

permit to Howard P. Hoffman Associates, Inc., to construct a bulkhead and to fill in Hunting Creek at Alexandria, Va.

Under section 10 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 403), Congress has granted authority to the Secretary of the Army, acting through the Corps of Engineers, to issue permits for the performance of any work in the navigable waters of the United States. An important responsibility of the Secretary of the Army in the exercise of this authority is to determine whether any proposed work is consistent with the public interest. When fish and wildlife resources are involved, the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-666c), requires coordination with the U.S. Fish and Wildlife Service and consideration of their views as a basis for decision on the proposed work. The issuance of a permit for such work is also predicated upon the effects of permitted activities on the public interest, as embodied in other Federal law and policy, such as the effects on water quality, recreation, and natural resources, as well as navigation.

On July 13, 1967, the Secretary of the Army and the Secretary of the Interior signed an agreement detailing how we would cooperate in combating pollution and in conserving the natural resources and recreational values in dredging, filling, excavating, and other related work in navigable waters of the United States. It makes specific provision for review at Secretarial level whenever any substantive differences in opinions have not been resolved at the local level. The policies and procedures in the agreement governed our actions in the case under discussion.

The Hunting Towers Operating Co. and Howard P. Hoffman Associates, Inc., applied on October 9, 1963, for a Department of the Army permit for bulkheading and filling wedge-shaped adjoining water areas totaling about 36 acres. Public notices of this proposal were sent to all known interested parties on March 24, 1964. Objections were received from several Congressmen, the National Park Service, the U.S. Fish and Wildlife Service, and various conservation interests. The applicants subsequently submitted a revised proposal reducing the areas of fill to about 19 acres. The revised plans were submitted to the objectors who in most instances reiterated their objections. The report of the findings of the District Engineer was reviewed thoroughly in the Office, Chief of Engineers. After careful consideration of all pertinent data, the Chief of Engineers directed the District Engineer on November 20, 1964, to withhold issuance of the permits until the matter of riparian rights of property under the jurisdiction of the National Park Service was settled, and then to hold a public hearing to develop further the facts in the case.

On October 10, 1967, the Assistant Secretary of the Interior advised the District Engineer that the matter had been reconsidered in the light of existing conditions in the area, and that it had been concluded that the granting of the applications on the basis of the revised plans would not significantly affect recreation or conservation values in the Hunting Creek area. Accordingly that Department's objection was withdrawn. The Assistant Secretary of the Interior indicated, however, that the proposal of the Hunting Towers Operating Co. application might involve Federal property rights under the jurisdiction of the National Park Service which might eventually have to be resolved in court. Subsequently, Howard P. Hoffman Associates, Inc., requested that its application be processed since there was no riparian rights problem involved concerning its property. The agent for Hunting Towers Operating Co. indicated that the intent of that company could not be determined and that a decision concerning their application would not be forthcoming in the foreseeable future.

The Governor of the Commonwealth of Virginia, in a letter dated December 1, 1967, requested to be informed whether the Corps of Engineers had any objection to the proposed work prior to making the conveyance of certain submerged lands located in Hunting Creek, Alexandria, Va., authorized by chapter 546, Acts of Assembly of 1964, Commonwealth of Virginia.

The Federal Water Pollution Control Administration, in a letter dated December 15, 1967, advised that the project would not result in any adverse effects on water quality.

A public hearing to consider the application of Howard P. Hoffman Associates, Inc., only was held at Alexandria, Va., on February 21, 1968. Prior to the hearing the matter of the management of the existing Hunting Towers apartment development practicing racial discrimination in its rental policy was brought into the case.