

January 17, 2013

Mr. Todd Lutte
U. S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

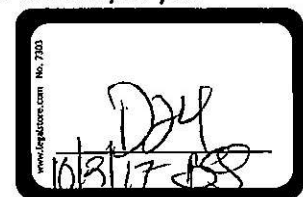
Dear Mr. Lutte:

This is in follow-up to our recent telephone conversation of January 14, 2012, following receipt of the enclosed letter from Mr. Scott Hans, Chief of the Regulatory Branch, Army Corps of Engineers in Pittsburgh, Pennsylvania (ACOE).

As you know, the above noted letter from the ACOE makes reference to the Jurisdictional Determination that was performed by you and Mike Fodse of the ACOE back on July 24, 2012. The site visit and meeting was actually held to inspect my field ditches following the removal of beaver dams, for which permission was received from both you and Mr. Fodse and the Pennsylvania Game Commission in the spring of 2012. Specifically, Mr. Fodse had requested in his e-mail of October 7, 2011 (see enclosed) to return and view the ditches after the beaver and dams had been removed and the water receded, in order to make a final determination as to whether the ditches were agriculturally exempt. As you know, at the conclusion of our meeting, both you and Mr. Fodse agreed that the ditches met the agricultural exemption and that we could proceed with cleaning them in order to remove the excess water affecting my farm fields and maintain our existing drainage system. All this correspondence and field work was necessitated due to the effects of a government ordered restoration plan required several years prior, which was to restore approximately 30 acres of wetland on my farm. However, as you know, the results were far more extensive, affecting many acres of my upland fields, as well.

With all that being said, at the end of our meeting in July, you and Mr. Fodse had indicated that formal paperwork indicating your agreement and decision regarding the ditches and agricultural exemption would be forthcoming; however, the government "worked slow," as you put it, and you indicated not to expect anything too soon. You both indicated, however, that we could proceed in our efforts to clean the ditches and perform our maintenance activities, as you knew the high water was affecting our crops and ability to farm that property efficiently. At that time we also discussed the fact that for many years now I have had to obtain easements with adjacent landowners in order to keep the ditches free of debris. One such landowner was the Marsh family, and I indicated to you on site that we recently purchased the property in order to better maintain our own system and not have to worry about future easements. I also indicated to you that I intended to farm the property.

Shortly after our meeting we began proceeding with our clean up and maintenance efforts, taking care to avoid the southern back section from Lane Road (where the 30 acre wetland is located) as you



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requested. The only work that was performed on the land south of Lane Road was ditch cleaning. You had indicated to both of my sons, Randy and Ronnie, that this was allowed, as long as we stayed out of the back 30 acre wetland area. Be assured, we did not disturb that area.

In regard to the ditch and property North of Lane Road, again, we cleaned the ditch running from Lane to Sharp Road, as we had discussed on site. This is the same ditch that Mr. Fodse asked Randy to send the approximate length of and which he did approximately one week later on July 31, 2012 (see attached). This is the ditch that is also partially located on what you know as the Marsh property, but which we now own. This is the area that we indicated you may get some calls on and you told us not to worry, that all calls should be directed to the EPA. You made it known that EPA was taking the lead in this and that all other agencies no longer had jurisdiction. It has always been imperative that the Marsh family allow us maintenance of the ditch, as the drainage system is all inter-connected. This can be verified in a letter dated November 15, 1994, to the state Department of Environmental Resources. In that letter, which is seeking to notify the Department of my intent to remove beaver dams, it informs the Department that the dam is located in a part of the drainage system located in McKean Township, which would be the portion located on the Marsh property. This relates to our telephone discussion regarding the status of the McKean Township property, (i.e. Marsh property) as its status is directly affected by our ability to maintain our drainage system. As I indicated to you, if that property had any wetland characteristics, it should have been considered commended into agricultural status when that ditch was installed in the mid 1970's (see attached blasting invoices). We have cleaned the ditch after years of neglect and removed the brush. Some tiling was added, which we have indicated on the enclosed aerial photo. Any wetland characteristics displayed on this property are largely due to the unintended, but severe, impacts on the adjacent uplands due to the restoration plan and years of being unable to touch the property while working our way through either the court system or bureaucratic red tape. And, as indicated in our telephone conversation, we had no complaints or issues regarding our use of this property until the officers (some from outside of their own district) showed up from the PA Fish & Boat Commission with firearms threatening to take us to jail. However, as indicated earlier, EPA was taking the lead on this and they were referred to you.

In conclusion, I will simply reiterate once more that I feel we have done nothing more than what was discussed and approved at our July, 2012 meeting. I have enclosed several pieces of correspondence that I feel may be of interest to you. I believe the measures we have taken to repair and maintain our land from the adverse affects of the restoration plan are nothing more than what Judge Allegra ordered in his 2006 decision. I was very appreciative of your willingness to work with me in remedying these problems and hope that we can resolve the ones before us quickly. I am more than happy to meet with you or any other representative you feel necessary; however, having acknowledged that EPA is the

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deciding agency, I think it is a waste of taxpayer dollars to have other representatives involved whose decisions shouldn't have any affect.

Thank you again for your help in this matter. Don't hesitate to contact me with any questions. I look forward to hearing from you.

Sincerely,



Robert Brace

RB/rm

Cc: Pamela Lazos, Esq. (USEPA Region 3)
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Congressman Glenn Thompson
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