

The Agua Dulce Residential Project

Agua Dulce Town Council meeting
Wednesday September 11th, 2024

Agenda

- August 2024 email from former Project geologist
- Recent lawsuits filed in LA Superior Courts
- State Water Board fine of RTG for 2023 infractions
- Summary of issues

Unsolicited feedback from project geologist

- Email received by Agua Dulce Town Council on 28 August 2024
 - Raises a number of concerns over the execution of the project grading
 - Raises concerns over the viability of on site septic systems for Phase 1
 - RMA Geoscience resigned from the project in mid 2023 due to non payment
- Project Geologist background
 - 41 years experience in supervision of hillside grading projects
 - Ritter Ranch - mass grading of 550 home sites
 - Tesoro Del Valle – mass grading of 20 million cubic yards of earthwork
 - Involvement in the Agua Dulce Residential Project prior to acquisition in 2018
 - Septic consultant for the Desert Road subdivision in Acton

Project Geologist grading feedback to ADTC

- Last role at the project site before resigning for non payment in mid 2023 was daily documentation of the grading outside the project boundary
 - Alleges some of the stock piled dirt was brought in from the I-5 construction project without any permits
- Never worked with a developer who has such little understanding of what is needed to complete a hillside grading project
- The grading crew lacks any experience with hillside home site grading
- They have been grading for 1.5 years and have completed nothing
- If a mistake is made cutting a 1.5:1 gradient slope, there is no rebuilding or stabilizing it out of fill without reducing the gradient

Project Geologist septic feedback to ADTC

- 7 lots of the subdivision on Desert Road in Acton were not buildable since the lots would not pass a septic percolation test
 - Some lots required 32 test boreholes before a suitable one could be found
- The Agua Dulce Residential Project is built on harder rock than the Desert Road project and yet not one test borehole has been drilled
- The large homes and ancillary structures leave little room on the lots for future seepage pit type on-site septic disposal systems
- The developer has no clue with regards to the cost that will be required to test every lot for on site sewage disposal in conformance with LA County Environmental Health requirements

Project Geologist feedback to ADTC

- It is ironic that Supervisor Barger office is very concerned about developers scarring hillsides and running out of money before a project is completed
- The geologist reached out to the Supervisor's office in late 2023 and raised exactly this concern about The Agua Dulce Residential Project

Recent lawsuits filed in LA Superior Court

- 23VECV05705 – Breach of Rental/Lease Contract (12/27/23)
 - STUBBS EQUIPMENT INC. VS AGUA CONSTRUCTION LLC, and RTG INVESTMENTS INC.
 - Stubbs began renting equipment to Agua Construction in 2019.
 - Stubbs rented out 4 x 740 articulated earth moving trucks in May 2023 (2) and August 2023 (2)
 - Onboard diagnostic logging notified Stubbs that the trucks had broken down due to a dropped valve and an injector failed on another one
 - The cause of the breakdowns was determined to be the grade of the slope being too steep for a fully laden truck, causing overspeed on the engine
 - Stubbs suffered \$63K in damages as a result
 - Stubbs filed a \$128,353 mechanics lien 20230661629 in September 2023 against the Project and the Property for the unpaid rental fees and repair costs

Recent lawsuits filed in LA Superior Court

- 23VECV05705 – Breach of Rental/Lease Contract (12/27/23)
 - Lawsuit sought to force the sale of the Property to fulfill the mechanics lien plus interest, plus attorney fees
 - Lawsuit also sought to allow Stubbs to bid on the property (APN 3216-020-016) at any lien enforcement sale
- In April 2024, Stubbs dismissed the case after it had been referred to arbitration by the court

Recent lawsuits filed in LA Superior Court

- 24STCV07445 – Breach of Written Contract (3/25/24)
 - ELITE EARTHWORKS & ENGINEERING INC. VS RTG INVESTMENTS INC.
 - Elite and RTG entered into a \$3,482,922 contract in October 2021 to install the water main along Sierra Highway and Valley Sage Road
 - Approved change orders increased the price to \$4,274,307 by October 2023
 - RTG has paid \$3,116,775 and has a balance of \$1,157,532
 - Elite filed a \$1,017,635 mechanic's lien on December 26 2023 with 10% per annum interest
 - For withholding progress payments, an interest of 2% per month
 - Lawsuit seeks amount owed, interest and attorney fees or lien sale of Project
- RTG filed a cross complaint, counter suing Elite on May 3rd 2024
- Case is currently stayed pending the outcome of arbitration

Recent lawsuits filed in LA Superior Court

- 24AVCV00478 – Breach of Contract (4/22/24)
 - SUPERIOR PAVING COMPANY INC dba UNITED PAVING CO. vs ELITE EARTHWORKS AND ENGINEERING and RTG INVESTMENTS INC. and HARCO NATIONAL INSURANCE COMPANY
 - Elite, as the General Contractor, obtained a \$3,482,922 performance bond from Harco in November 2021
 - Elite hired Superior Paving in March 2022
 - Superior Paving filed a \$163,094 mechanic's lien on January 23rd 2024
 - Lawsuit seeks amount owed, interest and attorney fees or lien sale of Property
- Harco answered the complaint on June 7th 2024
- Elite filed a motion on September 9th 2024 to compel arbitration

State Water Resources Quality Control Board

- No response to the June 20th 2024 letter from ADTC asking for an update on the grievance petition
- Meeting of the Los Angeles Regional Water Quality Control board that was scheduled for July 25th 2024 was cancelled
 - No opportunity to review the Executive Officer Report or the Agenda which normally includes enforcement or compliance updates for May onwards
- Next meeting scheduled for September 26th 2024
 - Executive Officer Report and Agenda not yet published online

https://www.waterboards.ca.gov/losangeles/board_info/agenda/index.html

Summary of disputes

- May 2023 – Designated biologist resigned due to unpaid fees
- June 2023 – Geologist resigned due to unpaid fees
- July 2023 – RTG confirms they were not current on payments to the San Fernandino Band of Mission Indians for native artifact oversight
- September 2023 – Equipment rental company files a \$128K mechanics lien against the project
- December 2023 – Water main contractor filed a \$1,017,635 lien
- January 2024 – Paving contractor filed a \$163,094 lien
- May 2024 – State Water Board issued a \$320,000 fine
- Excluding the fine, approx. \$1.7 million of unpaid debts since 2023