

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

UNITED STATES OF AMERICA)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO. 90-229 ERIE
)	
ROBERT BRACE, et al.,)	
Defendants)	

STATUS CONFERENCE

Proceedings held before the HONORABLE
SUSAN PARADISE BAXTER, U.S. Magistrate Judge,
in Judge's Chambers, U.S. Courthouse, Erie,
Pennsylvania, on Friday, April 7, 2017.

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Ronald J. Bench - Official Court Reporter

EXHIBIT

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LAWRENCE A. KOGAN, Esquire,
The Kogan Law Group, P.C.
appearing on behalf of the Defendants.

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1 Mr. Devlin stated there. First of all, the Consent Decree's
2 purpose is clear from its terms. I think that the court can
3 presume that reasonably in looking at the Consent Decree.

4 I would also note for purposes of the July 2012
5 meeting, was not as Mr. Devlin represented, but Mr. Brace
6 contacted the courts about requesting a jurisdictional
7 determination so he could clean what he called were clean water
8 deficiencies on his property. That is why the EPA and the
9 court went out on a site visit. It had nothing to do with the
10 Consent Decree, it was whether or not there were certain
11 ditches on his property that he could clear or whether he
12 needed a 404 permit.

13 THE COURT: Here's the thing that's going on.
14 We're now digging into what was said and when it was in effect,
15 which we have to do as lawyers. But we're losing sight of, in
16 my mind, of a fix, a fix whereby we keep Elk Creek clean and
17 Mr. Brace can farm his land. There has to be some middle
18 ground.

19 MS. BROWN: What I would say, your Honor, and I
20 certainly understand that. I think that was what we were
21 trying to do prior to initiating the motion to enforce, filing
22 the motion to enforce. What we have trouble with is we have
23 not seen the actual evidence of the contiguous and
24 unanticipated consequences which caused flooding to the other
25 areas of the property. To be honest, it would have been