

# UNITED STATES COURT OF FEDERAL CLAIMS

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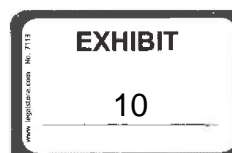
ROBERT BRACE, )  
 )  
 Plaintiff, )  
 )  
 v. ) Docket No.: 98-897L  
 )  
 UNITED STATES, )  
 )  
 Defendant, )

Pages: 600 through 897  
Place: Washington, D.C.  
Date: January 13, 2005

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1           Once I'm done I'm first going to give Ms.  
2 Florentine and then Mr. Marzulla an opportunity to  
3 follow up.

4           I just want to get a little better sense  
5 here as to -- let's start with the restoration plan.

6           THE WITNESS: Okay.

7           THE COURT: All right, so the intent there  
8 was to restore it back to the way it was in 1984; is  
9 that correct?

10          THE WITNESS: Correct.

11          THE COURT: All right. But it doesn't  
12 actually say that anywhere, does it, in the plan  
13 itself?

14          I mean, you can go back and take a look. I  
15 was looking in particular there is a part of the plan,  
16 and I think this is the part that you were  
17 participating in the drafting of, that talks about the  
18 intent of the plan.

19          THE WITNESS: Right.

20          THE COURT: But it doesn't actually say 1984  
21 there, does it?

22          THE WITNESS: That's correct, and I guess  
23 where the 1984 number came from is when the agency  
24 decided to look at what activities of the actual  
25 enforcement action, they used that as their benefits,

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1 so that's what I was basing it on, that 1984 date  
2 from.

3 THE COURT: All right. Now, you have made  
4 some references to topography and some other things  
5 which at least from the standpoint of your projection  
6 led you to believe that the modifications that were  
7 done by the plan would not have a greater hydrological  
8 impact than what was intended.

9 Did I understand your testimony correct in  
10 that regard?

11 THE WITNESS: That's correct.

12 THE COURT: Have you actually gone back at  
13 any point to see whether or not the plan had a greater  
14 hydrological -- had you, or to your knowledge, had  
15 anyone associated with your agency gone back to see  
16 whether or not the plan is adequate for the impact it  
17 was intended?

18 THE WITNESS: No, they have not.

19 THE COURT: All right. So it could in fact  
20 be the case --

21 THE WITNESS: It could. I have never heard  
22 of that. It had not been brought to my attention that  
23 it in fact may have.

24 THE COURT: Okay. Mr. Marzulla asked you  
25 some questions about what would happen if, for

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