

If a permit is to issue in this case, therefore, potential conflict should be avoided by excluding the area in question, essentially a triangular piece approximating three-fourths of an acre in size. In any event, any permit recipient should be put on notice of potential claims and that its issuance in no way implies waiver of Federal property interests.

Also in the hearing, the engineering consultant to the applicant stated that rate of siltation in Hunting Creek had accelerated rapidly, to as much as a foot a year, and that larger areas are now exposed at low tide. Our observations tend to confirm this trend which suggests increased accretion to riparian lands and a corresponding decrease in the area of the creek bed.

Without a complete tracing of a continuous mean low waterline around the present Hunting Creek estuary, precise conclusions cannot be drawn. However, the extent of the siltation described lends added weight to the reservation or understanding expressed in Assistant Secretary Cain's letter of October 10, as clarified herein.

As to the damage to conservation values, I have received and considered the views of people in and out of this Department who entertain concern on this point. I have also made a visual inspection of the affected area in the company of technical experts on the subject. While there is no doubt of the opinions reached by those concerned with the conservation impact, their position is founded on subjective judgment considerations rather than any factual evidence which would support valid objection by this Department.

This Department would, of course, prefer that there be no additional intrusions upon the existing Potomac environment. Our deferral in this instance is dictated solely by the circumstances that the proposed fill project is immediately adjacent to high density development, is clearly segregated from areas of prime conservation value, and would not per se usurp waters subject to concentrated waterfowl use. It follows from this, however, that we will feel compelled to register strenuous objection to any extension of this project or to any similar development which would pose a threat to Dyke Marsh (except to repair past damage from excessive dredging) or to any other undeveloped portion of the Potomac shoreline.

Sincerely yours,

DAVID S. BLACK, *Under Secretary.*