation, and the area occupied by the "Former Grey Rock Plant" including areas immediately to the south and west. The reclamation area identified as Area 3 in the 2016 Mining and Reclamation Plan as it is located within a no mining exclusion area.
2. Midterm - Aggregate Mining Operation areas that have reached the Limits of Vertical Excavation and have reached the minimum 10 feet vertical separation from the regional groundwater potentiometric elevation, including any areas identified through the annual compliance and assurance review pursuant to COA No. 2(L) or through annual inspections conducted pursuant NCC Section 16.12.500 and PRC Section 2774.
3. Long-term (i.e., generally occurring within the last 5 years of the Permit term and/or as identified in the Annual Mining Plan) - the Processing Area shown on the MRP including any areas identified through the annual compliance and assurance update review procedures pursuant to COA No. 2(L) or through annual inspections conducted pursuant NCC Section 16.12.500 and PRC Section 2774.

For any other mined/disturbed areas within the Quarry that have not already been reclaimed, reclamation shall be initiated by the Permittee on or before the expiration of this Permit term.

Interim reclamation of the areas identified as R-1 and R-2 in the 2016 Mining and Reclamation Plan shall commence within 12 months of the Effective Date of this Permit. Future areas of interim reclamation and within the Quarry Facility as Quarry Operations progress, and associated timing, shall be identified in the Annual Mining Plan, the Annual Compliance Report pursuant to COA No. 2(L), or within the annual inspection reports prepared pursuant NCC Section 16.12.500 and PRC Section 2774.

#### C. Completion.

Reclamation of an area shall not be considered complete until the performance standards established in the 2016 Mining and Reclamation Plan identified below

have been met and thereafter consistently maintained for at least 3 years without irrigation, supplemental seeding, fertilizing, or other human intervention.

The determination that reclamation is complete in any given operational area or of the Quarry Facility shall be made by the PBES Director.

### PLANTING SUCCESS CRITERIA

No.	SITE LOCATION	TREE/SHRUB COVERAGE <sup>3</sup>	TREE/SHRUB DENSITY <sup>2</sup>	TREE and SHRUB / GRASSLAND SPECIES RICHNESS <sup>1</sup>
1	Benches w/ Oak Woodland	47%	20 / 222	75% / 80%
2	Benches w/ Chamise Chaparral	36%	333 / 222	75% / 80%
3	Benches w/ Coyote Brush Chaparral	24%	0 / 222	80% / 80%
4	2:1 Cut Slopes w/ Oak Woodland	47%	18 / 2,150	75% / 80%
5	2:1 Cut Slope w/ Chamise Chaparral	36%	4,840 / 2,150	75% / 80%
6	2:1 Cut Slope w/ Coyote Brush Chaparral	24%	0 / 2,150	80% / 80%
7	2:1 Cut Slope w/ Grassland	80%	Not Applicable	80%
8	Fill Slopes w/ Oak Woodland	47%	18 / 2,150	75% / 80%
9	Fill Slopes w/ Chamise Chaparral	36%	4,840 / 2,150	75% / 80%
10	Fill Slopes w/ Coyote Brush Chaparral	24%	0 / 2,150	80% / 80%
11	Fill Slopes w/ Grassland	80%	Not Applicable	80%
12	Valley Floor w/ Grassland and Oaks	47%	18 / 222	75% / 80%

**Notes:** Tables 5 and 6 of the 2016 Mining and Reclamation Plan identifies the tree/shrub types to be used for each community. The tables also shows the specific seed mix to be used for each community. In addition, the grassland seed mixes identified on Table 6 will be used as follows: oak woodland (OW) communities will use the oak woodland grassland mix; the chaparral (coyote bush (CBC) and chamise (CC)) will use the chaparral grassland seed mix; and the grassland (GL) community will use the grassland seed mix.

1 Species richness % is derived from the tree and seed mix identified on Tables 5 and 6 of the 2016 Mining and Reclamation Plan. Communities with trees and/or shrubs the % does not include the grassland. The species richness is shown as (tree and shrub % / grassland %). For the OW community only 1 or 2 of the oak types identified will be used in any given area (to be determined by a biologist). There are 5 tree/shrub species in the OW community; 5 species in the CC; 6 species in the CBC. For the grassland seed mixes there are 8 seed types in the GL mix; 5 seed types in the OW mix; and 11 seed types in the CC and CBC mix.

2 The plant density on the benches (Nos. 1-3) are shown as 25,000 square feet or .57 acres. The remaining densities (Nos. 4-12) are for one acre. The density does not include the grassland mixes for the respective areas. The densities given are (tree number / shrub number) derived from Table 5.

3 For plantings on the benches (Nos. 1-3) the % is that of a 1,000 linear foot bench, 25 feet wide. For the remaining (Nos. 4-12) the % is for one acre coverage. Baseline coverage for the OW is 95%, CC is 60%, CBC is 40% and GL is 100%. The coverage % given in Table 12 is an anticipated successful coverage % after revegetation. The % does not include grasslands in the OW, CC or CBC communities.

As necessary through the term of this Permit, the Permittee shall, in conjunction with the County Conservation Division and the Napa County Resource Conservation

District, review and supplement/augment the reclamation species and seed mixes and application rates as necessary so that native species, which are appropriate for reclamation and erosion control of the project site are included in the reclamation efforts. Seed mixes shall be noxious weed free and shall include seed from locally propagated plant species to the maximum extent practical.

#### **4. ENFORCEMENT**

Enforcement of the provisions of this Permit, ongoing Quarry Operations and activities, and site reclamation shall be governed by Article VI (Enforcement) of NCC Chapter 16.12 (Surface Mining and Reclamation), in addition to any other remedies (civil or criminal) as may be available to the County.

#### **5. SIGNS**

Prior to installation of any new Quarry identification or directional signs, detailed plans, including elevations, materials, color, and lighting, shall be submitted to the PBES Department for administrative review and approval. All signs shall meet the design standards as set forth in NCC Chapter 18.116.

#### **6. LIGHTING**

All exterior lighting, including Quarry Operations and support facility lighting, shall be shielded and directed downward, located as low to the ground as possible, the minimum necessary for security, safety, or operations, and shall incorporate the use of motion detection sensors to the greatest extent practical. No flood-lighting or sodium lighting of the buildings is permitted, including architectural highlighting and spotting. Low-level lighting shall be utilized in parking and operational areas as opposed to elevated high-intensity light standards.

Prior to installation of any new lighting and issuance of any necessary building permits (including electrical permits) at the Quarry Facility, and pursuant to this approval, 2 copies of a detailed lighting plan showing the location and specifications for all lighting fixtures to be installed on the Property shall be submitted for Planning Division review and approval. All lighting shall comply with the California Building Code.

#### **7. COLORS**

The colors used for any new Quarry and mining facilities and structures shall be limited to earth tones that will blend the facility into the colors of the surrounding site specific vegetation and the Permittee shall obtain the written approval of the PBES Department prior to painting the facility structures. Highly reflective surfaces are prohibited.

#### **8. INDEMNIFICATION [RESERVED.]**

## 9. AFFORDABLE HOUSING MITIGATION

To the extent applicable, prior to County issuance of any building permits necessary for the project, the Permittee shall pay the Napa County Affordable Housing Mitigation Fee in accordance with the requirements of NCC Chapter 18.107.

## 10. MONITORING COSTS

All staff costs associated with monitoring compliance with these conditions, permit conditions, and project revisions shall be borne by the Permittee. Costs associated with conditions of approval and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged. Costs shall be as established by resolution of the Board of Supervisors in accordance with the hourly consulting rate established at the time of the monitoring and shall include maintenance of \$500 deposit for project compliance monitoring that shall be retained until mining and reclamation are complete. Violations of conditions of approval or mitigation measures caused by the Permittee's contractors, employees, and/or guests are the responsibility of the Permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of compliance deficiencies is found to exist by the Commission at some time in the future, the Commission may institute the audit program at the Permittee's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if so warranted, to commence enforcement actions in accordance with NCC Chapter 16.12.

## 11. MITIGATION MEASURES:

The Permittee shall comply with the following mitigation measures:

- A. Mitigation Measure 4.3-2a: Reduce NOx:** Any time production of 810,363 tons (i.e., the Baseline Condition) of Aggregate or Aggregate-related Materials has been achieved within the previous 12-month period, the Permittee shall demonstrate that project NOx emissions are less than 10 tons per year.

Activity levels of offroad vehicle engines, which contribute a majority of project NOx emissions, shall be logged to document operational emissions from that source. The Permittee shall prepare a Horsepower-Hour Log ("Log") of monthly horsepower-hours for offroad vehicles operated within the previous 12-month period. The Log shall include the rolling 12-month total horsepower-hours. Low use equipment operated less than 20 hours per year shall be excluded. The Log shall sum the horsepower-hours for each tier of engine and calculate the percent of horsepower-hours operated by engines in each tier category. The Log shall be updated by the Permittee no less than semi-annually (i.e., every 6 months) or with greater frequency as necessary to ensure compliance with this mitigation measure.

The Permittee shall implement one or more the following options to reduce NOx emissions increase to less than 10 tons per year above baseline.

Option 1. Operating cleaner offroad vehicle engines as conditioned below:

- a) Baseline conditions are established at 810,363 tons with a fleet mix of 39 percent Tier 0, 49 percent Tier 1, 10 percent Tier 2 and 2 percent Tier 3.
- b) Production up to 945,000 tons per year shall be allowed upon continued demonstration that 12 percent of horsepower-hours operated are Tier 2 or better.
- c) Production up to 1,100,000 tons per year shall be allowed upon continued demonstration that 44 percent of the horsepower-hours are Tier 2 or better.
- d) Production up to 1,300,000 tons per year shall be allowed upon continued demonstration that 5 percent of horsepower-hours are Tier 3 or better and 72 percent of the horsepower-hours are Tier 2 or better.

Consistency with Condition of Approval No. 1(a) through 1(d) above demonstrates that NOx emissions are consistent with those calculated in the EIR and have increased by an amount less than (10) tons per year.

Option 2. Reduce NOx emissions from locomotive and/or barge engines by employing units with Tier 1 or better engines.

Option 3. Reduce on and/or offsite emissions by some other approved means. Onsite reductions may include, but are not limited to, source controls at the asphalt plants, electrifying processes that require offroad equipment (such as automated loadout conveyor systems to reduce haul truck emissions), or using alternate fuels such as biodiesel or electric motors. Offsite may include purchasing offsets. The purchase of any offsets shall be real, surplus, permanent, quantifiable, and enforceable.

If Options 2 or 3 are used, then the effectiveness of the actions to be taken shall be demonstrated to the County by submittal of an Emissions Calculations report prepared by a qualified professional (at the Permittee's expense). In that case, the Horsepower-Hours Log and/or documented historical fuel used in each vehicle shall be used to calculate NOx emissions from offroad vehicle engines. project NOx emissions from other sources not affected by proposed mitigations (e.g., on-road vehicle engines, asphalt plant burners, and blasting) shall be included in the Emissions Calculations to demonstrate that, in total, the combined NOx emissions increase from all project sources is less than 10 tons per year above baseline.

Both the Log and Emissions Calculations report shall be submitted to the County for review semi-annually and in the Annual Compliance Report required by COA No. 2(L), or as requested by the County to demonstrate compliance. If the County finds that operations have not achieved the required reductions, the

Permittee shall immediately update the Horsepower-Hours Log and scale back to a monthly production rate that will achieve the appropriate limit identified in Option 1 within the next 2 months as determined based on the percentages and tier of offroad vehicle engines in use during the 3 month period prior to the County's finding that operations have not achieved the required reductions. Thereafter reduced production levels shall be maintained until the Permittee provides documentation demonstrating the mitigation options chosen have been implemented and that increased production levels will result in NOx emissions increase of less than 10 tons per year. As necessary the County will either hire a consultant (at the Permittee's expense) or enlist the BAAQMD to assess and determine compliance.

**B. Mitigation Measure 4.3-2b: Reduce Fugitive Dust (PM<sub>10</sub> and PM<sub>2.5</sub>):**

Any time production of 810,363 tons (i.e. the Baseline condition) has been achieved within the previous 12-month period, the Permittee shall demonstrate that PM<sub>10</sub> and PM<sub>2.5</sub> emissions have not increased above baseline levels. If the County finds that PM<sub>10</sub> or PM<sub>2.5</sub> emissions have increased then monthly production shall be scaled back immediately to the level that will reduce the rolling 12-month PM<sub>10</sub> and/or PM<sub>2.5</sub> emissions to less than baseline level within 2 months. Reduced production levels that result in emission compliance shall be maintained as long as necessary until the Permittee provides documentation demonstrating that increased production levels would result in no increase of PM<sub>10</sub> and PM<sub>2.5</sub> emissions above baseline levels. The Permittee shall reduce PM<sub>10</sub> and PM<sub>2.5</sub> through compliance with Items 1 through 4 below, and one or more of the methods listed in 5 through 6, below:

1. The Permittee shall clean internal paved roads daily using a particulate matter efficient street sweeper.
2. Blasting shall be prohibited during high wind conditions. High wind conditions means when 2-minute average wind speed exceeds 20 miles per hour as measured using the methods described by South Coast Air Quality Management District in Attachment A to the Rule 403 Implementation Handbook.
3. The Permittee shall apply water to blast sites where and when feasible prior to detonation.
4. The Permittee shall limit speeds on unpaved areas to less than 15 MPH.
5. The Permittee shall maintain chemical dust suppressant or equivalent dust suppressant that achieves similar control on the unpaved road surfaces, as described in the manufacturer's specifications. Materials used for chemical dust suppressant shall include any non-toxic chemical or organic dust suppressant or stabilizer and shall not violate State Water Quality Control

Board standards. Materials accepted by the California Air Resources Board and the U.S. EPA, and which meet State water quality standards shall be considered acceptable. The Permittee shall maintain records on dust suppressant use and any other supporting documentation to verify compliance with the conditions above. Such records shall include type of control measure(s) used, location and extent of coverage, date of use, amount, and frequency of application, including product information sheets that identify the name of the dust suppressant(s) and application instructions. Records shall be maintained for 5 years, and shall be submitted to the PBES Department annually, as required by COA No. 2(L).

6. The Permittee shall reduce on-site emissions by some other means (e.g., surface moisture content performance standard, watering frequency, installing or utilizing water spray systems), or electrifying processes that require off-road equipment (such as automated load-out conveyor systems to reduce haul truck emissions). Stationary source emissions of particulates can be reduced by: installing baghouses to aggregate processing equipment; installing bags with higher removal efficiencies in existing baghouses (such as the asphalt plants); installing scrubbers; or, installing water spray systems.

The effectiveness of this measure shall be demonstrated to the County by submittal of an Emissions Calculations report that has been prepared by a qualified professional (at the expense of the Permittee) and supporting data. The Emissions Calculations report shall be submitted to the County for review in the Annual Compliance Report required by COA No. 2 (L), or as requested by the County to demonstrate compliance. As necessary, the County will either hire a consultant (at the operator's/Permittee's expense) or enlist the BAAQMD to assess compliance.

**C. Mitigation Measure 4.3-3: Reduce Health Risk:** The Permittee shall implement the following mitigation measures to reduce health risk at sensitive receptors:

1. Using the Log described in COA No. 11(A) (Mitigation Measure 4.3-2a) and blasting activity or other records that substantiate the relative amount of activity in each pit, the following tiered approach shall be followed:
  - a) Production up to 810,363 tons per year shall be allowed upon the Permittee's continued demonstration that at least 12 percent of horsepower-hours operated are Tier 2 or better (i.e., Baseline fleet activity as described in Mitigation Measure 4.3-2a Option 1(a)).
  - b) Production up to 950,000 tons per year shall be allowed upon the Permittee's continued demonstration that one of the following conditions is met:
    - (i) The amount of products made from material excavated in the Blue and Grey Pits combined during the previous rolling 12-month period does

- not exceed 427,500 tons per year (45 percent) and at least 12 percent of horsepower-hours operated are Tier 2 or better (i.e., Baseline); or
    - (ii) The amount of products made from material excavated in the Blue and Grey Pits combined during the previous rolling 12-month period does not exceed 570,000 tons per year (60 percent) and at least 44 percent of horsepower-hours operated are Tier 2 or better as described in Mitigation Measure 4.3-2a, Option 1(b).
  - c) Production up to 1,100,000 tons per year shall be allowed upon the Permittee's continued demonstration that one of the following conditions is met:
    - (i) The amount of products made from material excavated in the Blue and Grey Pits combined during the previous rolling 12-month period does not exceed 495,000 tons per year (45 percent) and at least 12 percent of horsepower-hours operated are Tier 2 or better (i.e., Baseline); or
    - (ii) The amount of products made from material excavated in the Blue and Grey Pits combined during the previous rolling 12-month period does not exceed 660,000 tons per year (60 percent) and at least 56 percent of horsepower-hours operated are Tier 2 or better.
  - d) Production up to 1,300,000 tons per year shall be allowed upon the Permittee's continued demonstration that 5 percent of horsepower-hours operated are Tier 3 or better and 72 percent of horsepower-hours operated are Tier 2 or better as described in COA No. 11(A) (Mitigation Measure 4.3-2a, Option 1(c)).
- 2. Reduce onsite emissions by some other means such as control of particulates by installation of verified diesel emissions control systems (VDECS) on engines that operate within the Quarry to reduce emissions from the overall fleet. VDECS are defined by the California Air Resources Board and listed on the [CARB website](#).

The effectiveness of this mitigation measure shall be demonstrated to the County by submittal of the Horsepower-Hour Log described in COA No. 11(A) (Mitigation Measure 4.3-2a) and blasting activity or other records that substantiate the relative amount of excavation in the Blue and Grey Pits as compared to the total excavation amount. The Log shall be submitted to the County for review semi-annually and in the Annual Compliance Report required by COA No. 2(L), or as necessary to demonstrate compliance. As necessary the County will either hire a consultant (at the Permittee's expense) or enlist the BAAQMD to assess compliance.

**D. Mitigation Measure 4.4-1a: Holly-leaf Ceanothus (*Ceanothus purpureus*) impact reduction:**

1. Avoidance and Preservation. Prior to initiation of any vegetation or Overburden removal, earthmoving or earth-disturbing activities, or quarrying or mining activities occurring in any undisturbed areas (including any expansion areas), the Permittee shall revise the 2016 Mining and Reclamation Plan (at the Permittee's expense) to clearly delineate and show the 5-acre "Ceanothus Preservation and Replanting Area" required by this measure. The revised plan shall be submitted to the Engineering and Conservation Division for review and concurrence to demonstrate compliance with this measure. Avoidance and Preservation areas shall also be established and identified in the field through the placement of signage that clearly identifies the area(s) to be avoided so that accidental encroachment or removal of vegetation does not occur. Sign design and locations shall be included in the revised the 2016 Mining and Reclamation Plan.
2. Plant Replacement. Each holly-leaf ceanothus plant shall be replaced at a 3:1 ratio within the 5-acre "Ceanothus Preservation and Replanting" area for the impact to approximately 32 plants. No less than 96 individual holly-leaved ceanothus plants shall be planted to provide replacement and compensation for direct and potential indirect impacts.
3. Planting Plan. A qualified biologist shall prepare a Planting Plan for holly-leaf ceanothus for review and approval by the Napa County PBES Department 12 months prior to any vegetation or Overburden removal, earthmoving or earth-disturbing activities, or quarrying or mining activities occurring in any undisturbed areas (including any expansion area) where ceanothus plants would be removed. The Planting Plan shall specify plant sizes and protection measures identified in Item No. 4 below, methods of plant propagation/procurement (i.e., plant salvage, propagation plan, etc.), habitat enhancement of replanted area, appropriate planting densities, watering protocol (duration/quantity/schedule), maintenance requirements, and monitoring and success criteria identified in Item No. 5 below. The Planting Plan also shall address avoidance and conservation methods (i.e., fencing, etc.) for existing individual plants that are avoided by the mining footprint and designated processing area, or that occur in the "Ceanothus Preservation and Replanting Area."
4. Additional Planting Specifications. Replacement plants shall be from one gallon size or larger containers and shall be planted in the fall in clusters of 3 to 20 individual plants, based on details provided in the Planting Plan. Mesh shelters or other equally effective measures shall be installed around the plants to protect them from rodent damage and deer browsing. Plants shall be mulched to enhance moisture retention and discourage weeds during the

plant establishment period, and the area immediately surrounding the plants shall be weeded to reduce competition.

5. Monitoring and Success Criteria. A qualified biologist shall monitor the enhanced habitat and plantings on an annual basis to ensure the replantings achieve a minimum of 80 percent success/survival rate after 3 years, and to ensure habitat conditions remain adequate to support target species. If the success criterion has not been met after 3 years, supplemental plantings shall be made at the direction of a qualified biologist, and the plant establishment period shall be extended for an additional 2-year period, with additional annual monitoring events. The Permittee shall submit documentation of monitoring to the County on an annual basis, in conjunction with the Annual Compliance Report required by COA No. 2(L), for a minimum of 3 years or until success criteria are achieved, including survival rates, photographs, and a description of any maintenance or other pertinent issues identified by the monitoring biologist. The monitoring report shall also include information to illustrate the condition and location of any failed plantings.

**E. Mitigation Measure 4.4-1b: Special-status plant species protection:**

1. The Permittee shall have a qualified biologist prepare (at the Permittee's expense) updated seasonally-appropriate plant surveys prior to initiation of any vegetation or Overburden removal, earthmoving or earth-disturbing activities, or quarrying mining activities in undisturbed areas (including expansion areas) that contain potential habitat for special-status plant species. Since plant surveys are typically considered valid for a 2 to 3 year period, updated plant surveys shall be conducted on a phased basis as necessary within areas anticipated for new mining and quarrying activities no greater than 3 years prior to planned ground-disturbing activities.
2. If new or expanded California Native Plant Society (CNPS) sensitive-listed plant species populations (i.e., List 1 or 2) are identified within areas planned for project ground vegetation-disturbing activities, a plant replacement plan shall be prepared by a qualified biologist. The plant replacement plan shall specify a replant/replacement area, a 3:1 replacement ratio, methods of plant propagation/procurement (i.e., plant salvage if feasible, propagation plan, etc.), habitat enhancement of replanted area, planting densities, watering protocol (including duration, quantity and schedule), planting schedule, protective measures such as mesh shelters or other equally effective measures (and/or fencing) to protect plant establishment from rodent damage or deer browsing, maintenance requirements, success criteria, and monitoring to ensure success criteria are achieved. The plant replacement plan shall be prepared and submitted for approval by the county prior to conducting any mining or quarrying activities within the area of identified plant population(s).

3. A qualified biologist shall monitor the enhanced habitat and plantings on an annual basis to ensure the replantings achieve a minimum of 80 percent success/survival rate after 3 years, and to ensure habitat conditions remain adequate to support target species. If the success criterion has not been met after 3 years, supplemental plantings shall be made at the direction of a qualified biologist, and the plant establishment period shall be extended for an additional 2-year period, with additional annual monitoring events. The Permittee shall submit documentation of monitoring to the County on an annual basis for a minimum of 3 years or until success criteria are achieved, including survival rates, photographs, and description of any maintenance or other pertinent issues identified by the monitoring biologist. The monitoring report shall also include information to illustrate the condition and location of any failed plantings.
4. All surveys, plans, and reports required by this mitigation measure shall also be included in the Annual Compliance Report required by COA No. 2(L), and as necessary to demonstrate compliance.

**F. Mitigation Measure 4.4-2: American Badger protection measures:**

1. The Permittee shall retain a qualified biologist (at the Permittee's expense) to perform preconstruction surveys for American badger prior to initiation of project activities including vegetation or Overburden removal, earthmoving or earth-disturbing activities, or quarrying or mining activities occurring in any undisturbed areas (including any expansion areas) that occur in potential badger habitat (grassland and low density woodland areas with less than 2 trees per acre).
2. No more than 2 weeks before earthmoving activities begin within areas determined to be potential badger habitat (grassland and low density woodland with less than 2 trees per acre) and that have not previously been disturbed, a qualified biologist shall conduct a survey for burrows/dens and American badgers of onsite areas within 500 feet of new quarrying or earthmoving activities. Surveys shall be submitted to the County for review prior to the removal of vegetation or Overburden, and earthmoving or earth-disturbing activities. The purpose of the survey will be to determine whether burrows/dens exist within the area considered for disturbance within that construction year. Surveys shall not be required for areas already disturbed and/or where American badger habitat is not present.
3. If occupied burrows are found during preconstruction surveys, the biologist shall consult with CDFW and the County to determine whether the project activities would adversely disrupt the breeding activity of the badger.
4. If the biologist determines that construction activities would disrupt breeding activity, the Permittee shall ensure that occupied areas are avoided from

March through August. Implementation of project activities within 500 feet of onsite occupied burrows during this time shall be delayed until a qualified biologist can determine that juvenile badgers are self-sufficient enough to move from their natal burrow and avoid project activities. Documentation shall be provided to the PBES.

5. All surveys, plans, and reports required by this mitigation measure in shall also be included in the Annual Compliance Report required by COA No. 2(L), and as necessary to demonstrate compliance.

**G. Mitigation Measure 4.4-3: Special-status bird species protection:** The Permittee shall not disturb active bird nests without a permit or other authorization from the County, USFWS and/or CDFW. Prior to commencement of vegetation or Overburden removal, earthmoving or earth-disturbing activities, or quarrying activities within any undisturbed areas, the Permittee shall retain a qualified biologist to conduct preconstruction surveys for raptors and passerine birds for project activities occurring during the nesting season (i.e., February 1st through August 31st).

1. For vegetation or Overburden removal, earthmoving, earth-disturbing activities, or quarrying activities within previously undisturbed areas (including areas of grassland, shrubs, and trees) occurring between February 1st and August 31st, a qualified wildlife biologist shall conduct preconstruction surveys for passerine bird and raptor nests (including offsite areas with public access, excluding offsite private property) as follows: i) for areas that are not adjacent to lands within the Skyline Wilderness Park Combining District (NCC Chapter 18.90) surveys shall be conducted within a 300 foot radius of earth-disturbing activities; and, ii) for areas that are adjacent to Skyline Wilderness Park designated lands surveys shall be conducted within a 0.25 mile radius of earth-disturbing activities. Because raptor nests may be difficult to identify during the egg laying, incubation, or chick brooding periods (late April to early June), an early season survey is required if project activity areas are known prior to late April. The biologist shall conduct the preconstruction surveys within the 14-day period prior to vegetation removal and ground-disturbing activities (a minimum of 3 separate days of surveys shall occur within that 14-day period).
2. In the event that nesting passerine birds and/or raptors are found, the biologist shall consult with CDFW and the County to obtain approval for specific nest-protection buffers as appropriate based on the species. Generally, a minimum 150-foot buffer is required around active passerine bird nests and a minimum 300-foot buffer is required around active raptor nests during the breeding and nesting season, or until it is determined by a qualified biologist that all young have fledged. Nest protection measures shall apply to both onsite and offsite active nests that are located within 300 feet of project activities. These buffer zones may be modified in coordination with CDFW

based on existing conditions at the project site. Buffer zones shall be fenced with temporary construction fencing, which shall remain in place until the end of the breeding season or until young have fledged.

3. If project-related work lapses for 15 days or longer during the breeding season, a qualified biologist shall conduct another bird and raptor preconstruction survey and consult with CDFW as set forth above before project work may be reinitiated.
4. All surveys, plans, and reports required by this mitigation measure shall also be included in the Annual Compliance Report required by COA No. 2(L), and as necessary to demonstrate compliance, commencing 1 year from the date of approval of this Permit.

**H. Mitigation Measure 4.4-5: Special-Status Bat Species protection and**

**avoidance:** Prior to commencement of any vegetation or Overburden removal, or project or quarrying activities within any undisturbed areas that contain trees, the Permittee shall implement, at the Permittee's expense, the following measures:

1. The Permittee shall retain a qualified biologist to conduct a habitat assessment for special-status bat habitat within 14 days of project initiation or tree removal.
2. If the habitat assessment identifies suitable special-status bat habitat and/or habitat trees, the biologist shall submit an avoidance plan for review and approval by the County, who may consult with CDFW if determined to be necessary. The avoidance plan shall identify and evaluate the type of habitat present at the project site and specify methods for habitat and/or habitat tree removal. Trees with cavities, crevices and deep bark fissures shall be avoided. Bat habitat/tree removal shall occur in 2 phases conducted over 2 days under the supervision of a qualified biologist. In the afternoon on day one, limbs and branches of habitat trees without cavities, crevices and deep bark fissures would be removed by chainsaw. On day 2, the entire tree can be removed.
3. All surveys, plans, and reports required by this mitigation measure in shall also be included in the Annual Compliance Report required by COA No. 2(L), and as necessary to demonstrate compliance, commencing 1 year from the date of Permit approval.

**I. Mitigation Measure 4.4-7: Wetlands and riparian communities:** To reduce potential wetland impacts, the Permittee shall:

1. Prior to initiation of project activities (i.e., vegetation and Overburden removal within any undisturbed areas) that may affect the areas identified as C1 and

C2 in the USACE-jurisdictional determination (USACE File Number 2009-00284N) through direct removal, the Permittee shall obtain a Clean Water Act Section 404 permit from the USACE. If a 404 permit is obtained, then the Permittee shall also obtain a water quality certification from the RWQCB under Clean Water Act Section 401. The Permittee shall compensate for the loss of wetland habitat in these areas to ensure no net loss of habitat functions and values. If mitigation is determined by the County to be infeasible due to lack of areas suitable for wetland creation, the County may approve a suitable offsite location. A detailed wetland mitigation plan (subject to approval by the USACE) to provide compensation wetlands shall be required that includes a 5-year monitoring program and reporting requirements, responsibilities, performance success criteria, and contingency requirements. At the end of each monitoring year, an annual report shall be submitted to the USACE, RWQCB, and the Napa County Engineering and Conservation Division. The report shall document the hydrological and vegetative conditions of the mitigation wetlands, and shall recommend remedial measures as necessary to correct deficiencies. The compensation wetlands shall be located within the same watershed as project impacts. In lieu of creating compensation wetlands, the Permittee may purchase mitigation credits from an approved mitigation bank at a ratio of 2:1, or as otherwise approved by the USACE.

2. Prior to initiation of project activity (including vegetation and Overburden removal) that may affect sensitive wetland habitats in non-USACE-jurisdictional areas, the Permittee shall obtain permits as may be required by the RWQCB, CDFW, and the County, and shall replace wet areas, at a 2:1 ratio or as directed by the RWQCB, CDFW, and/or the County, to ensure no net loss of habitat functions and values. If onsite mitigation is determined by the County to be infeasible due to lack of areas suitable for wetland creation that are not already planned for project activities, a detailed wetland mitigation plan to provide compensation wetlands shall be required (subject to approval by applicable state and/or local jurisdictions) that includes a 5-year monitoring program and reporting requirements, responsibilities, performance success criteria, and contingency requirements. At the end of each monitoring year, an annual report shall be submitted to the regulatory agencies. The report shall document the hydrological and vegetative conditions of the mitigation wetlands, and shall recommend remedial measures as necessary to correct deficiencies. The compensation wetlands shall be located within the same watersheds (i.e., the Arroyo Creek or Cayetano Creek watersheds/drainages) as project impacts or other suitable areas as determined by the County.
3. A 50-foot setback is included from the main stem of Arroyo Creek for new project elements beyond the extent of existing roads and development, thus avoiding impact to the riparian corridor along the main stem of Arroyo Creek. The 50-foot setback will be determined by mapping the Ordinary High Water Mark (OHWM) of the main stem (below 300-foot elevation) of Arroyo Creek

on the project site. The OHWM and 50-foot setback shall be flagged in the field for review and approval by state and/or local jurisdictions.

In 2 small areas, located in the southwest corner of the property south of the former Grey Rock Plant (as shown on DEIR Figure 4.4- 4), the 50-foot setback shall be increased to approximately 60 feet to avoid 2 small riparian areas (0.07 acres) that extend beyond the 50-foot setback. The drip-line of this additional vegetation shall be flagged in the field for review and approval by state and/or local jurisdictions.

4. All surveys, plans, and reports required by this mitigation measure shall also be included in the Annual Compliance Report required by COA No. 2(L), and as necessary to demonstrate compliance, commencing 1 year from the date of Permit approval.

**J. Mitigation Measure 4.4-8: Invasive Species Management within Preservation/Replanting Areas:**

1. The Permittee, at their expense, shall retain a qualified biologist to prepare an Invasive Species Management Plan (ISMP) for protected native perennial grassland areas (Purple Needlegrass Series) and replanted mitigation areas (i.e., the Ceanothus Preservation/Replanting Area described by Mitigation Measure 4.4-1). The ISMP shall be submitted to the County Department of Planning, Building and Environmental Services for review and approval within 12 months of the Effective Date of this Permit. The ISMP shall target invasive plant species either existing on the project site or that could colonize in the future, and shall specify methods of early detection, management, and control of invasive plant species to improve and protect onsite habitats.

The ISMP shall provide a list of target invasive species to be managed at the site with Cal-IPC rating of moderate or higher for the Napa and Mt. George quadrangles and specify success criteria for managed invasive species. Star thistle, medusa head grass, and french broom are known to occur on a nearby vineyard property and shall be included on the list of target invasive species identified in the ISMP.

2. The ISMP shall be implemented by the Permittee within 12 months of approval of the ISMP by PBES to control infestations of invasive species onsite as needed to minimize impacts of such species on remaining protected sensitive habitat areas. Targeted invasive species identified in the ISMP may be managed by handpulling, local application of herbicide, and/or light grazing, or other techniques recommended by the ISMP. Guidance through managed grazing helps reduce fire fuel loads and, if timed properly, can favor the maintenance and expansion of native plant species. Selective control of invasive species shall be employed using best-management practices (BMPs) to minimize soil erosion, water contamination, or non-target herbicide

effects that could occur during implementation of invasive species management techniques.

3. All surveys, plans, and reports required by this mitigation measure shall also be included in the Annual Compliance Report required by COA No. 2(L), and as necessary to demonstrate compliance, commencing 1 year from the date of Permit approval.

**K. Mitigation Measure 4.4-9: Oak Woodland Avoidance, Replacement, and**

**Preservation:** The Permittee shall, at the Permittee’s expense, compensate for direct and indirect impacts to approximately 121 acres of native oak woodlands at a total mitigation ratio of 2:1, including combination of onsite avoidance and preservation (see DEIR Figure 4.4-3 exclusion areas and 50 foot buffer zone along property lines), onsite replacement (see DEIR Figure 4.4-4), and offsite as summarized in the table below.

All documentation associated with on and offsite oak woodland mitigation shall be submitted to the County in accordance with the timeframes identified herein and shall be included in the Annual Compliance Report required by COA No. 2(L), and as necessary at the request of the County to demonstrate compliance.

**Summary of Proposed Oak Avoidance, Replacement, and Preservation**

Row	Type	Acres	Notes
A	Coast Live Oaks Impact	121	108.3 direct plus 12.4 indirect for root impacts
B	2:1 Ratio Mitigation Package Total	242	
C	Avoidance and Preservation (Onsite)	145	Buffer and exclusion areas onsite
D	Net Additional Mitigation Required	97	Rows B-C
E	Replacement and Preservation (Onsite)	12	Onsite plantings adjacent to existing oaks
F	Additional Replacement and/or Preservation	85	Offsite
G	Total Replacement and Preservation	97	Rows E+F

Project mitigation shall be accomplished through a combination of onsite avoidance and preservation, partial onsite replacement and preservation, and additional offsite preservation (as necessary) in accordance with a plan prepared by a qualified biologist.

1. Avoidance. The proposed project would avoid 136 acres of onsite oak woodlands in the exclusion areas shown on Figure 4.4-3 of the DEIR and as modified by the Permittee. These areas shall be protected via deed restriction in a form acceptable to the County and shall be recorded prior to the commencement of any mining activities in any previously undisturbed area or any new vegetation or Overburden removal activities within the project area.
2. Replacement. A site evaluation of oak woodlands on the project site prepared by an ecologist mapped out areas that appeared suitable for initiating oak replacement plantings (see DEIR Figure 4.4-4), and these activities would provide added benefit of enhancing the age structure of oak woodland at the site. These areas amount to approximately 12 acres of suitable area for potential onsite replacement for partial mitigation of impacts to oaks (additional onsite suitable area may be available upon additional investigation). The oak woodlands evaluation also concluded that planting and/or management practices could be conducted onsite to enhance seedling establishment, improve the age structure of the oak woodlands, and increase the sustainability of the oak stands, although these activities can be a challenge to implement due to the long term commitment requirement, cost and labor intensive management techniques, and remote nature of some of the onsite areas for access for maintenance.

A qualified biologist shall prepare an oak woodland establishment and restoration plan subject to County approval. Prior to the commencement of any mining activities in any previously undisturbed area or any new vegetation or Overburden removal activities within the project area the Oak Woodland Establishment and Restoration Plan shall be initiated and completed (i.e., all replacement trees identified in the Plan shall be planted). Once the success criteria identified in the plan (as described below) is achieved the Plan will be considered finalized.

The Plan shall specify the location of a minimum of 12 acres onsite for oak replacement/restoration (generally as shown in Figure 4.4-4 of the DEIR), methods of implementation, plants or propagule source(s), watering (schedule/amounts/duration), and maintenance of the oak woodland replacement areas, including measures to avoid deer browsing, as well as a monitoring protocol. The plan shall also specify minimum success criteria consistent with those identified in Section 6.3.2 (Planting Success Criteria) of the 2016 Mining and Reclamation Plan and COA No. 3(C).

The Plan and documentation demonstrating planting, survival and success shall be included in the Annual Compliance Report required by COA No. 2(L), and as requested by the County to demonstrate compliance.

3. Offsite Preservation. An additional 85-acres offsite shall be permanently preserved via a conservation easement. Offsite preservation shall be phased

in as part of the project. Based on implementation of provisions H1 and H2 above the removal of approximately 78-acres of oak woodland could occur before offsite mitigation is necessary. Prior to the commencement of Quarry Operations, or vegetation or Overburden removal within any undisturbed areas (including expansions areas), that would remove in total more than 78-acres of onsite oak woodlands (i.e., those areas beyond oak woodland acreage covered by the deed restriction avoidance and replacement onsite) the Permittee shall provide the County with an offsite Oak Woodlands Preservation Plan containing no less than 85-acres of oak woodlands for review and approval by the County.

Offsite location(s) shall be located within the Napa River watershed and be of like quality and habitat value as those being removed, as determined by a qualified biologist and the County. So that offsite mitigation provides the maximum benefit to the area most affected by the project and occurs within the geographic context of the project, preference shall be given to comparable oak woodlands that are located within the close proximity of the Quarry (i.e., within 3.5 miles of the outer portion of the project boundary).

In the event offsite preservation areas are determined to be of lesser quality and habitat value relative to the areas removed from the project site, the County may consider an increase in preserved acreage beyond the required 85 acres to offset the inequity in quality and biological value. The PBES Director will make final determinations related to quality of oak woodlands and any increases in preserved acreage to offset any inequities in quality of the preserved woodland.

If offsite mitigation is determined by the County to be infeasible due to lack of areas suitable for oak woodland replacement or preservation, the County may approve, provided all other replacement and preservation means are exhausted, additional preservation through an in-lieu fee payment. In-lieu fee payments shall be made to the County for the purpose of purchasing and preserving oak woodlands within the Napa River Watershed or to provide payment to the Oak Woodlands Conservation Fund consistent with PRC Section 21083.4 as developed and approved by the County.

**L. Mitigation Measure 4.4-10: Creek Buffer Establishment:** The Permittee shall provide a setback of a minimum of 85 feet from the upper reaches of Arroyo Creek and provide a setback of a minimum of 60 feet from the lower reach of Arroyo Creek (as shown in Figure 4.4-4 of the project's DEIR) to reduce potential impacts on biological resources and functions consistent with the measurement requirements contained in NCC Chapter 18.108.025.

**M. Mitigation Measure 4.5-4: Avoid or Minimize Impacts to Unknown Historical or Archaeological Resources:** In accordance with CEQA Guidelines Section 15064.5(f), should any previously unknown prehistoric or historic archaeological

resources, such as, but not limited to, obsidian and chert flaked-stone tools or toolmaking debris, shellfish remains, stone milling equipment, concrete or stone footings, filled wells or privies, or deposits of metal, glass, or ceramic refuse be encountered during vegetation or Overburden removal or other ground disturbing activities, work within 100 feet of these materials shall be stopped, and the Permittee shall, at the Permittee's expense, consult with a professional archaeologist. The Permittee shall notify the County within 24 hours of encountering any cultural resources as a result of mining and quarrying activities and operations, and the County shall inspect the site immediately thereafter to ensure the find is adequately protected.

The archaeologist shall prepare an assessment report and recovery plan to evaluate the significance of the find and identify appropriate mitigation measures as may be necessary if the deposit contains significant archaeological materials. The Permittee shall provide the assessment report and recovery plan to the County Engineering and Conservation Division for review and approval, and those mitigation measures shall be carried out prior to any resumption of related ceased earthwork or quarrying activities. The archaeologist shall also undertake data recovery of the deposit unless the project can be modified to allow the materials to be left in place. Data recovery efforts must follow standard archaeological methods and all significant cultural resource materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards, and the report shall be provided to the County Engineering and Conservation Division as necessary.

In the event that the cultural resources identified within the project area results in a reduction or modification of mining/quarrying boundaries due to avoidance, the 2016 Mining and Reclamation Plan shall be revised by the Permittee and submitted to the County for review and approval.

Documentation of any occurrence that triggers the provisions above shall be included in the Annual Compliance Report required by COA No. 2(L), and as necessary to demonstrate compliance. The County Engineering and Conservation Division shall monitor this requirement.

**N. Mitigation Measure 4.5-5: Avoid or Minimize Impacts to Unknown Human Remains:** Should human remains, associated grave goods, or items of cultural patrimony be encountered during Quarry or other ground-disturbing activities, the Permittee shall comply with the following procedures as required by Public Resources Code section 5097.9 and Health and Safety Code section 7050.5. In the event of discovery or recognition of any human remains, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the Napa County Coroner has determined that the remains are not subject to his or her authority. If the coroner determines the human remains to be Native American, the Permittee shall

contact by telephone within 24 hours, the State Native American Heritage Commission (NAHC). The NAHC shall assign a Most Likely Descendent (MLD). The MLD may provide recommendations regarding the treatment of the human remains and any associated cultural materials. If the Permittee rejects the recommendations and the mediation by NAHC fails to provide acceptable measures, then the Permittee shall rebury the Native American remains and associated grave goods with appropriate dignity on the property, in a location not subject to further subsurface disturbance.

Furthermore, the Permittee shall notify the County within 24 hours of encountering any human remains as a result of mining and quarrying activities and operations that the County Coroner determines to be Native American. The County shall inspect the site immediately thereafter to ensure the find is adequately protected. Prior to any further mining or quarrying activities in areas where human remains have been encountered, the Permittee shall provide documentation that they have consulted with the NAHC regarding the treatment of the human remains. In the event that the human remains identified within the project area result in a reduction or modification of mining/quarrying boundaries, the 2016 Mining and Reclamation Plan shall be revised by the Permittee and submitted to the County for review and approval.

Documentation of any occurrence that triggers these provisions above shall be included in the Annual Compliance Report required by COA No. 2(L), and as requested by the County, to demonstrate compliance.

- O. Mitigation Measure 4.5-6: Evaluation and Treatment of Paleontological Resources:** If paleontological resources (e.g., vertebrate bones, teeth, or abundant and well-preserved invertebrates or plants) are encountered during project activities, work in the immediate vicinity shall be diverted away from the find and protective fencing shall be installed a minimum of 50 feet from the exterior bounds of the find to protect it until a professional paleontologist assesses and salvages the resource, if necessary.

The Permittee shall notify the County within 24 hours of encountering any paleontological resources as a result of mining and quarrying activities and operations, and the County shall inspect the site immediately thereafter to ensure the find is adequately protected. Prior to any further mining or quarrying activities in areas where paleontological resources have been encountered, the Permittee shall provide an assessment report and salvage plan prepared by professional paleontologist for review and approval by the County. In the event that the paleontological resources are identified within the project area that result in a reduction or modification of mining/quarrying boundaries, the 2016 Mining and Reclamation Plan shall be revised by the Permittee and submitted to the County for review and approval.

Documentation of any occurrence that triggers the provisions above shall be included in the Annual Compliance Report required by COA No. 2(L), and as requested by the County, to demonstrate compliance.

**P. Mitigation Measure 4.6-2a: Supplemental Geotechnical Design Criteria:** The Permittee shall not locate facilities on unstable slopes, to the extent feasible. Prior to construction of any roads, berms or dams associated with detention/sedimentation basins, or related structures, the Permittee shall, at the Permittee's expense, retain a licensed geotechnical engineer and, when appropriate, a structural engineer to conduct a construction-level geotechnical investigation for the facility(ies). The slope stability inspection reports required by Mitigation Measure 4.6-2b may be included in this report.

The geotechnical investigation shall evaluate seismic hazards and provide recommendations to mitigate the effect of strong ground shaking and unstable soils and slopes to avoid structural failure. The geotechnical study shall provide design criteria to mitigate strong seismic ground shaking. The seismic design criteria shall take into account the active faults in the Napa area.

The geotechnical study shall include an evaluation of unstable land in the areas of stormwater improvements and road construction, including any areas susceptible to liquefaction or settlement, and any areas that may contain expansive soils. The study shall provide measures to repair, stabilize, or avoid such soils or slopes, and may include, but not be limited to:

- Removal and replacement of unstable materials in an existing landslide or in an actively eroding area with a stronger material;
- Grading to remove loose material and provide an acceptably stable topographic configuration by terracing, reducing slope angles, and reducing the height of cut and fill slopes;
- Installation of drainage facilities, such as subdrains and dewatering wells to reduce pore water pressure and reduce the risk of slope failure;
- Covering steep slopes with concrete or vegetation;
- Buttrussing the slope or the toe of slopes to provide additional support to the slope. Where buttrussing is not feasible, internal reinforcement such as a pinning system or lattice grid can be incorporated into the slope design to strengthen the slope;
- Retaining walls or other external applications to strengthen slopes;
- Placement of slope fencing or other material to stabilize rock fall from cut slope and mitigate hazards from falling rocks;
- Removal of native soils and replacement with engineered fill materials not prone to seismically-induced liquefaction or shrinking and swelling;
- Soil stabilization, such as lime treatment to alter soil properties to reduce shrink-swell potential to an acceptable level; and/or,
- Deepening support structures to a depth where unstable soils are no longer present.

Project facilities shall be designed and constructed in conformance with the specific recommendations contained in design-level geotechnical studies, including recommendations for grading and ground improvement.

The geotechnical investigations and any associated documents or reports required by this measure shall be submitted within 12 months of approval of this Permit and shall be included in the Annual Compliance Report required by COA No. 2(L), and as requested by the County, to demonstrate compliance. As necessary the County will either hire a consultant (at the Permittee's expense) assess geotechnical investigations and compliance.

**Q. Mitigation Measure 4.6-2b: Slope Stability Criteria:** A California registered geotechnical engineer, retained and paid by the Permittee, shall conduct slope stability inspections during excavation of undisturbed areas including the expansion areas. Inspections shall be completed on an annual basis, at a minimum, as well as after heavy rain events (precipitation falling with an intensity in excess of 0.30 inches per hour) or earthquakes with a magnitude of 6.0 or greater. Inspections shall include mapping and movement monitoring of the slopes to assess the potential for project excavation, grading, and Overburden storage to trigger movement of debris flow and landslides. If a slope condition presents a risk to safety or the potential for mass movement, repair measures shall be recommended and promptly implemented by the Permittee. This may include repair, stabilization, or avoidance of landslides and areas of soil creep or possible debris flow. A memorandum summarizing the findings of the inspections and any recommendations shall be prepared and submitted to the Napa County Engineering and Conservation Division and Syar each year. Engineering recommendations for slope repair or stabilization shall be approved by Napa County and incorporated into the 2016 Mining and Reclamation Plan as necessary.

Slope stability inspection reports/memorandums and any associated documents or reports required by this measure shall be submitted within 12 months of approval of this Permit and shall be included in the Annual Compliance Report required by COA No. 2(L), and as requested by the County, to demonstrate compliance. As necessary the County will hire a consultant (at the Permittee's expense) to assess slope stability memorandums/reports and compliance.

**R. Mitigation Measure 4.7-2: Standard operating procedures (SOPs) shall be used during the handling of hazardous materials for the operation and maintenance of vehicles and equipment; and an approved Hazardous Material Business Plan shall be maintained for the project site:**

1. Syar shall develop SOPs for the use of hazardous materials including fuels and lubricants used onsite prior to implementation of the project including any vegetation or Overburden removal, mining or quarrying activities, or earth-disturbing occurring in undisturbed areas. Quarry personnel shall follow

written SOPs during onsite operation and maintenance of all equipment. The SOPs, which are designed to reduce the potential for incidents involving hazardous materials, shall include the following information and protocols:

- Refueling shall be conducted only with approved pumps, hoses, and nozzles.
- Catch-pans shall be placed under equipment to catch potential spills during servicing.
- All disconnected hoses shall be placed in containers to collect residual fuel from the hose.
- Vehicle engines shall be shut down during refueling.
- No smoking, open flames, or welding shall be allowed in refueling or service areas.
- All refueling, maintenance of vehicles and other equipment, handling of hazardous materials, and staging areas shall occur at least 100 feet from water courses, existing groundwater wells, and any other water resource to avoid the potential for risk of surface and groundwater contamination.
- Service trucks shall be provided with fire extinguishers and spill containment equipment, such as absorbents.
- A spill containment kit that is recommended by the EHD or local fire department shall be onsite and available to staff if a spill occurs.
- A rinse water containment area shall be established outside the proposed creek setbacks and away from any areas that could potentially drain offsite or potentially affect surface and groundwater quality. When Quarry equipment is cleaned, only rinse water that is free of gasoline residues, other chemicals, and waste oils is allowed to diffuse back into the Quarry area. No rinse water shall be drained to a septic system or discharged to ground or surface water to prevent the release of hazardous materials into the environment during operation and maintenance of the proposed project.
- To prevent the accidental discharge of fuel or other fluids associated with vehicles and other equipment, all workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.

In the event that contaminated soil and/or groundwater or other hazardous materials are generated or encountered during Quarry Operations, all work shall be halted in the affected area and the type and extent of the contamination shall be determined by the EHD. Should a spill contaminate soil, the soil shall be put into containers and disposed of in accordance with federal, state, and local regulations. If containment and size of the spill is beyond the scope of the attending personnel, proper authorities shall be notified. The Permittee shall notify the County Engineering and Conservation Division and the EHD within 24 hours of any potential soil or groundwater contamination that has occurred or is a result of Quarry Operations.

2. Syar's Hazardous Materials Business Plan (HMBP) shall be updated annually as required by law. Syar shall amend the existing HMBP inventory form for the Syar Napa Quarry, in accordance with state law, in the following instances if warranted as a result of the project:
  - A 100 percent or more increase in the quantity of a previously disclosed material; or,
  - Any handling of a previously undisclosed hazardous material above the reportable quantity thresholds of 500 pounds of solid, 55 gallons of liquid or 200 cubic feet of gas.
3. The Permittee's HMBP shall also meet the standards of the *Hazardous Material Business Plan and Emergency Action Plan* (Napa County Department of Environmental Management, 2008 or as amended) and shall be subject to approval by Napa County. The amended HMBP shall include: an inventory of the type and quantity of hazardous materials stored onsite; a site map; risks of using the hazardous materials; spill prevention methods; Emergency Response Plan; employee training and Emergency contact information.
4. The HMBP shall also include a review of each chemical used onsite and a determination on whether any substitution with less hazardous chemicals can be made. Changes shall be made as appropriate. The hazardous materials inventory, site map, Emergency Response Plan, business owner form, and business activities form must be submitted to the EHD. The Permittee shall notify the EHD within 30 days of any change in storage of a hazardous material or if there is a 100 percent increase in quantity of a hazardous material previously disclosed in the HMBP. An employee training record shall be filed onsite and may be inspected by the EHD once every 3 years.
5. Waste oil containers shall be stored in secondary containments that include oil-impervious bermed areas or liners, retaining walls, and/or are stored on impervious concrete floors. Waste oil containers shall be covered during rain events and shall not be stored within any buffers, creek setback, or other exclusion areas. Waste oil containers shall be labeled "waste oil". The containers shall also be labeled with the following information: accumulation start date; the hazardous properties of the waste (ex. flammable, corrosive, reactive, toxic, etc.) and the name and address of the facility generating the waste. All waste oil containers shall be transported offsite by a licensed transporter and taken to a waste oil recycling facility.
6. The SOPs, amended/updated HMBP, and any associated documents or reports required by this measure shall be submitted within 12 months of approval of this Permit and shall be included in the Annual Compliance Report required by COA No. 2(L), and as requested by the County, to demonstrate compliance.

**S. Mitigation Measure 4.8-1: Update Industrial Storm Water Pollution Prevention Plan to address new land disturbance and operations changes:**

Prior to initiation of any vegetation removal, earthmoving or earth-disturbing activities, or quarrying or mining activities **occurring** in any undisturbed areas (including any expansion areas) and annually as necessary, the Permittee shall update Syar Napa Quarry's existing Industrial SWPPP (WDID No. 228I005111) to reflect additional areas of land disturbance and changes in operation resulting from the project. The Permittee shall modify the SWPPP as the project progresses and as conditions warrant to remain consistent and compliant with SWRCB Order No. 2014-0057-DWQ<sup>1</sup>, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities.

The updated SWPPP shall identify the sources of pollution that may affect the quality of industrial stormwater discharges and authorized non-storm water discharges, and describe and ensure the implementation of BMPs to reduce or prevent pollutants in industrial stormwater discharges. The updated SWPPP shall also include monitoring measures and other requirements contained in Order No. 2014-0057-DWQ. Implementation of the SWPPP shall include reviews, inspections or monitoring by the County Engineering and Conservation Division on a quarterly basis. The Permittee shall continue to compare quarterly monitoring results to current and future EPA suggested benchmark levels (i.e., Numeric Action Levels (NAL) identified in Order No. 2014-0057-DWQ) to determine the effectiveness of onsite control measures and make adjustments accordingly. No discharges from the site shall exceed 100 mg/l of Total Suspended Solids or 200 umho/cm (i.e., micromhos per centimeter) of Specific Conductance<sup>2</sup>. In addition the project shall not result in a net increase in sediment load. Quarterly monitoring reports shall be submitted to the County for review to determine compliance and corrective actions to achieve benchmarks and assess the effectiveness of previously implemented BMPs.

Should ongoing oversight by the County Engineering and Conservation Division or the EHD show any exceedances of EPA Benchmarks that have persisted for more than 12 months (that are not attributed to naturally occurring environmental conditions, or background conditions), the Permittee shall, within 30 days of notification by the County, implement additional or new BMPs to adequately address the exceedances.

The updated SWPPPs and any associated documentation, including annual monitoring reports submitted to the RWQCB shall be submitted within 12 months of approval of this Permit and shall be included in the Annual Compliance Report required by COA No. 2(L), or as requested by the County to demonstrate compliance. Updated SWPPPs will be appended to the 2016 Mining and

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<sup>1</sup> Industrial General Permit (IGP) adopted by the SWRCB April 1, 2014, effective date July 1, 2015: replaces IGP Order no. 97-03-DWQ that expires June 30, 2015.

<sup>2</sup> Source: Table 4.8-2 of the Draft Environmental Impact Report.

Reclamation Plan as necessary in order to satisfy the erosion and sediment control of SMARA.

- T. 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:** The Permittee shall maintain existing volumes of groundwater recharge and shall ensure that a vertical buffer of undisturbed native soil/rock remains in place which maintains the final grade elevation no closer than 10 feet above the spring season regional groundwater potentiometric elevation. The Permittee shall not excavate and/or mine material within 10 feet of the regional groundwater potentiometric surface to prevent the creation or expansions of open water bodies subject to evaporation or springs which can drain regional groundwater to surface drainages or creeks.

To avoid depleting groundwater supplies in all mined areas within the Syar Napa Quarry the grade of the excavation shall be maintained at a minimum of 10 feet above the elevation of the regional groundwater potentiometric elevation. This mitigation will preclude regional groundwater from discharging as surface water. To ensure that groundwater infiltration/recharge volumes are maintained, pre-project (baseline) infiltration volumes shall be compared with project groundwater infiltration volumes. If there is a deficit, BMPs shall be adjusted or consumptive use of water shall be curtailed until groundwater recharge volumes are greater than or equal to pre-project volumes. Pre-project infiltration volumes were calculated at 685 acre-feet per year in the Arroyo Creek watershed/drainage and 442 acre-feet in the State Blue watershed/drainage, totaling 1,067 acre-feet per year (see Figure 4.8-2 of the DEIR).

For the upper reaches of the site, this mitigation measure shall be achieved through a combination of best management practices (BMP's) that entail: managing recharge areas [or detention/infiltration ponds] so that pre-project (baseline) groundwater infiltration volumes are maintained, limiting the depths of excavation and or mining to 10 feet above the regional groundwater table and, limiting the depths of excavation and or mining near Arroyo Creek so as to not change the flow path of the creek.

For the lower reaches of the site (and any offsite interactions), this mitigation measure shall be achieved by maintaining pre-project flow conditions in Arroyo Creek. These conditions include the flow rates, timing of peak runoff, and volume of water in the creek. This mitigation measure requires the monitoring of stream flow in the lower reach of Arroyo Creek. Impacts to the amount of water and timing of peak flows entering the creek are managed through the use of surface grading, surface cover, and detention basins.

It is expected that the actual elevation of regional groundwater potentiometric elevation will vary from the estimates provided in Figure 4.8-6 of the DEIR.

Adherence with this mitigation measure requires accurate and contemporary understanding of the regional groundwater potentiometric elevation under the Syar Napa Quarry. This understanding is necessary in order to avoid excavating into the 10-foot vertical buffer zone. To accomplish this and to obtain the data necessary to comply with this mitigation measure, the Permittee shall provide the County with an Annual Groundwater Elevation Monitoring and Use Report, prepared under the direction of a qualified Professional Engineer or Professional Geologist, that quantifies the groundwater potentiometric elevations during spring of each year (when groundwater elevations are expected to be highest at the Quarry) and through the following means:

1. The Permittee shall monitor stream flow and pond elevation throughout every year the Quarry is in operation. This information, along with publicly available climactic data, shall be used to calculate the groundwater infiltration volumes quarterly, in a manner consistent with Appendix J of the DEIR. The results of the monitoring and water balance infiltration analysis shall be provided to the County quarterly and be included in the Annual Groundwater Elevation Monitoring and Use Report.
2. The Permittee shall install piezometers or monitoring wells as required to quantify the regional groundwater potentiometric elevation in areas of active mining prior to any mining excavation that will cause an increase in mining depth beyond existing conditions and/or is likely to extend to within 50 feet of the groundwater elevations presented on Figure 4.8-6. The results of groundwater potentiometric elevation monitoring shall be provided to the County quarterly and be included in the Annual Groundwater Elevation Monitoring and Use Report which is required by this mitigation measure. All excavation activity at the Quarry shall be conducted to maintain a 10 foot separation of undisturbed native soil/rock between the finished grade and the underlying groundwater potentiometric elevation as determined by the most recent Annual Groundwater Elevation Monitoring and Use Report. Increased mining depth in areas that are already at or below the groundwater potentiometric elevation, including but not limited to the State Blue Pit, shall not occur.
3. To determine the location, number, and timing of piezometer or monitoring well installation that are necessary to accurately determine the groundwater potentiometric elevation in areas of active mining, the Permittee shall provide a monitoring piezometer/well plan prepared by a qualified Professional Engineer, Professional Geologist, or Professional Hydrogeologist to the County for review and approval prior to commencing any mining activities that would increase the depth of mining beyond existing conditions. The monitoring piezometer/well plan shall also be included in the Annual Groundwater Elevation Monitoring and Use Report.

4. To avoid interfering with the groundwater recharge mechanisms, the Permittee shall also ensure that any subsurface flow in fractures or soil that is exposed or intercepted by the excavation shall be reinfiltated within the same watershed boundaries. Any surface water that is not the direct result of surface water runoff during rain events shall be infiltrated or directed to areas that provide groundwater infiltration onsite (such as project detention ponds/basins) and within the same watershed and as depicted on Figure 4.8-10. Surface water which is the direct result of rain events shall be infiltrated to groundwater or directed to the existing channels. Spring season monitoring shall be conducted by the Permittee concurrent with SWPPP monitoring (required by COA No. 11(S) - Mitigation Measure 4.8-1) to verify that springs and subsurface flow exposed as a result of mining activities is infiltrated back into the subsurface before reaching the surface flow channels. If persistent springs are formed by mining activities the Permittee shall hire a qualified professional to assess springs and provide an evaluation to the County to determine if the elevation of these springs are part of the regional groundwater potentiometric surface; if so, mining shall not advance further below this elevation.
5. Existing Well No. 4 could be activated for groundwater extraction. The extraction of groundwater from Well No. 4 shall be subject to the groundwater extraction limitation of 140.6 acre-feet per year pursuant to Mitigation Measure 4.4-8 and COA No. 2(D) and 11(V).

Any monitoring reports, including annual documentation of groundwater infiltration/recharge volumes and mining elevations in relation to the estimated regional groundwater potentiometric elevations (presented in DEIR Figure 4.8-6), and documentation of any exploratory borings and/or monitoring wells required to be installed or that have been installed, shall be submitted within 12 months of approval of this Permit and shall be included within the Annual Groundwater Elevation Monitoring and Use Report required by this measure. Additionally, any documentation required by this mitigation measure shall also be included in the Annual Compliance Report required by COA No. 2(L), or as requested by the County to demonstrate compliance.

**U. Mitigation Measure 4.8-3: Avoid reducing the groundwater potentiometric elevation by increasing consumptive use of surface water or surface occurrence of regional groundwater as a result of Quarry activities:** The Permittee shall ensure that all water extracted from open bodies of water that are at the regional groundwater potentiometric elevation shall be reinfiltated in surface detention/infiltration basins within the same watershed from which the extraction occurs (i.e., the State Blue or Arroyo Creek watersheds) or it will be considered a consumptive use of groundwater. This will prevent depletion of the groundwater resource by consumptive use of water derived from open bodies of water such as State Blue Pit. This Mitigation Measure 4.8-3 shall not apply to the draining of ponded surface water which is at an elevation higher than the

underlying regional groundwater potentiometric elevation, provided the water is not used outside of the watershed it was derived from. Pondered surface water which occurs in temporary low areas in active mining areas may be pumped to detention ponds within the same watershed for infiltration purposes.

As part of Quarry activities, water may be pumped from open water bodies such as State Blue Pit for consumptive Quarry activities such as dust control and other uses where the water is not infiltrated. The volume of groundwater that is pumped from those water bodies where the water surface elevation is effectively the same as the regional groundwater potentiometric elevation (i.e., State Blue Pit) shall be considered part of the maximum allowable annual groundwater use allocation of 140.6 acre-feet per year for the project. Consumptive use from open water bodies such as State Blue Pit shall be recorded and considered a part of the groundwater allocation in the same manner as the groundwater pumping from the Quarry Well. The volume of water used to wash materials shall not be included in the quantification of groundwater use if it is returned to the aquifer by infiltration. The volume of wash water returning to detention ponds for infiltration is not considered in quantifying groundwater use because it is not a consumptive use of groundwater.

To help ensure that groundwater infiltration volumes are not decreased, pre-project infiltration volumes shall be compared with project groundwater infiltration volumes. If there is a deficit, BMPs shall be adjusted or consumptive use of water shall be curtailed until groundwater recharge volumes are greater than or equal to pre-project volumes. Pre-project infiltration volumes were calculated at 685 acre-feet per year in the Arroyo Creek drainage and 442 acre-feet in the State Blue Pit drainage, totaling 1,067 acre-feet per year.

Maintaining groundwater recharge volume shall be addressed by routing stormwater runoff to existing ponds or new surface detention/infiltration basins that shall be constructed on recharge areas to ensure that groundwater infiltration volumes are equal or greater than pre-project groundwater infiltration volumes. To ensure that existing volumes of groundwater recharged are maintained the Permittee shall monitor pond elevation throughout the year. This information, along with publicly available climatic data, shall be used to calculate the groundwater infiltration volumes quarterly, in a manner consistent with Appendix J of the DEIR. The results of the monitoring and water balance infiltration analysis shall be provided to the County quarterly and be included in the Annual Groundwater Elevation Monitoring and Use Report.

Monitoring reports required by this measure shall be submitted within 12 months of approval of this Permit and shall be included within the Annual Groundwater Elevation Monitoring and Use Report required pursuant to COA No. 11(T) (Mitigation Measure 4.8-2). Additionally, reports required by this mitigation measure shall also be included in the Annual Compliance Report required by

COA No. 2(L), and as necessary or requested by the County to demonstrate compliance.

**V. Mitigation Measure 4.8-4: Avoid depleting groundwater supplies by water reuse.**

No additional groundwater from existing sources is available to accommodate the additional water demand of the proposed project. The Permittee's maximum allowable annual groundwater usage for all Quarry Operations and associated activities shall not exceed 45.8 million gallons (or 140.6 acre-feet) per year. This mitigation measure includes metering to verify that demands upon water resources are not exceeded. This mitigation measure also includes accommodating any additional water demands with a combination of water reuse or water conservation methods.

In order to document the use of the existing water sources, the Permittee shall continuously monitor, meter and maintain records of all water use at the Quarry site. The Permittee shall review the monitoring data on a monthly basis to confirm the status of its annual water use. The total of groundwater/surface water used for Quarry Operations shall be totaled and reported monthly to the County. These monitored sources shall include:

1. Groundwater from the Quarry Well and Latour Well, or any other existing groundwater well related to the project that could have a similar impact (i.e., Well No. 4);
2. Water collected from open water bodies in contact with the regional groundwater potentiometric elevation (as identified in Mitigation Measures 4.8-2 and 4.8-3); and/ or
3. Impounded surface water that would otherwise infiltrate to groundwater.

Monitoring reports required by this measure shall be submitted to the County within 3 months of approval of this permit and shall also be included within the Annual Groundwater Elevation Monitoring and Use Report required pursuant to Mitigation Measure 4.8-2. Additionally, reports required by this mitigation measure shall also be included in the Annual Compliance Report required by Condition of Approval No. 2L, and as requested by the County to demonstrate compliance.

If any existing wells (i.e., Well No. 4) are brought into production due to the Quarry Well or Latour Well becoming inactive due to necessary repairs or other circumstances. The extraction from these wells shall be included in the annual usage total that is not to exceed 140.6 acre-feet per year. New groundwater well(s) shall not be drilled pursuant to this Permit. All consumptive use of groundwater shall not exceed 140.6 acre-feet per year.

On-site water that is used which can be used non-consumptively such as a controlled process where the water is used for sand washing and then recharged to the groundwater through a detention basin would not be included in the total of water used for the Quarry if it can be demonstrated through monitoring and reporting as part of the annual water usage report that it is recharged to groundwater.

The Permittee shall also off-set additional water demands by reusing water and increasing processing efficiencies. This could include gravel, pavement, and surfactant application to roadways and production areas to reduce dust generation and the need for dust suppression by water application, as discussed in Mitigation Measure 4.3-2b and Draft EIR, Appendix J. It could also include process revisions to increase efficiencies and reuse sand wash water rather than allow the water to drain off as surface water or to allow it to evaporate in shallow ponds that have low infiltration benefit.

This Permit does not authorize the consumptive use of water from any source in excess of 140.6 acre-feet per year, regardless if obtained from outside the Milliken-Sarco-Tulucay (MST). This Permit does not authorize the importation of water from any off-site source. The County Engineering and Conservation Division shall monitor this requirement. Compliance of this measure shall be subject to Article VI (Enforcement ) of NCC Chapter 16.12 (Surface Mining and Reclamation).

**W. Mitigation Measure 4.8-5: Reduce Potential for Offsite Runoff:** The Permittee shall design and construct detention ponds in the mined watersheds to reduce stormwater runoff volume, rates and sedimentation in addition to maintaining infiltration to groundwater. The specific locations of these detention ponds shall be determined during the development of the grading and drainage plans, as required by the County's Surface Mining and Reclamation Ordinance (NCC Chapter 16.12). The Permittee shall submit a final detailed design-level hydrologic and hydraulic analysis within 12 months of approval of this Permit as part of the annual mining plan (that is a component of the project's 2016 Mining and Reclamation Plan) to the Napa County Engineering and Conservation Division detailing the implementation of the proposed drainage plans, including detention pond facilities that shall conform to the following standards and includes the following components:

1. Peak runoff in 2, 10, 50, and 100 year storm events during the years of active mining and at the end of mining shall not exceed existing conditions. The final grading and drainage plan, including detention pond designs, shall be prepared by a California licensed Professional Engineer. All design and construction details shall be depicted on the grading and drainage plans (or SWPPP) and shall include, but not be limited to, inlet and outlet water control

- structures, grading, designated maintenance access, and connection to existing drainage facilities.
2. The Napa County Engineering and Conservation Division shall review and approve the grading and drainage plans prior to implementation to ensure compliance with Napa County standards. The Permittee shall implement any additional improvements deemed necessary by the County.
  3. Once constructed, the drainage components, including detention ponds designed for the watersheds, shall be inspected by the County's Engineering and Conservation Division annually to ensure they are maintained per the guidelines outlined in the Sediment Basin BMPs found in the Napa Quarry SWPPP. The Permittee shall ensure that all disturbed areas of the Quarry are graded and maintained in conformance with the approved grading and drainage plans or SWPPP, and are designed in such a manner as to direct stormwater runoff to a properly sized detention pond.
  4. All calculations, plans, and reports required by this mitigation measure shall also be included in the Annual Compliance Report required by COA No. 2(L), or as requested by the County to demonstrate compliance.

**X. Mitigation Measure 4.8-6: Update Industrial Storm Water Pollution Prevention Plan to address hazardous materials spill response actions:**

The Permittee shall revise its Spill Prevention and Countermeasure Plan, Hazardous Materials Business Plan, and Emergency Response Plan as necessary to directly address the potential for a spill or release of hazardous material near or into a water body that is directly connected to the regional aquifer. The revision shall include provisions for training in spill response and containment and maintaining access to the needed equipment to respond to a spill. The revisions to the plan will also contain provisions to eliminate or minimize the storage of hazardous materials in areas which drain to portions of the project site where the regional groundwater is exposed. These revisions shall then be incorporated into the SWPPP by summary and reference. The Permittee shall provide the revised Spill Prevention and Countermeasure Plan, Hazardous Materials Business Plan, and Emergency Response Plan to the County for review and approval within 12 months of approval of this Permit.

Thereafter, any time the Spill Prevention and Countermeasure Plan, Hazardous Materials Business Plan, and Emergency Response Plan is revised or updated it shall also be submitted to the County in the Annual Compliance Report required by COA No. 2(L), or as necessary to demonstrate compliance. If the County finds that the Permittee has not revised and updated the plan as necessary the Permittee shall have 30 days to submit the plans to the County for review and approval. Compliance with this measure shall be subject to NCC Sections 16.12.600 through 16.12.660 (Surface Mining and Reclamation – Enforcement).

**Y. Mitigation Measure 4.11-1: Noise Restrictions in Expansion Area North and East of the State Blue Pit and Snake Pit (Pasini Parcel):** To reduce noise

impacts of mining, quarrying, and associated operations the Permittee shall adhere to the following:

1. No Aggregate Mining Operations shall occur between the hours of 6:00 PM and 7:00 AM in mining expansion areas to the north and east of the State Blue Pit where there are residences not shielded by intervening terrain.
2. With the exception of blasting and the removal of Overburden the Permittee shall:
  - a) Limit daytime Aggregate Mining Operations to between the hours of 7:00 AM and 12:00 PM in unshielded areas to the north and east of the State Blue Pit or Snake Pit areas within 2,500 feet of the nearest sensitive receptors (residences, schools, or trails within Skyline Wilderness Park);
  - b) Ensure that noise levels at the nearest receptor locations north or east of the Quarry shall not exceed 50 dBA L50 from 7:00 AM to 10:00 PM and 45 dBA L50 from 10:00 PM to 7:00 AM.
3. The Permittee shall utilize the following measures or equivalent:
  - a) Maintain acoustical shielding for receivers north or east of the Quarry so that existing terrain features provide the maximum amount of shielding for the longest time possible.
  - b) Use the quietest available equipment when removing topsoil and Overburden (e.g., well-maintained, modern equipment such as higher Tier engines, having sufficient engine insulation and mufflers, electric or hydraulic powered equipment, or equipment operation settings at the lowest possible power levels).
  - c) Conduct noise monitoring and maintain noise monitoring reports to ensure that daytime noise levels from aggregate mining and operations do not exceed 50 dBA L50 at the nearest receptor locations north and east of the Quarry (i.e., along the northern and eastern property lines in the vicinity of the State Blue Pit or Snake Pit areas), which are areas where monitoring sites should be located. Noise monitoring shall be conducted daily for the first 5 years of this Permit. Thereafter the Planning Commission shall determine the extent of ongoing noise monitoring as part of their project and permit review required by COA No. 1(F). Noise monitoring reports shall be submitted monthly to the EHD and Engineering and Conservation Divisions, or upon request, to verify compliance. If determined necessary by the PBES Director, the County may hire a consultant (at the Permittee's expense) to assess compliance or retain (at the Permittee's expense) a third party to prepare an independent noise monitoring study.
  - d) Noise monitoring results shall also be submitted to the County in the Annual Compliance Report required by COA No. 2(L), or as necessary to demonstrate compliance. If the County finds during annual compliance review that noise levels of Quarry Operations are excessive, the Permittee shall modify Quarry Operations or the 2016 Mining and Reclamation Plan so that the noise limits identified herein are not exceeded.

**Z. Mitigation Measure 4.11-2: Blasting Vibration Reduction Measures:** To reduce vibration impacts, the Permittee shall:

1. Monitor peak particle velocity and peak sound pressure during each blast event to ensure that vibration levels are under 0.20 in/sec peak particle velocity (PPV) and air-blast overpressures are under 133 dB(L) at sensitive land uses (residences and schools). Monitoring sites shall be located along the northern property boundary and along Imola Avenue adjacent to sensitive land uses. Blasts shall be modified to reduce the charge weight per delay. The charge weight per delay shall not exceed 175 lbs. for blasting near the northernmost property boundary (i.e., within 1,000 feet) to maintain vibration levels below 0.20 in/sec PPV and air-blast overpressures below 133 dB(L) at sensitive land uses.
2. The effectiveness of this measure shall be demonstrated to the County by submittal of vibration calculations/measurements and monitoring records for each blast event that are satisfactory to the County for effectiveness review. Monitoring records shall be provided to the EHD and Engineering and Conservation Divisions monthly, or as necessary at the request of the County, to demonstrate and verify compliance with this measure. If the County finds that the Permittee has not maintained the required vibration levels during blasting events, the Permittee shall immediately lower charge weights as necessary, below the limits identified above, until required reductions have been achieved.
3. Conduct stemming and burdening (filling the drilled holes with dirt and rock above the explosive charge) of the blast holes to confine the blast charges into the ground and to minimize acoustic overpressure levels.
4. Vibration monitoring records shall also be submitted to the County in the Annual Compliance Report required by COA No. 2(L) to demonstrate compliance. If the County finds during annual compliance review the Permittee has not maintained the required vibration levels during blasting events, the Permittee shall reduce charge weights as necessary to ensure specified vibration levels are not exceeded. As necessary the County may hire a qualified professional (at the Permittee's expense) to assess compliance.

**AA. Mitigation Measure 4.17-2: Greenhouse Gas Emission Reduction:** To reduce greenhouse gas emissions, the Permittee shall prepare a Greenhouse Gas Reduction Plan (GHG Reduction Plan).

The GHG Reduction Plan shall identify the measures to be used to reduce the GHG emissions associated with the project below the 1,100 MT CO<sub>2</sub>e annual land use threshold (or increase of 1,100 MT CO<sub>2</sub>e over baseline conditions). The effectiveness of each measure in the GHG Reduction Plan shall be quantified, indicating its contribution to the reduction of GHG emissions. The Permittee shall

choose from, but not be limited to, the following measures to incorporate into the GHG Reduction Plan:

- Fuel on-road and off-road vehicles with alternative fuels (such as hybrid, biodiesel, and electric);
- Plant native trees and vegetation that have low emissions of volatile organic compounds species for carbon sequestration in locations at the project site not to be disturbed by quarrying activities;
- Replace diesel-powered vehicles with newer model, low-emission vehicles or replace diesel engines with higher fuel efficiency engines or use retrofit emission control devices, such as diesel oxidation catalyst, verified by the California Air Resources Board as old vehicles or engines no longer become operable;
- Develop a monitoring program that reduces diesel-fueled idling times beyond that required under the California Air Resources Board Heavy-Duty Vehicle Idling Emission Reduction Program;
- Require that on-road haul trucks that are under contract with the Quarry operator use 2003 model or newer trucks;
- Establish an onsite renewable energy system (such as solar);
- Install a conveyor system to move raw material;
- Install an automated load out system; and
- Contribute to a State or County offset mitigation program.

The GHG Reduction Plan shall be reviewed and approved by PBES Department and shall be updated as necessary to address changing conditions and regulations.

Prior to implementing the GHG Reduction Plan, the Permittee shall monitor GHG emissions bi-annually in a GHG inventory submitted to the County for review. The first inventory shall be calculated as a 3-year average after issuance of the use permit (for example, if the use permit is issued in 2014, then the first inventory shall be performed in 2018 for years 2015 through 2017). A 3 year average would accommodate the variability in aggregate sales from year to year. The inventory shall follow the most recent version of the General Reporting Protocol of the California Climate Action Registry or other protocol as appropriate and approved by the County (CCAR 2007). The Permittee, however, is not required to report the inventory to the Climate Action Registry Reporting Online Tool (CARROT) (CCAR 2011). The purpose of the inventory is to compare emissions from project operations to the baseline emissions established in this EIR, which is approximately 7,200 MT CO<sub>2</sub>e per year (if new baseline emissions are established as a result of refined reporting methods, the use of a different baseline is acceptable with approval by the County). At such time as the inventory indicates GHG emissions are at or over baseline conditions (7,200 MT CO<sub>2</sub>e per year), then the Permittee shall implement measures in the GHG Reduction Plan as necessary to avoid emissions above the 1,100 metric ton threshold (i.e.: 8,300 MT CO<sub>2</sub>e per year – baseline plus threshold).

## **12. DEFINITIONS:**

The definitions of those words or phrases found in Section 16.12.030 of the NCC are incorporated herein by reference. In addition, unless context otherwise requires, the words and phrases below shall have the following meanings related to this Permit:

“Aggregate” or aggregate materials shall mean basalt and rhyolite which are the primary mineral resources mined at the facility.

“Aggregate Mining Operations” shall mean those activities associated with aggregate extraction and harvesting including removal of vegetation and Overburden, blasting, sorting and transport of aggregate and aggregate-related materials, and/or Overburden to aggregate processing facilities or stockpile locations.

“Aggregate Processing Operations” shall mean those activities associated with aggregate crushing, sorting and processing occurring only at the Primary Aggregate Processing plant (i.e., the Blue Rock Plant), the Aggregate Base (AB)/Recycling plant, and the Sand Plant.

“Aggregate-Related Materials” shall include; asphalt, sand, recycled concrete, reclaimed asphaltic product, materials that are used as a component in the production of other materials, and onsite and interplant transfers.

“Aggregate Sales” shall mean those activities associated with the sale of aggregate materials.

“Asphalt” shall mean asphaltic concrete (AC) produced at the facilities 2 existing hot mix AC plants.

“Asphalt Plant Operations” shall include those activities associated with processing and manufacturing of asphalt concrete at the facility’s 2 AC plants.

“Asphalt Sales” shall mean those activities associated with the sale of asphalt.

“Blasting” and “blasting operations” or “events” shall mean the component of Aggregate Mining Operations that utilizes explosives to dislodge and extract aggregate materials.

“Completion of Mining” in areas of identified and/or active Aggregate Mining Operations, shall mean when Aggregate Mining Operations have reached the Limits of Vertical Excavation identified in the 2016 Mining and Reclamation Plan and/or has reached the minimum 10 feet of vertical separation from the regional groundwater potentiometric elevation prescribed by Mitigation Measure 4.8-2, and/or that have not been actively mined for 3 years. The determination that Aggregate Mining

Operations are complete in any give operational area of the Quarry Facility shall be at the discretion of the Planning Director.

“Construction Season” shall mean activities occurring from June 1<sup>st</sup> to November 30<sup>th</sup>.

“Effective Date of this Permit” shall mean the later of the date of approval or resolution of appeal and/or litigation.

“Emergency” shall mean the existence of conditions of disaster or of extreme peril to the safety of persons and property within the county caused by such conditions fire, flood, storm, earthquake or other natural disaster.

“Major Holidays” shall mean all federally recognized holidays

“MRP” shall mean the Syar Industries Napa Quarry Mining and Reclamation Plan (September 29, 2016) and as revised and updated pursuant to the conditions of approval and mitigation measures of Permit No. P08-00337-SMP.

“NCC” means the Napa County Code.

“Off Season” shall mean activities occurring from December 1<sup>st</sup> to May 31<sup>st</sup>.

“Overburden” means soil, rock or other materials that lie above a mineral deposit or in between mineral deposits, before or after their removal by aggregate or surface mining operations.

“Pasini Parcel” shall mean the project parcel identified as Assessor’s Parcel Number 046-390-002-000.

“Permit” shall mean Surface Mining Permit No. P08-00337-SMP.

“Permittee” means the Applicant, owner, the operator, or any duly authorized representative of the owner or operator, and/or any successor in interest.

“project” shall be the project authorized and regulated under this Permit.

“Property” shall mean the parcels within the project area holding identified as Assessor’s Parcels Numbers: 045-360-005, 046-370-012, 046-370-013, 046-370-015, 046-370-022, 046-370-025, 046-390-002, 046-390-003 and 046-450-071.

“Quarry Facility” shall include all mining/quarry areas as identified in the Mining and Reclamation Plan and associated support facilities identified in Figure 3.

“Quarry Operations” shall include all Aggregate Mining, Aggregate Processing, and Asphalt Plant Operations (as defined) including operational components associated with the Quarry support facilities identified in Figure 3.

“tpy” means tons per year.

**Attachments**

- Figure 1 – Draft Environmental Impact Report Figure 3-4 (project Activities/Areas) and Figure 3-5 (Limits of Vertical Excavation)
- Figure 2 – Syar project modification letter dated March 17, 2015
- Figure 3 – Syar Napa Quarry: Aggregate Processing, Sales, and Office Facilities
- Figure 4 – Syar Industries, Inc. Blasting Procedures