

80. 101st Avenue had been, in Dr. Still's words, "wiped out" after the August 2017 rains, a condition worsened as a result of Hurricane Irma. The publicly-used road clearly had to be repaired.

81. It became clear at the hearing that Dr. Still's primary concerns were related to concerns with turbidity and water quality, which Dr. Still admitted pre-dated the road repairs performed under the Exemption, and were *not* worsened due to the exempt road repairs. (Tr. Vol. 2, 346:6-14; 355:23-356:3).

82. Dr. Still admitted that 101st Avenue had not been altered in its course due to the exempt road repairs. (Tr. Vol. 2, 339:17-24). He did dispute whether the ROW had shifted from its original course in the years *before* the exempt road repair work.

83. Though he disputed ownership of the 101st Avenue ROW, Dr. Still admitted that he had no evidence that the County does not own the ROW. (Tr. Vol. 2, 352:25-353:10). He further admitted that he did not review section 95.361. (Tr. Vol. 2, 338:4-16).

84. Dr. Still's dispute as to the extent of the ROW seemingly should have been, and in fact was, resolved by his agreement to sell 1.78 acres of land to the County for the purpose of eliminating possible encroachment onto his property. That sale was commenced and completed as the work under the declared emergency was ongoing. There was no persuasive evidence to establish that the disputed 1.78 acres was actually outside of what was understood by the County to be the historic ROW, but its purchase definitively resolved the issue without the time and expense of litigation. It is difficult to craft an argument that the volitional sale of property to facilitate road repairs in an undisputed ROW, particularly when the travel surface of the road is unchanged, should then become a basis for denial of authorization to perform those road repairs.

85. Dr. Still appeared to have a concern with the initial replacement of an existing 30-inch culvert with two 24-inch culverts under 101st Avenue. Those 24-inch culverts appear in most of the photographs depicting the conditions