

Permit: USACE Permit No. 200511169

### PROPOSED ADMINISTRATIVE PENALTY ORDER

Under the authority granted by 33 U.S.C. § 1319(g) and 33 CFR Part 326.6, I, Colonel John E. Pulliam, Jr., District Engineer, Wilmington District, propose to issue this order assessing a Class I Administrative Penalty for violation of the above-referenced permit.

**Name/Address of Permittee:**

Colington Pointe, LLC  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Permitted Activity:**

The development of a residential/condominium complex, including construction of a boating access facility, boardwalk, clubhouse, pool, and boat ramp, on property located at 1608 Colington Road, adjacent to Dog Point Creek and Blounts Bay, in the Community of Colington, Dare County, North Carolina, consistent with the application and plans for USACE Permit No. 200511169.

**Condition(s) or Limitation(s) of Permit Reportedly Violated:**

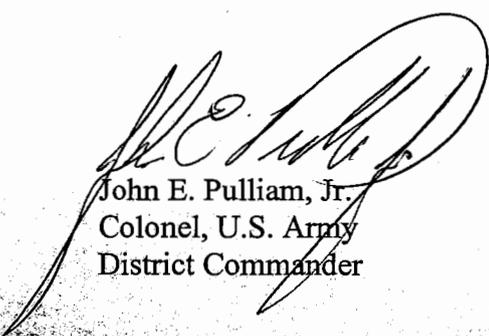
Colington Pointe, LLC, failed to comply with special condition 18 of the permit, which states, "No vegetated wetlands shall be excavated or filled without permit modification." Special Condition 19 states that, "The temporary placement or double handling of excavated or fill materials within waters or vegetated wetlands are not authorized." Special Condition 22 states that, "The permittee is advised that this permit does not authorize the filling of any wetlands associated with the construction of the access road leading to the northern point of condominiums."

**Description of the Nature of the Violation(s):**

Colington Pointe, LLC, began construction of the residential/condominium complex without complying with these permit conditions. Colington Pointe, LLC, constructed an access road through wetlands, resulting in adverse impacts to approximately 5,600 square feet (0.12-acre) of high quality coastal marsh.

I propose to assess a Class I Administrative Penalty against the permittee in this case for \$ 11,000; however, this proposal is subject to revision in the interest of justice after all evidence and comments have been received and reviewed. The amount that may be assessed as a Class I Administrative Penalty may not exceed \$11,000 per individual violation or a maximum amount of \$27,500.

Issued this 15<sup>th</sup> day of April 2006.

  
John E. Pulliam, Jr.  
Colonel, U.S. Army  
District Commander