

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA
3

4 UNITED STATES OF AMERICA : CIVIL 90-22 Erie

5 VS :

6 ROBERT BRACE, and ROBERT BRACE :

7 FARMS, INCORPORATED, a PA :

8 CORPORATION, Defendants :
9

10 Deposition of LEWIS STECKLER, taken by and before
11 Ann McDonald, C.S.R and Notary Public in and for the
12 State of Pennsylvania, commencing at 11:45 a.m., March
13 18, 1992, at the Econo Lodge, Peach Street and I-90,
14 Erie, PA.
15

16 APPEARANCES:
17

18 DAVID DANA, Esquire, appearing on behalf of
19 the United States.

20 JOHN WARD, Esquire, appearing on behalf of
21 the Defendant.

22 MCDONALD REPORTING SERVICES

23 1673 West 8th Street

24 Erie, PA 16505
25

EXHIBIT

11

CD-FRC0003752

1 Are you aware that there is a lawsuit that is brought by
2 the U.S. against Mr. Brace for certain alleged violations in
3 that particular property?

4 A Well, I have to say, yes; my contact with Dave and other
5 people from--

6 Q You are aware, okay.

7 So that have you been--has this been shown to you, or in
8 one manner or another, by photograph or map, that this is the
9 particular area in discussion?

10 A We looked at that map yesterday. It was hand-drawn.

11 Q Was that the site map?

12 MR. DANA: Yes. I don't want to get into
13 privileged discussion, but to expedite things, Mr.
14 Steckler has looked over the site.

15 MR. WARD: I understand that, okay.

16

17 BY MR. WARD:

18 Q How often had you been to this particular site
19 over--since 19--strike that.

20 Did you tell us when you first came to the Brace property
21 at all, what year about?

22 MR. DANA: You mean this particular property?

23 MR. WARD: No, I asked him if he went to any
24 of the Brace properties a little bit earlier. I can't
25 recall the answers.

1 Acts, 1985 and 1990. They are commonly also known as
2 farm bills. Both of them, in essence, are enticing
3 farmers to implement a basic conservation plan on fields
4 that are highly erodible in order for their farms to stay
5 eligible for government programs.

6 That is a short description.
7

8 BY MR. WARD:

9 Q Now, there was a procedure allowed, was there not, to
10 have farmers qualified for--what is it called?--a prior
11 converted wetland designation?

12 MR. DANA: Off the record.
13

14 (Whereupon, a brief discussion was held off the record.)
15

16 MR. DANA: As I informed Mr. Ward, the United
17 States' position is that Swampbuster law, Commenced
18 Conversion, the Food Security Act, and any prior
19 converted/nonconverted designation in the case, have no
20 relevance in the case to a question of whether
21 there were discharges that were illegal and therefore
22 shouldn't be considered. That relevance objection is
23 a continuing one to any questions regarding these
24 matters, broadly construed. However, Mr. Ward will
25 proceed with questions subject to that objection.

1 fields there are, what the number of the fields are, how many
2 acres, and we also mark if there is hydric soils present on this
3 farm. And we mark the fields that are prior converted, which we
4 talked about, and we also mark if he is farming any wetlands and
5 if he is farming wetlands that are converted after December 23.

6 Q Okay.

7 The document you are reading now, is that the document
8 submitted--at least as it--at least it have Mr. Brace's name on
9 it?

10 A Right, this is one I filled out.

11 Q You filled that out?

12 A Yes.

13 Q And in conference with Mr. Brace or how does it work?

14 A No. He gets a copy of it.

15 Q Yeah.

16 A I contacted Mr. Brace to tell him I would be walking over
17 his fields; asked permission I should say.

18

19 (Whereupon, a brief discussion was held off the record.)

20

21 BY MR. WARD:

22 Q You have certain designations to soil types that you
23 testified to. Were they--were those designations made after you
24 walked the fields or are they on maps already in your office as
25 to soil types?

1 A The soil types are all published in the Erie County soil
2 survey. They are available to anyone. Of course, that is our
3 Bible, we use it all the time. Most times the designations are
4 completed using that and a field check of the fields in
5 question.

6 Q And from this information, what happens to this once you
7 have filled this out; have you made your examination and
8 judgements?

9 A Well, we keep a copy for the file; we give a copy to the
10 landowner, and we give a copy to the A. S. C. S. office along
11 with the copy of the maps.

12 Q I am going to ask you about the maps.

13 Can you--there are several sketches here and I will ask
14 you, can you orient this particular map--and ask you if you
15 recognize it since you recognize that whole packet.

16 Did you make those notations?

17 A Some of them. Some of them are from A. S. C. S. and some
18 of them are mine.

19 Q Can you orient that particular sketch--as you say, it is
20 not to scale--with the area on the--be the aerial photograph,
21 Exhibit 13, that is before you?

22 A Yeah, I can draw it. I know that on both ones.

23 Q Is that the area that we have been discussing as the site
24 immediately or somewhat south of South Hill Road and the
25 intersection of Greenlee Road?

1 MR. DANA: Well, again, Mr. Steckler isn't--

2 MR. WARD: He is not an expert in the law of
3 wetlands.

4 MR. DANA: I don't think you asked--

5 MR. WARD: Well, what I want to do is I want
6 to find out if the representation made on the sketch that
7 is not to scale, but does contain certain annotations as
8 to what soil types--

9 THE WITNESS: On the sketch? These notes on
10 here pretty much correspond to what I put on here. They
11 are symbols on here; like a N. O. for not highly
12 erodible, P. C. for prior converted. There is H. E. L.
13 marked in a couple of fields for highly erodible land,
14 and C. W. is the mark for converted wetlands.

15
16 BY MR. WARD:

17 Q And if you turn to the front, although it speaks for
18 itself the--there is correspondence there from the A. S. C. S.
19 office to Mr. Brace?

20 A Ah-hum. Yes.

21 Q And that is part of Exhibit B and it is from Mr. Burawa?

22 A Correct.

23 Q And who is Mr. Burawa?

24 A He was the county executive director for A. S. C. S. at
25 that time.

1 Q Generally does that letter notify Mr. Brace of a
2 decision?

3 MR. DANA: Well, the letter speaks for
4 itself.

5 MR. WARD: I understand it. I want him to
6 testify to whatever the letter says.

7 MR. DANA: I object. He had no connection
8 with the letter. If you want him to read it--

9 MR. WARD: He said he recognized everything
10 in the packet before and it is all part of the procedures
11 and they are then notified?

12 THE WITNESS: Yes. I got a copy of it, Dave.

13 MR. WARD: See.

14 THE WITNESS: It says it was granted. The
15 only thing I would maybe not one hundred percent agree
16 with is where it says concurrence with Lew Steckler,
17 district conservationist. I got to tell you that I
18 wasn't at the meeting.

19

20 BY MR. WARD:

21 Q At which that decision was made?

22 A Right. My field work was done one day after the
23 committee already granted the determination. I didn't do the
24 field work until the 15th. Meeting was held on the 14th.

25 Q But the actual evidence of qualifications doesn't rely on

1 the record. You do whatever you want.

2 MR. WARD: We can--there is times in
3 Court--what I do need to know or would like to know, if
4 you can help out, is whether or not the areas that are
5 represented in your sketches as part of the packet of
6 Exhibit B, do you recognize that to include the land that
7 we have been indicating here as the site just south of
8 South Hill Road and the intersection of Greenlee Road?
9

10 BY MR. WARD:

11 Q Do these sketches conform or include that particular
12 property?

13 A Yes, they are on the same piece of ground. This one
14 doesn't have the writing on it but, yeah, I can see it there.

15 Q Do you attend all A. S. C. S. meetings when they make the
16 designation?

17 A Not all. I had a prior commitment that day. I had
18 another meeting in Edinboro that morning.

19 I think that's the 14th when the committee had their
20 meeting on September 14th?

21 Q Yes, September 14th.

22 A I had another meeting in Edinboro.

23 Q I hand you just--I will ask you if you recognize the
24 minutes of a regular meeting at a later date, I believe February
25 8, 1989, and your name appears as being in attendance, right?

(Whereupon, a brief discussion was held off the record.)

CROSS-EXAMINATION

BY MR. DANA:

Q Mr. Steckler, are you aware whether Mr. Brace, Robert Brace, owns more than one property in Erie County or around Erie County?

A Different parcels, yes.

Q And referring to what is marked Defendant's Exhibit D, you have taken a look at the sketch that is attached to that; can you tell from the sketch which of the different properties or parcels it may be referring to?

Is it marked?

A No. This is the one that we haven't been able to identify. I have no idea where that is. I am assuming, since it is attached to this, it is on Mr. Brace's farm somewhere; but the roads are not identified on this and I wasn't here when that job was done, so I have no idea where that is.

MR. DANA: Thank you.

MR. WARD: I have nothing further.

MR. DANA: Okay. Reserve signature on both.

(Whereupon, Deposition concluded at 1:40 p.m.)