404 Permits/Freedom of Information Act: Environmental Organizations' Letter to U.S. Army Corps of Engineers Alleging Violations of Affirmative Disclosure Duty



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

01/08/2026

Three environmental organizations sent a December 22nd letter to the United States Army Corps of Engineers ("Corps") styled:

Notice of Violation of Affirmative Disclosure Duty, Request for Records of Final Individual Permits under § 404.

The three environmental organizations included:

- Center for Biological Diversity
- Environmental Integrity Project
- Conservation Law Foundation

(Collectively, "CBD").

The letter was transmitted to the "FOIA Officer."

The letter states that it is serving to notify the Corps:

… of its ongoing violation of its duty to proactively disclose information under the "reading room" provisions of the Freedom of Information Act1 ("FOIA") and to request that the Corps immediately correct these violations by making publicly available through an online portal all final permitting decisions and associated documents issued pursuant to section 404 of the Clean Water Act.

CBD states that the Corps is required under the FOIA's "reading room" provisions to make available for public inspection in an electronic format records of all standard individual permits granted under Section 404 of the Clean Water Act, as well as amendments thereto and certain associated approval documents. It further alleges that such records are required to be available as soon as a final permit or permit modification is issued by a District Engineer.

The Corps is alleged to, upon issuing such permits, be failing to proactively disclose permitting decisions on the associated records documenting the decisions.

CBD acknowledges the Corps' decentralized structure for granting permits. It further acknowledges that some Districts may publish these records as required but the three organizations and the broader public are stated to have no ability to review records from key Districts even:

… as those districts accelerate permitting timelines, abridge vital interagency consultations, and reduce opportunities for public input.

A copy of the letter can be found here.