

1.78 acres of purchased property for the ROW constitutes a realignment of 101st Avenue.

18. From an engineering perspective, as long as a road surface is within an established ROW, and there has been no intentional change in its direction or trajectory, the road is not “realigned.” The evidence established that 101st Avenue remained within its established ROW, and there was no intentional change in its direction or trajectory from the repair work.

19. The work performed under the exemption involved grading 101st Avenue along its entire length, and applying asphalt millings and a sealant to stabilize the travel surface. The asphalt millings placed on the 101st Avenue travel surface were applied on top of the “as-is” existing limerock. The millings provided structure and stability to the travel lanes, and eliminated erosion and the large muddy bogs that were a feature of the road during the rainy season and after storms. There was no persuasive evidence that the millings materially raised the height of the road travel surface.

20. Mr. Rischar testified that 101st Avenue, after the road repair work, is now in good condition and intact. The asphalt millings are not “loose” but are bound together. The work stabilized the roadbed, provided structural integrity, and improved water quality as compared to a simple graded road. His testimony is accepted.

21. Dr. Still produced several photographs depicting a small pile of dirt near a roadside ditch near the drainage culvert under 101st Avenue. The pile pre-dated the Exemption work. Ms. Diaz testified that the mounds had been “taken care of,” and they do not appear in any post-Exemption photographs. There was no evidence of any excavated material having been deposited at or near the Still property from the exempt road repair work.

22. As part of the Exemption work, drainage structures were incorporated to receive and convey stormwater from the road surface. Rule 62-330.051(4)(e)5. requires that work performed under a road repair exemption