

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS

**The Blackstone Headwaters Coalition, Inc. v. Gallo Builders, Inc.,
RH Gallo Builders, Inc., Arboretum Village, LLC, Steven A. Gallo,
and Robert H. Gallo**

Blackstone Headwaters Coalition · No. 4:16-cv-40053-MRG · Decided November 30, 2025

SUMMARY

The United States District Court for the District of Massachusetts explains its reasons for granting the plaintiff's motion in limine to exclude a letter from the U.S. Army Corps of Engineers. The court concludes that the defendants failed to establish the letter's relevance, that its admission could mislead and unfairly prejudice the jury, and that the letter was untimely disclosed. The court also rejects the defendants' arguments that the letter was entitled to Skidmore deference or that the Army Corps had the final word on whether the disputed waters constituted Waters of the United States under the Clean Water Act.

CASE DETAILS

COURT	United States District Court for the District of Massachusetts
WRITING FOR THE COURT	Margaret R. Guzman
JURISDICTION	United States District Court for the District of Massachusetts
DECIDED	November 30, 2025
DOCKET	4:16-cv-40053-MRG
DISPOSITION	other
PROCEDURAL POSTURE	The court issued a memorandum and order supplementing its reasoning for granting the plaintiff's motion in limine to exclude a letter from the U.S. Army Corps of Engineers.
STANDARD OF REVIEW	Evidentiary rulings under Federal Rules of Evidence 401 and 403; the court evaluated whether the letter was relevant, whether its admission risked misleading the jury or causing unfair prejudice, and whether its late disclosure was permissible under Federal Rule of Civil Procedure 26(e).
PRECEDENTIAL VALUE	district court memorandum and order; precedential status not specified in the source

TOPICS

motion in limine relevance evidence clean water act administrative law

PRACTICE AREAS

civil procedure evidence environmental law administrative law

QUESTIONS PRESENTED

1. Whether the Army Corps of Engineers letter was sufficiently relevant under Federal Rule of Evidence 401 to be admitted.
2. Whether admitting the letter without its underlying application or supporting context would create a risk of misleading the jury or unfair prejudice under Federal Rule of Evidence 403.
3. Whether the defendants' late disclosure of the letter complied with Federal Rule of Civil Procedure 26(e).
4. Whether an Army Corps of Engineers determination concerning Waters of the United States is entitled to Skidmore deference and is dispositive in a Clean Water Act citizen suit.

HOLDINGS

1. The defendants failed to establish that the letter was relevant under Federal Rule of Evidence 401 because they did not provide the complete underlying application or sufficient information to determine the basis and significance of the Corps's determination.
2. Even if the letter had some relevance, presenting it on agency letterhead without the underlying context would create a risk of misleading the jury and causing unfair prejudice, warranting exclusion under Rule 403.
3. Federal Rule of Civil Procedure 26(e) does not authorize the production of materially new evidence on the eve of trial when the opposing party lacks sufficient time to investigate and conduct discovery concerning that evidence.
4. The Army Corps of Engineers does not have the final word on whether a discharge violates the Clean Water Act in a citizen suit; the ultimate decision rests with the court.
5. The letter was not entitled to persuasive weight under Skidmore because it lacked thorough reasoning and documentary support independent of the defendants' representations.

KEY QUOTATIONS

“There is no reason the Defendants could not have sought input from the Army Corps of Engineers prior to the eve of trial.”

“In a citizen suit under the CWA, the ultimate decision lies with the Court.”

FACTUAL BACKGROUND

The defendants sought to introduce a letter from the U.S. Army Corps of Engineers concerning whether certain waters qualified as Waters of the United States. The letter was based on a submission made by a former defense attorney on November 6, 2025, less than thirty days before trial, and the defendants did not provide the complete underlying application or other documentary context. The court concluded that the record did not establish what the Corps relied upon, whether the letter was a jurisdictional determination or merely a no-permit-required letter, or how it related to the issues in the case.

PROCEDURAL HISTORY

The plaintiff filed this Clean Water Act citizen suit in 2016. Discovery closed on September 1, 2023. Shortly before trial, the defendants disclosed a letter from the Army Corps responding to a November 6, 2025 submission by a former defense attorney. The court granted the plaintiff's motion in limine to preclude evidence of or reference to the letter and issued this order clarifying its reasoning.

DISPOSITION

other

CASES CITED

- Skidmore v. Swift & Co., 323 U.S. 134, 139-40 (1944)
- Loper Bright Enters. v. Raimondo, 603 U.S. 369, 388 (2024)
- Doe v. Leavitt, 552 F.3d 75, 82 (1st Cir. 2009)
- Precon Dev. Corp. v. U.S. Army Corps of Eng'rs, 633 F.3d 278, 296-97 (4th Cir. 2011)
- Ass'n to Protect Hammersley, Eld, & Totten Inlets v. Taylor Res., Inc., 299 F.3d 1007, 1012 (9th Cir. 2002)
- Sackett v. U.S. E.P.A., No. 08-CV-185-N-EJL, 2008 WL 3286801, at *1 (D. Idaho Aug. 7, 2008)
- San Francisco Baykeeper v. Cargill Salt Div., 481 F.3d 700, 706 (9th Cir. 2007)