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9 **BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

10 IN THE MATTER OF PETITION OF
CYNTHIA GRIMES, JOHN BRUNOT,
11 AGUA DULCE NEIGHBORS, SUSAN
TURNER, AND MARCY AND GLEN
12 WINTER FOR REVIEW OF WASTE
DISCHARGE REQUIREMENTS ORDER
13 NO. R4-2022-066, WASTE DISCHARGE
REQUIREMENTS FOR THE AGUA DULCE
14 RESIDENTIAL DEVELOPMENT PROJECT,
AGUA DULCE, LOS ANGELES COUNTY;
15 ISSUED BY THE LOS ANGELES
REGIONAL WATER QUALITY CONTROL
16 BOARD
17

SWRCB/OCC FILE A-2799

**RESPONSE OF PROJECT PROPONENT
RTG INVESTMENT, LLC**

18
19 Project proponent RTG Investment Group, LLC (“RTG”) submits this response to the
20 petition (the “Petition”) by Cynthia Grimes, John Brunot, Agua Dulce Neighbors, Susan Turner,
21 and Marcy and Glen Winter (collectively “Petitioners”) challenging the Los Angeles Water
22 Quality Control Board’s (the “Regional Board”) adoption of Water Quality Order No. R4-2022-
23 066, Waste Discharge Requirements (the “WDRs”) for the Agua Dulce Residential Development
24 Project.

25 **I. FACTUAL BACKGROUND**

26 The Agua Dulce Residential Development Project (the “Project”) is a residential
27 development project located in Los Angeles County, California. The Project will provide “quality
28 single family homes in a rural subdivision that meets the criteria of the Agua Dulce Community

1 Standards District, which seeks to retain the non-urban nature of the community, while providing
2 housing, open space and equestrian trails to the area.” (Findings of Fact and Statement of
3 Overriding Considerations Regarding the certified Final Environmental Impact Report for the
4 Agua Dulce Residential Development Project (EIR) (1994) (the “1994 EIR Findings”) at p. 1.)
5 Phase I¹ of the Project comprises the development of 68 lots, for which a subdivision map was
6 recorded on September 27, 2001, as Vesting Tentative Tract No. 50385 (“Phase I”). Phase II of the
7 Project, as revised in 2007, includes the development of 247 currently unrecorded lots as well as
8 the development of an on-site community wastewater treatment plant.

9 On February 10, 2022, the Regional Board approved the WDRs for dredge and fill of the
10 Project site in connection with the development of Phase I. The subject of this Petition is whether
11 the Regional Board’s adoption of the WDRs for Phase I of the Project was proper. Therefore, the
12 factual background provided below covers the following four areas critical to understanding the
13 Project, its various approvals and vested permits, and the history of the current filing:

- 14 1. The 1994 Project approvals (including the certified 1994 Final Environmental Impact
15 Report (State Clearinghouse No. 1991031100; County Project No. 91053) prepared in
16 connection with the 1994 Project approvals (the “1994 EIR”)) – which continue to
17 govern Phase I;
- 18 2. The 2007 changes proposed to the 1994 Project approvals to revise Phase II (including
19 the certified Supplemental Environmental Impact Report prepared in connection with the
20 2007 Phase II revisions (the “2007 SEIR”)) – specifically with regard to the newly
21 required on-site wastewater treatment system for Phase II;
- 22 3. A summary of the current development of the Project site; and
- 23 4. The regulatory history leading up to the current filing.

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27 ¹ Buildout of the Project was originally divided into Phases I through XII. (1994 EIR Findings at p. 6; Supplemental
28 Environmental Impact Report (SEIR) (2007) at p. I-2.) Both the 1994 EIR and the 2007 SEIR refer to development of
Phases I through III, as “Phase I.” In contrast, Phases IV-XII refer to Phase II, which includes the remaining, currently
unrecorded lots of the Project. Phase I is the subject of this Petition.

1 **A. 1994 Project Approvals and Final Environmental Impact Report**

2 The County of Los Angeles (the “County”) approved the Project on May 18, 1994, which
3 included Vesting Tentative Tract Map No. 91053 (the “1994 Tract Map”), Conditional Use Permit
4 No. 91053 (the “1994 CUP”), and Oak Tree Permit No. 91053 (collectively, the “1994 Project
5 Approvals”). The 1994 Project Approvals enabled the Project site to (a) be subdivided into 339
6 public single-family lots, 3 public facility lots (for water storage tanks), and 5 open space lots; and
7 (b) be developed in compliance with County hillside management design criteria.

8 The 1994 EIR for the Project was also certified, and a Statement of Overriding
9 Considerations adopted, by the County in 1994. The 1994 EIR specifically addressed concerns and
10 corresponding mitigation measures regarding the impact of the Project on the quality of
11 groundwater in the Santa Clara River Groundwater Basin: “The proposed project will increase the
12 volume of water percolating into the Santa Clara River Groundwater Basin but will not degrade
13 the quality of the groundwater. Wastewater disposal via standard septic systems will not occur on
14 lots overlying the Agua Dulce Groundwater Basin due to concerns about basinwide nitrate
15 contamination and levels of total dissolved solids.” (1994 EIR Findings at p. 10.)

16 The 1994 EIR expressly analyzed the first three phases (*i.e.*, Phase I) of the proposed Project
17 being developed with individual septic tanks. (1994 EIR Findings at pp. 29-32; see also 1994 EIR,
18 Table 3-1 at pp. 10-16, 42-47.) The 1994 EIR contemplated that the remaining lots developed in
19 phases four (IV) through twelve (XII) (*i.e.*, Phase II), however, would instead utilize a regional
20 sewer system sewage treatment plant for wastewater treatment and disposal located approximately
21 2.5 miles southwest of the proposed Project site, within the then-contemplated Rio Dulce
22 Residential Subdivision (Tract 50259). (*Id.*) The 1994 EIR expressly provided that “[i]ndividual
23 septic tanks are proposed for 68 lots in Phases I, II, and III [*i.e.*, Phase I]. The 271 lots in Phases
24 IV through XII are now proposed to tie into the sewage treatment plant contemplated for Tentative
25 Tract 50259, thereby precluding any adverse water quality impacts to the Agua Dulce Ground
26 Water Basin.” (1994 EIR, Table 3-1 at p. 10.) The 1994 EIR thus explicitly analyzed – and the
27 1994 Project Approvals require – that two distinct wastewater systems be used for the Project:

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1 septic systems for Phase I and a wastewater treatment facility for Phase II. (*Id.*; see also 1994 CUP
2 Conditions of Approval, COA 32, and Exhibit B thereto at pp. 10-16, 42-47.)

3 Additionally, the 1994 EIR further contemplated – and the 1994 Project Approvals also
4 require – that if and when a community wastewater collection system becomes available, all Phase
5 I units would be required to connect to such treatment facility and close the Phase I septic systems.
6 (1994 EIR Findings at p. 30; see also 1994 CUP Conditions of Approval, COA 32, and Exhibit B
7 thereto at p. 12.) The 1994 EIR states this explicitly, providing that “[w]ithin 6 months after a
8 community wastewater collection system becomes available, each [Phase I] residence shall
9 connect to the community sewer system and properly close the private subsurface sewage disposal
10 system.” (*Id.*)

11 No lawsuits were filed to contest the validity of the 1994 EIR.

12 **B. 2007 Supplemental Environmental Impact Report**

13 Following certification of the 1994 EIR and the 1994 Project Approvals, “part of the project
14 was recorded, creating 68 lots . . . [t]he 68-unit recorded portion is referred to in subsequent
15 documents as Phase I of the project.” (Findings of Fact and Statement of Overriding
16 Considerations for the 2007 SEIR (“2007 SEIR Findings”) at p. I-2; see also Vesting Tract No.
17 50385-01, recorded on May 15, 2002, at Book 1267 of Maps, Page 16, of the Official Records of
18 the County.)

19 In 2005, the then developer of the Project, B&C Land and Water, LLC, proposed Revised
20 Vesting Tentative Tract Map No. 50385 (the “2007 Tract Map”), along with revised Conditional
21 Use Permit Case No. 2005-00171-(5) (the “2007 CUP”) and revised Oak Tree Permit Case No.
22 2005-00062-(5) (collectively, the “2007 Project Approvals”), to modify Phase II of the Project by
23 “redesign[ing] the as-yet unrecorded portion of the Agua Dulce Residential Development.” (2007
24 SEIR at pp. I-1, I-2.)

25 The project [revised Phase II] consists of 247 single-family residential lots with
26 open space areas, water tanks, wastewater treatment facility and associated uses.
27 The previously recorded Phase I portion of the project includes 68 dwelling units of
28 the eastern 68 acres of the 163 acre Agua Dulce Residential Project. **As full
approvals have been granted for Phase I, the current discretionary action
applies to the remaining 247 units on 745 acres.**

1 (2007 SEIR Findings at p. I-1 (emphasis added); see also CEQA Findings for SEIR (2007) at p. I-
2 4 (“[t]he Findings in this document are for the unrecorded portion [Phase II] of the Agua Dulce
3 Residential Project and are supported by information and analysis from the [2007 SEIR”].)

4 Two key changes were analyzed in the 2007 SEIR in connection with Phase II of the
5 Project). The first was a reduction in the total number of units for the Project: Phase II was
6 reduced by twenty-four (24) units, decreasing the number of lots from the previously approved
7 271 single-family lots to 247. (2007 SEIR Findings at p. I-2.) The second change, and currently at
8 issue in the Petition, was the replacement – in connection with the development of Phase II – of
9 the previously off-site wastewater treatment facility that would serve the Project, with an *on-site*
10 wastewater treatment facility in order to address the County’s concerns regarding impacts to
11 groundwater quality. (2007 SEIR Findings at p. I-2.)

12 Previously, because of groundwater quality concerns, both the Agua Dulce
13 Residential Project and the Sierra Colony project were to connect to a proposed
14 wastewater reclamation facility on a proposed Rio Dulce project site to the south
15 adjacent to Agua Dulce Canyon south of Highway 14. However, the Rio Dulce
16 project did not move forward, and the County is seeking to ensure that the units
17 that were slated for wastewater treatment service will still get the service.

18 (2007 SEIR Findings at p. I-2.)

19 One of the primary purposes of the 2007 SEIR was thus to evaluate the environmental impacts of
20 siting an *on-site* community wastewater treatment plant at the Project Site. The main distinction
21 analyzed in the 2007 SEIR with respect to the wastewater treatment plant was that, if and when
22 Phase II of the Project was developed, all Project lots would need to be served by an *on-site*
23 community wastewater treatment plant rather than the previously contemplated *off-site* community
24 wastewater treatment plant. To wit:

25 The project will provide [] an on-site wastewater treatment facility that will assure
26 tertiary treated water[.] The treatment facility will be sized to serve up to 400 units,
27 servicing the 247 project units in the proposed project (revised map for Phase II of
28 the Agua Dulce Residential Project), plus the 68 units previously recorded in Phase
I, plus 61 units in the Sierra Colony development off-site, while providing a small
percentage of overage capacity. Provision of the wastewater facility will avoid
wastewater impacts of the on-site units to the impacted groundwater tables under
Agua Dulce and will provide a beneficial impact by providing sanitary sewer
service to 61 off-site units that are currently impacting groundwater quality in the
area.

1 (2007 SEIR Findings at p. I-7 (emphasis added).) Because the use of septic systems for the Phase I
2 units was thoroughly analyzed in the 1994 EIR, was already approved in the 1994 Project
3 Approvals, and was not being modified by the 2007 Project Approvals, there was no need to
4 further address or analyze the environmental impact of such septic systems in the 2007 SEIR.

5 Importantly, because full approvals had already been granted for Phase I, and the Phase I
6 Tract Map recorded, when the 2007 SEIR was certified, the 2007 SEIR and the corresponding
7 2007 Project Approvals only applied to and affected Phase II of the Project:

8 The Final Supplemental EIR addresses the Agua Dulce Residential Project, Vesting
9 Tentative Tract Map No. 50385. The project consists of 247 single-family
10 residential lots with open space areas, water tanks, wastewater treatment facility
11 and associated uses. The previously recorded Phase I portion of the project includes
12 68 dwelling units of the eastern 68 acres of the 163 acre Agua Dulce Residential
13 Project. **As full approvals have been granted for Phase I, the current
14 discretionary action applies to the remaining 247 units on 745 acres.**

15 (2007 SEIR Findings at p. I-1 (emphasis added).) The 2007 SEIR thus in *no way* applied to or
16 affected the existing 1994 Project Approvals, including the septic systems already approved as the
17 wastewater system for Phase I prior to any subsequent construction of and connection to an
18 available community wastewater treatment facility. Notably, reference to the wastewater treatment
19 facility in the 2007 Project Approvals is limited to authorizing the siting of the wastewater
20 treatment facility at the Project site and setting forth design, construction, and operation criteria for
21 such facility. (2007 CUP Conditions of Approval, COA No. 1 and COA No. 42; see also 2007
22 SEIR Mitigation Monitoring Program (“2007 MMP”) at pp. A-23-A-25.)

23 The 2007 SEIR was certified in April of 2007. No lawsuits were filed to contest the validity
24 of the 2007 certified SEIR.

25 **C. Development of the Project Site and Recent Regulatory History**

26 RTG acquired the Project Site in December 2018. On October 26, 2021, a Streambed
27 Alteration Agreement for the Project was approved between RTG and the California Department
28 of Fish and Wildlife (California Fish & Wildlife Permit No. 1600-2007-0121-R5, (October 26,
2021)) allowing for substantial streambed alteration and grubbing of the entirety of Phase I. As
discussed above, on February 10, 2022, after a public hearing, the Regional Board approved the

1 WDRs for Phase I of the Project. RTG proceeded with readying the site for development and,
2 from February 2022 through the date of this filing, has completed significant dredge and fill
3 activities at the Project site. (See Site Status Report dated March 16, 2023, appended hereto as
4 Attachment 1; Discussed *infra* at p. 10.) As of the date of this filing, development of the Project
5 site has consistently been taking place over the course of the past thirteen (13) months.

6 Petitioners filed the consolidated Petition on September 1, 2022, seven (7) months after the
7 Regional Board's adoption of the WDRs. The SWRCB did not provide notice to RTG that the
8 SWRCB had deemed the Petition complete until November 28, 2022. (Correspondence from State
9 Water Resources Control Board dated November 28, 2022, regarding Petition Of Cynthia Grimes,
10 John Brunot, Agua Dulce Neighbors, Susan Turner, And Marcy And Glen Winter For Review Of
11 Waste Discharge Requirements Order No. R4-2022-066 For The Agua Dulce Residential
12 Development Project, Agua Dulce, Los Angeles County; Issued By The Los Angeles Regional
13 Water Quality Control Board: Complete Petition.)

14 **II. ARGUMENT**

15 Petitioners' misguided understanding of the facts has led to a conflation of issues, and a
16 muddled Petition that sets forth what appear to be ten (10) arguments for consideration in
17 Petitioners' challenge of the WDRs. For clarity, however, the issues raised by Petitioners can be
18 summarized into two main inquiries, as highlighted by the SWRCB's correspondence dated
19 January 6, 2023: (1) whether the Regional Board evaluated the appropriate scope of potential
20 water quality impacts associated with the Project in accordance with its responsibilities under the
21 Porter-Cologne Water Quality Control Act (Water Code section 13000 et seq.); and (2) whether
22 the Regional Board properly concluded that a subsequent or supplemental environmental impact
23 report was not required for the project in accordance with California Code of Regulations, Title
24 14, Section 15162(c).

25 The Regional Board's decision to approve the WDRs was proper. However, prior to any
26 discussion of the substantive issues asserted by Petitioners, it is imperative to address certain
27 glaring procedural defects that render this Petition null. Therefore, the discussion below first
28 addresses the threshold issues that are fatal to the Petition, including that: (1) the Petition is time-

1 barred pursuant to Water Code Section 13220(a) and SWRCB’s own filing procedures;² (2)
2 Petitioners’ claims are moot as dredge and fill of the Project site has already been performed; and
3 (3) Petitioners’ CEQA claims are time-barred pursuant to Public Resources Code Section 21167.
4 While each of these issues are independent grounds for dismissal, should the SWRCB disagree,
5 the Petition also fails on the substantive issues presented. Both threshold and substantive issues are
6 discussed in turn below.

7 **A. The Petition is Time-Barred Pursuant to Water Code Section 13320(a) and SWRCB**
8 **Regulations.**

9 Petitioners failed to submit the instant Petition within the 30-day statutory period set forth in
10 Water Code Section 13320(a), instead submitting the Petition seven (7) months after the deadline
11 for appeal. (23 CCR § 2050(a).) Therefore, Petitioners have waived their right to challenge the
12 Regional Board’s approval of the WDRs, and this Petition must be dismissed.

13 Water Code Section 13320(a) expressly provides that a person may challenge a regional
14 board decision by filing a petition within 30 days of a regional board’s action or failure to act.
15 Specifically, a complete petition “must be received by the state board within 30 days of any action
16 or failure to act by a regional board,” and must include, among other basic information, “[a] full
17 and complete statement of the reasons the action or failure to act was inappropriate or improper;”
18 as well as “[a] statement of points and authorities in support of legal issues raised in the petition,
19 including citations to documents or the transcript of the regional board hearing.” (23 CCR §
20 2050(a) (emphasis added).) Only when a complete petition is received within 30 days of a regional
21 board’s action or failure to act does the SWRCB have authority to grant review of a petition. (See
22 23 CCR §§ 2050(a) and (c), 2050.5(a).) “The State Water Board interprets that requirement
23 [Water Code Section 13320] strictly and petitions filed more than 30 days from regional water
24 board action are rejected as untimely.” (*In the Matter of Review of Waste Discharge Requirements*
25 *For Municipal Separate Storm Sewer System (MS4) Discharges Within the Coastal Watersheds of*
26 *Los Angeles County*, (2015) (Cal. St. Wat. Res. Bd.) 2015 WL 4071332, at *4 (emphasis added).)

27
28 ² See *Instructions for Filing Water Quality Petitions* at https://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml.

1 Here, it is uncontested that Petitioners failed to submit a timely petition (including citations
2 to the record and a statement of points and authorities) within the statutory 30-day time period.
3 Rather, based on the information available to RTG, it appears that after being notified that their
4 initial noncompliant petitions were incomplete, Petitioners chose to combine their initial
5 incomplete petitions and submit the now time-barred Petition to the SWRCB on September 1,
6 2022, almost 7 months after the Regional Board’s adoption of the WDRs, and after substantial
7 implementation and vesting of the WDRs had already taken place. The processes set forth in
8 Water Code Section 13320 and the California Code of Regulations, Title 23, Sections 2050, et
9 seq., do not grant the SWRCB the authority to grossly extend the timeframe to submit a petition
10 beyond the express timelines set forth in the Water Code and California Code of Regulations, Title
11 23, Section 2050. (Gov. Code § 65009; *General Development Co., L.P. v. City of Santa Maria*
12 (2012) 202 Cal.App.4th 1391, 1394 (stating that a short statute of limitations effectuates the
13 legislature’s intent to “alleviate the ‘chilling effect on the confidence with which property owners
14 and local governments can proceed with projects’ [citation] created by potential legal challenges to
15 local planning and zoning decisions”).)

16 While the SWRCB is entitled, on its own motion, to review a regional board action at any
17 time (see Wat. Code § 13320(a)), that is not the procedural posture of this Petition. The SWRCB
18 has not proffered its own motion to contest the WDRs but instead provided notice that the
19 SWRCB would review the time-barred Petition as submitted by the Petitioners. Accordingly, the
20 strict statutory time limits for SWRCB review set forth in Water Code Section 13320 (which
21 governs when a person may challenge a regional board decision) apply to the Petition.

22 In sum, the Petition is untimely and time-barred pursuant to Water Code Section 13320. The
23 SWRCB has no legal authority under the Water Code or its own Regulations to grant review.

24 **B. The Petition is Moot as Substantial Completion of the Work Has Already Been**
25 **Performed and No Effective Relief Can Be Granted.**

26 “The basic question in determining mootness is whether there is a present controversy as to
27 which effective relief can be granted.” (*Feldman v. Bomar* (9th Cir. 2008) 518 F.3d 637, 642.)
28 Simply put, no effective relief can be granted here.

1 The Petition challenges the Regional Board’s adoption of the WDRs for Phase I and seeks to
2 prevent the hillside dredging and fill of ephemeral rivulets at the site. (See Petition at p. 16.)
3 However, RTG has already implemented the WDRs at issue. In good-faith reliance on the
4 Streambed Alteration Agreement issued by the California Department of Fish and Wildlife, which
5 has never been contested, and the Regional Board’s February 10, 2022, Order adopting the WDRs,
6 RTG legally relied on its regulatory approvals and proceeded to ready the Project site for
7 development by completing significant dredge and fill activities over the course of the last 13
8 months. In compliance with the adopted WDRs, RTG has completed initial site preparation, and
9 has rough-graded, grubbed, dredged, filled, and cleared the site of existing vegetation. (See Site
10 Status Report and site pictures dated March 16, 2023, attached hereto as Attachment 1.) In
11 compliance with the Regional Board’s Order and the SWPPP for the site, RTG also installed
12 waddles, sandbags, and silt fences to prevent erosion, and has begun, and in some instances
13 substantially finished, storm drain installation and construction of detention basins. Site access
14 roads have been cut and widened and V-ditches were dug in order to trap rainwater and prevent
15 erosion, enabling dirt removal. Substantial dirt has been removed and rock ripped throughout a
16 significant portion of the site. Additionally, RTG has a valid grading permit from the County, has
17 posted financial assurances pursuant to Los Angeles County requirements, has already begun mass
18 grading, and will continue to bear those costs and expenses until grading is complete. Finally, and
19 as shown by the Site Status Report dated March 16, 2023, Best Management Practices (“BMPs) at
20 the site have been installed, including all necessary erosion control measures pursuant to the
21 SWPPP. A suspension of activities at this point in the construction process would not only cause
22 unstable and unsafe site conditions, but would also put RTG at risk of breaching the County’s and
23 Regional Board’s grading and site management requirements.

24 Considerable legal precedent supports RTG’s position that substantial completion of the
25 work under a permit or completion of a project renders challenges to such project’s approval,
26 including CEQA claims, moot. For example, in *Parkford Owners for a Better Community v.*
27 *County of Placer* ((2020) 54 Cal.App.5th at pp. 714-19), plaintiffs challenged the buildout of a
28 commercial self-storage facility which had undergone three phases of permitting and expansion

1 over the course of twenty years. Plaintiffs requested that the County set aside its approval of the
2 associated building permit under CEQA for the facility’s most recent expansion in order for the
3 County to prepare a new EIR for the expansion, and to suspend all construction activity until the
4 County had complied with CEQA. (*Ibid.*) The court disagreed, stating that “we are persuaded the
5 completion of the [project’s] expansion has rendered moot [plaintiff’s] challenge to the building
6 permit authorizing construction of the expansion.” (*Parkford, supra*, (2020) 54 Cal.App.5th at p.
7 721.) The court reasoned that because “expansion of the [storage facility] did not proceed in
8 violation of a court order,” development had proceeded without any indication that the issuance of
9 the building permits triggered environmental review under CEQA, and appellant relied in good
10 faith on the building permit, as the court further explained; “the challenged expansion rendered
11 moot [plaintiff’s] challenge to the County’s issuance of a building permit authorizing
12 construction.” (*Id.* at pp. 724-25.)

13 Similarly, in *Hixon v. County of Los Angeles*, county residents sought a writ of mandate to
14 compel the county to obtain an EIR in connection with a street improvement project involving
15 removal of a substantial number of roadside trees and replacement of those trees with a greater
16 number of younger trees that would take twenty-five (25) to thirty (30) years to attain the size of
17 their predecessors. (*Hixon v. County of Los Angeles* (1974) 38 Cal.App.3d 370, 373.) The trial
18 court declined to require preparation of an EIR for the project because the trees had already been
19 removed and replaced and “no public benefit would be gained by requiring an [citation] EIR.” (*Id.*
20 at p. 377.) The Court of Appeal agreed, explaining: “The project is ended, the trees are cut down
21 and the subject is now moot insofar as resort to a planning or informational document, which is
22 what an EIR is.” (*Id.* at pp. 377-378.)

23 The court in *Wilson & Wilson v. City Council of Redwood City* held as the cases cited above,
24 stating that “California courts will decide only justiciable controversies.” (*Wilson & Wilson v. City*
25 *Council of Redwood City* (2011) 191 Cal.App.4th 1559, 1573 (citing *County of San Diego v. San*
26 *Diego NORML* (2008) 165 Cal.App.4th 798, 813.) There, the city initially approved a
27 redevelopment project following the required environmental review, drawing no challenge from
28 plaintiff. (*Wilson & Wilson, supra*, (2011) 191 Cal.App.4th at pp. 1563, 1566.) However, after the

1 city approved a modification to the project and entered into an amended development agreement
2 superseding the original agreement, the plaintiff sought invalidation of the new agreement arguing,
3 among other things, that a new EIR should have been prepared for the modified project. (*Id.* at p.
4 1567.) The Plaintiffs had essentially brought suit after substantial completion of the project had
5 already occurred, and they had failed to object to the project during the statutory timeframe
6 provided. (*Wilson & Wilson, supra*, (2011) 191 Cal.App.4th at p. 1572, n. 9.) The court held that
7 substantial completion, or completion of a phase of a project, moots an action seeking to require
8 preparation of an EIR for that phase, especially where appellant was partially responsible for its
9 claims becoming moot. (*Wilson & Wilson, supra, v.* (2011) 191 Cal.App.4th at p. 1576-1577,
10 1581.)

11 The fact patterns above directly mirror those at issue here. RTG has relied in good faith on
12 the multiplicity of unchallenged permits, including the WDRs adopted by the Regional Board on
13 February 10, 2022, and has completed significant site preparation. Notably, Petitioners delayed
14 challenging the WDRs until after significant Project site preparation and permit implementation
15 had already been completed. The issues presented by Petitioners do not fall within any exception
16 to mootness, as the issues raised in the Petition do not present an issue “of broad public interest
17 likely to reoccur.” (See *Parkford, supra*, (2020) 54 Cal.App.5th at p. 725.) Therefore, the remedy
18 sought by Petitioners, *i.e.*, the prevention of hillside dredging and fill of ephemeral rivulets at the
19 Project site, cannot now be granted simply because the activities have already happened, and the
20 Petition is moot as a matter of law.

21 C. **Petitioners’ CEQA Claims are also Time-Barred and Moot.**

22 The Petition grounds nearly all of its substantive challenges to the WDRs on the basis that
23 the Regional Board’s adoption of the WDRs was “in contravention of [CEQA],” finding fault with
24 the adequacy of the 1994 EIR and the 2007 SEIR that were certified for the Project. (Petition at
25 pp. 1, 4.) In fact, nearly all of Petitioners’ claims challenge the adequacy of either the 1994 EIR or
26 the 2007 SEIR. (See Petition at pp. 4-14.) Petitioners’ claims are not only untimely, however, but
27 must be barred as a matter of law given that the WDRs at issue were granted in connection with
28 Phase I of the approved Project – for which a final map has already been recorded and approved

1 (with all appeal periods expired) and for which all CEQA requirements have long been satisfied
2 (and all statutes of limitation expired) – and cannot now be challenged before this body or any
3 court.

4 In the case of a certified EIR, . . . [CEQA] mandates that the EIR be conclusively
5 presumed valid unless a lawsuit has been timely brought to contest the validity of
6 the EIR. This presumption acts to preclude reopening of the CEQA process even if
7 the initial EIR is discovered to have been fundamentally inaccurate and misleading
8 in the description of a significant effect or the severity of its consequences. After
9 certification, the interests of finality are favored over the policy of encouraging
10 public comment.

11 (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112,
12 1130, emphasis added; see also Cal. Pub. Res. Code § 21167.2.)

13 As discussed above, the 1994 EIR for the Project was certified in June 1994 and the 2007
14 SEIR revising Phase II of the Project was certified in April 2007. No lawsuits were filed to
15 contest the validity of either the 1994 EIR or the 2007 SEIR, and no further CEQA analysis is thus
16 required or permitted under Public Resources Code Section 21166.³ (Cal. Pub. Res Code §
17 21166.) The 1994 EIR and the 2007 SEIR are thus “conclusively presumed to comply with the
18 provisions of [CEQA] for purposes of [their] use by responsible agencies, including the Regional
19 Board, unless the provisions of Section 21166 are applicable.” (Cal. Pub. Res. Code § 21167.2.)
20 Phase I of the Project has remained the same since it was first approved in 1994. There are no
21 substantial changes proposed for the Project, no changes to the circumstances under which the
22 Project is being undertaken, and no new information that would alter the conclusions of either the
23 1994 EIR or the 2007 SEIR. (See Cal. Pub. Res. Code § 21167.) Because the Project has not
24 changed, the provisions of Public Resources Code Section 21166 are not applicable, and the
25 SWRCB must, as a matter of law, presume that the 1994 EIR and the 2007 SEIR fully comply

24 ³ Cal. Pub. Res. Code § 2166 provides in relevant part that “[w]hen an environmental impact report has been prepared
25 for a project [...] no subsequent or supplemental environmental impact report shall be required by the lead agency or
26 by any responsible agency, unless one or more of the following events occurs:

- 26 (a) Substantial changes are proposed in the project which will require major revisions of the environmental
27 impact report.
27 (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken
28 which will require major revisions in the environmental impact report.
28 (c) New information, which was not known and could not have been known at the time the environmental
impact report was certified as complete, becomes available.

1 with CEQA. Petitioners' CEQA claims thus not only misconstrue the matter currently at issue but
2 they are simply time-barred pursuant to Public Resources Code Section 21166.

3 **D. The Regional Board Properly Evaluated the Scope of Potential Water Quality Impacts**
4 **Associated with the Project in Accordance with its Responsibilities Pursuant to Water**
5 **Code Section 13000.**

6 The Regional Board properly evaluated the scope of water quality impacts in accordance
7 with its responsibilities under the Porter-Cologne Water Quality Control Act ("Porter-Cologne
8 Act"), authorizing the issuance of the WDRs in accordance with the 1994 Project Approvals for
9 Phase I and the certified 1994 EIR and 2007 SEIR). (Wat. Code §§ 13000 *et seq.*) The Regional
10 Board has the primary responsibility of implementing the Porter-Cologne Act to ensure the
11 reasonable protection of beneficial use of water in the state. (Wat. Code §§ 13000, 130001.) As
12 part of this role, the Regional Board is responsible for issuing and enforcing waste discharge
13 requirements. (Wat. Code § 13263.) The Regional Board, after any necessary hearing and/or
14 providing time for public comment, must "prescribe requirements as to the nature of any proposed
15 discharge" based on factors including but not limited to: (1) past, present, and future beneficial
16 uses of water; (2) environmental characteristics and water quality conditions present at the site;
17 and (3) economic conditions and the need for developing housing within a region. (Wat. Code §§
18 13263, 132641.) Here, the Regional Board fully complied with its responsibilities pursuant to the
19 Porter-Cologne Act when issuing the WDRs. (Water Quality Order No. R4-2022-066.) The
20 Regional Board provided public notice of the draft order pursuant to Water Code section 13167.5
21 from October 19, 2020 to November 18, 2021, and again from December 22, 2021 to January 21,
22 2022, in excess of the statutorily required time periods. The Regional Board fully complied with
23 its responsibilities by independently reviewing the record of the Project to analyze impacts to
24 water quality and designated beneficial uses within the watershed of the Project, ensuring that the
25 water discharge requirements met prescribed contaminant levels. (Water Quality Order No. R4-
26 2022-066, at p. 5 (analyzing Project impact to receiving waters and compliance with the region's
27 Basin Plan); p. 16 (setting forth compensatory mitigation requirements); and p. 8 (prescribing
28 conditions for compliance).

///

1 The Regional Board can, and should, rely on EIRs as informational documents when issuing
2 waste discharge requirements for a proposed project. However, an EIR does not control an
3 agency’s discretion to approve a project, or issue permits in accordance with a project. (*Santa*
4 *Clara Valley Water District v. San Francisco Bay Regional Water Quality Control Board* (2020)
5 59 Cal.App.5th 199, 211–212 The Regional Board thus properly relied on the 1994 Project
6 Approvals and was not bound by what was analyzed in the 2007 EIR when evaluating the impact
7 to state waters of issuing the Phase I WDRs.

8 Even assuming that Petitioners’ substantive claims are germane to the Regional Board’s
9 grant of the WDRs, which is not the case, Petitioners’ claims hinge on two misconceptions, both
10 of which are fatal to Petitioners’ claims: (1) that the 2007 SEIR, rather than the 2007 Project
11 Approvals (including the MMP, which was incorporated by reference into the 1994 Tentative
12 Tract Map COA and 1994 CUP COA), is somehow the controlling document binding the
13 responsible agencies to the analysis contained therein; and (2) that the 2007 SEIR and 2007
14 Project Approvals somehow eliminated or modified the 1994 Project approvals by providing that
15 an on-site wastewater treatment plant would eliminate and entirely replace the already approved
16 septic systems for the sixty-eight (68) Phase I lots *during the development of Phase I* of the
17 Project. Petitioners are incorrect on both counts.

18 **1. Project Approvals – Not EIRs – Are the Only Documents Applicable to the**
19 **Regional Board’s Grant of WDRs.**

20 The purpose of an EIR is to “inform decision makers and the public of the potential
21 environmental impacts of a project and to identify feasible alternatives to the project and measures
22 to mitigate or avoid the adverse effects.” (Pub. Res. Code § 21002.1, subd. (a).) The EIR “must
23 identify the significant effects on the environment, state how they can be mitigated or avoided, and
24 identify alternatives to the project, among other requirements.” (Pub. Res. Code § 21100, subd.
25 (b).) Instead, agencies enforce measures to mitigate or avoid significant effects on the environment
26 through “permit conditions, agreements, or other measures. Conditions of project approval may be
27 set forth in referenced documents which address required mitigation measures [and] by

28 ///

1 incorporating the mitigation measures into the plan, policy, regulation, or project design.” (Pub.
2 Res. Code 21081.6(b).

3 The Regional Board can and should rely on EIRs as informational documents. However, an
4 EIR does not limit a responsible agency’s discretion as to whether to approve a project. The EIR
5 “serves as an informational document for the agency and the public but does not control the
6 agency’s exercise of discretion.” (*Federation of Hillside and Canyon Associations v. City of Los*
7 *Angeles* (2000) 83 Cal.App.4th 1252, 1258 (emphasis added). Therefore, the 1994 and 2007
8 Project Approvals – not EIRs – are the only enforceable documents relevant to what actions were
9 actually approved for Phase I. The 2007 Project Approvals and corresponding COAs, which
10 constitute the enforcing documents adopted by the lead agency to implement the findings of the
11 2007 SEIR, do not set forth development of the on-site wastewater treatment plant as a condition
12 for Phase I development.

13 **2. The 2007 Project Approvals Did Not Eliminate or Modify the 1994 Project**
14 **Approvals Relating to Use of Septic Systems for Phase I.**

15 The 2007 SEIR does not control responsible agencies’ exercise of discretion when issuing
16 project approvals and is not at issue with the Regional Board’s adoption of the WDRs, as the 2007
17 SEIR applies *only* to the revised Phase II development. As discussed above, because full
18 approvals had already been granted for Phase I when the 2007 SEIR was certified and the related
19 Phase II discretionary approvals were issued, the 2007 SEIR and its corresponding discretionary
20 approvals only applied to and affected Phase II. (See 2007 SEIR Findings at pp. I-1 and I-4.) The
21 2007 SEIR thus in no way applied to or affected the existing Phase I Project Approvals, including
22 the septic systems already approved as the wastewater system for Phase I. Rather, connecting
23 Phase I to the on-site wastewater treatment plant once such plant is constructed became a
24 condition of approval for Phase II of the Project – not the previously approved Phase I.

25 However, even if the 2007 Project Approvals were applicable to Phase I, the 2007 Project
26 Approvals neither provide nor require that the on-site wastewater treatment replace the use of
27 septic systems as the initial wastewater treatment system for Phase I. Discussions of the on-site
28 wastewater treatment plant in the 2007 Project approvals are limited. The 2007 Project Approvals

1 and corresponding COAs provide only that the revised map “authorizes the creation of [...] one
2 water reclamation plant on 742 gross acres” (2007 Revised Vesting Tentative Tract Map No.
3 50385 (“2007 Revised Phase II Map”), COA No. 21; MMP at pp. A-23-24), that “the project’s
4 water system be expanded to meet the future water needs of nearby offsite residents” (2007
5 Revised Phase II Map, Finding No. 27, at p. 5), and that “the applicant shall work with Public
6 Works during design of the [treatment] plant” to ensure that it is designed as efficiently as
7 possible to meet water quality objectives. (2007 Tentative Tract Map COA No. 16, at p. 2.) In
8 addition, the Department of Public Works’ conditions are limited to stating that the applicant shall
9 “[c]onstruct a sewage treatment plant to the satisfaction of the Department of Public Works” and
10 provides a technical discussion of how RTG should meet those requirements. (Dep. of Public
11 Works, Conditions, Tract No. 5038 (Rev.) at p. 3.) The 2007 Project approvals and corresponding
12 COAs, which constitute the enforcing documents adopted by the lead agency to implement the
13 findings of the 2007 SEIR, do not require the development of the on-site wastewater treatment
14 plant as a condition for Phase I development.

15 Additionally, the 2007 SEIR itself does not support Petitioners’ proposition that the 2007
16 SEIR was intended to entirely eliminate and replace the Phase I septic tanks. The fact that the
17 2007 SEIR only applied to Phase II of the Project is stated explicitly numerous times throughout
18 the document.

19 The State Board should not now question the clear intent of the County, as lead agency,
20 when adopting the 2007 SEIR. For example; the 2007 SEIR plainly states that “full approvals
21 have been granted for Phase I, the current discretionary action applies to the remaining 247 units
22 on 745 acres.” (2007 SEIR at p. I-1 (emphasis added).) The 2007 SEIR reiterates this point,
23 providing that “[the developer] is proposing a revision to the remaining 745 acres, unrecorded
24 portion of the project in the area of unincorporated Los Angeles County (County), California.”
25 (*Ibid* (emphasis added).) The 2007 SEIR again provides that “[t]he Findings in this document are
26 for the unrecorded portion of the Agua Dulce Residential Project and are supported by
27 information and analysis from the Final Supplemental EIR[.]” (2007 SEIR at p. I-4 (emphasis
28 added).) “The SEIR will address Revised Vesting Tentative Tract Map No. 50385, which alters

1 the previously approved but unrecorded portion of the project.” (Conditional Use Permit No.
2 200500171-(5) at p. 1.) Even the Conditions of Approval unequivocally state that the 2007 SEIR
3 applies only to the development of Phase II.

4 The proposed Revised Vesting Tentative Tract Map, dated November 21, 2006,
5 alters the previously approved but unrecorded portion of Vesting Tentative Tract
6 Map No. 50385 (TR50385) in order to subdivide currently undeveloped land into
7 247 single family lots, four open space lots, four debris basin lots, one water
8 reclamation lot and plant, and multiuse trails. All residential lots will be at least two
9 net acres in size. The previously recorded 68 residential lots of the first phase of
10 TR50385-01 on the east end of the project site will not be revised.

11 (*Ibid.*) .) While Petitioners are correct in that the 2007 SEIR contemplates for the installation of
12 an on-site wastewater treatment plant to serve the entirety of the site, including the sixty-eight
13 (68) recorded lots approved for Phase I, (2007 SEIR at pp. I-2, I-7) the proposal for the onsite
14 wastewater treatment to serve all lots is firmly situated within the context of the development of
15 Phase II, just as the 1994 EIR had done. (See *supra* at pp. 11-12.)

16 The development of Phase I of the Project is not at issue in the 2007 SEIR. The 1994 EIR,
17 which properly proposed, evaluated, and approved the use of septic systems to serve as the initial
18 wastewater treatment system for the sixty-eight (68) lots in Phase I, and for which a final vesting
19 tract map was already recorded, cannot now be challenged in this forum. The Regional Board’s
20 scope of review was therefore properly limited only to potential effects of the WDRs for Phase I
21 of the Project, the impacts of which had been previously, and thoroughly evaluated, in the 1994
22 EIR. Therefore, the Regional Board’s approval of the WDRs for the sixty-eight (68) lots in the
23 development of Phase I of the Project was proper and clear, and thus cannot be modified or
24 questioned here.

25 **E. A Subsequent or Supplemental EIR is not Required for the Project.**

26 No further environmental review is necessary for the Project as all CEQA requirements have
27 long been satisfied. As discussed at length above, no lawsuits were filed to contest the validity of
28 either the 1994 EIR or the 2007 SEIR, and no further CEQA analysis is required under Public
Resources Code Section 21166. The 1994 EIR and the 2007 SEIR are thus “conclusively
presumed to comply with the provisions of [CEQA] for purposes of [their] use by responsible

1 agencies, unless the provisions of Section 21166 are applicable.” (Cal. Pub. Res. Code § 21167.2.)
2 Phase I of the Project has remained the same since it was approved in 1994 and the reopening of
3 environmental review is statutorily prohibited. (Gov. Code § 65009; *General Development Co.,*
4 *L.P. v. City of Santa Maria* (2012) 202 Cal.App.4th 1391, 1394 (stating that a short statute of
5 limitations effectuates the legislature’s intent to “alleviate the ‘chilling effect on the confidence
6 with which property owners and local governments can proceed with projects’ [citation] created by
7 potential legal challenges to local planning and zoning decisions”).)

8 The crux of Petitioners’ CEQA claims, that the 2007 SEIR’s analysis of an on-site
9 wastewater treatment plant somehow affected the approved and recorded Phase I development,
10 and that this environmental analysis is somehow controlling on responsible agencies’ exercise of
11 discretion, are based on both a misunderstanding of the law, and a misreading of the 2007 Project
12 approvals and 2007 SEIR. There are no substantial changes proposed for Phase I, no changes to
13 the circumstances under which Phase I is being undertaken, and no new information that would
14 alter either the 1994 EIR or the 2007 SEIR or their conclusions. (See Cal. Pub. Res. Code §
15 21167.) Because Phase I of the Project has not changed, the provisions of Public Resources Code
16 Section 21166 are not applicable, and the SWRCB must, as a matter of law, presume that the 1994
17 EIR and the 2007 SEIR fully comply with CEQA.

18 **III. CONCLUSION**

19 The Petition is time-barred pursuant to Water Code Section 13320(a) and SWRCB
20 Regulations, as Petitioners failed to submit the instant Petition within the 30-day statutory period
21 set forth in Water Code Section 13320(a), instead submitting the Petition nearly 7 months after the
22 deadline for appeal. (23 CCR § 2050(a).) Therefore, Petitioners have waived their right to
23 challenge the Regional Board’s approval of the WDRs. In addition, the Petition is moot as
24 substantial completion of the work authorized by the WDRs has already been performed and no
25 effective relief can be granted. Further, the Regional Board properly evaluated the scope of
26 potential water quality impacts associated with the Project in accordance with its responsibilities
27 pursuant to Water Code Section 13000, providing more than the required statutory period for

28 ///

1 public notice, and relying on the 1994 Project Approvals when evaluating the impacts of the
2 Project prior to issuing the WDRs. Therefore, the Petition should be dismissed as a matter of law.

3 DATED: March 17, 2023

MITCHELL CHADWICK LLP

4
5 By: 
6 ERICA BRINITZER-GRAFF
7 Attorneys for Project Proponent RTG
8 INVESTMENT, LLC
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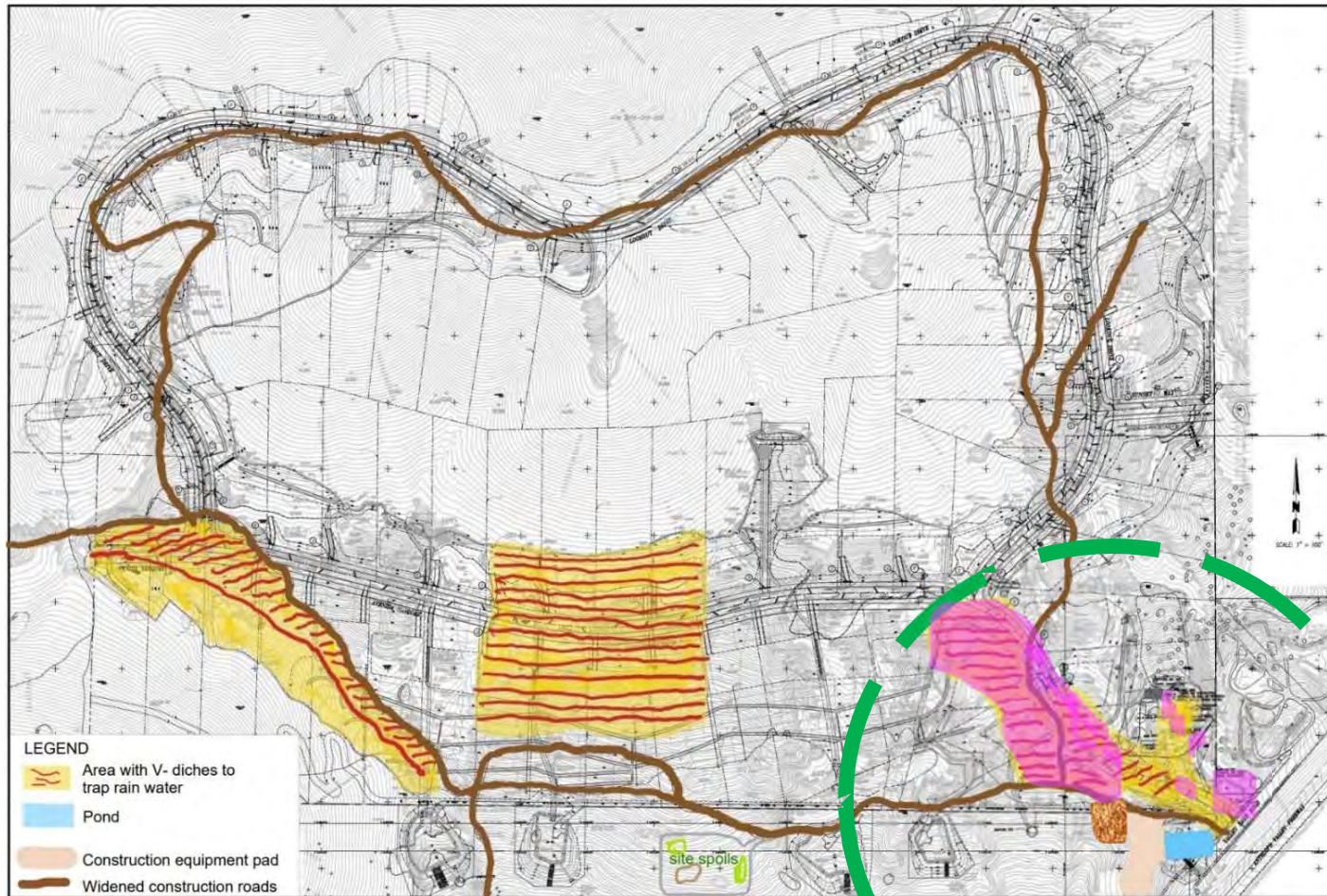
**ATTACHMENT 1 –
Site Status Report dated March 16, 2023**

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

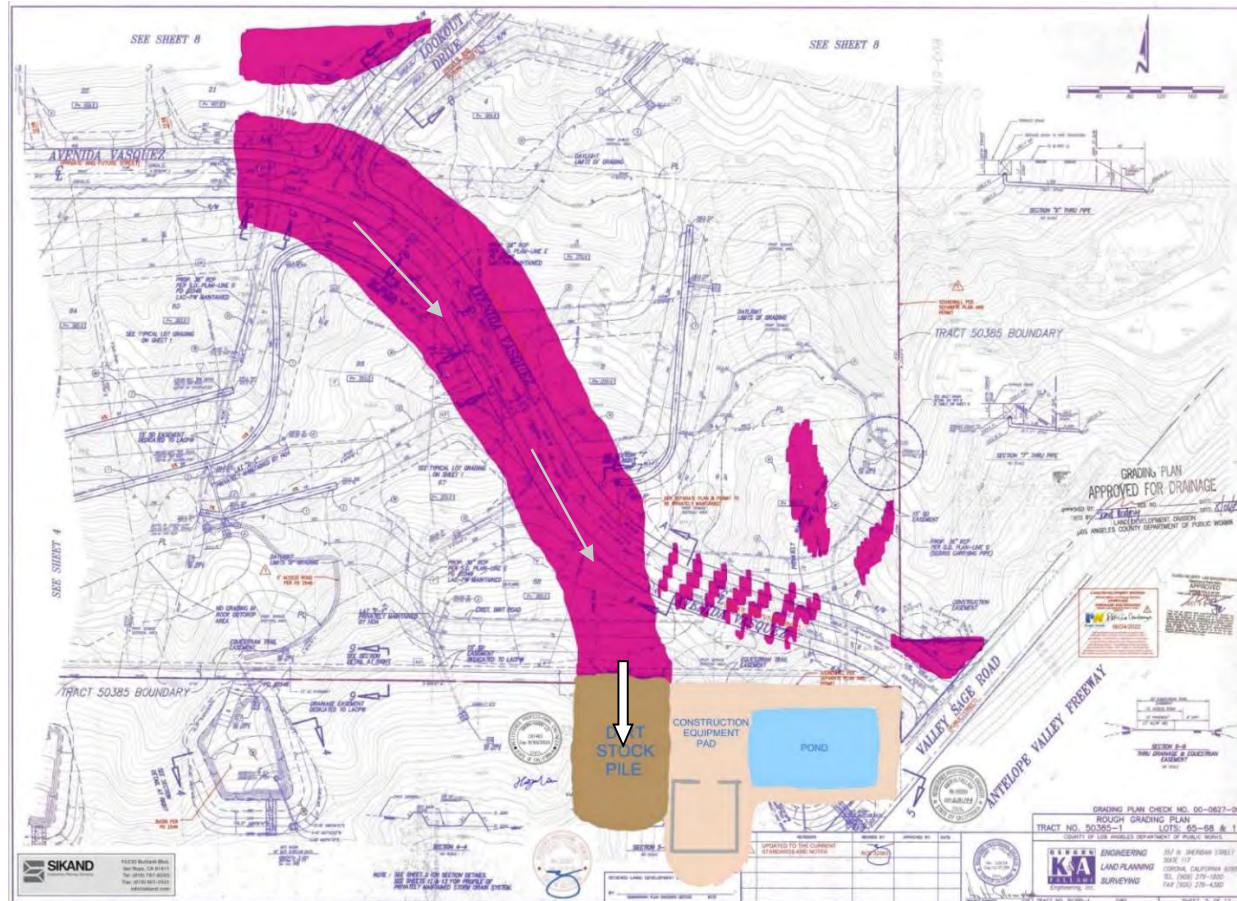
3/16/2023

1.0 SUMMARY OF ON-GOING PROGRESS



Ongoing exploration of bedrock in the circled area, along the first 1000ft of the entrance access road (except on next page).

DISCOVERY OF BEDROCK ALONG ENTRANCE ACCESS ROAD



9% of the excavation rough graded to date. Dirt has been moved / rock ripped in the areas shaded magenta and stockpiled close to the construction equipment pad along access road.

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

VALLEY SAGE ENTRANCE



Picture taken during grading at the Valley Sage Entrance (10000 CY of the hill was cut and moved to stockpile).

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



Picture showing completed grade at the Valley Sage Road entrance.

EXPLORATION OF BEDROCK ALONG ENTRANCE ACCESS ROAD



Exploration of bedrock along access road. Pictures facing from Valley Sage entrance along.

EXPLORATION OF BEDROCK ALONG ENTRANCE ACCESS ROAD



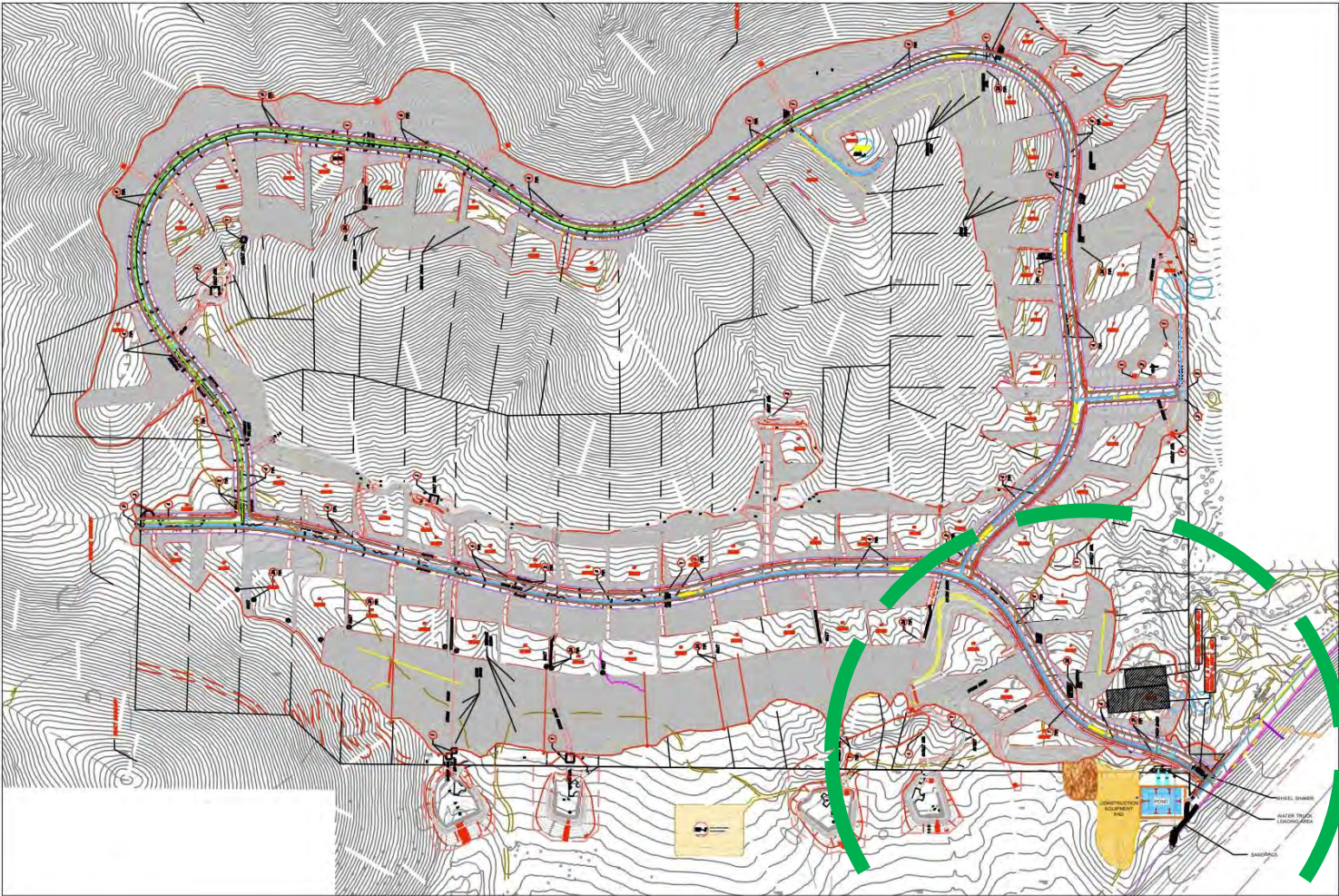
AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1



3/16/2023

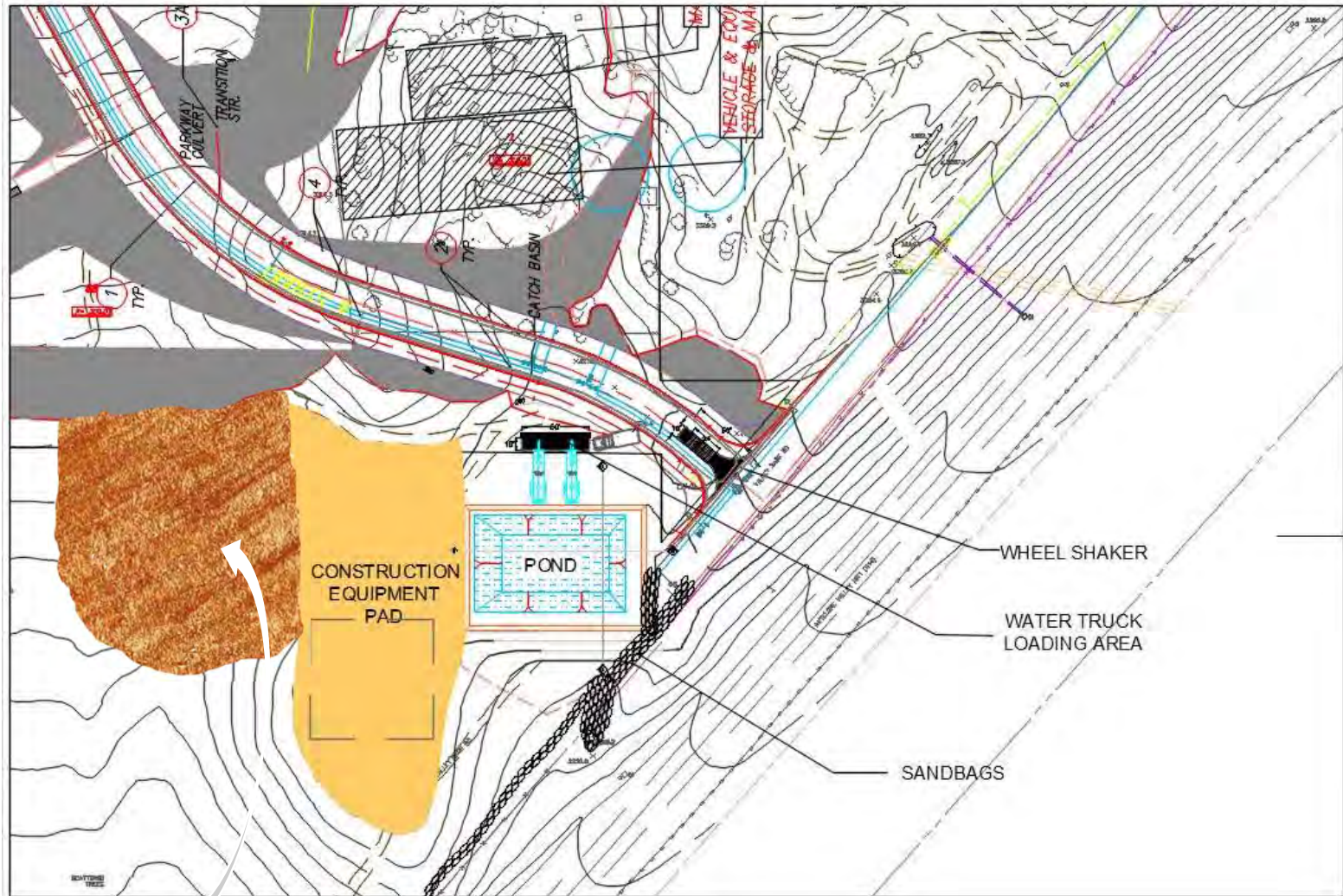
LAYOUT OF PHASE 1 SHOWING LOCATION OF CURRENT WORK AREA



AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



Stockpile (+/-120000CY)

Layout at Valley Sage Entrance to date.

DISCOVERY OF BEDROCK ALONG ENTRANCE ACCESS ROAD

Stockpile (+/-120000CY)



DISCOVERY OF BEDROCK ALONG ENTRANCE ACCESS ROAD



Exposed bedrock (75%) for the first 1000ft of the entrance along to start on subdrains and back filling.

DISCOVERY OF BEDROCK ALONG ENTRANCE ACCESS ROAD



AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



Verification of bedrock as per the RMA Geoscience specification and requirements.

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



View of exposed bedrock along explored section of entrance access road from stockpile.

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



Picture showing exposed bedrock. (Dug up to 30-40 ft down)

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



Stockpile of +/- 120,000 cubic yards of dirt

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1



Picture of stockpile (of +/- 120000 CY of dirt) and construction equipment pad facing the graded area.

WM-1 STORAGE AREA (LUMBER AND CONSTRUCTION MATERIALS).



Storage area on the construction equipment pads alongside the dirt stockpile of +/- 120000 CY of dirt. (Installed bmp WM-1)

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023

WM-1 STORAGE AREA (LUMBER AND CONSTRUCTION MATERIALS).

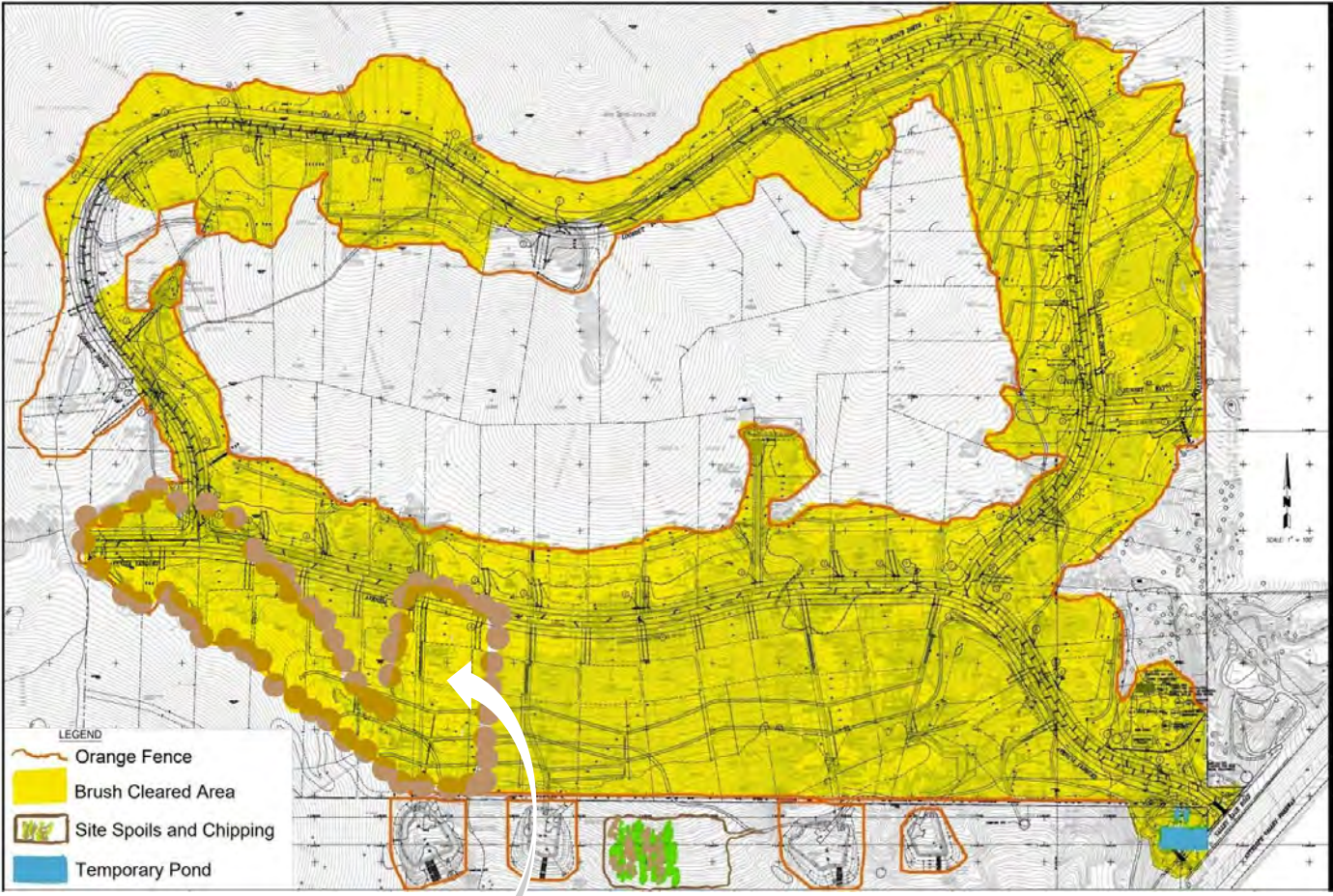


Completed reconstruction of chainlink fence for equipment yard / storage area. *(Installed bmp WM-1)*

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



Most recently cleared section.

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



Pictures showing brush cleared area on the SW part of the site.

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



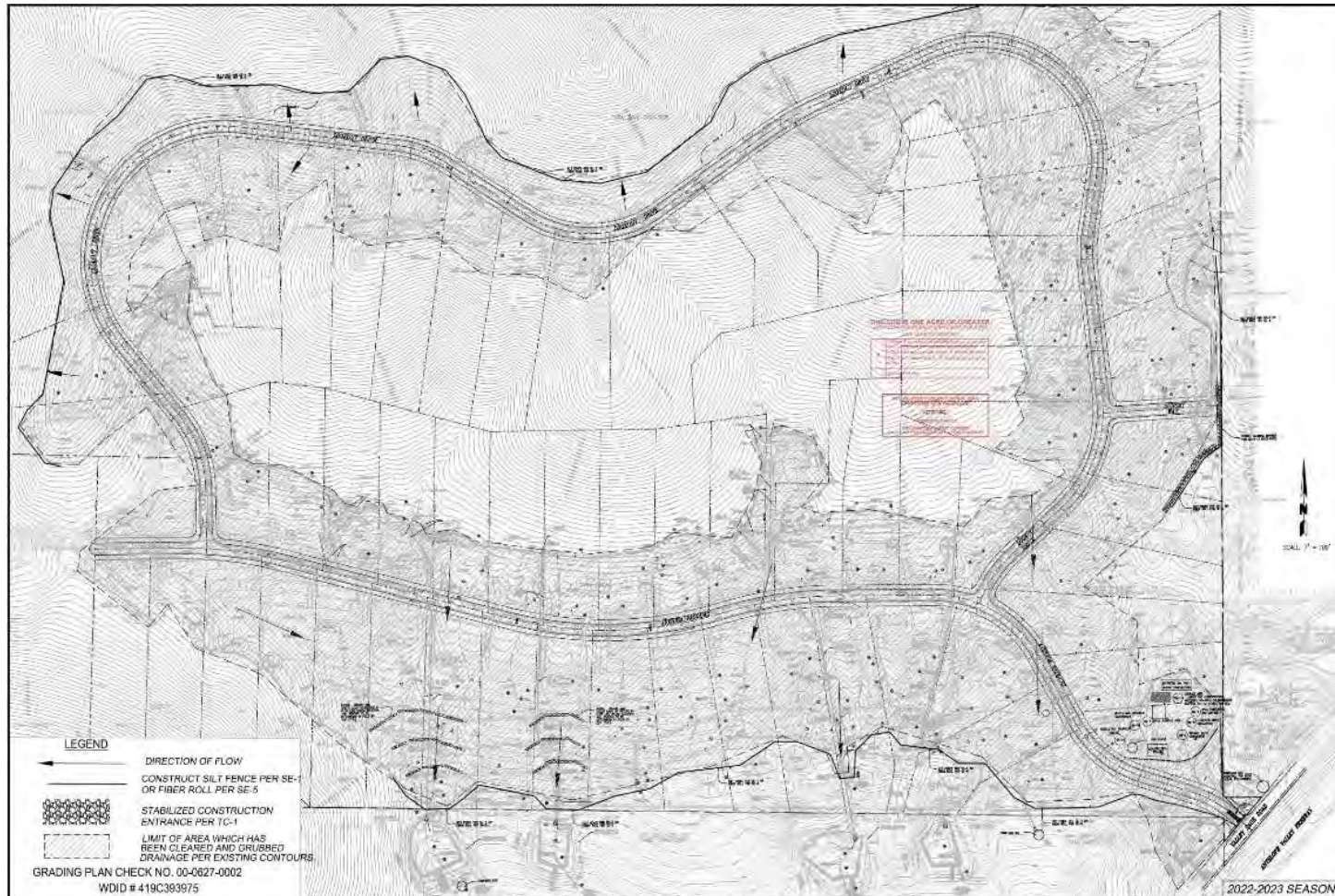
Pictures showing brush cleared area.

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

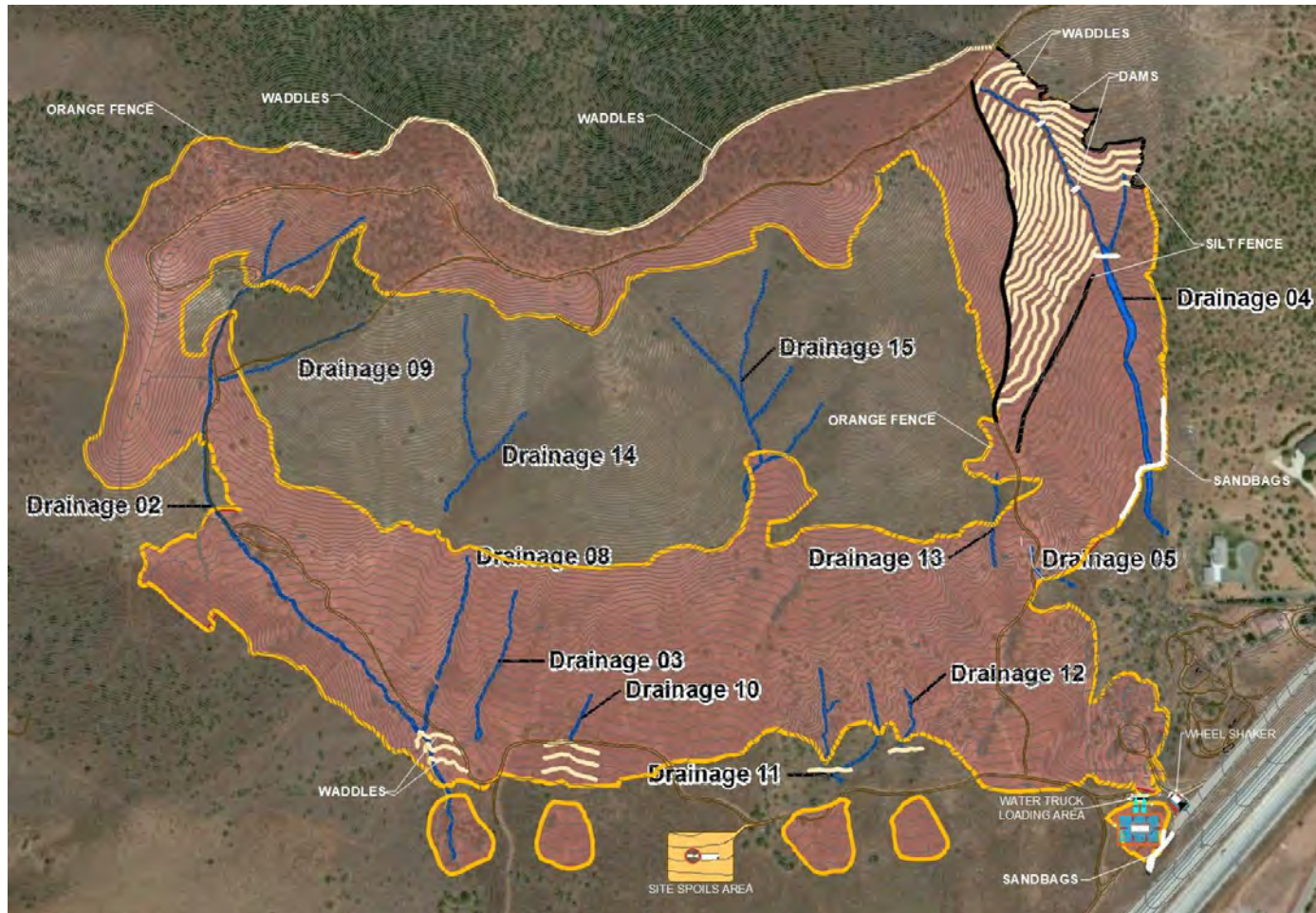
3/16/2023

2.0 APPROVED WINTERIZATION PLAN ISSUED BY SIKAND



ESCP Plan dated 11/22/2022.

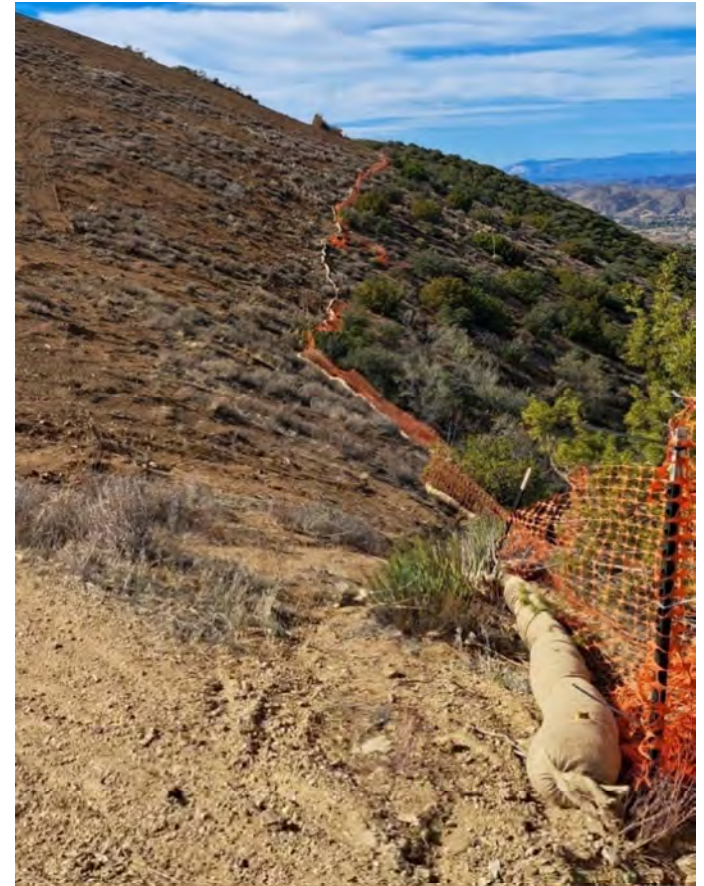
SWPPP INSTALLED IN DISTURBED AREAS AS PER WINTERISATION PLAN



Winterization Plan is complete and installed. SWPPP installed to date: Approx. 16,175LF (647 waddles), 6320 wooden stakes (107 bundles of 50 ea), 10000 sandbags,

2800LF / 28 silt fence rolls.

SWPPP INSTALLATION AS PER WINTERISATION PLAN

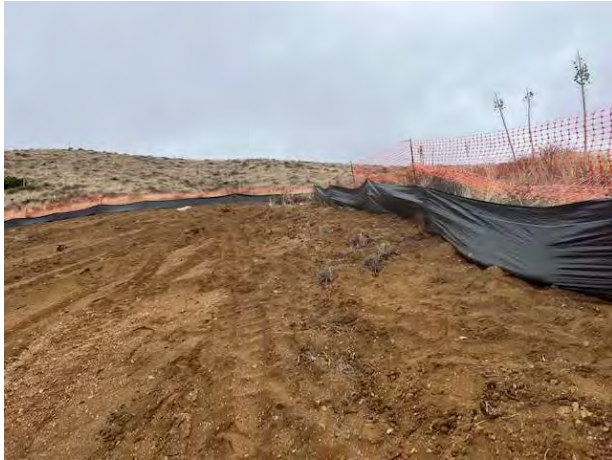


Installed soil erosion control as per approved winterization plan.

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

SWPPP INSTALLATION IN DISTURBED AREAS



Black silt fence installed around disturbed area of concern. *see Fig 1*



Straw waddle installation *see Fig 1*



waddles installed in lower riparian areas. *see Fig 1*



Sandbag production



Rain gauge on site.

PICTURES SHOWING SWPPP INSTALLATION ALONG HIGHWAY 14



SWPPP installed using wattles and sandbags along highway 14 below the pond and construction equipment pad which are closest to the freeway.

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

CHECK DAM AND SWPPP INSTALL AROUND DIRT STOCKPILE



AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



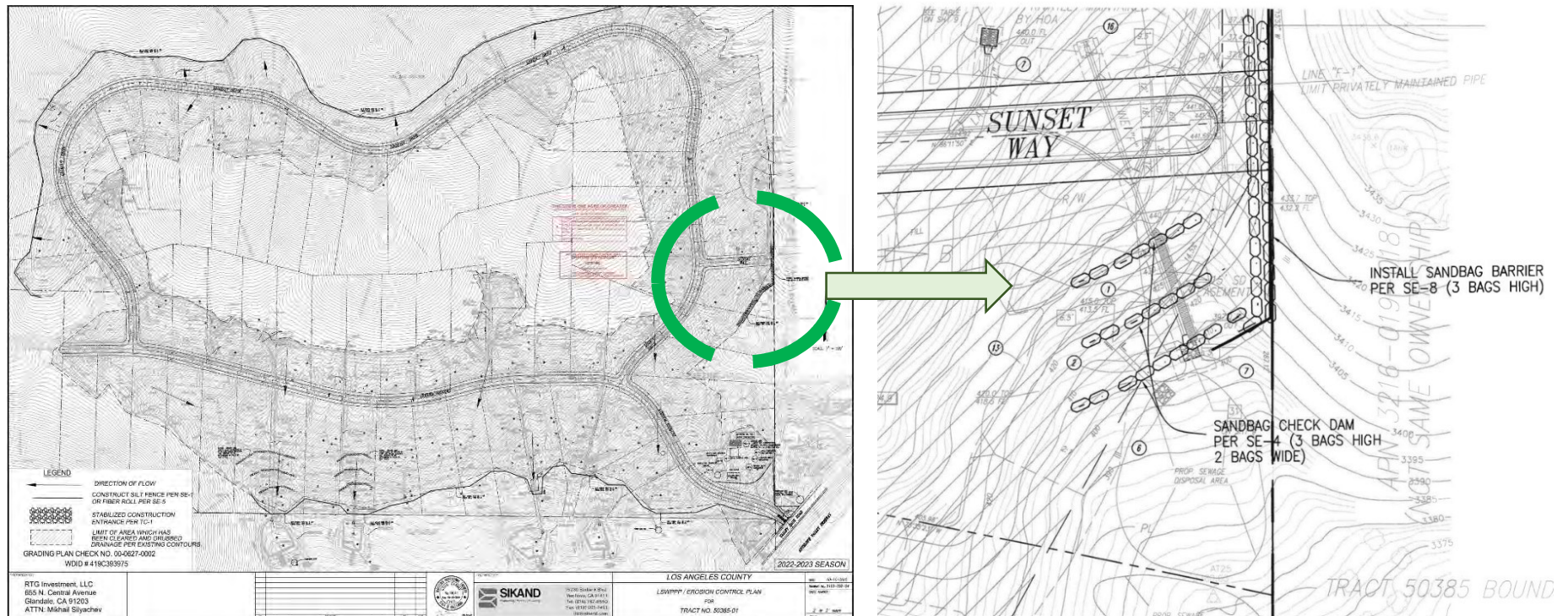
Preparation for the Friday March 10th's rain event. V-diches and rain catchment basins have been dug to trap the storm water thus reducing erosion.

WM-8 CONCRETE WASTE MANAGEMENT / SITE SPOILS AREA



SWPPP installed in site spoils area (**BMP WM-8**)

REVISION OF APPROVED WINTERIZATION PLAN ISSUED BY SIKAND



Revision issued by Sikand with recommendation to install check dams at the outlet to those neighboring properties.

(Close to Mr. Estes's property)

PICTURES SHOWING SWPPP INSTALLATION CLOSE TO MR. ESTES'S RESIDENCE



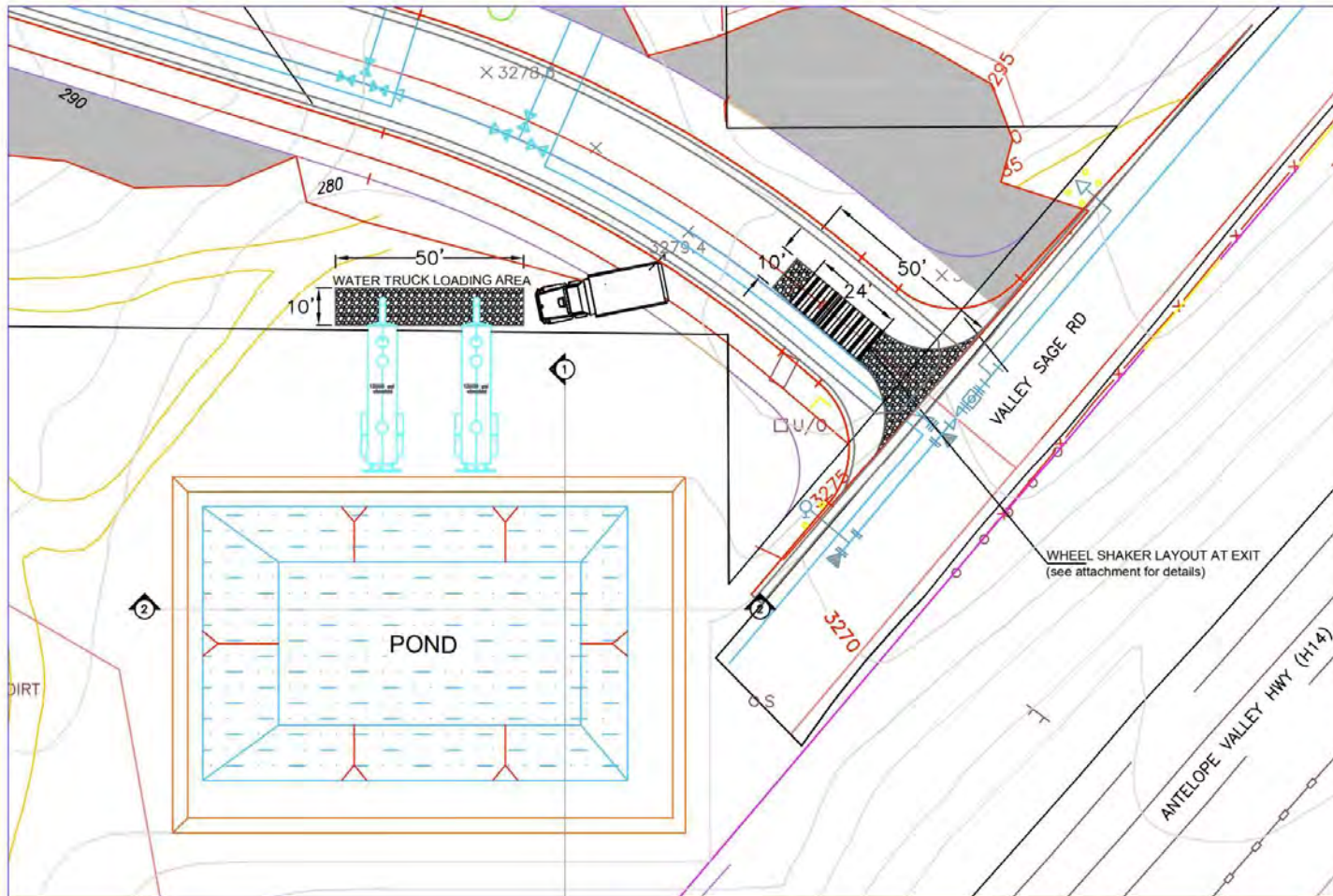
BMP's Installed as per approved winterization plan, using sandbags, silt fence and wattles on the eastern end of the property close to Mr. Estes's residence.

PICTURES SHOWING SWPPP INSTALLATION CLOSE TO MR. ESTES'S RESIDENCE



Check dams installed for erosion protection for the existing home(s) along the east side of TR 50381-01as per SE-4

TC-1 STABILIZED CONSTRUCTION ENTRANCE/EXIT



WATER TRUCK LOADING PAD AND ENTRY WAY WHEEL SHAKER LAYOUT.

TRUCK OFF SYSTEM-GRIZZLY /WHEEL SHAKER INSTALLED IN 3 LOCATIONS(TC-1)



1.Track off system construction at phase 1 main entrance installed with 3" minus rock, fabric and grizzly plate



2.Track off system near site office entrance



3. Preparation for water truck loading area

WM-4 SPILL PREVENTION AND CONTROL



Reinstallation of BMP to ensure double containment around fuel tots.. **(WM-4)**

WM-4 SPILL PREVENTION AND CONTROL



Construction Trailers



Drip pans for spill prevention and control (**BMP WM-4**)

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

WM-5 STORAGE WASTE MANAGEMENT



Porta potties and dumpster in 2 locations on the site.



Waddles installed around junk pile

AGUA DULCE RESIDENCES

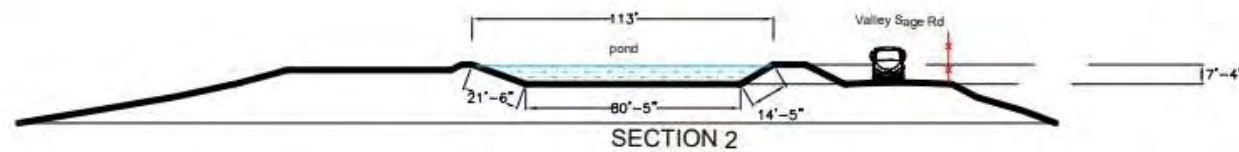
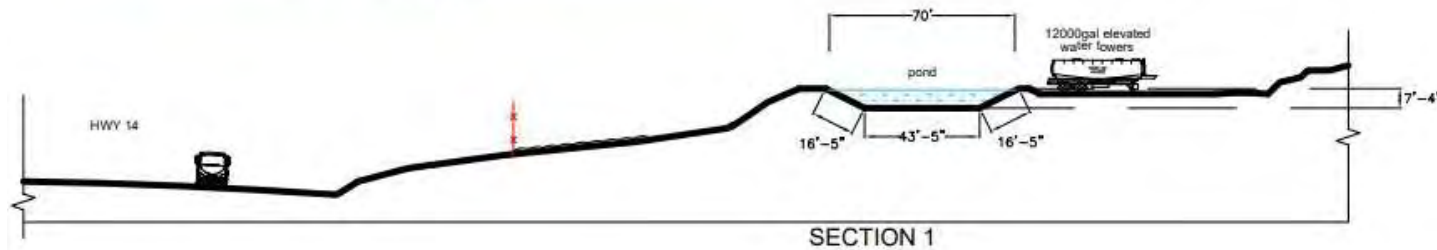
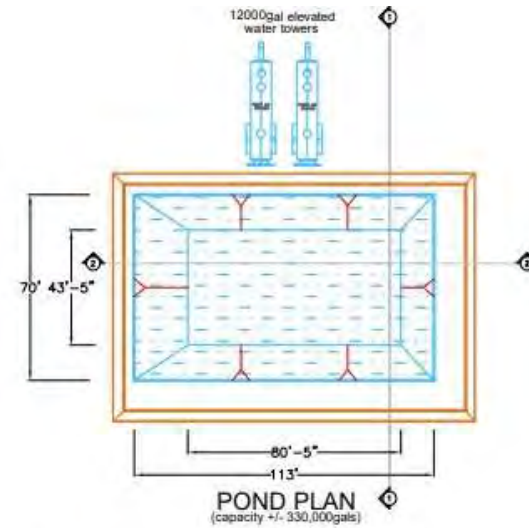
Site Status Report-Tract No. 50385-1

3/16/2023

3.0 PROGRESS ON TEMPORARY WATER INFRASTRUCTURE FOR GRADING



3D PERSPECTIVE



AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

PROGRESS ON TEMPORARY WATER INFRASTRUCTURE FOR GRADING



View from Valley Sage Road entrance to phase 1 facing HWY 14

AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

PROGRESS ON TEMPORARY WATER INFRASTRUCTURE FOR GRADING



Completed temporary water infrastructure (3000 LF of 8 inch HDP fused pipe) connected from pond at the Valley Sage Road entrance to the 20" water main..

CLEAN UP AND REPAIR OF VALVES OF THE 12000 GALLON TANKS



AGUA DULCE RESIDENCES

Site Status Report-Tract No. 50385-1

3/16/2023



View of graded area from across HWY 14