



Andy Mowery &lt;pohoaandy@gmail.com&gt;

---

## Backlot Drainage Causing Concrete Sinkage

---

**Andy Mowery** <pohoaandy@gmail.com>

Fri, Aug 18, 2023 at 12:00 PM

To: Buck Hammond &lt;buck.hammond@gmail.com&gt;

Cc: Poudre Overlook HOA at FtC &lt;atftcpoudreoverlook@gmail.com&gt;, Katie Beilby &lt;beilbykm@co.larimer.co.us&gt;, Amy Nguyen &lt;nguyenam@co.larimer.co.us&gt;, jkefaldas@larimer.org, Clay Jones &lt;joneswv66@gmail.com&gt;, Keith W Knight &lt;send.keith@gmail.com&gt;, Lora B 4POHOA &lt;lb4pohoa@gmail.com&gt;, Matthew Johnson &lt;johnsoma@co.larimer.co.us&gt;, Monty Davis &lt;focomonty@gmail.com&gt;, "Walker G. Flanary" &lt;wgflanary@gmail.com&gt;

To Everyone:

The attached letter from Larimer County was posted to the POHOA Frontsteps website on August 8, 2023. It appears responsive to the concerns raised in this email thread, and I do appreciate the timeliness of all responses by those at Larimer County.

POHOA, on the other hand, has not actually responded other than to have posted this letter to the website which is seldom-visited by POHOA Homeowners who all reside within the PID. It has neither emailed homeowners, nor added the issue to the upcoming 9/6/23 Regular Board Meeting Agenda. It is noted that Mr. Tunna resigned from the POHOA Board on 8/5/23 (he is not copied on this email thread any longer). It is unknown at this time whether his decision is related to how the POHOA Board has handled this issue.

If I understand the Larimer County response correctly, the existing Exhibit B had language added regarding stormwater drainage infrastructure below and/or attached to the streets and sidewalks, but excludes the system that is behind the homes as well as the drainage ponds. However, we now learn that in spite of this, **no budget exists for repair or maintenance** of what the County does claim is PID responsibility. Given that we are already repairing concrete that is only 20 years old, and that we project costs at least 25 years into the future, it is hard to understand why the drainage infrastructure would be excluded from this process. It appears that at some point in the future, taxpayers will be presented with a "surprise" cost which could be quite significant.

Combined with the fact that **POHOA has zero planning for maintenance or costs within its own management of this infrastructure** (and there are meeting minutes from PID that mislead various Board into believing PID actually did manage and plan for the maintenance and costs), the POHOA Board is now 20-years late in beginning the consideration of what is responsible and necessary to do. When HOA Boards are run by persons who have no prerequisite qualifications or training, decision-making is likely to be flawed or deficient.

But, this combination leads to the astounding fact: **NEITHER BODY HAS FINANCIAL PLANNING FOR STORMWATER DRAINAGE ASSETS!**

Within Colorado Legislative HOA and Metro District/PID Stakeholder Meetings, one of the patterns identified is a problem with volunteer HOA Boards having the ability to kick the proverbial can down the road perpetually regarding major costs to maintain and perpetuate their political support. This is the act of keeping costs low to keep assessments low. But, as we have seen in at least two high-rises in Denver which are facing condemnation, when major infrastructure costs are ignored too long, it can create a dilemma where homeowners are faced with either enormous increases to assessments "out of the blue", which subsequently makes it difficult to sell their homes if they cannot afford those increases. In one case, the owners face loss of their equity because the building is being condemned, which means basic occupancy is no longer possible, meaning they cannot sell their home to anyone. The worst case scenario has played out in Surfside, FL, and the result is unaffordable insurance for virtually all homeowners in the state.

We face similar dilemmas in Colorado with insurance costs that have risen dramatically just in the past 2-3 years.

At POHOA, the only significant "infrastructure" the Board has recognized are the cedar fences. The Board from 2004-2017 chose not to maintain these fences by applying any treatment, stain, or protective finish, allowing them to become brittle due to drying out. Boards and posts frequently crack and are broken by regular predictable winds in our region.

And, while the Board advocated and passed a Special Assessment for 3 years in 2018, the POHOA Board chose to spend all the money to replace only 1/3 of the fence (which happened to be in the visual horizon of the Board members) in 2021 at the height of lumber prices. They have subsequently told homeowners that "all the money is gone" so that the remaining fence will never be replaced, even though it continues to deteriorate because the Board continues not to maintain them with any treatment, stain, or protective finish. Some repairs are performed, but there are sections that have boards that have been damaged for years.

While the current POHOA Board claims that the Special Assessment was miscalculated and then blame inflation, it should be noted that this Board includes a Treasurer who advocates Qanon conspiracy theories that include imminent collapse of ALL banks and US Currency, and then advocates taking our HOA reserves and putting them into gold coins or bullion, conveniently purchased from the coin shop where he works.

It is also noted that the President and Treasurer at the time of the POHOA Special Assessment are two of the three current PID Directors who recently raised the PID tax assessment to the maximum allowable without a vote by homeowners - projecting costs past 2045. That review apparently missed the fact that the stormwater drainage facilities were not covered by those cost estimates. Their good faith is not in question, but we have two recent examples of underestimating costs and a lack of regular maintenance leading to "special assessments" or sudden increases. At least in POHOA, homeowners had a vote on the matter, but the PID decision of 2022, with a meeting held outdoors on a Friday evening with no email notice, didn't give taxpayers the opportunity to bring up questions like coverage of the infrastructure.

Had that been raised, it is likely that the planning for 2045 would have to have been revised, and since that infrastructure maintenance, repairs, and replacement is likely greater than \$5 (the buffer below the current \$40k limit), PID would have had to put the increase to a vote, which would necessitate informing homeowners of the newly discovered dilemma of not accounting for stormwater drainage assets.

Finally, while I again understand the good faith efforts to clarify the boundaries, no one has responded whatsoever regarding the ongoing flow of water from the broken pipe that runs along Overland Trail and into the POHOA drainage channel. Again, THOUSANDS of gallons of water per day are flowing, and these do not appear at all to be stormwater (even running, as Mr. Portilla noted in his 2020 email, during an absolute drought). The recent letter from Larimer County does not address this concern, and POHOA remains silent on the matter.

## **POHOA ACTIONS ON STORMWATER DRAINAGE CHANNELS**

I have observed that Mr. Irve Denenberg has recently taken his personal lawn mower and begun mowing a path along the drainage channel on the South and East sides of the Drainage Channel. His mowing, however, continues on a beaten dirt path that runs up the side, so it is unclear whether he is removing tall grass and weeds to maintain this as a dog-walking path (he has been a daily dog-walker along this path) or if this is a Board-sanctioned maintenance project.



While Mr. Denenbergs volunteerism may be appreciated, it is noted that he is not addressing the area near the culvert where debris has been regularly accumulating (see prior emails), and in fact, steers to the East of this section. He appears to be doing this so that the dog-walkers aren't knee-to-waist deep in weeds, which is a result of choices made by the POHOA Board having only the Treasurer (Mr. Jones) having sole decision-making authority regarding maintenance of the storm drainage channel grasses and weeds. I understand Former Director Tunna advocated that a Landscaping Committee be formed, and that he could not get the remaining Directors to consider this proposal - perhaps as part of the reason he resigned.



Note Mr. Denenberg is mowing up this dirt path to the right (both sides), but not mowing the remaining channel for about 50 feet going into the culvert.



If the purpose is stormwater drainage channel maintenance, either direction by the POHOA Board is at issue, or Mr. Denenberg is making these decisions independently without direction. In either case, a plan that fully addresses the needs of protecting and preserving this infrastructure should be developed and written into the POHOA governing documents for consistency and continuity. Having volunteers who frequently change (we have had over 20 Board Members serve since 2018, representing over 20% of the community) and are not trained in this area is a recipe for decision-making that could be ignorant or negligent resulting in additional and unnecessary costs to homeowners. Former Director Tunna's advocacy of a Landscaping Committee (that is inclusive of the homeowners whose properties are adjacent to these specific drainage channels) appears to have been ignored or voted down by the remaining current Board.

It is also clear that mowing is inadequate. While prior maintenance documents and videos (City of Thornton, for instance) did advocate keeping the grasses at 6 inches or less for the drainage channel), the issue in this section above is the accumulation of sediment and debris.

I took the time to inspect this area after Mr. Denenberg finished mowing, and attempted to remove the sediment in a small section. It took me approximately 30 minutes to chop through the sediment because YEARS of negligence have resulted in the sediment becoming infiltrated with roots from all the weeds growing in this sediment.





Depth of 1-2" of sediment with weed roots - up to 3-4" in some sections



Left edge covering 12"+ of drainage concrete





Removing sediment for this 5' section took 30 minutes

Given the time taken just to remove sediment from just this one section, I would estimate that it would take volunteers at least 24 man-hours to complete this 50-foot section near the culvert with hand tools. There are many sections throughout the drainage channel that have similar sediment issues, therefore, the estimate is likely a 3-figure number, again with volunteers using hand tools. This appears to warrant the use of professional mechanical tools, which then raises issues of safety and insurance coverage (we do have coverage for volunteers), and perhaps the need to use a contractor to get us back on track.

I do not believe that Mr. Denenberg's efforts, which may be noble and in good faith, to be the solution that addresses years of negligence. Once sediment is removed, this may be a good volunteer practice going forward, but at this time, it does not fully address the inherent need.

Moving forward, I recommend the following:

1. Larimer County should rewrite Exhibit B to include clarifying language about the boundaries of responsibility for stormwater drainage.
2. Larimer County should add an Exhibit C that is a detailed map of all stormwater drainage facilities within

POHOA, and what exactly PID covers and does not. The recent map regarding the sidewalks is a decent similar document that could be a template to begin this work.

3. The PID Bylaws should be revised by Larimer County to be inclusive of the responsibility of the PID Board to monitor, maintain, and manage the stormwater drainage facilities outlined in the new Exhibit B & C.

4. The POHOA Board needs to add the stormwater drainage maintenance to the Policies of the HOA, including detailed instructions for the Board and how any volunteer efforts may be managed. The current documents do not allow for homeowners to make improvements to these areas, and in fact, threaten action for such things as leaving a visible mark. Ambiguity leads to disputes, and advising homeowners to maintain the drainage areas as they see fit (many already weed whack the areas adjacent to their fences) could lead to disputes and injury claims.

5. The POHOA Board needs to address the cost of maintenance, repair, and replacement to the POHOA Budget.

6. The POHOA Board should consider whether formal Reserves for this infrastructure are necessary, and consult professional contractors about the life span, maintenance activities, and eventual future costs to repair and replace the concrete, culverts, and any other stormwater drainage infrastructure.

7. The POHOA Board should form a Landscaping Committee as proposed by Former Director Tunna (and perhaps allow him to be Chair) regarding the mowing practices leading to the grass/weed debris that is then creating the sediment accumulation. Best practices should be developed, including optimizing the timing of mowing to minimize the effects and costs (short and long-term). The Landscaping Committee should be independent of the current HOA Board, not dominated by the current members, or assigned a Board Member who controls the meetings and agenda. All meetings should follow the Colorado Open Meeting Act, and have recorded meeting minutes that remain in the HOA permanent records.

8. The POHOA Board needs to contact a contractor to address the sinking concrete on the East side of the drainage channel (the original observation noted to the PID Board) to get an estimate. If possible, the POHOA Board should see if the PID work on sidewalks can be coordinated with the same contractor to save money. The negative slope leading to pooling water should not be allowed to persist, and mowing by Mr. Denenberg does not address this issue at all.

9. The POHOA Board should contact American Family Insurance to see if this infrastructure is covered at all. If it is, the boundaries of coverage should be known (and documented in the governing documents), and whether negligent maintenance causes loss of coverage. And, if volunteers are to be performing any maintenance or repairs (including using mechanical devices such as lawn mowers), what our coverage is for injury - I know we do have some volunteer coverage, but when repairs, for instance, could include things like a jackhammer to break up concrete, the opportunity for serious injury increases significantly.

10. Either Larimer County, the PID, or the POHOA Board needs to inspect and determine the source of the water flowing from Overland Trail into the South side drainage channel. It overflows the channel at the West End (which will result in sinkage), has led to overgrowth of weeds and grasses for about 1/4 mile section which subsequently leads to sediment on top of the concrete, and is likely to be causing early deterioration and/or damage that will result in advancing the costs of replacement by some significant period of time. It cannot be "normal" for this water to be flowing in a state that has such tremendous management of water resources.

Thank you all for your attention to this matter, and the actions taken thus far. I hope we can help future volunteers understand their roles and responsibilities in the future without having to revisit this in such detail again. Specificity helps avoid negligence and disputes.

Sincerely,

Andy

On Thu, Aug 3, 2023 at 9:25 PM Andy Mowery <pohoaandy@gmail.com> wrote:

Everyone:

OK, so I took the time to look at the source of the water POURING down our drainage channel from Overland. Turns out that while there is significant drainage in Lin-Mar Acres that drains towards Overland, it actually winds up in a standing pond (in yet another concrete drainage channel) because . . . the drainage on Overland (East side looking North) has completely grown over, and causes this standing water to back up.



Following the drainage, which goes through more overgrown area into a small concrete culvert, eventually drains down a concrete channel into the POHOA drainage.

Overgrown drainage channel along Overland.





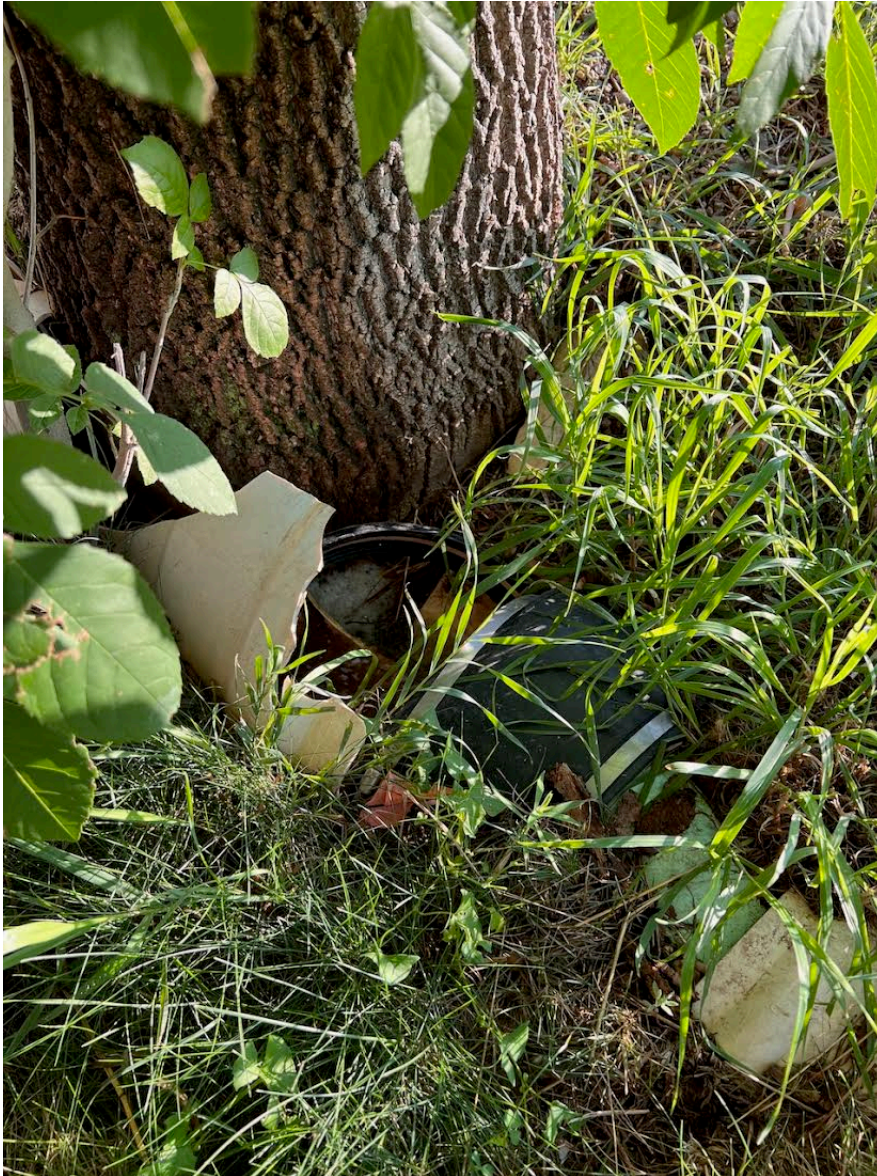




But, this is a small amount of water relative to what is coming out of a PVC pipe that is GUSHING. Light blue pipe on right.

It's not possible that the source of this gushing water is Lin-Mar Acres. But, you can HEAR it closer to the road, where we discover that a TREE has CRUSHED the pipe, which reveals water rushing through it (with some spilling out, of course).





Now, I recognize that POHOA boundaries are not well-defined along Overland, so I am not sure whose tree it is, so to speak. But, there is clearly TWO sources of water coming IN to the POHOA stormwater drainage system. One of them is Lin-Mar (and there's apparently other places mid-way through their subdivision where it moves South to North, apparently through the fence), but the other is UNKNOWN.

If everyone wants to say that hundreds/thousands of gallons of water pouring from this pipe is totally normal, nothing to see here, I would simply like to know what that source is - to at least be factually accurate when writing about this subject. While it may not be a burst pipe, it is clearly not coming FROM anything in POHOA, and therefore, our drainage channels are carrying a load (and wear and tear) from perpetual water running for over 1/4 mile, and then under private property into the larger drainage pond. If nothing else, it seems like water is being wasted here, and even in a "wet" year, this appears unusual.

I'm hoping someone will use this information to investigate and figure out what is going on. If corrective action needs to be taken, please take it - one of you. I don't think this is a job for volunteers, to be honest. But, hopefully this volunteer effort to bring it to your attention will be recognized as such. It feels, at the moment, that the issue is being dismissed when it could be costing us significant money in the long run.

EAST END DRAINAGE

So, after the additional 0.5" of rain we got this afternoon, I revisited the culvert Buck said was clear. I had removed the debris earlier in the day. This single rainstorm clogged the culvert again.



Clearly, the way we are mowing the grasses, the debris continues to accumulate 2 months after mowing. And, a simple walk down the drainage shows that there is infinite material to continue clogging the drain, which then causes sediment to build up again - immediately.



This is going to happen over and over, and we need to have some maintenance program regularly remove this. I believe, per the documents from City of Thornton and others, that this degrades the concrete, accelerates costs, and increases costs.

This should be sufficient motivation to put this on the appropriate agenda(s) for action.

Sincerely,

Andy

On Thu, Aug 3, 2023 at 3:40 PM Andy Mowery <[pohoaandy@gmail.com](mailto:pohoaandy@gmail.com)> wrote:

Buck,

Regarding the flow, as I was leaving POHOA today going South on Overland, I noted that it appears the inlet for that culvert is Lin-Mar Acres accumulated surface flow - which may go fairly deep into that neighborhood. I don't know what would be going on over there that would lead to a flow that is continuous (as reported by Mr. Portillo and others for 3 years), but if the water is draining from Lin-Mar, I question the logic about POHOA being responsible.

