

MEMORANDUM

DATE: December 14, 2017
TO: Newbury Zoning Board of Appeals
FROM: Ann M. Marton, Director of Ecological Services
RE: Vernal Pool Site Visit Recap
 Byfield Estates Comprehensive Permit Application
 Newbury, Massachusetts
LEC File#: ToNEW17-300.02

The following provides a recap and summary of the November 29, 2017 Site Visit conducted to confirm the boundaries of the Vernal Pool contained within the "D" Series Bordering Vegetated Wetland.

Site Visit Attendance:

Ann Marton, LEC Environmental Consultants, Inc.—ZBA Peer Reviewer
 Doug Packer, Newbury Conservation Agent—ZBA Member
 Mary Rimmer, Rimmer Environmental—Applicant's Environmental Consultant
 Ben Osgood, Ranger Engineering & Design, LLC—Applicant's Engineer
 Joe Abe, Ranger Engineering & Design, LLC (Ranger)—Applicant's Engineer
 Pat Huckery, MA Division of Fisheries and Wildlife, Abutting Property Owners

Site Visit Recap:

During the Site Visit we:

1. Briefly discussed the extent of potential historic illegal filling on parcels R-20, Lot 75 and R-20, Lot 76, and the use of Col-East aerial imagery to interpret historic filling;
2. Reviewed, discussed, and field delineated the boundary of the Vernal Pool contained within the "D" Series Wetland. The boundary of the Vernal Pool was delineated with fluorescent pink stick-in flags numbered 1-14 using the criteria established in the NHESP Guidelines for the Certification of Vernal Pool Habitat (March 2009) (see representative photos, Attachment A). The location where the Vernal Pool outlets into the downgradient stream also was marked. Mary Rimmer (the Applicant's consultant), Pat Huckery (MA DFW), and I were all in agreement on the boundary delineation.

The field delineated Vernal Pool boundary is located significantly upgradient of the boundary initially established by elevation and depicted on the plan set presented during the November 20, 2017 Public Hearing. Based on comments by Ben Osgood during the site visit, this will affect

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the layout of the septic system and require further plan revisions.

3. Further discussed the importance of certifying the “A” Series and “D” Series Vernal Pools to ensure proper regulatory protection and compliance with the Title V setback standards, Stormwater Management Policy Setback, and Discharge Standards for Critical Areas. We also debated the merits and appropriate timing for certification of the Vernal Pool contained within the “A” Series Wetland.

It is my understanding that Pat Huckery will be submitting the Vernal Pool Certification materials to the Natural Heritage and Endangered Species Program (NHESP) for the data she has collected to certify the “D” Series Vernal Pool. Much of this Vernal Pool extends onto the Division of Fisheries and Wildlife (DFW) property. Pat personally collected biological data sufficient to certify this Vernal Pool.

Ben Osgood and Mary Rimmer expressed concern relative to certifying the on-site Vernal Pool contained within the “A” Series Wetland because their client only has a Purchase and Sale Agreement and does not own the property. I asked them to speak with their client about this issue and get back to me.

Vernal Pool certification is necessary to establish baseline existing conditions (similar to delineating wetlands) in order to determine applicable regulatory implications for proposed development.

However, Mary’s position is that a wetland boundary expires in 3 years and can be revisited, vernal pool certifications do not. While NHESP certifies that a depression has been documented to provide the vernal pool functions for certification, they do not approve the boundary to a Vernal Pool.

Furthermore, NHESP will review applications to de-certify Vernal Pools based on new information.

I reiterated that my concern was to ensure proper regulatory protection for the vernal pools. This protection technically occurs when the Vernal Pools are certified by NHESP.

4. Visually inspected the square footage and discussed the likely contributing volumetric amount of ILSF extending off-site onto parcel R-20, Lot 79. This was of great importance because this area and volume was not included in the ILSF calculations performed by Ranger. Including this area and volume clearly would demonstrate compliance with the requisite ¼ acre foot of storage, thereby confirming that the area IS indeed ILSF, and does meet the regulatory requirements for protection. We request that Ranger additional storage in the calculations presented on the site plans and acknowledge that the area is indeed protected as ILSF.

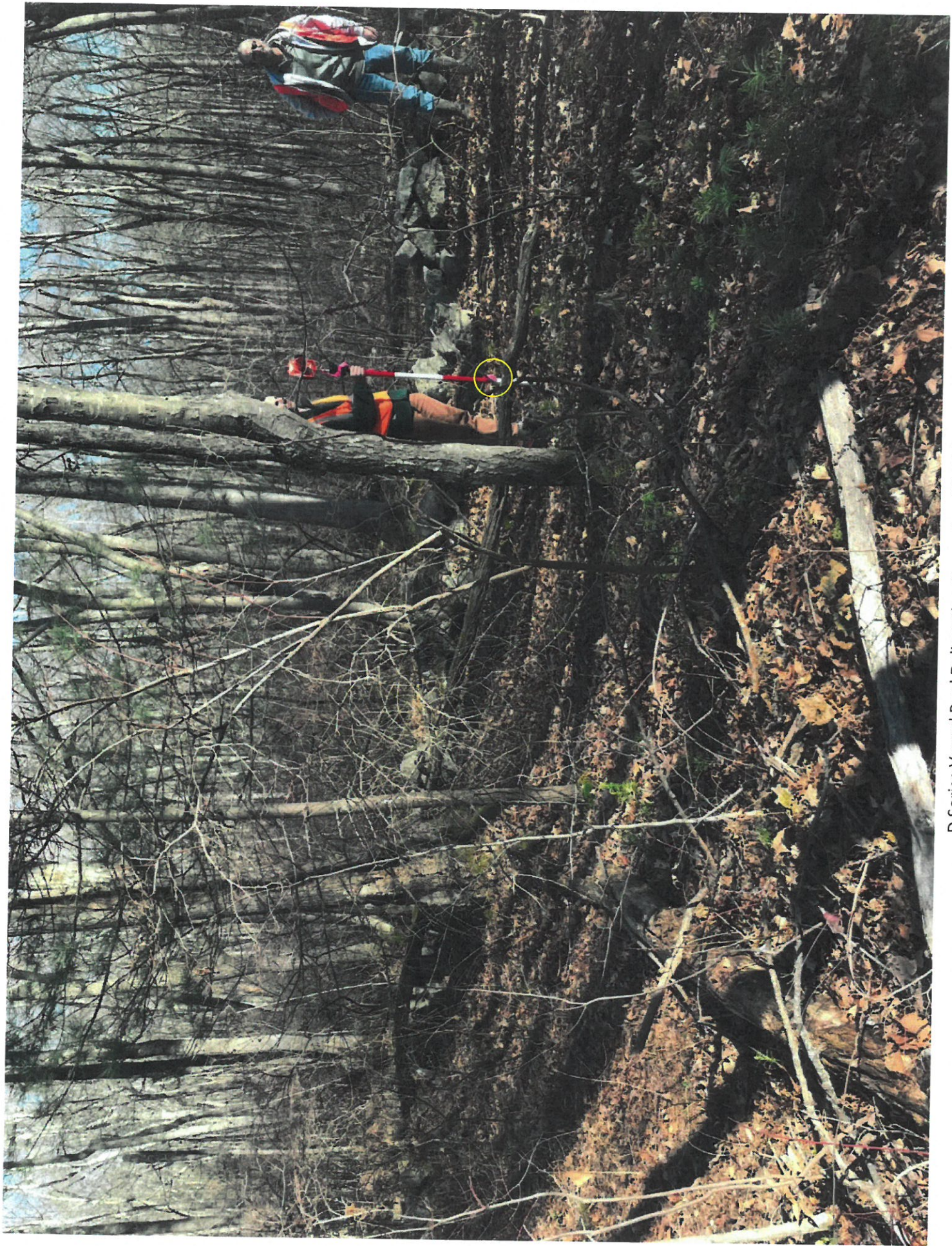
Since the site plans appear to remain in flux, we did not discuss specifics relative to the project design and I have not reviewed any site development plans.

I hope this site visit recap proves helpful to the ZBA and the Applicant’s Representatives. I am in the midst of coordinating with the Applicant’s Representatives regarding the extent of historic fill and will update the ZBA on the status of these discussions at the December 18, 2017 Public Hearing.

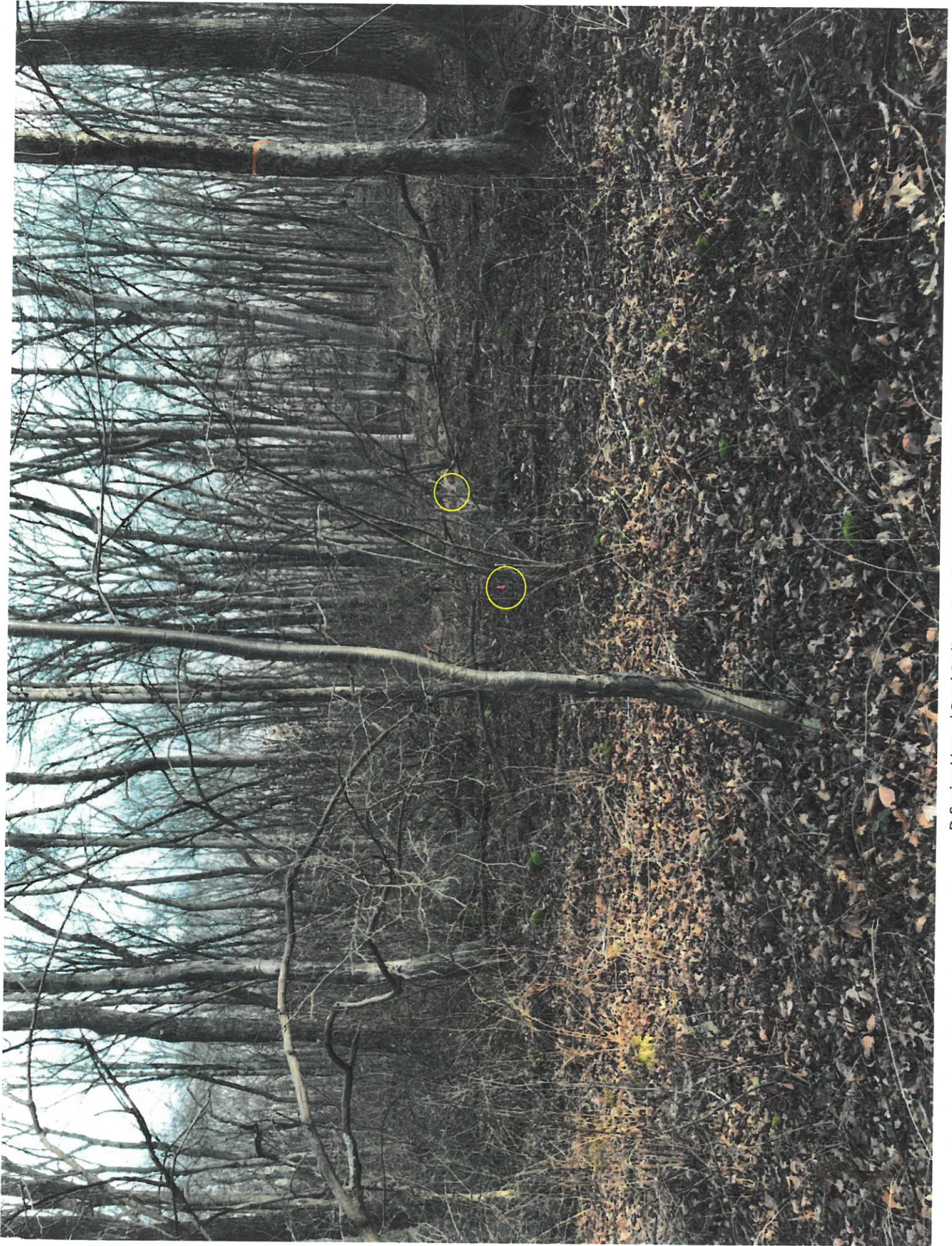
Attachment A

Representative Vernal Pool Delineation Photos

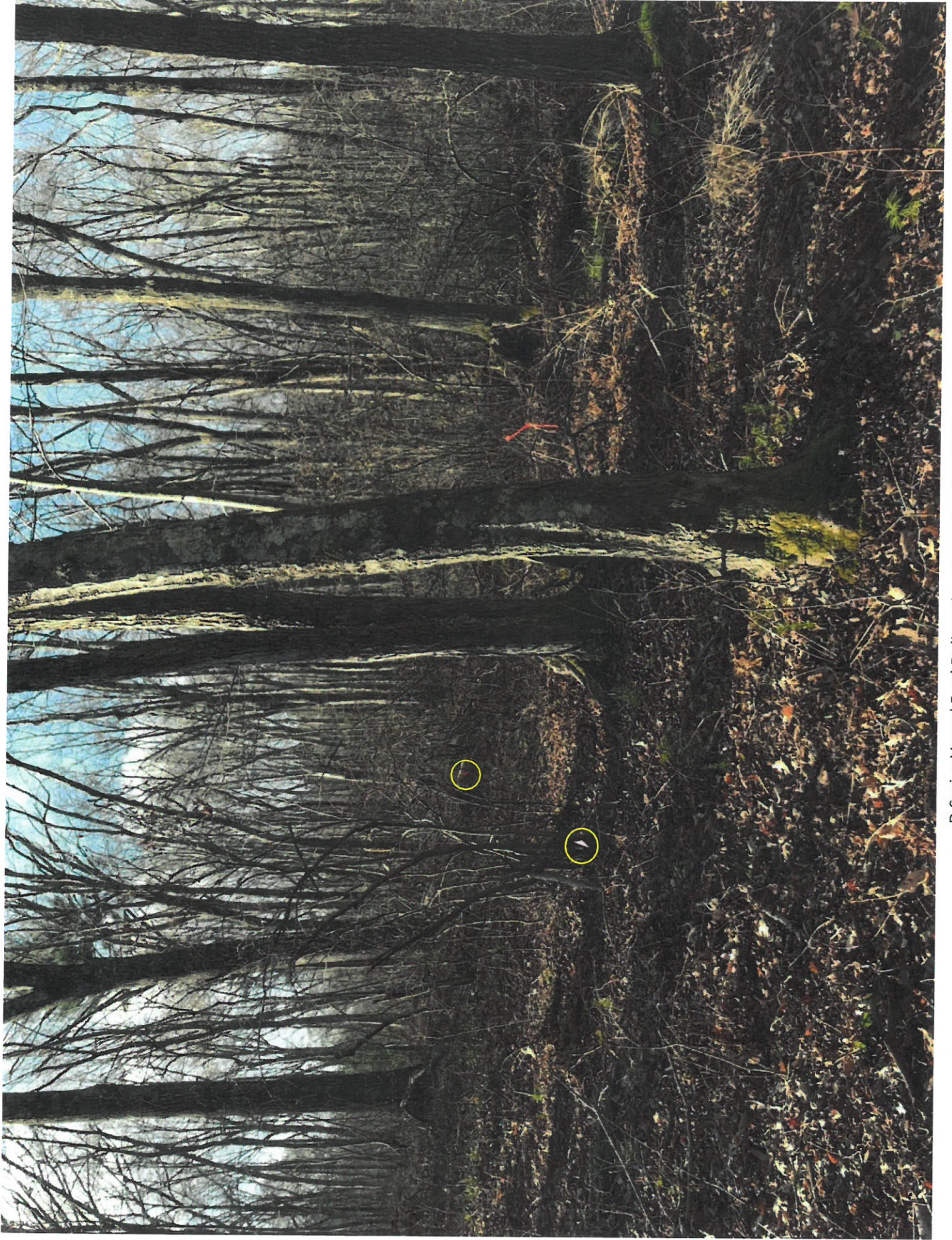
November 29, 2017



D Series Vernal Pool Delineation November 29, 2017



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