

Permit: USACE Permit No. 200510019

### **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 permits.

**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."

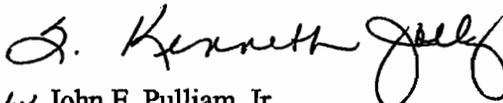
"Construction within jurisdictional areas on the property shall begin only after the permittee has made full payment to the NCEEP and provided a copy of the payment documentation to the Corps, and the NCEEP has provided written confirmation to the Corps that it agrees to accept responsibility for the 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.

I propose to assess a Class I Administrative Penalty against the permittee in this case for \$ 8,000; 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 27<sup>th</sup> day of August 2007.

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