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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF :
AMERICA, :
PLAINTIFF :

V : CIVIL ACTION NO. 1:17-CV-0006

ROBERT BRACE, ROBERT :
BRACE FARMS, INC., AND :
ROBERT BRACE AND SONS, :
INC., :
DEFENDANTS :

- - - - - : - - - - -
UNITED STATES OF :
AMERICA, :
PLAINTIFF :

V : CIVIL ACTION NO. 1:90-CV-00229

ROBERT BRACE AND ROBERT :
BRACE FARMS, INC., :
DEFENDANTS :

DEPOSITION OF: DAVID J. PUTNAM
TAKEN BY: DEFENDANTS
BEFORE: DIANE F. FOLTZ, RDR
NOTARY PUBLIC

DATE: JANUARY 26, 2018, 9:22 A.M.

PLACE: HAMPTON INN HARRISBURG EAST
4230 UNION DEPOSIT ROAD
HARRISBURG, PENNSYLVANIA

VERITEXT LEGAL SOLUTIONS
MID-ATLANTIC REGION
1801 Market Street - Suite 1800
Philadelphia, PA 19103

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APPEARANCES:

U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES DIVISION
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FOR - DEFENDANTS

ALSO PRESENT:

ROBERT BRACE
BEVERLY BRACE

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WITNESSES

NAME EXAMINATION

DAVID J. PUTNAM

BY: MR. KOGAN 7,202

BY: MS. BUCKLEY 195

EXHIBITS

PUTNAM DEPOSITION EXHIBIT PRODUCED AND MARKED

Exhibit 1 INSPECTION REPORT 5/4/87 45

Exhibit 2 LETTER 5/11/87 TO COLONEL CLARK
FROM MR. KULP 48Exhibit 3 LETTER 6/16/87 TO MR. PABODY FROM
MR. PUTNAM, FOUR MAPS AND TELEPHONE
CONVERSATION RECORD 51

Exhibit 4 MAP 54

Exhibit 5 REGULATORY GUIDANCE LETTER 90-07
9/26/90 73Exhibit 6 FINDINGS OF VIOLATION AND ORDER
FOR COMPLIANCE 7/15/87 76Exhibit 7 DEPOSITION OF DAVID J. PUTNAM 4/7/92
AND EXHIBITS 77Exhibit 8 LETTER 7/17/87 TO MR. BRACE
FROM MR. PERRY 80

1 BY MR. KOGAN:

2 Q Once there was a case assigned to you.

3 A Yes, I would have conferred with everybody that's
4 on that list there.

5 Q And that would include Mr. Andy Martin of the
6 Pennsylvania Game Commission?

7 A Andy Martin, James Pabody, James Butch?

8 Q James Pabody of the --

9 A The Corps of Engineers.

10 Q Which district?

11 A Buffalo.

12 Q Okay. Mr. -- and who else did you say?

13 Mr. D'Alfonso also?

14 A D'Alfonso and Butch, J. Butch.

15 Q And what agency was he from?

16 A EPA.

17 Q Okay. How about Mr. James Carter of the
18 Pennsylvania Fish Commission?

19 A I think Carter -- yeah, Carter's on here, too.

20 MR. KOGAN: Let's add into evidence for Exhibit
21 2, Putnam 2, a May 11, 1987, letter correspondence authored
22 by Mr. Charles Kulp of Fish and Wildlife directed to
23 Colonel Daniel J. Clark of the Army Corps of Engineers.

24 (Letter dated May 11, 1987, to Colonel Clark from
25 Mr. Kulp produced and marked Putnam Deposition Exhibit No.

1 2.)

2 MS. BUCKLEY: I'll take a look at this first.
3 All right. Counsel, I do think that this has been produced
4 one way or another, but I'll note --

5 MR. KOGAN: It has in prior depositions.

6 MS. BUCKLEY: -- it's not been Bates stamped.

7 BY MR. KOGAN:

8 Q You don't need to read the entire thing. Just
9 for the record, Mr. Putnam, did you not testify earlier
10 that you would pen at least in draft form certain
11 correspondences for your supervisors including Mr. Kulp?

12 A Yes.

13 Q Do you recall whether this might be one of those
14 correspondences?

15 A I would have to look at it a little. I would
16 have to look at it a bit, but I'm telling you I don't
17 recognize the font or the -- this doesn't look like an
18 official letter from the Fish and Wildlife Service.
19 There's no logo on it.

20 Q Well, this is one of the things that -- one of
21 the documents that were produced during discovery by the
22 Department of Justice, so --

23 A I wonder --

24 Q -- if there's another form, I don't believe we
25 have it.

1 A Is the letter signed?

2 MS. BUCKLEY: Counsel, I would -- for the record,
3 I think I have seen this document before, but I cannot
4 confirm, and I wouldn't agree necessarily with the
5 representation that the United States produced this. We
6 may have seen it in your production.

7 MR. KOGAN: We manufactured it? Are you --

8 MS. BUCKLEY: I'm just saying there's no Bates
9 stamp, so it's not --

10 MR. KOGAN: We wouldn't have enough creativity --
11 we wouldn't have enough creativity to manufacture something
12 like that, Counsel.

13 MS. BUCKLEY: It might have been in your custody
14 is what I'm saying.

15 THE WITNESS: Let me just look at it for a
16 minute. I would agree this is the form that -- and the
17 type, the type of letter I would write, but I don't -- I
18 just never saw -- it almost acts like -- almost looks like
19 it's been retyped or something. I just -- it is a mystery
20 to me that we would ever have produced a letter that wasn't
21 on letterhead, it wasn't signed, and used this font. We
22 would always used Times New Roman font. So, I mean, I'm
23 not arguing that it's a fake document, but it's just a
24 mystery to me that we would --

25 BY MR. KOGAN:

1 Q I think that -- I venture to say that there were
2 perhaps draft forms of letters that were circulated along
3 with the finals, because there can be no other explanation.

4 A Yes, and I understand that, too, but I -- just
5 the whole format of this thing and the font, we never used
6 anything but Times New Roman font. That was just the way
7 we did it.

8 Q Okay.

9 A And 12 point.

10 Q But suffice it to say there was -- Mr. Kulp is
11 referring to a May 5th on-site visit at the Brace farm in
12 the first paragraph?

13 A Yes.

14 Q Do you recall that on-site visit at all?

15 A I do recall an on-site visit. I --

16 MR. KOGAN: Okay. Then I won't press you on
17 that. Okay. I'd like to introduce as Exhibit Putnam 3 a
18 June 16th, 1987, correspondence signed by Mr. David J.
19 Putnam, Acting Field Supervisor, U.S. Fish and Wildlife
20 Service, directed to Mr. James -- Jim Pabody, U.S. Army
21 Corps of Engineers, referencing a draft wetland map that
22 apparently Mr. Putnam had prepared indicating a potential
23 impact of Mr. Brace's activities upon 200 acres of
24 wetlands.

25 (Letter dated June 16, 1987, to Mr. Pabody from