# 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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out of the wetland area and discharge that into unnamed tributary B.

And so what we had was you could put in a plug in it. Basically they are no longer taking the surface water out of that wetland system.

Q Now, what was the goal of this restoration plan?

A The goal of this restoration plan was to restore the hydrologic drive back to this wetland system, and we used a target date of 1984. So it was to remedy those activities which had occurred from 1984 onward.

Q And why back to 1984?

A The information, if I recall at the time that the enforcement coordinator had was that the activities had occurred in 1985 forward, and also usually what we do is when we look for remedies is like we use a five-year limit that we go back to and try to get remedy for.

Q And in terms of the goal of the restoration plan, what area of the property was intended to be impacted, or in your opinion, would be impacted by the restoration?

A The intent and in my opinion the extent of impact of this restoration was solely on the 30-acre

wetland tract.

Q Would it be possible for Mr. Brace to approach the agency concerning modifying this restoration plan?

A Certainly.

Q And under what circumstances or how would that be likely to occur?

A If maybe there was need for relief in other areas of the parcel or something like that outside this 30 acres, you know, that would have been something that we would work with Mr. Brace, you know, to try to correct.

Q And does that remain true to this day?

In other words, if Mr. Brace felt that the restoration was impacting more than the 30 acres, could he approach the agency about modifying the restoration plan?

A Certainly.

Q Now I want to talk for a moment about some of the exemptions to the Clean Water Act, and in a slightly different context than we have before.

But looking again at the Attachment A restoration plan attached to the consent decree, I notice a amoebic-like blank area in the center of the Murphy farm parcel that does not contain hatch marks.