ESTUARIES AND THEIR NATURAL RESOURCES

HEARING

BEFORE THE

COMMITTEE ON COMMERCE
UNITED STATES SENATE

NINETIETH CONGRESS

SECOND SESSION

ON

H.R. 25

TO AUTHORIZE THE SECRETARY OF THE INTERIOR, IN COOPERATION WITH THE STATES, TO CONDUCT AN INVENTORY AND STUDY OF THE NATION'S ESTUARIES AND THEIR NATURAL RESOURCES, AND FOR OTHER PURPOSES

AND

S. 695

TO AUTHORIZE THE SECRETARY OF THE INTERIOR IN COOPERATION WITH THE STATES TO PRESERVE, PROTECT, DEVELOP, RESTORE, AND MAKE ACCESSIBLE ESTUARINE AREAS OF THE NATION WHICH ARE VALUABLE FOR SPORT AND COMMERCIAL FISHING, WILDLIFE CONSERVATION, RECREATION, AND SCENIC BEAUTY, AND FOR OTHER PURPOSES

AND

S. 2365

TO AUTHORIZE THE SECRETARY OF THE INTERIOR, IN COOPERATION WITHE THE STATES, TO PROTECT, PRESERVE, RESTORE, DEVELOP, AND MAKE ACCESSIBLE THE NATION'S ESTAURINE AREAS AND THEIR NATURAL RESOURCES, AND FOR OTHER PURPOSES

JUNE 4, 1968

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CONTENTS

WITNESSES

ADDITIONAL STATEMENTS AND INFORMATION

INVENTORY AND STUDY OF THE NATION'S ESTUARIES AND THEIR NATURAL RESOURCES

TUESDAY, JUNE 4, 1968

U.S. SENATE,
COMMITTEE ON COMMERCE,
Seattle, Wash.

The Committee on Commerce met, pursuant to notice, at 10 a.m., the Honorable Warren G. Magnuson presiding.

OPENING STATEMENT BY THE CHAIRMAN

Senator MAGNUSON. The hearing will come to order.

The hearing today is on H.R. 25, a bill to authorize the Secretary of the Interior, in cooperation with the States, to conduct an inventory and study of the Nation's estuaries and their natural resources, and for other purposes, which was passed by the House of Representatives after 3 days of public hearings before their Subcommittee on Merchant Marine and Fisheries and after many days of meetings before the full Committee on Merchant Marine and Fisheries.

S. 695, a like bill in the Senate, was identical to H.R. 25 when it was introduced. The House, after long consideration, approved the amended bill which we are to consider today.

I believe that Roland F. Smith, chairman of the Estuarine Fisheries Committee of the American Fisheries Society, at their 94th annual meeting, gave a good definition of an estuary. He said it so well that I now place excerpts from that statement in the record.

He quoted W. M. Cameron and D. W. Pritchard, 1963, who gave this definition:

> An estuary is a semi-enclosed coastal body of water having a free connection with the open sea and within which the sea water is measurably diluted with fresh water deriving from land drainage.

Roland Smith said at that 94th annual meeting:

> Concern for our estuarine fishery resources is more than a sentimental attempt to preserve a part of our natural heritage doomed by the materialistic demands of a rapidly-expanding and affluent population. At least 65 percent of our nation's commercial fish and shellfish and most marine sport species inhabit the estuarine environment during all or part of their life cycle. Most of these represent top quality food species or highly prized sport fish. * * * The contribution of these estuarine fishery resources to our general health and economic well-being has increased at a far greater rate than was predicted 20, 10, even 5 years ago. Current estimates of future use and demands may prove to be equally conservative. The fact remains that for most estuarine fishery resources, our major problem will be to provide an adequate supply in the face of increased demands and dwindling habitat.

Staff member assigned to this hearing: Harry C. Huse.

Today we are hopeful that we will hear from the local people who are so deeply interested in conservation of our fish resources and in particular the estuarine areas of the Pacific Northwest. I have heard it said by oceanographers that for research alone the Puget Sound is probably the greatest body of water in the world for this purpose, for all types of oceanographic research. Surely, it is one of the most important areas in the whole of the North American Continent when you talk about fish resources and fish population and the necessity of keeping these areas adaptable to fish and their breeding habits and other things that go with it.

We will be very happy today to put in the record any statement of the local witnesses who are very close to this matter and make it part of the record with the Senate bill. I am hopeful if we can work out the Senate bill without too many amendments that we can get it passed and have a quick conference with the House and probably get this bill enacted into law this session of Congress, if we can. I think it is very important and time is of the essence.

First of all, I want to thank Judge Lindberg for letting us use this chamber for this hearing.

Now, I will place in the record copies of H.R. 25 and S. 695.

We will begin the hearings. Our first witness today is Clarence Pautzke, who is the Deputy Assistant Secretary of the Department of the Interior for Fish and Wildlife and Parks.

Clarence, before you start, may I say we also have listed Dr. Bevan, Al Lasaster, John Haydon, Mrs. Denton Sherry, Bert L. Cole, John Biggs, Mrs. Katherine Mossness, Jesse M. Orme, Dick Smith, Ben Twight, Mrs. Neil Haig, Warren Johnson, William Jackson, Bruce Cowan, and Charles Nash. If there are others who wish to testify, you may. We will hear you as fast as we can. We don't have to necessarily call them in this order. Mainly today what we want to do is to make a record zeroed in and directed to probably what is the greatest estuary in the whole of the North American Continent, Puget Sound. Senator Kennedy of Massachusetts has asked me to insert his statement in the record and it will be followed by copies of the bills and reports of governmental agencies.

STATEMENT BY HON. EDWARD M. KENNEDY, U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Mr. President, I introduce today and send to the desk for appropriate reference a bill concerned with the conservation of this country's estuaries and estuarine areas.

An estuary can most easily be defined as the point at which rivers and streams, carrying the fresh water drainage from the land, meet the waters of the sea.

The salt marshes, coastal and intertidal areas, bays and sounds, lagoons, inshore waters and channels immediately surrounding estuaries are estuarine areas. Because the mouths of rivers and streams are contantly changing location and contour under the forces of the wind, the waves and the tides of the ocean, these estuarine areas must be treated as one, for the purposes of conservation, with the estuaries themselves.

The pressures of population growth are threatening to destroy these tidal wetlands. Along the North Atlantic coast from Maine to Delaware, for example, about 45,000 acres of wetlands were destroyed in the last ten years. The figures for the South Atlantic, Gulf and Pacific coasts show the same alarming rates of spoliation.

The patterns of this destruction are familiar. Bays and harbors are dredged and the spoil used to fill salt marshes for development. Rivers are poisoned with raw sewage and industrial and chemical wastes. Waters are clouded with silt

because erosion control is disregarded. Slowly but inexorably, our estuaries and estuarine areas are disappearing.

There are three main and compelling reasons why we must act, and act now, to slow this destruction.

First, the very viability of our commercial fishing industry depends upon these tidal waters and lands. At least three-quarters of the total catch of commercial seafood, on all three coasts, depends upon the existence of estuaries and estuarines areas for one of its life cycles. This estuary-dependent catch in 1963 amounted to 3.5 billion pounds of seafood and brought fishermen $275 million. If these estuarine areas disappear under the pressures of shore development, then commercial seafood dependent upon them will disappear too, and with it, the industry.

Second, the recreational opportunities of estuaries and estuarine areas are vast. In 1965, over four million people fished in estuaries, spending $600 million in the process. Also in 1965, over three-quarters of a million hunters pursued their sport in estuarine areas, spending $41 million in doing so. Americans spent $2.75 billion on boating in 1965, and although exact figures are impossible to obtain, a very large proportion of this activity took place in the protected waters of estuarine areas. The value of swimming and sunbathing is not readily susceptible to the determinants of economics; the value of human well-being, on the other hand, is beyond measure. The destruction of estuaries and estuarine areas by bulkheading, dredging and filling can put beyond recapture this irreplaceable recreational resource.

Third, and often overlooked, is the scientific value of estuarine areas. Wildfowl, fish and shellfish abound in the nutrient-rich waters of these areas. Migratory wildfowl and fish use these areas as transient stopping places. Often the particular part of the life cycle of an individual species spent in the tidal wetlands is the only one which can be closely observed, as the others are spent far at sea or at other inaccessible places. If we are to learn more about these birds, fish and shellfish, and thus to keep them from extinction from overfishing or overhunting, then we must be careful to preserve some of our estuaries and estuarine areas in an undeveloped state.

Testimony in hearings last year before subcommittees of the Senate Committee on Commerce and the House Committee on Merchant Marine and Fisheries give ample and graphic support for these three reasons justifying the need for the bill I introduce today. I am sure that if hearings are held this year, they will present an even stronger case for the urgency of its consideration and passage.

The bill will not—and should not—strike down all shore development in estuarine areas. Instead, what it will do is seek a balance between the pressure to develop and the need to conserve. This balance must, if it is to succeed in its objective, reflect a system of priorities which is responsive not only to private interests, but also to the public interest.

The bill's provisions are fitted to realizing this system of priorities.

First, it authorizes the Secretary of the Interior to conduct a five-year nationwide study of estuaries and estuarine areas. The Secretary must report to the Congress annually on his findings in the study and on his legislative recommendations to authorize specific estuarine areas for acquisition by the Secretary. The maximum cost of the study is $4.5 million.

Second, it authorizes the Secretary to designate estuarine areas to be acquired by him as a National Estuarine Area. These areas must not already be owned by a State or political subdivision thereof, and in any case the designation is not effective until the acquisition is approved by an Act of Congress.

Third, it authorizes the Secretary to enter into agreements with a State or political subdivision thereof for the management, development and administration by the Secretary of an estuarine area owned by the State or political subdivision thereof. Such an area would then be designated as a National Estuarine Area by the Secretary without further action by the Congress. The Secretary would pay the bulk of the costs incurred under this arrangement. This cooperative agreement is designed to protect areas which might otherwise be lost because of fiscal or legal limitations on any one level of government.

Fourth, it prohibits anyone from dredging, filling or excavating any estuary of the United States or the Great Lakes without a permit from the Secretary. It also gives the Secretary authority to regulate dumping of dredgings, earth, garbage or other refuse matter other than oil (presently regulated by Oil Pollution Act of 1924) in any estuary or estuarine area.

Fifth, it does not affect the authority of the states to permit and regulate shellfishing, or the Secretary's authority to regulate migratory birds in estuarine areas.

Sixth, it gives the Secretary power to seek injunctive relief in cases where violations of its provisions present imminent danger to persons, fish and wildlife, or to scenic and recreational areas.

The sum total of these, and of other technical provisions, is a comprehensive program for the conservation and protection of our estuarine areas. These areas are every bit as much a part of our natural heritage as are our mountains and great rivers, every bit as irreplaceable, and every bit as deserving of national attention and treatment.

The Commonwealth of Massachusetts, in 1965, recognized the clear and present dangers to its estuaries and estuarine areas and the need for their protection. Under legislation passed that year, nearly 45,000 acres of salt marshes will be spared from destruction which would have otherwise occurred in the near future. The provisions of the bill I introduce today can lend much-needed support to the efforts of Massachusetts—and to other states as well—to balance the pressures of development against the needs for conservation.

The late Rachel Carson knew the estuaries as a scientist and wrote of them in poetic prose. In describing one such estuary, she had this to say:

(The island) "lay across a quiet sound from which the banks shouldered away the South Atlantic rollers. To the north the island was separated from the mainland by a deep gutter where the ebbing tides raced strongly. On the south side the beach sloped gently, so that at slack water the fishermen could wade out half a mile before the water came above their armpits as they raked scallops or hauled their long seines. In these shallows young fishes swarmed, feeding on the small game of the waters, and shrimp swam with backward flipping of their tails. The rich life of the shallows brought the skimmers nightly from their nesting grounds on the banks, to take their food from the water as they moved with winnowing flight above it.

"About sunset the tide had been out. Now it was rising, covering the afternoon resting places of the skimmers, moving through the inlet, and flowing up into the marshes. Through most of the night the skimmers would feed, gliding on slender wings above the water in search of the small fishes that had moved in with the tide to the shelter of grassy shallows."

The bill I have introduced today can go far toward saving the tidal wetlands of this nation from the destruction which would otherwise befall them.

We can save these estuaries, and I believe we should.

90TH CONGRESS
2D SESSION

H. R. 25

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 1968

Read twice and referred to the Committee on Commerce

AN ACT

To authorize the Secretary of the Interior, in cooperation with the States, to conduct an inventory and study of the Nation's estuaries and their natural resources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That Congress finds and declares that many estuaries in
4 the United States are rich in a variety of natural, commer-
5 cial, and other resources, including environmental natural
6 beauty, and are of immediate and potential value to the
7 present and future generations of Americans. It is there-
8 fore the purpose of this Act to provide a means for con-
9 sidering the need to protect, conserve, and restore these
10 estuaries in a manner that adequately and reasonably main-

1 tains a balance between the national need for such protec-
2 tion in the interest of conserving the natural resources and
3 natural beauty of the Nation and the need to develop these
4 estuaries to further the growth and development of the
5 Nation. In connection with the exercise of jurisdiction over
6 the estuaries of the Nation and in consequence of the bene-
7 fits resulting to the public, it is declared to be the policy
8 of Congress to recognize, preserve, and protect the respon-
9 sibilities of the States in protecting, conserving, and restoring
10 the estuaries in the United States.

11 SEC. 2. (a) The Secretary of the Interior, in consulta-
12 tion and in cooperation with the States, the Secretary of the
13 Army, and other Federal agencies, shall conduct directly or
14 by contract a study and inventory of the Nation's estuaries,
15 including without limitation coastal marshlands, bays,
16 sounds, seaward areas, lagoons, and land and waters of the
17 Great Lakes. For the purpose of this study, the Secretary shall
18 consider, among other matters, (1) their wildlife and recrea-
19 tional potential, their ecology, their value to the marine,
20 anadromous, and shell fisheries and their esthetic value, (2)
21 their importance to navigation, their value for flood, hurri-
22 cane, and erosion control, their mineral value, and the value
23 of submerged lands underlying the waters of the estuaries,
24 and (3) the value of such areas for more intensive develop-
25 ment for economic use as part of urban developments and for

1 commercial and industrial developments. This study and
2 inventory shall be carried out in conjunction with the compre-
3 hensive estuarine pollution study authorized by section 5 (g)
4 of the Federal Water Pollution Control Act, as amended,
5 and other applicable studies.

6 (b) The study shall focus attention on whether any
7 land or water area within an estuary and the Great Lakes
8 should be acquired or administered by the Secretary or by
9 a State or local subdivision thereof, or whether such land or
10 water area may be protected adequately through local, State,
11 or Federal laws or other methods without Federal land acqui-
12 sition or administration.

13 (c) The Secretary of the Interior shall, not later than
14 January 30, 1970, submit to the Congress through the Presi-
15 dent a report of the study conducted pursuant to this section,
16 together with any legislative recommendations, including
17 recommendations on the feasibility and desirability of estab-
18 lishing a nationwide system of estuarine areas, the terms,
19 conditions, and authorities to govern such system, and the
20 designation and acquisition of any specific estuarine areas of
21 national significance which he believes should be acquired by
22 the United States. No lands within such area may be ac-
23 quired until authorized by subsequent Act of Congress. Rec-
24 ommendations made by the Secretary for the acquisition of

1 any estuarine area shall be developed in consultation with the
2 States, municipalities, and other interested Federal agencies.
3 Each such recommendation shall be accompanied by (1)
4 expressions of any views which the interested States, munic-
5 ipalities, and other Federal agencies and river basin commis-
6 sions may submit within sixty days after having been notified
7 of the proposed recommendations, (2) a statement setting
8 forth the probable effect of the recommended action on any
9 comprehensive river basin plan that may have been adopted
10 by Congress or that is serving as a guide for coordinating
11 Federal programs in the basin wherein such area is located,
12 (3) in the absence of such a plan, a statement indicating the
13 probable effect of the recommended action on alternative
14 beneficial users of the resources of the proposed estuarine
15 area, and (4) a discussion of the major economic, social, and
16 ecological trends occurring in such area.
17 (d) There is authorized to be appropriated not to exceed
18 $750,000 for fiscal year 1969 and $250,000 for fiscal year
19 1970 to carry out the provisions of this section. Such sums
20 shall be available until expended.
21 SEC. 3. After the completion of the general study au-
22 thorized by section 2 of this Act, the Secretary of the Interior,
23 with the approval of the President, may enter into an agree-
24 ment, containing such terms and conditions as are mutually
25 acceptable, with any State or with a political subdivision or

1 agency thereof (if the agreement with such subdivision or
2 agency is first approved by the Governor of the State in-
3 volved or by a State agency designated for that purpose) for
4 the permanent management, development, and administration
5 of any area, land, or interests therein within an estuary and
6 adjacent lands which are owned or thereafter acquired by a
7 State or by any political subdivision thereof: *Provided*, That
8 with the approval of the Governor of the State involved or of
9 a State agency designated for that purpose, the Secretary may
10 also enter into such an agreement for any particular area
11 whenever the segment of the general study applicable to that
12 area is completed subject to the provisions of subsections
13 (a) and (b) of section 2 of this Act. Such agreement shall,
14 among other things, provide that the State or a political
15 subdivision or agency thereof and the Secretary shall share
16 in an equitable manner in the cost of managing, administer-
17 ing, and developing such areas, and such development may
18 include the construction, operation, installation, and mainte-
19 nance of buildings, devices, structures, recreational facilities,
20 access roads, and other improvements, and such agreement
21 shall be subject to the availability of appropriations. State
22 hunting and fishing laws and regulations shall be applicable
23 to such areas to the extent they are now or hereafter appli-
24 cable.

1 SEC. 4. In planning for the use or development of water
2 and land resources, all Federal agencies shall give considera-
3 tion to estuaries and their natural resources, and their impor-
4 tance for commercial and industrial developments, and all
5 project plans and reports affecting such estuaries and re-
6 sources submitted to the Congress shall contain a discussion
7 by the Secretary of the Interior of such estuaries and such
8 resources and the effects of the project on them and his recom-
9 mendations thereon. The Secretary of the Interior shall make
10 his recommendations within ninety days after receipt of such
11 plans and reports.

12 SEC. 5. The Secretary of the Interior shall encourage
13 States and local subdivisions thereof to consider, in their
14 comprehensive planning and proposals for financial assistance
15 under the Federal Aid in Wildlife Restoration Act (50
16 Stat. 917), as amended (16 U.S.C. 669 et seq.), the Federal
17 Aid in Fish Restoration Act (64 Stat. 430), as amended
18 (16 U.S.C. 777 et seq.), the Land and Water Conservation
19 Fund Act of 1965 (78 Stat. 897), the Commercial Fish-
20 eries Research and Development Act of 1964 (78 Stat. 197),
21 and the Anadromous and Great Lakes Fisheries Conservation
22 Act of October 30, 1965 (79 Stat. 1125), the needs and
23 opportunities for protecting and restoring estuaries in accord-
24 ance with the purposes of this Act. In approving grants
25 made pursuant to said laws for the acquisition of all or part

1 of an estuarine area by a State, the Secretary shall establish
2 such terms and conditions as he deems desirable to insure
3 the permanent protection of such areas, including a provision
4 that the lands or interests therein shall not be disposed of by
5 sale, lease, donation, or exchange without the prior approval
6 of the Secretary.

7 SEC. 6. Nothing in this Act shall be construed to affect
8 the authority of any Federal agency to carry out any Federal
9 project heretofore or hereafter authorized within an estuary.

Passed the House of Representatives February 8, 1968.

Attest: W. PAT JENNINGS,

Clerk.

90TH CONGRESS
1ST SESSION

S. 695

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 1967

Mr. KENNEDY of Massachusetts (for himself and Mr. MAGNUSON) introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Congress finds and declares that the estuarine areas
4 of the United States are rich in a variety of natural, com-
5 mercial, recreational, and esthetic resources of immediate
6 and potential value to the present and future development
7 of our Nation; that many of these areas have been damaged
8 or destroyed by commercial and urban developments; and

1 that it is the policy of Congress to preserve, protect, develop,
2 and, where possible, restore and make accessible for the
3 benefit of all the people selected parts of the Nation's
4 diminishing estuarine areas which are valuable for sport
5 and commercial fishing, wildlife conservation, outdoor recrea-
6 tion, and scenic beauty.

7 SEC. 2. (a) In furtherance of this policy, the Secretary,
8 in consultation with the States and other Federal agencies,
9 shall conduct a nationwide study of estuarine areas for the
10 purposes of identifying areas that are (1) relatively un-
11 spoiled or undisturbed by the technological advances of man,
12 including, but not limited to, pollutants, or (2) partially
13 spoiled or disturbed by such advances but should be protected
14 from further adverse effects.

15 (b) The Secretary shall then study such identified areas
16 to determine the estuarine areas that should be preserved or
17 protected, considering, among things, all the resource and
18 scenic values of those areas, their economic and recreational
19 potential, their ecology, navigation, flood and erosion control,
20 the effects of the exploitation of mineral resources and fossil
21 fuels, the present and future urban and industrial effects on
22 such areas, other uses of estuaries, the most appropriate
23 means or methods of preserving or protecting those areas,
24 and the results of the study authorized by section 5 (g) of the
25 Federal Water Pollution Control Act, as amended, relative to

96-909 O - 68 - 2

1 the effects of pollution, including sedimentation, in the estu-
2 aries on sport and commercial fishing, on wildlife, on recrea-
3 tion, on water supply and water power, and on other bene-
4 ficial uses.

5 (c) Each study shall give particular attention to whether
6 an area should be acquired or administered by the Secretary
7 because of its national significance, or by a State or local sub-
8 division thereof, and whether the area may be protected ade-
9 quately through local zoning laws or other methods without
10 Federal land acquisition or Federal administration.

11 (d) Such studies shall be coordinated with the nation-
12 wide outdoor recreation plan formulated or in preparation
13 pursuant to the Act of May 28, 1963 (77 Stat. 49), with
14 any plan prepared and developed or in preparation pursuant
15 to the Water Resources Planning Act (79 Stat. 244), and
16 with statewide plans prepared or in preparation and found
17 adequate pursuant to the Land and Water Conservation Fund
18 Act of 1965.

19 (e) The Secretary shall submit annually to the Con-
20 gress through the President the results of any studies con-
21 ducted pursuant to this section, including recommendations
22 with respect to the designation of estuarine areas of national
23 significance to be acquired by the Secretary as a national
24 estuarine area. Each recommendation of the Secretary for
25 such designation shall become effective only if so provided

1 by subsequent Act of Congress. Recommendations made
2 by the Secretary shall be developed in consultation with the
3 States and other interested Federal agencies. Each such
4 recommendation shall be accompanied by (1) expressions
5 of any views which the States and other Federal agencies
6 may submit within ninety days after having been notified of
7 the proposed recommendation, (2) a statement setting forth
8 the probable effect of the recommended action on any com-
9 prehensive river basin plan that may have been adopted by
10 Congress or that is serving as a guide for coordinating Fed-
11 eral programs in the basin wherein each estuarine area is
12 located, (3) in the absence of such a plan, a statement indi-
13 cating the probable effect of the recommended action on
14 alternative beneficial users of the resources of such estuarine
15 area, and (4) a discussion of the major economic, social, and
16 ecological trends occurring in each estuarine area.
17 (f) There is authorized to be appropriated not to exceed
18 $500,000 for the first fiscal year beginning after enactment
19 of this Act and for four succeeding fiscal years not to exceed
20 $1,000,000 annually to carry out the provisions of this
21 section.
22 SEC. 3. (a) The Secretary may acquire lands and
23 waters or interests therein within any national estuarine area
24 by purchase with appropriated or donated funds, donation,
25 or exchange, except that he shall not acquire with appropri-

1 ated funds any lands or waters or interests therein owned by
2 a State or by any political subdivision thereof. In the exer-
3 cise of his exchange authority, the Secretary may accept title
4 to any non-Federal property and in exchange therefor the
5 Secretary may convey to the grantor of such property any
6 federally owned property under his jurisdiction which he
7 classifies as suitable for exchange or other disposal. The
8 values of the properties so exchanged either shall be approxi-
9 mately equal, or if they are not approximately equal the
10 values shall be equalized by the payment of cash to the
11 grantor or to the Secretary as the circumstances require.
12 (b) Any lands, waters, or interests therein within an
13 estuarine area which are acquired by the Secretary shall be
14 administered, managed, and developed primarily for the
15 purposes of sport and commercial fishing, wildlife conserva-
16 tion, outdoor recreation, and scenic beauty, and for such
17 other purposes as the Secretary determines are compatible
18 with these purposes.
19 SEC. 4. (a) The Secretary may enter into an agree-
20 ment, containing such terms and conditions as he deems
21 desirable, with any State or political subdivision or agency
22 thereof for the permanent management, development, and
23 administration by him for the purposes of this Act of any
24 lands and waters or interests therein which are located

1 within an estuarine area of national significance and which
2 are owned or thereafter acquired by the State or by any
3 political subdivision thereof and such area shall be desig-
4 nated by the Secretary as a national estuarine area. The
5 State or a political subdivision or agency thereof and the
6 Secretary shall share equally in the cost of developing the
7 lands, water, or interests therein covered by the agreement
8 that are to be developed primarily for outdoor recreational
9 uses other than fishing and hunting.

10 (b) In connection with the administration, develop-
11 ment, and protection of any area covered by an agreement
12 entered into pursuant to this section, the Secretary may
13 acquire in accordance with the provisons of this Act not to
14 exceed one thousand acres of land, waters, or interests therein
15 within or adjacent to such area.

16 SEC. 5. Any Federal land located within a national
17 estuarine area may, with the consent of the head of the
18 agency having jurisdiction thereof, be transferred to the
19 Secretary for administration as part of said areas.

20 SEC. 6. (a) In order to carry out the purposes of this
21 Act, the Secretary shall issue regulations which may be
22 amended from time to time specifying standards for zoning
23 bylaws which must meet his approval. Such standards shall
24 have the object of (1) prohibiting new commercial or indus-
25 trial uses, other than commercial or industrial uses which

1 the Secretary considers are consistent with the purposes of
2 this Act, of all lands, waters, or interests therein within any
3 national estuarine area, and (2) promoting the protection
4 and development of the area by means of acreage, frontage,
5 and setback requirements.

6 (b) After issuance of such regulations, the Secretary
7 shall approve any zoning bylaw or any amendment to any
8 approved zoning bylaw submitted to him that conforms to
9 the standards set forth in the regulations issued pursuant to
10 this section and in effect at the time of adoption of the bylaw
11 or amendment. Such approval shall remain effective as long
12 as such bylaw or amendment remains in effect as approved.

13 (c) No zoning bylaw or amendment thereof shall be
14 approved by the Secretary which (1) contains any provi-
15 sion that he considers adverse to the protection and develop-
16 ment of such area, or (2) fails to have the effect of provid-
17 ing that the Secretary shall receive notice of any variance
18 granted under, or any exception made to the application
19 of such bylaw or amendment.

20 (d) The Secretary shall not acquire by purchase any
21 privately owned improved property or interests therein with-
22 in such area without the consent of the owner as long as the
23 appropriate local zoning agency shall have in force and
24 applicable to such property a duly adopted and valid zoning
25 bylaw that is satisfactory to the Secretary.

1 (e) If any improved property, with respect to which
2 the Secretary's authority to acquire by condemnation has
3 been suspended according to the provisions of this section,
4 is made the subject of a variance under, or becomes for any
5 reason an exception to, such zoning ordinance, or is subject
6 to any variance, exception, or use that fails to conform to
7 any applicable standard contained in the regulations of the
8 Secretary issued pursuant to this section and in effect at the
9 time of passage of such ordinance, the suspension of the
10 Secretary's authority to acquire such improved property by
11 condemnation shall automatically cease.
12 (f) The Secretary shall furnish to any party in interest
13 upon request a certificate indicating the property with respect
14 to which the Secretary's authority to acquire by condemna-
15 tion is suspended.
16 (g) The term "improved property" as used in this
17 Act means (1) any single-family residence, the construction
18 of which was initiated before an area is designated as a
19 national estuarine area by the Secretary, and such amount
20 of land, not in excess of three acres, on which the residence
21 is situated as the Secretary considers reasonably necessary
22 to the use of the residence and (2) any property that is
23 owned and used chiefly for hunting before an area is desig-
24 nated as a national estuarine area and continues in such use,
25 unless the Secretary determines that such use is incom-

1 patible with the purpose for which such area was desig-
2 nated. The Secretary may exclude from improved prop-
3 erty any beach or waters, together with so much of the
4 land adjoining such beach or waters for public access thereto,
5 as he deems necessary to carry out the purposes of this Act.
6 SEC. 7. In order to carry out the purposes of this Act,
7 the Secretary may construct, operate, install, and maintain
8 on property acquired by him or covered by an agreement
9 entered into pursuant to section 4 of this Act buildings,
10 devices, recreational facilities, access roads, and such other
11 improvements as he deems desirable, conduct directly or by
12 contract, investigations, studies, and engineering and bio-
13 logical surveys, and enter into agreements with any person
14 or public or private agency or organization through negotia-
15 tion for the provision of public accommodations.
16 SEC. 8. The authority of the Chief of Engineers, Depart-
17 ment of the Army, to undertake or contribute to, shore
18 erosion control, dredging, filling, or beach protection meas-
19 ures on lands or waters within any national estuarine area
20 shall be exercised in accordance with a plan that is mutually
21 acceptable to the Secretary of the Interior and the Secretary
22 of the Army and that is consistent with the purposes of this
23 Act.
24 SEC. 9. The Secretary is authorized to issue regulations

1 governing the public use of estuarine areas administered by
2 him.

3 SEC. 10. (a) The Secretary shall permit by regulation
4 hunting and fishing on land and waters within any national
5 estuarine area in accordance with the appropriate State laws,
6 to the extent applicable, except that the Secretary may des-
7 ignate zones where, and establish periods when, no hunting
8 or fishing shall be permitted for reasons of public safety,
9 administration, fish or wildlife management, or public use
10 and enjoyment. Except in emergencies, any regulations of
11 the Secretary under this section shall be effective only after
12 consultation with the State agency responsible for hunting
13 and fishing activities. Nothing in this Act shall limit or
14 interfere with the authority of the States to permit or regulate
15 shellfishing in any waters within an estuarine area admin-
16 istered by the Secretary. Nothing in this Act shall affect
17 the authority of the Secretary under other provisions of law
18 to regulate migratory birds.

19 (b) No person shall knowingly violate any regulation
20 of the Secretary relating to the public use of any national
21 estuarine area, or injure, remove, or destroy any property
22 or improvement of the United States therein, unless such
23 activities are permitted by regulations prescribed by him
24 or by express provision of this Act.

25 (c) Any person authorized by the Secretary to enforce

1 the provisions of this section may, without a warrant, arrest
2 any person violating this section in his presence or view,
3 and may execute any warrant or other process issued by an
4 officer or court of competent jurisdiction to enforce the pro-
5 visions of this section, and may with a search warrant
6 search for and seize any property used or possessed in
7 violation of this section. Any property seized with or with-
8 out a search warrant shall be held by such person or by the
9 United States marshal pending disposition thereof by the
10 court.

11 (d) Any person who violates or fails to comply with
12 the provisions of this section or any regulation issued there-
13 under shall be fined not more than $500 or be imprisoned
14 not more than six months, or both.

15 (e) The term "person" as used in this section means
16 any individual, partnership, corporation, or association.

17 SEC. 11. In planning for the use or development of water
18 and related land resources, a Federal agency shall give con-
19 sideration to estuarine areas and their value for sport and
20 commercial fishing, wildlife conservation, outdoor recreation,
21 and scenic beauty and all project plan reports submitted to
22 the Congress shall discuss such areas and such values and the
23 effects of the project on the estuarine area and these values
24 and make recommendations thereon. The Secretary of the
25 Interior shall make specific studies and investigations to

1 determine the estuarine areas within the United States with
2 respect to which planning reports shall evaluate water and
3 related land resources involved.

4 SEC. 12. (a) No person may conduct any dredging, fill-
5 ing, or excavation work within any estuary of the United
6 States or in the Great Lakes and connecting waterways unless
7 a permit for such work is issued by the Secretary of the
8 Interior in addition to any other permit that may be required
9 for such work.

10 (b) The Secretary of the Interior shall not issue any
11 permit for dredging, filling, or excavation work in any estuary
12 of the United States or in the Great Lakes and connecting
13 waterways if he determines that such work will reduce the
14 quality of the affected waters below applicable water quality
15 standards, or if he determines that such work will unreason-
16 ably impair the natural values of any estuary of the United
17 States or in the Great Lakes and connecting waterways,
18 including, but not limited to, sport and commercial fisheries,
19 wildlife, esthetic, and recreational values, unless the Secre-
20 tary of the Interior determines that the public interest re-
21 quires the work to be undertaken. The Secretary of the
22 Interior may include in a permit issued under this section
23 such terms and conditions as he deems appropriate to prevent
24 the pollution of the affected waters and to conserve and pro-

1 tect the natural values of the estuaries of the United States
2 or in the Great Lakes and connecting waterways.
3 (c) In carrying out the provisions of this section, the
4 Secretary of the Interior is authorized to conduct directly
5 or by contract such studies and investigations as he deems
6 desirable and to accept and use for this purpose funds made
7 available by an applicant for a permit as well as donated and
8 appropriated funds. If the Secretary believes that any
9 person is violating or is about to violate, with or without
10 knowledge, any provision of this section or any regulation
11 issued thereunder, that such actual or threatened violation
12 presents an imminent danger to natural resources, includ-
13 ing, but not limited to, fish and wildlife, or to areas of scenic
14 or recreational value or to persons, and if he believes that no
15 other effective means of protection are available, he may
16 request the Attorney General to seek appropriate relief to
17 abate such actual or threatened violation.
18 (d) The Secretary of the Interior is authorized to pre-
19 scribe regulations to govern the dumping of dredgings, earth,
20 garbage, or refuse materials of every kind or description other
21 than oil as defined in the Oil Pollution Act, 1924, as
22 amended, in any estuary of the United States or in the Great
23 Lakes and connecting waterways or in waters beyond the
24 territorial sea of the United States in order to conserve and

1 protect the natural values of such waters and to prevent the
2 pollution of such waters.

3 (e) Any person who knowingly violates any provision
4 of this section or any regulation issued thereunder shall be
5 guilty of a misdemeanor, and upon conviction thereof shall
6 be punishable by a fine of not less than $500 and not more
7 than $2,500, or by imprisonment of not more than one year,
8 or both.

9 (f) For the purposes of this section, the term "person"
10 means any individual, partnership, corporation, association,
11 municipality, or State.

12 (g) The provisions of this section shall be effective one
13 hundred and eighty days after the date of enactment.

14 SEC. 13. For the purposes of this Act:

15 (a) The term "estuarine areas" means an environmental
16 system consisting of an estuary and those transitional areas
17 which are constantly influenced or affected by water from
18 an estuary such as, but not limited to, salt marshes, coastal
19 and intertidal areas, sounds, embayments, harbors, lagoons,
20 inshore waters, and channels.

21 (b) The term "estuary" means all or part of the mouth
22 of a navigable or interstate river or stream or other body of
23 water, including, but not limited to, a bay, sound, and chan-
24 nel, having unimpaired natural connection with the open

1 sea and within which the sea water is measurably diluted
2 with fresh water derived from land drainage.
3 SEC. 14. The Secretary shall encourage States and
4 local subdivisions thereof to consider, in their comprehen-
5 sive planning and proposals for financial assistance under
6 the Federal Aid in Wildlife Restoration Act (50 Stat. 917),
7 as amended (16 U.S.C. 669 et seq.), the Federal Aid
8 in Fish Restoration Act (64 Stat. 430), as amended (16
9 U.S.C. 777 et seq.), the Land and Water Conservation
10 Fund Act of 1965 (78 Stat. 897), the Commercial Fish-
11 eries Research and Development Act of 1964 (78 Stat.
12 197), and the needs and opportunities for establishing and
13 administering estuarine areas for the purposes of this Act.
14 In approving grants made pursuant to said laws for the
15 acquisition of such areas by a State, the Secretary shall
16 establish such terms and conditions as he deems desirable
17 to insure the permanent protection of such areas, includ-
18 ing a provision that the lands or interests therein shall not
19 be disposed of by sale, lease, donation, or exchange without
20 the prior approval of the Secretary.
21 SEC. 15. Nothing in this Act shall restrict or extend
22 such jurisdiction as the States now have with respect to
23 State water laws, nor be construed as an express or im-

1 plied claim or denial on the part of the United States as to
2 exemption from State water laws.

90TH CONGRESS
1ST SESSION

S. 2365

IN THE SENATE OF THE UNITED STATES

AUGUST 30 (legislative day, AUGUST 29), 1967

Mr. RIBICOFF introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To authorize the Secretary of the Interior, in cooperation with the States, to protect, preserve, restore, develop, and make accessible the Nation's estuarine areas and their natural resources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That Congress finds and declares that the Nation's estuarine
4 areas are endowed with a variety of natural resources of rec-
5 reational, commercial, esthetic, and scientific value to the
6 present and future generations of Americans, and that any
7 modification of these areas directly and indirectly affects their
8 natural values; that many of these areas have been irrevers-
9 ibly altered or destroyed; and that it is the policy of Congress

1 to protect, preserve, restore, develop, and make these estu-
2 arine areas accessible for multiple, compatible uses, which
3 give priority to maximum benefits for the widest number of
4 people and which can be continued without destruction, or
5 undue alteration or diminution of their natural resources.

6 SEC. 2. For the purposes of this Act—

7 (a) The term "Secretary" means the Secretary of the
8 Interior;

9 (b) The term "person" means any individual, partner-
10 ship, corporation, association, or political subdivision of a
11 State;

12 (c) The term "estuary" or "estuaries" means part or
13 all of the tidal portion of the navigable waters in the United
14 States up to the mean high water line, including, but not
15 limited to, any bay, sound, lagoon, or channel, and the
16 lands underlying all such waters;

17 (d) The term "national estuarine area" means an
18 environmental system composed of an estuary or estuaries
19 and adjacent lands which together is determined by the
20 Secretary to constitute a manageable unit and which has
21 national significance; and

22 (e) The term "national resources" includes, but is not
23 limited to, sport and commercial fishes and other aquatic
24 life, wildlife, esthetic, and recreational values.

25 SEC. 3. (a) The Secretary, in consultation and in coop-

96-909 O - 68 - 3

1 eration with the States and other Federal agencies, shall con-
2 duct, directly or by contract, an inventory of the Nation's
3 estuaries that are (1) unspoiled or undisturbed by the tech-
4 nological advances of man, including, but not limited to,
5 pollutants, and (2) partially spoiled or disturbed by such
6 advances but which should be protected from further adverse
7 effects. For the purpose of this inventory, the Secretary shall
8 consider, among other matters, the resource value of these
9 areas, including, but not limited to, the economic and recrea-
10 tional potential, their ecology, their value for navigation,
11 flood, hurricane, and erosion control, the effects of exploration
12 for subsurface minerals, their value to the marine, anadro-
13 mous, and shell fisheries, the present and future urban and
14 industrial effects upon such areas, their esthetic value, and the
15 most effective means for preserving these areas and for
16 orderly development within them, if he determines such
17 development consistent with the goals listed in the first sec-
18 tion of this Act. The Secretary shall also take cognizance of
19 the results of the study authorized by section 5 (g) of the
20 Federal Water Pollution Control Act, as amended, the na-
21 tionwide recreation plan, plans developed pursuant to the
22 Water Resources Planning Act and river basin planning,
23 statewide outdoor recreation plans prepared pursuant to the
24 Land and Water Conservation Fund Act of 1965, and other
25 applicable studies.

1 (b) The Secretary shall give particular attention to
2 whether any estuary or areas adjacent to any estuary should
3 be acquired or administered by the Secretary or by a State or
4 local subdivision thereof, or whether such areas and estuaries
5 may be protected adequately through local laws or other
6 methods without Federal land acquisition or administration.
7 (c) The Secretary shall submit annually to the Congress
8 through the President a report of the inventory conducted
9 pursuant to this section, including recommendations with
10 respect to the designation of an estuary and adjacent areas as
11 a national estuarine area to be acquired by him. Each recom-
12 mendation of the Secretary for such designation shall become
13 effective only if so provided by subsequent Act of Congress.
14 Recommendations made by the Secretary shall be developed
15 in consultation with the States, municipalities, and other in-
16 terested Federal agencies. Each such recommendation shall
17 be accompanied by (1) expressions of any views which the
18 States, municipalities, and other Federal agencies may sub-
19 mit within ninety days after having been notified of the
20 proposed recommendation, (2) a statement setting forth
21 the probable effect of the recommended action on any com-
22 prehensive river basin plan that may have been adopted by
23 Congress or that is serving as a guide for coordinating Fed-
24 eral programs in the basin wherein each estuary is located,
25 (3) in the absence of such a plan, a statement indicating the

1 probable effect of the recommended action on alternative
2 beneficial users of the resources of the proposed national
3 estuarine area, and (4) a discussion of the major economic,
4 social, and ecological trends occurring in such area.
5 (d) There is authorized to be appropriated not to ex-
6 ceed $500,000 for the first fiscal year beginning after enact-
7 ment of this Act and for four succeeding fiscal years not to
8 exceed $1,000,000 annually to carry out the provisions of
9 this section.
10 SEC. 4. (a) The Secretary may acquire lands and waters
11 or interests therein, including land use easements, within any
12 national estuarine area, approved by Congress or established
13 pursuant to section 5 of this Act, by purchase with appro-
14 priated or donated funds, donation, or exchange. He shall
15 not acquire any lands or waters or interests therein which
16 are owned by a State or by any political subdivision thereof
17 and which are adequately protected and preserved by a State
18 or political subdivision thereof in accordance with any State
19 plan approved by the Secretary pursuant to section 9 of
20 this Act. In the exercise of his exchange authority, the
21 Secretary may accept title to any non-Federal property and
22 in exchange therefor the Secretary may convey to the grantor
23 of such property any federally owned property under his
24 jurisdiction which he classifies as suitable for exchange or
25 other disposal. The values of the properties so exchanged

1 either shall be approximately equal, or if they are not
2 approximately equal, the values shall be equalized by the
3 payment of cash to the grantor or to the Secretary as the
4 circumstances require.

5 (b) Notwithstanding any other provision of this Act,
6 the Secretary shall not acquire by condemnation any land
7 or interests therein within any national estuarine area if
8 such land is being used primarily for hunting, sport fishing,
9 or other purposes which are compatible with the purposes
10 of this Act. The Secretary may exclude from the provisions
11 of this subsection any beach or waters, together with so much
12 of the land adjoining such beach or waters for public access
13 thereto, as he deems necessary to carry out the purposes of
14 this Act.

15 (c) Any lands, waters, or interests therein within
16 a national estuarine area which are acquired by the Secre-
17 tary under this section or administered under section 5 of
18 this Act, shall be managed and developed primarily for
19 the purposes of sport and commercial fishing, wildlife con-
20 servation, outdoor recreation, and scenic beauty, and for
21 such other purposes as the Secretary determines are com-
22 patible with the purposes of this Act.

23 (d) Any Federal land located within any national
24 estuarine area may, with the consent of the head of the
25 agency having jurisdiction thereof, be transferred to the
26 Secretary for administration as part of said area.

1 SEC. 5. (a) The Secretary may enter into an agree-
2 ment, containing such terms and conditions as are mutually
3 acceptable, with any State or political subdivision or agency
4 thereof for the permanent management, development, and
5 administration of any land or interests therein within the
6 area of an estuary and adjacent lands which are owned or
7 thereafter acquired by a State or by any political subdivi-
8 sion thereof. Such agreement shall, among other things, pro-
9 vide that the State or a political subdivision or agency
10 thereof and the Secretary shall share equally in the cost
11 of managing, administering, and developing such areas.
12 State hunting and fishing laws and regulations shall be ap-
13 plicable to such areas to the extent they are now applicable.
14 (b) Any area covered by an agreement entered into
15 pursuant to this section shall be deemed a national estuarine
16 area for the purposes of this Act.
17 (c) In furtherance of the effective administration of
18 any area covered by an agreement entered into under this
19 section, the Secretary may acquire in accordance with the
20 provisions of section 4 (a) of this Act not to exceed one
21 thousand acres within the boundaries of said area and such
22 acquired land shall be subject to said agreement.
23 SEC. 6. In order to carry out the purposes of this Act,
24 the Secretary may—
25 (a) construct, operate, install, and maintain build-

1 ings, devices, structures, recreational facilities, access
2 roads, and other improvements on property acquired by
3 him or covered by an agreement entered into pursuant
4 to this Act, and
5 (b) enter into agreements with any person or public
6 or private agency or organization through negotiation for
7 the provision of public accommodations.
8 SEC. 7. (a) The Secretary shall permit hunting and
9 fishing on lands and waters within any national estuarine
10 area approved by Congress in accordance with applicable
11 State laws and regulations, except that the Secretary may by
12 regulation designate zones where, and establish periods when,
13 he may close the area to public uses, or limit public uses.
14 Except in emergencies, any regulations of the Secretary
15 under this section shall be effective only after consultation
16 with the State agency responsible for hunting and fishing
17 activities. Nothing in this Act shall limit or interfere with
18 the authority of the States to permit or regulate the fish,
19 shellfish, and wildlife resources in any waters within an
20 estuarine area administered by the Secretary. Nothing in this
21 Act shall affect the authority of the Secretary under other
22 provisions of law to regulate migratory birds.
23 (b) No person shall knowingly violate any regulation
24 of the Secretary relating to the public use of any national
25 estuarine area, or injure, remove, or destroy any property
26 or improvement of the United States therein.

1 (c) Any person authorized by the Secretary to enforce
2 the provisions of this section may, without a warrant, arrest
3 any person violating this section in his presence or view, and
4 may execute any warrant or other process issued by an officer
5 or court of competent jurisdiction to enforce the provisions of
6 this section, and may, with a search warrant, search for and
7 seize any property taken, used, or possessed in violation of
8 this section. Any property seized, with or without a search
9 warrant, shall be held by such person or by the United States
10 marshal pending disposition thereof by the court.

11 (d) Any person who violates the provisions of this
12 section or any regulation issued thereunder shall be fined not
13 more than $500 or be imprisoned not more than six months,
14 or both.

15 SEC. 8. (a) Except as provided in section 9 of this Act,
16 before any person conducts any dredging, filling, or excava-
17 tion work within any estuary such person shall file with the
18 Secretary prior to initiating such work a notice of intention to
19 conduct such work together with such plans, specifications,
20 and other information relative to such work as the Secretary
21 may require by regulation. No such work shall be com-
22 menced until authorized by the Secretary. After receipt of
23 such notice the Secretary shall, within a reasonable time,
24 authorize such person to commence the work in accordance
25 with such terms and conditions as the Secretary deems

1 desirable, unless he determines, in his discretion, (1) that
2 such work will unreasonably impair the natural resources of
3 the estuary, or (2) that such work will reduce the quality of
4 the waters of the estuary below applicable water quality
5 standards, except that, notwithstanding the adverse effect
6 such work will have on natural resources, the Secretary shall
7 permit such work whenever he determines that it is in the
8 public interest to do so. The Secretary may at the request of
9 any Federal, State, or local agency or any interested person
10 or on his own motion hold public hearings relative to whether
11 such work should be commenced. The Secretary shall not
12 authorize such work if the Governor of the State or States
13 wherein the estuary is located notifies the Secretary that he
14 objects to such work.

15 (b) The Secretary shall establish regulations to govern
16 the dumping of dredgings, earth, garbage, or other refuse
17 materials of every kind or description, except refuse mate-
18 rials flowing from streets or sewers in a liquid state, or oil
19 as defined in the Oil Pollution Act, 1924, into any estuary
20 or into any other waters which would have a detrimental
21 effect on any estuary. Such regulations shall be designed to
22 conserve and protect the natural resources in such estuaries,
23 and to prevent the pollution therein, including pollution by
24 leaching from dumping in adjacent areas.

25 (c) In carrying out the provisions of this section, the

1 Secretary is authorized to conduct directly or by contract
2 such studies and investigations as he deems desirable in
3 accordance with the applicable provisions of the Fish and
4 Wildlife Act of 1956, as amended, and to accept and use
5 for this purpose funds made available by anyone, including
6 persons seeking to conduct such work in an estuary.
7 (d) If the Secretary believes that any person is violat-
8 ing or is about to violate, with or without knowledge, the
9 provisions of this section, or any regulations issued thereunder
10 or any condition in any notice issued thereunder, he may
11 request the Attorney General to seek appropriate relief in
12 the United States district court where such person resides or
13 is doing business to abate such actual or threatened violation.
14 (e) Any person who knowingly violates any provision
15 of this section or any regulations issued thereunder or any
16 condition in any notice issued thereunder shall be guilty of a
17 misdemeanor, and upon conviction thereof shall be fined not
18 more than $2,500, or imprisoned for not more than one year,
19 or both.
20 (f) In accordance with the policy established by Con-
21 gress in the Act of August 31, 1951 (63 Stat. 290), the
22 Secretary shall, to the greatest extent practicable, recover
23 from persons seeking to conduct any dredging, filling, or
24 excavation work in any estuary all reasonable costs in-
25 curred by him in administering this section, and all sums

1 received to cover such costs shall be credited to the appro-
2 priation from which payments for the administration of this
3 section were made.

4 (g) Nothing in this section shall be construed as affect-
5 ing the authority of the Secretary of the Army to issue per-
6 mits for dredging, filling, or excavation work in any estuary
7 under any other provisions of law. The Secretary of the
8 Interior and the Secretary of the Army shall, prior to the
9 effective date of this section, enter into such agreements as
10 may be appropriate to avoid duplication of effort and to
11 insure the expeditious handling of requests for dredging,
12 filling, and excavation work.

13 (h) The Secretary shall provide, by regulation, that
14 the provisions of subsection (a) of this section shall not apply
15 in the case of any work to be initiated by the owner of a
16 single-family residence if such work relates solely to the use
17 and enjoyment of said residence by such owner or his
18 tenant.

19 (i) The provisions of this section and regulations issued
20 pursuant to this section shall be effective after one hundred
21 and eighty days following the date of enactment of this
22 Act, except that (1) the Secretary's authority to issue
23 such regulations shall become effective on such date, and
24 (2) the Secretary may by notice published in the Federal
25 Register postpone the effective date of such provisions

1 and regulations but not beyond an additional one hundred
2 and eighty days.
3 SEC. 9. (a) Section 8 of this Act, other than subsections
4 (c) and (g) thereof, shall not apply in any State which the
5 Secretary determines has a system for the protection and
6 conservation of estuaries which will adequately and effec-
7 tively carry out the purposes of this Act. For the purpose
8 of making this determination, the Governor of such State
9 shall submit to the Secretary, within ninety days after the
10 effective date of this Act or at such times thereafter as the
11 Secretary may prescribe, for his approval a State plan for
12 the protection and conservation of estuaries. The State plan
13 shall—
14 (1) require any person, before conducting any
15 dredging, filling, or excavation work within any estuary,
16 to file with the appropriate State authority a notice of
17 intention to conduct such work together with such plans,
18 specifications, and other information relative to such
19 work as the State authority may require by regulation,
20 and provide that no such work shall be commenced until
21 authorized by such State authority in accordance with
22 such terms and conditions as the State authority deems
23 necessary to assure that such work will not unreasonably
24 impair the natural resources of the estuary or will not
25 reduce the quality of the waters of the estuary below

1 applicable water quality standards, except that notwith-
2 standing the adverse effect such work will have on
3 natural resources, the State authority may permit such
4 work whenever it determines that it is necessary in the
5 public interest;

6 (2) provide, for the purposes set forth in section
7 8(b), for the regulation of the dumping of dredgings,
8 earth, garbage, or other refuse materials of every kind or
9 description, except refuse materials flowing from streets
10 or sewers in a liquid state, or oil as defined in the Oil
11 Pollution Act, 1924, into any estuary in such State or
12 into any other waters in such State which would have a
13 detrimental effect on any estuary in or outside of such
14 State;

15 (3) provide for the administration or supervision of
16 the plan by a State department, commission, or agency
17 exercising primary administration over the natural
18 resources therein;

19 (4) identify all the estuaries located in whole or in
20 part in such State;

21 (5) set forth the criteria and standards to be fol-
22 lowed in determining whether dredging, filling, or exca-
23 vation work will be permitted in any estuary located in
24 whole or in part in the State;

25 (6) set forth the plans, policies, and methods to be
26 followed in carrying out the State plan;

1 (7) provide an enforceable regulatory system for
2 the purposes of clauses (1) and (2) and for ascertaining
3 the views and recommendations of interested persons
4 and public agencies in establishing provisions required by
5 such clauses; and
6 (8) provide that such department, commission, or
7 agency shall make reports in such form and containing
8 such information as the Secretary may from time to time
9 reasonably require to carry out his functions under this
10 Act.
11 (b) (1) Whenever the Secretary, after notice and an
12 opportunity for a hearing, determines (A) that the approved
13 State plan or amendments thereto have been so changed that
14 they no longer comply with the requirements of subsection
15 (a) of this section, or (B) that, in administering said plan,
16 there is a failure to comply substantially with such require-
17 ments, he shall notify the Governor of the State that section
18 9 shall apply to the estuaries located therein until he is satis-
19 fied that such deficiencies have been corrected.
20 (2) In any case in which the Secretary determines that
21 irreparable damage may result to any national estuarine area
22 from any such change or failure, the Attorney General at the
23 request of the Secretary shall bring a civil action in the appro-
24 priate district court of the United States for the purpose of
25 obtaining such preventive relief, including a permanent or

1 temporary injunction, restraining order or other order, as
2 may be necessary to prevent such damage.
3 SEC. 10. For the purposes of sections 8 and 9 of this
4 Act, the terms "estuary" and "estuaries" include inshore
5 waters of the Great Lakes, their connecting waterways, and
6 their associated marshes up to the ordinary high water mark.
7 SEC. 11. In planning for the use or development of
8 water and land resources, all Federal agencies shall give con-
9 sideration to estuaries and their natural resources, and all
10 project plans and reports submitted to the Congress shall
11 contain a discussion by the Secretary of such areas and such
12 resources and the effects of the project on them and his rec-
13 ommendations thereon.
14 SEC. 12. The Secretary shall encourage States and local
15 subdivisions thereof to consider, in their comprehensive
16 planning and proposals for financial assistance under the
17 Federal Aid in Wildlife Restoration Act (50 Stat. 917), as
18 amended (16 U.S.C. 669 et seq.), the Federal Aid in Fish
19 Restoration Act (64 Stat. 430), as amended (16 U.S.C.
20 777 et seq.), the Land and Water Conservation Fund Act
21 of 1965 (78 Stat. 897), the Commercial Fisheries Research
22 and Development Act of 1964 (78 Stat. 197), and the
23 Anadromous Fish Conservation Act of October 30, 1965 (79
24 Stat. 1125), the needs and opportunities for protecting and
25 restoring estuaries in accordance with the purposes of this
26 Act. In approving grants made pursuant to said laws for

1 the acquisition of all or part of an area surrounding an
2 estuary by a State, the Secretary shall establish such terms
3 and conditions as he deems desirable to insure the permanent
4 protection of such area, including a provision that the lands
5 or interests therein shall not be disposed of by sale, lease,
6 donation, or exchange without the prior approval of the
7 Secretary.

8 SEC. 13. Nothing in this Act shall restrict or extend
9 such jurisdiction as the States now have with respect to
10 State water laws, nor be construed as an express or implied
11 claim or denial on the part of the United States as to
12 exemption from State water laws.

13 SEC. 14. Nothing in this Act shall be construed to
14 affect the authority of the Secretary of the Army or the
15 Chief of Engineers to carry out any Federal project hereto-
16 fore or hereafter authorized, except that, in the case of any
17 national estuarine area authorized by Congress or estab-
18 lished by agreement with a State pursuant to this Act the
19 authority of the Secretary of the Army or the Chief of
20 Engineers to undertake or contribute to shore erosion con-
21 trol, dredging, filling, or beach protection measures within
22 the boundaries of such area shall be exercised in accord-
23 ance with a plan that is mutually acceptable to the Secre-
24 tary of the Army and the Secretary of the Interior and
25 that is consistent with the purposes of this Act.

HOUSE OF REPRESENTATIVES, U.S.,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C., August 8, 1967.

DEAR SIR: As you probably recall, on April 27, 1967, the Department of the Interior submitted to the Committee on Merchant Marine and Fisheries a supplemental report and draft bill on H.R. 25, to preserve, protect, restore and make accessible our Nation's estuarine areas.

Since that time, representatives of the Department of the Interior have discussed the subject further with the Members of this Subcommittee, other Members of Congress and representatives of the Secretary of the Army. It is my understanding that these discussions led to the preparation and announcement of a Memorandum of Understanding between the Secretary of the Interior and the Secretary of the Army regarding the control of dredging, filling and excavation of our Nation's navigable waters, including the estuaries. A copy of this memorandum is attached to the enclosed draft bill.

In its report to the Committee, the Department of the Interior stated that "We believe that this Memorandum of Understanding provides an effective administrative solution to the problem of preventing unreasonable impairment of the natural resources of the Nation's waterways and related environment, and preventing the pollution of the waters. In our opinion, the agreement makes the legislative approach set forth in H.R. 25 * * * for control of dredging, etc., unnecessary * * *."

In addition to rewriting several provisions and eliminating sections 9 and 10 of the Committee Print on H.R. 25, the draft bill would have the effect of eliminating the additional following sections: sec. 2(b)(c)(d), sec. 4, sec. 5(b)(c), secs. 6, 7, 8, 11, 14, 15, and ⅔ of the language of sec. 16.

Sometime during the latter part of August, I am planning to have the Subcommittee consider this subject in Executive Session. At that time, I intend to offer the language contained in the new draft bill as a substitute amendment to my original bill, H.R. 25.

Your views on this substitute proposal and my substantive comments that you may care to make would be most welcomed. I would appreciate receiving your reply by August 18th.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation.

MEMORANDUM OF UNDERSTANDING BETWEEN THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF THE ARMY

In recognition of the responsibilities of the Secretary of the Army under sections 10 and 13 of the Act of March 3, 1899 (33 U.S.C. 403 and 407), relating to the control of dredging, filling, and excavation in the navigable waters of the United States, and the control of refuse in such waters, and the interrelationship of those responsibilities with the responsibilities of the Secretary of the Interior under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 *et seq.*), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c), and the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a *et seq.*), relating to the control and prevention of water pollution in such waters and the conservation of the Nation's natural resources and related environment, including fish and wildlife and recreational values therein; in recognition of our joint responsibilities under Executive Order No. 11288 to improve water quality through the prevention, control, and abatement of water pollution from Federal and federally licensed activities; and in recognition of other provisions of law and policy, we, the two Secretaries, adopt the following policies and procedures:

POLICIES

1. It is the policy of the two Secretaries that there shall be full coordination and cooperation between their respective Departments on the above responsibilities at all organizational levels, and it is their view that maximum efforts in the discharge of those responsibilities, including the resolution of differing views, must be undertaken at the earliest practicable time and at the field organizational unit most directly concerned. Accordingly, District Engineers of the U.S. Army Corps of Engineers shall coordinate with the Regional Directors of the Secretary of the Interior on fish and wildlife, recreation, and pollution problems associated

96-909 O—68——4

with dredging, filling, and excavation operations to be conducted under permits issued under the 1899 Act in the navigable waters of the United States, and they shall avail themselves of the technical advice and assistance which such Directors may provide.

2. The Secretary of the Army will seek the advice and counsel of the Secretary of the Interior on difficult cases. If the Secretary of the Interior advises that proposed operations will unreasonably impair natural resources or the related environment, including the fish and wildlife and recreational values thereof, or will reduce the quality of such waters in violation of applicable water quality standards, the Secretary of the Army in acting on the request for a permit will carefully evaluate the advantages and benefits of the operations in relation to the resultant loss or damage, including all data presented by the Secretary of the Interior, and will either deny the permit or include such conditions in the permit as he determines to be in the public interest, including provisions that will assure compliance with water quality standards established in accordance with law.

PROCEDURES FOR CARRYING OUT THESE POLICIES

1. Upon receipt of an application for a permit for dredging, filling, excavation, or other related work in navigable waters of the United States, the District Engineers shall send notices to all interested parties, including the appropriate Regional Directors of the Federal Water Pollution Control Administration, the United States Fish and Wildlife Service, and the National Park Service of the Department of the Interior, and the appropriate State conservation, resources, and water pollution agencies.

2. Such Regional Directors of the Secretary of the Interior shall immediately make such studies and investigations as they deem necessary or desirable, consult with the appropriate State agencies, and advise the District Engineers whether the work proposed by the permit applicant, including the deposit of any material in or near the navigable waters of the United States, will reduce the quality of such waters in violation of applicable water quality standards or unreasonably impair natural resources or the related environment.

3. The District Engineer will hold public hearings on permit applications whenever response to a public notice indicates that hearings are desirable to afford all interested parties full opportunity to be heard on objections raised.

4. The District Engineer, in deciding whether a permit should be issued, shall weigh all relevant factors in reaching his decision. In any case where Directors of the Secretary of the Interior advise the District Engineers that proposed work will impair the water quality in violation of applicable water quality standards or unreasonably impair the natural resources or the related environment, he shall, within the limits of his responsibility, encourage the applicant to take steps that will resolve the objections to the work. Failing in this respect, the District Engineer shall forward the case for the consideration of the Chief of Engineers and the appropriate Regional Director of the Secretary of the Interior shall submit his views and recommendations to his agency's Washington Headquarters.

5. The Chief of Engineers shall refer to the Under Secretary of the Interior all those cases referred to him containing unresolved substantive differences of views and he shall include his analysis thereof, for the purpose of obtaining the Department of Interior's comments prior to final determination of the issues.

6. In those cases where the Chief of Engineers and the Under Secretary are unable to resolve the remaining issues, the cases will be referred to the Secretary of the Army for decision in consultation with the Secretary of the Interior.

7. If in the course of operations within this understanding, either Secretary finds its terms in need of modification, he may notify the other of the nature of the desired changes. In that event the Secretaries shall within 90 days negotiate such amendment as is considered desirable or may agree upon termination of this understanding at the end of the period.

Dated: July 13, 1967.

(S) STEWART L. UDALL,
Secretary of the Interior.

Dated: July 13, 1967.

(S) STANLEY RESOR,
Secretary of the Army.

A BILL To authorize the Secretary of the Interior, in cooperation with the States, to develop a national program of protecting and conserving the Nation's estuaries and their national resources, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that many estuaries in the United States are rich in a variety of natural, commercial, and other resources, including environmental natural beauty, and are of immediate and potential value to the present and future generations of Americans. It is therefore the purpose of this Act to provide a means for considering the need to protect, conserve, and restore these estuaries in a manner that adequately and reasonably maintains a balance between the national need for such protection in the interest of conserving the natural resources and natural beauty of the Nation and the need to develop these estuaries to further the growth and development of the Nation.

SEC. 2. For the purposes of this Act—

(a) The term "Secretary" means the Secretary of the Interior;

(b) The term "natural resources" includes, but is not limited to, sport and commercial fishes and other aquatic life, wildlife, esthetic, and recreational values.

SEC. 3. (a) The Secretary, in consultation and in cooperation with the States and other Federal agencies, shall conduct directly or by contract, a study of the Nation's estuaries, including without limitation coastal marsh lands, bays, sounds, and lagoons. For the purpose of this study, the Secretary shall consider, among other matters, (1) the resource value of these estuaries, including, but not limited to, their economic and recreational potential, their ecology, their value for navigation, flood, hurricane, and erosion control, the effects of exploration for subsurface minerals, their value to the marine, anadromous, and shell fisheries, the present and future urban and industrial effects upon such estuaries, their esthetic value, and the most effective means for reserving those estuaries in harmony with other developments, and (2) the value of such areas for more intensive development for economic use as part of urban developments. The Secretary shall also take cognizance of the results of the study authorized by section 5(g) of the Federal Water Pollution Control Act, as amended, the nationwide recreation plan, plans developed pursuant to the Water Resources Planning Act and river basin planning, statewide outdoor recreation plans prepared pursuant to the Land and Water Conservation Fund Act of 1965, and other applicable studies.

(b) The Secretary shall give particular attention to whether any estuarine area should be acquired or administered by the Secretary or by a State or local subdivision thereof, or whether such area may be protected adequately through local laws or other methods without Federal land acquisition or administration.

(c) The Secretary shall, not later than the end of fiscal year 1971, and from time to time thereafter, submit to the President a report of the study conducted pursuant to this section, together with any legislative recommendations, including recommendations on the feasibility and desirability of establishing a nationwide system of estuarine areas, the terms, conditions, and authorities to govern such system, and the designation and acquisition of any specific estuarine areas of national significance which he believes should be acquired by the United States. The President shall transmit to the Congress the report together with his recommendations. No lands within such area may be acquired until authorized by subsequent act of Congress. Recommendations made by the Secretary for the acquisition of any estuarine area shall be developed in consultation with the States, municipalities, and other interested Federal agencies. Each such recommendation shall be accompanied by (1) expressions of any views which the States, municipalities, and other Federal agencies and river basin commissions may submit within ninety days after having been notified of the proposed recommendation, (2) a statement setting forth the probable effect of the recommended action on any comprehensive river basin plan that may have been adopted by Congress or that is serving as a guide for coordinating Federal programs in the basin wherein each estuary is located, (3) in the absence of such a plan, a statement indicating the probable effect of the recommended action on alternative beneficial users of the resources of the proposed estuarine area, and (4) a discussion of the major economic, social, and ecological trends occurring in such area.

(d) There is authorized to be appropriated not to exceed $500,000 for the first fiscal year beginning after enactment of this Act and $1,000,000 annually thereafter to carry out the provisions of this section.

SEC. 4. On the basis of a study of the type contemplated by section 3 of this Act, and after obtaining and considering the views of other interested Federal agencies, the Secretary may enter into an agreement, containing such terms and conditions as are mutually acceptable, with any State or political subdivision or agency thereof for the permanent management, development, and administration of any land or interests therein within an estuary and adjacent lands which are owned or thereafter acquired by a State or by any political subdivision thereof. Such agreement shall, among other things, provide that the State or a political subdivision or agency thereof and the Secretary shall share equally in the cost of managing, administering, and developing such areas, and such development may include construction, operation, installation, and maintenance of buildings, devices, structures, recreational facilities, access roads, and other improvements, and shall be subject to the availability of appropriations. State hunting and fishing laws and regulations shall be applicable to such areas to the extent they are now or hereafter applicable.

SEC. 5. In planning for the use or development of water and land resources, all Federal agencies shall give consideration to estuaries and their natural resources, and all project plans and reports affecting such estuaries and resources submitted to the Congress shall contain a discussion by the Secretary of the Interior of such estuaries and such resources and the effects of the project on them and his recommendations thereon. The Secretary of the Interior shall make his recommendations within ninety days after receipt of such plans and reports.

SEC. 6. The Secretary shall encourage States and local subdivisions thereof to consider, in their comprehensive planning and proposals for financial assistance under the Federal Aid in Wildlife Restoration Act (50 Stat. 917), as amended (16 U.S.C. 669 et seq.), the Federal Aid in Fish Restoration Act (64 Stat. 430), as amended (16 U.S.C. 777 et seq.), the Land and Water Conservation Fund Act of 1965 (78 Stat 897), the Commercial Fisheries Research and Development Act of 1964 (78 Stat. 197), and the Anadromous Fish Conservation Act of October 30, 1965 (79 Stat. 1125), the needs and opportunities for protecting and restoring estuaries in accordance with the purposes of this Act. In approving grants made pursuant to said laws for the acquisition of all or part of an estuarine area by a State, the Secretary shall establish such terms and conditions as he deems desirable to insure the permanent protection of such areas, including a provision that the lands or interests therein shall not be disposed of by sale, lease, donation, or exchange without the prior approval of the Secretary.

SEC. 7. Nothing in this act shall be construed to affect the authority of any Federal agency to carry out any Federal project heretofore or hereafter authorized within an estuary.

FEDERAL MARITIME COMMISSION,
February 14, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of January 31, 1967, for the views of the Federal Maritime Commission with respect to S. 695, a bill "To authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes."

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely yours,

JOHN HARLLEE,
Rear Admiral, U.S. Navy (retired), Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 20, 1967.

XXXXXXXX

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter of January 31, 1967, you requested our comments on S. 695, 90th Congress, entitled: A bill to authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes.

We have no special information on the advisability of this measure, and therefore offer no comments concerning its enactment.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

DEPARTMENT OF THE ARMY,
Washington, D.C., March 9, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 695, 90th Congress, a bill "To authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

S. 695 would authorize the establishment of a national system of estuarine areas in furtherance of a declared policy to preserve, protect, develop, and where possible, restore and make accessible to the public such areas for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty. Areas would be designated as part of the system 1) by Congressional action on recommendations made by the Secretary of the Interior, through the President, after comprehensive studies by the Secretary or 2) by agreements between the Secretary and the States. The bill would provide advance authority for the Secretary of the Interior to acquire and administer designated areas, including authority to issue zoning regulations and to prohibit certain kinds of activities within the areas. In addition, the bill would establish permit and regulation authorities under the Secretary of the Interior which would require his approval of dredging, filling, dumping, and discharge of refuse in estuarine zones and in the Great Lakes before such activities could proceed.

The Department of the Army is in full accord with the principal objective of the bill—the protection and preservation of natural conditions within and adjacent to estuaries of particular natural beauty or especially suitable for recreational use or the enhancement and conservation of fish and wildlife resources. We are also in accord with the proposal that the selection of such areas be based upon the findings of comprehensive studies of all of the uses to which the Nation's estuaries may be put.

It is the view of this Department that the achievement of this desirable objective should be sought through a program of several stages. The first stage should, in our opinion, be the completion of studies such as those contemplated by Section 2 of the bill. We consider it neither necessary nor desirable to provide at this time the legislative authorities that might eventually be required. Studies should be made to provide a better understanding of the problems and needs of an estuarine program. We recommend, therefore, that the Congress provide at this time only the legislative authorities required to enable the Secretary of the Interior to prepare and to submit to Congress reports recommending Congressional authorization of individual National Estuarine Areas. These reports should be prepared for National Estuarine Areas preserved by agree-

ment with the States under Section 6, as well as those to be acquired and administered as Federal areas.

The recommendations set forth in such study reports should provide for comprehensive authorities tailored to the needs of the individual areas. In this way the Secretary will be able to obtain those authorities he will require to establish, acquire and manage each area, and the Congress will be able to decide, on a case by case basis, the boundaries of the area, the lands to be acquired within those boundaries, and the powers which the Federal Government should exercise over the lands to be acquired. Experience has demonstrated that such a system is not only efficient, but is also far more acceptable to the States and local authorities whose interests are directly and vitally affected by this kind of program.

In addition to the objectives of bringing into existence "National Estuarine Areas," and providing assistance to encourage States to create similar areas, the bill would place under Federal control the use of all estuaries and their environs, and all waters of the Great Lakes and their connecting channels. This would be accomplished by requiring that any person proposing to dredge, fill or excavate in or adjacent to such waters must first obtain a permit from the Secretary of the Interior.

Section 12 of the proposed legislation raises the question of whether the ultimate system of Federal control over water and related land use should require multiple permits issued by a number of different Federal agencies, each permit covering only those factors in which a particular agency is interested, or whether the Nation should have an administratively less cumbersome system in which a single Federal permit would cover all facets of the Federal interest. Under the present system a single permit is issued by the Secretary of the Army for any activity which would affect navigable waters of the United States. Under the system contemplated by Section 12, two permits would have to be obtained, one from the Secretary of the Army and the other from the Secretary of the Interior. While the Department of the Army would prefer a single permit system, we believe that the Congress should carefully consider this issue before making a change.

Section 12 of the proposed legislation would bring the waters of the Great Lakes under a program designed to protect and preserve the unique environment created by the tidal waters of the estuaries. The problems of the Great Lakes differ radically from those of the estuaries, and the considerations involved in the Great Lakes and connecting waterways are entirely different from those stated in Section 1 of S. 695. We urge, therefore, that all reference to the waters of the Great Lakes be removed from this bill.

We believe the bill is deficient in not providing a clear-cut definition of the term "National Estuarine Area." From subsection 2(e), it might be concluded that such an area would encompass only those lands to be acquired by the Secretary of the Interior. But the language of Section 6 makes it clear that the Secretary is expected to issue regulations governing the use of all lands, within the boundaries of the National Estuarine Areas. Yet no guidance is provided for the establishment of the boundaries of such areas, and no limitation is placed upon the amount of non-Federal lands which may be brought under Federal regulations by incorporating them in National Estuarine Areas. It would also be desirable to define more precisely the term "estuary." This definition should make it clear that an estuary includes only those waters affected by the tides of the oceans.

The bill should also be modified to exempt from the control of the Secretary of the Interior those Federal projects which have already been duly authorized and which the Congress has by law placed under the jurisdiction of some other Federal official.

In summary, the Department of the Army:

1. Favors the principal objective of the proposed legislation.
2. Believes that this objective can be attained by providing, as a first stage, authority for the Secretary of the Interior to make studies and submit reports recommending specific National Estuarine Areas.
3. Points out that enactment of Section 12 would commit the Nation to a multiple permit system and expresses the view that a single permit system would prove superior in the long run.
4. Points out that the problems of the Great Lakes are unrelated to those of the estuaries and urges the deletion of all provisions of Section 12 which would bring the Great Lakes under the proposed legislation.

5. Suggests that, in any event, the terms "National Estuarine Area," and "estuary," should be fully and clearly defined.

6. Urges that Federal water resource development projects which by law have been placed under the jurisdiction of a Federal official other than the Secretary of the Interior, not be subject to the powers which may be vested in him as a result of Congressional action on the bill.

The Bureau of the Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely yours,

STANLEY R. RESOR, *Secretary of the Army.*

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., April 27, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on the bill (S. 695) "To authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes."

Section 1 of the bill states that it is a policy of Congress to preserve, protect, develop, restore, and make accessible selected parts of the diminishing estuarine areas which are valuable for sport and commercial fishing, wildlife conservation, outdoor recreation, and scenic beauty. To do so, the bill would authorize the Secretary of the Interior to identify estuarine areas meeting certain standards set forth in the bill, to study these areas to determine whether they should be preserved or protected, and, if so, whether by the Federal or State governments, and to make annual reports to the Congress of the results of his studies, including recommendations with respect to the designation of specific national estuarine areas. Such designations would become effective only upon Act of Congress. Within areas so designated, the Secretary would be authorized to acquire lands and waters and interests therein.

The bill would also authorize the Secretary, without further specific authorization from Congress, to enter into agreements to manage, develop and administer estuarine areas owned by the States, such areas to be designated by the Secretary as national estuarine areas. Within any estuarine area, improved land which by action of the appropriate local zoning agency is subject to zoning restrictions conforming to standards set forth in regulations issued by the Secretary of the Interior shall not be subject to purchase without the consent of the owner. The bill would authorize the Secretary to issue regulations with respect to activities which might be carried on within the estuarine areas, and would prescribe the manner of enforcement of these regulations, and penalties to be imposed upon conviction for their violation. Other powers to protect and preserve estuarine areas, to cooperate with Federal and State agencies, and to coordinate the activities of these agencies within such areas, would be conferred upon the Secretary by the bill. The bill would provide that nothing therein might restrict or extend "such jurisdiction as the States now have with respect to State water laws, nor be construed as an express or implied claim or denial on the part of the United States as to exemption from State water laws."

Thhe subject of the bill appears to concern primarily the Department of the Interior. We perceive no legal objections to the bill, and defer to the views of the Department involved as to whether or not it should be enacted.

We would, however, recommend three changes: the first, in the interest of clarity, is that the phrase in lines 20–22 of page 7 of the bill, "acquire by purchase . . . without consent of the owner" be changed to "acquire by condemnation," so that lines 20–23 read, "The Secretary shall not acquire by condemnation any privately owned improved property or interests therein so long as the appropriate local zoning agency shall have in force" etc. The use of the word "condemnation" in this sentence makes clearer the reference to condemnation in the following subsection (e), on line 2 of page 8. Nothing in the bill purports to alter existing practice with respect to condemnation proceedings, and it therefor is our understanding that any condemnation proceeding authorized by this

bill would be handled by this Department, upon the receipt of a request from the Secretary of the Interior.

The second change we recommend is that the words "not less than $500 and" in line 6 of page 14 of the bill be deleted. The Department generally does not favor limiting the judgment of the courts, and for that reason would prefer the removal of the fixed minimum penalty prescribed in line 6.

The third recommendation is that in section 2(a) the term "Secretary" be amended to "Secretary of the Interior" since that is the first reference to the cabinet officer other than that contained in the title.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAMSEY CLARK,
Attorney General.

DEPARTMENT OF STATE,
Washington, D.C., May 12, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of January 31, 1967, requesting the Department's comments on S. 695, a bill to authorize the Secretary of Interior to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes.

While we would defer to the views of other agencies more directly concerned with the substance of the bill, the Department has no objection to S. 695 from the standpoint of foreign relations.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 10, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Commitee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: This supplements our letter of March 27, 1967, on S. 695, a bill "To authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes."

Since that time, we have discussed the subject further with Members of Congress and representatives of the Secretary of the Army. These discussions led to the preparation and announcement of a Memorandum of Understanding between the Secretary of the Interior and the Secretary of the Army regarding the control of dredging, filling, and excavation of the Nation's navigable waters, including the estuaries. A copy is enclosed.[1]

We believe that this Memorandum of Understanding provides an effective administrative solution to the problem of preventing unreasonable impairment of the natural resources of the Nation's waterways and related environment, and preventing the pollution of the waters. In our opinion, the agreement makes the legislative approach set forth in S. 695 for control of dredging, etc., unnecessary.

We therefore enclose a revised draft bill and recommend its early enactment as a revision of S. 695. It:

1. Directs the Secretary to conduct a continuing nationwide study and inventory of our estauries. The first report must be completed by the end of fiscal year 1971.

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[1] The information referred to follows Congressman Dingell's letter.

2. Directs the Secretary to make recommendations regarding the desirability of establishing a nationwide system of estuarine areas, the rules to be applicable to the system, and the acquisition of specific estuarine areas of national significance. No acquisition may be made, however, without a subsequent Act of Congress. When preparing these recommendations it is our intention to consider both relative priorities among the estuarine areas and the relationship of a Federal land acquisition program to other recreation and conservation opportunities.

3. Authorizes the Secretary to enter into agreements to administer estuarine areas of national significance that are public-owned without further approval by Congress. The States and the Secretary shall then share the costs of administering and developing such areas.

4. Does not contain the other provisions which were in our previous draft bill relative to the administration of estuarine areas to be acquired after congressional approval. On reconsideration, we believe that those provisions should be developed at the time we consider the individual areas for congressional approval.

The Department of the Army does not object to the enactment of the revised draft bill enclosed with this letter.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CLARENCE F. PAUTZKE,
Deputy Assistant Secretary of the Interior.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., October 30, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter of September 7, 1967, you requested our comment on S. 2365, 90th Congress, entitled "A bill to authorize the Secretary of the Interior, in cooperation with the States, to protect, preserve, restore, develop, and make accessible the Nation's estuarine areas and their natural resources, and for other purposes."

The desirability of the legislation proposed by S. 2365 is a matter of policy for the consideration of the Congress and we therefore make no specific recommendation with regard to its enactment. There are certain aspects of the bill, however, which we believe should be brought to your attention.

Subsection 6(b) of S. 2365 would allow the Secretary to enter into agreements with certain parties through negotiation to provide public accommodations in the estuarine areas. In the absence of compelling reasons for awarding contracts through negotiation, our Office has consistently taken the position that any concession or privilege involving the use of Government property should be subject to the same statutory advertising requirements as the award of any other public contract. In the absence of such reasons, we recommend against including in the proposed bill a provision authorizing direct negotiation for public accommodation services. In view of the advantages afforded by competitive bidding procedures, we believe that the Senate Committee on Commerce may wish to consider appropriate language which would require competitive bidding to be used whenever possible.

The proposed legislation would appear to create dual jurisdiction over the regulation of certain activities within estuarine areas. Subsection 8(a) would give the Secretary of the Interior authority to approve dredging, filling, or excavation projects within any estuarine areas. In addition, subsection 8(b) would authorize the Secretary of the Interior to establish regulations governing the dumping of various waste materials into any estuarine area. In connection with dredging, filling, excavating and dumping operations, the Secretary of the Army, under sections 10 and 13 of the River and Harbor Act of 1899 (33 U.S.C. 403, 407), has been given authority to approve similar operations in navigable waters which would include estuarines.

Subsection 8(g) of S. 2365 would apparently recognize the existing authority of the Secretary of the Army with respect to dredging, filling, and excavating operations by requiring the Secretary of the Interior and the Secretary of the Army to enter into appropriate agreements to avoid duplication of effort in

these areas. However, the bill does not provide for dumping operations to be subject to such agreements. Therefore, you may wish to include in the bill appropriate language which would make the dumping of various waste materials into any estuarine areas subject to a similar agreement, in order to avoid possible duplication of effort in this area.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., November 1, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Your Committee has requested this Department's comments on S. 2365, a bill "To authorize the Secretary of the Interior, in cooperation with the States, to protect, preserve, restore, develop, and make accessible the Nation's estuarine areas and their natural resources, and for other purposes."

Enclosed is a copy of a Memorandum of Understanding between the Secretary of the Interior and the Secretary of the Army regarding the control of dredging, filling, and excavation of the Nation's navigable waters, including the estuaries.

We believe that this Memorandum of Understanding provides an effective administrative solution to the problem of preventing unreasonable impairment of the natural resources of the Nation's waterways and related environment, and preventing the pollution of the waters. In our opinion, the agreement makes the legislative approach set forth in S. 2365 for control of dredging, etc., unnecessary.

On August 10, 1967, this Department transmitted to your Committee a draft bill which we recommended for enactment as a substitute for S. 695. It:

1. Directs the Secretary to conduct a continuing nationwide study and inventory of our estuaries. The first report must be completed by the end of fiscal year 1971.

2. Directs the Secretary to make recommendations regarding the desirability of establishing a nationwide system of estuarine areas, the rules to be applicable to the system, and the acquisition of specific estuarine areas of national significance. No acquisition may be made, however, without a subsequent Act of Congress. When preparing these recommendations it is our intention to consider both relative priorities among the estuarine areas and the relationship of a Federal land acquisition program to other recreation and conservation opportunities.

3. Authorizes the Secretary to enter into agreements to administer estuarine areas of national significance that are public owned without further approval by Congress. The States and the Secretary shall then share the costs of administering and developing such areas.

4. Does not contain the other provisions which were in our previous draft bill relative to the administration of estuarine areas to be acquired after congressional approval. On reconsideration, we believe that those provisions should be developed at the time we consider the individual areas for congressional approval.

The Department of the Army does not object to the enactment of the revised draft bill enclosed with this letter.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

STANLEY A. CAIN,
Assistant Secretary of the Interior.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 20, 1968.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter of February 15, 1968, you requested our comments on H.R. 25, 90th Congress, entitled: "An Act To authorize the Secretary of the Interior, in cooperation with the States, to conduct an inventory and study of the Nation's estuaries and their natural resources, and for other purposes."

We have no special information on the advisability of this measure, and therefore offer no comments concerning its enactment.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 31, 1968.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views and recommendations of the Department on H.R. 25, a bill "To authorize the Secretary of the Interior, in cooperation with the States, to conduct an inventory and study of the Nation's estuaries and their natural resources, and for other purposes."

We recommend early enactment of the bill, which is very similar to the one recommended by this Department to your Committee last August. Our request for early consideration is based on the fast-approaching deadline (January 30, 1970) for submission of the Secretary's study to the Congress as required in section 2(c) of the Act. If we are to do an adequate study, we should begin as soon as possible.

In view of Congress' longstanding interest in preserving and developing many areas of the country as wildlife refuges, parks, seashores, and recreation areas, it is logical to extend this concern to the fast-dwindling estuarine and wetland areas that are found particularly along the coastlines of the United States.

Estuaries are places where salt water meets fresh water. A meandering river flows to the sea and terminates in an estuary. At this point the river waters, the ocean tides, the coastal currents, and the contours of our shore interact and sediments from the river and the sea are deposited. These sediments slowly settle as river flows diminish; sand and mud flats develop providing an environment for algae and other plants that can survive the rapid changes in temperature and salinity. The plants collect more sediment and build up more area upon which more plants can grow. Thus, in time, is formed the coastal marsh with its myriad channels, creeks, and small potholes with their gently sloping sides. This is the holding place for nutrients and, in some cases, pollutants.

These marginal sea and land complexes make the estuarine areas a habitat rich in many valuable natural resources. At least 65 percent of our Nation's commercial fish and shellfish resources and most of our marine sport species inhabit the estuarine environment during all or part of their life cycle. Many of our valuable waterfowl use these areas as nesting and wintering sites. Estuarine areas attract recreationists for swimming, boating, bird watching, hiking, or just an opportunity to enjoy the beauty of natural resources along coastal areas. It is such areas we wish to try to protect and perserve. When they are destroyed through residential or industrial development, or they are badly polluted, they cannot be replaced. When this happens, the Nation as a whole is the loser.

The Secretary of the Interior is directed pursuant to subsection 2(a) of the bill, in consultation and cooperation with the States, the Secretary of the Army,

and other Federal agencies, to conduct, either directly or by contract, a study and inventory of our Nation's estuaries, including the land and waters of the Great Lakes. The Secretary will be required to consider (1) their wildlife and recreational potential, and fisheries values, (2) their importance to navigation and flood control, and (3) the value of such areas from urban, commercial, and industrial developments. The study must be coordinated with that now being carried out under section 5(g) of the Federal Water Pollution Control Act.

Subsection (b) would direct that the Secretary of the Interior give consideration to whether any land or water area within an estuary and the Great Lakes should be acquired by the Federal Government or by a State or local government, or whether such areas could be adequately protected and preserved through local, State, or Federal laws without Federal acquisition or administration.

Subsection (c) requires that the Secretary of the Interior submit, no later than January 30, 1970, to the Congress through the President, his report and legislative recommendations, including recommendations on the desirability of establishing a system of estuarine areas, the terms and conditions and authorities to govern it, and the designation of any area which he thinks should be acquired by the United States. The Secretary would be required to develop his recommendations for the acquisition of any area by prior consultation with the interested States, municipalities, and other Federal agencies. Each recommendation would be required to be accompanied by views of any interested State, municipality, or other Federal agencies and river commissions submitted within 60 days after notification.

After completion of the study authorized under section 2, the Secretary of the Interior, with the approval of the President, may enter into agreements with any State, political subdivision, or State agency for the permanent management, development, and administration of any area, land, or interests within an estuary and land adjacent thereto which are owned by the State or political subdivision. This provision would also apply to land acquired by the State or political subdivision after the passage of the bill. The cost of managing, administering, and developing such areas would be shared on an equitable basis between the Secretary and the public owners. We interpret the word "equitable" to mean a 50–50 sharing of the total cost and would administer this provision accordingly.

Under section 4, all Federal agencies would be required to give consideration to the importance of the natural resources of estuarine areas for commercial and industrial development. All project plans and reports submitted to the Congress shall contain a discussion and recommendation by the Secretary of the Interior on the effects of the projects on estuaries and other resources. The Secretary's recommendations shall be submitted to the Congress within 90 days after the receipt of the plans by the Congress.

The Secretary, under section 5, would encourage the States and their political subdivisions to consider in their plans for Federal assistance under five programs administered by the Department of the Interior, the needs and opportunities for protecting and restoring estuaries in accordance with the purposes of the Act.

The five listed programs are:

1. Federal Aid in Wildlife Restoration Act.
2. Federal Aid in Fish Restoration Act.
3. Land and Water Conservation Fund Act of 1965.
4. Commercial Fisheries Research and Development Act of 1964.
5. Anadromous and Great Lakes Fisheries Conservation Act.

Section 6 would make it clear that the bill would not affect the authority of any Federal agency to carry out Federal projects within an estuary heretofore or hereafter authorized.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CLARENCE F. PAUTZKE,
Deputy Assistant Secretary of the Interior.

STATEMENT OF CLARENCE F. PAUTZKE, DEPUTY ASSISTANT SECRETARY OF THE DEPARTMENT OF THE INTERIOR FOR FISH AND WILDLIFE AND PARKS, WASHINGTON, D.C.; ACCOMPANIED BY DAVID B. FINNEGAN, ASSISTANT LEGISLATIVE COUNSEL

Mr. PAUTZKE. I have a statement that I would like to read for the record.

Mr. Chairman, I have Mr. David B. Finnegan, our assistant legislative counsel, sitting with me.

Senator MAGNUSON. We are glad to have him here, and let the record show he is accompanying you.

Mr. PAUTZKE. I welcome this opportunity to testify on H.R. 25 which seeks to provide Federal authority, in cooperation with the States, to study and plan for the protection of estuaries. It is a pleasure to return to my hometown for this purpose.

As pointed out in our Department's report to your committee, we recommend early enactment of this bill. The bill is very similar to the one recommended by our Department to your committee last August as a revision of S. 695 and in November as a substitute for S. 2365.

Estuaries may be described as the living arms of the oceans. Our coastline is replete with bays, sounds, river mouths, and inlets. These are the transition zones between the salt water of the seas and the fresh water of the rivers. Estuaries are characterized primarily by changes, tides rise and fall, salinities vary, temperatures fluctuate. These areas provide essential food and nursery areas for many of our most valuable sport and commercial fish resources as well as waterfowl and many other aquatic birds.

If we were asked to describe a typical estuary, we would find it almost impossible. Perhaps a familiar example will illustrate. We are fortunate today to be on the shores of one of the largest, most complex, and most important estuarine areas in the United States, Puget Sound. It is one of the prized possessions of this grand State of Washington.

For the sake of putting boundaries on the Puget Sound estuarine complex, we could assume that it extends from Oympia on the south to the northwest tip of the conterminous United States at Neah Bay and up into our neighbor to the north, Canada.

While the geographical limits of Puget Sound can be set, its influence on people is extremely difficult to delimit. I would venture a guess that Puget Sound is one of the more important elements controlling the lives of people in this section of the State. It moderates our weather, and provides food, transportation, and recreation. These are the obvious things. There are perhaps even more important hidden, obtuse values of this estuary.

The Puget Sound shoreline with its many indentations and islands provides a haven for a multitude of fishes, plants, crabs, oysters, and

birds. All of these are largely dependent on the nutrients and protection provided by this estuary.

Director Loyd Royal and his International Pacific Salmon Fisheries Commission staff are carrying on important studies to measure the effects of fresh water and estuarine environment on the survival of salmon from the Fraser River. Past experience has shown that the year-class size of marine fishes tends to be set early in life. Thus, loss of estuary areas to these young fish passing through the transition period of fresh to marine habitat can have a major influence on their survival.

Recently scientists of our Bureau of Commercial Fisheries Seattle Biological Laboratory found that young fall chinook salmon remained in the Columbia River estuarine area for periods of time up to 8 weeks. The transition period may vary between species of anadromous fish and with their size during migration. It is envisioned that studies under H.R. 25 would produce data on the role of the estuary on survival of young migrating fish.

Ten major and 12 minor rivers flow into Puget Sound, Georgia Strait, Hood Canal, and the Strait of Juan de Fuca. These rivers and their estuarine areas compose 2,500 square miles of nearly landlocked inland sea.

These waters are rich in animal and plant life and serve as nursery and feeding areas, as well as a travelway for five species of Pacific salmon, steelhead, searun cutthroat trout, and Dolly Varden trout. The Puget Sound area and tributary rivers contribute about 20 million pounds of salmon annually, having a processed value of about 10 million dollars, to our commercial fisheries industry. In addition, sport anglers' efforts for salmon and steelhead and other anadromous species amount to over 1,800,000 angler-days annually with the expenditures valued at nearly 18 million dollars.

Shellfish, including the Olympia and Pacific oysters, Dungeness crabs, and hardshell clams, support extensive commercial and sport fisheries. An estimated 6,700,000 pounds of clams, crabs, and oysters were harvested in 1965 in the Sound. These were valued at about $4,800,000 to the commercial industry, as well as supporting 360,000 days of recreational clam digging.

Puget Sound and its adjacent waters are important migration and wintering areas for many species of migratory birds that inhabit the Pacific Flyway. The Skagit and Nisqually Flats are famous wintering areas for many species of waterfowl. Total waterfowl use of Puget Sound approaches 63 million use-days annually with peak daily use by about 450,000 birds. An estimated 200,000 hunter-days were expended for waterfowl in the general area in 1965 with associated expenditures valued at $1,280,000.

The various wildlife species also have an inestimable esthetic value and are enjoyed annually by thousands of people. Many who neither fish nor hunt derive considerable pleasure from observing birds, taking pictures, or merely enjoying the natural surroundings. It is well known that the rich fish and wildlife resources are the basis for much of the Pacific Northwest's attraction for both tourists and residents.

Without undue changes caused by civilization, the perpetuation of the famous salmon resource utilizing our estuaries and tributary

streams would require only cool, clean water and access to spawning areas. Salmon need no fertilizing, feeding, spraying, pruning, or corralling, their food is in the rivers and the ocean. This self-renewing resource requires no vast areas of land nor huge investments of capital to perpetuate itself. Treated with respect by its land neighbors and harvested with restraint, this fish resource will last forever.

However, today's expanding human population and industrial complex adjacent to our estuarine areas are affecting the environment upon which many species of fish and wildlife depend and consequently man. These are problems which must be considered before any meaningful plans to conserve and develop our estuarine resources can be formulated.

The destruction of estuaries is progressing at an alarming rate. We point with shock and alarm at the worst, or best. example of estuarine destruction yet wrought in this country, which has taken place in the San Francisco Bay complex. Based on available data, about 160 square miles of the shoal-water area have been filled in. This amounts to 35 percent of the shoal-water area. This is an irreplaceable loss of the productive area of the bay. It is these shoals and flats that produce the food items that are so important. We are, in fact, draining off the cream and leaving the skim milk. The State of California has taken a significant step forward in estuarine preservation and has passed legislation which provides for the orderly development of the bay. This, a very commendable action, could probably use a little help.

The story of estuarine maligancy is repeated in many places. Florida, New York, New Jersey, and Connecticut are among those States that have lost many acres of their best and most productive water areas.

It is most important that the development of our estuarine areas be well planned. The wise use of these vital regions is a must if their values are to be preserved. The multipurpose development of estuaries is of utmost concern.

To state it bluntly, Mr. Chairman, while we have studied and are knowledgeable about a few areas, we have not, as yet, gathered sufficient facts on which to base recommendations for the protection of estuarine habitat on the scale that is needed.

Under H.R. 25 the Secretary of the Interior is directed, pursuant to subsection 2(a) of the bill in consultation and cooperation with the States, the Secretary of the Army, and other Federal agencies, to conduct, either directly or by contract, a study and inventory of our Nation's estuaries, including the land and waters of the Great Lakes. The Secretary will be required to consider (1) their wildlife and recreational potential and fisheries values, (2) their importance to navigation and flood control, nad (3) the value of such areas from urban, commercial, and industrial developments. The study must be coordinated with that now being carried out under section 5(g) of the Federal Water Pollution Control Act.

Furthermore, the Federal water polution control study is designed to identify estuarine values and uses as they are affected by waste discharges. The project is divided into four elements:

(1) The establishment of estuarine registers to describe the size and use and damage to the Nation's estuarine system;

(2) A series of special studies on ecological values and sedimentation and social economic relationships;

(3) Delineation of the programs in the interest of the Federal, interstate, and State agencies;

(4) The identification of local and public interest by holding approximately 30 public meetings in the various estuarine areas of the United States.

Subsection (b) would direct that the Secretary of the Interior give consideration to whether any land or water area within an estuary and the Great Lakes should be acquired by the Federal Government or by a State or local government, or whether such areas could be adequately protected and preserved through local, State, or Federal laws without Federal acquisition or administration.

Subsection (c) requires that the Secretary of Interior submit, not later than January 30, 1970, to the Congress through the President, his report and legislative recommendations, including recommendations on the desirability of establishing a system of estuarine areas, the terms and conditions and authorities to govern it, and the designation of any area which he thinks should be acquired by the United States. The Secretary would be required to develop his recommendations for the acquisition of any area by prior consultation with the interested States, municipality, or other Federal agencies and river commissions submitted within 60 days after notification.

It should be noted that the Federal water pollution study will be completed about the same time.

After completion of the study authorized under section 2, the Secretary of the Interior, with the approval of the President, may, under section 3, enter into agreements with any State, political subdivision, or State agency for the permanent management, development, and administration of any area, land, or interests within an estuary and land adjacent thereto which are owned by the State or political subdivision. This provision would also apply to land acquired by the State or political subdivision after the passage of the act. The cost of managing, administering, and developing such areas would be shared on an equitable basis between the Secretary and the public owners. We interpret the word "equitable" to mean a 50–50 sharing of the total cost and would administer this provision accordingly.

Under section 4 all Federal agencies would be required to give consideration to the importance of the natural resources of estuarine areas for commercial and industrial development. All project plans and reports submitted to the Congress shall contain a discussion and recommendation by the Secretary of the Interior on the effects of the projects on estuaries and other resources. The Secretary's recommendations shall be submitted to the Congress within 90 days after the receipt of the plans by the Congress.

The Secretary, under section 5, would encourage the States and their political subdivisions to consider in their plans for Federal assistance under five programs administered by the Department of the Interior, the needs and opportunities for protecting and restoring estuaries in accordance with the purpose of the act.

The five listed programs are:

1. Federal Aid in Wildlife Restoration Act.

2. Federal Aid in Fish Restoration Act.

3. Land and Water Conservation Fund Act of 1965.

4. Commercial Fisheries Research and Development Act of 1964.

5. Anadromous and Great Lakes Fisheries Conservation Act.

Section 6 would make it clear that the act would not affect the authority of any Federal agency to carry out Federal projects within an estuary heretofore or hereafter authorized.

The bill recognizes that the individual States have a great part and responsibility in determining the fate of our coastal areas. It provides a medium by which interested agencies can cooperatively assess the well-being of estuaries. It further sets up a procedure for protecting those more valuable areas by placing them under either State or Federal management. Enactment of H.R. 25 would be a great step forward.

The Department of the Interior recommends the early enactment of H.R. 25.

Our request for the early enactment is based on the fast-approaching deadline of January 30, 1970, for submission of the study.

We welcome the opportunity to appear before this committee. We welcome, perhaps as much, the chance to visit this beautiful section of the country where natural resources are so highly prized. Enactment of legislation you are considering will be a big step forward to insure that this great area shall be available for future generations to enjoy.

Thank you, Mr. Chairman, for the time and courtesy provided us.

Senator MAGNUSON. Clarence, the bill, of course, provides that this general study will be authorized in a given period of time. I think it is a little too long, but we can change that.

There is no question about the procedure after the study is completed in the bill. How do you envision the States, like John Biggs' shop for the port or the other people, would participate in this study? What would be the procedure you would envision would take place if we pass the bill and you got the authorization of 750 for fiscal 1969 and then 250 for 1970, which would phase it out, what would be the coordination, what would be the step-by-step procedure you envision in that?

Mr. PAUTZKE. I envision as a result of H.R. 25 that the bill lists contracts that can be entered in with the States in which they would pursue the studies of estuarines in their areas. Much of the information we have developed here of the loss of estuarine areas has been as a result of compilation by the States, so it would appear to me that the States do have this information and would be one of the media of entering into contracts there.

In other areas where the State is not set up to carry on these studies in which we have the expertise, I would imagine that the Federal Government, through either the Bureau of Commercial Fisheries, Bureau of Sport Fisheries and Wildlife——

Senator MAGNUSON. This would be true in many of the Great Lakes States who have no subdivision of the State or commission or anything else to work with because it is somewhat new. We have been quite active in this and I want it to be clear that it is my interpreta-

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tion of it, and I hope it is the Department's, that in making the study, there would be contracts and this liaison between the State groups, whoever they may be, and the Governor could designate a certain group to work with you people.

Mr. PAUTZKE. I believe H.R. 25 is quite specific in that, Mr. Chairman.

Senator MAGNUSON. Let's take a good example. We have a State commission on oceanography. Oceanography, in all its aspects, has a great deal to do with the estuarine areas of Puget Sound. Under this, the Governor of the State could designate that State commission, which is a legal commission formed by law, to be the agency to work in that particular field.

Mr. PAUTZKE. I see it that way.

Senator MAGNUSON. Or that they could designate in the face of the game involved, among other things, John Biggs' department or Thor Tollefson's department so there would be complete liaison because no study is going to amount to much unless it is agreed to by everybody concerned.

Mr. PAUTZKE. I agree.

Senator MAGNUSON. We could have all the studies we want. If the Department of Interior comes up with one isolated study by themselves and the State hasn't agreed to it or been a party to it or the people involved, you get nowhere with it. It just gets into a controversy then.

Mr. PAUTZKE. If I may elaborate, Mr. Chairman, on your own statement in here, to be able to carry on a study of this magnitude covering as many areas of the maritime areas and of the Great Lakes, it would be humanly impossible, I feel, for the Federal Government to carry on these studies without the States, and it would seem to me that the several State agencies, if it be more than one, would be the agency to carry on these distinctive studies.

Senator MAGNUSON. After the study is completed and the recommendations are made, then the procedures are pretty well spelled out, of State cooperation or Federal cooperation with States.

Mr. PAUTZKE. That is true.

Senator MAGNUSON. The House bill authorizes $750,000. Did the Senate bill have the same figure?

Mr. PAUTZKE. It is the same figure.

Senator MAGNUSON. Because the bill talks about agreements, I hope we all understand when we talk about agreements we are talking about coordination between the local people in these places.

Let's take the Columbia River where you have three States involved. There would have to be some joint effort there; wouldn't there?

Mr. PAUTZKE. Yes. I visualize, as I stated before, Mr. Chairman, these studies will be carried on with the coordination of the States, and as a number of past studies have been carried on and as the States are in the position with adequate personnel and the expertise to do this, it is my vision on this that they would be the ones that will carry on the studies.

Senator MAGNUSON. Then, of course, in section 5, which I think is very important, we provide that the Secretary shall encourage the

States and the local subdivisions to consider in their planning and proposals just how they might fare under the other acts, the Wildlife Restoration Act, the Land and Water Conservation Fund Act, that might also fit into all this.

Mr. PAUTZKE. These are sources of funds for the State.

Senator MAGNUSON. This is a many-faceted proposal. It isn't all directed toward fisheries. It is recreation, it is all fields of oceanography, it is fisheries, it is game, and it is birdlife.

Mr. PAUTZKE. You see, in this you have the Federal Aid and Wildlife Restoration programs under the Pittman-Robertson Act. The States carry on projects with regard to the game mammals and birds research, and so forth.

Then under section 5, it is the intent of Congress that the Secretary of the Interior would encourage the States and their local subdivisions to consider, in their comprehensive plans for Federal assistance under five listed programs administered by the Department of the Interior, the needs and opportunities for protecting and restoring these valuable estuarine areas in accordance with the purposes of this act. The programs listed are: the Federal Aid in Wildlife Restoration Act, the Federal Aid in Fish Restoration Act, the Land and Water Conservation Fund Act of 1965, the Commercial Fisheries Research and Development Act of 1964, and the Anadromous and Great Lakes Fisheries Conservation Act.

Mr. PAUTZKE. That is right.

Senator MAGNUSON. Could it be that the Puget Sound area has, because of a lack of unified efforts from all branches of Government, needlessly suffered injury to some estuarine areas that could have been prevented with a program such as we now propose?

Mr. PAUTZKE. That is my interpretation.

I feel that Puget Sound and other areas have not deteriorated as much as some of the other States have, such as California, which lost almost 67 percent, but we have lost areas in Puget Sound and we have lost areas in Gray's Harbor by filling and dredging, and these are areas that have multiple-use values from fish and wildlife and shellfish, that by all means the values should be truly studied and emphasized before a project is allowed that might be deleterious to these resources.

Senator MAGNUSON. With all Federal agencies working hand in hand with our State and local governments, we should be able to coordinate our planning to our mutual benefit. All of our plans must be brought together to permit us to conserve these natural resources.

Mr. PAUTZKE. The studies in the past on estuaries have been sporadic, more of a jigsaw puzzle nature. Somebody has to put this whole thing together.

Senator MAGNUSON. Thank you, Clarence. We appreciate your testimony. Of course you will be able to testify later in Washington on this matter. We appreciate it very much.

John Haydon.

John Haydon is, of course, a very active member of the port commission, but he wears another hat which the port commission is involved in, the Commission on Oceanography.

STATEMENT OF JOHN M. HAYDON, CHAIRMAN, OCEANOGRAPHIC COMMISSION OF WASHINGTON, SEATTLE, WASH.

Mr. HAYDON. My name is John M. Haydon and I am chairman of the Oceanographic Commission of Washington and president of the Oceanographic Institute of Washington. The commission is an agency of the State of Washington and parent body of the institute, a not-for-profit public corporation.

As part of the duties of our commission, we have been specifically charged by the Legislature of the State of Washington to "assist in the study of problems of waterfront development, pollution, and parks and recreation areas for public use."

The State of Washington is geographically endowed with a seacoast centered adjacent to a vast continental shelf area and an inland sea known as Puget Sound, which constitutes the largest salt water harbor in the world.

It is situated in a temperate climate and is virtually an unspoiled area. Its developments in industrial and educational fields present a natural base for expanding efforts to uncover and utilize the potentially rich food, oil, and minneral natural resources of the western Pacific Ocean Continental Shelf, to locate and harvest abundant fish and marine life, to develop fishing processes, including programs of acquiculture or fish farming through the utilization of the estuaries and bays of Puget Sound, in itself one of the most important and largest estuarine systems in the United States, to conduct studies of marine and aquatic life, to research and develop seafood uses and seafood processing plants, to serve as a location for a temperate zone marine laboratory and a public research aquarium, to collect and distribute living marine organisms for marine and biological research, and to conduct research into weather forecasting and modification. As we carry out such programs and exploit the strategic position of this State as a natural base for these activities, we must pay due regard to the ancillary needs of providing planned waterfront development, public recreation, prevention of water pollution, and proper provision of suitable areas for water oriented industrial development.

Thus, our interest in H.R. 25 is readily apparent. The Oceanographic Commission of Washington heartily agrees there should be "a means for considering the need to protect, conserve and restore the estuaries in a manner that adequately and reasonably maintains a balance between the national need for such protection in the interest of conserving the natural resources and natural beauty of the Nation and the need to develop the estuaries to further the growth and development of the Nation."

The seriousness with which the State of Washington and the Puget Sound communities approach their overall water resource and estuarine problems is readily indicated by adoption and current implementation of water quality standards approved by the Department of the Interior.

In the last session of our legislature was passed SSB 414 with an emergency clause containing the provision that State-owned tidelands and beaches from the Columbia River to Cape Flattery, our Pacific

Coast boundary, be declared a State seashore conservation area, to protect and preserve this valuable resource for generations ahead. Many coastal estuarine systems are involved.

Our State, the city of Seattle, the county of King, the port of Seattle, and the Metro system of this area are joining together to finance an engineering study which will lead to the construction of the first U.S. waste oil processing plant utilizing maritime industry created petroleum pollutants, the bilge wastes, and liquid contaminants brought to our area by a steadily increasing maritime commerce.

The Metro system has been responsible for one of the most dramatic cleanups of lake and estuarine areas in the Nation and this work is continuing. Last week funds were allocated to construct sewage connections to Metro from all publicly owned marine terminal facilities in the King County area. Private owners are doing the same. Within 2 years Elliott Bay will have returned to a cleanliness found only years ago.

Air and water pollution acts passed by our legislature in the 1967 session are among the strongest now existing in the Nation and have been commended nationally.

These are just a few of the measures which have been taken to insure that the State of Washington, acting strongly on State and local levels, will not be concerned about its water resources and adjacent lands, but will do something about it. Gov. Daniel Evans has pointed out constantly that there is still time in this relatively unpolluted and undestroyed State to profit by the disasters which have taken place in State after State in America as they have let their natural resources be consumed, defaced, polluted, destroyed and exploited into extinction.

In Washington we are taking action before we run out of time for we are determined in this State that these great, natural resources of ours shall not be destroyed either by those who would exploit them improperly or by the indifference of those who should but do not protect them.

The first report to the President by the National Council on Marine Resources and Engineering Development said this:

> In all too many instances polluted harbors and bays, oil-covered beaches and eroded shorelines have accompanied economic development along our coasts. The need for concerted Federal and local initiatives to arrest further shoreline degradation has now reached a level of some urgency.

This warning has been repeated and repeated by every responsible group, organization, and body which has studied the problem.

The estuarine systems in the State of Washington are producers of many benefits, economic, cultural, scientific, recreational and esthetic. We cannot afford to have these qualities destroyed and therefore we concur with the expressed intent of H.R. 25 as it declares that studies and inventories of America's estuaries are needed, that all beneficial uses and users of the estuarine areas should be considered in these studies, and that there should be "a nationwide system of estuarine areas, the terms, conditions, and authorities to govern such a system."

To a degree we question that portion of the paragraph in the act which would have the Secretary of the Interior carry out "the designa-

tion and acquisition of any specific estuarine areas of national significance which he believes should be acquired by the United States". The quarrel is not with the intent, but with the method by which this suggestion evolves. Consultation with the States during the study period does not seem to imply the active "involvement" by the various States which may be necessary to develop a completely meaningful estuarine national program. Each State and its appropriate agencies should be directly involved in these studies for many States best understand their own, sometimes unique, problems, and the agencies of the different States have much valuable information and experience and research data which should be given serious weight in the overall study.

The rather hard to understand language of this bill leaves one with a strong impression that its underlying intent may be to set up techniques whereby a Federal agency takes over control through law and/or literal acquisition of a State's estuarine areas. This impression is a result of the strongly worded acquisition language in the act and is in spite of the language in section 3, page 4, line 21 to line 24, on page 5. It might be after the proposed studies and inventories are completed that there be developed a Model Estuarine Act in which a national estuarine program is outlined and methods by which State retention and/or acquisition methods and funding methods are clearly spelled out.

In these States which subsequently chose to disregard the exploitation and destruction of their estuarine resources, the Federal Government would then have a distinct method by which these States could be protected from themselves. In States like Washington, which have already indicated their willingness and ability to protect their natural resources, the same purposes could be achieved on State and local levels.

The State of Washington needs as much information as possible regarding the resources of its estuarine systems, oil and gas, minerals, chemical and pharmaceutical components, the vital information pertaining to fisheries, recreational use, pollution, flood control, geology, botany and other disciplines involved in estuarine systems, and an analysis of their value as sites for marine oriented industry versus their other values. In that regard, the Oceanographic Commission of Washington concurs with the intent of H.R. 25.

At the same time attention should be called to the great similarity of effect between this proposed act and other programs now in effect. For example, except for land acquisition and control language, H.R. 25 seems almost identical with the Federal Water Pollution Control Board's National Estuarine Pollution Study Act. For several years Federal and local interests have been carrying out the Puget Sound and adjacent waters study, which would appear to accomplish many of the things hoped for in H.R. 25. The work and study of the Pacific Northwest River Basin Commission would also appear to overlap in a number of areas. Currently the University of Washington and others have submitted proposals in answer to an invitation by the Federal Water Pollution Control Board to carry out a complete study, measurement and evaluation of the economic and social values of the marine resources of Puget Sound. The work involved in this proposal is outlined below and its overlapping with H.R. 25 is immediately apparent.

1. Identify, measure and evaluate the economic and social values of the marine resources of the Puget Sound and to relate their causes to the bordering communities and to the State of Washington. Results will be based primarily on information currently available and conduct of extensive surveys or interviews are not anticipated. The project will be concerned equally with water-related resources of Puget Sound, the land areas bordering the sound, and tributary fresh water streams.

2. Identify, measure, and analyze economic and social trends in western Washington which would be significant in terms of water pollution control and/or land use regulation for that portion of the watershed which is significant in determining the quality of the estuarine resources, or in determining beneficial uses. Trend analysis shall be based on projected uses for 1975, 1980, and 2000, and shall make full use of information developed under current type II study of the Puget Sound area.

3. Identify and document the extent and nature of the several ecosystems in the Puget Sound, including the adjacent wet lands and tributary rivers.

4. Summarize current information describing the physical and biological description of the sound, to indicate gaps in present knowledge of these descriptions and to describe the levels and types of research which are required to provide the knowledge adequate for efficient and practical management of the water-oriented resources of the sound.

5. Identitfy and, in a preliminary manner, to quantify the effects of various alternative developments in water quality within the framework of the water quality standards as adopted by the State of Washingon and approved by the Secretary of the Interior; alteration of shorelines; diversion of tidal flows; and other changes in the physical characteristics of Puget Sound associated with industrial and population growth or change.

We believe there are other studies underway that duplicate, at least to some extent, the surveys and studies requested in H.R. 25.

In summary, the Oceanographic Commission of Washington is in complete concurrence with the intent of H.R. 25, which is to protect, conserve, and restore our estuaries, but would wish to see the role of the States made less "consultive" and far more directly involved; is in favor of State rather than Federal control over our estuarine areas, and suggests that there appears to be much overlapping work currently in progress. Integration of these various efforts might produce a large part of the information needed. From this could be developed a national estuarine program which would offer concerned States a way to protest, preserve, and restore their estuarine resources, and a way for the Federal Government to act on behalf of the indifferent States.

I would like to submit for the record copies of substitute Senate bill 414 and Senate bill 49 of the Washington State Legislature.

Senator MAGNUSON. We will put that in the record in full.

(The bills referred to follow:)

IN THE LEGISLATURE
of the
STATE OF WASHINGTON

THE SEAL OF THE STATE OF WASHINGTON · 1889 ·

CERTIFICATION OF ENROLLED ENACTMENT

SUBSTITUTE SENATE BILL NO. 414

CHAPTER 120, LAWS OF 1967

SEASHORE CONSERVATION

(Because of the emergency clause contained in Section 15, this Act became effective upon approval of the Governor as of March 21, 1967.)

Passed the Senate March 1, 1967

Yeas 46 *Nays* 0

Passed the House March 7, 1967

Yeas 95 *Nays* 1

The Senate concurred in the House amendments March 8, 1967, and passed the bill as amended.

Yeas 41 Nays 0

CERTIFICATE

I, Ward Bowden, Secretary of the Senate of the State of Washington do hereby certify that the attached is enrolled Substitute Senate Bill No. 414 as passed by the Senate and the House of Representatives on the dates hereon set forth.

Ward Bowden

Secretary of the Senate

CHAPTER NO. 120

SUBSTITUTE SENATE BILL NO. 414

State of Washington
Fortieth Regular Session

By Committee on Natural Resources
Parks, Fisheries and Game
Fish

Read first time February 28, 1967 passed to second reading.

1 AN ACT Relating to seashore conservation; authorizing the establish-
2 ment on certain state-owned coastal lands of the Washington
3 State Seashore Conservation Area; providing for the administra-
4 tion thereof; prescribing certain powers and duties with re-
5 spect thereto; defining the jurisdiction of certain state agen-
6 cies; redesignating and amending section 46.08.180, chapter 12,
7 Laws of 1961 and RCW 46.08.180; adding new sections to chapter
8 8, Laws of 1965 and to chapter 43.51 RCW; repealing chapter 78,
9 Laws of 1929 (uncodified); and declaring an emergency.
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
11 NEW SECTION. Section 1. The beaches bounding the Pacific
12 Ocean from the Straits of Juan de Fuca to Cape Disappointment at the
13 mouth of the Columbia River constitute some of the last unspoiled sea-
14 shore remaining in the United States. They provide the public with
15 almost unlimited opportunities for recreational activities, like
16 swimming, surfing and hiking; for outdoor sports, like hunting, fish-
17 ing, clamming, and boating; for the observation of nature as it ex-
18 isted for hundreds of years before the arrival of white men; and for
19 relaxation away from the pressures and tensions of modern life. In
20 past years, these recreational activities have been enjoyed by count-
21 less Washington citizens, as well as by tourists from other states and
22 countries. The number of people wishing to participate in such recre-
23 ational activities grows annually. This increasing public pressure
24 makes it necessary that the state dedicate the use of the ocean beaches
25 to public recreation and to provide certain recreational and sanitary
26 facilities. Nonrecreational use of the beach must be strictly limited.
27 Even recreational uses must be regulated in order that Washington's

1 unrivaled seashore may be saved for our children in much the same
2 form as we know it today.
3 NEW SECTION. Sec. 2. There is established for the recrea-
4 tional use and enjoyment of the public the Washington State Seashore
5 Conservation Area. It shall include all lands now or hereafter under
6 state ownership lying between Cape Disappointment and Leadbetter
7 Point; between Toke Point and the South jetty on Point Chehalis; and
8 between Damon Point and the Makah Indian Reservation and occupying the
9 area between the present line of ordinary high tide and the line of
10 extreme low tide, as this line now is or may hereafter be located: PRO-
11 VIDED, That no such Conservation Area shall include any lands within
12 the established boundaries of any Indian Reservation.
13 NEW SECTION. Sec. 3. Except as otherwise provided in this
14 1967 amendatory act, the Washington State Seashore Conservation Area
15 shall be under the jurisdiction of the Washington state parks and
16 recreation commission, which shall administer the act in accordance
17 with the powers granted it herein and under the appropriate provisions
18 of chapter 43.51 RCW.
19 NEW SECTION. Sec. 4. The Washington state parks and recrea-
20 tion commission shall administer the Washington State Seashore Con-
21 servation Area in harmony with the broad principles set forth in sec-
22 tion 1 of this 1967 amendatory act. Where feasible, the area shall
23 be preserved in its present state; everywhere it shall be maintained
24 in the best possible condition for public use. All forms of public
25 outdoor recreation shall be permitted and encouraged in the area, un-
26 less specifically excluded or limited by the commission. While the
27 primary purpose in the establishment of the area is to preserve the
28 coastal beaches for public recreation, other uses shall be allowed as
29 provided in this 1967 amendatory act, or when found not inconsistent
30 with public recreational use by the Washington state parks and rec-
31 reation commission.
32 NEW SECTION. Sec. 5. In administering the Washington state
33 Seashore Conservation Area, the Washington state parks and recreation

commission shall seek the cooperation and assistance of federal agencies, other state agencies, and local political subdivisions. All state agencies, and the governing officials of each local subdivision shall cooperate with the commission in carrying out its duties. Except as otherwise provided in this 1967 amendatory act, and notwithstanding any other provision of law, other state agencies and local subdivisions shall perform duties in the Washington State Seashore Conservation Area which are within their normal jurisdiction, except when such performance clearly conflicts with the purposes of this 1967 amendatory act.

NEW SECTION. Sec. 6. Nothing in this 1967 amendatory act shall be construed to interfere with the powers, duties and authority of the department of fisheries to regulate the conservation or taking of food fish and shellfish. Nor shall anything in this act be construed to interfere with the powers, duties and authority of the state department of game or the state game commission to regulate, manage, conserve, and provide for the harvest of wildlife within such area, notwithstanding the provisions of RCW 9.61.040: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park.

Sec. 7. Section 46.08.180, chapter 12, Laws of 1961 and RCW 46.08.180 are respectively redesignated as part of chapter 8, Laws of 1965 and of chapter 43.51 RCW and are each amended to read as follows:

For the protection and conservation of natural resources, and for the safety and enjoyment of the public using the beaches, ((~~the county sheriffs, the state patrol and fish and game inspectors are given authority to regulate and control~~)) the Washington state parks and recreation commission, after agreement with the Washington state highway commission, shall establish reasonable regulations for the use and control of vehicular traffic on and along the ocean beach highways as designated and established under RCW 79.16.130, 79.16.160, ((~~79.16.161,~~)) and 79.16.170 ((~~and 79.16.171~~)). The Washington state parks and recreation commission shall cooperate with county sheriffs and the state patrol in enforcing such traffic regulations: PROVIDED,

1 That automobile driving shall be permitted on the beaches subject to
2 the authority of the department of fisheries to prohibit driving over
3 clam beds.
4 NEW SECTION. Sec. 8. Subject to the qualification contained
5 in section 9 of this 1967 amendatory act, any accreted lands now or
6 hereafter under the jurisdiction of the department of natural resources
7 shall remain under the jurisdiction of that department: PROVIDED, That
8 no accreted lands shall be sold, leased, or otherwise disposed of, ex-
9 cept as herein provided. The department of natural resources may
10 lease the lands within the Washington State Seashore Conservation Area
11 as well as the accreted lands along the ocean in state ownership for
12 the exploration and production of oil and gas: PROVIDED, That oil
13 drilling rigs and equipment will not be placed on the seashore con-
14 servation area or state-owned accreted lands. Sale of sand from ac-
15 cretions shall be limited to the needs of cranberry growers in the vi-
16 cinity and shall not be prohibited if found by the department of nat-
17 ural resources to be reasonable, and not generally harmful or destruc-
18 tive to the character of the land; and such sales may be made by the
19 department of natural resources from sands on the Washington State
20 Seashore Conservation Area if approved by the state parks and recrea-
21 tion commission: PROVIDED FURTHER, That the department of natural re-
22 sources may grant mining leases for the removal of "black sands"
23 (minerals) from any state-owned nontrust accreted lands between the
24 north jetty at the mouth of the Columbia River and a line due west
25 from the North Head lighthouse: PROVIDED FURTHER, That net income
26 from such leases shall be transmitted by the department of natural re-
27 sources to the state treasurer for deposit in the state parks and
28 parkways account in the general fund for expenditure by the state
29 parks and recreation commission for the development and protection of
30 the Washington State Seashore Conservation Area and state park de-
31 velopments operated in conjunction therewith: PROVIDED, The terms and
32 conditions of such mining leases are agreeable to the state parks and
33 recreation commission.

CHAPTER NO. 120

NEW SECTION. Sec. 9. The Washington state parks and recreation commission, after consultation with and agreement by the department of natural resources, shall have authority to establish sanitary facilities on, and spur roads through, accreted lands otherwise under the jurisdiction of the department of natural resources. The commission may decide where, when, and how such sanitary facilities and spur roads are to be built.

NEW SECTION. Sec. 10. Chapter 78, Laws of 1929 (uncodified) is hereby repealed: PROVIDED, That the title of anyone who has purchased property under this act shall not be affected.

NEW SECTION. Sec. 11. Where state-owned lands have been formed by natural or artificial causes between the inner or landside boundary of the Washington State Seashore Conservation Area and adjacent privately owned lands, the department of natural resources:

(1) Shall monument or otherwise visibly mark on the ground, as the boundary between such state-owned lands and adjacent lands, the line of ordinary high tide as it existed on the date of Washington statehood; and

(2) Shall thereafter publish notice once a week for not less than six weeks in a newspaper of general circulation in the county where such lands are situated in order that objections to the location of any monument or visible marker may be filed with the state commission for harbor lines at any time within thirty days after the date of the last publication.

NEW SECTION. Sec. 12. Proceedings before the state commission for harbor lines as provided for in section 11 of this 1967 amendatory act shall be deemed contested cases and subject to all applicable provisions governing contested cases, including judicial review, as is or may be provided by chapter 34.04 RCW.

NEW SECTION. Sec. 13. The state, its officers and agencies, persons filing objections with the state commission for harbor lines, and successors in interest to the state or persons filing objections shall be barred from contesting the statehood line of ordinary high

CHAPTER NO. 120

tide as monumented or marked in compliance with the order of the state commission for harbor lines, or if no objections are filed, as monumented by the department of natural resources.

NEW SECTION. Sec. 14. There is added to chapter 8, Laws of 1965 and to chapter 43.51 RCW a new subdivision to read as set forth in sections 1 through 9 and 11 through 13 of this 1967 amendatory act.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, and safety, and the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1967.

John A. Cherberg
President of the Senate.

Passed the House March 7, 1967.

Don Eldridge
Speaker of the House.

Approved March 21, 1967

Dan Evans
Governor of the State of Washington

FILED
MAR 21 1967
9:14 P.M.
A. LUDLOW KRAMER
SECRETARY OF STATE

IN THE LEGISLATURE
of the
STATE OF WASHINGTON

THE SEAL OF THE STATE OF WASHINGTON
1889

CERTIFICATION OF ENROLLED ENACTMENT

SENATE BILL NO. 49

CHAPTER 243, LAWS OF 1967

OCEANOGRAPHIC COMMISSION--OCEANOGRAPHIC INSTITUTE OF WASHINGTON

(As provided in Section 7, this Act becomes effective as of July 1, 1967.)

Passed the Senate January 27 *1967*

Yeas 41 *Nays* 1

Passed the House February 25, *196* 7

Yeas 98 *Nays* 0

The Senate concurred in the House amendments and passed as amended February 27, 1967.

Yeas 43 Nays 0

CERTIFICATE

I, Ward Bowden, Secretary of the Senate of the State of Washington do hereby certify that the attached is enrolled Senate Bill No. 49 *as passed by the Senate and the House of Representatives on the dates hereon set forth.*

Ward Bowden
Secretary of the Senate

CHAPTER NO. 243

SENATE BILL NO. 49

State of Washington
Fortieth Regular Session

By Senators Uhlman, Greive and Neill

Read first time January 10, 1967 and referred to Committee on STATE GOVERNMENT.

1 AN ACT Establishing the oceanographic commission of Washington; authoriz-
2 ing the formation of the Oceanographic Institute of Washington;
3 prescribing powers, duties and functions; and providing an effec-
4 tive date.
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
6 NEW SECTION. Section 1. The state of Washington is geographically
7 endowed with a seacoast centered adjacent to a vast continental shelf æa
8 and an inland sea known as Puget Sound which constitutes the largest salt
9 water harbor in the world. Situated in a temperate climate, this vir-
10 tually unspoiled area with its developments in industrial and educational
11 fields presents a natural base for expanding efforts to uncover and uti-
12 lize the potentially rich food, oil and mineral natural resources of the
13 western Pacific Ocean continental shelf, to locate and harvest abundant
14 fish and marine life, to develop fish farms and aquatic agriculture
15 through the utilization of the estuaries and bays of Puget Sound, to con-
16 duct studies of marine and aquatic life, to research and develop seafood
17 uses and seafood processing plants, to locate a temperate zone marine
18 laboratory, to collect and distribute living marine organisms for marine
19 and biological research, and to conduct research into weather forecasting
20 and modification. A permanent organization is vitally needed to fully
21 exploit the strategic position of this state as a natural base for these
22 activities with due regard to the ancillary needs of providing planned
23 waterfront development, public recreation, conservation, and prevention
24 of water pollution and to assist the University of Washington and other
25 participating institutions in the development and operation of local and
26 regional programs under the National Sea Grant College and Program Act
27 of 1966.

CHAPTER NO. 243

NEW SECTION. Sec. 2. There is created the oceanographic commission of Washington to consist of twelve members to be selected as follows: Five to be appointed by the governor from the public at large, at least one of whom shall be representative of higher education, one representative of private industry, and one representative of labor; three members of the state senate, no more than two of whom shall be members of the same political party, to be appointed by the president of the senate; and three members of the house of representatives, no more than two of whom shall be members of the same political party, to be appointed by the speaker of the house. The chairman of the state marine resources and development committee shall be an ex officio member without a vote. Members shall serve for terms of five years expiring on January 15th: PROVIDED, That of the members first appointed by the governor, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. The position of any legislative member shall be deemed vacated whenever such member ceases to be a member of the house or senate from which he was appointed. Any vacancies occurring in the membership of the commission shall be filled for the remainder of the unexpired term by the appointive power of the position vacated. Members shall serve without compensation but shall be reimbursed for necessary travel and other expenses incurred in the performance of their duties as commission members on the same basis as provided by law for state officials and employees under RCW 44.04.120, as now or hereafter amended.

NEW SECTION. Sec. 3. The commission shall by majority vote select a chairman. The commission shall employ an executive secretary and may employ and fix the compensation of such other persons as may be necessary to carry out its powers and duties. All matters relating to payment of compensation and other expenses of the commission shall be subject to the state budget and accounting system.

The commission shall meet at least four times each year and at such other times as determined by the chairman. A majority of the members shall constitute a quorum. No member shall vote on any matter from which he

1 would derive any direct economic benefit.
2 NEW SECTION. Sec. 4. The commission shall have the following
3 powers, duties and functions:
4 (1) Encourage, assist, develop and maintain a coordinated program
5 in oceanography for the benefit of the citizens of the state and the na-
6 tion;
7 (2) Encourage private industrial enterprise to utilize the Puget
8 Sound area as a base for oceanographic work;
9 (3) Promote national interest in Puget Sound as a base for na-
10 tional oceanographic programs;
11 (4) Assist in developing educational programs to provide the pro-
12 fessional and technical graduates required by oceanographic expansion in
13 the area;
14 (5) Undertake projects designed to inform the citizenry of the
15 importance of oceanography to the development of the area;
16 (6) Assist in the study of problems of waterfront development,
17 pollution, and parks and recreation areas for public use;
18 (7) Accept funds, gifts, bequests, and devises from any lawful
19 source given or made available for the purposes of this act, including but
20 not limited to grants of funds made with or without a matching requirement
21 by the federal government;
22 (8) Encourage, supplement and assist the development of programs
23 under the National Sea Grant College and Program Act of 1966 by the Univer-
24 sity of Washington and other participating educational institutions of the
25 state and region. The programs and mission of the commission and its in-
26 stitute are not to be in duplication of the existing program of the Univer-
27 sity of Washington or other educational institutions of the state in ocean-
28 ographic research, training or public service, or of the program developed
29 under the National Sea Grant College and Program Act of 1966.
30 (9) Make annual reports to the Washington State Legislature, or
31 to the appropriate interim committee thereof, all activities undertaken
32 in connection with the power, duties and functions assigned in this section
33 together with any recommendations for new legislation designed to accomplish

the purposes of this act.

(10) Delegate in its discretion and to the extent permitted by the state Constitution, any of the powers and duties set forth in subsections (1) through (8) to the Oceanographic Institute of Washington formed pursuant to section 5 of this act.

NEW SECTION. Sec. 5. To facilitate the exercise of its powers, duties and functions, the members of the commission are empowered to form

a nonprofit corporation under the provisions of chapter 24.04 RCW. The members of the commission shall be members and trustees of any such corporation as long as they are members of the commission. The commission members of such corporation shall accept by majority vote additional members of the corporation so that the total membership thereof including commission members shall be comprised of not less than thirteen and not more than twenty members. Any nonprofit corporation so formed shall be known and designated as the Oceanographic Institute of Washington.

The Oceanographic Institute of Washington shall, subject to the advice and consent of the commission, coordinate, promote and carry out such policies for oceanographic programs and development as may be formulated by the commission. In the coordination, promotion and carrying out of commission policies, the institute shall have in addition to powers prescribed in chapter 24.04 RCW, the power to accept, use and expend such public funds as may be lawfully made available to it for such purposes by the federal or state governments, or any political subdivision or municipal corporation, and such other powers and duties as may be lawfully delegated to it by the commission.

The institute may employ, engage and retain such staff and consultants as it deems necessary in carrying out its duties.

NEW SECTION. Sec. 6. If any provision of this act, or its application to any person, public or private organization, or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons, public or private organizations, or circumstances is not affected.

NEW SECTION. Sec. 7. The effective date of this act is July 1, 1967.

CHAPTER NO. 243

Passed the Senate February 27, 1967.

President of the Senate.

Passed the House February 25, 1967.

Speaker of the House.

Approved March 8, 1967
with the exception of a
certain item in Section 2
which is vetoed.

Governor of the State of Washington

FILED
MAR 1967
1:30 P.M.
A. LUDLOW KRAMER
SECRETARY OF STATE

CHAPTER NO. 243

STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
OLYMPIA

DANIEL J. EVANS
GOVERNOR

March 8, 1967

To the Honorable
The Senate of the
State of Washington

Lady and Gentlemen:

I am filing herewith Senate Bill No. 49 entitled:

"AN ACT Establishing the oceanographic commission of Washington; authorizing the formation of the Oceanographic Institute of Washington; prescribing powers, duties and functions; making an appropriation; and providing an effective date."

This bill establishes the Oceanographic Commission of Washington to encourage and promote maximum utilization of our oceanographic assets. In my State of the State Message, I stated "to assure the proper public management of our new and exciting frontier in oceanography, I will enthusiastically support the establishment of the Washington State Oceanographic Commission." I commend the legislature for its enactment of Senate Bill No. 49 and believe that the Commission which it has established will play a vital role in the future of the State of Washington.

In Section 2, the bill provides that members of the Commission shall serve without compensation but shall be reimbursed for necessary travel and other expenses incurred in the performance of their duties as commission members "on the same basis as provided by law for state officials and employees under RCW 44.04.120." The statute cited in the bill does not refer to travel and other expenses incurred by state officials or employees, but rather, refers to expenses incurred by members of the legislature while serving on interim committees. State officials and employees are reimbursed for travel and other expenses under RCW 43.03.050 and .060 at the rate of $.08 a mile and $15.00 a day while inside the state and $25.00 a day while outside the state. I believe the legislature intended that those who are serving on a temporary basis while permanently engaged in other employment be reimbursed at the higher rate provided by RCW 44.04.120 of $25.00 a day and $.10 a mile.

CHAPTER NO. 243

Page Two
The Senate of the
State of Washington
March 8, 1967

To allow the language to remain as it exists in this bill would invite challenge by the Auditor of payment of proper expenses of members of the Commission. In order to avoid any question with regard to this matter, I have vetoed the words "by law for state officials and employees" from Section 2. The remainder of the bill is approved.

Respectfully submitted,

Daniel J. Evans
Governor

DJE:jdw

Senator MAGNUSON. I think the point you make on page 3, section 2(c), the reason that was put in there, and you will note there is a great deal of protection, it says, "No lands within such area may be acquired until authorized by a subsequent act of Congress." In other words, if they submitted a suggestion, Congress would still have to hold hearings and act on it, and that could only be submitted even in that case when the views are accompanied by all the States in their fullest interest in the matter. What happens here, this would be a rare case, it wouldn't apply. I can't conceive of it applying to Puget Sound because we are within State borders. But you get into some areas of the United States where the estuaries are deteriorating rapidly and the States, as you point out, are indifferent, have done nothing, and it doesn't look like they intend to do something. Also, you get into some areas where you have a geographical problem where there are two or three States involved. I know one place we had in mind down on the Gulf of Mexico, there is a little problem getting them together. Some of the estuarine areas are quite polluted. They have some real problems. But I think we can make the report and still give a small escape clause if we need to do it in some cases to follow out what you suggested.

Mr. HAYDON. Mainly, I think, on the State level we are asking for the opportunity to do it ourselves.

Senator MAGNUSON. Unless the State is involved with recommendation and everything it isn't going to work. The purpose is to pull everybody together. I am glad you made that suggestion.

Let me ask you something about pollution in Puget Sound. This deals with your port authority responsibilities. Is the Coast Guard enforcing the pollution laws in the Puget Sound area?

Mr. HAYDON. As far as I know, Senator.

Senator MAGNUSON. Are they doing a good job on it?

Mr. HAYDON. We are trying. I believe they are, to the limit as they are charged with doing it. We are trying to police ourselves.

Senator MAGNUSON. But that is only on the ships moving around, isn't it?

Mr. HAYDON. When a ship hits a rock off Smith Island, the Coast Guard and other State agencies are immediately involved. We are very afraid in this sound of ours, as you may hear during subsequent testimony, that as we bring in these bigger and bigger ships, and you know we are building new facilities to attract bulk tankers and grain carriers, that a vessel coming in with thousands and thousands of barrels of petroleum aboard might have an accident similar to that which has happened before.

Senator MAGNUSON. What was it?

Mr. HAYDON. The *Torrey Canyon.*

We might be a half a foot deep in oil in Puget Sound. I don't know how you divide a huge tanker, but this would be terrible if this ever happened in Puget Sound. There are national studies underway on this problem, which is extremely serious.

The second problem is the disposal of wastes that are inside these ships, the bilge and contaminated wastes that have to be pumped out, at the moment because the land disposal areas have been closed, the oil was seeping down and hurting the water table, and so on. This oil

is being towed to sea 75 miles and dropped into the ocean. This can't continue either.

I referred in the testimony to the funding, five agencies have put up to develop a study, which will lead to the construction of the first oil processing plant in the United States to turn this into an agricultural fertilizer supplement and utilize it that way in a beneficial manner instead of a polluting manner.

Senator MAGNUSON. What I am trying to find out is if our Coast Guard laws are stiff enough and strong enough or if we should make them even stronger in a preventive way. The trouble with the Coast Guard responsibilities is usually after the fact. A fellow violates the law, then the Coast Guard comes along and fines him or does something to him.

Mr. HAYDON. And says, "You have to clean it up."

Senator MAGNUSON. We aren't as much concerned with that as we are the preventive. A big tanker, if something happened to one of these large ones that are coming into Puget Sound, you would set fish and wildlife back 5 years. This is what bothers me.

Mr. HAYDON. It would be a disaster. I don't know how you would design ships, Senator, so you can't split or rupture their skin under crash conditions, but this problem is common all over the world and people all over the world are concerned.

Senator MAGNUSON. I know it is common, but it would be worse here because we are a big inland sea. It would be disastrous if it happened. As you know, the bigger, longer they build the ships, the more the chance of something happening, where they might break in the middle.

Mr. HAYDON. Vessels over 200,000 tons.

Senator MAGNUSON. I always have my fingers crossed when I see one of these big ones coming down.

You mentioned sewage. What are we doing? I think for the record I ought to know, to take back to our committee, what we are doing about our estuarine sewage problems.

Mr. HAYDON. Metro, of course, has made some magnificent changes, particularly in the Lake Washington area, which was on the way to total destruction. As I mentioned in the testimony, all of the persons who are pumping through their sewage systems a mixture of both industrial and human wastes into the bay are being hooked up, and the total cost on Elliot Bay alone is something over a million dollars, to Metro, so within 2 years this problem will no longer exist. Money has been appropriated and this is a definite commitment.

Senator MAGNUSON. That is in the sound?

Mr. HAYDON. In Elliot Bay itself and wherever else we may have facilities. Metro has authority and the power to have other private users comply with these standards so they must hook up to Metro, and these bits of raw sewage can no longer go in the Duwamish, Elliot Bay, and subsequently on out to the ocean.

Senator MAGNUSON. Is there any prohibition on ships dumping their immediate refuse into the sound?

Mr. HAYDON. We have strict State and Federal laws. I think we all know the problem is to catch them at it when they do it. Most of them are very good. They go out the straits and theoretically should be out

so many miles, and I don't know that this is good, and then dump in the open sea. But some ships are kind of in a hurry sometimes and we see it all over our beaches.

Senator MAGNUSON. Oh, yes, you can see it.

Mr. HAYDON. Particularly after dark.

Senator MAGNUSON. What about pleasure boats, is it hard to catch them if they violate the law?

Mr. HAYDON. Yes. Their contribution to the pollution problem is minor, really, compared to industrial pollution, but I think it should be seriously considered. They are dumping a certain amount of human waste in the pleasure boat industry. Federal agencies are coming up with, I believe, a model Recreational Boating Pollution Act which would tell you what kind of a unit you should carry on your cruiser. One of the first things is the nondestructible items that are going into our waters which wash up on everybody's property, things like clorox bottles and the polyurathene containers, these various plastic containers, and so on, which are unsightly. I don't think they hurt the water particularly unless there are some contents in them, but they are not dissolved in the water. They just wind up and create filth on our beaches.

Senator MAGNUSON. What about the ferry boats, where do they dump?

Mr. HAYDON. Ferry boats, when they come into shore, and I think this costs something like $24,000 a year, the garbage is taken off and removed.

Senator MAGNUSON. None of it is supposed to be dumped out there?

Mr. HAYDON. None of it is.

Senator MAGNUSON. I am glad to hear that it is not supposed to be.

Mr. HAYDON. I have been informed as to the garbage on ferry boats and I know where it goes and how much it costs every year to get rid of it.

Senator MAGNUSON. The sewage plant at West Point, is that anywhere near adequate for the future?

Mr. HAYDON. I couldn't answer that question, Senator. It is adequate for some time in the future. What the specific answer is I don't know.

Senator MAGNUSON. Looking into the future, after the enactment into law of this proposal, I can envision that there will be some arm of the Government following through, to see that the disposal programs are properly functioning.

Let's get specific. What about the Duwamish River, what are you fellows doing there?

Mr. HAYDON. We are developing some marginal lands on the Duwamish River roughly——

Senator MAGNUSON. And you need to, we are growing that fast.

Mr. HAYDON. That's right, we need this business and we need the proper type of oriented commerce in on those locations. As you know, our harber is really not a large harbor. It is deep, but in square miles it is not one of the largest in the world. We have very little available land for industrial development. When I mentioned in this study that all beneficial uses and users should be studied and given consideration, I am referring specifically to the need for some portions of our estuarine resource to be used for proper industrial development.

Senator MAGNUSON. You and I have talked about this, the port, I am sure, doesn't, but when you make a contract with a private operator to use one of those piers, you have some pretty stiff conditions about pollution in there; do you not?

Mr. HAYDON. I believe we do; I am certain we do. I can say this, that all properties that belong to the Port of Seattle, whether they are under lease or not, are under pollution surveillance at all times, including things like rats coming ashore off ships, and we have a regular baiting program going on. Most people don't know this, but we have a baiting program going on at all our facilities at all times. We are improving that as we construct new facilities.

Senator MAGNUSON. That river could get really cluttered up unless you nip everything in the bud.

Mr. HAYDON. Yes, it could.

Senator MAGNUSON. We thank you, John, and we appreciate your suggestions.

I am sure we will work that out, because it is not my intention nor anybody else's intention to let the Department of Interior come around with some proposals to buy up land. They don't need to do that. They can work with other people. There may be some rare place where somebody is completely indifferent to a bit of marshland or flatland that isn't being under surveillance that we might have to do something for. And in some estuaries we will still have to continue, I am sure John Biggs will have to, our buying up of land for the birds and things of that kind, natural wildlife refuge. There may be some estuaries that will be required to be taken in that particular case, particularly where there are flatter lands. I don't think it would apply here at all under any circumstance, however.

Mr. HAYDON. I am sure it isn't the intent, Senator. I think most State agencies with which we conferred were uneasy about the language.

Senator MAGNUSON. I don't blame them, but we can take care of that.

Thank you very much.

John Biggs.

STATEMENT OF JOHN BIGGS, WASHINGTON GAME DEPARTMENT

Mr. BIGGS. The Washington Game Department wishes to commend the Congress of the United States for taking such an active interest in the determination of the best use of estuarine areas, which are so necessary for the perpetuation of our fish and wildlife resources. H.R. 25 will give fish and wildlife equal consideration with other beneficial users of these areas and provide an opportunity for adequate planning to insure that these estuarine areas are developed in the best interests of our Nation. Estuarine areas, the zone of interplay between the margins of the sea and land, are the richest areas in animal life, and yet the most restricted by nature. Such areas are vital to the survival of coastal waterfowl and sea-run cutthroat trout populations. Steelhead trout and water-oriented fur animals also depend heavily on these areas for their existence. Waterfowl use of Washington's estuaries is heavy.

Recent inventories indicate that a minimum of 460,000 waterfowl are dependent on these areas for survival. Among these waterfowl

species are the black sea brant, which require a unique and special habitat available only in a very few areas within our State. These waterfowl species provide hunting recreation amounting to some 420,000 man-days annually. Destruction of estuarine habitat, so necessary for survival of our waterfowl, would therefore mean an appreciable loss to the economy and recreation potential of our State. It is essential, therefore, that adequate planning occur to insure that developments within estuarine areas protect the habitat of this important recreational resource of the State of Washington.

Estuaries are important nursery areas for anadromous game fish species. Such areas are essential to the survival of the steelhead and sea-run cutthroat trout. Some 6,500,000 juvenile steelhead trout move through these areas en route to ocean feeding grounds, and nearly 625,000 adults pass through these same areas on their return to their parent stream to spawn. Our sea-run cutthroat spend their entire salt water existence within the estuarine waters of the State and are therefore totally dependent upon this habitat for their survival. Fishermen spend in excess of 350,000 man-days annually in pursuit of sea-run cutthroat trout in salt water, contributing well over $1,100,000 to the economy of the State. It is therefore essential that we preserve the water quality of these estuarine nursery areas by controlling pollution and industrial and urban development.

We feel that H.R. 25 provides a necessary step toward insuring beneficial development of estuarine areas. Development of these areas must be orderly, well planned, and must consider equally all beneficial uses. It is our feeling, however, that section 6 of this particular act could be strengthened to insure that development plans for estuarine areas resulting from this study will not be jeopardized by future projects which may be considered by either a Federal, State, or private developer. We therefore suggest that section 6 be modified to limit future projects authorized by Congress to those not in conflict with the approved plan for development of an estuarine area.

Particularly, Senator Magnuson, we are thinking of the Nisqually Delta, as an example. The Nisqually Delta is highly prized as irreplaceable as a great natural waterfall and wildlife area. It does have appeal to industrial interests of the State. We recognize the economic and human need of our State for good industrial development. We hope that out of this bill, this legislation, will come an appreciation and realization of the balance that should be maintained between those values. Specifically on the Nisqually, the Department of Game has already acquired about 650 acres of land in order that it does have an ownership interest in whatever does eventually develop on the Nisqually Delta. Equally, we own, I think, around 18,000 acres on the Skagit Flat, which is an estuarine area of the State and equally important.

We appreciate the opportunity to appear at this hearing to express our approval of the concept of a planned and orderly development of our estuarine areas.

I would like to add, Senator, we share some of the reservation of John Haydon considering Federal acquisition of these properties.

Senator MAGNUSON. That is the language on page 3, section 2, subsection (3).

Mr. BIGGS. Yes. We do, however, feel, Senator, the bill calls for active consultation with the States, and we recently have been reassured, particularly by representatives of the Department of the Interior, that active consultation means exactly that. You, of course, are aware that we have been apprehensive, the States have been apprehensive, about some opinions of the solicitor which indicate that the Federal Government does have some carrier rights for the management of fish and wildlife on lands it owns. This matter is now another item of legislation for your committee. But here again, I do think we feel under most conditions that we have considerable confidence in the Federal authorities and we could establish a working relationship with them that is a meaningful one.

Senator MAGNUSON. I think we are trying to be helpful and work with, not alone, in this matter.

In that section 6 it reads:

> Nothing in this Act shall be construed to affect the authority of any federal agency to carry out any federal project heretofore or hereinafter authorized within an estuary.

How would you change that?

Mr. BIGGS. We feel, Senator, that if that were true in the strictest sense it would negate the effect of this act. This act provides for the development of an orderly plan for the management of the acquisition of estuarine areas. If the act were then to be piecemealed, cut to pieces, by various special projects, we feel in the end the act would have little meaning and the interest of the parties would be lost.

Senator MAGNUSON. In other words, this might be a green light for a Federal agency to come in the middle of a general plan and say, we are going to do this, which may change the whole plan, so you would suggest that we say "future projects authorized by Congress that are not in conflict with the approved plan or development of an estuarine area."

Mr. BIGGS. That is our suggestion. We feel if everyone joins the development of the plan, the plan should have some weight.

Senator MAGNUSON. Yes, we shouldn't start to build a house with everybody working on it, and have someone standing over here [indicating] and saying, I am going to change the whole basement plan, or something.

Mr. BIGGS. That is correct.

Senator MAGNUSON. I think that is a good suggestion. The staff will be sure to mark that. I think it is just a slight change of language there to do that.

What have you found out about pollution in Puget Sound, John?

Mr. BIGGS. I serve as a member of the State commission, Senator.

Senator MAGNUSON. I know.

Mr. BIGGS. The pollution in Puget Sound, as in most of our State, is principally of an industrial type. I feel that substantial efforts are underway to correct our industrial pollution in the sound. Pollution, particularly industrial pollution, could probably more insiduously than anything else ruin these estuarine areas if not controlled. The pulp and paper industry is probably the principal discernible contributor to pollution in the Pudget Sound areas, and I regard the ef-

forts of this industry, particularly lately, to correct their pollution problem as being an indication of sincere effort.

Senator MAGNUSON. I am sure you would agree we can have all the grandiose plans we want about our estuarine area here and basically if we have pollution they all go out the window.

Mr. BIGGS. It can ruin things more quickly and less noticeably than anything I know of.

Senator MAGNUSON. I take it you suggest what John Haydon suggested and maybe others that we are holding our own on it and we are making plans to make it even better.

Mr. BIGGS. I think particularly, Senator, since the adoption of the Federal Water Pollution Act and the declaration of the Federal Government of the right to establish interstate standards, that all State pollution commissions have had something more meaningful to work with, and there is a great public awareness of pollution and there is a great public interest in pollution abatement and all of these things have been most helpful.

Senator MAGNUSON. You brought up another thing that I hadn't quite thought of this bill doing but it could do it with the States, that argument that has been going on about Nisqually Flats. I mean every time I go to Tacoma the port commission group asks me about this development.

Mr. BIGGS. Your interest is a sincere one.

Senator MAGNUSON. One time I got into a little trouble. I said I know you people are working on it hard, and somebody said, "Why, are you endorsing this project?" Well, I knew they were working and thinking about it. They showed me a drawing of the development and I said, "I know of the interest of the sportsmen and other people in this natural place, Nisqually Flats." It would seem to me this sort of study could resolve that once and for all.

Mr. BIGGS. I would hope so.

Senator MAGNUSON. Yes, and say it is not worthwhile.

Mr. BIGGS. It could or could not. It could establish some values that everyone would look to.

Senator MAGNUSON. It might be helpful in resolving these things because, after all, it is not what one group wants, it is what the whole area wants, so I am very appreciative of that facet of it because too many people go off independently and you get nothing, you end up with confusion.

Thank you very much.

Mr. BIGGS. On a personal note, Senator, while I am here, I would like to express the appreciation and respect of the sportsmen of the State of Washington and the Washington Game Commission for your constant and very powerful leadership in the field of natural resources and conservation.

Senator MAGNUSON. Thank you very much.

Mr. PAUTZKE. Mr. Chairman, could I give a word on section 6, as it is referred to here, for the record, what the intent of that section 6 was and what it refers back and forth to.

Mr. FINNEGAN. The purpose of section 6 is to make it clear that there would be no moratorium on future projects while the study was being carried out, but I think you have to read section 6 with section 4, which makes it clear in the planning and development of future water re-

source projects. Those covered by section 6 would have to be reviewed by the Secretary of the Interior, who would consult with the States in getting their advice and would indicate his recommendations on these projects during the period they were being authorized by the Congress. I think their objective is the same.

Senator MAGNUSON. I appreciate that, but I think we have to definitely clear this up because we don't want to start off with some doubts with the people we are going to have to deal with some kind of a new Federal authority or Federal Government, not doing the wrong thing. I think we can change that language and work that our.

(The following letter was received concerning section 6:)

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 8, 1968.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the recent hearings on H.R. 25, there was some concern raised that section 6 of the bill would in effect "negate" the purposes of the legislation. While we are in sympathy with this concern, we do not interpret the language of section 6 as a green light to any Federal agency to disrupt the orderly development of any estuarine plan developed under this Act.

Section 6 of the bill is as follows:

"SEC. 6. Nothing in this Act shall be construed to affect the authority of any Federal agency to carry out any Federal project heretofore or hereafter authorized within an estuary."

The object of this disclaimer is to make it clear that this bill will not affect projects authorized by the Congress. This is particularly important in the case of projects authorized prior to enactment of H.R. 25. In the case of future projects for which congressional authorization is sought, section 4 of the bill adequately protects the estuarine plan. Section 4 requires that all water resource project plans and reports submitted to Congress for authorization "shall contain a discussion by the Secretary of the Interior of such estuaries and such resources and the effects of the project on them and his recommendations thereon." This provision would give this Department, working with the affected States, ample opportunity to point out and protect the estuarine resource interests. Accordingly, we strongly urge that H.R. 25 be enacted without amendment.

Sincerely yours,

CLARENCE F. PAUTZKE,
Deputy Assistant Secretary of the Interior.

Senator MAGNUSON. Is Bert Cole back there?

Do you want to come up and testify on the bill?

Bert Cole, as you all know, is State land commissioner and is interested in the whole estuarine complex.

I was amazed, I should have realized this, that there are 22 rivers running into this estuarine area of a major nature, not just small creeks.

All right, Bert, we will be glad to hear you.

STATEMENT OF BERT L. COLE, COMMISSIONER OF PUBLIC LANDS, OLYMPIA, WASH.

Mr. COLE. At the time of statehood the State of Washington asserted its ownership to the beds and shores of all navigable waters in the State. While the State has sold certain tidelands and shorelands throughout the years, the State still retains ownership in several thousands of miles of these tide and shorelands.

The State has never disposed of any of the beds of navigable waters and thus it is the single and only owner of beds of navigable waters within and adjacent to the State.

As the elected land commissioner of the State of Washington and the administrator of the department of natural resources, it is my responsibility to administer these State-owned lands along with some 3 million acres of State-owned uplands.

The department of natural resources has a most obvious interest in any Federal legislation relative to the estuaries in the State of Washington. Proper management of these estuaries hinges upon the balance of both compatible and conflicting uses. Compromises between competing uses will have to be made. We strongly feel that these judgment decisions concerning the management of estuaries within and abutting to the State of Washington can best be made within the State of Washington by the people of the State of Washington through their elected officials who must answer directly to the vote of the people of the State.

At the same time we recognize a Federal interest and responsibility for all of the Nation's estuaries. Major emphasis should be placed upon maintaining State and local management but we believe that it is proper for the Federal Government to assist, guide, and in those few instances where a State may default in providing a reasonable program for the management of its estuaries, to protect the estuarian resources.

While we had vigorously opposed earlier drafts of the national estuarian bill because we felt that it encroached upon the basic prerogatives of the State and because of other specific provisions contained in those earlier drafts, we are generally agreeable to the present H.R. 25. We feel that the wording in H.R. 25 will reflect a sincere desire on the part of Congress to cooperate with and assist the States. Our only apprehension comes from the knowledge that future Federal administrative agencies and officers may not recognize or acknowledge this cooperative spirit. It seems that all too often an overzealous Federal administrator acts in almost direct opposition to the avowed intent of the Congress. We know of no real remedy for this administrative problem. We do believe that it is proper for the Federal Government to have some responsibility for protection of the Nation's estuaries. With responsibility must go some degree of authority. Hopefully, the Federal administrator will recognize that with that authority goes some degree of responsibility.

In addition to this printed statement, Mr. Chairman, the Western State Land Commissioners Association, of which Texas and Louisiana, California, Oregon, Alaska, Hawaii, and the State of Washington are on water oriented areas, are concerned about this legislation and we have corresponded with the various commissioners and believe that the statement I have made here is the viewpoint in general of the Land Commissioners Association.

Senator MAGNUSON. I appreciate that and I appreciate the apprehension that comes any time the Federal Government begins to pass legislation to inject themselves into some matter that pertains to States. I have the same problem every day with overzealous Federal administrators.

Mr. COLE. I have a problem——

Senator MAGNUSON. Clarence Pautzke, I will exclude him.

Mr. COLE. The Secretary of Interior of this office gives me the most concern.

Senator MAGNUSON. We have that problem but it is as you point out, we do have some responsibility in estuaries. It isn't only just the tidelands. Let's take Puget Sound, we have the direct responsibility for much of the water in Puget Sound, whether it is clean, whether it is being used right, whether it fits into plans for fish and wildlife, the State and your navigable rivers. So we have to be necessarily a part of a plan, but I am hoping that this bill as far as my area is concerned out here, the cooperation, as you point out, the help that we might give, cooperate and assist. We get some kind of a plan where we often work together on it and not have any bureaucrat running it.

Mr. COLE. This is our concern, as you know, Senator.

Senator MAGNUSON. We can make that pretty definite in the report.

Another thing you point out, we do have and we are going to have a few places, and I appreciate that isn't here, we are fortunate, but there is where a State, as you point out, defaults completely and the estuary is gone and nobody does anything about it and someone has got to come in and exercise some kind of decisions; but that isn't true here. I hope we are becoming aware of this whole problem. I think we are. I have never seen so much awareness in the past 4, 5, 6 years of conservation of our water and natural resources, particularly the great Puget Sound. Has it been more than the last 4, 5, or 6 years where there has been more awareness of the problem?

Mr. COLE. More importantly, we are willing to pay our fair share to protect it by bond issues locally and statewide.

Senator MAGNUSON. I do hope this will also create a further awareness of the hope of the Congress that there will be the same kind of cooperation on all those other five pieces of legislation that are directly involved in this, that Secretary Pautzke mentioned. That land and water management thing can be a great thing for us.

Thank you very much, Bert, we appreciate your coming.

All right, Dr. Bevan.

STATEMENT OF DR. DONALD E. BEVAN, ASSOCIATE DEAN OF THE COLLEGE OF FISHERIES, UNIVERSITY OF WASHINGTON

Dr. BEVAN. I would like to check the witness list, if I may. I am speaking for the Izaak Walton League, not merely for the local chapter, but I hope I speak for them as well.

Senator MAGNUSON. The record also shows you are assistant dean to the College of Fisheries.

Dr. BEVAN. I could correct that and say I am associate.

Senator MAGNUSON. Is there a pay difference?

Dr. BEVAN. No, sir.

Senator MAGNUSON. Oh, all right.

Dr. BEVAN. I am Dr. Donald E. Bevan, associate dean of the College of Fisheries, University of Washington, speaking today for the Izaak Walton League of America. The Izaak Walton League of America is a national organization dedicated to the wise and proper use of our Nation's natural resources. The league was born in the belief that every citizen in the United States has an inescapable stake in the conserva-

tion of the Nation's natural resources and therefore has a basic responsibility to do his part to assure that those resources are properly managed and used. We therefore have a special interest in H.R. 25.

The Izaak Walton League of America has long recognized the importance of estuaries and coastal shores, including those of the Great Lakes, for conservation, recreation, as well as the production of commercial and sport species of aquatic life. A good part of the U.S. fisheries catch, both commercial and sport, is derived from species which spend a part of their lives in estuaries.

It is our view that the importance of estuaries rests not so much on their productivity which can often be some 25 times that of an equivalent area in the open sea but that they have such a variety of uses and the fact that so many of these uses can be incompatible.

The estuaries and shore lands are being invaded and impaired in an alarming rate by dredging, bulkheading, and filling. Up to now, the Federal control over invasion and impairment of estuaries has been limited solely to the questions of interference with navigation. With few exceptions, the States have inadequate laws and enforcement for the protection of the resources within the estuaries.

I should like to say we are not proposing that the Federal Government assume complete responsibility over these areas. I think we are looking much at what was discussed by Mr. Cole and Mr. Haydon that the States have a chance to do their job.

Senator MAGNUSON. But the Federal Government does have some responsibility they have to carry out.

Dr. BEVAN. Yes; what we would like to make a strong plea for is that these responsibilities are clearly laid out for the States so they know their responsibilities, and if they do not meet these responsibilities at that time the Federal Government would come into the picture.

Senator MAGNUSON. I strongly suggest, I repeat, I can't conceive of that being the case with our Puget Sound area. I know it is the case in two or three places in these United States where unless the Federal Government gets busy on it, why, they are just going to disappear.

Dr. BEVAN. Mr. Chairman, I would like to depart a bit from my prepared statement in response to your request that we zero in on Puget Sound a bit because when I wrote my text I was thinking of a national picture rather than a local one.

As you know, the Fisheries Research Institute of the University of Washington has for the last 2 years been studying several of the estuaries within Puget Sound. This study has funding from the Federal Water Pollution Control Administration of the Department of Interior and studies are being done in cooperation with the Washington State Department of Fisheries.

Senator MAGNUSON. Right there we had the same fears expressed when we came up with the Federal Water Pollution Act. You know, it might be telling everybody what to do, but here it is what we intended to do, to help you out financially where we could with some basic guide rules to do this kind of a job. That is the study you are making?

Dr. BEVAN. Yes; but with a small part, of course, of what needs to be done. Our study——

Senator MAGNUSON. Yes; there is only one facet.

Dr. BEVAN (continuing). Brings together some of the instrumentation of the U.S. Geological Survey, some of the help of municipal

Seattle, and we have been looking at the estuary. You can see from the front door of this building Elliott Bay. Elliott Bay is one of the more important salmon rearing areas in Puget Sound. We have documented river salmon come from Bellingham to spend several weeks to live and grow during the summertime. I know you are aware of Professor Sal Norman Donald at the Department of Fisheries. Those fishing out to the locks, they don't turn right and go to the sea, they turn left and come into Elliott Bay and spend a matter of weeks, so we are dealing with a very important piece of water.

We have looked at that water perhaps under its worst conditions and that is probably at the present time. It is going to improve with the Metro project. We hope to take a similar look at that water after the Metro project has been implemented.

I would like to comment briefly on Mr. Haydon's remarks about oil spillage. The Izaak Walton League shares his concern. We perhaps can look unhappily toward some action in Puget Sound. I think our expense on these large oil spills, and I think you have questions on these accidents, that we have in this room perhaps the fisheries biologists in our Nation that probably know more about it than anybody else. I know you hear this sometime but this is a case where the Fish and Wildlife Service has sent one of our local people to the Torrey Canyon disaster and the ocean accident in Puerto Rico. It is my opinion in each case the wrong thing was done immediately. I suggest that if we do not have a better planning operation that the wrong thing quite likely could be done in Puget Sound. The disaster at Torrey Canyon was much worse than it needed to be. Pacific Eagle, fortunately, and Mr. Grubb can correct me, the wrong things were stopped and the right things were begun.

This is a very pressing problem and we need to move on with it.

Senator MAGNUSON. We would like to have more detail on that for the record. The Senate Commercial Committee is charged with the responsibility of all laws affecting the transportation of petroleum products and the enforcement of what laws we have, so we would like to find out about that.

Dr. BEVAN. Senator, if I may say, I think it is not so much a question of law. We can have the best possible law in the world and best possible enforcement and there will be unavoidable accidents. Ships will run into each other, run into the bottom, and things will happen. It is the plans we need to have to take care of these actions.

Senator MAGNUSON. Yes, but we have authority to tell them how, the type of container to put it in. We have authority to make them put it in a ship so constructed that if they do have an accident a minimum leakage in bulkheads will occur. Sometimes that doesn't happen. Then we have authority on telling foreign-flag ships when they come into our estuary and harbor what rules to obey in that respect. So we would be glad to hear more about that because this could be a great disaster in Puget Sound.

Dr. BEVAN. Mr. Pautzke's organization, I am sure, can give you a great deal of information.

Senator MAGNUSON. Well, we passed a bill in the Senate, S. 2760, which authorized the cleanup of spilled oil by the Secretary. I don't know what happened to it in the House yet.

Mr. FINNEGAN. Mr. Chairman, there has been hearing on it in the House Committee on Public Works.

Dr. BEVAN. The other thing I would like to devote attention to, and that is the future changes of temperatures of water, particularly in estuary, through the change of fossil fuel to nuclear powerplants, and that is another bill, but it becomes a part of the estuary problem. It is very difficult to get rid of temperature in estuary. We have a cold water sink off the coast of Washington that can cool almost anything we want to cool but we may not be able to do that close to the mouths of our rivers.

Senator MAGNUSON. I don't know of any plans for nuclear powerplants on Puget Sound proper.

Dr. BEVAN. There are plans, there are 14 sites being investigated.

Senator MAGNUSON. By whom?

Dr. BEVAN. The study for the Department of Interior was made by Matelle Northwest, I believe the Bonneville Power Administration.

Senator MAGNUSON. But Bonneville can't build dams, they have no authority to build dams. They are distributors of power. It may be, this is one thing we ought to be looking at when we do this. We are going to need power and if we don't supplement our powerloads by 1974 we are in trouble. We are running out of hydrosites, good sites, on the main stem of the rivers, and everybody is looking toward steamplants either fired by nuclear power or by other sources, coal or other sources of energy. So that is one thing we want to know, what is that going to do to our estuaries. I guess there is a longstanding controversy running at the Tri-Cities over the project and the temperature of the river. So these are things we have go to take a look at. I suppose you would agree with me, that is why this is important.

Dr. BEVAN. Yes.

In its strong support of H.R. 25 the Izaak Walton League rejects ideas that suggest that this bill calls for still another study which may delay action to protect our estuaries. With our present knowledge, and keeping in mind that estuaries are the most unstudied area of the marine sciences, we will be forced to make decisions without sufficient information. Surely without more information it is impossible to provide an orderly plan for conservation use and the development of our estuarian resources.

Unfortunately, estuaries are attractive not only to fish and wildlife but also to people and unless we move more quickly than we have to understand these complex systems, the immediate business and recreational opportunities to be sought will require arbitrary and often unwise decisions.

Together with our strong support for H.R. 25, we should like to submit a plea for immediate action. In its present form, it is our view that H.R. 25 should have little opposition. The information that its studies will obtain are needed for decisions that must be made now. The decisions we face are difficult ones, they will be more so if the day of decision is delayed. The studies envisioned in H.R. 25 together with the complimentary estuarine pollution studies of the Federal Water Pollution Control Administration should go forward together.

The Izaak Walton League of America appreciates the opportunity to present its views today and requests the opportunity to receive a copy of the transcript of today's hearings.

Senator MAGNUSON. I am like you, I don't know whether we should have that January 30, 1970, in the bill. I think probably we would proceed faster if we had no date in the bill. Usually you find if you put a date in that becomes the date they make a report and they don't think about getting it done ahead of time with these studies. I think we should say the Secretary of the Interior should submit to Congress as expeditiously as possible his report. We can do that sometimes and maybe in 6 months. What you are trying to say, I don't want this study to drag out and drag out and drag out and not come to any conclusions.

Dr. BEVAN. More important to us is that we start the studies soon and get them going.

Senator MAGNUSON. Thank you, doctor.

Marvin Durning, did you want to testify?

Mr. Durning has long been associated with conservation matters and we are glad to hear from you at this time.

STATEMENT OF MARVIN B. DURNING, SEATTLE, WASH.

Mr. DURNING. I will keep my remarks brief. I want to say I support the bill for the estuary studies. I do that without reservations, except a feeling with some experience in the past few years in conservation work that studies sometimes become an end rather than a means to action. and so your own comments about expedition, I very strongly second that.

Not being a technical person I would not want to comment on technical points but rather the urgency of action in the preservation of some of the esturation because of the growth and change of this Puget Sound region are so tremendous that we really have no more time to spare about the decisionmaking process.

The equivalents of the cities of Spokane and Tacoma will be aired in this King County area in the next 5 years. We are already beginning in the Lake Union fill to experience the kind of situation that happened in San Francisco Bay, which has been reduced by a third or more in extent by fill in the past several decades.

You touched upon the next subject I wish to call the attention of the study and that is the location of nuclear powerplants, which we understand Bonneville system must add a million kilowatts a year beginning in the early 1970's. I am not one who takes the position that everything can stay the same in this State and that we can call a halt to all further industrial development; however, I feel the only way that we can have both the growth that we wish and preserve the livability we wish is to get on with hard decisions, in effect, dividing up by law and zoning for industrial, recreational, and other uses of the various estuaries.

You mentioned there were 22 rivers, I believe, entering Puget Sound. There are also proposals to match, preserve the rivers up to those estuaries. There is a seashore conservation area concerning the ocean shores. We have measures we are writing into planning, land use controls, air, water pollution control. What we don't have is a mechanism for making a decision after we know all the facts. Having assembled all of the facts will still not substitute for a valued judgment as to what will be the future of the Nisqually Delta.

Bellingham is an industrial area. Everett is in an estuary and it is in an industrial area. Elliott Bay in Seattle has heavy industry. Tacoma has some; Olympia has some; the Columbia River has some. We can enumerate the estuary areas and begin to make decisions now.

I think there is sufficient evidence or would be at the conclusion of a brief study for the Federal Government to require the development of a plan throughout each State by which the State then by law would set aside areas for future industrial growth, recreational preservation, wildlife areas and the like, and they would become enforceable in the way that the water quality criteria have. Otherwise we face an unending sequence of Remus Island and Nisqually Delta fights and zoning squabbles over each and every next industrial development.

I think both industry and conservation people need to be able to look ahead 10, 20 years, 30 even, and know that in some area industrial growth is going to be encouraged and in others there is not going to be any at all. The time for that decision, I think, is in the next few years. I hope that following this bill something of a decision-making process, Federal, State, local cooperation will evolve so that within 2 or 3 years from now the Nisqually Delta will be declared a wildlife conservation area, but perhaps we would have our tankers going in at Everett and Seattle and the plans could continue. It is the indecision of it all that I think leaves so much to the zoning fight on each and every spot.

Senator MAGNUSON. Those decisions, I think, necessarily would have to be at the local level, the State group that is empowered to make decisions. I don't think the Federal Government should make the decision. They might point at you with alarm and say this and that and this is the way we put it together, but the decision has got to be made, as I think pointed out by many witnesses, by the local people, either by zoning or by designation, but we can be helpful, too, in all these needs. The Federal Government does have the resources to have more expertise, as in the pollution field and things of that kind to be helpful, people who know. But we are fortunate, I think, with the Puget Sound estuary and Grays Harbor and Bellingham that it is within a State, it isn't in other States or a big river system as is the Columbia River, and we can do something. I agree with you that the faster we move, the better.

Mr. DURNING. Thank you, sir. I agree that decisions have to be made at the State level for State areas.

Senator MAGNUSON. Unless, as pointed out here by other witnesses, the State fails to act or just lets everything go to pot, then I think the people would say, all right, something has got to take over.

Mr. DURNING. Then I would suggest perhaps this bill or immediately following one would make a further Federal assistance for all studies, including land and water conservation, fund grants and the like that the States of the United States by acts of their legislatures or any lawful process develop an estuary plan for the estuaries and designate the uses to be permitted in those areas by law, and that if that plan is approved by the Secretary of the Interior after proper hearing informing himself that we could continue, and recreation programs, Federal assistance would go into certain areas, industrial into others, and we wouldn't have the competition of Federal agencies in there specifically until at the State level over the same areas.

Senator MAGNUSON. Yes. Thank you very much.

Mr. DURNING. Thank you very much.

Senator MAGNUSON. Mr. Lasater, assistant director of Washington Department of Fisheries.

STATEMENT OF AL LASATER, ASSISTANT DIRECTOR, OPERATIONS, WASHINGTON STATE DEPARTMENT OF FISHERIES, OLYMPIA, WASH.

Mr. LASATER. Mr. Chairman, members of the Senate committee, and ladies and gentlemen:

My name is Al Lasater. I am the assistant director, operations, Washington State Department of Fisheries, Olympia, Wash., speaking in behalf of Director Thor C. Tollefson.

We appreciate being notified of this hearing and the opportunity to present this statement of our interest concerning the estuarial waters of this State and our concurrence with the intent of H.R. 25 for an inventory and study of all estuaries in the State of Washington and the Nation. The inventory should report the present and potential uses concerning natural resources, commercial-industrial development, and esthetic points of view. The data should also identify the existing jurisdictional areas and management policies which overlap and must be clarified to provide rational development and protection for each estuary.

The Washington Department of Fisheries as part of its statutory responsibilities of propagation, protection, conservation, preservation, and management of food fish and shellfish is directly involved in the use of estuarine resources. We are pleased to note in section 2 of H.R. 25 that marine, anadromous, and shellfisheries are listed as being equitable with other uses in the estuaries. The marine and estuarial waters of the State of Washington are extensively utilized for the propagation and habitat of anadromous species, bottomfish, shellfish, and other marine organisms, all of which contribute to the industrial, recreational, and general economy of the State and the Nation. For example, Pacific salmon produced in Washington streams must have safe conditions for temporary residence and passage in the estuaries if they are to survive in harvestable quantities. This valuable resource contributes to the fisheries of California, Oregon, Washington, Alaska, and British Columbia. Willapa Bay in southwestern Washington leads the Nation in the production of Pacific oysters and has yet to meet its maximum potential through development of new oyster culture procedures.

The 1966 value to the fishermen of landings of food fish and shellfish from the Puget Sound, Grays Harbor, Willapa Harbor, and Columbia River (Washington side) estuarine areas amounted to approximately $12 million (table 1).

The sport fishery values are, of course, difficult to put in dollar terms but are very, very high.

Senator MAGNUSON. We will put that table in the record.

Mr. LASATER. Right.

Senator MAGNUSON. I think what you point out in your statement where you say, "The date," what we are going to try and do here, "should also identify the existing jurisdictional areas and manage-

ment policies which overlap and must be clarified to provide rational development and protection for each estuary." Sometimes it is not only a problem of uncoordination, sometimes it is overlapping.

Mr. LASATER. That's right, we thought it most important that the study just not be a resource inventory.

Senator MAGNUSON. We don't need that. We have storerooms full of resource inventories. This is the sort of thing to put it together.

Mr. LASATER. I would mention that I think the statement on the actually small sum that would be involved, I feel our agency will be bearing a large share of the burden, among others.

Senator MAGNUSON. The House saw fit to put that in. With the fiscal climate the way it is in Washington you are apt to get in trouble with a bill when you argue about how much is going to be in it.

Mr. LASATER. We fully recognize that.

Protection of the quality of the estuarine environment is a prime interest of the Washington Department of Fisheries so that the stocks of food fish and shellfish may be maintained and enhanced. The use by fish and shellfish of the estuarial areas is well known, but these stocks are being subjected to excessive stress by man's alteration of their natural environment. Management of these valuable areas should be better defined from the information derived from the proposed inventory. Control measures must be enforceable to prevent indiscriminate land fills, dredging, and other uncontrolled waste discharges which degrade the aquatic environment.

The Washington Department of Fisheries total annual budget of approximately $7 million allocates some 90 percent of these funds to the management of food fish and shellfish which depend upon a satisfactory estuarine environment for their continuance.

The suggested sums of money mentioned in H.R. 25 of $750,000 for fiscal year 1969 and $250,000 for fiscal year 1970, appears inadequate in view of our annual budget, especially where this sum of $1 million would be spread throughout the 50 States and territories.

Current problems in estuarine resource utilization from the fisheries' standpoint arise where estuarine use or development conflicts with fishery resources. Some examples of these developments are as follows: land fills and drainage channels; dredging for ship channels and marinas; interconnecting canals for navigation; pollution from industries; cities, and agriculture; pollution from sport and commercial boats; and pollution through siltation from uncontrolled runoff due to poor land management practices. It is our opinion that the solution to these problems can best be accomplished at the local level through either existing authority or the establishment of a central authority. Answers as to how this may best be accomplished may well be developed as a result of the proposed inventory as suggested by H.R. 25. We feel that the need for protection of our estuarine areas is now, and requires the cooperation of all concerned in a sincere and determined effort to protect, conserve, and maintain these estuaries in proper balance between development and compatibility with the natural resources. In conclusion, we encourage your support toward obtaining comprehensive and enforceable legislation for the protection of estuarial waters on a cooperative basis with the State of Washington and its political subdivisions.

TABLE 1.—1966 EVALUATION DATA FOR SELECTED FISHERIES IN SELECTED ESTUARIES BASED ON PRICES TO THE FISHERMEN

Species	Puget Sound	Grays Harbor	Willapa Harbor	Columbia River, Washington side	Total
Salmon [1]	$7,213,296	$2,260,613	$111,194	$1,137,894	$10,722,997
Bottomfish [2]	366,216			181	366,397
Industrial fish [3]	294,256				294,256
Miscellaneous [4]	11,112	28,401	4,720	87,286	131,519
Shellfish [5]	39,769	5,672	99,942		145,383
Total	7,924,649	2,294,686	215,856	1,225,361	11,660,552

[1] Includes troll salmon landing.
[2] Includes inside bottomfish landings only.
[3] Includes herring, hake, turbot, tom cod, dogfish, ratfish, scrap.
[4] Includes sturgeon, smelt, shad, candlefish.
[5] Includes bay crabs, bay shrimp, octopus, squid.

Senator MAGNUSON. Thank you. Be sure and say hello to Thor for me.

All right, now, we have Mrs. Sherry, is she here? Mrs. Denton Sherry of the Save Port Susan Committee, is that correct?

Mr. SHERRY. Right.

STATEMENT OF MRS. DENTON SHERRY, SAVE PORT SUSAN COMMITTEE

Mrs. SHERRY. My name is Mrs. Denton Sherry and I am here today to testify in support of S. 695. In presenting this testimony I am representing the Save Port Susan Committee.

I live in Seattle at Richmond Beach and 3 months of the year I reside at Port Susan while my husband is north in Alaska with the salmon industry.

Now, I have here to submit to you a synopsis of what is happening on the matter of Atlantic-Richfield. Contained in this is the Snohomish County Basin project development plan which was presented by the staff and planning department of Snohomish County, which is approximately 12 miles south of the proposed Kayak Point area, which is in the Snohomish River Delta. There are approximately 3,000 acres here which are under consideration for industrial development. At the present time in Port Susan there is no industry at all. We cannot see the necessity for sacrificing this estuary to industry.

Also on the matter of heat pollution, we have been told that the waste water discharge would be put back into the water at approximately a temperature somewhere between 72 and 90 degrees. Our question on this matter, and we have been in contact with the University of Washington and heard the professors from there testify that Port Susan has very little or any tidal action. What would be the accumulative effect of 6 million gallons of waste water at this temperature being dumped into that bay every single day? We have not had sufficient answers. We have no one we can turn to.

As far as tankers, I think we recently had an incident in Olympia and all I ever saw reported in the newspapers was the fact that there was a tanker that had dumped water, was it, I think it was bilge, into

the bay. An oil slick occurred and they were looking for the tanker and that was the last I ever heard or saw of anything.

I don't feel there is adequate legislation or penalty involved to cover what will happen in the event of oil spillage.

In meeting with the vice president of Atlantic-Richfield, he has assured us that they are very clean operators, and yet since we began having hearings in October of this year there have been three such incidents on the coast involving Atlantic-Richfield tankers. The tanker that was impounded by the Governor of Alaska was an Atlantic-Richfield vessel. The vessel that went aground in the Columbia River was Atlantic-Richfield. The spill in Morrow Bay was Atlantic-Richfield.

H.R. 25 and S. 695 are bills authorizing the Secretary of the Interior, in cooperation with the States, to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife preservation, recreation, and scenic beauty. The need for this legislation is exemplified by the specific example of the desecration of one of our Puget Sound estuarines which is about to take place. I refer here to the contemplated establishment of an oil refinery at Kayak Point on Port Susan Bay.

The timing of this hearing on legislation to create a high priority on the preservation of our Nation's estuarine areas could not be better for, at the present time, the Snohomish County Board of Commissioners are considering the rezoning of certain property at Kayak Point on Port Susan Bay from a residential-recreation classification to an industrial classification so that Richfield can construct an oil refinery.

Before discussing any of the details of the legislation now before the Commerce Committee, I would like to provide the committee with the background to the present efforts which will result in its spoilation of Port Susan Bay.

Port Susan Bay is an estuarine area located a few miles north of Everett. It is a unique body of water, presently unpolluted. Here the Stillaquamish River flows into Puget Sound creating large mud flats. In addition, Port Susan Bay is a relatively enclosed body of water lying between the mainland and Camano Island. The bay contains abundant quantities of marine life, and supports a commercial fishery.

In 1956 the Richfield Oil Co. began acquiring certain land and last year requested that the Snohomish County comprehensive plan be changed and the land rezoned so as to permit industrial development for an oil refinery. Under intense pressure from the industrial community, the Snohomish County Board of Commissioners made the requested change in the comprehensive plan. In making this change the county ignored the protests of hundreds of recreational minded citizens, and its own planning staff report which opposed industrial development.

Atlantic-Richfield then made application for a zoning change to conform with the amended comprehensive plan and such rezoning was recommended by the Snohomish County Planning Commission 2 weeks ago by a 5-to-2 vote and next week I expect the county commissioners to approve this zoning change. Such a result can only be explained by the internal political pressure for industrial development by Atlantic-Richfield and the Snohomish County Economic Development Council. It appears from this specific case that where industry

wants to go, local political bodies will accommodate these economic interests, disregarding the potential devastation of an estuarine area.

That the construction of an oil refinery on Port Susan Bay will have adverse effects upon the estuarine environment of this unique body of water cannot be questioned. The refinery itself will pour large quantities of polluted waste water into the bay. But more importantly, there will be a steady stream of oil tankers in and out of the bay with the attendant hazards of oil spills which are inevitable in such situations. Even if the possibility of a major oil spill is ignored, minor spills while unloading the tankers could have disastrous effects upon the marine life in the bay, especially where, as here, the area of water is relatively enclosed.

Mr. Chairman, I know you have introduced bills in the Senate to deal with oil tanker spills and therefore realize more than others the damaging results which would occur in Port Susan Bay from accidental oil spills.

Port Susan Bay thus presents a prime example of the need to protect estuarine areas from industrial desecration. If our experience with this one estuarine area reoccurs in other sections of Puget Sound, we will soon be without unspoiled estuarine areas. Remove the estuarine environment from Puget Sound and we will have lost one of our greatest Northwest assets.

H.R. 25 would authorize a 2-year study of our national estuarine areas. It contains a finding that an estuarine area such as Port Susan Bay is rich in a variety of natural resources, including environmental natural beauty, and therefore consideration should be given to the need to protect and conserve these estuarines. However, H.R. 25 does not, with the exception of the Long Island wetlands, contemplate any immediate action to conserve our dwindling estuarines. By the time the study is completed and further action taken, many areas like Port Susan Bay will have already been destroyed.

Mr. Chairman, in contrast to your own bill, S. 695, H.R. 25 does very little but establish a congressional concern for the preservation of estuarines. Even the congressional declaration of H.R. 25 has been watered down.

Your bill, Mr. Chairman, declares the obvious fact that many of our estuarine areas have been damaged or destroyed by commercial and urban developments and that it is the policy of Congress to protect, and develop, and where possible restore and make accessible valuable estuarine areas. H.R. 25, on the other hand, fails to acknowledge past destruction and then uses certain weasel words about balancing preservation with industrial development.

As I noted earlier, H.R. 25 is limited to a study and inventory of estuarine areas. S. 695, however, has provisions which would be specifically applicable to the situation at Kayak Point and Port Susan Bay.

In addition to directing a study, S. 695 provides that consideration be given to whether a particular estuarine area should be acquired by the Federal Government, by the State, or the local government, or whether such areas can be appropriately and effectively preserved through other measures such as the development of adequate local zoning laws without any Federal acquisition or Federal administration.

Where, as in Port Susan Bay, governmental acquisition, of land would not be necessary if local zoning controls were adequate, there would be no need for Federal acquisition. Under section 6 of S. 695, if Port Susan Bay were designated a national estuarine area, the Secretary's condemnation powers over "improved property" would be suspended where adequate zoning laws exist. Improved property includes single family residences constructed before designation as a national estuarine area and adequate zoning laws are those which have the object of prohibiting new commercial or industrial uses, incompatible with the purposes of S. 695. Once this adequate zoning is established, no amendment such as that presently being considered at Kayak Point would be approved by the Secretary of Interior.

Mr. Chairman, the impending construction of an oil refinery on Port Susan Bay points to the need for national legislation to protect our Nation's estuarine areas. H.R. 25, however, provides only a belated effort toward this end. By the time a study was completed and enabling legislation enacted many more of our important estuaries will have yielded to the industrial developer. On the other hand, S. 695 would permit the Secretary of the Interior, following a study, to immediately ask Congress to designate an area as a national estuarine area and upon that designation being made, to insure that adequate zoning exists.

This use of local zoning controls is not authorized under H.R. 25, yet it is the simplest and least expensive way to protect our estuaries where developed land already exists. Under this method, little land would need to be acquired by the Federal or State agencies, and, thus, the cost would be low.

I would hope that the committee would report a bill which carries the important feature of S. 695 and not limit itself to the watered down H.R. 25. Our estuaries need immediate attention, not just a general 2-year study.

Thank you for this opportunity to testify on such an important matter.

Senator MAGNUSON. I thank you. I am glad you pointed out a case whereby there might be some reason to implement the section of the bill that would allow the Federal Government to withhold approval where there was a failure to act. I don't know much about it in this case except I wish you wouldn't condemn the study so much. The study has to be held, anyway, to determine——

Mrs. SHERRY. Absolutely.

Senator MAGNUSON. To determine many of these things, how to correlate them. It needn't take 2 years necessarily, but in the meantime certain things are happening. It has been pointed out by all the witnesses here this morning that one of the ways to get at this is have local zoning control. You do up there.

Mrs. SHERRY. No; we do not.

Senator MAGNUSON. Well, you do, but they changed it on you.

Mrs. SHERRY. Absolutely, and the problem seems to be, Senator——

Senator MAGNUSON. The problem seems to be with your county commissioner.

Mrs. SHERRY. Yes, and with the local politics, and the problem is that there is, the people who live there——

Senator MAGNUSON. You can't be a county commissioner unless you are in local politics.

Mrs. SHERRY. The problem is the people that reside in the area, who are the voters of the area in which this is involved, this is not in the area where the commissioners are living, we are involved with Island County residents who do not live and vote in Island County. We are involved with Snohomish County residents who do not live and vote in Snohomish County. And the fishermen who fish there do not live there, and the canneries which are in operation and take the fish and tender these fish are canned either in Skagit County or Anacortes.

Senator MAGNUSON. Well, we appreciate your testimony.

Mrs. SHERRY. This is a situation where there is a lot of cumulative interest and where there is little legislation to the satisfaction of the people of the immediate area.

Senator MAGNUSON. But it should be State legislation in this case. It should be State legislation.

Mrs. SHERRY. I think I have been in contact with most of these people at one time or another.

Senator MAGNUSON. Most of these what?

Mrs. SHERRY. Most of these people at one time or another. I don't think there is anything at the State level to cover this because when you get right down to it, it is zone, it is zone and it is at the local level.

Senator MAGNUSON. You will have these local zoning arguments all the time.

Mrs. SHERRY. Right.

Senator MAGNUSON. I am hopeful that some of the local officials, as Marvin Durning pointed out, you have got to have some kind of a definitive line where we can't stop all industry development, we don't want to, but there should be some places and other places left.

Mrs. SHERRY. I don't want to sound anti-industrial because the oil industry that is in operation in the State, in Bonan Island and Strait of Georgia, and they are very clean, the difference is they are located on open water, they are not at the entrance to the channel.

Senator MAGNUSON. Yes, I know the Port Susan area. Well, maybe your coming here today might alert some of these people and they will do something about it.

Mrs. SHERRY. Thank you.

Senator MAGNUSON. Mr. Ruby. Mike, we will be glad to hear from you.

STATEMENT OF MIKE RUBY, CHAIRMAN, PUGET SOUND GROUP, SIERRA CLUB

Senator MAGNUSON. Go right ahead.

Mr. Ruby is chairman of the Puget Sound group, Sierra Club, lives in Seattle.

Mr. RUBY. Right. I am presenting testimony today on behalf of the Sierra Club, not just Puget Sound group.

The Sierra Club believes that in planning for use of our Nation's ocean and other estuarine areas attention must be given to the establishment of marine sanctuaries, areas free from commercial and in-

dustrial development. This could be accomplished under H.R. 25 by minor amendment of the measure's statement of purpose so as to include a study of the need for marine sanctuaries where ecological factors would remain untouched—much like the wilderness areas of our national forests, parks, and other federally owned land and submerged land areas.

It is suggested, therefore, that the sentence starting on line 7 of section 1 of H.R. 25 be amended to read as follows:

It is therefore the purpose of this Act to provide a means for considering the need to protect, conserve, and restore these estuaries in a manner that adequately and reasonably maintains a balance between the natural resources and natural beauty of the nation, including the need for establishment of a system of marine sanctuaries, and the need to develop these estuaries to further the growth and development of the nation.

At recent hearings before the House Merchant Marine and Fisheries Committee, spokesmen for the Department of the Interior expressed the belief that H.R. 25 would serve many of the purposes called for under pending proposals on a system of marine sanctuaries. Thus, it would seem appropriate to somewhat enlarge the scope of H.R. 25 by including State-owned tidelands and the Outer Continental Shelf within the areas to be studied. It is suggested that section 2(a), line 16 be amended to read: "sounds, tidelands, Outer Continental Shelf, seaward areas", et cetera.

I might point out that this would not really be a change in the act since the act itself in section (c), the one referred to as 2(c), does contain this same thing. We are merely repeating it also in the purpose to make it more clear that this would be one of the intentions of the act itself.

H.R. 25 would be further improved by adding provisions to section 2 so as to require that the Federal studies move ahead in cooperation with interested public and private organizations, including conservation groups, and that public hearings be scheduled in areas contiguous with proposed marine sanctuaries. Because of the investigative nature of the studies for which the Secretary will be responsible, provisions also should be made to protect the study areas from encroachment and adverse development and use. Therefore, we urge the inclusion of the following new sections after section 2(b):

Section 2(c) The Secretary shall cooperate and consult with other interested Federal agencies as well as other interested public and private organizations and shall coordinate his studies, to the extent feasible, with all other applicable planning activities related to the areas under consideration, and the Secretary shall schedule public hearings in areas contiguous to the study sites.

Section 2(d) Until such time as he submits the report required by this section, the Secretary of the Interior shall not issue or renew any license, permit, or other authorization for the exploration, development, mining, or other removal of any minerals (including gas and oil) from any part of the Outer Continental Shelf under study.

Section 2(3) During such study period the Secretary is authorized to cooperate with all affected Federal, State, local, and international organizations in order that, until the completion of such study, a moratorium on the industrial development of any portion of the tidelands, Outer Continental Shelf, seaward areas, and land and water areas of the Great Lakes under consideration may be agreed upon by such interested parties.

With the addition of these new sections, section 2(c) should be redesignated as section 2(f). For use of the committee, I include with

my statement a copy of H.R. 25 with the suggested amendments inserted in the proper order.

Senator MAGNUSON. Thank you. We appreciate these suggestions and we will take a look at them. We want to try to get the bill as compatible as possible.

Mr. RUBY. I would like to point out one thing, Senator. There has been some discussion regarding the acquisition terminology in section 2(c). I would like to comment, to my own eyes in looking at this, it appears that the terminology is such that the Secretary is to recommend the methods for acquisition, that this does not actually give him any authority for acquisition, and it would seem to me to be desirable for this to remain as written, that the Secretary should recommend to the Congress how any acquisitions which are to be made should be done.

Senator MAGNUSON. That is true. I hope there was no misunderstanding. He would have to get the approval of Congress by a special piece of legislation before he could ever have the authority. He may come to Congress and say here is a certain area I think we ought to take over to make this estuary a better, well-rounded place, and point out that the State has got too many lands and maybe we ought to have some or something. Congress would have to pass a bill giving them that authority.

Mr. RUBY. That is my understanding.

I would like to add one thing. While it is not in the official statement, I am confident that the Sierra Club does and will support our good friend John Biggs in his recommendation on section 6.

Senator MAGNUSON. Yes, I think that is a very easy one to correct. I think the language is turned around.

Richard Smith is the port commissioner of the Port of Tacoma.

STATEMENT OF RICHARD DALE SMITH, PRESIDENT, TACOMA PORT COMMISSION, TACOMA, WASH.

Mr. SMITH. I am here to speak for the Port of Tacoma as one of the commissioners.

The commissioners of the Port of Tacoma wish to express their opposition to H.R. 25, the national estuarine area bill. We consider it to be unwise, special-interest legislation, and, especially, a grave threat to the proposed development of the Nisqually deep draft terminal.

We consider the bill to be unwise legislation because of its failure to recognize the total resources needs of the Nation by emphasizing recreation and conservation needs to the exclusion of economic values. One of its effects would be to forestall development of the Nisqually terminal, a project which is now being planned by the Port of Tacoma. Through cooperation with State agencies, this will be a multipurpose development which will enhance recreational and conservation values in addition to fulfilling its major purpose in economic development.

The Nisqually deep draft terminal is an essential project for the long-range economic development of the Pacific Northwest. This economic development, in turn, contributes to the national strategic development. The Nisqually Delta is probably the only remaining site on the Pacific coast capable of development into a terminal having cap-

ability of handling the superships of 50- to 80-foot draft now being operated or built. This uniqueness occurs because this is the only site with the required combination of protected deep water adjacent to level backup land for shore facilities.

I might add it encompasses on the delta four major transcontinental railroads as well as the major freeways for our Pacific coast truck transportation.

Other undeveloped Puget Sound water frontage does not have level shore area and the developed sites have reached their capacity because of envelopment by urban areas. Other west coast port areas simply do not have sufficient depth of protected water.

Here I am speaking and referring to U.S.-owned port areas on the west coast.

Senator, may I add just one or two comments with a personal nature at this point based on some of my experience? I have just had the privilege of a trip through Australia, New Zealand, and the Far East on behalf of the port and trade missions for our country. It is interesting to note the rapid development taking place throughout the Pacific area in shipping. One of these interesting developments is the assumption that Singapore will become the major distribution center for shipping in the Far East. This is in preparation, partially at least, for the major deep draft vessels with which we are concerned in the years ahead. These deep draft vessels will be coming in with major cargoes, unloading in Singapore and then transshipping to the various ports that need them throughout the Far East and Australia and New Zealand. It is with this in mind that we must concern ourselves on the west coast of America with the establishment of the necessary kind of deep draft ports to accommodate shipping in America.

Our friends to the north of us in British Columbia are moving rapidly towards these kinds of ports to the establishment of at least one in the west coast of British Columbia. We cannot afford to neglect our duties to establish for the United States, for the west coast of our country, and, yes, particularly I might selfishly say, for the Northwest to have this kind of a port which would enable us to do the kind of business shipping, trade, and industry with the Pacific rim which is becoming evermore important. It is because of this and because of our concern for the relations with our neighbors throughout the Pacific that our port is considerably interested in this deep draft possibility in the Nisqually.

Furthermore, we feel there exists at the present time adequate legislation to accomplish our needs of conservation and at the same time recognize the needs for development of our resource, and this further legislation would be unnecessary.

Senator MAGNUSON. I appreciate what you say and, of course, the Senate bill is different than the House bill, the one that I introduced. I think there is a misunderstanding about the bill permitting the Secretary of the Interior to proceed immediately to the acquisition of lands. There is no such intent and no bill would pass to that effect.

Mr. SMITH. We feel the wording in the present bill——

Senator MAGNUSON (interrupting). That was brought out earlier this morning. We agreed that if there is any intention to interpret that wording it will be changed. It isn't intended for that, and, of course, in any event, he would have to come to Congress no matter what he would

do on a special piece of legislation. We were hopeful that the thrust of this bill might resolve some of these matters that you discussed and surely there is no intent in the bill to, what we are trying to do is consider the overall and not to stymie in any respect the protection, I mean the basic economic responsibilities. If it did anything else other than that, why, of course, none of us would be for it. We are trying to work out a little more definite plans instead of having these, oh, piecemeal plans on the estuaries of the country.

The Secretary of Interior would have no part in this at all. I think the thrust of also the testimony here today is that this should be local matter taken care of locally.

Mr. SMITH. We feel one other thing, as the port is concerned. The possibility that we may not need the Nisqually delta at all.

Senator MAGNUSON. That should be worked out with the local people in conjunction with the estuary and Puget Sound in general. One witness suggested there should be areas set aside for commercial and recreational activities. Someone has to make this decision. This is where we overlap.

Mr. SMITH. The threat to the development of the Nisqually terminal through the unbalanced approach of H.R. 25 is rather evident. The development of a major port facility is a lengthy process requiring, even in its early stages, a considerable period for engineering planning and for the arrangement of the large-scale financing. In contrast, it is relatively simple to determine that an estuarine area has some recreational value without attempting to analyze the economic impact of preemption for this purpose and then proceed to acquire it for permanent limitation to a special interest use.

H.R. 25 unnecessarily replaces existing legislation with an inferior substitute. The objectives of H.R. 25 are already attainable through the Water Resources Planning Act of 1965 and certain other acts providing financial assistance for conservation. The purpose of the Water Resources Planning Act is to permit all interests to come together and arrive at mutually acceptable plans for use in conservation of resources. H.R. 25, in effect, replaces that act by substituting special independent power by the Secretary of the Interior to regulate the future use of a large part of the Nation's water resources without being bound by interests of the States or other Federal agencies.

Since H.R. 25 does not create any new capabilities, its real purpose must be to enable the Secretary of the Interior to short-circuit Congress, the States, and other public requirements.

The unusual powers and short circuiting of the Congress are not abstract matters. As now written, the bill would permit the Secretary of the Interior to proceed immediately on the acquisition of estuarine lands without awaiting the completion of studies or giving effect to the interests of other agencies or the Congress. It is only necessary that the segment of the study pertaining to a given area be completed, and the intent and basis for acquiring such lands need not be referred to any other agency. After acquisition, these lands can be returned to other uses, no matter how compelling these may be, only with the consent of the Secretary of the Interior.

Since the Water Resources Planning Act of 1965, basin planning commissions have been established to implement the intent of Congress. Speaking with personal knowledge of the basin commission

in the Pacific Northwest, they are becoming effective agencies in the planning and control of the Nation's water resources. To implement H.R. 25 at this time serves only to delay and weaken the planning for protection and use of our vital resources. It would erode the basic responsibilities assigned to these basin planning commissions and substitute a yet to be established agency having responsibility for only a few of the missions now assigned these commissions.

Because we consider H.R. 25 to be unwise special-interest legislation that would threaten development of the Nisqually deep draft terminal, we urge your committee to concur in the recommendation that H.R. 25 not pass.

Senator MAGNUSON. Thank you.

Mr. SMITH. Thank you.

Senator MAGNUSON. Now we have Warren Johnson, I have listed here. Is he here? Mr. Johnson represents the National Fishermen Wives Association at Arlington.

STATEMENT OF WARREN JOHNSON, NATIONAL FISHERMEN & WIVES ASSOCIATION, INC., ARLINGTON, WASH.

Mr. JOHNSON. Mr. Chairman and members of the committee, my name is Warren Johnson. I am a fisherman in Puget Sound and Alaska for salmon. I am the secretary-treasurer of the Puget Sound Gillnetter's Association, and I am a member of the Pollution Control Committee of the National Fishermen Wives, Inc.

I am pleased that Senator Magnuson is holding the hearing on House Resolution No. 25 here in Seattle so that we on the west coast can make our views known. We support H.R. 25 and hope for its speedy passage. We recognize that in H.R. 25 commercial fishing and shellfishing is only a part of the total package. We feel we can live and have lived harmoniously with other users of the waters mentioned in H.R. 25, with the exception of the heavy industry. There we come out a poor second.

We welcome the study H.R. 25 provides for. We doubt the $1 million is sufficient, but infer from the wording of the bill that much work has already been done by the various Federal agencies and the interested States.

We anticipate that recommendations by the Secretary of the Interior will deal mainly with pollution of the waters by actual physical changes by dredging, seawalls, et cetera. We hope under H.R. 25 that the Secretary will come to grips with the growing pollution problem caused by agricultural pesticides, the control of which is necessary if any animal life in the inlets, estuaries and the Great Lakes are to remain safe and edible. Some pesticides have a half life of 15 years. I am no authority on this. After the study has been made and various enabling legislation has passed, will come the most difficult job of all. I would like to retell a story told to me by Lt. Charles Hall, retired.

Mr. Hall used to be the chief enforcement officer for the Washington State Department of Fisheries. Sometime between 1951 and 1954 a Mr. Stan Peterson owned a dock and once thriving boat rental business in Port Gardner Bay, Everett, Wash. He felt the papermills were ruining his business by their pollution. He constructed a small

live tank at his dock, secured some small fingerling salmon, called in all the dignitaries he could, including Mr. Hall and Mr. Robert Schoettler. Mr. Schoettler was director of fisheries in Washington State at that time. Mr. Peterson dumped in the fingerlings and in 40 minutes they were all dead. There was much indignation caused by this and Mr. Schoettler told Lieutenant Hall, "You have the authority and the men and arms, if necessary, to go close the offending pulpmills down." Mr. Hall said to me, "You know what I did? I lost my guts." Meaning he didn't close down the mills. I called Mr. Lindsay on the 28th of May 1968, who handles pollution for the fisheries department. I asked, "Has pollution effect caused by the pulpmills improved since the 1951–54 period?" His answer was "No. While certain control measures have been instituted and certain practices eliminated, the old rotting bodies of fiber that in the past times settled to the bottom are rotting. This, along with the present liquid pollutants, makes the effect of pollution as bad now as it was in the 1951–54 period."

We have had adequate authority under the State law for the past 16 years to stop pulpmill pollution. I am sure an oyster grower and shellfish fisherman can tell similar tales. I don't know who has been damaged the most, the oystermen or shellfish fishermen or salmon fishermen. I have related this past story not to castigate any one individual, but to show the difficulty of enforcement. The State of Washington has a pollution control law now that meets Federal pollution requirements, the only difference between the new law and our old law is that the new law defines pollution more scientifically. I hope I have to eat those words. Someone still has to take action. Once a large company becomes part of a community and its economic roots has spread, it proves difficult to correct its pollution problem.

We are at present coming out on the short end of a fight to keep an oil refinery out of the mouth of the Stilliguamish River. That is in the estuary. We want it to prove that it won't pollute before it is allowed to be constructed. The refinery wants to construct the plant, then work out any pollution problems. We have had very poor luck with this process.

In my reading on the subject of industrial pollution, I have come across an area in the world that, according to my material, has handled their problem successfully. This is Germany and its Ruhr Valley. They have done it not with the highly regarded German technology, but by organization of all those in an affected area into an incorporated organization responsible for the correction of the problem. Representatives of both the industrial firms and the municipalities in a given area act as a board of directors voting to assess costs on individual members. Our Secretary of the Interior has been to Germany and has studied their system. Our hope is that the United States passes H. R. 25 speedily. I hope more money is provided, if necessary. It is infinitely more difficult to correct a bad situation than prevent it. This is a fine start on a bad problem.

Senator MAGNUSON. Thank you, Mr. Johnson, we appreciate your testimony. I think what we are trying to do is what you say. There ought to be some way we can live with these things and work them out. What has happened in the Ruhr Valley is an amazing thing. Everybody gets together on it. They assess everybody like any industry and everybody else, and the result is that the Ruhr there is prob-

ably the most highly industrialized section on a waterway and still it is all right.

Mr. JOHNSON. You can drink it. There is one place in Washington, it is so close we can hardly see it, and that is Metro. I heard one coming in this morning, there is going to be some kind of a celebration so you can swim in it again, that our State has gotten to that situation. They are corecting it. Thank you.

Senator MAGNUSON. Thank you; thank you very much.

All right, Mr. Jackson. Is he here? Mr. Jackson represents the Glacier Sand & Gravel Co., and he is speaking for the National Sand & Gravel Association, I believe.

STATEMENT OF WILLIAM P. JACKSON, NATIONAL SAND & GRAVEL ASSOCIATION

Mr. JACKSON. I am William P. Jackson, vice president and general manager of the Glacier Sand & Gravel Co. of Seattle, Wash. I appear on behalf of the National Sand & Gravel Association, of which our company is a member, and whose member companies produce the major portion of commercial production in the United States. The National Sand & Gravel Association presented testimony in opposition to H.R. 25 when hearings were held March 6–9, 1967, before the Subcommittee on Fisheries and Wildlife Conservation of the Committee on Merchant Marine and Fisheries of the U.S. House of Representatives. Our present testimony, Mr. Chairman, is directed to the House-passed version of H.R. 25.

On January 10, 1967, Congressman John D. Dingell, of Michigan, introduced his bill, H.R. 25, which bill was referred to the Committee on Merchant Marine and Fisheries of the U.S. House of Representatives. The original version of H.R. 25 was to authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes.

On February 8, 1968, the revised draft of H.R. 25 was passed by the House of Representatives and referred to the Senate Committee on Commerce, which is chaired by the chairman of this Seattle, Wash., hearing. The House-passed version of the bill called for an authorization of funds to underwrite an inventory and study of this country's estuaries and their natural resources by the Secretary of the Interior. The original draft of the bill would have given the Secretary of the Interior immediate control of dredging, filling, or excavating work within any estuary in the United States. Dredge operators would have been required not only to obtain a permit from the Corps of Engineers but from the Secretary of the Interior as well. The section which required an additional dredging permit from Interior has been deleted from the House-passed version of H.R. 25.

Although the permit section was revised in the House-passed version of the bill, a memorandum of understanding negotiated by the Secretaries of Interior and Army on July 17, 1967, remains in force. This memorandum of understanding appears to be a compromise effort designed to provide greater consideration by the Corps of Engineers for Interior's viewpoint regarding dredging permit applications. A

discretionary provision is made for the holding of hearings, and greater emphasis is placed upon the opinions of the Federal Water Pollution Control Administration, the Fish and Wildlife Service, and the National Park Service, all of which fall under the Department of Interior, and State conservation, resources, and water pollution agencies. Only time will tell whether this new agreement will have an adverse effect on sand and gravel dredging operations.

Approximately 10 percent of commercial sand and gravel produced in the United States is dredged from this Nation's navigable waterways. A significant number of these operations are in estuarine waters. All of these companies must presently obtain operating permits from the U.S. Army Corps of Engineers. The effects of this dredging in the waterways are negligible, disturbance being limited in area, in estuary operations, and are of short duration. The public benefits of these operations, however, are many. They improve navigation by deepening and clearing channels, add sand to beach areas which are so valuable for recreational purposes, make new harbor channels for pleasure boating, and most important provide a source of valuable construction aggregates close to the metropolitan centers where they are so desperately needed.

Our association views with great concern any action by the Federal Government which could potentially deny to our industry and the public the deposits of sand and gravel located in estuaries in various parts of the United States.

Our identification with conservation is well known. One of the major efforts of the program of the National Sand & Gravel Association has been the sponsorship of research at the graduate level by the Department of Landscape Architecture of the University of Illinois, under the very able chairmanship of Prof. William G. Carnes. The first three completed research reports are part of the material which we are submitting for your committee record. One of them, although done by a graduate student, received a professional award from the American Society of Landscape Architects, and drew praise from Mr. Laurance S. Rockefeller when he states: "I was interested to learn of this leadership effort by industry and look forward to sharing it with my associates on the Citizens Advisory Committee on Recreation and Natural Beauty."

A fourth research report in the University of Illinois project will be published soon. The fifth is to be initiated this September, with a publication deadline of June 1970. Entitled "The Recreation Potential of Sand and Gravel Sites," it has drawn the interest of the U.S. Department of the Interior and the Soil Conservation Service of the U.S. Department of Agriculture. We are pleased that Mr. L. Boyd Finch, staff assistant to the Assistant Secretary for Mineral Resources, Department of the Interior, and Dr. D. M. Whitt, Director of Plant Sciences Division of the Soil Conservation Service, have agreed to serve on the National Sand & Gravel Association's advisory committee to provide guidance and technical consultation on this particular project.

Another is entitled "Site Utilization and Rehabilitation Practices for Sand and Gravel Operations," prepared as a handbook and guide for the industry and for landscape architects by Mr. Kenneth L. Schellie, of Schellie Associates, a division of Clyde E. Williams & Associates, Inc., of Indianapolis, Ind. Mr. Schellie has been planning

and landscape architecture consultant to our association and to a number of member companies over the past 7 years. This publication was the recipient of a merit award from the Soil Conservation Society of America.

Another phase of the education and research program of the National Sand & Gravel Association is a forthcoming publication jointly sponsored by the association and the Soil Conservation Service of the U.S. Department of Agriculture and funded by the association. It will cover the following subject matter:

(*a*) Interpretations implementation of soil survey map data in reference to prospecting and exploration of deposits; and

(*b*) An explanation of the soil survey information and how it can assist producers in the revegetation and reclamation of operations.

I have risked being unduly lengthy in these matters because I want to emphasize for the record that the restoration of worked-out sand and gravel lands to suitable afteruses has found wide acceptance and performance in the sand and gravel industry. For example, our association's most recent land-use survey drew responses covering 1965 operations from companies which produced about 25 percent of commercial tonnage at that time. The acreage reported by the respondents as being returned to useful purposes was 52 percent of reported worked-out acreage for the year concerned.

Because of the sand and gravel industry's exemplary record in the field of reclamation, the association must take a position in opposition to H.R. 25 because our industry feels that this bill is unnecessary in regard to our particular conservation situation and also the industry regards this bill as a duplication of an effort presently undertaken by the new Office of Estuarine Studies in the Federal Water Pollution Control Administration, Department of the Interior.

The Office of Estuarine Studies has indicated that a report on this identical subject matter will be forwarded to the Congress on November 1, 1969. The enactment of the present version of H.R. 25 calls for an inventory and study of the Nation's estuaries and their natural resources to be conducted by the Secretary of the Interior in time to submit a report to Congress "not later than January 30, 1970." The present bill, under section 2(d), states "There is authorized to be appropriated not to exceed $750,000 for fiscal year 1969 and $250,000 for fiscal year 1970 to carry out the provisions of this section." The taxpayers of our Nation are strongly against the duplication of effort and appropriations by the Federal Government. H.R. 25 would be supported by nearly $1 million which would be, indeed, wasted, because this study is presently being conducted by the Office of Estuarine Studies, Department of the Interior. I realize that the original appropriation of $4.5 million authorized in the first draft of H.R. 25 (a sum in addition to the amount authorized by the Clean Waters Restoration Act of 1966 for a pollution study of estuaries), has been reduced to $1 million in the House-passed version of the bill, but I contend that if the U.S. Senate should pass H.R. 25, the duplication of effort and the wasteful spending of funds would aggravate the vote-minded taxpaying citizens of our country. With the funds authorized by the Clean Waters Restoration Act of 1966 for a pollution study of estuaries and the present appropriations of the Office of Estuarine

Studies, the bill is unreasonable and would only duplicate the present efforts and programs underway by the Department of the Interior and the April 1967 findings of the American Association for the Advancement of Science and other interested scientific groups. The association, and I as a member of the sand and gravel industry, oppose H.R. 25 and recommend that the Congress not pass this legislation.

Mr. Chairman, I wish to express my appreciation for having the opportunity of presenting this statement at this hearing.

Senator MAGNUSON. Thank you, Mr. Jackson. Of course we are not going to pass any bill that duplicates any studies. The Office of Estuarine Studies deals only with one phase of estuarine problems, the small facet of pollution only, and this is to deal with States, and we are not going to conduct any study in the Department of the Interior. This is to correlate the States and the local people in a comprehensive use of the estuarine. It is an entirely different thing. If there is any duplication I wouldn't stand for it for 5 minutes. They will probably use some of the results of the estuarine study, the pollution part of it, to advise and guide the local people in this joint effort that they are going to make, and the Senate bill doesn't anticipate this at all. If there is any duplication, why, we surely are not going to—well, they wouldn't get the money if there was duplication. The clean water restoration bill, of course, is also dealing only with pollution. We are dealing with the whole use of an estuarine and how the States and everybody get together on a comprehensive plan. I think you thoroughly agree with the purposes involved in the bill. On page 1 you say, "To authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes." You agree with that?

Mr. JACKSON. Yes.

Senator MAGNUSON. Your organization has been doing some work on that. What you really don't like about it is that you think you are going to have to get a permit from two places.

Mr. JACKSON. Three now.

Senator MAGNUSON. Yes, three.

Mr. JACKSON. It is a pyramiding of hurdles as far as the industry is concerned. I might point out that the problem is not of any moment in the Puget Sound area. There is no sand and gravel being excavated in estuarine waters of Puget Sound and there probably won't be in the next 30 years.

Senator MAGNUSON. And that memorandum you mentioned is merely if the Engineers think there is an area where they might want to grant a permit might have a bad effect of the overall use of estuarine areas or some deterioration of it, they would just ask the Department of the Interior what do you think of it. You don't have to go to one place. They, as you know, the Corps of Engineers have navigable waters only, which includes pretty near everything. I think we can work that problem out for you and continue your good work on the waters, too, that you are doing on the dry lands.

Mr. JACKSON. The problem is still current—we are under the control of the Army Corps of Engineers there and in the Willamette Valley.

Senator MAGNUSON. I wouldn't want to have all that redtape involved in there. OK, thank you so much.

Mr. Charles Nash, are you here?

Mr. NASH. Yes, sir.

STATEMENT OF CHARLES NASH, VICE PRESIDENT, PUGET SOUND GILLNETTERS ASSOCIATION, FRIDAY HARBOR, WASH.

Mr. NASH. I represent the Puget Sound Gillnetters Association. We are a group of men who operate one- or two-man fishing boats, in Puget Sound and adjacent waters, fishing for salmon.

Salmon migrate through the estuaries on their way to the sea as immatures, and pass through the estuaries from the sea to the spawning beds in the rivers of their birth as adults, thus completing a life cycle.

Though salmon behavior has been the subject of intense study for many years, it is not known for sure how these handsome fish can range throughout the North Pacific Ocean over hundreds of thousands of square miles and then precisely when the eggs are ripe in the female's body the pair will be on the spawning bed of their birth, intent on terminating their life cycle and initiating another.

The salmon has a very highly developed olfactory sense. It is believed by many that this delicate sense can somehow sort out the different estuarine and river odors and lead the salmon through the especially hazardous, shallow, and constricted waters in its last stages of migration. A significant change in the makeup of estuarine water conditions while the salmon is at sea for several years can very likely affect its ability to return to the river and perpetuate its kind. For that matter caustics, acids, and other pollutants could permanently injure that fragile sense of smell in the small salmon fry and fingerlings on their migration to the sea.

The aforementioned reasons are why the salmon fishermen consider any change from the norm in the makeup of the estuarine waters to be of special importance.

Recently published population predictions for the land areas adjacent to Puget Sound expect a tremendous increase in the next decade. It is of paramount importance that plans be made at once to avert the pollution of the rivers, lakes, estuaries, and sounds adjacent to these areas subject to large population expansion. We feel that the problem in this area is of international importance. A Federal authority should take the responsibility of doing the footwork involved in getting the various State, Provincial, and area antipollution agencies coordinated so that a forceful, effective regional program can be instituted.

We suggest that a program of water samplings be made in all estuaries on a regular basis, so that levels of toxicity of these waters can be determined and that, in case of serious pollution, the source can be found and stopped before important damage is done.

We further suggest that a regular program of water sampling take place in an area of mixing, far enough away from any single possible source of pollution, yet centrally located so as to give an indication

of the general level of pollution in the waters of Puget Sound and the Gulf of Georgia. This work would point out whether there is enough being done in the estuarial waters collectively to hold pollution down to permissible levels.

In conjunction with this study there should be an increased effort in the cataloging and classification of the flora and fauna of the waters in the same area. It has been estimated that only 70 percent of the non-microscopic fauna and less than 5 percent of the microscopic fauna have been named and classified. Some of these marine animals are thought to be useful in pollution control studies. Certain important groups of organisms might be regarded as indicators or as characteristic inhabitants of certain habitats. A decline in the population of these animals would perhaps suggest a subtle change in the quality of sea water in that area.

We recommend that the Friday Harbor Marine Laboratories, a division of the graduate school of the University of Washington, located in the San Juan Islands, be used as a pilot plant for these studies. This program at the same time could be used to train an adequate pool of systematic biologists for which there is a special need if the provisions of H.R. 25 are to be carried out.

The Friday Harbor Marine Laboratories is well equipped for this work and is centrally located in the Puget Sound-Gulf of Georgia basin. The San Juan Islands are in the mainstream of the salmon migration routes.

Mr. Chairman, we fishermen regard the passage of this bill especially important, because it alerts the Congress to the urgency of the need for legislation to protect the estuaries which have been most vital to man since his beginning.

Thank you.

Senator MAGNUSON. Thank you, Mr. Nash. I can appreciate your interest in this matter and the interest of all fishermen, because any change either in the sense of hearing or the olfactory sense, or changes in temperature or changes in smell could change the migration habits of salmon or seriously affect them because we don't know definitely the whole matter. But I would say that what you say here hits the nail on the head as far as I am concerned with this type of legislation.

You say Federal authority should take the responsibility of doing the footwork involved in getting various States, Provincial, and area antipollution agencies coordinated so a forceful regional program can be instituted. I would just have one word here. I would say Federal authority should take the responsibility to help do the footwork.

Mr. NASH. Yes, sir. I meant to do the right protocol to get over the border.

Senator MAGNUSON. Which is what we are trying to do.

I hope some people from the university here will take note of what you say about Friday Harbor.

Mr. NASH. I have talked to them.

Senator MAGNUSON. If Dixie were here, she would take note of it; wouldn't she?

Thank you very much. Thank you.

Is Bruce Cowan here?

Bruce can submit his statement for the record. It is 12:30 and we have moved as fast as we could.

Is Kelly Conover here representing the State of Oregon?

We would be glad to hear from you.

STATEMENT OF KELLY R. CONOVER, BIOLOGIST, OREGON STATE FISH COMMISSION, PORTLAND, OREG.

Mr. CONOVER. Mr. Chairman, I am Kelly R. Conover, and I am representing the State of Oregon.

This country has obviously reached a time for decision concerning the preservation and orderly development of its estuaries. Comprehensive planning and evaluation must be undertaken to prevent more damage of an irreversible nature. The need for new State and Federal legislation in this regard is clearly evident.

The Department of the Interior estimates that 7 percent of the Nation's 8 million acres of fish and wildlife habitat in estuaries has been lost due to dredging and filling. During the past 15 years the surface area of Boca Ciega Bay in Florida has been reduced by 20 percent because of large scale real estate fills. San Francisco and adjoining bays have been reduced from 680 square miles in 1850 to 400 square miles in 1965 due to filling for homes, wharves, airports, factories, and other developments.

Oregon's estuaries, excluding the lower Columbia River, totaled about 41,000 surface acres prior to 1960. Of this acreage, approximately one-half was exposed to tidelands. Since 1960 we have lost about 900 of these tidelands acres, 4.5 percent of the total, primarily to filling for industrial development. Much of this fill remains unused today. If this pace continues, we stand to lose 25 or our tidelands by the end of this century.

Originally H.R. 25 contained provisions for regulating dredging and filling to prevent unreasonable impairment of water quality and fish and wildlife, recreational, and esthetic values in estuaries. These provisions have been deleted from the bill and a memorandum of understanding between the Corps of Engineers and the Interior Department was drawn up instead.

Also, the Fish and Wildlife Coordination Act required the corps to consult with the Fish and Wildlife Service regarding the effects of water resources diversion or modification under Federal permit and to give equal consideration to its findings and recommendations. However, a March 14, 1968, decision of the U.S. district court in Tampa, Fla., has cast doubt on the authority of the corps under the Coordination Act and by implication the memorandum of understanding to deny permits for dredging and filling for other than navigational reasons.

This court case involved the filling of 11 acres of Boca Ciega Bay for a trailer park. The corps denied an application for a permit to fill this area on the grounds it would have a distinctly harmful effect on the fish and wildlife resources in the bay. In court, Judge Crentzma ruled that the Coordination Act did not give the corps authority to deny permits for reasons other than those pertaining to navigation.

The Federal Government may have failed so far in its efforts to provide a vehicle to effectively regulate dredging and filling activities in the Nation's estuaries.

In addition to actual loss of estuarine areas by filling, the productivity and recreational and esthetic values of many of this country's bays have been damaged by pollution. Oregon and Washington are facing a new problem in the Columbia River estuary. One of the most important natural resource areas on the Pacific coast, this estuary, which already suffers from critically high summer water temperatures, is being threatened with the development of thermonuclear powerplants which could aggravate existing temperature problems and create new ones if straight-through cooling is allowed.

Because of the great value of Oregon's estuaries and the need to preserve this natural resource in a manner compatible with orderly and wise development, Oregon supports H.R. 25 and welcomes efforts on the part of the Federal Government to assist us in attaining this goal. However, Oregon intends to maintain its right of estuarine management as long as it is in the best interest of the State to do so. We believe that management of the Nation's estuaries should be vested in the States so long as the States accept this responsibility.

As I indicated before I began, your committee will receive more detailed statements on H.R. 25 from Governor McCall's office in the near future.

Senator MAGNUSON. We don't disagree with you. You say as long as the State maintains its responsibility. Then, on the other hand, you suggest the Federal Government should go in there and do more. Which way do you want it?

Mr. CONOVER. My point is the authority which the Corps of Engineers apparently has now under the Fish and Wildlife Coordination Act, they may, in fact, not have this authority as a result of this——

Senator MAGNUSON (interrupting). They have pretty broad authority.

The Port of Portland now wants to build an airport in the middle of the Columbia River down there. Who do you think should have control of that? They are going way out in the river.

Mr. CONOVER. I would say there should be some local jurisdiction here.

Senator MAGNUSON. That should be the local decision.

Of course, the Corps of Army Engineers were merely asked whether or not the project would interfere with navigation. You are right, it didn't go on, but what will it do to the river otherwise? I don't know.

Mr. CONOVER. I don't either.

Senator MAGNUSON. Yet everybody down there says Portland needs a larger airport. The only way they could figure out to make it larger is to go out into the river, instead of going south where the Federal Government has an almost obsolete Air Force field. It isn't being used a great deal. This also brings up the need for coordination, as Mr. Nash said, that we ought to help do some of the footwork to set up a coordinating regional program on these things. The Columbia is that

way, too. You have to have both States involved in that. You can't help it.

We thank you very much. We appreciate your coming.

Senator MAGNUSON. Mrs. Haig, we will hear from you.

STATEMENT OF MRS. NEIL HAIG, CONSERVATION CHAIRMAN, SEATTLE AUDUBON SOCIETY, SEATTLE, WASH.

Mrs. HAIG. I am Mrs. Neil Haig and I am representing the Seattle Audubon Society as conservation chairman.

First I would like to say we endorse this statement of Charles Callison, vice president of the National Audubon Society, who testified in an earlier hearing.

The Seattle Audubon Society is in favor of H.R. 25, and in particular that part of the bill that relates to the conservation of wildlife and scenic beauty.

We feel that all estuaries should be left in their natural condition and are an important habitat in the preservation of all resident and migrating waterfowl and other wildlife.

There should be pollution control and no development of any kind should be allowed unless approved by the Secretary of the Interior as to its effect on wildlife and scenic beauty.

We favor continued study of the various estuary areas and feel that a moratorium should be declared that would keep them undisturbed until the study is completed and Congress has approved any future action.

As an example of a proposed estuary, if developed as planned, the Nisqually Flats would do untold damage to wildlife if it is allowed.

H.R. 25 is an excellent bill, long past due, and it is sincerely hoped that it will meet with congressional approval.

We also support and endorse the Sierra Club statement.

Senator MAGNUSON. We appreciate that.

We are going to have to be careful when we deal with the Department. As you know, we have had this so-called wet lands—acquisition of wet lands—which was a bill introduced, oh, 7 or 8 years ago. We finally added an extra dollar to the duck stamp and told them it should be used only for the acquisition of lands. The result has been that it has been about 50-percent satisfactory. A lot of the wet lands they are talking about are in estuaries, and we have to be careful about that.

These are primarily for the preservation of fowl and wildlife, but they are rapidly disappearing. The cost is getting greater all the time and we haven't even reached anywhere near our goal. From the last testimony I had, it will be something like 2013 before we reach our goal on what we needed for a minimum. I don't know whether duck hunters will stand another raise or not, but they might.

We are moving on it a small amount, but as you point out we have to be careful where that overlaps.

Thank you, Mrs. Haig. We appreciate your coming.

Jesse Orme.

STATEMENT OF JESSE M. ORME, MANAGER, FISHERMEN'S MARKETING ASSOCIATION OF WASHINGTON, INC.

Mr. ORME. I am afraid I haven't much new to add to the testimony today, but I appreciate this opportunity to read into the record my prepared statement.

Senator MAGNUSON. Yes; you have a short statement which we would be glad to hear.

Mr. ORME. My name is Jesse M. Orme. I am the manager of the Fishermen's Marketing Association of Washington, Inc., which is the organization of Washington trawler owners.

I also am vice president and a trustee of the Congress of American Fishermen and I am here to testify in that capacity. The Congress of American Fishermen, called CAF, is an amalgamation of west coast fishing organizations for the protection and advancement of American fishermen and their industry.

CAF views H.R. 25 as legislation made necessary by advancing civilization. Estuaries in the United States are among the most beautiful and valuable of nature's recreational gifts to this Nation, and should be protected by law so that future generations of Americans can enjoy them as we do now. Others testifying at this hearing undoubtedly will go into the commercial values of U.S. estuaries. CAF, representing a part of an industry most concerned, will refrain from comment on this aspect of the proposed legislation because the question before us, in the view of CAF, is what is best for the Nation as a whole.

H.R. 25 authorizes and funds a study to determine control standards and then calls for implementation of controls when additional funding is appropriated. CAF favors this proposed legislation with but one reservation. Section 6 of H.R. 25 excuses any Federal agency from whatever controls result from this act. This is inconsistent with the intent of the proposed legislation.

CAF can understand the political considerations involved, but surely Congress must realize that Federal projects such as dams and nuclear powerplants can be more damaging to estuaries than all the other present activities of man.

Section 6 should be stricken from this legislation or, if this is impossible, protection for other users against possible misuse by Federal agencies should be added. CAF wants to be on record with this recommendation in the event action on this subject becomes necessary in the future.

Thank you for this opportunity to testify.

Senator MAGNUSON. We appreciate your testimony.

I think we have to take a good, long look at that House section 6. We are going to make some changes in it. As far as I am concerned, it could be eliminated as you suggest.

Thank you very much.

The next witness we have is Peter Taylor.

Mr. TAYLOR. Someone mentioned I was requested to elaborate on my statement and I will put it in as a written statement.

Senator MAGNUSON. Ferd Nist, is he here?

He can put his statement in the record, too. He is representing the Migratory Bird Commission.

The last one I have listed is Ben Twight. Is Ben here?

Mr. TWIGHT. Yes.

STATEMENT OF BEN TWIGHT, RESEARCH ASSISTANT, UNIVERSITY OF WASHINGTON, COLLEGE OF FOREST RESOURCES

Mr. TWIGHT. My name is Ben Twight, of 4716 Northeast 45th, Seattle, Wash. I am a research assistant at the University of Washington at the College of Forest Resources. I have training and experience in wildlife biology, fisheries biology, and ecology. I represent only myself.

Senator MAGNUSON. Would you educate some of us laymen, the word "ecology" has been used more and more frequently. What is the real definition, what does it cover?

Mr. TWIGHT. This is the study of relation of plants and animals to their environment.

Senator MAGNUSON. But it includes both?

Mr. TWIGHT. The interrelation.

I wish to urge passage of the proposed legislation because:

(1) Estuaries are among the most productive areas of the earth in terms of food production for seafoods and other fish and wildlife. Most life forms of the sea, most of the productivity of the sea areas is in the shallows, the first 6 to 8 feet of the water.

(2) As such, estuaries are complex interdependent systems of life, much as any forest and its soils or farms with their crops. Such complexes need management as comprehensive as any forest, farm, or wildlife refuge.

(3) The sea has been viewed as the most promising source of future foods for the earth's burgeoning population, yet we continue to dredge and to fill it without regard for the long-range consequences to mankind or other forms of life.

(4) Costs and benefits need to be considered from the long-range ecologic point of view, with all phases of the life community considered, not just the short-range local economic justifications which the Corps of Engineers uses to show that its projects "pay."

(5) Estuary areas such as coastal salt marshes also add beauty, variety, and quality to our lives, providing good recreational hunting, fishing, and wildlife observation areas. They do, that is, until someone decides to reclaim the land by filling the marsh with garbage.

I understand this may be what will happen to some of the salt marshes along the Snohomish Indian River from Seattle garbage in the not-too-distant future.

(6) Cost-benefit analyses currently conducted by the Corps of Engineers and the Bureau of Reclamation in studying proposed projects should be conducted by independent study on local planning agencies or blue ribbon groups which do not stand to benefit in budgetary allotments from passage of project legislation.

Too often it seems like some of these agencies tend to ignore a lot of the so-called intangibles because they can't assign an economic value to them, or sometimes they have been known to twist the figures slightly or leave something out.

Senator MAGNUSON. The B–C cost ratio is theoretically supposed to represent literally the benefits to cost, but too many times the benefits are solely the economic benefits involved in an engineering project.

Lately we have required them to take this one facet, one part of the criteria, as the recreational value. We hope to be able to have them take this broad criteria, what effect is it going to have on the overall thing.

Mr. TWIGHT. And get something other than the opinion of engineers.

Senator MAGNUSON. They do have public hearings, but I don't know who goes to them. I don't know. They give you notice of a public hearing and everyone shows up that wants to.

Mr. TWIGHT. They have the opportunity, it seems, to hear only from engineering sources, only on their own staffs.

Senator MAGNUSON. Maybe other people ought to appear at those hearings.

Mr. TWIGHT. If we could get them in under something like the Puget Sound Governmental Conference in this area, all the phases of the problems could be considered, all the phases of activity in relation to the economic development of an area.

Senator MAGNUSON. That is what we are trying to do in this legislation, trying to help coordinate. I can't stress the word "help" too much, not direct coordinations.

Mr. TWIGHT. Thank you very much.

Senator MAGNUSON. Are there any other witnesses who want to appear?

I see Denney Givens was here and left. There are some others who had to leave.

Mrs. Katherine Mosness.

STATEMENT OF MRS. KATHERINE MOSNESS, CORRESPONDING SECRETARY, NATIONAL FISHERMEN & WIVES, INC.

Mrs. MOSNESS. Mr. Chairman and members of the committee, I am Mrs. Katherine Mosness. I am a salmon gillnetter's wife. My husband fishes both Puget Sound and Alaska. I am a member of the Puget Sound Gillnetter's Association Auxiliary, and am currently the corresponding secretary of the National Fisherman & Wives, Inc.

On behalf of the National Fishermen & Wives, we wish to commend the members of the Senate Committee on Commerce for scheduling this hearing on H.R. 25 so that members of the fishing industry and other agencies might have an opportunity to testify in its behalf. Although the passage of H.R. 25 is only the first step of the coordinated effort of the study for saving our estuaries, to the fishing industries its importance cannot be overstressed.

The fishing industry realizes that it must unite and urge other affiliated groups into the fight early to save these important estuaries before plans for new highways, factories, diversionary projects, and

so forth, that could be harmful to our estuaries are too far along to stop or change.

George Allen, chief of the division of seafoods, State of Alabama, department of conservation, has some tips of warning of how the fishing industry can head off some of the growing threats to estuaries. He has outlined four divisions of the Government that often wind up destroying our estuaries; namely, the Corps of Engineers, the Bureau of Reclamation, the Department of Agriculture, and the Bureau of Public Roads. He named three more enemies of the estuaries as private industry, State and municipal government, and real estate promoters.

Domestic and industrial effluents have destroyed substantial production of marine life in many shallow bays and estuaries. Drainage and land reclamation schemes have converted potential fish and shellfish opportunities into marginal farmland and real estate. Regardless of who brings about estuarine alterations, the results nearly always jeopardize the migration of fish. Industrial development and its associated damages can fill an estuary with wastes which can make the area unsafe for marine growth or concentrate them to a harmful degree.

No one knows exactly what the dilution capacity of a river really is in terms of proper protection of all the resources. As yet there hasn't been enough investigation of the problem. The Canadian policy on pollution is "Dilution is not the solution to pollution."

Thermal pollution is also continuing to be a growing threat to our rivers and estuaries. There are many things we need to know more about and these include: The effect of removing of gravel from spawning streams for industrial purposes, logging and booming practices in areas near estuaries and spawning grounds, and oil spillage, to name but a few.

Domestic sewage, mine waste, weedkillers, and insecticides continue annually to take their toll on marine life, and the fisheries continue to suffer.

To maintain the economic position of both industrial plants and fisheries, sound technical knowledge is necessary to determine precisely the reaction of the plant and marine life affected. Without this information marine life and fisheries are in jeopardy. Roadbuilders and loggers, contractors and miners, must adhere to carefully set standards for erosion control and stream preservation, basing them on factors of slope, soil stability, and precipitation patterns.

We must, as a nation, look to our clean waters as a trust. With the world population steadily increasing, we must protect our clean waters, not only for this generation but for future generations. With the predicted increase in the world's population, we have only to look to other parts of the world, just a few years ahead of us in terms of population congestion, to understand the need for protecting our resources now before the irreparable damage has been done. This we have a moral obligation to do.

The commercial fishing industry and the sport fishing industry depends upon a high quality water system for its survival. To maintain this clean water system, conservation methods must be applied, but conservation is primarily dedicated to the protection of our natural resources from the onslaught of man. As the onslaught increases, so

must our conservation efforts increase, merely to maintain its present abundance. Increased abundance, what we will need to feed the peoples of the future, requires even a greater effort.

When the National Fishermen and Wives, Inc., was formed in 1963 with a five-point program, the first point was: "Enact legislation beneficial to all fishermen." We feel H.R. 25 is not only beneficial to all fishermen but is a bill that is vital to all Americans. There is a need to resolve the problems caused by man's encroachment on estuarine areas.

Although the estuary is critically important to a large group of fish and shellfish species, particularly when they are very young, it is desirable for many other uses also, for both man and wildlife. Unless protection is provided by regulations based on sound scientific research, these fishery resources may be damaged irreparably. Passage of H.R. 25 to conduct these estuarine studies is urgent and can be the most rewarding in areas already altered by man.

The National Fishermen and Wives, Inc., will continue to work with State and Federal pollution control groups and will continue to fight to maintain the clean water standards we have at present.

Thank you for the opportunity of backing this study.

Senator MAGNUSON. We thank you all for coming. I think you have all made a contribution to the hearings on this bill and at least we have some very excellent thoughts and opinions as they relate to the Puget Sound, which is the biggest estuary under consideration by the bill itself. We want to keep it in the best way we know how. The record will remain open for 10 days. I have here a statement from the League of Women Voters that I will place in the record along with an article from the Washington Post.

Thank you so much.

We stand adjourned.

(Whereupon, at 1 o'clock p.m., the hearing was adjourned.)

APPENDIX

ADDITIONAL LETTERS AND STATEMENTS

Statement by the League of Women Voters of the United States

The League of Women Voters of the United States supports passage of H.R. 25. A volunteer citizens organization working in the field of government on local state, and national issues, the League has over 149,000 members in 1249 local Leagues in the fifty states, Puerto Rico, and the District of Columbia. The League has been studying water resources since 1956 and has taken action in this field since 1960.

The importance of estuarine waters and their bordering wetlands is known to many League members and is of particular concern to those in seaboard states. These tidal stretches of coastal rivers, where salt and fresh water meet, and their neighboring salt marshes and protected, shallow, coastal bays are uniquely productive areas. We know that estuarine areas are enormously rich in natural resources and in recreation potential. We know too that estuarine areas are vulnerable because they shelter organisms during their most sensitive period and because tidal character makes estuaries a natural trap for water-borne pollution.

Unfortunately the once isolated, unspoiled, scenic nurseries for finfish and shellfish are now becoming dumping areas for dredging spoils and solid wastes. In many states the shallow bays are being dredged, the salt marshes filled. The League of Women Voters agrees with the purpose of the proposed Act "to provide a means for considering the need to protect, conserve, and restore these estuaries in a manner that adequately and reasonably maintains a balance between the national need for such protection in the interest of conserving the natural resources and natural beauty of the nation and the need to develop these estuaries to further the growth and development of the nation."

We know that our great coastal cities are located on estuaries which, with their unobstructed connection with the sea, have developed into great ports. Through these estuaries move the nation's imports and exports. Near them are located the great manufacturing complexes. These estuaries have a different value from those not yet developed and will continue to serve as centers of commerce and industry, but improvements in municipal and industrial waste management should be in time bring the excessive water pollution in metropolitan estuaries under control.

Meantime the study and inventory of U.S. estuarine areas provided for in H.R. 25 will be under way in conjunction with the comprehensive estuarine pollution study authorized by the Clean Water Restoration Act amendments to the Federal Water Pollution Control Act.

The interest of the states is clearly recognized in the statement of the policy of Congress to "preserve and protect the responsibilities of the States in protecting, conserving, and restoring the estuaries in the United States." We approve of the provision that the estuarine study should consider whether land or water areas may be protected adequately through local, state, or federal legislation without federal land acquisition or administration. Where localities and states are doing well in managing their estuarine areas, the League thinks they should be left in charge.

The provision of Section 4 that all water and land project plans submitted to Congress shall contain a discussion of the effects of these projects on the estuaries and include recommendations by the Secretary of the Interior and the provision of Section 5 that local and state governments receiving federal grants under Department of Interior programs shall be encouraged to consider the needs

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and opportunities for protecting and restoring estuaries point in the desired direction. Do they have the needed strength?

In view of the legal questions concerning the application of the dredging and dumping agreement between the Secretary of the Army and the Secretary of Interior, the League regrets the removal of the dual permit provision originally proposed as a requirement for dredging, filling, or excavating in any estuary or in the Great Lakes.

League members will be watching for the report on the feasibility of a nationwide system of estuarine areas and on the recommendations for designating specific estuarine areas of national significance that might be acquired by an act of Congress.

One of the great values of the federal study and inventory of estuarine areas and land and waters of the Great Lakes will be the citizens' increased understanding, interest, and concern for these natural features. The League of Women Voters urges that, at the very beginning of the inventory, time and effort be spent to explain to local people what is being done and why. We strongly suggest that later on a popular presentation of the results of each area study be made locally. This educational effort is necessary to create citizen demand for local and state preservation and protection of local estuaries. Only through citizen involvement is there hope that the pressures for land development can be contained.

[From the Washington Post, July 23, 1968]

MARYLAND RAPIDLY LOSING WETLANDS

(By LeRoy Whitman)

While dismayed at Worcester County's sacrifice of virtually half of the salt marshes in the bays back of Ocean City, Maryland state agencies concerned in conservation feel they have at least salvaged a principle which can lead to the permanent preservation of some of the remaining wetlands.

Ecologists consider the rapid loss of wetlands as one of the gravest problems facing the nation's natural resources. Wetlands are the nursery of hundreds of forms of shellfish and finfish, as well as homelands for many species of waterfowl.

The rooted and floating plants and the oozy mud provide food and hiding places for the young of striped bass, flounder and bluefish and are vitally important in the life cycle of clams. Yet many consider marshlands as valuable only if they are filled in and built upon.

A study now underway oat the behest of Maryland's General Assembly revealed in a preliminary report that the State has lost 13,575 acres of wetlands since 1942. Wetlands, says the report, "face their largest battle for survival to date."

Worcester County is Maryland's only county fronting on the Atlantic Ocean. It is also the only county, by virtue of a law passed in 1965 empowered to authorize the filling of its marshes and water out to a "fill and bulkhead line" set up by the General Assembly. In all other counties the State alone has this authority.

Worcester County's shoreline commission took advantage of its new power to approve the filling of marshland by three real estate developments—Ocean Pines in Isle of Wight Bay and Caine Harbor Mile and Montego Bay in Assawoman Bay. Its three developments will destroy about half of the bays' marshlands.

The Commission's excuse for its action was that only outlet for expansion of its facilities and its tax base. If there was concern for the loss of natural resources, it was not evident in the Commission nor in Ocean City's business community, even though sport fishing ranks high among the resort's attractions.

Because of the 1965 law, the State was powerless to stop the filling of the marshes. But it did have one strong weapon. The State claims title to lands below the high tide line so that the developers needed a quit-claim action by the State to get clear title to the new lands.

The State Department of Public Works reached an agreement with attorneys for James B. Caine, developer of the two areas in Assawoman Bay, whereby

he will pay ten cents a ton for material dredged from the Bay to fill behind the bulkheads.

It is estimated this will yield about $300,000. It is then planned to have the General Assembly turn this money over to the Department of Game and Inland Fish for the purchase and preservation of other wetlands.

The Ocean Pines development is getting its fill from canals on its own property, but it will still need a quit-claim title from the State. An arrangement was made with its developers to purchase and turn over to the State two acres of wetlands for each acre it destroys.

First wetlands to be bought under the arrangement will be near the Delaware Bay and in the Assateague Island area.

State officials want it clearly understood that the wetlands to be acquired will be set aside as part of the State's natural resources and will not be available for development.

Meanwhile, when the State's wetlands study has been completed, recommendations will be made to the General Assembly for legislation designed to preserve its dwindling wetlands.

STATEMENT BY EDWARD J. GRUBLE, PRESIDENT, THE OYSTER INSTITUTE OF NORTH AMERICA

My name is Edward J. Gruble and I am President of the Oyster Institute of North America. The Institute is the national representative of the molluscan shellfish industry. The molluscan shellfish industry, more than any other industry, is aware of the need for a thorough and comprehensive study and inventory of the nation's estuaries and the natural resources found there. Our survival depends on an adequate knowledge and effective protection of these areas.

For many years our concern has been with the continued indiscriminate exploitation of the nation's waterways by industrial development and encroachment from our expanding society. Millions of acres of productive shellfish rearing tidelands have been lost, many irritrievably, for lack of sufficient information about and the need for proper management of such areas.

The pulp and paper and other industries whose waste discharges adversely effect the marine environment have been allowed to build installations in locales clearly incompatible with other beneficial water uses.

In Puget Sound one can point to Samish and Padilla Bays, once prime shellfish producing areas, lost through industrial pollution from pulp mills. Studies initiated and completed after the damage clearly reveal the cause and effect of this pollution on the marine resources of those areas. This might well have been prevented had sufficient information been available earlier. Even now contemplated construction of an oil refinery on Port Susan Bay points to the need for information and effective management of the estuaries.

The erosion of one of the nations last remaining relatively clean marine environments, Puget Sound, is accelerating at an ever increasing pace. The need for the study proposed under H.R. 25 is immediate.

The Oyster Institute of North America is in complete concurrence with the intent of this Act and strongly urges your Committee to recommend H.R. 25 for passage.

STANFORD CONSERVATION GROUP,
STANFORD UNIVERSITY,
Stanford, Calif., March 19, 1968.

Hon. W. G. MAGNUSON,
Chairman, Senate Commerce Committee,
Senate Office Building,
Washington, D.C.

DEAR SIR: The Stanford Conservation Group supports H.R. 25, providing for the study and protection of American "wetlands." We urge that this bill be passed in the Senate without delay.

Sincerely yours,

ROBERT MARK,
Vice President.

MISSOURI DEPARTMENT OF CONSERVATION,
Jefferson City, Mo., March 19, 1968.

Hon. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: The attached Resolution, passed by the Mississippi Flyway Council, has been endorsed by the National Waterfowl Council. We urge early favorable consideration of this legislation.

Sincerely,

LARRY R. GALE,
Chairman, National Waterfowl Council.

RESOLUTION AUTHORIZING A STUDY OF ESTUARIES

Whereas dredging and filling coastal marshes and estuaries of this nation are becoming more efficient operations and accelerating so rapidly that they threaten to destroy these highly productive unique aquatic areas within the present generation of Americans; and

Whereas about 65 percent of all United States commercial finfish and shellfish, most marine sport fish, and a high preponderance of migratory birds depend upon the estuarine environment for survival; and

Whereas ecological planning and investigations are required to guide man's activities within the estuarine environment and associated watersheds and river basins to protect the important food, recreational, and esthetic resources of national significance: Now, therefore, be it

Resolved, That the Mississippi Flyway Council, assembled at their regular winter meeting this 10th day of March 1968 at Houston, Texas, does hereby urge the Senate of the United States to authorize the nationwide study of estuaries called for in H.R. 25, which was recently approved by the House of Representatives, and in similar bills as may be introduced in the Congress of U.S.

FLORIDA BOARD OF CONSERVATION,
Tallahassee, February 20, 1968.

Hon. GEORGE A. SMATHERS,
Senate Office Building,
Washington, D.C.

DEAR GEORGE: On August 8, 1967, we forwarded to you comments of this office on H.R. 25, the National Estuarine Area Bill. A copy of that letter is enclosed for your ready reference.

On September 6, 1967, we wrote Congressman Paul Rogers our comments on a revised H.R. 25, and enumerated our principal objections. A copy of my letter to Congressman Rogers is enclosed for your information. I believe the bill passed by the House on February 8, 1968 is substantially the same as the one that we reviewed for Congressman Rogers last September.

Also enclosed is copy of a letter written February 12, 1968 to Mr. Robert L. Shortle, Vice President of the Mississippi Valley Association, to Senator Jackson, Chairman of the Committee on Interior and Insular Affairs, stating objection of the MVA to H.R. 25.

In the discussion on the floor of the House as reported in the *Congressional Record* for February 8, 1968, substantially the same objections to H.R. 25 were raised by some Congressmen as were discussed in my letters. I cannot find any response to the questions or objections that were raised by the Congressmen on the floor of the House. Our objection to this bill remains the same as we reported last year. I believe it is not a good bill for Florida nor is it needed anywhere else.

Already we have an example of one problem that this bill can generate in adversely affecting our public works program in Florida. Last year the U.S. Fish and Wildlife Service of the Department of Interior requested the Corps of Engineers and this office to defer consideraion of the Gulf Intracoastal Waterway, St. Marks to Tampa Bay, pending completion of "hydrological investigations necessary to assure maximization of the purposes and uses of all interests to be affected". To meet such request of the U.S. Fish and Wildlife Service, there would be required more than $500,000 in federal funds for surveys to be made prior to authorization of the project. Also, several years would be needed to com-

plete the survey. Authorization of the waterway would be deferred or delayed at least four additional years. With early action on authorization by Congress pending, this office is in receipt of numerous recent communications from preservationists throughout the state repeating the identical request made last year by the U.S. Fish and Wildlife Service. We identify this action as using the force implied by H.R. 25 as a means of further delaying this project in hopes of a permanent deferment.

We ask your consideration of these objections when H.R. 25 reaches the Senate.

Sincerely,

RANDOLPH HODGES,
Director.

Enclosure.

AUGUST 8, 1967.

Hon. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLAND: Comments of this office on H.R. 25, the National Estuarine Area Bill, are enclosed for your information. This office has expressed opposition to certain portions of H.R. 25 because of the adverse effect we believe it would have on the water resources development in Florida. Reason for our belief is explained in the enclosed memorandum report.

The enclosed memorandum also contains comments on the recent administrative agreement between the Secretaries of Army and Interior concerning coordination on dredge and fill permits in waterways of the United States.

Copy of a news report of a recent speech by Dr. Stanley A. Cain, Assistant Secretary of the Interior, in which he suggested that his department be given "veto power" over water resources development projects in coastal and estuarine areas in order to protect fish, wildlife, and other natural values is enclosed as pertinent to both H.R. 25 and the coordination agreement.

Sincerely,

RANDOLPH HODGES,
Director.

FLORIDA BOARD OF CONSERVATION,
Tallahassee, August 8, 1967.

MEMORANDUM

To: Members of the Florida delegation in Congress.
From: Randolph Hodges, Director, Florida Board of Conservation.
Subject: H.R. 25, national estuarine area bill.

Because this office has previously expressed to Congressman Dingell as Chairman, House Subcommittee on Fish and Wildlife, opposition to certain portions of H.R. 25, the National Estuarine Area Bill, it is appropriate that we should explain to the members of the Florida delegation in Congress the reason for our objection.

The Florida Board of Conservation is in accord with the stated objectives of H.R. 25, the bill to preserve, protect, develop, restore, and make accessible estuarine areas of the nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty; but we are concerned with the procedures or means proposed in the bill to accomplish the stated objectives. It is our opinion that the objectives can be attained under existing legislation and that enactment of the proposed bill is neither necessary nor desirable at this time. We believe the bill as drafted would be damaging to Florida's water resources development and not to the best interest of the state.

Without enumerating the many points of exception taken to H.R. 25, as seen in the last draft available to this office, it might be summarized that the bill imposes with finality the will of the Secretary of the Interior on those states of the nation that have estuarine areas within their boundaries, and estuarine areas are so vaguely defined in the bill that they could include almost any area of significance selected by the Secretary. Under the bill, the states are permitted to develop their own plan for protection and conservation of their estuaries *only if the Secretary approves* the state plan.

We believe the utilization of resources within an estuarine area should be based on its capability to provide the greatest good to the greatest number of people, assuming of course that such use does not do irreparable damage to the resources.

The latest draft of H.R. 25 recognizes the need to maintain some balance between conservation and economic development, but the original draft gave no priority for consideration of economic needs of the region or state.

The bill dilutes and confuses the authority of the Chief of Engineers by giving duplicate authority to the Secretary of the Interior for issuance of dredge and fill permits and requiring issuance of dual permits for any development in estuarine areas. Under act of Congress, March 3, 1899 (33 U.S.C. 403 and 407) the Secretary of the Army (with the Corps of Engineers as the administering agency) was given responsibility to control dredging, filling, and excavation in the navigable waters of the United States and to control refuse in such waters. Coordination with other federal and state agencies in matters relating to these responsibilities is a normal responsibility of the Corps of Engineers. PL 85–624, the Fish and Wildlife Act of 1958, insures appropriate coordination on these specific matters.

The recent administrative agreement between the Secretary of Interior and the Secretary of Army concerning coordination on applications for dredge and fill permits in connection with navigable waters of the United States, assures full coordination with the Secretary of the Interior on all matters within his responsibility. The agreement is not limited to Fish and Wildlife aspects as specified in PL 85–624. We are concerned, however, that such coordination agreement without appropriate safeguards for the public interest, may be a dilution of Congressional responsibility in the field of water resources development. Such power, which is practically veto power, as written in the agreement, if improperly used by the Secretary of Interior, could indefinitely delay water resource development projects that may be otherwise needed, appropriate, feasible, and advisable for construction to meet overall requirements of the state concerned.

A case in point that illustrates our concern is the recent request made to this office by the U.S. Fish and Wildlife Service to defer consideration of the project Gulf Intracoastal Waterway, St. Marks to Tampa Bay, pending completion of "hydrological investigations necessary to assure maximization of the purposes and uses of all interests to be affected". We agree that detailed hydrologic information will be needed as a basis for final location and design of the waterway, but such information is not necessary for the initial study; compliance with that request could delay the project indefinitely, and for no valid reason.

We hope H.R. 25 will not be enacted in its present form. The recent coordination agreement between the Secretary of Army and the Secretary of Interior is preferred to H.R. 25, but we reserve our opinion of that agreement to see that the coordination privilege given the Department of Interior is not abused.

Extract From National Waterways Conference News Issue of January 10, 1967

In a recent speech, a Department of the Interior official suggested that his Department be given "veto power" over water resource development projects in coastal and estuarine areas in order to protect fish, wildlife and other natural values. Dr. Stanley A. Cain, assistant secretary for fish, wildlife, and parks, indicated that legislation to this effect would be sought in the 90th Congress. He spoke recently at the second annual conference of the American Water Resources Association at the University of Chicago.

An urgent need exists, Dr. Cain claims, for greater coordination of fish and wildlife values with water resource development goals. He had reference to intracoastal canals and harbor channels as well as Venetian-type housing developments with canals leading to each residence. Such dredge and fill projects now require Corps of Engineers permits, but Dr. Cain maintains that the Corps' main interest is in seeing that navigation is not impaired. Then he said:

"A number of concerned persons in the conservation field have said it is high time something is done about this situation. They point out that the public interest in the protection of splendid national coastal and estuarine values must somehow find expression and effectiveness. They argue that the time is ripe for the Department of the Interior, which was established to protect values such as these, to be given the power to protect fish, wildlife, and other natural values of coasts and estuaries. These conservationists feel that the tool we need is authority to require permits from the Department of the Interior before such areas are dredged and filled. * * *

"The Secretary of the Interior is the conservation Secretary. It seems to me that he should have a voice in deciding whether these publicly owned areas shall

be altered for the benefit of commerce and real estate developers, when broader public questions are involved. This would not mean, of course, that all dredging and filling of estuaries will come to a grinding halt. The Department (of the Interior) could condition its permits so that the placement of fill, when dredging is in the public interest, would be done in such a manner as to minimize adverse effects on fish and wildlife. Thus, the federal government would have a long-needed way of reducing estuarine destruction and assuring natural resource conservation. * * *"

SEPTEMBER 6, 1967.

Re (1) FBC letter, H.R. 25, August 8, 1967; (2) your file-Legis-1, August 22, 1967.

Hon. PAUL G. ROGERS,
House Office Building,
Washington, D.C.

DEAR PAUL: Thank you for sending us a copy of the revised H.R. 25, the Dingell bill, and for also delaying its enactment. We appreciate your asking for our comments on the revised bill and we welcome the opportunity to offer our opinion on this matter.

We have reviewed the proposed substitute for H.R. 25 and find that it has removed the most objectionable features of the previous drafts. The states rights appear to be restored in the substitute bill. Although the substitute bill avoids most of the objectionable features of the original bill, our opinion as stated in my letter of August 8, 1967 remains the same, i.e. the objectives of H.R. 25 can be attained under existing legislation and the proposed bill is not needed. We add further our basic objection to the granting of duplicate responsibility to the Secretary of the Interior; such responsibility is already assigned by Congress to the Secretary of the Army. A duplication in assignment of responsibility can result in only confusion and trouble for all concerned.

As to the recent coordination agreement between the Secretary of the Army and the Secretary of the Interior, we are of the opinion that existing laws of Congress establish a required procedure for all necessary coordination by the Corps of Engineers with other federal agencies. This administrative agreement gives to the Secretary of the Interior virtual veto authority over a responsibility for which Congress granted only coordination responsibility. If this coordination authority is improperly used, the Secretary of the Interior can seriously damage essential development of the water resource program in Florida, indication of which has already been given by the Department of Interior on two of our projects, the Gulf Intracoastal Waterway, St. Marks to Tampa Bay, and the Central and Southern Florida Flood Control project.

Sincerely,

RANDOLPH HODGES,
Director.

FEBRUARY 12, 1968.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
Senate Office Building,
Washington, D.C.

DEAR MR. JACKSON: In the First Session of the 90th Congress, H.R. 25, the National Estuarine Areas Bill, was introduced. Because of the controversial nature of the bill and the complete authority it would grant the Secretary of Interior in determining what could be done in estuarine areas, the Mississippi Valley Association opposed the legislation. The many modifications and amendments to the proposed legislation on the House side indicate that the bill was improperly drafted. I have just learned that the House by voice vote approved the legislation in question this past week.

A companion bill to the amended House version was introduced in the Senate on November 20, 1967, by Senator Metcalf. This bill was referred to the Interior and Insular Affairs Committee. Early in the First Session of this Congress, Senator Ribicoff introduced a similar bill, S. 2365, which bill was referred to the Committee on Commerce of the Senate.

The bill of Mr. Metcalf, S. 2677, is objected to by the Mississippi Valley Association for the simple reason that it is unnecessary notwithstanding the fact that the House of Representatives has passed the bill. An earlier River and Harbor Bill provides the proper machinery for the evaluation of public works projects

including those projects in estuarine areas. It spells out the extent and degree of cooperation between federal agencies and the several states that must be followed prior to the authorization of public works projects.

S. 2677 as well as H.R. 25 would provide the Secretary of the Interior with complete jurisdiction over all activities within estuarine areas. The Secretary would be allowed to conduct studies on a piecemeal or nationwide basis without regard to individual authorization by the Congress. We feel that the Congress itself should determine which estuarine areas should be studied and that separate authorizations therefore should be provided by the Congress as they are for other public works projects. Should the Secretary of Interior be granted the authority provided in S. 2677 and H.R. 25, development in our coastal areas, both public and private, would not only be inhibited but would be curtailed. It appears to us to be only a further effort on the part of the Executive Department to control the entire activities in the field of water resources development.

Accordingly, we ask your considerable support in the prevention of the enactment of S. 2677 or H.R. 25 or similar legislation.

Because of our position in regard to the legislation in question, it is respectfully requested that should hearings be called on the proposed legislation that we will be given an opportunity to present our views in person.

Thanking you for your attention to this request, I am,

Sincerely yours,

ROBERT L. SHORTLE,
Vice President.

At the 49th Annual Meeting of the Mississippi Valley Association completed on February 6, 1968, the delegates from 36 states approved without a dissenting vote the attached resolution.

ESTUARINE AREAS

The National Estuarine Areas Bill, H.R. 25, now pending in the Congress, is not only objectionable but unnecessary. The Bill would grant to the Secretary of the Interior complete jurisdiction over all estuarine areas of the country, without adequate safeguard to protect the interests and sovereignty of the several states that would be affected. It would inhibit if not eliminate future development either public or private in any estuarine area.

Furthermore, the Bill divests the Congress of its jurisdiction in reviewing, authorizing and funding projects for water resources development on the basis of merit and benefits to the greatest number. The existing requirement of cooperation within all agencies and levels of government renders the proposed legislation unnecessary. The Bill, if enacted, would prevent the accomplishment of authorized projects and would create delays in securing needed development.

SEATTLE, WASH., *June 16, 1967.*

Hon. JULIA BUTLER HANSEN,
House of Representatives, Longworth House Office Building,
Washington, D.C.

DEAR MRS. HANSEN: The Washington State Sportsmen's Council is on record protecting estuarine areas from dredging, filling and pollution. As an active member of the Council, the Edmonds Rod and Gun Club has endorsed this concept and is vitally interested in H.R. 6731 introduced by Congressman Ottinger. Due to a long business agenda and some differences of opinion on the bill, the Council referred its Resolution 667–14 back to Committee. The Edmonds Club however, feels the timing is such that Congressional action will probably be forthcoming before another Council meeting and directed me to express our feelings on the bill.

The concept of protecting estuarine waters is of course an excellent one and will greatly benefit the people of Washington State. Of particular interest to us at present is the proposed 5½ mile canal from Ilwaco to Willapa Bay. We are very concerned about the affect on the Willapa National Wildlife Refuge and the oyster beds. Passage of H.R. 6731 would provide the hearings and studies necessary to determine the canal's effect on these areas and we urge that you actively support passage of same at the earliest possible time. We also request that you contact Congressman Ottinger and request a revision to strengthen the bill in the area of studies. The bill presently states in part: "After July 1, 1967, no Federal permit or license shall be issued by any department or agency of the United States for the construction of any facility that impounds, diverts, controls, or otherwise modifies such waters until adequate biological and ecological studies

on the effects of the proposed construction on the fish and wildlife resources are conducted by the Secretary of the Interior in cooperation with the State wherein the project will be located, *unless he determines such studies are not needed*, and until the Secretary makes recommendations . . . etc."

We believe the italicized sentence should be deleted as the intent of the bill could easily be circumvented thereby. The bill's intention of protecting estuarine areas through state and federal co-operation cannot be compromised.

Conservationally yours,

SAM MAXWELL.

U.S. SENATE,
COMMITTEE ON COMMERCE,
May 4, 1967.

Hon. ROGER D. BRANIGIN,
Governor, State of Indiana,
Indianapolis, Ind.

DEAR ROGER: Thank you for your letter expressing objections to certain sections of S. 695, the Estuarine Areas bill.

Roger, the House Commerce Committee is planning to amend their bill, H.R. 25—companion to this one—significantly. As soon as this comes over to us as amended we will look over it to see if your objections have been taken care of. If not you can be assured that I will bring your objections to the attention my colleagues on the Senate Commerce Committee.

Thank you for taking the time to let me know about this.

Best personal regards.

Sincerely,

VANCE HARTKE,
U.S. Senator.

STATE OF INDIANA,
OFFICE OF THE GOVERNOR,
Indianapolis, April 11, 1967.

Hon. R. VANCE HARTKE,
Old Senate Office Building,
Washington, D.C.

DEAR VANCE: I oppose features of S. 695 which would empower the Secretary of the Interior to issue permits for dredging, filling or excavation work in the Great Lakes which already is subject to permit decisions by the State of Indiana.

Indiana and the other States are competent in making such judgments. I know of no reason to justify the superimposing of Federal powers over State authority. The States, too, are intent upon the protection and development of their waterways.

Similarly, I question why the Secretary of Interior should be empowered to dictate to local and county planning boards the standards which are part of their zoning bylaws.

I fear such powers would relegate the States to a secondary role in natural resources policies which is demeaning to the integrity of the States.

Sincerely yours,

ROGER D. BRANIGIN,
Governor of Indiana.

U.S. SENATE,
Washington, D.C., May 3, 1967.

Hon. DAN K. MOORE,
Governor, State of North Carolina,
Raleigh, N.C.

DEAR GOVERNOR: Since your letter of April 28 indicates you are satisfied with the revisions which have been made of H.R. 25 by the Department of the Interior and the House Merchant Marine and Fisheries Committee, I shall let Senator Magnuson know of your concern for only section 8(a) of the revised version.

I hope that the House will make this further change before the bill reaches the Senate, but I want North Carolina's interests to be protected in the event it does not.

Please keep me posted of any other changes you feel are necessary.

With all best regards,

Sincerely,

B. EVERETT JORDAN.

STATE OF NORTH CAROLINA,
GOVERNOR'S OFFICE,
Raleigh, April 28, 1967.

Hon. JOHN D. DINGELL,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: I wish to commend you, your staff and the Department of the Interior for the very fine revision of H.R. 25, the "estuarine bill." The new version which was discussed with representatives of the southeastern states at a meeting in Atlanta, April 26, eliminates most of the objections the State of North Carolina had expressed earlier. The result tends to protect the states' right to manage their natural resources, while at the same time ensuring that national interests are protected where individual states do not discharge their responsibilities in these areas.

The State of North Carolina therefore supports the revised version of H.R. 25 with one exception. We continue to urge that section 8(a) of the revised version (section 10(a) of the original bill) be rewritten to read as follows:

"The Secretary shall permit hunting and fishing on lands and waters within any national estuarine area approved by Congress in accordance with applicable State laws and regulations, except that the Secretary may by regulation designate zones where, and establish periods when, hunting and fishing may be restricted for reasons of public safety. Except in emergencies, any regulations of the Secretary under this section shall be effective only after consultation with the State agency responsible for hunting and fishing activities. Nothing in this Act shall limit or interfere with the authority of the States to permit or regulate the fish and wildlife resources in any waters within an estuarine area administered by the Secretary. Nothing in this Act shall affect the authority of the Secretary under other provisions of law to regulate migratory birds."

Sincerely,

DAN MOORE.

MOUNT VERNON, WASH., *March 31, 1967.*

Hon. Senator MAGNUSON.

DEAR SIR: We are requesting your favorable action on H.B. 25. To preserve, protect, develop, restore and make accessible estuarine areas for wild life, recreation as well as scenic beauty.

We in this area are especially interested since promoters are now preparing to move in on one of the outstanding areas of this sort in our state; namely, Padilla Bay.

As per Washington State game department, this area is used by young Salmon coming from Skagit river for rearing their young. It was estimated in 1965 the Salmon small fry were counted at 8,00 per mile coming through Swinomish Slew. Also Padilla Bay fed and housed 67% of all game birds during 1966.

For example Block Brandt 17,387.00.

We feel it is just as necessary to preserve our estuarine land same as of the higher mountains areas.

Thanking you in advance for your assistance.

Sincerely yours,

Mrs. A. L. BARTON.

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
April 24, 1967.

Hon. DAN K. MOORE,
Governor, State of North Carolina,
Raleigh, N.C.

DEAR GOVERNOR: I appreciated your giving me the views of North Carolina on H.R. 25, to authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accesible estuarine areas of the Nation, etc.

The similar measure in the Senate, S. 695, was introduced by Senators Kennedy (Mass.) and Magnuson, but no action has been taken on it in the Committee on Commerce where it is pending. As you know the House subcommittee of the Committee on Merchant Marine and Fisheries has completed its hearings but has scheduled nothing further on it.

I will talk with members of the Commerce Committee and do all I can to help defeat or amend the bill in the light of the information you gave me.

With all best regards,

Sincerely,

B. EVERETT JORDAN.

STATE OF NORTH CAROLINA,
GOVERNOR'S OFFICE,
Raleigh, April 13, 1967.

Hon. B. EVERETT JORDAN,
New Senate Office Building,
Washington, D.C.

DEAR EVERETT: The attached correspondence to Congressman John D. Dingell is a further development following my March 8, 1967, memorandum to you concerning H.R. 25. We are deeply concerned about the potential effect of this bill, and hope that you will assist us in either opposing the bill or amending it as suggested.

Thank you for your interest in this matter.

Sincerely,

DAN MOORE.

Attachment.

STATE OF NORTH CAROLINA,
Raleigh, N.C., April 13, 1967.

Hon. JOHN D. DINGELL,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: On March 9, Dr. David A. Adams, Commissioner, North Carolina Division of Commercial and Sports Fisheries, represented North Carolina at a hearing on H.R. 25, a bill "To authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation . . ." At the close of this hearing, which was held before the House Subcommittee on Fisheries and Wildlife Conservation, you asked Dr. Adams to ". . . submit to the Committee language changes that you feel would be helpful . . ."

Attached is the material requested. I regret that we did not get it to you in time for insertion in the hearing record. On March 15, our Attorney General's office wrote to you requesting notice of the deadline for inclusion in the record. You replied to this letter on April 3, and by then the March 31 deadline had passed.

Although these language changes would improve H.R. 25 materially, North Carolina continues to feel that passage of this bill is undesirable at this present time and that the Congress has already laid the foundation and created precedent for an alternate and more logical program for management of the Nation's estuaries.

Section 5(g) of the Federal Water Pollution Control Act, as amended, directs the Secretary of the Interior, in cooperation with the States and other entities, to conduct a comprehensive study of the Nation's estuaries, including such aspects as pollution, demographic trends, land and industrial development, navigation, and flood and erosion control. The report of this study is to be submitted to the Congress not later than November, 1969, and is to include "recommendations for a comprehensive national program for the preservation, study, use, and development of estuaries of the Nation, and the respective responsibilities which should be assumed by Federal, State, and local governments and by local and private interests."

The above recommendations, developed in consultation with the States, will form the foundation of an estuarine program similar to that authorized by H.R. 25, but based on more thorough field study and incorporating more contributions from non-federal sources. This, we feel, is the logical approach to protection of the Nation's estuaries; passage of H.R. 25 prior to receipt of the Federal Water Pollution Control Administration's study and without consultation with the many non-federal agencies concerned would nullify this important program already authorized by the Congress and would not be in the Nation's best interests.

Sincerely,

DAN MOORE.

Proposed Changes to H.R. 25

(To authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty, and for other purposes)

By rewriting certain sections as follows:

Sec. 2(c) Each study shall give particular attention to whether an area should be acquired and administered by the Secretary or acquired and jointly administered by the Secretary and State or subdivision or agency thereof, or acquired and solely administered by a State or local subdivision or agency thereof, or whether the area may be protected adequately through State or local zoning laws or other methods without Federal or state acquisition or Federal administration.

Sec. 3(a) The Secretary may acquire lands and waters or interests therein within any national estuarine area by purchase with appropriated or donated funds, donation, or exchange, except that he shall not acquire any lands or waters or interests therein owned by a State or by any political subdivision thereof, without the consent of the state or political subdivision owning same. In the exercise of his exchange authority, the Secretary may accept title to any non-Federal property and in exchange therefor the Secretary may convey to the grantor of such property and federally owned property under his jurisdiction which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

Sec. 4(a) The Secretary may enter into an agreement, containing such terms and conditions as he deems desirable, with any State or political subdivision or agency thereof for the permanent management, development, and administration for the purposes of this Act of any lands and waters or interests therein which are located within an estuarine area of national significance and which are owned or thereafter acquired by the State or by any political subdivision thereof and such area shall be designated by the Secretary as a national estuarine area. The State or a political subdivision or agency thereof and the Secretary shall share equally in the cost of developing the lands, water, or interests therein covered by the agreement that are to be developed primarily for outdoor recreational uses other than fishing and hunting.

Sec. 4(b) In connection with the administration, development, and protection of any area covered by an agreement entered into pursuant to this section, the Secretary may acquire in accordance with the provisions of this Act not to exceed 1,000 acres of land, waters, or interests therein within or adjacent to such area, subject to the provisions of 3(a).

Sec. 6(d) The Secretary shall not acquire any privately owned improved property or interests therein within such area without consent of the owner as long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted and valid zoning bylaw that meets the standards heretofore prescribed by the Secretary under Sec. 6(a).

Sec. 6(e) If any improved property is made the subject of a variance under, or becomes for any reason an exception to, such zoning ordinance, or is subject to any variance, exception, or use that fails to conform to any applicable standard contained in the regulations of the Secretary issued pursuant to this section and in effect at the time of passage of such ordinance, the Secretary shall have authority to acquire such improved property by condemnation.

Sec. 6(f) The Secretary shall furnish to any party in interest upon request a certificate indicating the property which meets the standards set forth in Sec. 6(d) and is therefore not subject to condemnation by the Secretary.

Sec. 6(g) The term "improved property" as used in this Act means (1) any single-family residence, the construction of which was initiated before an area is designated as a national estuarine area by the Secretary, and such amount of land, not in excess of three acres, on which the residence is situated as the Secretary considers reasonably necessary to the use of the residence and (2) any property that is owned and used chiefly for hunting before an area is designated as a national estuarine area and continues in such use. The Secretary may exclude from improved property any beach or waters, together with so much of the land adjoining such beach or waters for public access thereto, as he deems necessary to carry out the purposes of this Act.

Sec. 9. Subject to existing State laws, the Secretary is authorized to issue regulations governing the public use of estuarine areas administered solely by

him and is authorized, subject to the approval of the agency sharing in the administration of any estuarine area, to issue regulations governing the public use of estuarine areas jointly administered.

Sec. 10(a) The Secretary shall permit by regulation hunting and fishing on land and waters within any national estuarine area in accordance with the appropriate State laws, to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary under this section shall be effective only after consultation with the State agency responsible for hunting and fishing activities. Nothing in this Act shall limit or interfere with the authority of the States to manage and regulate the fish and wildlife resources in any waters within an estuarine area administered by the Secretary. Nothing in this Act shall affect the authority of the Secretary under other provisions of law to regulate migratory birds.

Sec. 12(f) For the purposes of this section, the term "person" means any individual, partnership, corporation, association, or municipality.

Sec. 12(g) Upon finding that a given State has in effect a permit system adequate to protect estuaries within its boundaries, the Secretary shall endorse such State permits in lieu of those issued by him, and said State permits shall have the same effect in law, including prosecution and penalties as authorized in Section 12(e) of this Act, as those issued by the Secretary.

Sec. 12(h) The provisions of this section shall be effective one hundred and eighty days after the date of enactment.

MOUNT VERNON, WASH., *April 4, 1967.*

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to urge your support of H.R. 25 introduced by the Honorable John D. Dingell of Michigan which would authorize the Secretary of the Interior in cooperation with the States to preserve and make accessible estuarine areas of the Nation. I do not know whether this bill has come up for passage in the House, but we are surely hoping that it will reach the Senate.

As you may remember from our long and frequent correspondence for a number of years, we are particularly interested in preserving Padilla Bay in Skagit County. You helped us several years ago in preventing a proposed fill for industry. We are well aware that H.R. 25 may be too late to save this particular bay, but we are still hoping since Padilla Bay is just about the last bay of its kind left on Puget Sound.

Yet even though the bill may be too late to help us, that is all the more reason for passing H.R. 25 before all of the estuarine areas are lost on the West Coast as well as on the East and South.

Yours respectfully,

EDNA BREAZEALE.

WHITE PLAINS, N.Y., *April 6, 1968.*

Senator ROBERT KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I understand that a house passed bill (HR–25) which is designed to protect America's wetlands, has recently come before the Sub-committee on Merchant Marine and Fisheries of the Senate Commerce Committee.

As a resident of Fire Island, New York, which is now a part of the National Seashore, and as a practicing physician concerned with conservation and life I would strongly urge your support for any bill serving to protect our wetlands. Dumping, filling and building will destroy the natural ecology required for the wetlands growth, the marine life peculiar to this kind of area and for the secondary bird life related to this. We have lots of land in various parts of the country on which to build. Our wetlands cannot be replaced and I would strongly urge that you support any protective measures.

I would appreciate hearing from you and would appreciate the opportunity of further discussion if this is needed and desired.

Sincerely yours,

LEO L. MORGENSTERN, M.B., B.S., F.A.C.P.

HARVARD UNIVERSITY,
THE BIOLOGICAL LABORATORIES,
Cambridge, Mass., March 25, 1968.

Hon. GEORGE A. SMATHERS,
U.S. Senate
Washington, D.C.

DEAR SENATOR SMATHERS: I am given to understand (by a mailing from the Sierra Club) that a bill designed to protect what remains of America's wetlands has been passed by the House (HR–25) and is currently in the hands of the Senate Commerce Committee. As a resident first of the Chicago area and later (and currently) of Florida, I have had many opportunities to witness the destruction of wetlands by pollution, drainage, filling, and overdevelopment. It has always seemed to me that this has almost invariably represented the sacrificing of the best long-term interests of the many to the short-term commercial interests of the few. The people lose as scenic values are destroyed, as fish and wildlife are destroyed, as the waters of our nation become progressively more and more polluted, as the environment becomes less and less varied, hence less and less interesting.

They also lose when the new uses to which the land is put are not really compatible with the true nature of the environment. We have certainly had dramatic examples of this in Florida, where the reflooding of former swamp land has led to extensive losses of property and even of lives. It is tragic that the reaction to this kind of situation has generally been to simply try even harder to beat the environment into submission rather than to try to learn to live in harmony with it. So in Florida we have more drainage projects, more canals, more dikes, and meanwhile the Everglades, which should be preserved for all time for all the people in their wild and beautiful state, slowly die. Here in Massachusetts (where I am presently a graduate student) we have within the last week had a similar example, in which heavy rains led to the reversion to "wetland" status of land which had been drained and subdivided. The real estate speculators don't lose when this happens, the developers don't lose if they've sold out in time; the *people* lose their homes just as they have already lost (whether they know it or not) when the world in which they must live was tampered with in such short-sighted, selfish ways.

I hope that you will look with favor on as strong a bill to protect our remaining wetlands as can possibly be passed. Thank you for considering my views.

Sincerely,

JOHN R. PRINGLE.

SANTA BARBARA, CALIF.,
April 2, 1968.

Senator W. G. MAGNUSON,
Chairman, Senate Commerce Committee,
Washington, D.C.

DEAR SENATOR: It is our intention to add our support to the passing of the Wetlands Bill HR–25. As a group concerned with the conservation of our dwindling natural environments, we feel that the remaining wetlands must be preserved.

It is our feeling that these lands are vital feeding and resting places for migratory birds and home to other varied and interesting resident forms of life. The passage of Bill HR–25 will protect the habitat and lives of these creatures.

MRS. BETTE ELIASON,
Chairman of Conservation,
Garden Study Club of Santa Barbara.

FEDERAL POWER COMMISSION,
Washington, D.C., January 5, 1968.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I should like to convey my personal views reflecting my experiences as a FPC Commissioner and as a private citizen, as to the status of the various estuarine bills presently before your Committee and before the Senate Interior and Insular Affairs Committee.

The Federal Power Commission has some interest in the outcome of the estuarine bills because of the steam and nuclear electric generating facilities which are currently being built and proposed to be built along the estuarine areas. The difficult problem facing the electric companies and many other industries is whether or not their plans are compatible with the safeguarding of our nation's estuaries.

The hearings on H.R. 25 and other bills dealing with estuaries highlighted the fact that a large part of our estuaries have already been lost and even more are threatened. The irreversible nature of these losses calls for short-run as well as long-run action. I fully support the legislation providing for estuarine study programs, but sincerely believe that this is not enough. Nothing short of empowering the Secretary of Interior or some other representative charged with protection of the estuaries with authority to invoke a moratorium where an estuary of national significance is being threatened will provide the holding action necessary to save the better part of our estuaries. If nothing else, the hearings revealed the speed with which parcels of valuable estuaries can be lost once there is a party with a vested interest. The memorandum of understanding between the Secretary of Interior and the Corps is promising, but really falls short of making preservation of the estuaries a prime national consideration. Moreover, I understand there is current litigation that questions the authority of the Corps of Engineers to take into account the estuarine wildlife and preservation aspects charged to Interior.

If the Secretary were to be given authorization to invoke a moratorium when he believes that a permit request would endanger national significance or when he otherwise becomes cognizant of a situation, on his own motion, there is no reason why such empowering legislation could not also contain provisions designed to minimize delays for compatible uses of the estuaries. For example, when an applicant files to do work in an estuarine area, the Secretary would be given a specified period of time, for example, six months, to state whether he intends to procure Congressional authorization to create a national estuary or whether he would approve the use applied for. If the latter course is followed, the applicant can begin his work. If not, the Secretary would have 2½ years to obtain Congressional authorization and failing that, the applicant would be entitled to an immediate hearing on its permit. Such a system would enable the Secretary to inform Congress more fully of the value of a particular estuary, yet would not preclude the applicant from proceeding with its project within a reasonable period of time if Congress does not act.

I realize that the use of a moratorium is not a wholly satisfactory solution, nor is a dual permit system as originally proposed by S. 695 a desideratum. However, the nation has lost over 7 percent of its total estuarine areas or about 570,000 acres important as fish and wildlife habitats and the price of waiting for a complete study is even more losses. Because I think this nation can afford to pause before dispensing forever with so important a natural resource as our estuaries, I wanted to express my strong hope that the Committee will include Section 12 or some form of it in its proposed legislation.

Sincerely,

CHARLES R. ROSS,
Commissioner.

THE NISQUALLY DELTA—PRESERVE OR PERISH!—FROM LLOYD T. BAIRD, OLYMPIA, WASH.

The Nisqually River heads on Mount Rainier. It flows for seventy-five miles through forest, farm, and treeless prairie to empty into the lower reaches of Puget Sound. At this point is a delta of nearly five thousand acres of diked farm lands, tide and salt marsh land dissected by innumerable sloughs and channels.

The Nisqually River is unusual for a river of its size in that it remains unpolluted. It offers an ideal home for salmon, steelhead, and resident fish species and is an age-old resting place for thousands of ducks, geese, and other migratory birds.

The delta of the Nisqually is unusual in that within the metropolitan complex surrounding Puget Sound it offers an open space of pastoral beauty uncluttered by smoke-belching factories or suburban sprawl.

The upland areas in the delta and the vegetated marshes afford at surprising variety of ecological habitats, each supporting and continuing its own infinite variety of interesting life forms.

The tide lands extending toward permanent water afford an equal diversity of life forms, many of which have been lost or may be found only in extremely reduced numbers in other areas.

These things are all the more unusual when one realizes that here, near the mouth of the Nisqually, were some of the earliest settlements in the State of Washington—old Fort Nisqually sat on the hill above the delta. Much of the upland area was claimed by the Northwest Agricultural Company prior to any treaty between the United States and Great Britain, establishing the territorial boundaries. But still, in view of its historical interest and long association with man, it remains the only major unspoiled river delta south of the City of Everett.

Some people think that the Nisqually delta should be acquired and its scenic historic and wildlife values forever preserved. Some people look at it as an ideal area for low-cost industrial development. They tend to believe that the saving of a few dollars in development of industrial sites will offset the loss of a home for thousand of migrant waterfowl and other life forms, as well as the loss of the other values inherent within this area.

We tend to agree with Chris Conte, age 14, son of Dr. and Mrs. William Conte of Olympia, Washington, who is in the ninth grade at the Charles Wright Academy in Tacoma. Chris wrote the following article for his school paper; it appeared October 18, 1965.

"The city of Tacoma has proposed a 'fill-in' of the Nisqually Flats so that ships could dock there. The Port Commission feels that such a move would attract business to the Olympia-Tacoma area. They are probably right. With their minds on business, these people have overlooked the possibility that such a move would ruin Puget Sound's nationwide reputation as one of the world's few remaining areas of natural beauty.

"Each summer, thousands of boaters have the privilege of seeing a land where the snow-peaked mountains, the thick forests, and the calm waters meet. It is a land where deer walk the shores, seals swim in the waters and the almost nonexistent bald eagle soars above. It is a land where the salmon offer an unparalleled invitation to fishermen. Truly it is a sanctuary for all animals.

"But there are other reasons for resisting this project. The Nisqually is one of the few unpolluted rivers in Washington. Up this river three species of salmon spawn. If the Nisqually were polluted, as it would be if the plan became a reality, the salmon industry would be seriously hurt.

"I've seen New York harbor. With a world that is getting more and more New York harbors, let us preserve Puget Sound as a last refuge of beauty and serenity."

What do you think?

THE MISSISSIPPI VALLEY ASSOCIATION,
New Orleans, La., February 13, 1968.

Hon. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR MR. MAGNUSON: In the First Session of the 90th Congress, H.R. 25, the National Estuarine Areas Bill, was introduced. Because of the controversial nature of the bill and the complete authority it would grant the Secretary of Interior in determining what could be done in estuarine areas, the Mississippi Valley Association opposed the legislation. The many modifications and amendments to the proposed legislation on the House side indicate that the bill was improperly drafted. I have just learned that the House by voice vote approved the legislation in question this past week.

A companion bill to the amended House version was introduced in the Senate on November 20, 1967, by Senator Metcalf. This bill was referred to the Interior and Insular Affairs Committee. Early in the First Session of this Congress, Senator Ribicoff introduced a similar bill, S. 2365, which bill was referred to the Committee on Commerce of the Senate.

The bill of Mr. Metcalf, S. 2677, is objected to by the Mississippi Valley Association for the simple reason that it is unnecessary notwithstanding the fact that the House of Representatives has passed the bill. An earlier River and Harbor Bill provides the proper machinery for the evaluation of public works projects including those projects in estuarine areas. It spells out the extent and degree of cooperation between federal agencies and the several states that must be followed prior to the authorization of public works projects.

S. 2677 as well as H.R. 25 would provide the Secretary of the Interior with complete jurisdiction over all activities within estuarine areas. The Secretary

would be allowed to conduct studies on a piecemeal or nationwide basis without regard to individual authorization by the Congress. We feel that the Congress itself should determine which estuarine areas should be studied and that separate authorizations therefore should be provided by the Congress as they are for other public works projects. Should the Secretary of Interior be granted the authority provided in S. 2677 and H.R. 25, development in our coastal areas, both public and private, would not only be inhibited but would be curtailed. It appears to us to be only a further effort on the part of the Executive Department to control the entire activities in the field of water resources development.

Accordingly, we ask your considerable support in the prevention of the enactment of S. 2677 or H.R. 25 or similar legislation.

Because of our position in regard to the legislation in question, it is respectfully requested that should hearings be called on the proposed legislation that we will be given an opportunity to present our views in person.

Thanking you for your attention to this request, I am,

Sincerely yours,

ROBERT L. SHORTLE,
Vice President.

At the 49th Annual Meeting of the Mississippi Valley Association completed on February 6, 1968, the delegates from 36 states approved without a dissenting vote the attached resolution.

ESTUARINE AREAS

The National Estuarine Areas Bill, H.R. 25, now pending in the Congress, is not only objectionable but unnecessary. The Bill would grant to the Secretary of the Interior complete jurisdiction over all estuarine areas of the country, without adequate safeguard to protect the interests and sovereignty of the several states that would be affected. It would inhibit if not eliminate future development either public or private in any estuarine area.

Furthermore, the Bill divests the Congress of its jurisdiction in reviewing, authorizing and funding projects for water resources development on the basis of merit and benefits to the greatest number. The existing requirement of cooperation within all agencies and levels of government renders the proposed legislation unnecessary. The Bill, if enacted, would prevent the accomplishment of authorized projects and would create delays in securing needed development.

THE MISSISSIPPI VALLEY ASSOCIATION,
New Orleans, La., June 7, 1968.

Hon. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: It is regretted that the writer was unable to appear to offer testimony in opposition to H.R. 25 at the hearing you conducted in Seattle, Washington, on June 3, 1968. Because of my inability to appear, I did write Mr. Harry Huse, a Staff Member of the Committee, requesting permission to submit a statement to you this week setting out the position of the Mississippi Valley Association in regard to H.R. 25.

Additionally, under date of February 13, I wrote you expressing our views on the legislation and the companion bill S. 2677 introduced by Senator Metcalf. It is respectfully requested that my letter of February 13, together with today's letter be made a part of the hearing record of your Committee on H.R. 25.

As mentioned in my earlier letter, we are opposed to the legislation for the principal reason that it is not needed, and I will endeavor to enlarge on my February 13, letter following.

All states have been, are now, and will no doubt, continue on an accelerated basis comprehensive planning. They must if they are to stay abreast of, and hopefully in advance of, their respective population demands and economic well-being and advancement. The enactment of H.R. 25 would derogate this state planning activity for states with estuarine areas by removing it to the Secretary of Interior.

The southern tier of states bordering the Gulf of Mexico all have active and capable planning agencies as well as highly capable conservation agencies, all of whom are genuinely sincere in their coordinated efforts to provide the greatest degree of welfare for their people. They have provided a happy and successful

blending of uses of their estuarine areas consisting of commercial, industrial, recreational, and even direct residential developments.

The Secretary of Interior in Washington, D.C., albeit with field representatives in the several states, is not necessarily better qualified to determine the use or management of estuarine areas than are the combined planning and conservation agencies of the states.

States as well as coastal cities are today seeking every avenue of income to accommodate accelerating demands. The commercial, industrial and other economic developments within estuarine areas are sources of such revenue to the states and communities that they could ill afford to lose them by virtue of decisions by the Secretary of Interior that would eliminate any part of this revenue.

An additional reason that obviates the need for the legislation is the fact that the purported intent of H.R. 25 is presently being accomplished under existing statutes. Presently, before Federal projects in the field of water resources development within or outside of estuarine areas can be authorized and funded they must have the review and recommendations of the several Federal agencies that could have an interest in them as well as those of the states involved. Other statutes that obviate the need for H.R. 25 are: the Federal Water Pollution Control Act; the Federal Aid in Wildlife Restoration Act; the Federal Aid in Fish Restoration Act; the Land and Water Conservation Fund Act; the Commercial Fisheries Research and Development Act and the Anadromous and Great Lakes Fisheries Conservation Act. These mentioned statutes are now being administered within the Department of Interior. Hence, any proposed development dealing with water resources by any Federal agency is required to be extensively reviewed by and coordinated with the Department of Interior and the States.

In testimony before the Committee on Merchant Marine and Fisheries of the House of Representatives the Department of Interior submitted a table showing a "National Summary—Loss of Important Fish and Wildlife Estuarine Habitat" (page 8, House Report No. 989, November 28, 1967). This table indicates clearly that the Naitonal program envisaged by H.R. 25 is not truly a national problem in scope. Rather, only the State of California with an indicated habitat-loss of 67 per cent appears to require immediate attention and effort. It would appear logical therefore, that the Congress, through the proper committee or committees, could, by resolution, direct the proper Federal agency to study specific areas rather than provide one agency, as H.R. 25 would do, with blanket authority to impose itself where it is not needed nor desired. Direction by Committee of Congress resolution to a Federal agency for specific work of this nature is the accepted practice today and maintains the authority and responsibility of the Congress as it should be maintained. We sincerely recommend that this authority and responsibility of the Congress be retained in the Congress.

If, for example, much of the basic fish and wildlife habitat area of a state is in danger of being lost (such as is indicated in California), the Congress in concert with or at the request of the state should direct a study to be made there with the analysis and report to be made to Congress for whatever action it deems proper.

With further reference to the above mentioned table, the writer is intimately acquainted with the dredging works that have been and are now being performed in the estuarine areas of Louisiana. Personal experience has proved that these works have improved and enhanced the catches of sport fishermen. The same may be said for the work performed by the private sector of the economy.

Because of the impingement on the rights of the several states that would be authorized by the enactment of H.R. 25 and because the machinery presently exists and is effectively used in the evaluation and coordination of public works projects and works proposed in the private commercial sector and, because these works would be inhibited and, because this legislation is only another effort to enlarge the burgeoning centralization of power within the Federal Washington complex, the Mississippi Valley Association earnestly requests that H.R. 25 or any companion legislation to that measure be not, repeat not, approved by the Committee on Commerce of the United States Senate.

Thanking you for your consideration of our position, I remain,

Sincerely yours,

ROBERT L. SHORTLE,
Vice President.

THE COMBO LINE MARINE FURNITURE,
Seattle, Wash., June 13, 1968.

Reference: House Resolution 25.

Senator WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I'm writing to express my support of House Resolution 25. I must confess that I've only read newspaper accounts of it's contents. If convenient, please send me a copy.

Although I'm seriously involved in the maritime industry, this bill seems to be a realistic approach to a many faceted problem.

While not germane to this matter, I would like to applaud your stand regarding the Administration's proposed Maritime Program. I would appreciate any information you might make available as this matter progresses. Rest assured that Seattle's maritime industry is following your efforts with interest and strong support.

Very truly yours,

W. L. RICE.

MENLO PARK, CALIF., *June 13, 1968.*

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to express my support of a strong estuaries bill such as H.R. 25 which your committee is now reviewing. The future of San Francisco Bay is at present very uncertain, despite any assurances you may have received which indicate otherwise. The Bay Conservation and Development Commission (BCDC) established by the State of California *is not* a permanent body, but is nothing more than a study and planning organization. The BCDC has done a remarkable job in obtaining expert testimony dealing with most all facets of the bay and its relation to the population explosion on the one hand, and our responsibility as trustees for a remarkable natural resource on the other. There is no assurance that the findings of the BCDC will be accepted by the State Legislature; nor is there assurance that a permanent Bay Commission will be established. The ability of bay-fill private interests to dominate all levels of government in the bay area is unquestioned. I am therefore appealing to the Committee on Commerce to assist the people of the Bay Area by formulating a strong estuaries bill that will insure protection for us.

I would be pleased to receive copies of H.R. 25 as it was passed by Congress, and printed testimony that has been given at hearings by your committee. Please also keep me advised of changes in the bill that your committee recommends.

Sincerely,

KENT G. DEDRICK.

RENO, NEV., *June 13, 1968.*

Senator WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I commend you and your committee for holding hearings on the estuary bill. The estuary would authorize a study of the methods of preserving the Nation's estuaries. Since the memorandum of understanding between the Interior Department and the Army Engineers failed to be effective in a Florida court case, the Secretary of the Interior should be given the power to deny any permit for estuary dredging.

I urge you to hold hearings on the endangered wildlife bill (S. 2984). This bill would save the alligator from extinction by stopping the interstate traffic in alligator hides. It would also outlaw the importation of endangered species of wildlife into the United States. This provision would help preserve the leopard, cheetah, polar bear, chimpanzee, and other animals.

Sincerely yours,

REED SECORD.

THE RESOURCES AGENCY OF CALIFORNIA,
Sacramento, Calif., May 29, 1968.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: The Resources Agency of the State of California has reviewed H.R. 25, dated February 14, 1968, as read and referred to the Senate Committee on Commerce.

We believe this legislation is appropriate and timely, and are pleased that the tremendous natural values of our Nation's estuaries and other coastal areas are receiving the attention they deserve.

California has recognized the extreme importance of maintaining the natural values of her splendid coastline including estuaries, bays, beaches and coastal frontage generally. To this end, a great deal of effort is being devoted to the maintenance and enhancement of our coastal resources, including control of pollution and full consideration of ecological, recreational and esthetic values when evaluating coastal modifications proposed for economic developments.

We feel that this legislation establishes an appropriate policy for Congress "to recognize, preserve and protect the responsibilities of the States in protecting, conserving and restoring the estuaries in the United States", and this language appears to clearly recognize the right of each State to carry out its own responsibilities in conserving and managing coastal areas.

The requirement that all Federal agencies also give consideration to estuaries and their natural resources, as well as their importance for commercial and industrial developments, will go a long way we believe in maintaining the quality of our coastline.

We look forward to consulting and cooperating with the Secretary of Interior as the proposed studies and inventory are implemented, and feel that the purpose of this Act is generally compatible with the approach California is taking to conserve all coastal resources.

We wish to thank you for the opportunity to express our views on this important legislation, and we will be pleased to supply further comments as this matter is considered further by the Senate.

Sincerely yours,

NORMAN B. LIVERMORE, Jr.,
Administrator.

SKAGIT COUNTY PARK AND RECREATION BOARD,
Mount Vernon, Wash., May 31, 1968.

Re hearing on H.R. 25.

SENATE COMMITTEE ON COMMERCE,
U.S. Federal Courthouse,
Seattle, Wash.

The Skagit County Park Commissioners wish to go on record as supporting HR 25.

Skagit County has many estuarine areas now being threatened by developers. Padilla Bay—the "Entrance to the San Juans" is one example.

Padilla Bay is a natural feeding and resting grounds for water fowl particularly Black Brant, who feed on the eel grass which abounds here. Crab, oysters, and clams find much food in the area. It is also a fish passage from river to ocean. Already developers have gained control of 6,000 of the approximate 15,000 acres of the Bay and are planning a dredge and fill operation for housing. Any dredging or filling on the 6,000 acres will, because of silt and sand drift, ruin the rest of the area for fish or water fowl.

Also the islands within our county are being threatened by the influx of people. It is almost impossible to find a spot not posted "keep out private property" where you may run your boat onto the beach and enjoy a picnic lunch.

Deception Pass area, world renowned for its beauty, has been saved for posterity by creating a state park, but many other estuarine areas are slowly but surely being destroyed either by industry, which has little regard for natural preservation, or by individuals with selfish motives.

A study of these areas and laws to protect them should be made and *NOW* since once man has upset the "natural area" it can never be restored. Washington

State is in a position to plan before destruction. Skagit County is attempting to do this. A national study will be most helpful but the study must be made and acted upon quickly or it will have no value.

Respectfully submitted,

ANN H. WOLFORD,
Chairman, Skagit County Park and Recreation Board.

WASHINGTON STATE ASSOCIATION,
COUNTY PARK/RECREATION BOARDS & DEPARTMENTS,
May 31, 1968.

SENATE COMMITTEE ON COMMERCE,
U.S. Federal Courthouse,
Seattle, Wash.

Be it understood that the Executive Board of the Washington State Association of County Park Boards and Departments supports H.R. 25.

Industry and developers have a place in our ever expanding world but so does recreation. Man must be allowed time to recreate and "natural areas" to recreate in. This should never be overlooked nor relegated to a subordinate position in our thinking. Washington State derives much value both economically and esthetically from its many estuarial areas. Crabs, clams and fish are a large source of revenue and the beauty of our coastal estuarine areas is known and enjoyed by people from all over the world. The enjoyment of "natural areas" has as yet not been adequately measured, but we do know that once a "natural area" has been tampered with it can never be returned to its original state. Dredging of a small area in a bay will affect the entire area and disturb the ecology of that area. Drifting of sand and silt from the dredged area will smother any shell fish in the surrounding area and cover feeding grounds of shell fish and water fowl.

Already developers are biting into our Pacific Coast and Puget Sound areas with little thought of what is being destroyed. At present, we have no adequate laws to deter them. A study of the values of estuarine areas would greatly benefit the State of Washington.

Through this study, we would hope that effective measures might be enacted to protect and preserve Washington State's "natural areas" for commercial, recreational and esthetic use of future generations.

ANN H. WOLFORD,
President.

WEST COVINA, CALIF., *May 30, 1968.*

Hon. WARREN MAGNUSON,
Federal Courthouse,
Seattle, Wash.

DEAR SIR: I am enclosing ten (10) copies of my statement in support of the intent of H.R. 25.

Though great misfortune has befallen much of our estuarine treasure, much remains worth a great effort to retain.

The values relate to our commercial fisheries as well as to the urgent mission of preserving our wildlife legacy.

I sincerely hope that soon this bill will be law.

Very truly yours,

LYLE A. TAYLOR.

I am Lyle A. Taylor, of 1434 E. Rio Verde Drive, West Covina, California. I am interested in our land of the future and submit my comments in regard to H.R. 25 with the hope that by so doing our heirs will inherit a better world.

California has squandered much of its natural coastal beauty in providing a pleasant ocean bordering highway system and extensive recreational and residential facilities. However with all of our recklessness in the past it is still possible by timely action to protect some of our fine estuarine areas. In other instances we can restore areas.

Southern California had some 28 significant estuarine areas at the turn of the century. Three (3) are gone, ten (10) have been grossly modified, and the largest that remains has an area of only two (2) square miles.

Man lives in close association with water and perhaps this has contributed much to the impact on the natural quality of our estuarine areas. In Southern California the threat of real estate development hovers over some of the few natural areas remaining and developments of the times including thermonuclear power plants and desalination plants threaten still other areas. There is a basis for stating that only by expansion of public ownership of estuarine areas and regulation of the activity of surrounding areas can we save the remaining sites of high natural value from ruin due to pollution, dredging, and channelization.

A great amount of our national coast and offshore area is occupied with boating and other water based activity. There are other values of coastal and estuarine areas including the accommodation of birds, nurturing crustacea and vertebrates, and providing the nursery environment for other marine life.

Study of the remaining estuarine areas of our nation to permit a realistic assessment of the values existing as a basis for establishing the required actions for protection, conservation, and restoration for scientific, recreational, esthetic, and commercial betterment of our nation is an urgent requirement.

I am pleased to endorse H.R. 25 and recommend early action to establish the provisions of this bill as law.

SEATTLE AREA INDUSTRIAL COUNCIL,
Seattle, Wash., May 31, 1968.

Senator WARREN G. MAGNUSON,
Room 900, U.S. Courthouse,
Seattle, Wash.

DEAR SENATOR MAGNUSON: The Seattle Area Industrial Council is aware of House Resolution 25 and wishes to present this brief statement at the hearing to be held by the United States Senate Committee on Commerce on Monday, June 3, 1968.

The Seattle Area Industrial Council is opposed to the increasing creation of new programs and agencies which tend to overlap already existing programs and agencies which become, then, a further drain on the increasing cost of government.

H.R. 25, as presently constituted, would overlap several existing programs and is therefore an unnecessary expenditure of federal monies. At the present time there is going on in the Puget Sound Area a comprehensive study known as the Puget Sound and Adjacent Water Study. This exhaustive inventory and plan for the future is a cooperative effort by the several state and federal agencies and will do the very same thing proposed in H.R. 25.

Additionally, there is presently under way a "Joint Venture" in Resource Planning under the guidance of the Pacific Northwest River Basins Commission which was established in 1967 and which has as its stated long-range objective to ". . . stimulate, coordinate and review plans which seek the optimum benefits from the conservation, development and utilization of the water and related land resources of this region."

We in the Puget Sound Area are particularly concerned with the growing shortage of deep water industrial sites, and we have joined with other Puget Sound areas to push for the development of deep water industrial sites as a needed part of our growing and expanding economy.

The Industrial Council has also, however, publicly recognized the need for increased recreational areas, but balanced planning in the concept of multiple use is essential for our future and expanding economy, and these are the considerations of the studies now under way.

There is no need, then, for an overlap of these programs, and on that basis H.R. 25 is not essential.

Sincerely yours,

DENNEY GIVENS, *Managing Director.*

U.S. SENATE COMMITTEE ON COMMERCE, WARREN G. MAGNUSON, CHAIRMAN

Re. H.R. 25.

It is with grave concern and "eternal hope" that we are writing to urge your most serious consideration of HR 25, A Bill to authorize the Secretary of the Interior in cooperation with the States to conduct an inventory and study of the Nation's estuaries and their natural resources and for other purposes.

Since the State of Washington has many estuarine areas and is constantly losing such areas to developments, both industrial and residential, we citizens are keenly aware of the need for legislation to prevent catastrophe descending upon the State.

It is especially desirable that the Secretary of the Interior work with the States or their agencies to preserve the estuarine areas since it is often difficult for the local officials to act objectively because of the tremendous pressures to make immediate profits and also to increase the tax base. The cooperation of the Secretary of the Interior should help them to withstand those pressures.

We are not prairie residents writing from a superficial knowledge, but are dwellers on the shores of Padilla Bay, an arm of Puget Sound. We know the need for Federal help in preserving estuarine areas, for we have been forced for years to keep constantly alert and battling to prevent the destruction of Padilla Bay. Our particular situation may serve to emphasize the need for legislation and the urgency of that need.

Padilla Bay, lying between Fidalgo Island and the mainland (U.S.C. & G.S. Chart No. 6300) contains more than ten thousand acres of tidal plain. It is bounded by islands on the North and West; diked lands of the rich agricultural Skagit Valley and Bay Ridge on the East and South. This beautiful area is a lure to developers. At present a portion of the Southwest section of the bay is being considered for development.

Once these estuarine values are destroyed, they can never be regained. Legislation is needed to prevent such losses. The study provided by HR 25 would show estuarine areas that must be saved. The cooperation of the Secretary of Interior and the States could prevent catastrophe.

We would hope that the passage of HR 25 would save Padilla Bay, but even though it may be too late to help us, our loss may serve to accentuate the immediacy of the problem. The developers will not wait; legislation is needed now.

Yours respectfully,

EDNA BREAZEALE,
The Bay View-Padilla Civic Association, Mount Vernon, Wash.

UNIVERSITY OF WASHINGTON,
Seattle, Wash., June 5, 1968.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: I attended your Hearing on H.R. 25 held in Seattle, Washington, on June 3, 1968. I would appreciate inclusion of the following personal statement in the record of the Hearing.

I am a marine ecologist and a member of the Faculty of the Department of Oceanography, University of Washington. I am in favor of early passage of a senate bill similar to H.R. 25 for the principle of promoting a balanced plan for the use of our estuaries. I am indeed pleased that there is now legislation before the U.S. Congress to take positive action with respect to this important resource.

The losses have been great already. As a former resident of the Long Island Sound region and of the Southern California coast, I have witnessed massive alteration of the shapes and shores of many estuarine bodies—the filling of marshlands, the dredging of lagoons for marinas, and other similar developments. These areas all formerly had values in wildlife and recreation which yielded in the name of Progress without proper hearings. Certainly the burden of proof should be on those who would change rather than preserve these environments.

In Puget Sound and its arms we still have the possibility of considering the balance of values. H.R. 25 is a step toward setting up the machinery to hear and to properly weigh those values.

The problems of pollution are already considered in the Federal Water Pollution Control Act, so the main thrust of H.R. 25 must be with respect to the structural alteration of estuaries. The bulldozer and the dredge can erase in an instant the marshlands, lagoons, and beaches which took thousands of years of geological processes to be produced. By this legislation, therefore, the Secretary of Interior must be given a strong role in controlling where dredging and filling will be permitted. H.R. 25, in its present form, would seem to leave this control mostly in the hands of the U.S. Army Corps of Engineers, which has only limited ability or interest in considering values other than navigation. I hope that in this respect the Senate will be able to produce a strengthened version of H.R. 25.

I would also point out that there exists an Intercampus Educational and Scientific Preserves Committee composed of representatives from the universities and colleges of the State of Washington. Its purpose is to inventory and to recommend measures to secure natural sites for use by *all* educational institutions of this state. Among the inventory are listed a number of specific estuarine sites, in Puget Sound and among the San Juan Islands. Accordingly, I recommend that the educational uses of estuaries be recognized as one of the important values to be considered in a comprehensive plan.

Puget Sound and particularly the waters around the San Juan Islands provide excellent sites for SCUBA diving, both for recreation and for educational and scientific purposes. This is a rapidly growing activity here and nationally, and I strongly urge that the comprehensive study also consider sites for underwater parks or preserves. The parks would be areas of exceptional underwater scenery where underwater touring and photography are encouraged, but spearfishing and collecting of marine life are prohibited. There is precedence for such areas in underwater parks in the Bahama Islands and at La Jolla, California. Underwater preserves should also be set aside for scientific and educational uses.

I am grateful to you and the other members of the Committee on Commerce to be able to present my views on this legislation.

Sincerely yours,

PETER B. TAYLOR.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., May 20, 1968.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: The National Wildlife Federation appreciates your invitation to comment on H.R. 25, relating to estuarine areas.

Our organization believes this proposal is of major importance and will support it. Preferably, however, we should like to comment when hearings are held in Washington, D.C., not at Seattle on June 3. Meanwhile, we already have notified our affiliate in your fine State, the Washington State Sportsmen's Council, of the hearing.

Thanks again for your consideration.

Sincerely,

THOMAS L. KIMBALL, *Executive Director.*

GOLDEN GATE AUDUBON SOCIETY, INC.,
Oakland, Calif., May 29, 1968.

Senator WARREN G. MAGNUSON,
Estuarine Areas Hearings Committee,
Federal Courthouse,
Seattle, Wash.

DEAR SENATOR MAGNUSON: The Board of Directors of the Golden Gate Audubon Society, which numbers some 1300 members living on both sides of San Francisco Bay, has requested me to make a brief statement for your current hearings on the Estuarine Areas bills.

Our Society, a chapter of National Audubon, strongly urges your Committee and members of Congress to adopt the most comprehensive and effective legisla-

tion possible to preserve the waters, fish and wildlife, and recreational values of our estuarine and related tidal areas. We understand that the bills under study would also provide for studies of these areas, which we would approve providing that some immediate measures of protection could be included.

Citizens of the San Francisco Bay Area are becoming increasingly concerned and involved with the various agencies and interests who are currently planning—or carrying out—projects which affect natural conditions, natural life and recreational use of such areas. May we respectfully suggest that your Committee consider scheduling similar hearings as soon as possible in this Bay Area?

Respectfully yours,

PAUL F. COVEL,
Conservation Chairman.

WASHINGTON STATE SPORTSMEN'S COUNCIL, INC.,
Vancouver, Wash., May 28, 1968.

U.S. Senator WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
U.S. Federal Courthouse,
Seattle, Wash.

DEAR SENATOR MAGNUSON: The Washington State Sportsmen's Council, has by resolution, approved the intent of H.R. 25.

Please make this statement a part of the record.

Sincerely,

ADAH WERKEMA,
National Affairs Committee Member.

NATIONAL AUDUBON SOCIETY,
New York, N.Y., May 23, 1968.

Mr. HARRY HUSE,
Senate Committee on Commerce,
New Senate Office Building,
Washington, D.C.

DEAR MR. HUSE: I wrote the committee a few days ago under the mistaken impression that the June 3 hearing on H.R. 25 was to be in Washington, D.C., and asked to be heard. Please remove my name; I will not be able to attend in Seattle.

The National Audubon Society would still like to testify in favor of this bill, and would appreciate your letting us know if a hearing is scheduled at the Capitol.

Yours truly,

ROBERT C. BOARDMAN,
Director, Public Information.

DESOMONT CLUB,
Los Angeles, Calif., June 1, 1968.

SENATE COMMITTEE ON COMMERCE,
New Senate Office Building,
Washington, D.C.

SENATORS ON THE COMMITTEE: Desomount Club welcomes the opportunity to register its support of H.R. 25 and requests that this testimony be entered in the record.

Belatedly we are recognizing the values of our estuaries. Many have been lost. It is important that we protect what we have left by enactment of H.R. 25 *Now.*

The estuarine values of San Francisco Bay within the last 100 years have been diminished through garbage fills and other fills for development until the Bay is now less than two thirds its original size. One half the present Bay is claimed by private owners and numerous cities and counties who look forward to developing their portion.

In 400 miles of Southern California coast the last of six sizable, natural, undeveloped marine estuaries (Upper Newport Bay) faces destruction through development. Further alteration of Morro Bay's natural state is sought; and, also, that of Tia Juana Slough south of San Diego.

The ecological disturbance through physical alteration and the pollution of wastes disposed of in these water ways is making of them a "biological desert".

Marine life, important economically as sources of food for human consumption is contaminated. Habitat of shore birds, and feeding and resting areas of migratory birds is destroyed. Oxygen shortage caused by pollution is inimical to breeding of small invertebrates and inland fish formerly enjoyed by fishermen and shore birds.

A diminished water surface absorbs less carbon monoxide from the air. Another consequence is fewer marine plants to oxygenate the air.

The scientific and educational importance of students of wildlife found along marine estuaries cannot be underestimated. They are vertible "living museums".

Recreational values (fishing, swimming, boating, walking along margins and bird watching) alone merit preservation of estaurine areas.

The aesthetics and beauty of open water must not be overlooked.

Desomount Club, in the belief that these values are common to all estaurine areas, supports their preservation throughout the United States by urging the enactment of a Senate Version of H.R. 25.

Respectfully yours,

EVELYN GAYMAN,
Conservation Chairman for Desomount Club.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT,
Olympia, Wash., June 3, 1968.

Hon. WARREN G. MAGNUSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: As a result of a preliminary review of HR 25, it is the opinion of this Department that the general purpose and intent of the legislation is in keeping with the maintenance of the health, welfare and economic development of the populace. There is an urgent need for such a comprehensive inventory of the present and future uses of estuaries and their natural resources. It is assumed that practical limits would be set on the size of the estuaries to be studied. The most important being taken care of first.

There is concern that an equitable balance will be lost if there is not objective and non-emotional evaluation of the present and potential uses of our many estuaries. It is urgent that comprehensive planning be done quickly and with such planning specific provisions made for the implementation of such comprehensive plants. It is known that land uses around water areas of our nation have, at times, caused environmental damage while on other estuaries there is not a single development on the drawing boards and in some cases no development is anticipated. Wherever and whenever possible, provisions should be made for all uses of each estuary to meet present and future needs of the people in the area.

This Department assumes that hearings would be held at which representation would include the general public and various levels of federal, state and local government. These discussions, hearings and consultations would be for the purpose of establishing potential future uses of the estuaries of the nation with the intent of recognizing and providing for all uses and demands.

If it is the intention of HR 25 to provide for compatible development of competing uses of the estuarine areas of this nation, this Department wishes to support this bill.

Sincerely yours,

DANIEL B. WARD, *Director.*

STATEMENT BY A. R. KRUCKEBERG, PROFESSOR OF BOTANY, UNIVERSITY OF WASHINGTON, SEATTLE

Senator Magnuson and Members of the Senate Committee on Commerce, it is with bitter irony that we find the word "effluent", rather than "affluent" to be more fitting in describing the quality of segments of our contemporary society. And perhaps no other land-and-water habitat in our country receives so great an input from our "effluent society" than does the estuary. Lying close to the great urban centers along our seaboards, these quiet bodies of water, where tide meets fresh water, are major recipients of human abuse. To the estuary gravitates the by-products and wastes from domestic and industrial sources.

Human influence on the estuary is not just the alteration of a body of water. It is a profound ecological disturbance of a complex natural habitat. The estuary is a place where shallow waters teem with a rich diversity of plant and animal life. Here, "where the land reaches into the sea and the sea into the land", is one of the most productive ecosystems known on our planet. Both commercial and recreational fisheries harvest impressive quantities of this productivity annually. The high dollar value of these shallow and fertile waters is thus unquestioned. Moreover we can no longer question the less tangible aesthetic value of the estuarine habitat to those who in increasing numbers seek unspoiled nature in places close to home. Lastly, for the biologist whose teaching and research concerns are in the areas of aquatic and marine ecology, the estuary is a prime object of study.

Yet without protection, the estuaries continue to be destroyed at an ever accelerating rate. Whether by filling, dredging or pollution these habitats are badly mistreated or irretrievably lost. The need to examine the traditional course of action by abuse is urgent. San Francisco Bay and Puget Sound are two samples of estuarine environments where current and impending abuses can be reversed with immediate and long-term benefits to estuarine life and to Man the observer of that life. The delta of the Nisqually River on Puget Sound is a particular case where the threat to destroy can clearly be reversed to save a nearly unblemished and outstanding estuarine site.

Therefore, as a professional biologist and as a citizen concerned over the quality of our environment, I respectfully submit the following:

1. H.R. 25, an act to authorize an inventory and study of the Nation's estuaries and their natural resources, is a commendable first step toward the ultimate protection needed for this natural resource.

2. H.R. 25 should be strengthened to require the U.S. Army Corps of Engineers to seek approval of the Secretary of the Interior before authorizing projects that would modify the nature of the estuaries and those bodies of water covered by the act.

3. H.R. 25 should be passed into law with the modification cited in No. 2 above.

I appreciate being given this opportunity to offer testimony at this hearing. I respectfully request that my testimony be made part of the written record of the hearing.

SANTA CLARA, CALIF., *May 21, 1968.*

SAN FRANCISCO BAY CONSERVATION & DEVELOPMENT COMMISSION,
San Francisco, Calif.

DEAR SIR: During the week of May 6th, the Conservation Forum of San Jose State College undertook a San Francisco Bay project. The purpose of the project was to inform as many people as possible about the problems of San Francisco Bay and to develop an interest in and a support for its preservation and rational development.

The reaction was even greater than we had dared to hope for. We circulated petitions, copies of which are enclosed, and were able to demonstrate the existence of substantial support at San Jose State for stricter regulations and for the development of the Bay for recreation. With less than a dozen people working on the project, in one week we were able to get about 3400 signatures; this was only about 50 less than the total ballots in the Student Body elections which were held the same week!

The contents of your reports leave no doubt that the problems of San Francisco Bay have been extensively studied, and that the solutions are known. What is needed is legislative and public support for implementing the solutions. This support exists at San Jose State.

Sincerely,

JERRY J. SMITH,
Vice-President, The Conservation Forum.

(This letter enclosed a petition containing 3,472 signatures under the following statement: "We of San Jose State College urge that you do all within your power to aid and encourage the preservation of San Francisco Bay. We urge that you seek stricter pollution controls, more rational zoning practices and that you work for the development of the Bay as a recreational resource.")

(The following letters, typical of a number that have been received in response to an article in Field and Stream magazine, are reproduced for your information.)

WARD 2–D, U.S.N.H.,
Philadelphia, Pa., February 27, 1968.

DEAR SIRS: Having just read the article, "The Great Bay Debate", by A. A. Scannell in the March issue of Field and Stream, I could not delay the writing of this letter to you to tell you of my concern over this most vital issue.

Although not a resident of California at this time, I was born in Oakland and lived for two years in the L.A. area before joining the Marine Corps in August, 1966. While in Vietnam I suffered the loss of my right leg and severe damage to the left one.

I am a member of the North American Conservation Association through which I am taking their Master Course in Conservation by correspondence, while I am recovering from my wounds and learning to walk again. I am also in the process of becoming a member of the American Forestry Association. Next fall I am beginning my college education toward a degree in wildlife management and forestry at Iowa State University.

The purpose of this letter is to vigorously protest any plan for filling in the San Francisco Bay or any of the surrounding area any more than they already have been. Once these plans have taken physical form and are completed, the fish, waterfowl and bird populations, and the other bay wildlife that depend upon the Bay to not only remain unfilled but to be cleaned up in regard to sewage disposal, pollution, etc. by industry, and deoxygenation, will cease to exist, FOREVER! Countless times man has needlessly squandered his and our natural gifts from God, "the endless forests;" the millions of buffalo on our vast stretching prairies; the never-ending flocks of passenger pigeons that darkened the skies from horizon to horizon; the species of elk that was so ruthlessly wiped out along with the grizzly bear in the old Southwest; the wolf, grizzly, and mountain lion that are now headed down the nonreturning road to extinction unless they become more protected than they are at this time. It brings me to shame to see men who have seen this come to pass sit around and do nothing to bring it to an end. The men who early in our history exterminated these animals thought that they were endless, so maybe they should be forgiven, but you and I know the road where the remaining wildlife, fish, and waterfowl are headed down leads. If they follow the others to extinction or even to the place where they are so few that they will be unable to bring the millions of hunters, fishermen, nature lovers, and campers the enjoyment and thrill that they can, well then the blame rest directly on the shoulders or consciences of you and I. I am and will continue to do my utmost to see that they remain, so if they disappear the blame will rest squarely on the minds of you and the people like you who have the power, influence, and knowhow to prevent this most unfortunate disaster from taking place. I hope and pray that you feel as I do. That the time when the greedy and inconsiderate people of this country recklessly and permanently expend and down right waste natural resources is coming to an abrupt end. These people seem not to care about the millions and millions of people who enjoy and revive to a new awareness of life with the use and thrill that comes from being among these marvelous assets of ours. Much less do they seem to care about their and our children and grandchildren who will never get to use the irreplaceable wonders of ours. Stop and think for a minute how you would like to have grown up and never known the terribly wonderful feeling of buck fever as you stood on your deer stand with your father and watched that big beautiful buck slowly and majestically walk out of the forest. Remember back through the years to the feeling that surged through your body and mind as that magnificent animal crashed to the ground as you dropped him with one heart shot. When you have passed through the prime of your life and are sitting around the fireplace in your beach cottage with some of your older friends and are telling about the time that you, an expert striped bass fisherman in the Bay Area, got a strike that was so awesome that you became all thumbs and lost him. What are you going to say to the grandchildren of yours who are sitting in your lap and surrounding your chair when they look up with adoring eyes and ask, "Gramps, what's a striped bass?", or "You're fooling us Grandpa, the Bay out there isn't big enough to catch a minnow out of!" I hope you have a good answer for them. Does it make you feel good to know that they may never get to stand in a chilly duck blind with their retreiver beside them, watching the thousands of ducks and geese soaring over the water toward their decoys. They'll feel the same sense of loss that I have

known when I think about the vast prairies filled with buffalo, and the breath-taking sight of hundreds of millions of pigeons that I will never be able to behold.

If you have not read this issue of Field and Stream (March 68), I beg you to read the article on page 12 entitled "Apology To An Angry Heir", by Richard Starnes.

I would do anything to be able to possess the power and influence to help preserve these wonderful resources of ours from extinction, but I am only a young man who can do nothing except give his life to conservation and do my small part to try to repay my country for being born an American and having used and loved the wilderness and resources while they are still with us! I beg you, Gentlemen, as a U. S. Marine who helped to protect his country's freedom, to protect our country's gifts with the same devotion, duty, and willingness to sacrifice everything that I did. I can do but little; but, Gentlemen, you can do much. To you has been entrusted the power and influence to save the Bay and all of its fish, waterfowl, birds, and wildlife for all future generations, including my own. Please, Gentlemen, do not fail us!

Sincerely yours,

L/Cpl. JACK R. FINDLEY, Jr.

FAIRPORT, N.Y., *February 26, 1968.*

GENTLEMEN: Although I'm only 26 years, I doubt I'll ever have the opportunity to sample any hunting or fishing on or near the San Francisco Bay Area. However, I would be disheartened if this great fish and game area were allowed to be land-filled and polluted for park and industrial development.

Being an avid sportsman and conservationist, I strongly urge you people to persevere in your program to prevent the decay of the Bay.

As a lifetime resident of New York State, I've seen what pollution (water and air) and land speculation has done to some of our most beautiful countryside. Perhaps much of it could have been prevented if programs like yours had been initiated some years ago.

Governor Ronald Reagan should be made well aware of the detrimental effect and devastating waste to the natural resources that would result in acceptance of such a planned project as the current "City-in-the Bay" and others.

In this letter I know I am speaking the thoughts of thousands of my fellow sportsmen throughout the nation. We are all most concerned. You have my spiritual support. I wish I were able to offer more.

Very truly yours,

CHARLES B. CLEVELAND, Jr.

BELLINGHAM, WASH., *June 3, 1968.*

Hon. WARREN G. MAGNUSON,
Senate Commerce Committee,
U.S. Courthouse,
Seattle, Wash.

DEAR SENATOR: Our Washington Reef Net Owners Association wishes to record support for H.R. 25. Such legislation is long overdue and needs immediate passage and implementation. We feel that abuse and misuse of our Nation's estuaries will be observed in the process of inventory. Determination to correct abuse and misuse of these valuable estuaries should be the result of such observation and inventory.

JOHN R. BROWN,
Executive Secretary, Washington Reef Net Owners Association.

JUNEAU, ALASKA, *June 5, 1968.*

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
U.S. Federal Courthouse,
Seattle, Wash.:

The State of Alaska is pleased at having the opportunity of expressing our views on the effects of proposed legislation to the management and youth of Alaska estuarian environment. However, we do regret that time would not permit a more than cursory review and treatment of the subject nor personal representation at this hearing. Our regret is all the more real considering the importance of our estuarian to the socio-economic development of Alaska.

Alaska along with other States vigorously objected to the original wording of the legislation. For the most part our objections were predicated upon curtailment if not alienation of the State rights in the field of estuarian management and increased Federal involvement in the States estuarian and tide and submerged lands. At the same time we are mindful of the national importance of estuarian management and the need of adequate controls to combat the degradation of this environment. Since stating our objections to the original proposed legislation we have become aware of an amendment to H.R. 25.

In the form of report number 989 dated November 28, 1967, this report presumably removed many of our objections by returning in large part the State's authority for land resources. And for wildlife management we would like to point out that Alaska's situation with regard to estuarian use is different and in many cases unique from that within the conterminous United States.

A recent Federal report indicates that Alaska has some forty per cent of the total estuarian area in the United States. This is compared to approximately 0.2 per cent of the total population for the coastal and Great Lake States. In addition the report sets the per cent loss of estuarian habitat in Alaska at 0.2 per cent. Interestingly enough it appears that the majority of this loss transpired prior to the time Alaska became a State and was thereby able to take an effective hand in management.

In another manner Alaska differs substantially from the conterminous United States due to its climatic and geographical location. Effective development of Alaska's estuarian areas is often limited to three or four months due to harsh climatic conditions. This situation demands that administrative procedures allowing or disallowing development proceed without the unnecessary delay resulting from Federal involvement.

With regard to wildlife management areas through cooperation with both Federal and State agencies. Furthermore subsequent studies are underway in areas throughout the State to determine what subsequent withdrawals may be necessary for protection of the wildlife habitat.

Alaska although agreeing with the need for estuarian studies in certain areas must object to the implications of further Federal involvement in the State's responsibilities.

THOMAS E. KELLY,
Commissioner, Department of Natural Resources.

SAN LUIS OBISPO, CALIF., *June 2, 1968.*

Senator WARREN MAGNUSON:

Hearing on House Bill 25, U.S. Courthouse, Seattle, Wash., to save an important segment of our wildlife and preserve open spaces of great value, I urge passage of House Bill 25 before even more of our estuarine resources are lost.

MORRO COAST AUDUBON SOCIETY.

HOUSTON, TEX., *June 11, 1968.*

Senator WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
Senate Office Building,
Washington, D.C.:

For record of hearing on H.R. 25, Texas Conservation Council wants passage of bill but urges that section 12A be restored. Memorandum of understanding helpful but not binding. Would like to have the bill strengthened to include its original provisions. Protecting the country's estuaries is of tremendous importance.

L. N. DEXTER,
Chairman of the Board, Texas Conservation Council.

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