



ERIE COUNTY CONSERVATION DISTRICT

1927 Wager Road - Erie, PA 16509
Phone (814) 825-6403 - Fax (814) 825-6033
E-mail eriecons@erieconservation.com



Earl J. Brown, District Manager

Robert Brace & Sons, Inc.
1131 Route 97
PO Box 338
Waterford, Pennsylvania
16441

December 10th, 2010

Mr. Brace:

Please find enclosed a copy of recent correspondence from Mr. Jeffrey D. Lapp, Associate Director of the Office of Environmental Programs, United States Environmental Protection Agency, received by the Erie County Conservation District on December 9th, 2010. Mr. Lapp addresses several concerns raised by the Erie County Conservation District on behalf of you and Robert Brace & Sons, Inc.

Specifically, Mr. Lapp comments on his testimony regarding your inquiries into the location and boundaries of a thirty acre parcel. Mr. Lapp indicates that this information is a part of the court record. Further, that additional information on the thirty acre parcel is specifically commented on within the consent decree. Ultimately, Mr. Lapp extends an offer to support you and Robert Brace & Sons, Inc., on behalf of the Environmental Protection Agency, should you require assistance with this investigation.

At this point in time, the Erie County Conservation District has exhausted the resources available to us in this inquiry and is not aware of any further means of assisting you. We hope that the Erie County Conservation District's support in your investigation thus far has been of use. Further inquiries in this vein should be directed to Mr. Lapp and the Environmental Protection Agency, who are prepared to assist you.

Should you have any questions, comments, or concerns, please contact the Erie County Conservation District at your convenience.

Regards,

A handwritten signature in cursive script that reads 'Earl J. Brown'.

Earl J. Brown
District Manager

EJB/jh
Enclosures





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

DEC 2010

Mr. Earl J. Brown
District Manager
Erie County Conservation District
1927 Wager Road
Erie, PA 16509

RE: Robert Brace Property

Dear Mr. Brown,

I am in receipt of your letter dated November 19, 2010 concerning the Robert Brace property located in Waterford Township, Erie County, Pennsylvania. Attached to the letter was a portion of my testimony from the US Court of Claims action which Mr. Brace undertook against the federal government. The portion of testimony you sent involves a 30-acre portion of property located on the Brace farm. This particular 30 acres was the subject of a Clean Water Act violation that EPA litigated in the 1990's and was eventually resolved by the Third Circuit Court of Appeals located in Philadelphia, Pennsylvania. It is my understanding that the metes and bounds description of this 30-acre parcel was adjudicated in the Third Circuit and is part of the court record.

In order to locate the meets and bounds of the 30-acre wetland area I would recommend that Mr. Brace refer to the court proceedings and the consent decree which is part of the record. EPA may also be able to assist Mr. Brace in identifying the metes and bounds of this area, however our records have been archived and it will take me some time to retrieve them from our repository.

Should you have any further questions concerning this issue please do not hesitate to call or email me. I hope that I have been of some assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey D. Lapp", is written over the typed name.

Jeffrey D. Lapp
Associate Director,
Office of Environmental Programs

Cc: Pam Lazos, ORC



LAPP - DIRECT

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1 out of the wetland area and discharge that into
2 unnamed tributary B.

3 And so what we had was you could put in a
4 plug in it. Basically they are no longer taking the
5 surface water out of that wetland system.

6 Q Now, what was the goal of this restoration
7 plan?

8 A The goal of this restoration plan was to
9 restore the hydrologic drive back to this wetland
10 system, and we used a target date of 1984. So it was
11 to remedy those activities which had occurred from
12 1984 onward.

13 Q And why back to 1984?

14 A The information, if I recall at the time
15 that the enforcement coordinator had was that the
16 activities had occurred in 1985 forward, and also
17 usually what we do is when we look for remedies is
18 like we use a five-year limit that we go back to and
19 try to get remedy for.

20 Q And in terms of the goal of the restoration
21 plan, what area of the property was intended to be
22 impacted, or in your opinion, would be impacted by the
23 restoration?

24 A The intent and in my opinion the extent of
25 impact of this restoration was solely on the 30-acre

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1 wetland tract.

2 Q Would it be possible for Mr. Brace to
3 approach the agency concerning modifying this
4 restoration plan?

5 A Certainly.

6 Q And under what circumstances or how would
7 that be likely to occur?

8 A If maybe there was need for relief in other
9 areas of the parcel or something like that outside
10 this 30 acres, you know, that would have been
11 something that we would work with Mr. Brace, you know,
12 to try to correct.

13 Q And does that remain true to this day?

14 In other words, if Mr. Brace felt that the
15 restoration was impacting more than the 30 acres,
16 could he approach the agency about modifying the
17 restoration plan?

18 A Certainly.

19 Q Now I want to talk for a moment about some
20 of the exemptions to the Clean Water Act, and in a
21 slightly different context than we have before.

22 But looking again at the Attachment A
23 restoration plan attached to the consent decree, I
24 notice a amoebic-like blank area in the center of the
25 Murphy farm parcel that does not contain hatch marks.

Heritage Reporting Corporation .
(202) 628-4888



January 11, 2011

Earl Brown
District Manager
Erie County Conservation District
1927 Wager Road
Erie, PA 16509

Dear Earl:

Please find enclosed a copy of the letter recently sent to Mr. Jeffrey Lapp of the U.S. Environmental Protection Agency regarding my Waterford farm on Greenley Road. I appreciate all the assistance you have offered thus far and will continue to keep you informed of any new information I receive.

Sincerely,

Robert Brace

RB/rm
Enclosure