

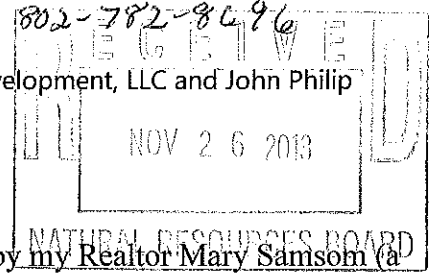
**Karen Drennen** 122 Sunrise Drive Saint Albans VT 05478

snowflake55@myfairpoint.net

To: nrb.comments@state.vt.us

Subject: Comment on Natural Resources Board v. GSD Development, LLC and John Philip Gerbode

Attachments: FP 042.JPG; FP 046.JPG; FP 048.JPG



I purchased my home a little over one year ago. I was assured several times by my Realtor Mary Samsom (a partner in the GSD Development LLC) there were no problems in the development. Since then I have found out that was not the case. On May 16, 2011, Michael Gawne, Esquire was in writing by the Village at Franklin Park Association, Inc., that there were problems with the infrastructure. There was a follow-up report dated December 22, 2011, enclosing an Engineering Report prepared by Pinnacle Engineering itemizing various construction issues particularly with the stormwater system. No remedial steps were taken before I purchased my property.

On March 28, 2013, GSD represented by J. Philip Gerbode along with Peter Garceau representing Cross Engineering, requested, the Development Review Board of the Town of Saint Albans, a Site Plan Amendment to break up the Franklin Park Development into 5 phases and issue a letter of credit by phase. Issues were raised by the residents of Franklin Park reiterating the issues with the infrastructure and stormwater system. Mr. Garceau reported that all that was remaining in the infrastructure was; a final coat of pavement, a small section of sidewalk, some curbing, landscaping, and one lamp post. The complete testimony can be reviewed at the Town of Saint Albans website. After deliberations, the DRB approved the amendment specifying it would *"like a letter of credit for \$100,00.000 for completion of the entire infrastructure on Phase 1 including landscaping roads, sidewalks after the certification of a Registered Engineer they may reduce that letter of credit to holding 10% of the original \$100,000.00 and also require that certification by the Registered Engineer be complete before any building permits for Phase 2 are issued. It was further moved to accept the findings of fact and conclusions of law outlined in the Zoning Administrator's staff report. Phase 2 is to follow the break down provided by the engineer for the Letter of Credit and that any following phases (3-5) would come back before this Board for further review and update as to cost."* And *"requesting that the 10% or value left in the Letter of Credit to be held for two years from the time of completion of that Phase."*

During the summer, a contractor for Mr. Gerbode performed some work at the site dealing with the stormwater drains and other work. A paving company completed the final paving coat on one street. One non-functional street light was installed. The sidewalks, landscaping, and other missing street lights from the Landscaping and Lighting Plan dated April 14, 2004, were not addressed. The work on the storm drains has resulted in the integrity of the asphalt surface being compromised. With the low traffic levels, these roads should have lasted for years. I will be surprised if the repairs with cold pack will last 2 winters. The storm drains are still not installed correctly and we will have to pay for new surfaces if the developer is not held accountable. Attachment FP42 shows proximity of water to homes on November 18, 2013, at 7:30 am. Between 11/17/13 at around 3 pm and 11/18/13 about 5:30 am we received .91 inches of rain. Att. FP46 shows how the grates were repaired over the summer and how the area has already started to sink. Generally water is 4-5 feet to the left of the trees. Att. FP48 shows the catch basin area near the yellow sign in the distance. There is another hydrant there which is half-submerged. The white post is a plastic marker indicating where the gas line is located. The development is less than one-third complete. The impervious surface will triple in size. The whole development will drain into this area. The present infrastructure cannot handle it. The USGS predicts a 74% change in Heavy Precipitation in the Northeastern part of the country. The chance of a storm like Irene occurring is as often as every 15 years. This last information was presented at the Fall Planning and Zoning Forum Held by the Vermont League of Cities and Towns on 11/19/13. Since 11/18/13 we have received less than .10 inch of rain. Today 11/22/13 there is still water running in the drainage ditch. The developer should be held accountable for this. Pinnacle Engineering still attests there are issues with the stormwater system as well as other engineering issues as reported to the Village at Franklin Park on September 14, 2013.

On September 23, 2013, Mr. Gerbode, requested from the Selectboard of the Town of Saint Albans, a letter of credit reduction from \$100,000 to \$10,000. The residents of the Village at Franklin Park were unaware of this request and not asked for our input. At that time, Mr. Garceau presents a letter to the Town stating " this letter is to provide the Town of Saint Albans written confirmation that all construction and/or repairs required under 'phase I' of the project have been completed in agreement with the approved plans."

I attest this confirmation is in error. Anyone visiting the actual site can easily view the problems.

All this time the Village at Franklin Park through its attorney has been in contact with the State of Vermont concerning these violations. I have read the original Land Use Permit and all amendments as posted on the State of Vermont website and reviewed all the files maintained at the Town of Saint Albans Municipal Offices. There are other issues in addition to those outlined by the Land Use Panel. As part of the agreement proposed by the Land Use Panel and GSD, GSD must "*file an engineer's certification with the Board and the Agency of Natural Resources Department of Environmental Conservation that the Project is in compliance with the existing Operational Stormwater Permit and that all items that were not in compliance with have been repaired.*"

Mr. Gerbode and Mr. Garceau have testified under oath at the DRB and Selectboard meetings that all issues are resolved. Pinnacle Engineering and the Village at Franklin Park Association contend the issues have not been resolved. Regarding C. in the Agreement set forth in the NRB Petition, I am requesting the Natural Resource Board appoint an **independent engineer** provide the certification. The petition also reports under item #24 "*The Project is being foreclosed upon by the Peoples' Trust Co. and both Respondents are in the process of declaring bankruptcy.*" Regarding O. in the Petition, I would request the Homeowners Association be provided with any amendments to this agreement.

I understand " The Natural Resources Board (NRB) administers Act 250, Vermont's land use law. Act 250 is intended to minimize the environmental impacts of development, by requiring that projects comply with the Act 250 Criteria. In addition to administering the Act 250 program in the district offices , the NRB issues rules and policies related to Act 250, reviews requests to reconsider Jurisdictional Opinions, is responsible for enforcement of Act 250, and may participate as a party in appeals from Act 250 decisions at the Superior Court, Environmental Division." The Act 250 Program as indicated from the website:

**The Act 250 program provides a public, quasi-judicial process for reviewing and managing the environmental, social and fiscal consequences of major subdivisions and developments in Vermont. The program is implemented through the 9 District Environmental Commissions.**  
**Specific program objectives of Act 250 include:**

- 1) thorough review of each Act 250 permit application under the requirements of the statutory criteria;**
- 2) performing jurisdictional determinations and permit reviews as expeditiously as possible;**
- 3) providing assistance to applicants and other parties in preparation for their participation in Act 250 proceedings;**
- 4) assisting permittees in maintaining compliance with permit terms and conditions;**
- 5) enforcing the requirements of Act 250 permits and the statute.**

As a resident of the state of Vermont, I feel there will be numerous environmental, social and fiscal consequences resulting from this Petition. I previously lived in Milton Falls Court Subdivision. There the developer declared bankruptcy and left uncompleted infrastructure and an orphan stormwater system. The town of Milton kindly accepted the streets as town roads, but there have been other ongoing issues. Saint Albans will not adopt our roads. I also lived in the Georgia Manor subdivision of Georgia VT. There I encountered boundary and survey issues costing me thousands of dollars. Something in the system is broken. I own my home but have no other investments or resources. If our association is left holding the bag, we will have to have a special assessment for the homeowners. We should not have to

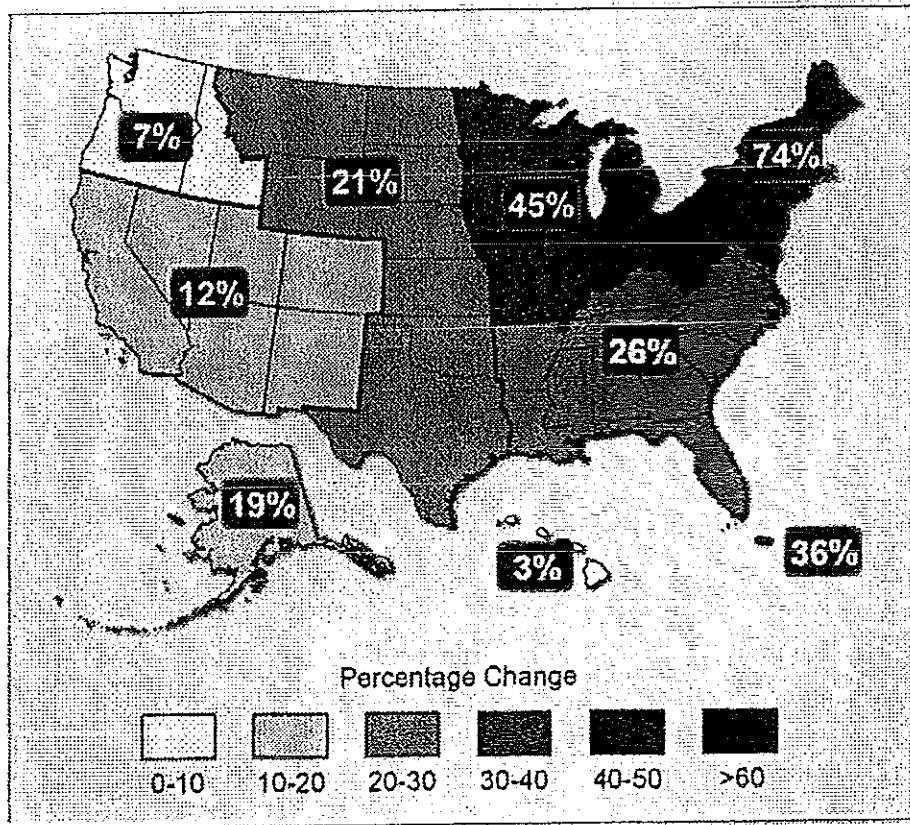
pay for the developer not doing his job properly. The majority of my neighbors are retired and on fixed incomes. These were to be our final homes and now we are dealing with this incredibly difficult situation at this stage of our lives. We were led to believe this was a new development which had been through a rigorous Act 250 process. I feel Act 250 should not be only a application process but also a **compliance process**. As #4 above states, please assist in attaining and "maintaining compliance".

Karen Drennen  
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802-782-8696

Kevin Geiger reported Precipitation is steadily getting worse  
Irene now in a 15 year zone of reoccurrence  
Kevin AICP + CFM Senior Planner Two Rivers Ottawaquechee Regional Commission

Part of presentation by Sarah McKeenan Special Assistant to the  
Commissioner, VT Agency of Natural Resources

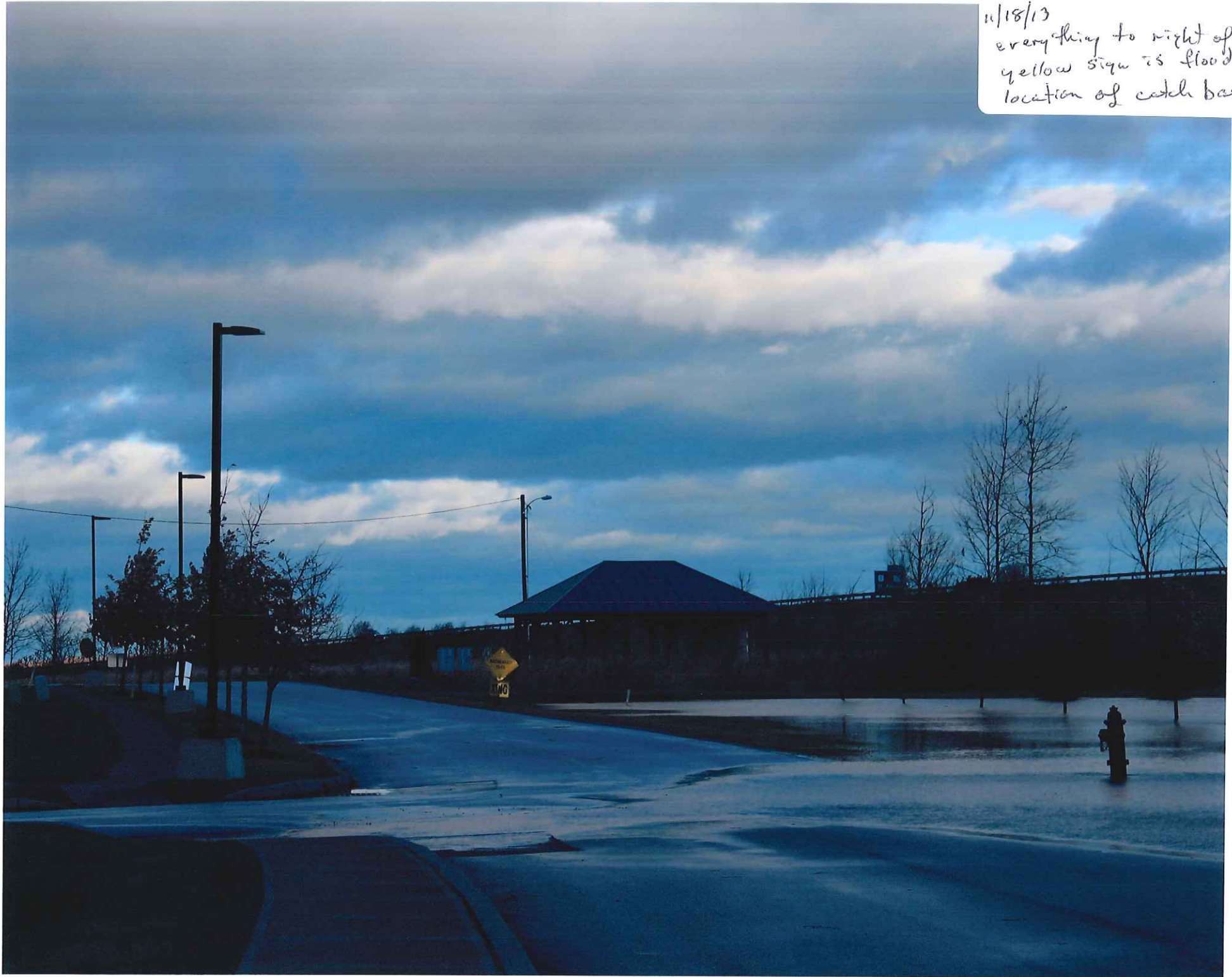
Percentage Change in Very Heavy Precipitation



Dr. Alan R.  
VT Betts  
USGS data via Chris

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NOV 26 2013  
NATURAL RESOURCES BOARD

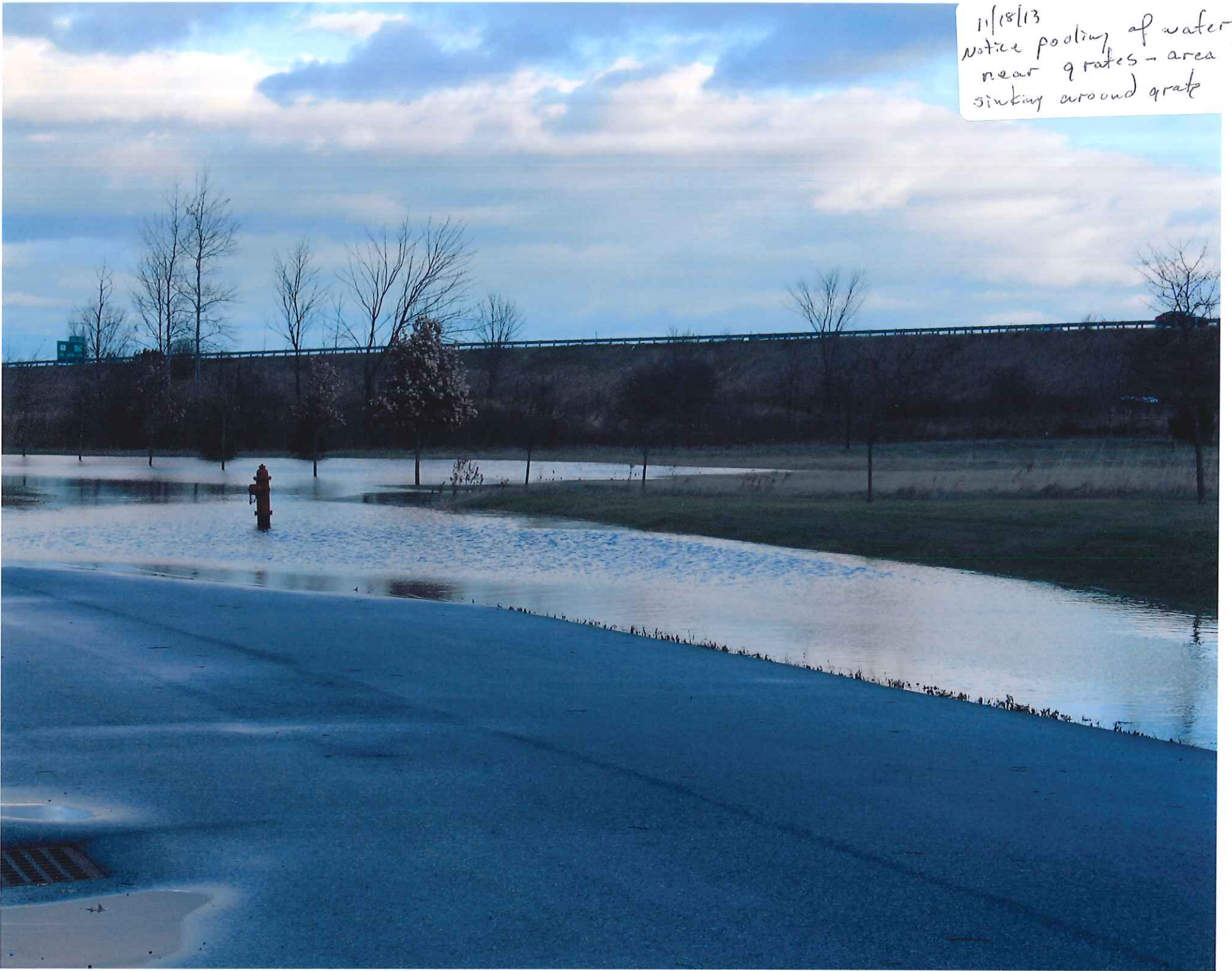
11/18/13  
everything to right of  
yellow sign is flood -  
location of catch basin



7:30

11/18/13

11/18/13  
Notice pooling of water  
near g rates - area is  
sinking around grate



11/18/13

11/18/13  
notice grate patching  
areas



7:30

11/18/13

11/18/13 water receding  
Notice proximity to home;  
only  $\frac{1}{3}$  impervious surface  
complete .91" rain in 15 hours



9:30

11/18/13



11/18/17  
Cul-de-sac area totally  
under water - near yellow  
sign - trees under water

Note patch area of  
street is not flush -  
sinking - this is where  
repairs made summer '13



11/22/13  
Catch basin



11/22/13  
Unfinished landscaping  
erosion contributor



11/22/13  
Grate leading to Phase 1  
infrastructure - enables  
sediment into storm water



11/22/13  
un finished landscaping



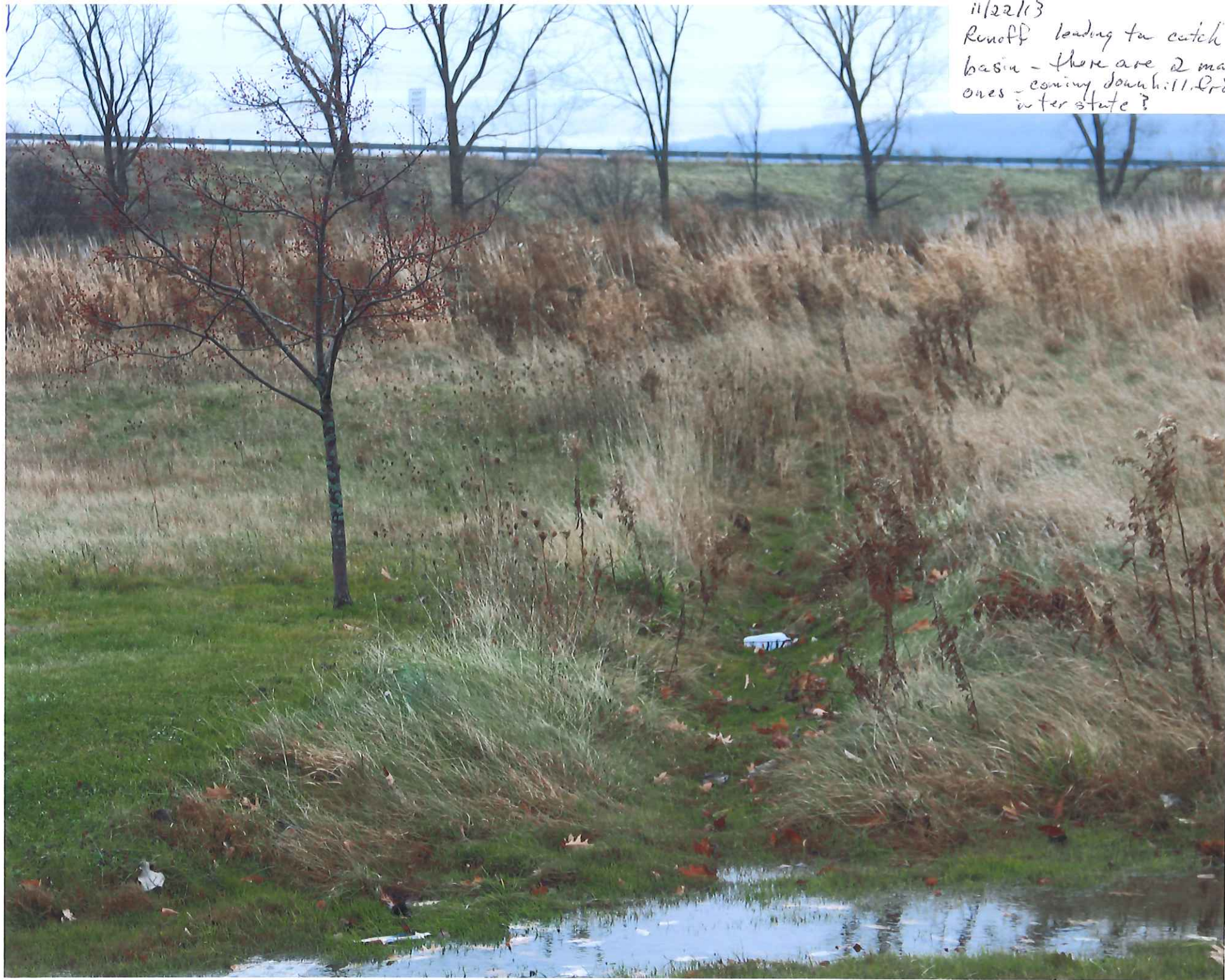
11/18/13 After water has  
started receding  
EJ



11/22/13 what area  
usually looks like  
related to photo #1  
11/18/13



11/22/13  
Runoff leading to catch  
basin - there are 2 major  
ones - coming downhill from  
interstate?



11/22/13