

1 any kind or anything of the day's activities of the meeting?

2 A I don't recall doing that. As I say, please, accept I am  
3 not--I am not trying to be evasive, I just don't recall the  
4 mechanics of what took place. I am sure I discussed it at least  
5 verbally with the supervisor.

6 As far as writing a report, a formal report, it is quite  
7 possible that I did. I don't remember doing it. I don't have  
8 access to it or have a copy of it or recall any elements of it.

9 Q If we wanted to see if there were copies of such  
10 memorandum, where would the office be?

11 A It is the regional office in Franklin, northwest regional  
12 office.

13 Q Did anybody in this meeting with the group May 5th or 6th  
14 of '87, discuss the possibility that there may be an  
15 agricultural exception applicable?

16 A No. I don't recall discussion such as that, no.

17 Q Anybody ever discuss making inquiry of the A. S. C. S. or  
18 the S. C. S. about farming activity?

19 A Not that I recall.

20 Q Those agencies were never contacted, to your knowledge?

21 MR. DANA: If you know?

22 MR. WARD: All of these are to your  
23 knowledge.

24 THE WITNESS: Yes, understood.

25 MR. WARD: All right.



1 BY MR. WARD:

2 Q So--all right, you say that was never discussed.

3 At that time were you aware--did anybody take  
4 measurements of water flow that day?

5 A Not that I--

6 Q No measurements taken; no holes were dug, to your  
7 recollection?

8 A No.

9 Q Did you--were you aware of a circumstances called a  
10 nationwide permit?

11 A No.

12 Q In your work--did you have any relationship at all with  
13 the Corps?

14 You said you had a relationship with Fish and Wildlife  
15 Service; you have any kind of relationship in your work with the  
16 Corps?

17 A Very distantly. Extremely distantly. We didn't have a  
18 daily or even monthly contact with them; but would be cases  
19 where--situation where we would have a mutual interest and would  
20 work jointly.

21 Q Now, you say Mr. Delaphonso was there, I believe?

22 A Yes.

23 Q And at that time, to your knowledge, were there  
24 regulations issued by the State that covered a wetlands  
25 situation?



1 A Yes, there were.

2 Q Any conversation or was it mentioned during this meeting  
3 whether or not the State would be involved?

4 A That hadn't been determined. That was the purpose of the  
5 meeting, to see which agency was or had the most control in this  
6 situation; whose jurisdiction that it would impact the greatest  
7 and that would be the lead agency.

8 Agency--then the supportive agency would typically allow  
9 that lead agency to handle the case, and other agency would not  
10 file--typically would not file a citation pursuant.

11 Q Was a decision made in your presence, if you know--

12 A No.

13 Q --as to who would be the lead agency?

14 A It wasn't. It was very early, the first time the  
15 agencies had been brought to the site, to my knowledge, and that  
16 was the purpose, was to meet and discuss and make that kind of a  
17 determination. And they didn't share that with me at that time.

18 Q You don't recall Mr. Peabody saying anything about his  
19 office being involved, the Corps of Engineers?

20 A Involved in what sense?

21 Q Since they had the 404?

22 A No discussion of 404 permit with me.

23 Q There was not?

24 A No.

25 Q Prior to your visit, I believe you said you had not met



1 Mr. Brace personally?

2 A That is correct.

3 Q On May one?

4 A That is correct.

5 Q Had you ever heard of any complaints of Mr. Brace or his  
6 activity from neighbors or anybody?

7 A No.

8 Q On that particular day you were--I believe you testified  
9 May one, again, that you were standing in the water in the  
10 ditch?

11 A Yes.

12 Q You notice any fish there?

13 A I--not that I can recall.

14 Q Did you ever offer an estimate as to the amount of  
15 acreage that might be involved?

16 A No.

17 Q When was the last contact--now, after May six did you  
18 have any other contact regarding the Brace matter as we know it  
19 today?

20 A No, I had no recollection of that.

21 Q And nobody asked you questions about it from other  
22 agencies after May six?

23 A No.

24 Q And you left the Pennsylvania Game Commission when?

25 A August 20 of 1987.



1 Q And what were the circumstances of your leaving the  
2 commission?

3 A I had a very serious automobile accident and left  
4 immediately after that.

5 Q Did the serious automobile accident impair you in your  
6 work at all?

7 A No, that wasn't the reason that I left. It was a, quite  
8 frankly, personally embarrassing situation where I had received  
9 a DUI and as a function of that I was--one of the turning points  
10 in my life to decide which way I was going with my life, and I  
11 made a career change at that time.

12 The agency was very gracious. They extended an  
13 opportunity for me to come back to the agency after any  
14 suspension of driving privileges, which I had received sixty  
15 days, and I didn't--I opted not to accept that.

16 Q Then I believe you stated after you left the agency you  
17 went on to work for other companies?

18 A That is correct.

19 Q Environmental?

20 A Laboratory, yes.

21 Q And you currently operate a firm known as?

22 A Under my name and incorporated, Andrew Martin and  
23 Associates.

24 Q What does Andrew Martin and Associates do, offer a  
25 service?



1 A We are an environmental consulting firm. We work in  
2 occupational health and safety doing industrial hygiene work.

3 Incidentally, we do wetland consultation and wetland  
4 identification delineation and permitting.

5 Q You do them personally and have staff?

6 A We have staff of seven. I am also a certified  
7 delineator.

8 Q You are a certified delineator?

9 A Yes.

10 Q When did you receive certification?

11 A It would have been in 1988. I don't remember the month.  
12 I sense the summer of '88.

13 Q And who issues that?

14 A It was issued by Gannet-Flemming Engineering (sic) which  
15 is a firm that was subcontracted by the regulatory agency to  
16 train regulatory personnel in wetland identification and  
17 delineation.

18 Q State funded or federal?

19 A State and/or federal, I am not clear on exactly what.  
20 But they were all--95 percent of participants were regulatory  
21 people and five percent were private consultants. Fortunate  
22 enough to be one.

23 Q Have you ever testified in Court regarding wetland  
24 delineation as part of your work?

25 A I have testified in environmental review board hearings.

1 Q As an expert?

2 Were you qualified as an expert?

3 A Yes, sir.

4 Q And at environmental hearing boards?

5 A Yes.

6 Q What were they, wetland matters?

7 A Yes.

8 Q And you testified on behalf of the State?

9 A A client.

10 Q On a client?

11 A Yes. We are an independent consulting firm, not  
12 associated with--

13 Q No contracts with the state and federal?

14 A No, sir.

15 Q Do you know a Norma Kline?

16 A Yes.

17 Q She work for you?

18 A She did for approximately six months.

19 Q When did she work for you?

20 A It would have been--I have an approximate--I am trusting  
21 my memory. It would have been March of '91 through  
22 approximately August of '91.

23 Q Three month period?

24 A No, six months. March. It would have had to have

25 been--again, it was 1991 and approximately six months, that I am



1       sure of. The exact month, it is not clear.

2       Q       Was she a full-time employee or contract employee?

3       A       Full-time.

4       Q       What is her expertise, if you know?

5       You must know, you hired her.

6       A       Yes, she is an aquatic biologist.

7       Q       And are you aware that she was contacted by E.P.A. to do  
8       certain work on the Brace property?

9       A       I was.

10      Q       Did she work for you at that time?

11      A       Yes.

12      Q       And she was your employee when--did E.P.A. contract with  
13      you?

14      A       No. Norma told me she had been requested to participate  
15      in that case and requested time to do that while she was in my  
16      employ, which she did. It was totally apart and independent  
17      from me. I never reviewed any of her work and we never  
18      discussed it. Never any verbal exchange.

19             It was a sense of professionalism. I understood she was  
20      working on this case and that was very apart in what she did  
21      with us. We didn't have anything with it.

22      Q       You knew at this time this case was in litigation?

23      A       I did, yes.

24      Q       And she was a full-time employee, but this was going to  
25      be work conducted on her own time?



1 A On her own time, yes. Never paid by our firm or had  
2 direct supervision from me or any involvement with our firm.  
3 She happened to be coincidental to employment with us.

4 Q She was being paid by you?

5 A She was paid by us for work she did for our firm, but not  
6 this project or anything related to this project.

7 Q You say she was paid by you for what she did for your  
8 firm as an employee, not a contractor?

9 A That is correct.

10 Q Your testimony was she took this task on as a contractor,  
11 independent?

12 A Independent, yes.

13 Q You saw no conflicts there?

14 A No, sir.

15 Q With your having been involved in the case earlier on?

16 A No.

17 Q You never discussed this case with her?

18 A No, I didn't.

19 MR. WARD: Let's have just three minutes here  
20 to talk with them and see if this wraps up.

21  
22 (Whereupon, Deposition recessed at 11:13 a.m. and  
23 reconvened at 11:15 a.m.)  
24

25 MR. WARD: Mr. Martin, we have no further