

Permit: USACE Permit No. 200421193 and 200620050

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:

Mr. Dan Farmer
Orleans Homebuilders, Inc.

Permitted Activity:

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

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.

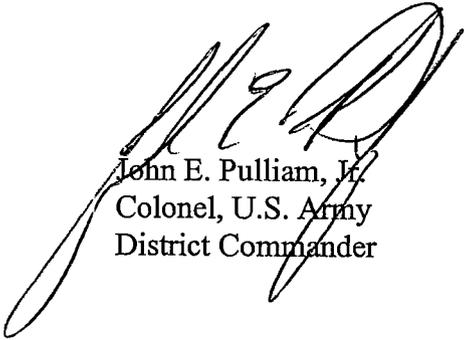
Description of the Nature of the Violation(s):

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

I propose to assess a Class I Administrative Penalty against the permittee in this case for \$ 5,000; 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 22nd day of August 2006.



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