

**'I am mad.
I've been mad for 20-plus years.'**



VIVIAN JOHNSON/Erie Times-News

For the past 20 years, Waterford farmer Bob Brace has been fighting the federal government over his land — first, over his right to install drainage equipment that would allow him to farm it, and now for compensation for the 58 acres that he is unable to use.

Farmer's fight

Government land dispute goes on, 2 decades later

By JIM MARTIN
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Bob Brace is mad, the sort of mad that makes him wake up at night and sputter with disbelief when he talks about it. This head of steam has been a long time brewing — 20 years this week, to be precise.

It was May 1987 when the U.S. Fish

and Wildlife Service first took exception to Brace's plan to replace and repair an aging drainage system on a section of his Waterford-area farm.

Brace saw it as an attempt to put things right — or at least return the soupy acreage to a usable state.

The USFWS, along with an alphabet soup of other agencies, called it a violation of the Clean Water Act and ordered him to stop, im-

posing a fine of \$25,000 a day.

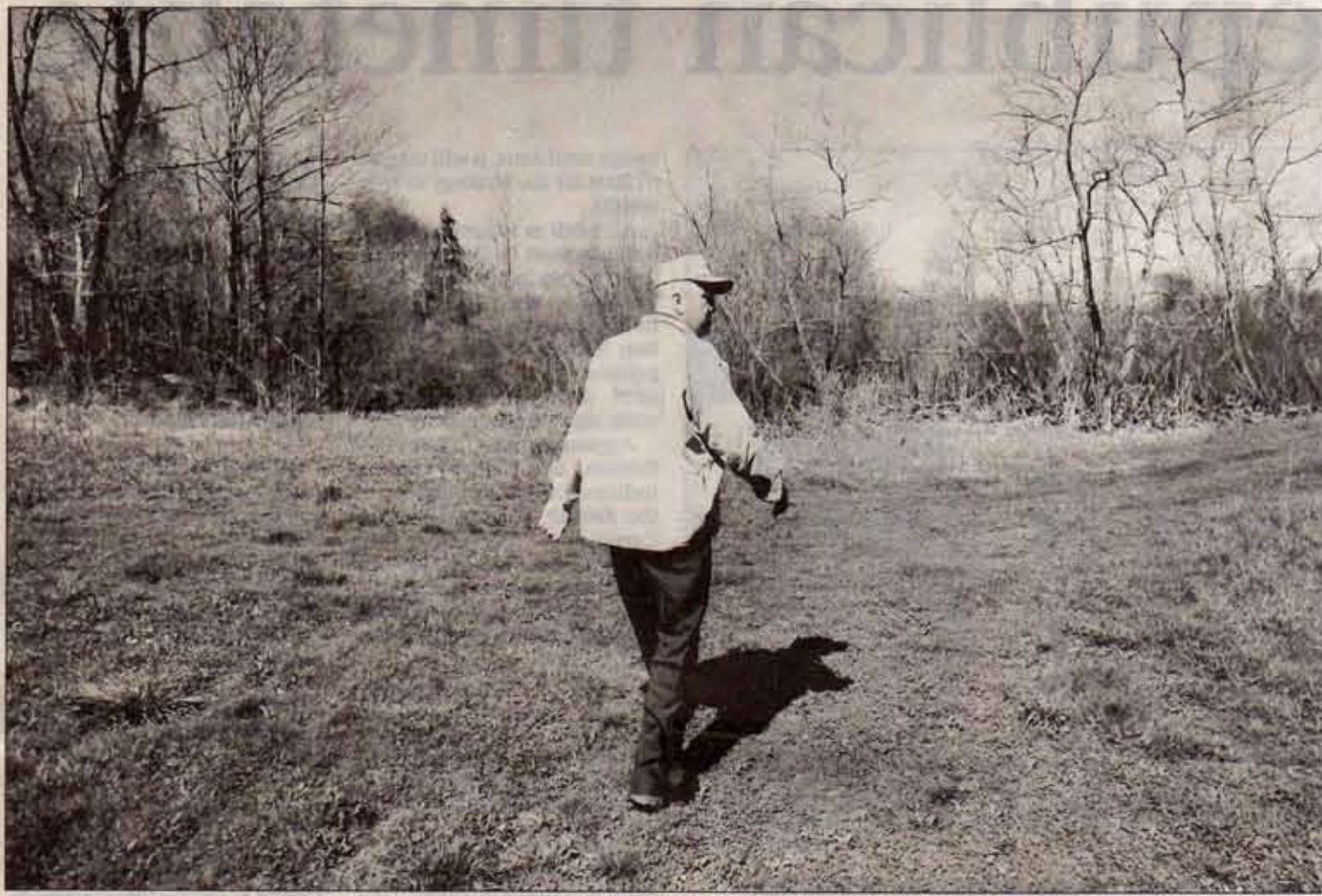
That was 1987. Today, 20 years later, he's still fighting in both the legal system and the court of public opinion.

By his own account, his battle for the right to use his land as he saw fit has cost Brace hundreds of thousands of dollars and yielded almost nothing but frustration.

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"Predicting the chances of getting heard are like the chances of getting hit by lightning on a sunny day."

— Farmer Bob Brace, on his final appeal for government compensation



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Waterford farmer Bob Brace has been fighting the federal government for 20 years. Most recently, his fight has turned to seeking compensation for the land the government will not let him use. His suit was turned down in August — eight years after he filed it — but he has appealed.

Farm: 20-year fight

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Having an impact

Brace and his battle became a well-publicized rallying point for a movement and he became a nationally recognized property-rights advocate in the process.

His case led to speaking engagements, the formation of the Pennsylvania Landowners' Association and an invitation to testify before Congress.

From the beginning, Brace had argued that by cleaning out drainage ditches he was merely preventing his farm from flooding and, in fact, was following a plan approved by the Agricultural Stabilization and Conservation Service.

So far, only one court has seen it his way. In 1993, U.S. District Judge Glenn Mencer concluded that Brace had done nothing but follow normal and accepted farming practices.

For Brace, that happy ending wasn't to be. The government would appeal and win, reigniting a legal battle that continues to this day.

Brace eventually signed a consent decree in 1994, avoiding a \$125,000 fine by agreeing to pay \$10,000 and tear apart the drainage system that once made it possible to farm the land.

Although Brace and his sons have plans to plant 1,400 acres of corn this spring — making their grain operation one of the largest in the area — weeds grow on the soggy 58-acre parcel that was once his father's farm.



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Since May 1987, farmer Bob Brace and the federal government have been locked in a battle over 58 acres of the brace's land. Brace eventually agreed not to install a drainage system that would allow him to farm the land, and the parcel now sits idle, with just weeds growing on it.

"I am mad," he said. "I've been mad for 20-plus years."

The bottom line is simple, he said. Brace said he's been denied the use of his land and thinks the government should pay him for it at a price on par with its development value.

"It seems like we have the mentality that private property doesn't mean private property," he continued. "You can regulate, but you can't regulate to no use. When it goes too far, it becomes a taking."

Other opinions

Others take a darker view of Brace and the movement he

helped launch in Pennsylvania.

"They call it the property-rights movement," said Ed Perry, retired section supervisor for the USFWS. "What they are really talking about is doing whatever they want without regard to their neighbors."

Perry rejects as illogical and impractical the notion of paying Brace because he's been deprived the full use of his land.

"It's the same as paying people not to damage aquatic resources or paying people not to pollute. It would not only break the bank, but it wouldn't make sense from a planning standpoint."

His battle may have been with the government, but some in the government believe Brace was treated unfairly.

Over the years, both as congressman and governor, Tom Ridge wrote letters in support of Brace and even co-authored a widely supported, but never-enacted wetlands bill that would have drawn distinctions between minor wetlands and larger wetlands.

More recently, U.S. Rep. John E. Peterson of Pleasantville, R-5th Dist., has sided with Brace and the PLA.

"I think it was a tragedy for the Brace family," Peterson said. "He had his rights taken away from him by an overly aggressive federal bureaucracy."

Peterson said he wishes he had been in Congress at the time.

"When you have had three generations of good stewardship of the land and you take away their right (to make a living on it) for unfounded reasons, they should pay him for it," he said.

Win or lose, Brace's case has changed the landscape, said Keith Klingler, president of the PLA.

"It's put the federal government on notice that not every landowner is just going to lay down and give away what they're trying to take," he said. "It's kept a lot of landowners out of court," he added. "They (the government) don't want these fights every day."

Today, Brace is as full of anger and indignation as ever. But he's also frank in his assessment.

"This is the final appeal," he said. "Predicting the chances of getting heard are like the chances of getting hit by lightning on a sunny day."

Still, Brace insists he has no regrets.

"I would do it again," he said. "This is what this country was founded on — the right to own property. Without that right, there is nothing to work for. Even though it's been so long and so hard, some of us haven't given up yet."

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