

Permit: USACE Permit No. 200421193 and 200620050

FINAL 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, issue this order assessing a Class 1 Administrative Penalty for violation of the above-referenced permit.

Name/Address of Permittee:

Orleans Homebuilders, Inc.

Permitted Activity:

The development of a residential subdivision located off Yates Store Road, within the Forest Oaks Subdivision (now known as Weldon Ridge), near Cary, Wake County, North Carolina, consistent with the application and plans for USACE Permit No. 200421193 and 200620050.

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

Orleans Homebuilders, Inc., failed to comply with *Nationwide Permit General Condition #13a, Notification*, which states, "that the prospective permittee shall not begin the activity:

1. Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or
2. If notified in writing by the District or Division Engineer that an Individual Permit is required; or
3. Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2)."

Orleans Homebuilders, Inc.'s pre-construction notice failed to identify the full extent of impacts required to build its project, and therefore, pre-notification did not occur as dictated by the permit condition.

Description of the Nature of the Violation(s):

Orleans Homebuilders, Inc., began construction of the residential subdivision without complying with these permit conditions. Orleans Homebuilders, Inc., placed fill material in jurisdictional wetlands, resulting in adverse impacts to approximately 0.15-acre of forested wetlands.

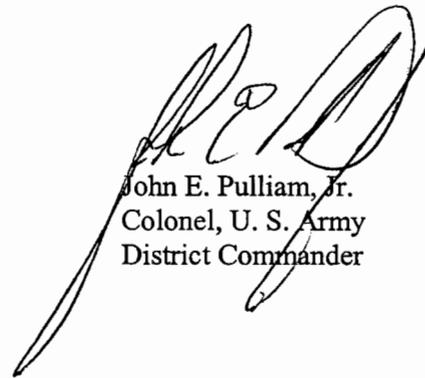
It is my decision that a Class 1 Administrative Penalty in the amount of \$5,000 shall be assessed against the permittee. Permittee will pay the penalty by cashier's or certified check, payable to FAO, USAED

Wilmington, and delivered to the Office of Counsel, U.S. Army Engineer District, P.O. Box 1890, Wilmington, North Carolina, 28402, within 30 days from the effective date of this letter.

The issuance of this Order constitutes final U.S. Army Corps of Engineers action in this case for purposes of judicial review.

This order will become effective 30 calendar days following its issuance unless an appeal is taken pursuant to 33 U.S.C. § 1319(g)(8) or a hearing is granted. Since no hearing was held prior to the issuance of this Order, a prior commenter may file a petition for a hearing within the 30-day period.

Issued this 19th day of October 2006.



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