

Mr. BLACK. But I don't believe it would have changed my reaction to the legal aspects of this one whit.

Mr. MOSS. I haven't asked you for a legal opinion, Mr. Secretary.

Mr. BLACK. I appreciate that, sir.

Mr. MOSS. I believe that we asked Assistant Secretary Cain to send us the Solicitor's opinion on the matter of the riparian question. And so I don't think it adds anything to the hearing for us to get into needless and unproductive fields of discussion. And I haven't tried to steer us to that.

Mr. BLACK. May I continue, sir?

Mr. MOSS. Please continue.

Mr. BLACK. Probably I shouldn't characterize it as the most important, but certainly it has been the item that has received the greatest attention here. And it has played a large part in my consideration. And that is the matter of wildlife values.

A great deal of the questioning from members of the committee, and the testimony presented at the opening session, alleges and implies that the views of our professional staff were ignored. I want to make it clear that when this came to me I was very much concerned with the views of our professional staff. I did indeed consider the Bureau of Sport Fisheries and Wildlife 1964 report to the Corps of Engineers. And I had available to me and I studied Dr. Uhler's very excellent report on his inspection of the area, which dated back to the late fall of 1963, which again, I think, was made in the context of a much larger fill than the present permit contemplates.

I would like to comment on the Uhler report, because it provides much of the substance for the subsequent Bureau report.

In the first place, Dr. Uhler's paper deals very largely with his observation of conditions in Dyke Marsh. He makes minor reference, I think, in the context of his total study, to the Hunting Creek area. I want to say very clearly at this point that no one doubts or questions the importance of this general area as a wildlife habitat or as an important natural area which deserves protection. And I think my response to the Corps of Engineers makes that clear.

But Dyke Marsh, Mr. Chairman, is a true marshland area. It is entirely different from the area that we have under consideration here today, which has been extensively altered and very seriously disrupted in my view. The northern tip of the marsh is more than a mile downstream from the closest edge of the fill area. And I couldn't get any indication that the marsh would be in any way adversely affected. Dr. Uhler's paper in its reference to Hunting Creek notes, it is true, and notes very specifically, that the open waters at the mouth of the creek provided a feeding ground for the diving ducks. And this is due largely to the very fertile effluent from neighboring sewage plants. I think that a fair reading of his observations would indicate that his concern—at least this is what I reacted to in arriving at the decision that I did—that his concern was largely in the waters bordering the Memorial Parkway which are to the south of the main inlet. He makes reference to this in a couple of places. That area is adjacent to Federal land, and it is not threatened by fill operations. So this was one further consideration with respect to Dr. Uhler's paper.

I think of more significance is the fact that the Bureau report did not purport to be talking about the Hunting Creek site specifically,