

of 78 cents per cubic yard, for materials that they have released into the waters. Are you familiar with that?

Mr. MOORE. No, sir, Mr. Chairman, I am not familiar with that.

Mr. WRIGHT. Suspended solids were released over a period of 1 year into the waters. We received a telephone call from the company that just received the bill from the Corps of Army Engineers saying they owed them \$54,000 for solid waste materials that had been released into the river, and the Corps of Army Engineers claims to have authority to bill them for dredging these solids from navigable channels under the 1899 Rivers and Harbors Act.

Why, under the same existing law, does not the Department of the Interior possess that authority?

Mr. MOORE. Without knowing the particular circumstances, I would assume this is probably under the jurisdiction of the Corps of Engineers in terms of navigation hazards. That is all the offhand relationship that I could see in that particular instance.

Mr. WRIGHT. Wyandotte Chemical Co., the McLouth Steel Co., Pennsalt Co., under the 1899 statute, has been assessed several thousand dollars by the Corps of Army Engineers for their share of the costs of dredging these solids out of the water. Wyandotte Chemical, which apparently disposed of most of the material, originally proposed to pay a cost share of \$58,000 for removing the solids from the rivers. However, since that original contract, Wyandotte has apparently made promise to clear up its operations for a figure now of \$25,000. But the corps is charging Wyandotte. This is still in negotiation apparently and could be altered.

The district engineer has contacted two other companies through correspondence and has asked them to pay certain sums. They are still in negotiation with the corps.

The basis for these cost sharing charges for dredging is cited by the Corps of Engineers as being a Supreme Court decision in the case of *U.S. v. Republic Steel*, handed down in 1960, in which decision the Supreme Court ruled that industrial deposits were within the meaning of the 1899 act. The charge is based on an effluent suspended solids loading and is in effect an effluent fee. The corps claims they do not have to prove these solids were actually removed or dredged from navigable channels.

In the face of a Supreme Court decision of that type and on the basis of it being applied by the U.S. Corps of Engineers, I am worried if there might not be authorization under existing law?

Mr. MOORE. From what I understand of the corps authority it is exercised when there is some effect upon navigation. And in view of the fact this refers to dredging, I would assume that they are dredging material which they could identify as having been discharged by these particular industries into a water course, and thereby affecting the navigation of that water course. Because the authority of the corps, as I understand it, is generally exercised with respect to the navigability of the water.

Mr. WRIGHT. Do you have a specific citation on that, Mr. Finnegan?

Mr. FINNEGAN. That would have been the Refuse Act of 1899, I believe is what they are referring to.