

UNITED STATES COURT OF FEDERAL CLAIMS

ROBERT BRACE,)
)
 Plaintiff,)
)
 v.) Docket No. 98-897L
)
 UNITED STATES,)
)
 Defendant.)

Pages: 1 through 197/300
Place: Washington, D.C.
Date: January 11, 2005

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EXHIBIT

22

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74

1 A Well, I know from looking back at some of the
2 material, but, again, retired and now starting my 16th year,
3 I don't have any material to look into, but, in '77, I'm
4 pretty sure was the first, '78 again, and then he had an
5 emergency conservation measures request because of flooding
6 and debris that we had. I believe that was in '84.

7 Q Okay. Could you take a look at Plaintiff's
8 Exhibits P-2 through P-5 just very briefly? It's No. 2 and
9 3, 4, and 5 in your binder there.

10 A Well, I think -- is this the map with the costing?

11 Q Actually, it would be under No. 2, under the tab
12 2.

13 THE COURT: Tab No. 2, sir.

14 THE WITNESS: On that side?

15 THE COURT: Tab No. 2.

16 THE WITNESS: Oh.

17 (Pause.)

18 MS. COLELLA: Your Honor, may I approach the
19 witness?

20 THE COURT: You may.

21 THE WITNESS: I had the wrong number. Two doesn't
22 have anything.

23 BY MS. COLELLA:

24 Q It would be Tab 2, starting with 2, 3, 4, 5.

25 A Thank you.

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76

1 determination. The farmer cleaned it up and submitted his
2 receipts, and we made payment to clean it up.

3 Q Thank you. Mr. Burawa, as of 1975, when you were
4 working at the ASCS, did you understand the Clean Water Act
5 to impose any restrictions on the assistance that you were
6 providing to farmers under the Agricultural Conservation
7 Program?

8 A No --

9 THE COURT: Pause, please. Pause, sir.

10 Yes?

11 MS. FLORENTINE: It calls for a legal conclusion,
12 Your Honor. Objection.

13 THE COURT: I think the way it was framed, it
14 doesn't call for a legal conclusion. It's asking more in
15 terms of policy or other types of communications that may
16 have occurred at the agency, so I'll take it as meaning that
17 and only his understanding, not a legal conclusion.

18 All right, sir.

19 MS. COLELLA: Correct, Your Honor.

20 THE COURT: Rephrase the question, please.

21 BY MS. COLELLA:

22 Q Mr. Burawa, as of 1975, did you understand, in
23 your work at the ASCS, was it your policy that the Clean
24 Water Act imposed any restrictions on your work there in
25 assisting farmers?

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JOSEPH BURAWA - CROSS

83

1 enforcement case?

2 A Yes, I did.

3 Q And now were you called to testify by the United
4 States or Robert Brace?

5 A By Robert Brace.

6 Q Mm-hmm. And isn't it true that one of the reasons
7 that you have decided to testify here today is that you want
8 to do the right thing?

9 A That's the way I feel, yes. I believe that was my
10 answer because I was asked if I'd get any compensation from
11 Robert Brace to come in and so forth, and I says, yeah, I'll
12 come down, but I just want expenses because I think you're
13 doing the right thing. I think he left an area that looked
14 bad and looks a lot better today, and I know he won the case
15 in District Court in Erie, where I testified at that case
16 also.

17 Q Mm-hmm. Now, as you just talked about in your
18 direct examination, you did not draft your report, did you?

19 A Not the 247 report. The 245 that comes before
20 that, but there isn't a copy of that one in here.

21 Q Oh, I'm sorry. Let me ask the question again.
22 You did not draft the expert report that Plaintiffs have
23 admitted as Exhibit 30?

24 A Oh. No, I did not.

25 Q Okay. And now you said in your deposition that

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