

Exhibit 1

From: lkogan@koganlawgroup.com
To: [Brown, Laura J.S. \(ENRD\)](#); [Devlin, Neal](#); [Uholik, Brian \(ENRD\)](#); [Kolman, Chloe \(ENRD\)](#); [Buckley, Sarah \(ENRD\)](#)
Cc: [Cox, Alexander K.](#); [Lamary, Christina](#)
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions / Inspections
Date: Tuesday, September 26, 2017 2:00:59 PM

Good afternoon, Laura et al.

Re: Oct. 2-3, and Oct. 10 Depositions:

Based on the two Map Quest inquiries I have sought, we find that your continued insistence on convening the Oct. 2-3 and Oct. 10 depositions in downtown Philadelphia based on travel and cost burden to the Government and its witnesses is based on little more than hot air.

True to form, you have once again exaggerated the facts surrounding the United States' position on issues in this case to better ensure a more positive case outcome for your client.

How can you honestly argue this point when EPA, the Corps, FWS, USDA and DOJ have been harassing our client in the '90 case (and now also in the '17 case) without proof environmental damages, and spending \$ millions of U.S. taxpayer dollars to do so without hard evidence of environmental harm for more than 30 years?

The facts, however, reveal otherwise:

Point #1: The Map Quest shows a non-rush hour drive time of approx. 27 minutes from Philadelphia Int'l Airport to EPA's offices located at 1650 Arch Street, downtown Philadelphia, whereas, it shows a non-rush hour drive time of approx. 44 minutes from Philadelphia Int'l Airport to the Doubletree Hotel at Valley Forge - an entire 14 minutes of time difference outside of rush hour. If lodging is secured by you and your fellow DOJ attorneys in Valley Forge you and they will have no commute time on Oct. 2-3 or Oct. 10.

<https://www.mapquest.com/directions/from/us/pennsylvania/philadelphia-international-airport-phl-2351477/to/us/pa/philadelphia/19103-2036/1650-arch-st-39.954948,-75.167458>

<https://www.mapquest.com/directions/from/us/pennsylvania/philadelphia-international-airport-phl-2351477/to/us/pennsylvania/hotels-motels-king-of-prussia/doubletree-by-hilton-hotel-philadelphia-valley-forge-291166269>

And, by the way, even with USG discounts, Valley Forge lodging is likely less expensive than, if not, comparable to downtown Philadelphia lodging. Need I secure proof via Kayak.com or any of the other hotel booking websites to make this point?

Point #2: The Map Quest shows that the trip for my co-counsel (and possibly any of my clients should they find the time to attend the Oct. 2-3 or Oct. 10 depositions), traveling from Waterford or Erie, PA to 1650 Arch Street, Philadelphia is approximately 6 and 1/2 hours, whereas, the Map Quest shows that the trip from Waterford PA to the Doubletree Hotel in Valley Forge, PA is approximately 6 hours - a 30-45 minute savings of time in each direction, barring other unforeseeable traffic complications.

<https://www.mapquest.com/directions/from/us/pa/waterford/to/us/pa/philadelphia/19103-2036/1650-arch-st-39.954948,-75.167458>

<https://www.mapquest.com/directions/list/1/us/pa/waterford/to/us/pennsylvania/hotels-motels-king-of-prussia/doubletree-by-hilton-hotel-philadelphia-valley-forge-291166269>

This extra travel time for Attorney Devlin translates into higher costs (billable hours) being charged to our client.

Drive time for me commuting from NJ during rush hour is at least 30 minutes less in each direction if the depositions are convened at the Doubletree in Valley Forge than at EPA's Offices at 1650 Arch Street, downtown Philadelphia. Convening the Oct. 2-3 and Oct. 10 depositions in downtown Philadelphia translates into higher costs (billable hours) I will need to charge our client.

Point #3: An inquiry made about parking charges in downtown Philadelphia near the EPA's Office at 1650 Arch Street, further supports convening the Oct. 2-3 depositions in Valley Forge. The 12 hour period rate for parking in that section of Philadelphia ranges from \$20-\$30.

<https://en.parkopedia.com/parking/philadelphia/?arriving=201709261000&leaving=201709261200>

By comparison, there is NO (\$0 dollars) parking charge imposed by the Doubletree Hotel in Valley Forge.

Granted, this daily savings on parking charges may be lost by you and your DOJ colleagues if you and they choose to cab it from Philadelphia Int'l Airport to and from the Doubletree Valley Forge rather than to carpool with your EPA clients to and from said destination.

Point #4:

There is an non-quantifiable emotional cost to convening the Oct. 2-3 and Oct. 10 depositions in Philadelphia if any of our clients are ultimately able to attend. However, we are not inclined to require our client(s) to bear this cost/burden, if possible.

You and your EPA/Corps clients last harassed the Braces at the EPA Region III offices back during 2015 with promises of settlement which were revealed as a sham once the meeting was commenced.

To repeat, we will not permit our clients to bear this cost/burden again.

For this reason, we have chosen to convene the Oct. 2-3 and Oct. 10 depositions at a neutral venue - Valley Forge.

Even for we co-counsels, convening depositions at a neutral venue is always preferred from an "environmental standpoint" to convening depositions in the "house" of an opposing counsel's client.

Point #5:

Our original Notices of Deposition for the 10/2-10/3 and 10/10 depositions, each of which have since been revised, were non-descriptive as to Philadelphia venue. This means they could as likely occur at a venue located in downtown Philadelphia as at an easily accessible venue within the greater metro Philadelphia area, such as Valley Forge.

The added costs and burdens you now claim that the United States will bear as the result of convening the 10/2-10/3 and 10/10 depositions in Valley Forge are illusory, if not paltry, as compared to the many years of costs and burdens the United States has borne, at U.S. taxpayer expense, to continue this senseless and unjustified litigation and harassment of our clients over the course of the past 30 years.

We, therefore, expect to see you, your colleagues and your clients for depositions at the Valley Forge Doubletree Hotel on October 2-3, 2017 and October 10, 2017, commencing at 9:00 AM.

Re: Oct. 16-17 Inspections and Other Activities:

As we stated previously, your insistence that inspections and other monitoring and measuring activities take place at the Braces' Marsh and Murphy Sites, commencing on Oct. 16-17, 2017, and to be completed by end of October 2017, is unreasonable, unnecessary and harmful to our clients.

We understand from our clients that they may consent to having these discovery-related activities occur at these Sites if the inspections and other activities are conducted commencing on Nov. 16-17, at which time they would be present for such purposes.

We also understand from our clients, that they will be able to participate in depositions after the completion of the Nov. 16-17 inspection/monitoring/measurement activities.

We consider these offers from our clients to constitute a good faith compromise, since it would allow our clients one full additional month to harvest their fall crops and get them to market. The taking of any deposition and the engaging in any inspection, monitoring and measurement activities at these Sites before that time would severely disrupt our clients' farming activities and threaten their ability to earn badly needed

revenues.

Contrary to your assertion, we trust that Judge Baxter will see how the Government generally continues to act in bad faith in prosecuting these actions, and more specifically, how you have not heeded her April 7th admonition to let this farmer farm to earn a living without undue Government interference.

Larry

Lawrence Kogan
The Kogan Law Group, P.C.
100 United Nations Plaza
Suite #14F
New York, NY 10017
(o) (212) 644-9240
(c) (917)565-1521; (609) 658-7417
www.koganlawgroup.com

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----- Original Message -----

Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

From: "Brown, Laura J.S. (ENRD)" <Laura.J.S.Brown@usdoj.gov>

Date: 9/22/17 4:17 pm

To: "lkogan@koganlawgroup.com" <lkogan@koganlawgroup.com>, "Devlin, Neal" <ndevlin@kmgslaw.com>, "Uholik, Brian (ENRD)" <Brian.Uholik@usdoj.gov>, "Kolman, Chloe (ENRD)" <Chloe.Kolman@usdoj.gov>, "Buckley, Sarah (ENRD)" <Sarah.Buckley@usdoj.gov>
Cc: "Cox, Alexander K." <acox@kmgslaw.com>, "Lamary, Christina" <clamary@kmgslaw.com>

Neal and Larry:

The technical personnel at the Corps and EPA advise that a site inspection must occur before the ground freezes, and that to guard against that possibility, the inspection must occur in October. There is no need to further belabor the point. You have not provided any explanation as to why the dates we have suggested are not doable and you have not provided us with any alternative dates in October.

Accordingly, you leave us no choice. If you wish to persist in denying the United States its right under FRCP 34(a)(2) to inspect the property, the United States will file a motion to compel, and we will let the Court assess your reasoning.

As noted in my prior email, the parties mutually agreed on September 5th to deposition locations for the witnesses involved: EPA employees in Philadelphia, Corps employees in Pittsburgh, and the Braces in Erie. This agreement followed weeks of back-and-forth regarding deposition dates and location, including an August 31st email from the United States detailing the witnesses' availability and agreeing to provide the appropriate space for those depositions without cost. On September 6th, you issued deposition notices consistent with that agreement. If you now wish to repudiate that agreement, and unilaterally alter those deposition locations, you will need to explain to Judge Baxter what has changed in the 16 days since the parties agreed upon the locations of the depositions.

Relying upon your word and the agreed-to deposition notices, the United States made all appropriate arrangements to hold the depositions in Philadelphia, including securing the appropriate deposition

space at no cost to you and booking travel (including flights for United States counsel after the depositions from the Philadelphia airport to Pittsburgh and South Carolina with the understanding that the depositions will be in Philadelphia and, thus, selecting flight departure times based on that agreement). Your proposed unilateral change to the deposition location would not only prejudice our counsel and impose additional costs on the Justice Department, but, as noted, it would pose a hardship for the deponents who would need to secure travel funds and spend what it likely to be an hour-and-a-half or more for round-trip travel from their office to Valley Forge. We doubt that Judge Baxter would look favorably on the substantial inconvenience you look to impose on these four deponents, including Peter Stokely, the deponent who has agreed for your convenience to travel from Washington, D.C., to be deposed in Philadelphia. Consequently, absent a Court order, the United States will produce the witnesses for deposition in Philadelphia, PA, as agreed, and not any exurb 25 miles away, on October 2nd, 3rd, and 10th. Your assertion that "Philadelphia . . . was generally understood to include the greater Philadelphia metro area" is simply not supported by a single communication exchanged between the parties.

Finally, rolling production is an accepted practice in federal courts. *See, e.g., United States v. Education Mgmt., LLC*, 2013 WL 1210442, at *4 (W.D. Pa. Nov. 24, 2013); *Maximum Human Performance, LLC v. Sigma-Tau HealthScience, LLC*, 2013 WL 4537790, at *4 (D.N.J. Aug. 27, 2013). We see nothing to the contrary in Judge Baxter's June 15, 2017 order.

Laura

From: lkogan@koganlawgroup.com [mailto:lkogan@koganlawgroup.com]
Sent: Thursday, September 21, 2017 4:29 PM
To: Brown, Laura J.S. (ENRD) <LBrown@ENRD.USDOJ.GOV>; Devlin, Neal <ndevlin@kmgslaw.com>; Uholik, Brian (ENRD) <BUholik@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Buckley, Sarah (ENRD) <SBuckley@ENRD.USDOJ.GOV>
Cc: Cox, Alexander K. <acox@kmgslaw.com>; Lamary, Christina <clamary@kmgslaw.com>
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Dear Laura,

First of all, from where do you derive your information that the ground in Erie County, PA will freeze in the "hard" sense as opposed to experiencing some "frost" in mid-October?

We wish to be enlightened by the source and reliability of your information.

Secondly, don't threaten us again with a motion to compel an inspection or depositions at your desired time and place. You well know that the discovery process is an iterative process, and each side usually accommodates the other if the inconvenience to them is not significant. An inspection date of October 16-17 simply won't work at this juncture.

Thirdly, the government has always endeavored to unnecessarily drive up the costs incurred by our clients because they continue to oppose the agency's (EPA's) world view and view of this case. We

don't find that to be acceptable any longer. We have unilaterally chosen to reduce our clients' legal fees (as the result of the costs we would incur and burdens we would bear) in the process of defending their rights in these actions).

We have modified our notices of deposition to reflect our effort not to further harm our clients' ability to earn a living by farming. There is no reasonable excuse for you and your clients being unable to move venue to Valley Forge. The costs and burdens our clients will bear for our traveling time to and from downtown Philadelphia, not to mention, the economic costs of reserving hotel and parking accommodations in downtown Philadelphia, are greater than they will be in Valley Forge, a suburb of Philadelphia. So we when said Philadelphia, it was generally understood to include the greater Philadelphia metro area, which includes Valley Forge, PA.

Fourthly, you misread my note of this morning, which, once again, reflects our effort to save our clients money in terms of **our** time, effort and travel/transportation costs. While the federal government has open-ended budgets and congress can raise budget ceilings at-will to accommodate government endeavors, our clients' business model does not provide such a mechanism. At this point we had not planned to have our clients attend any depositions because of their harvest schedule.

Fifthly, and lastly, the concept of a "rolling production" of discovery documents is offensive to the notion of open and timely discovery which serves to undermine Judge Baxter's June 15 order and to unnecessarily delay the discovery calendar.

Thus, a motion to extend the time for discovery and to compel discovery from the federal government agencies we identified, *at once*, would be the natural response.

Before then, we look forward to receiving your "freeze" information at your earliest opportunity, and more reasonable response regarding inspection dates, discovery and deposition venue.

Sincerely,

Larry

The Kogan Law Group, P.C.
100 United Nations Plaza
Suite #14F
New York, NY 10017
(o) (212) 644-9240
(c) (917)565-1521; (609) 658-7417
www.koganlawgroup.com

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----- Original Message -----

Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions
From: "Brown, Laura J.S. (ENRD)" <Laura.J.S.Brown@usdoj.gov>
Date: 9/21/17 2:32 pm
To: "lkogan@koganlawgroup.com" <lkogan@koganlawgroup.com>, "Devlin, Neal" <ndevlin@kmgslaw.com>, "Uholik, Brian (ENRD)" <Brian.Uholik@usdoj.gov>, "Kolman, Chloe (ENRD)" <Chloe.Kolman@usdoj.gov>, "Buckley, Sarah (ENRD)" <Sarah.Buckley@usdoj.gov>
Cc: "Cox, Alexander K." <acox@kmgslaw.com>, "Lamary, Christina" <clamary@kmgslaw.com>

Larry and Neal:

Judge Baxter made clear in her scheduling order that "[b]ecause these [discovery] deadlines are generous, any motions for extension of time will be viewed critically by the Court." ECF No. 146. Given her Honor's advice, we will not join in a motion for an extension of the discovery period. If Defendants do not believe they can meet their discovery obligations within the prescribed time, however, we may not oppose, in concept, an extension of the discovery deadline to December 20, 2017, to conform with that in the 17-06 case, with one significant caveat: Our Fed. R. Civ. P. 34 Site inspection must occur in October before the ground freezes. To the extent the Braces will not agree to a date for the inspection in October, we will have to file a motion to compel entry. Please let me know as soon as possible whether October 16-17 works for the Site inspection.

We do not agree to relocate the depositions of the EPA witnesses from Philadelphia to Valley Forge. By email dated September 5, 2017, we mutually agreed to hold the depositions of the EPA witnesses in Philadelphia. Your September 6th deposition notices state that the depositions will take place in Philadelphia. Moving them would require all of the EPA witnesses to incur expenses to travel to Valley Forge, not to mention additional time. Also, my colleagues and I have already made our travel arrangements to Philadelphia for the depositions. Furthermore, your contention that moving the depositions to Valley Forge at this late date is necessary to reduce the travel burden on your clients is in direct conflict with your position that your clients' harvest obligations preclude them from being away from the harvest and available any time before 12/1 for deposition in Erie, PA. If you wish to press the issue, you are free to explain to Judge Baxter the propriety of your unilateral decision to relocate depositions from the mutually agreed upon and noticed location, as well as the juxtaposition of your clients' availability for our witnesses' October depositions, but not their own.

Attached are our written responses to Defendants' First Set of Interrogatories and Document Requests. We are collecting and reviewing the responsive documents and intend to make rolling productions as we collect and review. We are working as swiftly as possible and will make every effort to get our first production out to you early next week.

Finally, please respond to my suggestion of breaking out expert disclosures.

Laura

From: lkogan@koganlawgroup.com [<mailto:lkogan@koganlawgroup.com>]
Sent: Thursday, September 21, 2017 10:23 AM
To: Brown, Laura J.S. (ENRD) <LBrown@ENRD.USDOJ.GOV>; Devlin, Neal <ndevlin@kmgslaw.com>; Uholik, Brian (ENRD) <BUholik@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Buckley, Sarah (ENRD) <SBuckley@ENRD.USDOJ.GOV>
Cc: Cox, Alexander K. <acox@kmgslaw.com>; Lamary, Christina <clamary@kmgslaw.com>
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Good morning, Laura.

There is no need to threaten us again.

We've asked our clients and they've advised us they will not be available in October for depositions.

In fact, because of the long harvest season in Erie, and their need to be involved in the harvest of their farm fields, the Braces will not be finished with their harvests until around Dec. 1. Therefore, no deposition can be taken of the Braces before that time.

Let us not forget the purpose of the June 15 discovery order.

As you may recall, it stated that "the motion to enforce [ECF No. 82] effectively re-opens this case," and "cannot be decided until after discovery and additional briefing."

Since the Braces are a material part of this case, you will need to wait until they are finished with their harvesting of crops upon which they depend for their family's economic sustenance before you can depose them.

Your failure to compromise on this point would run contrary to the purpose of this discovery, if not, also Judge Baxter's concerns about how the government's actions in this case have interfered with this family's ability to farm their land for far too long.

To help your recollection, we refer you and your colleagues to Judge Baxter's remarks made during the April 7 Status Conference:

"But, we're losing sight of, in my mind, of a fix, a fix whereby we keep Elk Creek clean and Mr. Brace can farm his land." (p. 15)

"I'm a federal employee, too, Ms. Brown. Let's try to go about this in a way that will satisfy the regulations that you are sworn to uphold and to give this farmer some relief from government interference. Deal?" (p. 19)

"My interest is to get a good resolution here that follows the law and doesn't put Mr. Brace under." (p. 23)

"I'm more about getting this right. [...] I do not believe that the worst of government regulations should reign down on this man." (p. 26)

For the reasons stated above, we believe it is in the best interests of this case that we jointly request from Judge Baxter a reasonably brief extension of the discovery deadline from November 30 until December 31. The extension, in fact, would prove to be coterminous with the December 20 expert discovery deadline in the '17 case.

One further point, in the interest of reducing the travel costs and burdens (including traffic) for our clients, Neal and I have decided to convene the deposition in the easily accessible Philadelphia suburb of Valley Forge at the Doubletree Hotel.

As your Philadelphia-based clients will advise you, Valley Forge is conveniently located within 45 minutes of downtown Philadelphia along the Pennsylvania Turnpike.

We therefore recommend that you and your D.C. colleagues make the appropriate reservations as soon as you can.

Best Regards,

Larry

Lawrence A. Kogan, Esq.
The Kogan Law Group, P.C.
100 United Nations Plaza
Suite #14F
New York, NY 10017
(o) (212) 644-9240
(c) (917)565-1521; (609) 658-7417
www.koganlawgroup.com

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P.C. at <info@koganlawgroup.com> if you have received this message in error. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege.

----- Original Message -----

Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions
From: "Brown, Laura J.S. (ENRD)" <Laura.J.S.Brown@usdoj.gov>
Date: 9/20/17 11:58 am
To: "Devlin, Neal" <ndevlin@kmgslaw.com>, "Uholik, Brian (ENRD)" <Brian.Uholik@usdoj.gov>, "Kolman, Chloe (ENRD)" <Chloe.Kolman@usdoj.gov>, "Buckley, Sarah (ENRD)" <Sarah.Buckley@usdoj.gov>
Cc: "lkogan@koganlawgroup.com" <lkogan@koganlawgroup.com>, "Cox, Alexander K." <acox@kmgslaw.com>, "Lamary, Christina" <clamary@kmgslaw.com>

Hi Neal:

I am following up on my request for dates for the Brace's depositions and for the Site Inspection. If I don't hear back, I will have to notice the depositions and site inspection with dates I select. Also, we plan take 30(b)(6) depositions of Robert Brace Farms, Inc. and Robert Brace and Sons, In. I will draw up a notice with subjects. If the designees will be someone other than Robert or his sons, please let me know dates that would work for the designee.

Also, what are your thoughts on breaking out expert discovery as I suggested?

Laura

From: Devlin, Neal [<mailto:ndevlin@kmgslaw.com>]
Sent: Wednesday, September 13, 2017 3:57 PM
To: Brown, Laura J.S. (ENRD) <LBrown@ENRD.USDOJ.GOV>; Uholik, Brian (ENRD) <BUholik@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Buckley, Sarah (ENRD) <SBuckley@ENRD.USDOJ.GOV>
Cc: lkogan@koganlawgroup.com' <lkogan@koganlawgroup.com>; Cox, Alexander K. <acox@kmgslaw.com>; Lamary, Christina <clamary@kmgslaw.com>
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Laura:

I am heading out of the office this afternoon for a few days, but my assistant will work with

Larry to figure out what days will work for the depositions and continue to work to find days for the Braces. Larry and/or I can then get back to you on the other issues you raised when I'm back next week.

Neal

From: Brown, Laura J.S. (ENRD) [<mailto:Laura.J.S.Brown@usdoj.gov>]
Sent: Wednesday, September 13, 2017 3:43 PM
To: Devlin, Neal <ndevlin@kmgslaw.com>; Uholik, Brian (ENRD) <Brian.Uholik@usdoj.gov>; Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>; Buckley, Sarah (ENRD) <Sarah.Buckley@usdoj.gov>
Cc: 'lkogan@koganlawgroup.com' <lkogan@koganlawgroup.com>; Cox, Alexander K. <acox@kmgslaw.com>; Lamary, Christina <clamary@kmgslaw.com>
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Hi Neal:

We can have members of our team available for depositions on October 18-20, 23-27, 30-31, 2017. However, we will likely need to have the Braces' depositions in those windows. Additionally, we request to inspect the Brace property on 10/16-17 (and perhaps we could schedule depositions in Erie that week). I will send a formal Rule 34 request once we agree on a date.

While I am providing our availability - and because I do not know not sure whose depositions you plan on noticing - I will restate our objection (which we have discussed at length) to the depositions of many of the individuals you identified in your August 10, 2017 email.

Also, as you may have noticed, neither Judge Baxter nor Judge Rothstein's discovery orders break out expert disclosures within their schedules. Just for practical purposes (i.e., deposing any disclosed experts), I think it would be helpful if we could agree to break that out. To the extent either party plans on using an expert I suggest the following:

90-229 Action: Initial Expert disclosures due on October 26, 2017, Rebuttal Expert disclosures due on November 9, 2017.

17-06 Action: Initial Expert disclosures due on November 22, 2017, Rebuttal Expert disclosures due on December 6, 2017.

Laura

From: Devlin, Neal [<mailto:ndevlin@kmgslaw.com>]
Sent: Tuesday, September 12, 2017 10:05 AM
To: Brown, Laura J.S. (ENRD) <LBrown@ENRD.USDOJ.GOV>; Uholik, Brian (ENRD) <BUholik@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Buckley, Sarah (ENRD) <SBuckley@ENRD.USDOJ.GOV>
Cc: 'lkogan@koganlawgroup.com' <lkogan@koganlawgroup.com>; Cox, Alexander K. <acox@kmgslaw.com>; Lamary, Christina <clamary@kmgslaw.com>
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Laura:

Can you get me your groups availability in October for third party depositions? We are working on figuring out who we can locate and who we will need to depose. Once we get that information, we will issue subpoenas and I'd like to make sure that the dates we select work for both sides, understanding that we may need to make adjustments if the Witness has an issue.

We are also working on getting dates for Bob, Randy, Ronnie and Rhonda.

Neal

From: Brown, Laura J.S. (ENRD) [<mailto:Laura.J.S.Brown@usdoj.gov>]
Sent: Tuesday, September 5, 2017 4:15 PM
To: Devlin, Neal <ndevlin@kmgslaw.com>; Uholik, Brian (ENRD) <Brian.Uholik@usdoj.gov>; Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>; Buckley, Sarah (ENRD) <Sarah.Buckley@usdoj.gov>
Cc: 'lkogan@koganlawgroup.com' <lkogan@koganlawgroup.com>; Cox, Alexander K. <acox@kmgslaw.com>; Lamary, Christina <clamary@kmgslaw.com>
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

1:30 works

From: Devlin, Neal [<mailto:ndevlin@kmgslaw.com>]
Sent: Tuesday, September 05, 2017 3:14 PM
To: Brown, Laura J.S. (ENRD) <LBrown@ENRD.USDOJ.GOV>; Uholik, Brian (ENRD) <BUholik@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Buckley, Sarah (ENRD) <SBuckley@ENRD.USDOJ.GOV>

Cc: 'lkogan@koganlawgroup.com' <lkogan@koganlawgroup.com>; Cox, Alexander K. <acox@kmgslaw.com>; Lamary, Christina <clamary@kmgslaw.com>
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Laura:

10/10 works for Almeter and Stokely. I'll get notices out tomorrow.

Could we do 1:30 on Friday for the call. I have a 2:30 meeting and I want to make sure I give enough time for the meet and confer.

Thanks,
Neal

From: Brown, Laura J.S. (ENRD) [<mailto:Laura.J.S.Brown@usdoj.gov>]
Sent: Tuesday, September 05, 2017 1:30 PM
To: Devlin, Neal; Uholik, Brian (ENRD); Kolman, Chloe (ENRD); Buckley, Sarah (ENRD)
Cc: 'lkogan@koganlawgroup.com'; Cox, Alexander K.
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Hi Neal:

Thanks for working with us on the dates and locations. We just realized that 10/9 is Columbus Day (a federal holiday). Could we switch Stokely and Almeter to 10/10? Sorry about that oversight.

Also, please let us know what dates would work for the Braces and we will draw up notices.

Friday would be best for the meet and confer on our end. Would 2:00 pm work?

Thanks,
Laura

From: Devlin, Neal [<mailto:ndevlin@kmgslaw.com>]
Sent: Tuesday, September 05, 2017 1:10 PM

To: Uholik, Brian (ENRD) <BUholik@ENRD.USDOJ.GOV>; Brown, Laura J.S. (ENRD) <LBrown@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Buckley, Sarah (ENRD) <SBuckley@ENRD.USDOJ.GOV>
Cc: 'lkogan@koganlawgroup.com' <lkogan@koganlawgroup.com>; Cox, Alexander K. <acox@kngslaw.com>
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Brian:

Larry and I have spoken and, based on the schedule you have provided, we will be issuing notices for the following dates and witnesses:

10/2-10/3 – In Philadelphia

Lapp starting at 9 am on 10/2 followed by Lutte.

10/6 in Pittsburgh

Fodse followed by Hans

10/9 – In Philadelphia

Stokely and Almeter

With regard to the written discovery objections, we fundamentally disagree with those objections. Per the local rules, we should meet and confer to see if we can resolve some or all of these disagreements. Can you provide me with your availability on Thursday and Friday to see if we can find a time to do that?

Neal

From: Uholik, Brian (ENRD) [<mailto:Brian.Uholik@usdoj.gov>]
Sent: Thursday, August 31, 2017 9:01 PM
To: Devlin, Neal; Brown, Laura J.S. (ENRD); Kolman, Chloe (ENRD); Buckley, Sarah (ENRD)
Cc: 'lkogan@koganlawgroup.com'; Cox, Alexander K.
Subject: RE: USA v. Brace, Docket Nos. 90-229 and 17-06 -- Depositions

Neal:

Having not heard back from you about this, I have listed below the dates DOJ attorneys and EPA and Corps witnesses are available. As far as the Braces are concerned, DOJ's schedule is flexible in October for coming to Erie to depose the Braces. Please let us know what dates work for you guys.

The EPA dates pertain to depositions held in Philadelphia and the Corps dates pertain to Pittsburgh. We can provide the space.