

# 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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## HERITAGE REPORTING CORPORATION

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1 It could be that maybe the culvert underneath the  
2 road is blocked.

3 Again, without having, you know, these  
4 conversations in a real world context, and being able  
5 to look at what the root causes were, it's very  
6 difficult for me to give you a real answer.

7 Q Okay. EPA is not in the business of helping  
8 Mr. Brace unblock or design ditches for the Homestead  
9 property, is it? I thought we were talking about  
10 modification of restoration plan.

11 A I think that EPA is in a position to assist  
12 an help citizens who have issues. And although we may  
13 not be the answer if there was an issue, we would  
14 certainly try to find someone who could answer that  
15 issue.

16 Q Okay, who at EPA would Mr. Brace go to to  
17 talk about the failure to operate his drainage system  
18 on the Homestead property?

19 A That would be myself.

20 Q That would be you? And that's part of your  
21 job description, to help with drainage that's not on  
22 wetlands, that doesn't effect wetlands?

23 A It would be because of the past history that  
24 we have had that that would be something that he could  
25 talk to me, and then I would try to figure out who the

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1 best folks were, whether they were internally,  
2 probably one of my staff would assist in the day-to-  
3 day things.

4 But certainly to start that conversation, it  
5 would be -- you know, I would -- it would probably be  
6 referred to me even if it wasn't because of the past  
7 history.

8 Q So he would be dealing with the enforcement  
9 arm of EPA in trying to get help in solving his  
10 drainage problem?

11 A No, he would be dealing with the wetlands  
12 program and ocean manager. I do both regulatory,  
13 permit side and enforcement side, and ocean program  
14 side.

15 Q Okay. Is it fair to say that as you sit  
16 here today you don't see EPA agreeing to any  
17 modification of the restoration plan work that was  
18 done on the 30 acres?

19 A I would think that's fair to say, yes.

20 Q Now, Ms. Cook asked you about a  
21 hypothetical, and I want to make sure that you  
22 understood at least the hypothetical that I would wish  
23 to ask you about, and that is, suppose that Mr. Brace  
24 were to plow furrows on the 28 acres of upland; that a  
25 major rainstorm were to come, and to wash soils,

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