

"We conclude that the ecological factors of shallow productive waters, adjacent marshes, and abundant food supply combine to make Hunting Creek an attractive area for waterfowl and other water-oriented wildlife. The combination of available wildlife and public access provides an opportunity for the observation, study, and enjoyment of aquatic life in the immediate vicinity of our Nation's Capital. Therefore, the Bureau feels that every effort should be made to protect these esthetically valuable resources."

To the Fish and Wildlife Service's letter was attached a well-documented report by Francis M. Uhler, biologist, Patuxent Wildlife Research Center, Federal Bureau of Sport Fisheries and Wildlife, who has been studying waterfowl in the Hunting Creek Estuary for 40 years:

"Because of the importance as a diving duck feeding ground of this shallow, open water section in the embayment at the mouth of Big Hunting Creek, every effort should be made to protect this feeding area against destruction by either filling or dredging. These shallow open waters, together with adjacent marshes, compose an unsurpassed opportunity for conservation, enjoyment, and study of aquatic life in the vicinity of our Nation's Capital."

3. *National Park Service objects.*—The National Park Service also protested the proposed fill. The Park Service is now developing the 50-acre tract at Jones Point into a recreational park. Plans for the park include a nature walk along the estuary. If the Hunting Creek fill is permitted, and the proposed high rise apartments built, the principal outlook for this walk would be toward a line of apartment houses. In addition, an unattractive, stagnant backwater would be created between the fill and Jones Point.

4. *The permits are refused.*—Congressmen Moss, Saylor, and Reuss, apprised of the proposed fill in the summer of 1964, vigorously protested to both the Corps of Engineers and the Department of the Interior. The protest of the Fish and Wildlife Service, the National Park Service, and the Congressmen appears to have been effective, for on December 9, 1964, the Corps of Engineers wrote the Congressmen informing them that it was taking no further action to approve the requested permits.

5. *The Cain switch of October 10, 1967.*—The application then rested for almost 3 years. In August–September, 1967, the applicants suddenly began aggressive activities to revive the permit applications. Out of the blue, Assistant Secretary of the Interior for Fish and Wildlife and Parks Stanley A. Cain on October 10, 1967, wrote Colonel Frank W. Rhea, District Engineer, U.S. Army Corps of Engineers District, Baltimore. Assistant Secretary Cain's letter stated that:

"In response to public notices dated March 24, 1964, NABOP-P (Hunting Towers Operating Co., Inc.), and NABOP-P (Hoffman, Howard P., Association, Inc.), the National Park Service and the Bureau of Sport Fisheries and Wildlife advised the Corps of Engineers of their opposition to the granting of the requested permits on the grounds that the construction of the proposed bulkhead and fill would adversely affect fish and wildlife, park and recreation values in the area, and might adversely affect the riparian rights of the United States as owner of the area in Alexandria, Va., known as Jones Point. Revised applications filed in July, 1964, which reduced the area of the proposed fill were reviewed by the same two bureaus of this Department and were opposed on the same basis as the original applications.

"However, since that time we have reconsidered our interests in this matter. In the light of existing conditions in the area, we have concluded that the granting of the applications would not significantly affect recreation or conservation values in the Hunting Creek area. Accordingly, we withdraw the objections interposed to the granting of the permits in accordance with the revised applications."

Assistant Secretary Cain's letter is, to say the least, disingenuous. Its second paragraph three times talks about "we" having changed our requirements about Hunting Creek, and "we" finding that the proposed fill won't hurt conservation values. This clearly implies that the "we" includes the National Park Service and the Bureau of Sport Fisheries and Wildlife. The fact is just to the contrary: both the National Park Service and the Bureau of Sport Fisheries and Wildlife, to their eternal credit, stuck to their guns.

Congress had made it crystal clear that it wanted the judgment as to whether a proposed fill affects wildlife to be made not by political functionaries such as Assistant Secretary Cain, but by the career men of the U.S. Fish and Wildlife Service. Thus, the Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 662(a)) provides that: