

the conditions of Engineer form 1721 (Civil) and the following additional condition:

(k) That the permittee shall comply promptly with any regulations, conditions, or instructions affecting the work hereby authorized if and when issued by the Federal Water Pollution Control Administration and/or the State water pollution control agency having jurisdiction to abate or prevent water pollution. Such regulations, conditions, or instructions in effect or prescribed by the Federal Water Pollution Control Administration or State agency are hereby made a condition of this permit.

However, I have been informally advised that the position of the Department of the Interior has been changed and therefore in accordance with the policies set forth in the memorandum of understanding between our departments dated July 13, 1967, I refer the application to you for your consideration.

I would appreciate your comments at the earliest practicable date since the applicant has indicated the urgency of a prompt decision.

Sincerely yours,

H. G. WOODBURY, JR.,
Brigadier General, USA, Director of Civil Works.

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DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 26, 1968.

Brig. Gen. H. G. WOODBURY, JR., USA,
Director of Civil Works, Office of the Chief of Engineers, Department of the Army,
Washington, D.C.

DEAR GENERAL WOODBURY: By letter dated April 15, 1968, you have requested a current statement of this Department's position on an application for a bulkhead and fill permit which would affect 19 acres of presently submerged land in Hunting Creek, Alexandria, Va.

This application has been pending in various forms since October of 1963. When it was originally circulated for agency comment, two Bureaus of this Department expressed objection to the project on the following grounds: (1) infringement of riparian rights and other property interests of the United States appurtenant to ownership of Jones Point Park lands, and (2) the destruction of estuarine environment and waterfowl habitat. When plans for the development were substantially modified, both of these objections were reiterated, but action on the application was suspended pending further analysis of the property interests issue. After a lapse of nearly 3 years, Assistant Secretary Cain advised by letter of October 10, 1967, that the Department's objections were withdrawn, subject to the understanding that the property interests of the United States in its Jones Point Park lands extended from the Maryland-Virginia boundary line westward to a line representing the east side of South Royal Street projected into Hunting Creek.

The Department was not represented by witnesses at the public hearing conducted on February 21, 1968, and has only recently had opportunity to examine the record of that proceeding. In that process two items have been noted with sufficient concern as to require clarification. At pages 6 and 9 of the transcript, representatives of the corps and the applicant made general statements concerning the resolution of property, title, or boundary issues. These statements warrant the conclusion that all claims by the United States had been abandoned or waived as to this application. As such, they misconstrue the extent and full import of the reservation expressed in Assistant Secretary Cain's letter of October 10, 1967.

The National Park Service asserts actual title along the entire frontage of the Jones Point park property to the east boundary of South Royal Street as projected southward to the line of mean low water (0.0 line). In addition, however, the incidents of riparian ownership (including access to the navigable portion of the stream, future fast land additions through accretion, and related property interests) are claimed to the thread of Hunting Creek along the same frontage. The pending application, even as modified, would encroach upon these property interests of the United States to the extent of any of the fill area that lies east of the South Royal Street line, projected as described above (identified as the cross-hatched area on the attached diagram of the project plan).