Department of Environment,
Land, Water and Planning

Ken Deacon
Rubicon Forest Protection Group
By email only: info@rubiconforest.org

Ref: 2017-0087

Dear Mr. Deacon,

**FINDING OF NON-COMPLIANCE**
**VICFORESTS TIMBER HARVESTING OPERATION AT COUPE 287-508-0009 (RIO)**

The Office of the Conservation Regulator (**the OCR**), has investigated compliance of VicForests' timber harvesting operation at Coupe 287-508-0009 (**Rio Coupe**) with the Code of Practice for Timber Production 2014 (**the Code**) and the incorporated Management Standards and Procedures for timber harvesting operations in Victoria's State forests 2014 (**the MSPs**). The following matters were investigated:

- waterway buffers applied are inappropriate for slopes more than 30 degrees;
- a crossing linking Rio and Calvin coupes was not constructed with a log corduroy; and
- significant erosion is occurring due to an incorrect soil classification of 'low-moderate' rather than 'high'.

***Findings***

1. Waterway buffers

The relevant prescription is the MSPs clause 3.3.1.1 that states:

> *Apply appropriate protection to class of waterway as outlined in table 9.*

Finding: No breach detected. The classification of water quality risk by VicForests as 'low' was confirmed by independent advice to be appropriate. The average slope in the vicinity of the waterway is less than 30 degrees. The application of a 20-metre waterway buffer was appropriate.

2. Waterway crossing

The relevant prescriptions are the Code clauses:

> *2.2.1.6 Where crossings are required, minimise the extent of habitat damage, constriction to stream flow and barriers to fish and other aquatic fauna.*
>
> *2.2.1.7 Remove temporary crossings immediately after harvesting or any subsequent regeneration work is complete using a technique that minimises soil and habitat disturbance.*

Finding: No breach detected. A log crossing had been in place during timber harvesting operations but was removed when harvesting in Calvin coupe was completed and access across the waterway was no longer required.

3. Soil Erosion

The relevant prescriptions are the Code clauses:

> *2.2.1.12: Design, construct and maintain roads, crossings, coupe infrastructure and drainage structures to withstand foreseeable rainfall events and traffic conditions and protect water quality;*

*2.2.1.19: During timber harvesting operations, maintain effective drainage of coupe infrastructure and roads; and*

*2.5.2.5: Tracks must have effective drainage to prevent soil erosion. Cross-drains, where used, must be spaced and angled as appropriate to the soil erosion hazard, to disperse surface run-off and prevent discharge of turbid water into streams or drainage lines.*

The OCR investigation found that VicForests' timber harvesting operation undertaken between 9 February 2017 and 31 March 2017 caused the erosion of two sections of snig track in Rio Coupe, described below.

*Snig track shown at Location No. 1 (**Attachment 1**):*

- The top section of the snig track has been constructed in an area of highly dispersive soils;
- The top section of the snig track has eroded, with sediment being mobilised and deposited up to 190 metres from the origin of the erosion;
- Significant rutting has occurred;
- Cross-drains have failed to adequately drain the track formation. This may be due to a lack of outlets, or due to damage from machinery, allowing water to return to the track formation and also be deposited on the snig track below.

*Snig Track shown at Location No. 2 (**Attachment 1**):*

- Cross-drains were not constructed on a 75-metre section of snig track, where the slope exceeded 20 degrees;
- Three cross-drains below the un-drained 75-metre section of snig track have failed to adequately drain the track formation due to blocked outlets, allowing water to overtop the 'bar' and return to the track;
- These three cross-drains have sustained significant erosion, up to 0.5-metre-deep, within the track formation.

Note: the classification of water quality risk by VicForests as 'low' was confirmed by independent advice to be appropriate. The area at Location 1 subject to the significant erosion was an isolated area of highly dispersive soil, however it was not extensive enough to alter the overall soil classification for Rio coupe.

Finding: VicForests did not comply with the legal requirements, being Code clauses 2.2.1.12, 2.2.1.19 and 2.5.2.5, as stated above.

The OCR seeks to maximise regulatory outcomes and apply the law in a way which is procedurally fair and maximises the public interest. In accordance with the OCR's Compliance and Enforcement Policy, I have had regard to the following matters in considering the appropriate response to this non-compliance:

- The eroded sediment did not in this instance impact on a waterway, or other protected value;
- Rehabilitation works have been voluntarily undertaken by VicForests; and
- VicForests' has made a voluntary undertaking to the OCR to undertake a number of actions including:
    - quarterly inspection and monitoring of the erosion, including identifying actions to manage erosion and threats to soil stability;
    - provision of an inspection report to the OCR following each inspection; and
    - additional soil management training for staff and contractors.

The OCR has issued a written warning of non-compliance to VicForests, and will be monitoring the undertakings made by VicForests.

I also advise that during this investigation, the OCR negotiated with VicForests an enforceable undertaking in accordance with the provisions of the *Sustainable Forests (Timber) Act 2004* (**the Act**). Entering into an enforceable undertaking pursuant to section 83A of the Act is voluntary, and can only occur by agreement

between the parties. In this instance, VicForests declined to execute the enforceable undertaking. As noted above, VicForests has made a voluntary undertaking to the OCR, which will be monitored by the OCR.

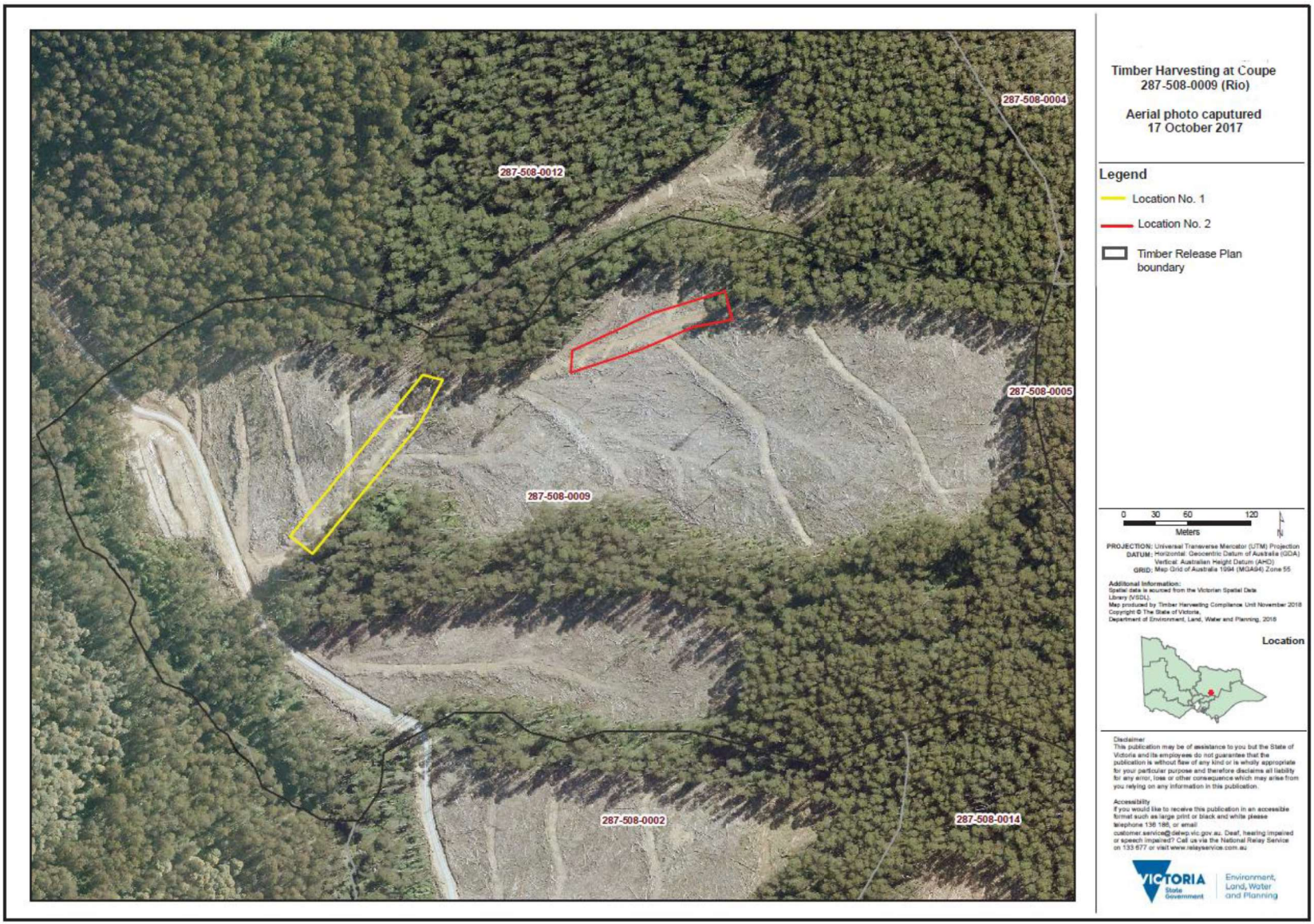
If you have any questions or would like to discuss this matter further, please contact me via email on steph.andreata@delwp.vic.gov.au or by telephone on 5172 2501.

Yours sincerely

**STEPH ANDREATA**
Manager, Timber Harvesting Compliance Unit
**Office of the Conservation Regulator**

Date: 12 / 02 / 2020

Encl.
1. Map of erosion locations




Timber Harvesting at Coupe
287-508-0009 (Rio)

Aerial photo caputured
17 October 2017

**Legend**

- Location No. 1
- Location No. 2
- Timber Release Plan boundary

0 30 60 120
Meters

N

PROJECTION: Universal Transverse Mercator (UTM) Projection
DATUM: Horizontal: Geocentric Datum of Australia (GDA)
Vertical: Australian Height Datum (AHD)
GRID: Map Grid of Australia 1994 (MGA94) Zone 55

Additional Information:
Spatial data is sourced from the Victorian Spatial Data Library (VSDL).
Map produced by Timber Harvesting Compliance Unit November 2018


**Location**





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**nick**

**From:** "nick" <nlegge@bigpond.net.au>
**Date:** Sunday, 3 May 2020 6:57 PM
**Attach:** Att 1 Snobs Creek Rd verge collapse.pdf; Att 3 Snobs Creek Rd blocked culverts 11 April.pdf; Att 2 Gnu access Rd 17 March.pdf
**Subject:** Fw: Breaches of road construction and maintenance provisions

**From:** Rubicon Forest Protection Group
**Sent:** Sunday, April 12, 2020 2:59 PM
**To:** Forest Reports (DELWP)
**Cc:** liz.langford@vicforests.com.au ; alex messina ; Andy McGuire
**Subject:** Breaches of road construction and maintenance provisions

Greetings Forest Reports

I note that the latest information on your disappointingly out-of-date website □□□ despite the promises made when OCR was established - indicates that case 2019-0058 relating to water quality and quantity in the Rubicon and Royston Rivers and in Snobs Creek is still under investigation (email attached below).

The recent rain in the past week □□□ over 100mm in the space of 5 days, most of it on 4th April □□□ in the Rubicon State Forest has resulted in a very severe water quality loss in Snobs Creek, the prospect of which we alerted you to last August in that report.

I attach some photographs taken towards the tail end of this rain event (6/4) along Snobs Creek Rd just south of Snobs Bridge (in coupes Shackle, Snobs 13 and Snobs 14) showing one of several overflowing silt traps, and a road shoulder collapse into a culvert pit (Att 1). Snobs Creek Falls was noticeably muddy. These attachments are strong evidence of a breach of MSPs Clauses 6.2.5.3 and 6.3.1.2.

Luckily we are know that VicForests has instituted a water quality monitoring program in Snobs Creek so it should be in a position to alert you to the precise water quality impacts, which I imagine were substantial. We in RFPG, however, are not privy to the results of that program despite being responsible for its introduction.

Three weeks earlier, on March 17, I inspected the access road to Gnu to examine the outcome of another major rain event on March 5. This coupe had been deserted soon after operations commenced due to a Leadbeaters possum sighting. A massive gully had formed in the incompletely surfaced access road and most of the culverts were silted up as the attached pictures show (Att 2). So although you did find VicForests guilty of a Code violation in relation to soil erosion (Case 2018-0087) the evidence shows that it continues to fail to take the proper erosion precautions. I consider that the distance

between culverts on this access road is longer than permitted under MSPs Clause 6.2.4.1 and that culverts were not constructed in accordance with MSPs Clause 6.2.5.3

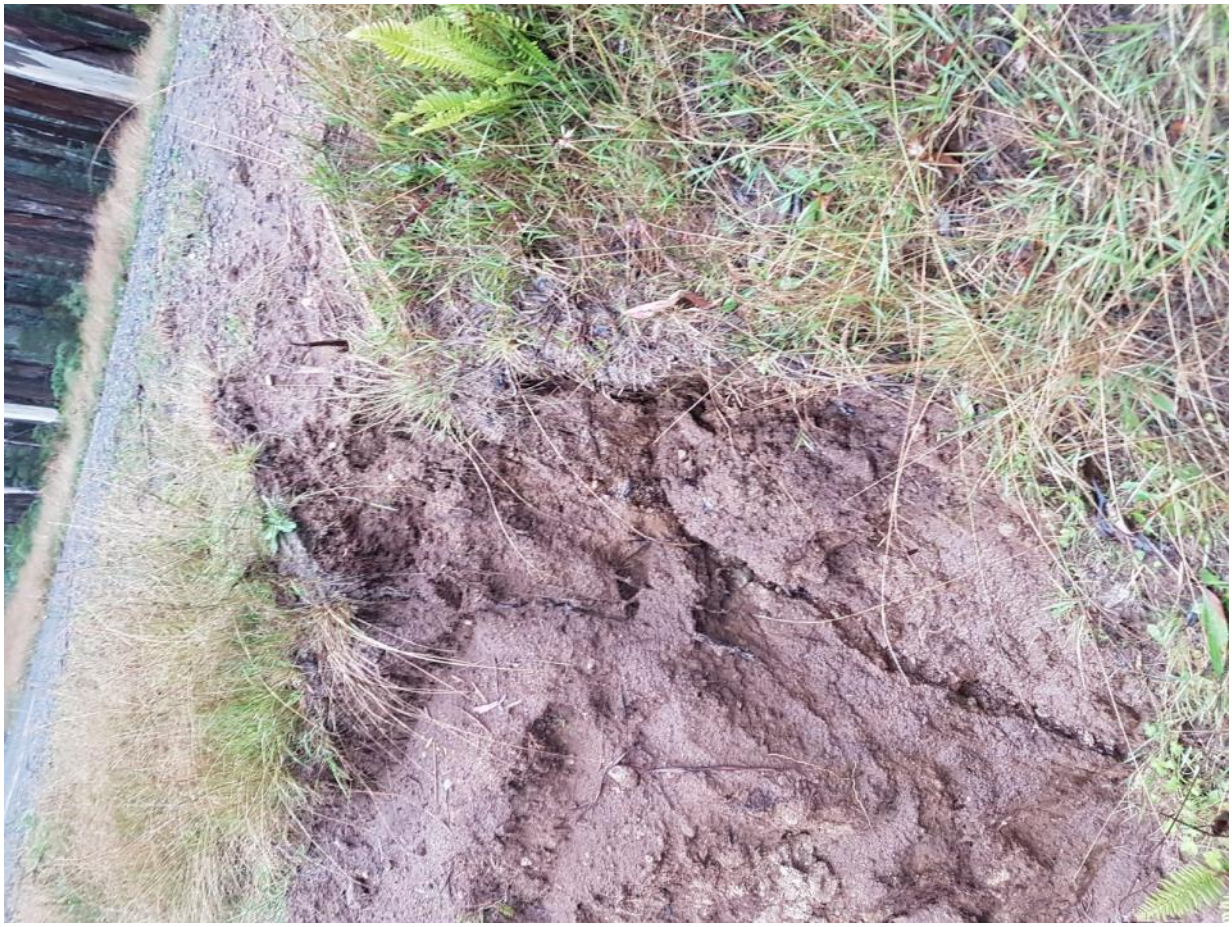
I visited this coupe yesterday to examine the impact of the current rain event and found the gully carved by the drainage flow even larger (no picture here since I was unaccompanied and could not demonstrate size with a human scale), although the culvert exits were still open, just.

I also inspected the drains along Snobs Creek Road near the coupes south of the Snobs Bridge and this time observed two almost fully blocked culvert entry pits with evidence of at least on of them having previously overflowed. Failure to properly maintain drainage structures is in breach of MSPs Clause 6.3.1.2. (Att 3)

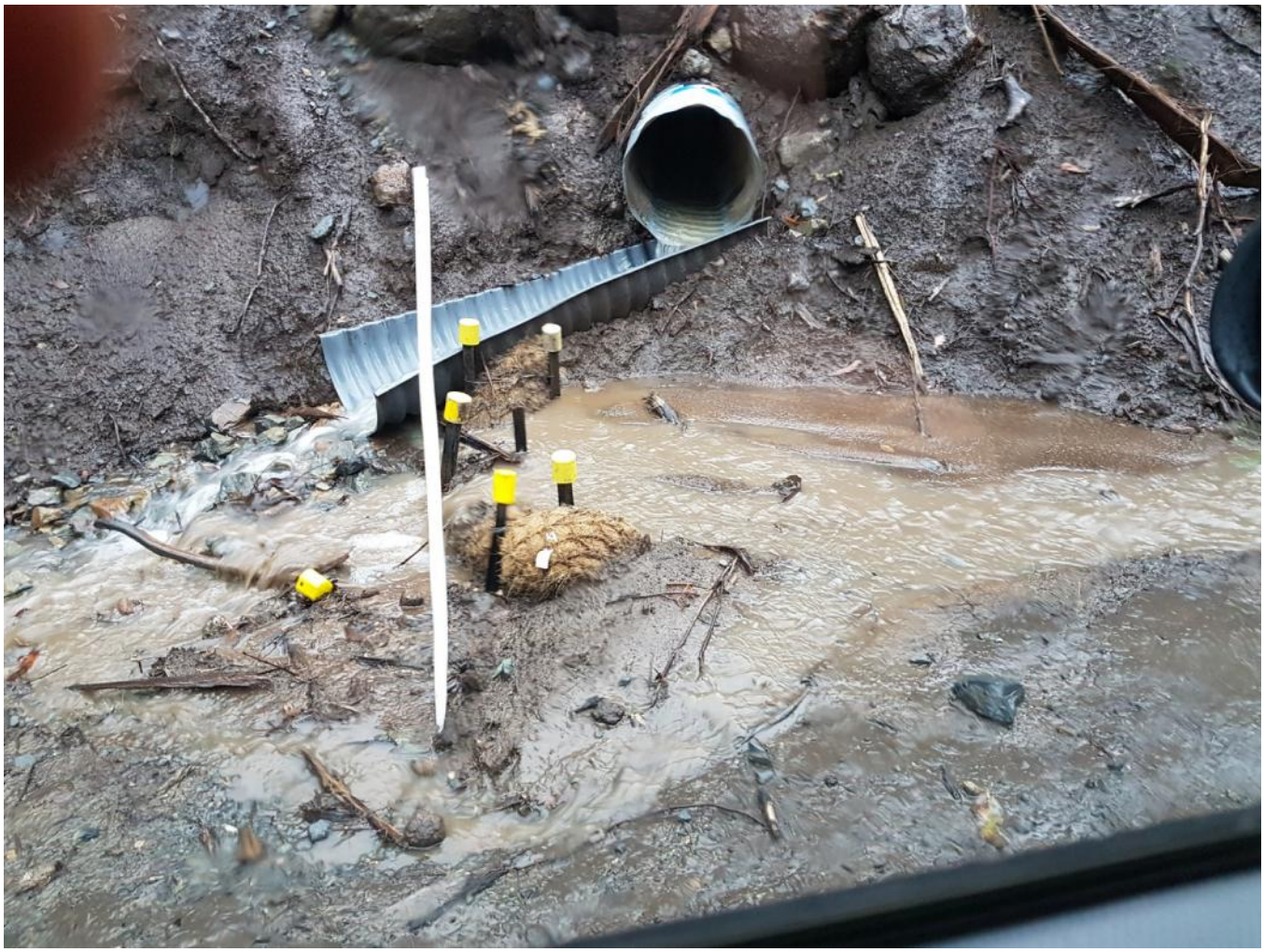
In addition to considering these various roading breaches, please also consider this new information when assessing your decision in Case 2019-0058 (below).

Yours faithfully
Nick Legge
Rubicon Forest Protection Group

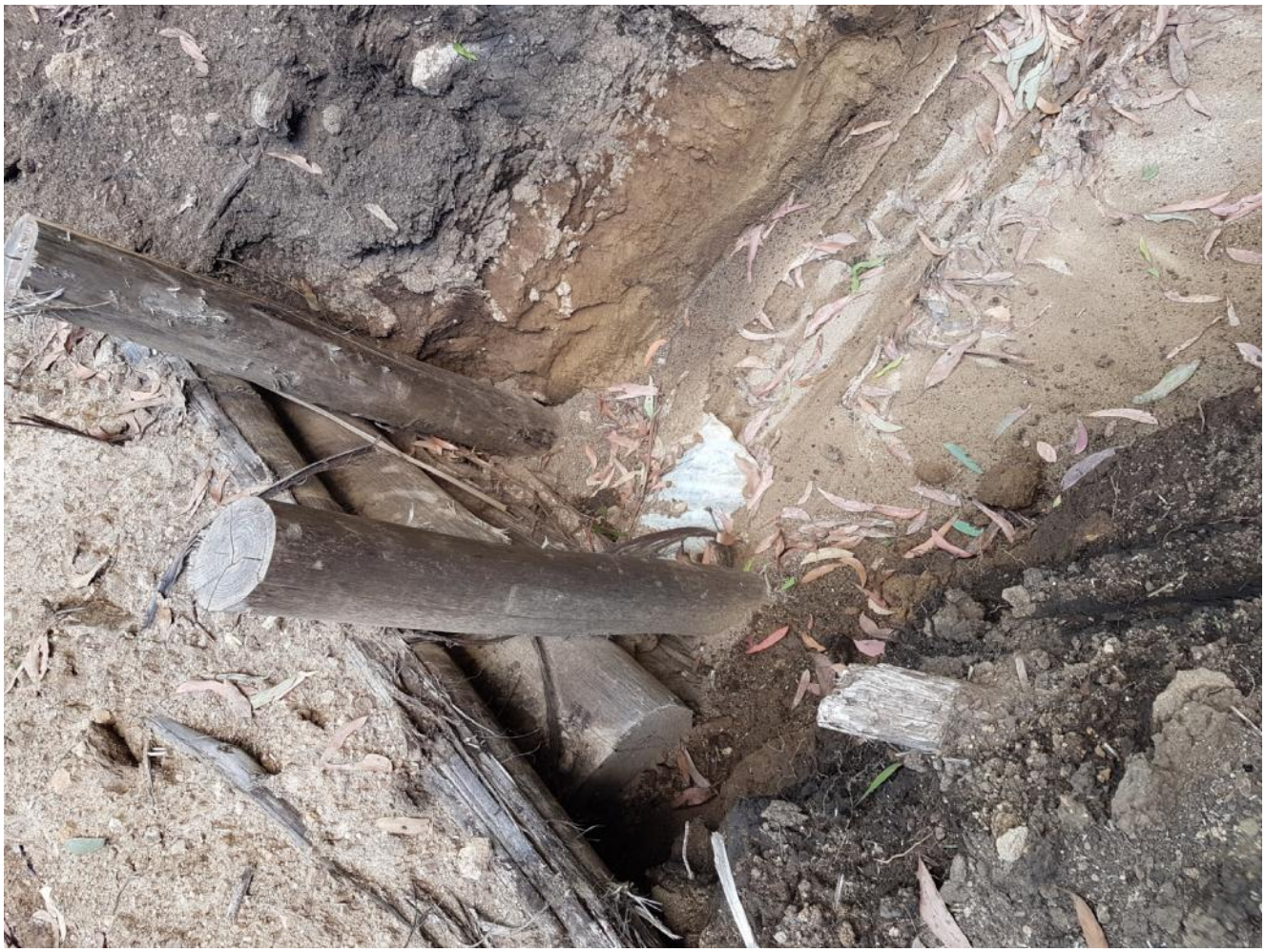
Road verge collapse into culvert entry pit on Snobs Creek Road south of Snobs Bridge adjacent to active coupe



Overflowing silt trap on Snobs Creek Road south of Snobs Bridge adjacent to active coupe

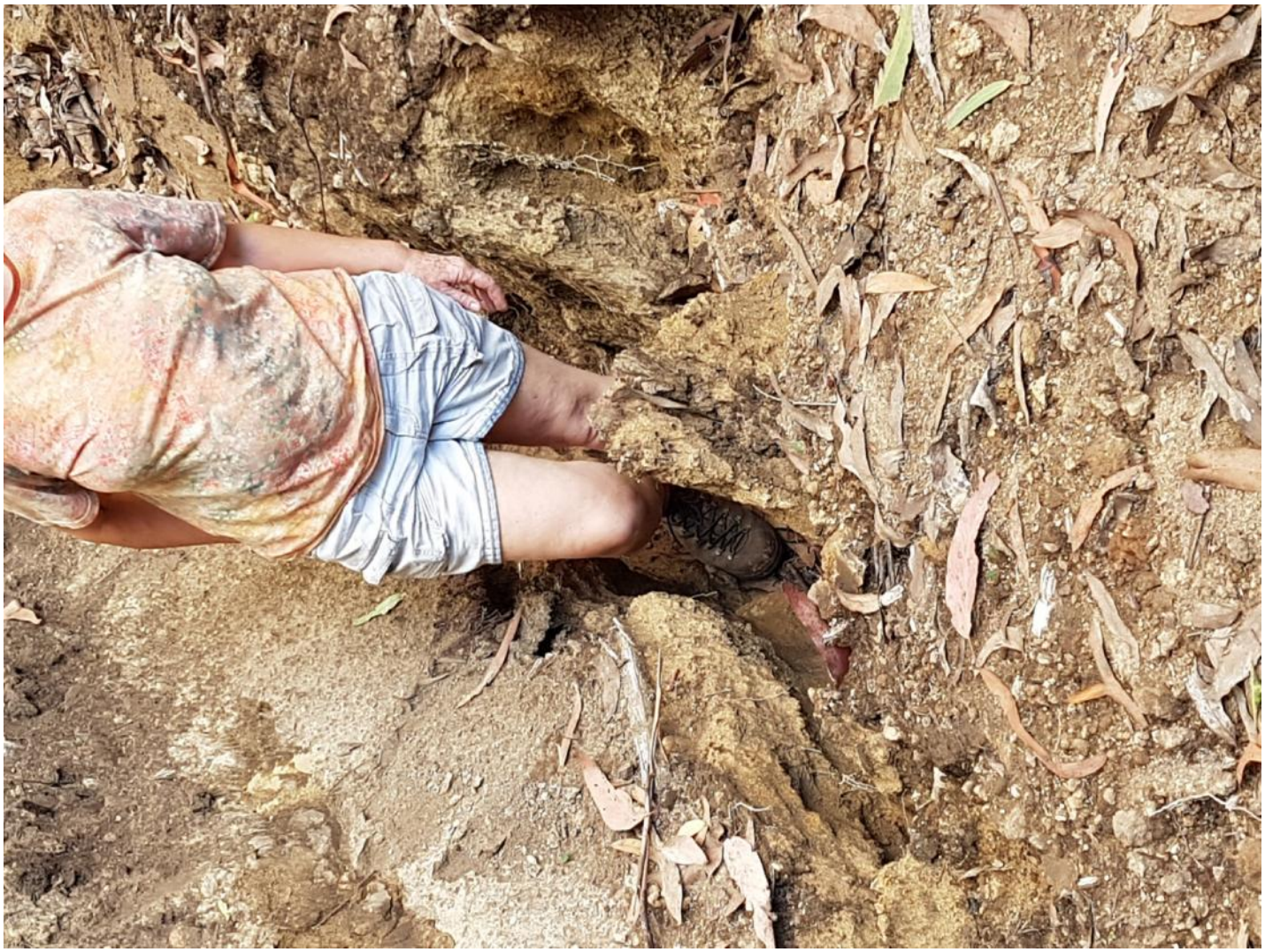


Blocked culvert exit under Gnu access road (17/3)

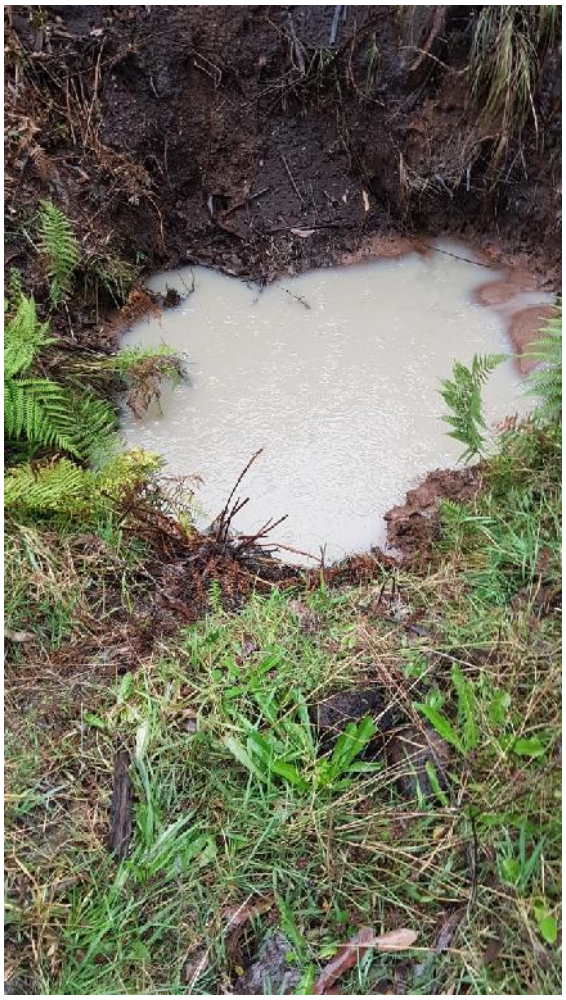


Another blocked culvert exit under Gnu access road (17/3)

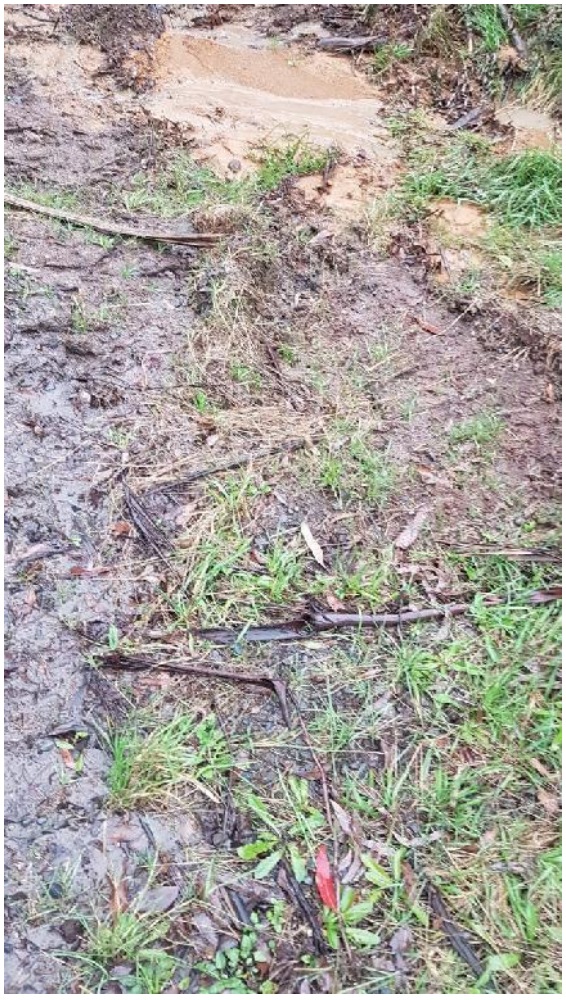
Gully in road (17/3)



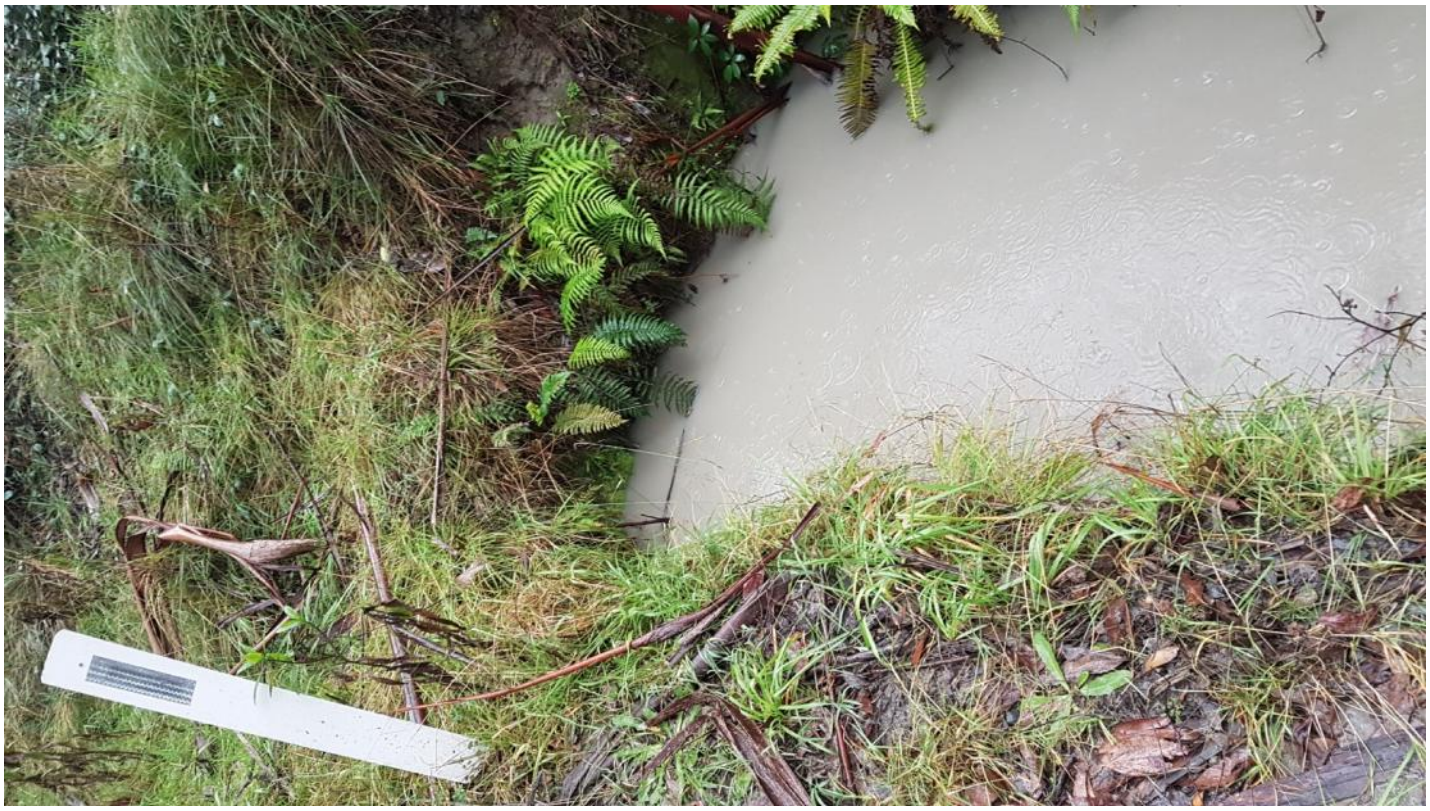
Almost fully blocked culvert entry under Snobs Creek Rd (11/4)



Evidence of oveflow from culvert entry (above)



Another almost fully blocked culvert entry under Snobs Creek Rd (11/4)



Evidence of low outflow from culvert (above)