

suggest that. The agreement we had between the Secretary of the Interior and the Secretary of the Army calls for us to send things over to the Under Secretary. I was following that procedure. The procedure is to cover many cases and not just this particular one. It was felt this was the best procedure to follow in the case of permits.

Mr. REUSS. I still can't understand why you pursued it in April, when you had an apparent Department of the Interior position opposing the fill confronting you, and yet did not use the procedure in October when you had an apparent Department of Interior position allowing the fill.

But let me turn to another subject, the Wildlife Coordination Act of 1958, which I referred to before. I want to read to you from the opening clause of that statute. That is the one that requires you to consult with the U.S. Fish and Wildlife Service on matters of fills that could affect wildlife. Here is the quotation: "For the purpose of recognizing the vital contribution of our wildlife resources to the Nation, the increasing public interest and significance thereof due to expansion of our national economy and other factors, and to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water resource development programs." I call your attention to that and ask you whether I read the statute right and if that is what the statute says. Your answer is "Yes"? So far as you know, that is an accurate reading of the statute?

General WOODBURY. I take no objection to it; no, sir.

Mr. REUSS. You are familiar with that statute?

General WOODBURY. Yes, sir.

Mr. REUSS. When the applications for this fill were first put in, the Corps of Engineers, on March 24, 1964, published notice of the application for the fill permit and that notice stated:

Although the decision as to whether or not approval will be forthcoming on the plans as submitted must rest primarily upon the effect of the work on navigation, information concerning other effects of the work will be accepted.

Does that sound like an agency of the Government which is following the injunction of the Coordination Act, that wildlife conservation shall receive equal consideration?

General WOODBURY. I can only say that the action on this permit was taken under policy guidance that has been changed since 1964 and reflects the increasing concern of the American people for fish and wildlife values. It also reflects a decision by the Supreme Court in 1960 which held that the Chief of Engineers could act under the 1899 act in the public interest.¹ The permit procedures have since been rewritten to reflect that, and this agreement with the Department of the Interior is an outgrowth of that change in policy.

Mr. REUSS. The statute, however, that I read you was passed by the Congress in 1958. That is the statute which says—and again I quote:

Wildlife conservation shall receive equal consideration and be coordinated with other features of water resource development programs.

You aren't trying to tell us that that 1958 statute wasn't in effect when the 1964 publication by the Corps of Engineers was made of its proposed hearing on the application?

¹ SUBCOMMITTEE NOTE.—The decision referred to is *United States v. Republic Steel Corp.*, 362 U.S. 482 (1960).