

Mr. Moss. General, the memorandum of understanding of July 13, 1967, sets forth the policies in two paragraphs, and then has a section entitled "Procedures for Carrying Out These Policies," in which item 5 reads as follows:

The Chief of Engineers shall refer to the Under Secretary of the Interior all those cases referred to him containing unresolved substantive differences of views and he shall include his analysis thereof, for the purpose of obtaining the Department of Interior's comments prior to final determination of the issues.

Then, of course, it provides that in the event the matter is unresolved at that level it shall be then a matter of consultation between the Secretary of the Army and the Secretary of the Interior.

One of the items, of course, is the regional and district views of the Federal Water Pollution Control Administration, the U.S. Fish and Wildlife Service, and the National Park Service.

What was the unresolved substantive difference of view that was referred to Secretary Black?

General WOODBURY. When the application came from the field with the record of the earlier hearings and the letters that had been written, and with the subsequent letter from Dr. Cain of October 1967, there appeared to be no substantive differences of view among the Federal agencies concerning the appropriate action by the Federal Government in connection with the permit. There were objections certainly. There are objections to most everything that everybody does, by one party or another. So all the objections were not resolved; but to the best of my knowledge, at that time I thought they were as resolved as they could be. However, when Dr. Cain telephoned General Noble about the 5th or 6th of April he asked General Noble to withhold action on the permit because he thought that he was going to change his mind; that is, change the substance of his letter of October. So General Noble did withhold action on the permit and it was the following week, Tuesday or Wednesday of the following week, when I was called, first by Dr. Gottschalk and then by Secretary Cain, to confirm the fact that they were in fact changing their views and it was on the basis of that that I then sent the permit action over to the Secretary of the Interior.

Mr. Moss. But, General, the language is very precise:

The Chief of Engineers shall refer to the Under Secretary of the Interior all those cases referred to him containing unresolved substantive differences of view and he shall include his analysis thereof.

I think quite clearly that contemplates a difference of view between the Chief of Engineers and the Department of the Interior, or one of its constituent bureaus.

General WOODBURY. A difference at a level below the Chief of Engineers; yes, sir.

Mr. Moss. What was the substantive difference of view held by the Engineers and by the Department of the Interior? I can recognize that Dr. Cain seemed to be having a substantive difference of views with himself and that that had been continuing for a number of months, but I fail to detect the substantive difference of views between you and the Department of the Interior.

General WOODBURY. There were none, sir.

Mr. Moss. Well then, was it a matter to be referred, under the agreement, to the Under Secretary?