

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:

The Refuge at Drummond's Point

Permitted Activity:

The discharge of earthen fill material within 0.44 acre of Department of the Army (DA) jurisdictional wetlands to facilitate the construction of a road to provide access to a residential development, on property identified as the Refuge at Drummond's Point Development, located off State Road 1100, adjacent to the Albemarle Sound and the Yeopim River, in Chowan County, North Carolina, consistent with the application and plans for USACE Permit No. 200510019.

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

The Refuge at Drummond's Point Development failed to comply with special condition b. of the subject permit, which states that, "The Permittee shall make payment to the North Carolina Ecosystem Enhancement Program (NCEEP) in the amount determined by the NC EEP, sufficient to perform the restoration of 0.75 acres of riparian and 0.51 acres of non-riparian wetlands in the Pasquotank River Basin, Cataloging Unit 03010205."

"Construction within jurisdictional areas on the property shall begin only after the permittee has made full payment to the NCEEP and provided a copy of the payment documentation to the Corps, and the NCEEP has provided written confirmation to the Corps that it agrees to accept responsibility for the mitigation work required, in compliance with the MOU between the North Carolina Department of Environment and Natural Resources and the United States Army Corps of Engineers, Wilmington District, dated November 4, 1998."

Description of the Nature of the Violation(s):

The Refuge at Drummond's Point Development began construction of the access road without complying with this permit condition. The Refuge at Drummond's Point Development constructed the access road prior to making payment to the NCEEP.

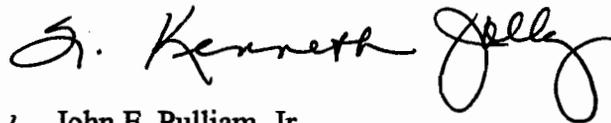
It is my decision that a Class 1 Administrative Penalty in the amount of \$8,000 shall be assessed against the permittee. Permittee will pay the penalty by cashier's or certified check, payable to FAO, USAED

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 22nd day of October 2006.

A handwritten signature in black ink, appearing to read "John E. Pulliam, Jr.", with a large, stylized flourish at the end.

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