

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

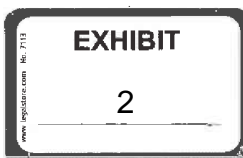
18 DAVID DANA, Esquire, appearing on behalf of
the United States.

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

21 MCDONALD REPORTING SERVICES

22 1673 West 8th Street

23 Erie, PA 16505
24
25



INDEX TO WITNESS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

<u>WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Lewis Steckler	4	45		

INDEX TO EXHIBITS

MARKED DURING THIS DEPOSITION:

Defendant's Exhibit B -- Packet dated September 21, 1988.

Defendant's Exhibit C -- RE-247 forms signed and dated
8/26/77.

Defendant's Exhibit D -- RE-247 forms signed and dated 5/9/78.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 LEW STECKLER, D.C., S.C.S.,

2
3 having been first duly placed under oath, was examined and
4 testified as follows:

5
6 DIRECT-EXAMINATION

7
8 BY MR. WARD:

9 Q I am John Ward. You know the Braces, I believe?

10 A Yes.

11 Q Again, for the record, this is March 18th and this is
12 continuing a deposition in the matter of U.S.A. V Brace taken in
13 Erie, PA, consistent with a notice, and the deponent is Lewis
14 Steckler at this time.

15 I am John Ward and the U.S. is represented by David Dana
16 from the Department of Justice; and also present are Robert
17 Brace and his daughter, Rhonda Mcatee.

18 Mr. Steckler, you have been sworn and I will ask you for
19 the record to state your name and present address, please?

20 A Lewis Steckler. I work for the Soil Conservation
21 Service. The business address is Route 19, Waterford.

22 Q Is the Soil Conservation Service a federal agency?

23 A Yes, sir.

24 Q How long have you been employed with S. C. S?

25 A Since 1974.

1 Q In the same office and same location?

2 A This office I started in September of 1978.

3 Q And prior to going with the S. C. S., where were you
4 employed?

5 A Military.

6 Q Military?

7 A Yes. Penn State University for the undergraduate degree
8 and Master's degree in agronomy.

9 Q Master's in agronomy from Penn State.

10 What is agronomy?

11 A Study of soils and field crops--real quick definition.

12 Q And had you done any or been active in farm or
13 agricultural work prior to your educational training?

14 A Grew up on a dairy farm.

15 Q And where was that?

16 A Mercer County.

17 Q Which is near here?

18 A South. South of Meadville.

19 Q South of Meadville.

20 Terms of miles, how far from Erie County?

21 A Sixty-five.

22 Q Is the topography and conditions where your farm was
23 similar to that of Erie County farms, generally?

24 A Generally, yes.

25 Q When did you get your Master's from Penn State?

1 A December of 1972.

2 Q And then you went in the military upon graduation, I
3 believe?

4 A Military service was between my Bachelor's degree and
5 Master's degree.

6 Q All right, fine.

7 A I mean, I had other small jobs in there to support myself
8 through grad school and different things.

9 Q And your home address is where?

10 A Waterford. Live in the town of Waterford.

11 Q And what is the function--did you receive any other
12 special training in your work, courses that you are required to
13 take as part of your work with S. C. S.?

14 MR. DANA: At any time, John?

15 MR. WARD: At any time, yeah.

16 THE WITNESS: Well, yeah, when you first
17 start they have a--when I first started, we had a three
18 day orientation course and I had--they have management
19 level courses. I had a home-study course. And then you
20 have management level two, which is an introduction to
21 supervision and things like that. And management level
22 three; that gets you more into for supervisors. Plus, we
23 have on-the-job training courses, you know, little one
24 day courses two or three times a year on a specific
25 subject matter.

1 BY MR. WARD:

2 Q Your agency conduct the courses or they conducted by
3 other agencies of the federal government?

4 A Mostly the Soil Conservation.

5 Q And what was your title of your job position, current
6 job?

7 A Well, my pay classification is Soil Conservationist, but
8 the working title is District Conservationist.

9 Q And that district would cover what area?

10 A Erie County.

11 Q Erie County?

12 A Yes.

13 Q And to whom do you report?

14 A We have an area conservationist in Clarion, Tom Mattocks.

15 Q In Erie?

16 A He is in Clarion.

17 Q Tom Matticks?

18 A M. A. T. T. I. C. K. S.

19 Q And can you generally describe the work of your district
20 office, I believe you called it; what people who work there,
21 what do they do?

22 What are the various functions?

23 A Well, in a nutshell, we are working with landowners in
24 applying soil and water conservation practices to their farms.

25 That is the real brief.

1 Q And I think that is good enough.

2 Do you function or have a relationship with the

3 A. S. C. S.?

4 A Yes.

5 Q And what is that agency, American--?

6 A It is Agricultural Stabilization and Conservation
7 Services.

8 Q What is your relationship, your office relationship, with
9 the A. S. C. S.?

10 A Well, there is dual programs where they administer the
11 financial part of it and we do the engineering and field work.

12 Q You are the technicians?

13 A Right.

14 There is two other soil conservationists that work under
15 me.

16 Specifically, the programs would be Food Securities Acts,
17 the Agricultural Cost-Share Program, A. C. P. And there is
18 other programs that come along, sometimes disaster programs.

19 Q These programs with the A. S. C. S. are programs designed
20 to assist farmers initially in one manner or another?

21 A That is correct.

22 Q Do you know Bob Brace?

23 A Ah-hum.

24 Q How long you known Mr. Brace?

25 THE WITNESS: Hard to say, ain't it Bob? I

1 would guess seven or eight years.

2

3 BY MR. WARD:

4 Q From now?

5 A Yeah.

6 Q So your recollection would be that 1983, somewhere in
7 there, or '82?

8

MR. DANA: If you can remember.

9

THE WITNESS: Yeah, I don't have it written

10

down.

11

12 BY MR. WARD:

13 Q And you came to the Waterford area in '78, the Waterford
14 office?

15

A Yes.

16

Q And your recollection would be, as you say if you

17

remember, 1982 or '83 when you first met Bob Brace?

18

A Yes.

19

MR. DANA: Lew, you have to, for the record,

20

say yes or no.

21

22 BY MR. WARD:

23

Q Are you familiar with the property that Mr. Brace

24

operates as a farm for crops and other things?

25

A Yes.

1 Q In the Waterford area?

2 A Yes.

3 Q And if you can recall, over the years, how often have you
4 gone to any of his properties?

5 Not just the property we will be discussing today, but
6 any property.

7 MR. DANA: If you can recall. We are not
8 going to hold you to it.

9 THE WITNESS: I been there three times or
10 four times.

11 Just the general in-the-range of?

12 Well, it would be less than once a year.

13

14 BY MR. WARD:

15 Q Generally is the procedure if a farmer, somebody involved
16 in agriculture, wants to qualify for federal assistance, he
17 contact your office or the A. S. C. S. office?

18 A Both.

19 Q Both, okay.

20 Do you remember when you first came onto the property
21 that we are discussing today?

22 I will ask you to take a look at the map we are using for
23 orientation and we are going to refer to it as the Brace site
24 because that is the phrase that has been used and a line has
25 been--circle has been drawn approximately in the area of the

1 annex here of Greenlee Road and South Hill Road.

2 Can you see that?

3 A Yes.

4 Q Do you recognize that or you oriented enough?

5 If you want to refresh yourself, go ahead and take time.

6 A I know where it is.

7 Q Okay.

8 A I am familiar with the map.

9 MR. DANA: Just not to be annoying, but for
10 clarification, the area marked with the circle doesn't
11 correspond completely. It does include, but is not
12 completely equivalent as to what we refer to as the site.

13 MR. WARD: Right. Trying to zero him in.

14

15 BY MR. WARD:

16 Q Let me show you a photograph that we have been using of a
17 portion of the Brace property and I will try and orient it so it
18 is facing you.

19 Do you recognize the road here that we have been
20 discussing?

21 Are you familiar with the aerial photography there?

22 A Yes, we use aerial photos quite often. This would be
23 '86, this would be Greenlee, and this is South Hill.

24 Q Now, I believe that this is--would this be your
25 recollection--somewhat north to the top of the map?

1 The photograph is a northerly direction, somewhat--might
2 be northeast?

3 A I don't agree with that.

4 Q Okay, don't; I have no way of arguing with you.

5 A North should be up that way.

6 Q Toward Erie?

7 MR. WARD: Now you are looking at an aerial
8 photograph that you brought along. Just clarify where
9 north is.

10 MR. DANA: A copy of which you do have
11 somewhere.

12 THE WITNESS: Well, I guess that isn't too
13 far off. Buildings are right there.

14
15 BY MR. WARD:

16 Q This is kind of north that way.

17 A You are probably more right than I was. Just an unusual
18 orientation, I guess.

19 Q This area that I am now indicating, just somewhat in a
20 southerly direction of the intersection of Greenlee Road and
21 South Hill Road, as I am indicating with my finger here, do you
22 recognize that area?

23 A Yes, sir.

24 Q And do you recognize that as the area that is the subject
25 of this particular lawsuit? Let me strike that.

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 THE WITNESS: I said less than once per year.

2

3 BY MR. WARD:

4 Q You recall how far back it was, was it '83 or '84?

5 A The first time I was out there was when that waterway was
6 constructed across from the barn. You weren't there.

7 MR. DANA: Excuse me. Off the record.

8

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

10

11 THE WITNESS: I was on this field in 1979.

12

13 BY MR. WARD:

14 Q That is a little bit north of the South Hill Road, okay.

15 How about this field that is south of South Hill Road,
16 this area here I am indicating with my finger?

17 You recall first coming across that area?

18 A I had never been on that until 1988.

19 Q Part of your job, I believe you say that it was, to
20 assist farmers when they make requests for assistance to your
21 office for certain advice?

22 A That is correct.

23 Q And are you called in to design drainage systems as part
24 of your work?

25 A Yes.

1 Q And can you describe how that operates, the procedure?

2 Someone contact your office and somebody is assigned to
3 go out there and take a look?

4 A That is right, works that way. Could be myself or people
5 that work under me. We generally look at the field in question
6 and he--most times the landlord or the landowner, the farmer, he
7 is going to tell us where he is having problems, as far as where
8 he is getting stuck and where he thinks it is wet, and he wants
9 advice on the most economical way to improve the drainage so
10 that he can grow better crops there.

11 Q And then what happens; you go out and look at the land
12 and what do you do, say, if you are the person that is going to
13 do this, give the advice?

14 A Well, we evaluate the site and upon discussion with the
15 landowner--naturally he is going to have to pay for it--not our
16 advice, but the construction activity. So he basically will
17 tell us what kind of financial constraints he is under and we
18 will try to design something that will improve his field and at
19 the same time meet his financial needs.

20 We are talking there is an underground drainage,
21 primarily what you are talking about?

22 Q Any kind of a drainage system.

23 A There is some surface type drainage that can also be
24 done.

25 Q Depending on the circumstances, you make judgements as to

1 combining either surface or underground drainage systems?

2 A That is correct.

3 Q And the farmer generally pays for the necessary labor and
4 material?

5 A Unless it is cost shared to the A. S. C. S. office.

6 Q Let me ask about cost sharing; how does that work?

7 A Well, he has to make a request. The farmer makes a
8 request at that office, also.

9 Q Okay. I believe you mentioned--did you mention the Food
10 Securities Act earlier on as being involved with that?

11 A Yes.

12 Q Does that have a name known as "Swampbuster", is that the
13 same?

14 A Yes.

15 Q And as to the particular act in your own--if you know,
16 what is the purpose of the Food Security Act in terms of the
17 designation of, quote, "Swampbuster"?

18 MR. DANA: Just to interject along the lines
19 of the previous deposition, Mr. Steckler obviously can
20 testify about agricultural practice, but is not offered
21 as a legal expert.

22 MR. WARD: Understand.

23 MR. DANA: On anything regarding the various
24 agricultural laws.

25 THE WITNESS: There is two Food Securities

1 MR. WARD: That is correct, thank you.

2
3 BY MR. WARD:

4 Q Are you familiar with the term prior converted wetlands?

5 A Yes.

6 Q Can you tell us, does that--does your work get involved
7 with that phrase or that designation?

8 A Prior converted--yeah, that is one of the things we look
9 at when we make the determination on a field, whether it is
10 highly erodible or not. The soil survey of Erie County has the
11 hydric soils. If there is a crop field that has hydric soils
12 and has been drained any time before December 23, 1985, and is
13 currently still in production and not abandoned, that field can
14 receive--it received the label of prior converted.

15 What it is saying is that two hundred and fifty-three
16 hundred years ago it may have been a wetland. Man has come to
17 this part of Pennsylvania and through the years has been farming
18 it now.

19 Q Right.

20 And, again, the procedure of the requirements are what to
21 get that designation?

22 A Prior converted?

23 Q Yeah.

24 What does the farmer have to do or have to have done?

25 A It has to be actively still be farmed. If it was farmed

1 in the forties and left abandoned up until now, it may not
2 receive the prior converted.

3 Q And if it is designated as a prior converted wetland, how
4 does it benefit the farmer, if it does?

5 A Underground drains can be maintained. The drainage can
6 be maintained and, in most areas, you can also install
7 additional drains, if you want to.

8 MR. DANA: Again, just as a point of
9 clarification, Mr. Steckler is testifying from his
10 experience.

11 When your questions are posed to the--what
12 the effect of something is or not, he can't testify
13 as a legal expert to the full regulatory effect.

14 MR. WARD: I am not asking him to do it. IF
15 he knows, do they--with the cost sharing--

16 MR. DANA: Within his experience.

17 MR. WARD: Sure.

18
19 BY MR. WARD:

20 Q Since the term wetlands is used in prior converted
21 wetlands, do people in your office, and you in particular, do
22 you get any training to identify wetlands?

23 A Yes.

24 Q What kind of training is that and who gives it?

25 A Our biologist, wildlife biologist from Harrisburg, has

1 presented training to us on identifying wetlands; the use of the
2 soils maps that contained the hydric soils. We had some field
3 exercises where we go look at what is a wetland and what isn't.

4 Q Because it--obviously from the name--would have to be a
5 wetland to be considered a prior converted wetland, that is
6 correct?

7 I mean, you can't have a prior converted upland, okay?

8 MR. WARD: It is a dumb question.

9 MR. DANA: Is that a question?

10 MR. WARD: I withdraw it. I withdraw it.

11 THE WITNESS: Because--

12 MR. DANA: No, no, don't.

13 THE WITNESS: It gets into hydric soil, but
14 that is all we are doing is identifying a hydric soil
15 area.

16
17 BY MR. WARD:

18 Q You are basing your determination on soil?

19 A Yes.

20 Q I have several papers here that deal with Mr. Brace's
21 property, some of his properties, and the proceedings known as
22 the designation for a prior converted wetland.

23 Have you been around that process between your office and
24 the A. S. C. S.?

25 A Yes.

1 Q And let me hand you a packet of things and ask you to
2 look through them and ask you if you are familiar at all with
3 those documents or if you have seen something similar to the
4 documents in your work?

5 A I would say I was familiar with this, yes.

6 Q You are, okay.

7 Do you recall whether or not you were involved in the
8 investigation and determination made by A. S. C. S. regarding
9 Mr. Brace's qualifications for prior converted wetlands?

10 THE WITNESS: We got to talk about that,
11 Dave.

12 MR. DANA: Do you want to talk?

13 MR. WARD: We can take a break. Off the
14 record.

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

17
18 MR. DANA: Mr. Steckler had a little
19 confusion, I think, as to terminology in understanding
20 the question.

21 A prior converted determination, he tells me,
22 is not the same thing as a commenced conversion
23 determination and the question blurs it.

24 In the spirit of accurately responding, he
25 wasn't sure how to respond.

1 BY MR. WARD:

2 Q Your attorney indicated that there may be some confusion
3 as to terms out there that may be misunderstood.

4 What are the two terms; prior converted wetland--and what
5 was the other term?

6 A The other term is what was reflected in these documents
7 you put before me, was he requested a commenced determination.
8 I am looking for the actual wording on it. They just call it a
9 commenced determination.

10 MR. WARD: Okay. All right.

11
12 BY MR. WARD:

13 Q Commenced determination requires a farmer to do what; to
14 show what?

15 Let me see if I can help you.

16 Does the farmer have to show evidence of having started
17 the conversion at any particular time?

18 A Yes.

19 Q And when was that time?

20 A December 23, 1985. The work had to have been started
21 before that date.

22 But it wasn't--obviously it wasn't completed yet or he
23 wouldn't have filed for commenced.

24 Q If the A. S. C. S. is persuaded or convinced is that the
25 evidence was that he started a conversion prior to 1985, based

1 on evidence that he submits, does that allow him to then
2 continue work?

3 MR. DANA: Well, objection on the grounds
4 that Mr. Steckler--

5 MR. WARD: If he knows.

6 MR. DANA: --isn't a legal expert on what the
7 regulations require.

8 MR. WARD: Certainly he has been around the
9 office and knows the procedure. I am not asking him what
10 the law requires.

11 MR. DANA: In fact, you haven't asked him the
12 foundational questions for it.

13 MR. WARD: I asked him about his functions;
14 if they work on this kind of a project with the A. S. C.
15 S. and I believe his answer was, yes, his office
16 participates. I will go back.

17

18 BY MR. WARD:

19 Q If an application for a prior commencement or destination
20 is there, earlier commencement--if application comes into the A.
21 S. C. S. by a farmer--what was the phrase?

22 Commencement? Prior commencement?

23 A They just use the term on it commence determination.

24 Q Commence determination.

25 A That is before the December 23rd date.

1 Q If that application comes in, how does your office get
2 involved with that from A. S. C. S.?

3 A The same way we get involved with all of them; the 1026
4 form right here. That comes over for all farms.

5 Q I am going to have this marked.

6 MR. WARD: I ask the package--the cover
7 letter and certain forms and sketches be marked
8 Defendant's Exhibit B.

9
10 (Whereupon, Defendant's Exhibit B was produced and marked
11 for identification.)

12

13 BY MR. WARD:

14 Q Again, you have had an opportunity to review a packet of
15 materials, we now marked it Defendant's Exhibit B, and you said
16 you recognized that.

17 Can you just briefly explain the process in which you are
18 involved, your office with the A. S. C. S. when a farmer applies
19 for a commencement determination?

20 A Well, it starts with the 1026 request that we receive
21 from A. S. C. S. indicating that landowner, his name and
22 address, and the maps that show his farms, his property. We
23 then proceed to fill out the S. C. S.-C. P. A.-026 form with the
24 same landowner indicating the same tracts. And after field
25 examination we fill out the highly erodible fields; how many

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: Objection. What--

2 MR. WARD: The area of the sketching is the
3 sketch. Is that--can he orient that sketch as
4 representative, as being this particular piece of
5 property?

6 MR. DANA: Including that?

7 MR. WARD: Yes.

8 THE WITNESS: Yeah. I mean, you can see the
9 road. There are the two roads there and the piece of
10 land in-between right there.

11
12 BY MR. WARD:

13 Q And so you would say that for this procedure and with the
14 A. S. C. S. commencement, it involves at least some of the
15 property that is involved in this particular suit?

16 MR. DANA: Objection. What he testified is
17 that the map included the site.

18 MR. WARD: That is what I just asked him.

19 MR. DANA: No, you asked him whether the
20 commence conversion included the site.

21
22 BY MR. WARD:

23 Q Isn't the map part of the commence conversion process?
24 Don't you submit that to A. S. C. S?

25 A They get a copy, right.

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 soils, does it, it just relies on investment and activity by the
2 farmer?

3 MR. DANA: Objection.

4 MR. WARD: Why?

5 MR. DANA: Evidence of--for the commencement?

6 THE WITNESS: That is not for me to decide,
7 it is up to the committee. That is a county committee
8 type thing.

9
10 BY MR. WARD:

11 Q They are, what, elected on the committee that makes the
12 decision?

13 A Right.

14 Q And they are farmers?

15 A In--it is in the handbook, the Food Security Handbook,
16 that type of stuff is, but doesn't deal strictly with S. C. S.

17 MR. DANA: Not to sound redundant, Mr.

18 Steckler is not an expert as to whether--what regulations
19 A. S. C. S. should have or, in fact, did not comply with.

20 MR. WARD: We will find a way to get through
21 the process as far as what evidence they had to make that
22 decision and whether or not the soils map was critical to
23 the decision and he is saying he didn't do it until after
24 the decision.

25 MR. DANA: Right. Right, pointing it out for

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?

1 MR. DANA: Take your time and read the
2 document.

3 THE WITNESS: I was just reading who was
4 there. I don't normally get a copy of the minutes, but I
5 recall that meeting.

6
7 BY MR. WARD:

8 Q You do recall that meeting?

9 A Yeah.

10 Q Do you recall?

11 A Dave Putman was there.

12 Q You recall Mr. Putman making a statement?

13 A Yes, he had some time to talk at the meeting, right.

14 Q And do you recall the general content of that statement,
15 if you remember what Mr. Putman said?

16 A It is pretty well summed up in the minutes here. He
17 didn't completely agree with the committee.

18 Q I understand you brought some material with you today.

19 Did you bring material from your office that deals with
20 the Brace property?

21 A Yes.

22 Q And can you describe just briefly what the contents of
23 that material are; what kind of documentation and photographs,
24 what--

25 A Yeah, aerial photographs, conservation plan that was

1 prepared for Mr. Charles Brace.

2 Q Who is Charles Brace?

3 A His dad.

4 Q Do you remember a date--you can make reference to it. I
5 also have a copy of some of that material, too.

6 A As to what is in here, is records and other maps that
7 pertain to that property.

8 MR. DANA: John, substantially all--

9 MR. WARD: I think we have them.

10 MR. DANA: They should have been produced.

11

12 BY MR. WARD:

13 Q So does that file--you had a chance to review the file
14 generally as to the contents. We will not get specific.

15 That file reflect that the Brace farm is, and Mr. Brace's
16 father, and have been involved in federal agricultural programs
17 as to how far back?

18 A I believe 1962.

19 Q Okay.

20 A I don't see a date yet. There was a date on here, I
21 thought.

22 Charles Brace signed a conservation agreement with the
23 County Conservation District December 14, 1961.

24 Q Okay.

25 MR. DANA: You mind if we take a minute

1 break?

2

3 (Whereupon, Deposition recessed at 12:40 p.m. and
4 reconvened at 12:42 p.m.)

5

6 BY MR. WARD:

7 Q Mr. Steckler, I believe you testified earlier, correct me
8 if I am wrong, that you first became aware or familiar with the
9 Brace property in 1983?

10 A (Nods negative) You asked me when I first met Mr. Brace.

11 Q Fine.

12 When did you first become familiar or get onto what is
13 known as the Brace property, any of his property?

14 A 1979.

15 Q What was the circumstances of your going to the Brace
16 property in '79, if you remember?

17 A We looked at a completed conservation project, the grass
18 waterway across from his barn. By we, I mean the technician in
19 my office and myself.

20 Q Completion of a grass waterway.

21 What is that?

22 Grass waterway project, what is that?

23 A It is a depression in the field that is shaped with a
24 dozer and smoothed out and reseeded to safely carry excess rain
25 water that runs off the field.

1 Q Is this a common practice?

2 A Yes.

3 Q It is?

4 A Yes.

5 Q Did you go back to the property and, again, into this
6 area we are discussing today after 1979?

7 A In 1988.

8 Q That was the first time you were on this particular
9 property, okay.

10 How about--you say a function of your office is to advise
11 farmers on installing drainage systems, whether surface or
12 subsurface; is that correct?

13 A That is correct.

14 Q Mr. Lewandowski on your staff?

15 A Yes.

16 Q In your office?

17 A Yes.

18 Q And if you know, has Mr. Lewandowski assisted Mr. Brace
19 in any way at all in the management of water on his property?

20 A Yes.

21 Q And in what way would he have done that?

22 A Well, he was in charge of the waterway project.

23 Q Okay.

24 A I am not sure how much involvement he had with Mr. Brace.

25 Q Okay.

1 A He may have been involved with the father, Charles Brace,
2 and there was a brother, Gerald Brace, in some of the records,
3 too.

4 How much Ed Lewandowski and Robert Brace came in contact,
5 I can't answer that.

6 Q Fine.

7 Mr. Lewandowski still with the agency?

8 A Yes, he is.

9 Q If--is it a general practice with farmers, do they, when
10 they decide to drain fields using underground methods, tiling,
11 do they design where the tile should go themselves and how much,
12 or do they come to S. C. S.?

13 A Both. Some people don't use our assistance.

14 Q And only if you know, do you know whether or not Mr.
15 Brace requested advice from Mr. Lewandowski in the design of a
16 drainage system on the property in question?

17 MR. DANA: If you know.

18 THE WITNESS: From my knowledge, they didn't;
19 not south of the road here. I mean, we are going to get
20 right down to what acre you are talking about stepping
21 on. We did assist him in the grass waterway, which is up
22 here.

23

24 BY MR. WARD:

25 Q But south--what we are considering south of South Hill

1 Road, this area here bounded by Greenlee Road and the waterway
2 here to the south and west, you do not know whether or not your
3 office gave Mr. Brace any advice?

4 A You said the word advice. I personally was never asked.
5 Officially our office gave no assistance.

6 Q When you got in the field, you make up logs of what your
7 activity was for the day?

8 A Somewhat.

9 Q And Mr. Lewandowski is a member of the staff?

10 MR. DANA: Again, only if you know what he
11 does.

12 MR. WARD: I do not ask people what they
13 don't know, David.

14 MR. DANA: You know, John, sometimes
15 questions--

16 THE WITNESS: We generally keep a record of
17 whose farm we was on that day.

18 MR. WARD: Okay, fine.

19

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

21

22 BY MR. WARD:

23 Q I understand Mr. Steckler has a statement to make or
24 clarification to make?

25 A Your one question about the drainage activities, any

1 assistance we may give--there is a record here in 1977 where an
2 underground drain line crossed South Hill Road into the area
3 that you were talking about and it went--I assume they dug
4 through the township road and went about three hundred feet in
5 order to get an outlet. There was no dropoff at the end of the
6 road, no road ditch to use for an outlet, and it was a single
7 line that is this sketched right here.

8 In order to get this water out of the crop fields up
9 here, all the lines were collected and it has to be dumped at a
10 safe outlet; and nearest safe outlet must have been down there.

11 So we did go across the road for that line there.

12 Q If I have oriented myself right, if the map here is
13 right, this would be traveling in a southerly direction, is that
14 correct?

15 A Ah-hum.

16 Q From on the north end of South Hill Road? This is South
17 Hill Road.

18 This is the origination of the drainage system and then
19 going under South Hill Road is going in a southerly direction,
20 is that correct?

21 A Yes, because they have to run by gravity, no pump on
22 them.

23 Q Now, when this--if we can go back--but that is out of
24 your office that sketch is made?

25 A Yes, that was right.

1 Q By Mr. Ruffin?

2 A I don't know. I don't know if he made the sketch.

3 Q Well, we have a copy of this so I will not ask him to
4 keep it here.

5 MR. DANA: You absolutely do have a copy of
6 it?

7 MR. WARD: Yeah, we do. We will have it
8 marked just to ask a couple of questions here off the
9 sketch, unless you want to go ahead and testify. Since
10 his name doesn't appear on it, we don't need it as
11 evidence right now.

12 MR. DANA: It is up to you, John.

13 MR. WARD: Get ours out. We will have it
14 marked.

15 MR. DANA: Drainage work was above the road.
16 I just wanted that for clarification to make sure.

17 MR. WARD: We get back to them--it is an
18 original right here. I don't want to give up an
19 original; we are taking these with us. We will put a
20 sticker on it.

21 Would you please mark this as Exhibit C?

22
23 (Whereupon, Defendant's Exhibit C was produced and marked
24 for identification.)
25

1 BY MR. WARD:

2 Q Mr. Steckler, I hand you what is marked as Defendant's
3 Exhibit C which appears to be a document similar to the one that
4 you had with your file. And asked you if that, in fact, is the
5 document regarding the Brace property and the drainage system in
6 the area with an accompanying sketch, to your knowledge, based
7 on the record?

8 Can you just--that contains some drawings in there
9 representing a drainage system?

10 A Yes.

11 Q And that material is prepared by somebody in the office
12 of the S. C. S., if you know?

13 A Yes.

14 Q And it concerns the drainage on the Brace property and
15 parts of the Brace property?

16 A Yes.

17 Q Let me just go back very quickly then to the water
18 flowing up there.

19 You say it flows at the north end of South Hill Road and
20 southerly toward South Hill Road and across the road, is that
21 correct?

22 A Yes.

23 Q And because of the topography.

24 How would the water flow out of the site in question,
25 let's say in a ditch running in a northerly--northwest/southeast

1 direction?

2 Would that flow in a northerly direction?

3 MR. DANA: If you know.

4 MR. WARD: We agreed it is somewhat north,
5 the top of the photograph.

6 THE WITNESS: Well, the water makes a turn
7 around this high point of land.

8

9 BY MR. WARD:

10 Q Comes down in the low point and finds its way to a lower
11 area over in this portion you say and then out?

12 A It can't come across here, it is too high.

13 Q Right, there is high land there?

14 A From what I seen on the maps, the water has to come
15 around like this.

16 Q Fine.

17 A And then it ends up going--

18 MR. WARD: Do you mind if we keep it? It is
19 part of the original file.

20 MR. DANA: I have no objection. We have a
21 copy and we actually produced to you a copy as well.

22 MR. WARD: We will keep it then.

23

24 BY MR. WARD:

25 Q Mr. Lewandowski, further examination of our--

1 MR. DANA: Steckler. He is Mr. Steckler.

2 MR. WARD: I mean Steckler.

3

4 BY MR. WARD:

5 Q We have come across another form called a referral for
6 technical determination U. S. D. A. and it has the same code
7 number R. E. 247 that we alluded to earlier as Defendant's
8 Exhibit C.

9 This one, I ask you to look at this and if you will just
10 indicate that is part of your agency records, or if you have a
11 copy of that with you today?

12 MR. DANA: This is different than the last
13 one?

14 MR. WARD: Yes, it is.

15 THE WITNESS: Yeah, this is the type of forms
16 and stuff we use for those jobs, right.

17

18 BY MR. WARD:

19 Q There is a sketch in there also indicating what?

20 A Various underground drains were installed.

21 Q And does that form show which property is involved?

22 A No.

23 Q By that I meant Robert Brace; it is the address of him?

24 A Okay, his name is there. Mr. Brace's name is there.

25 Q But it doesn't show the exact location on the sketch?

1 A No, the roads are not labeled and all. We don't know
2 what fields they are.

3 Q On the part of that report is a tile installation report;
4 is that part of your agency procedure?

5 A Yes, that is the form we use.

6 Q And is that information given to them by the farmer; is
7 that it, or how does that work?

8 It apparently reflects feet of tiles installed, is that
9 correct?

10 A Yes, this is the form we use to record our planned
11 drainage system that we worked out with the farmer, like we
12 talked before, and we record on here the farmer's name and
13 address and soil types we are working on. And then this sketch
14 is drawn up and the contractor, who is then hired by the
15 landowner or farmer, he uses this to install the system.

16 Q And then as it is noted on here--and I am going to ask it
17 be marked also--there is a notation down at the very bottom as
18 to who laid it out and what date.

19 A Yeah, that is Mr. Lewandowski.

20 Q And he is part of your office?

21 A Yes.

22

23 (Whereupon, Defendant's Exhibit D was produced and marked
24 for identification.)

25

1 BY MR. WARD:

2 Q Also within the material we had is a what appears to be
3 several pages from a notebook. At the top it says U.S.
4 Department of Agriculture, Soil Conservation Service. And I
5 just ask you if this kind of document is maintained by the
6 people in the field?

7 Is that typical of their notation of ongoing work?

8 MR. DANA: Take your time and look at it.

9 THE WITNESS: Yes.

10

11 BY MR. WARD:

12 Q That have a name on it of who was involved?

13 A Robert Brace. It is for the grass waterway job we
14 discussed earlier.

15 Q Fine, that relates to it.

16 Is there a name of somebody from your organization?

17 A Ed Lewandowski, Robert Wently and Joel Elder. Three
18 people that day.

19 Q And the sketch does indicate tile and directions, am I
20 correct?

21 A There was a single tile line with the grass waterway.

22 MR. WARD: Okay, we can--I have no further
23 questions for Mr. Steckler.

24 MR. DANA: Could I see Exhibit D?

25

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

2

3

CROSS-EXAMINATION

4

5 BY MR. DANA:

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

9 A Different parcels, yes.

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

14 Is it marked?

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

20 MR. DANA: Thank you.

21 MR. WARD: I have nothing further.

22 MR. DANA: Okay. Reserve signature on both.

23

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

25

AMMENDMENT PAGE

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

PAGE	LINE	CORRECTION
------	------	------------



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SIGNATURE PAGE

I, Lewis Steckler, have read the foregoing transcript of my deposition, and affix my signature in approval of the correctness of my statement, except for corrections noted on the amendment page.

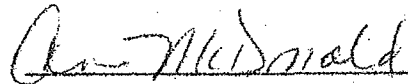
Lewis Steckler

Dated: _____

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.



Ann McDonald, C.S.R.

Notary Public



Erie County ASCS Office
R.D.#6 Route 19
Waterford, PA 16441
Telephone 795-6760

September 21, 1988

Robert H. Brace
Box 338
Waterford, PA 16441

Dear Mr. Brace:

The Erie County ASC Committee, at their regular meeting on September 14, 1988, reviewed your request for Swampbuster Commenced for your farm, serial number 826, tract 1356.

After reviewing invoices that you submitted and concurrence with Lew Steckler, District Conservationist, SCS, the County Committee determined that conversion of the wetlands began before December 23, 1985, and will enable you to complete the conversion and produce an agricultural commodity on the converted wetlands without losing USDA benefits.

The County Committee determination is based on the following criteria (1) construction activities were actively started prior to December 23, 1985 as supported by invoices; (2) substantial funds have been expended in the wetlands for the direct purpose of converting the wetlands prior to December 23, 1985, as supported by invoices.

Please contact this office if you have further questions.

Sincerely,

Joseph Burawa, County Executive Director
For: Erie County ASC Committee.

Enclosure

CC: Lew Steckler, D.C., SCS

AWP

U.S. DEPARTMENT OF AGRICULTURE

1. STATE NAME PA	2. COUNTY NAME Erie
3. FARM NUMBER 826	

DATA NEEDED FOR SWAMPBUSTER COMMENCED AND THIRD-PARTY DETERMINATIONS

NAME AND ADDRESS OF PRODUCER
 Robert H. Brace
 Box 338
 Waterford, PA 16441

4. TELEPHONE NUMBER (Area Code)
814-796-2529

5. GIVE LEGAL DESCRIPTION OF AREAS
(Attach a photo copy and identify areas)
 Erie County, Waterford Township
 on South Hill Rd., east of
 Sharp Rd. ASCS tract 1356

	YES	NO
6. Has a wetland determination been completed by SCS? (If no, a wetland determination is needed to consider a commencement request.) (If yes, are the areas in question determined to be wetlands.)	X	
7. Has any action (dirt moved) been taken to convert the wetland(s)? (If yes, what date <u>4-28-77</u> and what action was taken to convert the wetland(s) <u>ditching, tile, dozing</u>)	X	
8. What information is available to document the action to convert the wetland and the date? (For example, ASCS photos, canceled checks, contracts, who completed the work, etc.)	X	
9. Have you spent or legally committed substantial funds for "supplies or materials for the primary and direct purpose of converting the wetland" prior to December 23, 1985? Equipment purchases, such as tractors or scrapers, do not apply. Expenses for planning, such as attorney's fees, mileage, telephone calls, or surveying, do not apply. Date materials were purchased <u>4-28-77</u> through <u>5-8-87</u> and the amount <u>28524.00</u>	X	

10. Provide copies of documentation; such as canceled checks, invoices, etc. Date a contract to move dirt was entered into _____
 Provide a copy of the contract. Breakdown, by amount to whom the funds were committed and the purpose of each.

NAME OF INDIVIDUAL(S) FUNDS COMMITTED TO AND PURPOSE OF EACH	AMOUNT	TOTAL PROJECT COSTS	FUNDS COMMITTED TO DATE
A	B	C	D
Statements attached	28524.00		28524.00

11. Explain what has been done to establish the fact that you have actively pursued the completion of the project.
purchased home farm in 1976. Work is continuous, substantiated by invoices

12. Has a crop been planted in the wetland in the current year? (If yes, what date May 1987)

13. Is the request within the boundary of a drainage district? (If yes, a detailed plan must be submitted.)
No.

14. Is this a request for an exemption because of a third-party drainage? (If yes, provide full details of why and how you were not involved, in any way, with the drainage of the wetland.)
 YES NO

SIGNATURE OF PRODUCER: Robert H. Brace DATE: Aug 31, 1988

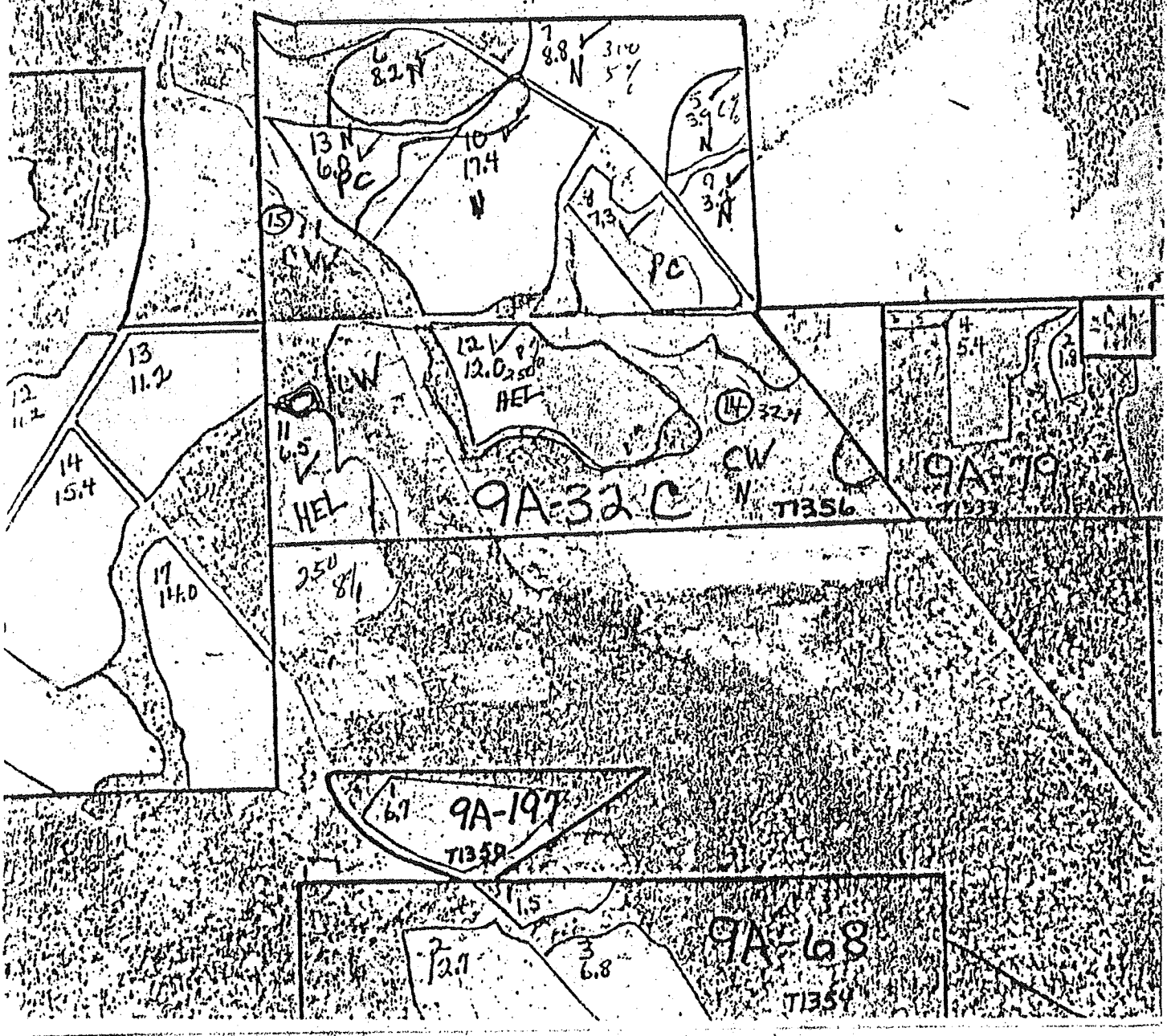
NOTE: The granting of a commencement or third-party request does not remove other legal requirements that may be required under State or Federal water laws.

This form must be filed no later than September 19, 1988. No commencement requests will be considered after this date.

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or handicap.

32 Robert H. Brace
9A (c) M-11
(826) A

NOT TO SCALE



32
9A (826) (A) C D-12
Robert H. Grace

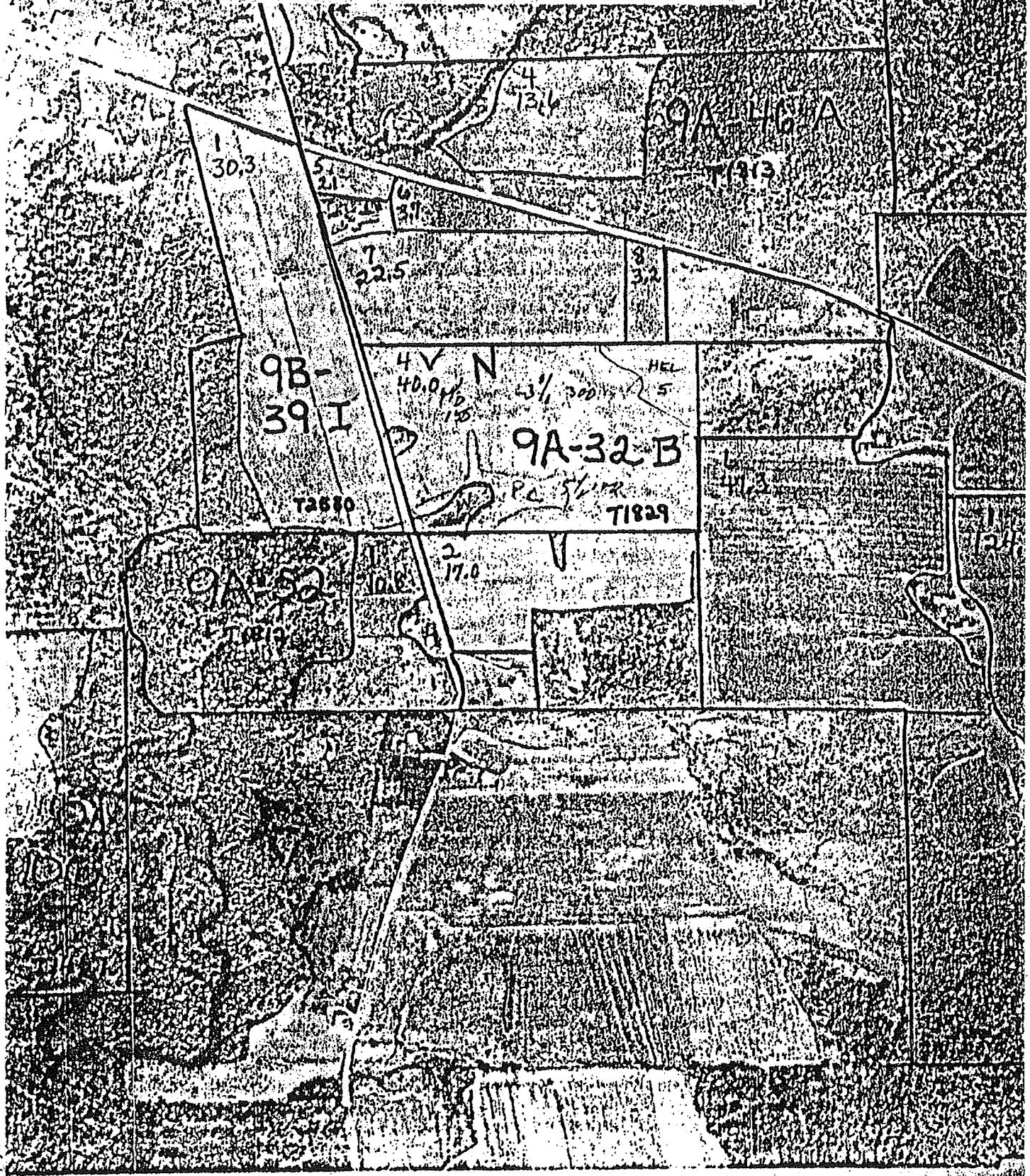
NOT TO SCALE



3a Robert H. Brace
9A (B) 0-12
(826)

4

NOT TO SCALE



NOTE

The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the information to be supplied on this form is the Food Security Act of 1985, P.L. 99-198, and regulations promulgated under the Act (7CFR Part 12). The information will be used to determine eligibility for program benefits and other financial assistance administered by USDA agencies. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court magistrate or administrative tribunal. Furnishing the Social Security Number is voluntary. Furnishing the other requested information is voluntary; however, failure to furnish the correct, complete information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA agencies. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to information provided by the producer on this form.

PART A - PRODUCER'S INTENTIONS FOR USE OF LAND

NAME AND ADDRESS OF PRODUCER ROBERT H. BRACE Box 338 WATERFORD, PA. 16441	2. SOCIAL SECURITY NUMBER (or tax ID number)	3. CROP YEAR 1988
	FARM NUMBER(S) 4 826	COUNTY(IES) WHERE LOCATED 5 ERIE

6. During either the crop year entered in item 3 above, or the term of a requested USDA loan, will an agricultural commodity be produced on fields of the farm(s) that were not used for the production of any agricultural commodity (see instructions) or not enrolled in an USDA set-aside or diversion program during any crop year 1981 through 1985? If "yes," list the farm and field numbers. F50-826 T-1356	Yes	No
7. Will an agricultural commodity be produced on any land on the farm(s) listed above that was a wet area but was improved, drained, or modified, or converted after December 23, 1985? If "yes," list the farm and field numbers. F50-826 T-1356	Yes	No
8. Do you plan to convert any land including wet areas for the production of an agricultural commodity this year or during the term of a requested USDA loan or other program benefit? If "yes," list the farm and field numbers.	Yes	No

I hereby certify that the above information is true and correct to the best of my knowledge and belief.

9. SIGNATURE OF PRODUCER: Robert H. Brace
DATE: 8-31-88

PART B - REFERRAL TO SCS

10. Based on county office information, a SCS determination is:

a. Needed prior to the producer's certification in Part C.

b. Needed before January 1, 1990.

NOTE: If the producer answers "No" to Part A, items 6, 7, and 8, and the agency so agrees, the producer may complete the certification in Part C without a SCS determination. However, beginning January 1, 1990, or 2 years after a soil survey is completed, the producer must be actively applying an approved conservation plan on all highly erodible fields. Therefore, a SCS determination regarding the existence of any highly erodible fields on the farm(s) listed above is necessary before January 1, 1990.

11. DATE REFERRED TO SCS FOR DETERMINATION: 9-7-88
12. SIGNATURE OF AGENCY REPRESENTATIVE: [Signature]
DATE: 9-7-88

PART C - USE CERTIFICATION (Completed by producer)

13. As a condition of eligibility for any USDA loans or other program benefits, I hereby certify that:

a. I will not produce an agricultural commodity on highly erodible fields (except fields that, in any crop year between 1981 and 1985, were used to produce any agricultural commodity or were enrolled in a USDA set-aside or diversion program); and I will not use the proceeds of any FmHA loan, insured or guaranteed, received after December 23, 1985, for a purpose that will contribute to production of an agricultural commodity on these highly erodible fields, as determined by SCS, unless an approved conservation system has been fully applied.

b. I will not produce an agricultural commodity on converted wetlands or use proceeds from any FmHA farm loan, insured or guaranteed, received after December 23, 1985, for a purpose that will contribute to the conversion of a wetland to produce an agricultural commodity, as determined by SCS.

c. I will not convert wetlands or bring new lands into production for the purpose of producing an agricultural commodity without first consulting all USDA agencies with which (1) I have a current contract or loan agreement, insured or guaranteed, or (2) I have a crop insurance contract issued by or reinsured by the Federal Crop Insurance Corporation.

d. USDA representatives may enter upon my land for the purpose of confirming any of the above statements.

SIGNATURE OF PRODUCER: _____ DATE: _____

14. REMARKS: _____

U.S.D.A.
Soil Conservation Service

SCS-CPA-026
(1-88)

1. Name and Address of Person

Robert H. Brose
Box 338
Waterford, Pa. 16444

2. Date of Request

9-7-88

3. County

Lycoming

**HIGHLY ERODIBLE LAND AND WETLAND
CONSERVATION DETERMINATION**

Name of USDA Agency or Person Requesting Determination

ASCS

5. Farm No. and Tract No.

826 T 1356

SECTION I - HIGHLY ERODIBLE LAND

Is soil survey now available for making a highly erodible land determination?	Yes	No	Field No.(s)	Total Acres
Are there highly erodible soil map units on this farm?	X			
List highly erodible fields that, according to ASCS records, were used to produce an agricultural commodity in any crop year during 1981-1985.			11, 12	18.5
List highly erodible fields that have been or will be converted for the production of agricultural commodities and, according to ASCS records, were not used for this purpose in any crop year during 1981-1985; and were not enrolled in a USDA set-aside or diversion program.				
0. This Highly Erodible Land determination was completed in the: Office <input type="checkbox"/> Field <input checked="" type="checkbox"/>				

NOTE: If you have highly erodible cropland fields, you may need to have a conservation plan developed for these fields. For further information, contact the local office of the Soil Conservation Service.

SECTION II - WETLAND

1. Are there hydric soils on this farm?	Yes	No	Field No.(s)	Total Wetland Acres
2. Wetlands (W), including abandoned wetlands, or Farmed Wetlands (FW). Wetlands may be farmed under natural conditions. Farmed Wetlands may be farmed and maintained in the same manner as they were prior to December 23, 1985, as long as they are not abandoned.				
3. Prior Converted Wetlands (PC) - The use, management, drainage, and alteration of prior converted wetlands (PC) are not subject to FSA unless the area reverts to wetland as a result of abandonment. You should inform SCS of any area to be used to produce an agricultural commodity that has not been cropped, managed, or maintained for 5 years or more.			1, 4, 6, 8, 10, 13	
4. Artificial Wetlands (AW) - Artificial Wetlands includes irrigation induced wetlands. These Wetlands are not subject to FSA.				
5. Minimal Effect Wetlands (MW) - These wetlands are to be farmed according to the minimal effect agreement signed at the time the minimal effect determination was made.				
6. Converted Wetlands (CW) - In any year that an agricultural commodity is planted on these Converted Wetlands, you will be ineligible for USDA benefits. If you believe that the conversion was commenced before December 23, 1985, or that the conversion was caused by a third party, contact the ASCS office to request a commenced or third party determination.			14, 15	43.4
7. The planned alteration measures on wetlands in fields _____ are considered maintenance and are in compliance with FSA.				
8. The planned alteration measures on wetlands in fields _____ are not considered to be maintenance and if installed will cause the area to become a Converted Wetland (CW). See Item 16 for information on CW.				
9. This wetland determination was completed in the: Office <input type="checkbox"/> Field <input checked="" type="checkbox"/>				
0. This determination was: Delivered <input checked="" type="checkbox"/> Mailed <input type="checkbox"/> To the Person on Date: 9-20-88				

NOTE: If you do not agree with this determination, you may request a reconsideration from the person that signed this form in Block 22 below. The reconsideration is a prerequisite for any further appeal. The request for the reconsideration must be in writing and must state your reasons for the request. The request must be mailed or delivered within 15 days after this determination is mailed to or otherwise made available to you. Please see reverse side of the producer's copy of this form for more information on appeals procedure.

NOTE: If you intend to convert additional land to cropland or alter any wetlands, you must initiate another Form AD-1028 at the local office of ASCS. Abandonment is where land has not been cropped, managed, or maintained for 5 years or more. You should inform SCS if you plan to produce an agricultural commodity on abandoned wetlands.

1. Remarks

2. Signature of SCS District Conservationist: *John L. Stecker* Date: 9-15-88

assistance and programs of the Soil Conservation Service available without regard to race, religion, color, sex, age, handicap, etc.

Person Copy

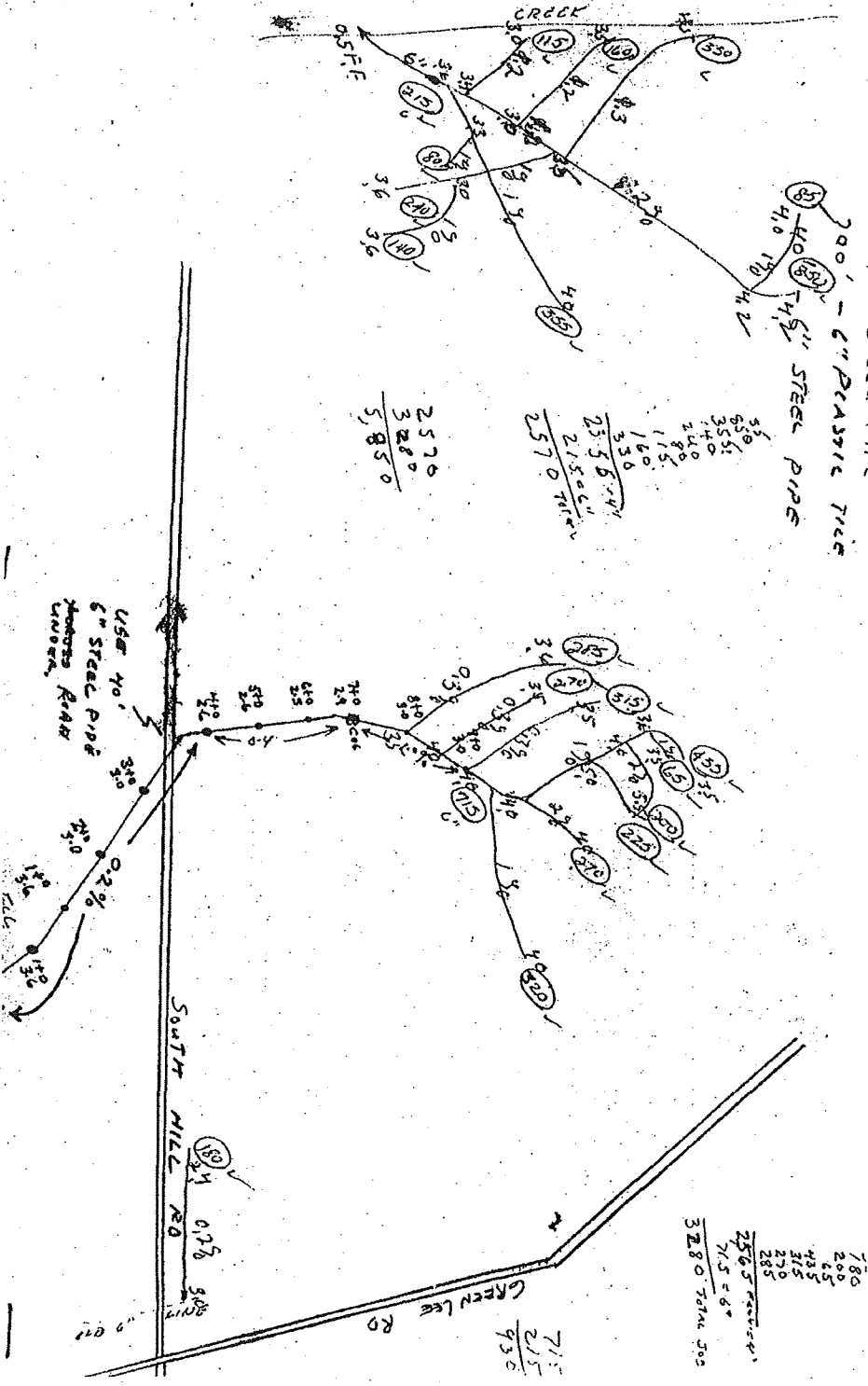
RE-247 (4-17-74)		U. S. DEPARTMENT OF AGRICULTURE Agricultural Stabilization and Conservation Service		AGREEMENT (Check One) ANA <input checked="" type="checkbox"/> LTA <input type="checkbox"/> FIP <input type="checkbox"/>	
REFERRAL FOR TECHNICAL DETERMINATION					
FARM NO.		NAME AND ADDRESS		PROGRAM YEAR	
		H BRACE 166 130 1977 025 WILKESBORO PA 16441			
		FARM PHONE NO. 796-2174		REFERRAL EXPIRES (Date) 6-15-77	
FARM LOCATION (And Practice Location, if Desired)			FOR COUNTY COMMITTEE		DATE 3-1-77
SIGNATURE (Designated Technician) <i>W. L. Ruffin</i>					

NO.	DESCRIPTION	LENGTH	PRACTICE UNITS NEEDED	PRACTICE UNITS COMPLETED	ACRES SERVED (Actual or estimated)
SC-10	Underground Drain System 4"	6,000'	6,000	4,920	15
	4" steel pipe		20		
	6" steel pipe			50	
	UNDERGROUND DRAIN 6"			880	
Wetland types - 3, 4, or 5 - YES OR <input checked="" type="radio"/> NO					
WETLAND PROVISION CHECKED BY SCS					

SECTION I - NEEDS STATEMENT THE PRACTICE SHOWN IN COLUMN B WITH THE UNITS SHOWN IN COLUMN D IS NEEDED AND PRACTICAL FOR THE FARM. <i>Two more needed 2/1/77</i> <i>The practice specified is consistent with the construction plan 4/1/77</i>		ESTIMATED COST (if needed) \$
SIGNATURE (Designated Technician) <i>Willie L. Ruffin</i>		DATE 3/7/77

SECTION II - PERFORMANCE REPORT THE PRACTICE SHOWN IN COLUMN B HAS BEEN PERFORMED TO THE EXTENT SHOWN IN COLUMN E AND MEETS PROGRAM REQUIREMENTS. IF THE PRACTICE DOES NOT MEET PRACTICE SPECIFICATION OR IF ADDITIONAL WORK IS REQUIRED, EXPLAIN. <i>Two outlets installed 2/1/77</i> <i>No Power Utilities</i>		DEFENDANT'S EXHIBIT C Am 31892
SIGNATURE (Designated Technician) <i>Willie L. Ruffin</i>		DATE 3/26/77

TECHNICAL AGENCY COPY



2570
3280
<u>5850</u>

2356.41
215.61
<u>2572.02</u>

780
200
65
485
315
270
280
<u>2565</u>
7.5 = 6"
3280 TOTAL SCS

715
215
<u>930</u>

106 REPORTED,
199.

PA-ENG-19
Rev. 2/72
(File Code-Eng.11)

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

TILE INSTALLATION REPORT

This Report may be completed by the Contractor when his services are used in any or all phases of Tile Installation. Proper completion and prompt return of this Report to the SCS Office will facilitate certification of performance by SCS.

FARMER ROBERT BRACE
LOCATION ON FARM GREENLEE RD

DESIGN DATA

SOILS ERIE SILT LOAM
DRAINAGE COEFFICIENT .07/1000 RECOMMENDED SPACING 50'

MAIN AND LATERAL(S)					REQUIRED STRUCTURES	
Number & Station	Acres Drained	Grade	Size	Length	Structure Type	Number
					Breather	
					Relief Well	
					Junction Box	
					Manhole	
					Surface Inlet	
					Other	

PREVIOUS CORNER
CHARLES BRACE

PLANNED OUTLET

OPEN DITCH EXISTING TILE _____ DIAMETER _____
CONDITION OF OUTLET Good. SOME FILL NEEDED AT OUTLET.
NO BURIED UTILITIES S&R
LAYOUT BY Ed LEWANDOWSKI 7/77.

CONSTRUCTION DATA
TILE AND STRUCTURES INSTALLED

MAIN AND LATERAL(S)		STRUCTURES	
Tile Size	Length (Feet)	Structure Type	Number Installed
4"	4920'	Breather	
6"	930'	Relief Well	
	5850	Junction Box	
2" STEEL PIPE	20'	Manhole	
6" STEEL PIPE	30' (CONCRETE END)	Surface Inlet	
4" PLASTIC DRAIN	4920'	Other	
6" PLASTIC DRAIN	880'		
TOTAL JOB	5850 TOTAL JOB		

OUTLET INSTALLED

EXISTING TILE _____ DIAMETER _____
 CORRUGATED METAL PIPE Steel LENGTH DIAMETER _____
 STRUCTURE _____ 2-10-6"
 ANIMAL GUARD INSTALLED YES NO 30-6" under Road
 TILE MANUFACTURER A.P.S.

PROFILE OF MAIN, KEY OR REPRESENTATIVE LINES

Station	Rod Reading or Measurement		Station	Rod Reading or Measurement	
	Ground	Bottom of Trench		Ground	Bottom of Trench

I certify that I have installed the tile in accordance with this Report and Soil Conservation Service Standards and Specifications.

CONTRACTOR RR Sheldon DATE July 14, 77

RE-247 (6-17-74) U.S. DEPARTMENT OF AGRICULTURE Agricultural Stabilization and Conservation Service

REFERRAL FOR TECHNICAL DETERMINATION

NAME AND ADDRESS: ROBERT BRACE, R.D. #3, WATERFORD, PA 16441

APPROVAL YEAR: 1978

SCS XX FS. I Page 4 Line 16

DATE: April 1978

FARM PHONE NO. 796-2174

DATE OF VISIT: 6/15/78

FARM NO. (and Practice Location, if Different)

LOCAL COUNTY COMMITTEE

DATE: 4/12/78

[Signature]

NO.	DESCRIPTION	PATENT	PRACTICE UNITS NEEDED	PRACTICE UNITS PERFORMED	ACRES SERVED (Actual or Estimated)
SP-4	Underground Drain System 4"	4,000'		5050	
	4" STEEL PIPE (30x11.5)			30	
Wetland	types - 3, 4, or 5 - YES OR NO				
WETLAND	PROVISION CHECKED BY SCS				

SECTION I - NEEDS STATEMENT

THE PRACTICE SHOWN IN COLUMN D WITH THE UNITS SHOWN IN COLUMN E IS NEEDED AND PRACTICAL FOR THE FARM.

ESTIMATED COST (if needed)

The practice requested is consistent with the conservation - needed. E.A. 4/13/78

SIGNATURE (Designated Technician)

DATE: 4/13/78

SECTION II - PERFORMANCE REPORT

THE PRACTICE SHOWN IN COLUMN B HAS BEEN PERFORMED TO THE EXTENT SHOWN IN COLUMN E AND MEETS PROGRAM REQUIREMENTS. IF THE PRACTICE DOES NOT MEET PRACTICE SPECIFICATION OR IF ADDITIONAL WORK IS REQUIRED, EXPLAIN.

DEFENDANT'S EXHIBIT D 07/3-18-92

SIGNATURE (Designated Technician)

DATE: 5/11/78

ESTIMATED TECHNICAL SERVICE TIME, WHEN REQUESTED (Hours)

TECHNICAL AGENCY COPY

PA-ENG-19
Rev. 2/72
(File Code-Eng-11)

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

here
REC ON 1992
10th Repub

TILE INSTALLATION REPORT

This Report may be completed by the Contractor when his services are used in any or all phases of Tile Installation. Proper completion and prompt return of this Report to the SCS Office will facilitate certification of performance by SCS.

FARMER Bob BRACE ROBERT BRACE

LOCATION ON FARM GREENLEE RD

DESIGN DATA

SOILS FRIC SILT LOAM 0-3%

DRAINAGE COEFFICIENT .07/1000 RECOMMENDED SPACING 50'

MAIN AND LATERAL(S)					REQUIRED STRUCTURES	
Number & Station	Acres Drained	Grade	Size	Length	Structure Type	Number
					Breather	
					Relief Well	
					Junction Box	
					Manhole	
					Surface Inlet	
					Other	

PLANNED OUTLET

OPEN DITCH EXISTING TILE _____ DIAMETER _____

CONDITION OF OUTLET Good.

Layout by E. LEWANDOWSKI 4/28
No Utilities -

**CONSTRUCTION DATA
TILE AND STRUCTURES INSTALLED**

MAIN AND LATERAL(S)		STRUCTURES	
Tile Size	Length (Feet)	Structure Type	Number Installed
4"	5070	Breather	
4" STEEL PIPE	30'	Relief Well	
4" PLASTIC TILE	5050	Junction Box	
4" TOTAL JOB	5080	Manhole	
		Surface Inlet	
		Other	

OUTLET INSTALLED

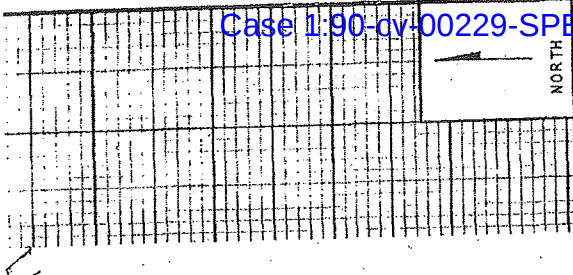
EXISTING TILE _____ DIAMETER _____
 CORRUGATED METAL PIPE LENGTH 10 DIAMETER 4"
 STRUCTURE _____ 10 4"
 ANIMAL GUARD INSTALLED YES NO _____ 10 4"
 TILE MANUFACTURER H.D.S.

PROFILE OF MAIN, KEY OR REPRESENTATIVE LINES

Station	Rod Reading or Measurement		Station	Rod Reading or Measurement	
	Ground	Bottom of Trench		Ground	Bottom of Trench

I certify that I have installed the tile in accordance with this Report and Soil Conservation Service Standards and Specifications.

CONTRACTOR R.R. Shelton DATE 5-2-78



LEGEND

- FILE
- FILE
- DITCH
- LINE
- TRANSMISSION
- BERGROUND
- HONE
- BERGROUND
- ARY
- HER

