



P E N N S Y L V A N I A LANDOWNER

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PROPERTY RIGHTS ADVOCATE TO INITIATE TAKINGS CLAIM

Third generation farmer, PLA founder and property rights activist Bob Brace announced recently that he has instructed his lawyers to file a takings case to obtain just compensation from the Federal Government. The case will be filed under the Tucker Act in the United States Court of Claims located in Washington D.C. As a result of regulatory enforcement by three federal agencies, aided and abetted by three more Pennsylvania agencies, Mr. Brace has been denied all economically viable use of his family's homestead farm property in Waterford Township, Erie County, the value of which, if put to its highest and best use, would be \$3,000,000, Mr. Brace estimates. He has also been deprived of the use of his high quality farm land for over twelve years while his effort to challenge the government's wetlands enforcement action wound its way through the judicial system and he was compelled, by government fiat, to destroy the drainage system for the farm.

The supposed rationale for the Government's action is that real estate which meets a bureaucratic definition of "wetlands" cannot be developed because the wetlands must be preserved for public purposes. As result of the Government's regulation of Mr. Braces' property, it simply has no economically viable use and therefore has been taken. The Fifth Amendment to the Constitution of the United States unequivocally states "nor shall private property be taken for public use without just compensation." "To me," said Mr. Brace "these words ring hollow. We have not been able to use our ground for 12 years and now it is gone. This was to be a legacy to my children."

Mr. Brace has fought an exhausting and emotionally distressful battle against wetlands overregulation since the Government agencies first descended on him in 1987. He has been vilified in the press and wrongfully and irresponsibly accused of serious environmental violations.

Mr. Brace was heartened when then Congressman Tom Ridge took up the cause of wetlands regulation reform in the early '90s. At that time, Mr. Ridge, now Governor Ridge, said:

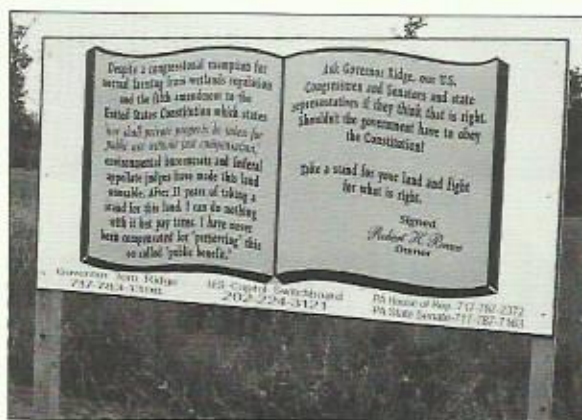
"...Yet even as the Courts have been actively engaged in debating this issue, Congress has been conspicuously silent. H.R. 1330 can and must end that silence. The legislation, which is the most widely-supported piece of wetlands legislation in Congress, seeks to establish a more common sense and fair wetlands program in a number of ways. First, it would classify wetlands into three categories by recognizing that all wetlands are not created equal. A low spot in a Pennsylvania field cannot be equated with the Florida

Everglades. Secondly, the legislation would more clearly define what is and is not a wetland. Perhaps most importantly, the legislation would compensate landowners whose properties are "taken." The premise for this provision is the Fifth Amendment to the Constitution, which states, "nor shall private property be taken for public use, without just compensation." I have argued - and will continue to - that land-owners should not be forced into court at considerable emotional and financial expense to prove that a taking has occurred. The premise is simple. The government may

have reason to take certain property in the interest of the public good, but it can do so if, and only if, the property owner is compensated. It is also important to keep in mind that these lands are in the hands of private property owners, who are now individually bearing the burden of their so-called "protection," which currently is no more than a denial of the right to use the property."

These were noble words but no legislation has been forthcoming.

Mr. Brace said he could no longer rely on the possibility that wetlands regulation reform legislation would restore the use of his land, his reputation or his peace of mind. Despite seemingly overwhelming odds against him, he is steadfastly resolved to continue his stand for his land through the second decade of this struggle. He wants his land back but now it appears that his only remaining remedy is to go to court for just compensation.



The sign which now stands on Bob Brace's land informing passers by of the unconstitutionality of wetland regulations.

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