



July 21, 2006

Mr. Bruce Williams
United States Army
Corps of Engineers
Norfolk District
803 Front Street
Norfolk, VA 23510

Dear Mr. Williams

RE: PROPOSED FINANCIAL ANALYSIS REQUIREMENTS

Thank you for the opportunity to comment on the Corps of Engineers' proposed requirements for financial disclosure in cases involving wetlands mitigation.

We are quite concerned about the proposal as presented.

Our main concern is that this requirement would force developers to divulge proprietary information that should remain within the purview of the applicant. Once this information is provided, there is the possibility that an outside party could request its disclosure under the auspices of the Freedom of Information Act (FOIA). If proprietary business information finds its way into the public sphere, then the applicant could be placed at a competitive disadvantage. Moreover, the information that the applicant has provided in good faith could be used by a third party in a manner detrimental to the applicant.

In addition, absent a FOIA request, should the project become the subject of litigation, it is possible that the proprietary information in the disclosures could become public through the discovery process.

The reality is that in many cases, permitting is a negotiated process between the various levels of government and the applicant. These proposed requirements would put an applicant at a disadvantage with respect to negotiating resolutions that protect both the public interest and the viability of business enterprises, and it would potentially subject an applicant to unreasonable requirements based on the determination of a regulatory agency.

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The Corps of Engineers should also consider that the potential for abuse of the data that would be required for disclosure under this proposal would also open up the Corps to legal liability and intense scrutiny of the measures taken to safeguard an applicant's financial information.

In any instance, what is being requested is private, proprietary information that should never, ever have to be surrendered to any federal, state or local agency as part of a permitting process, and the threat that any member of the general public could potentially have access to this material is even more alarming. With the exception of certain information regarding publicly-traded companies for whom specific financial disclosure laws already apply, the financial data of a private business should not be open to public or government inspection.

Simply stated, the policy aim of the proposal does not justify the gross invasion of privacy that would result from disclosure of this data.

Again, thank you for the opportunity to comment on this proposal. If you have any questions, please do not hesitate to contact me.

Sincerely

A handwritten signature in black ink that reads "Tyler Craddock". The signature is written in a cursive, flowing style.

Tyler Craddock

Director of Public and Government Affairs