

Permit: USACE Permit Nos. 200632436 and 200640764

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 permits.

Name/Address of Permittee:

Riversound Development

Permitted Activity:

The discharge of earthen fill material within Department of the Army (DA) jurisdictional wetlands to facilitate the development of a residential subdivision, including the construction of access roads and a boatramp, on property at the Riversound Development, located off the north side of State Road 1100, approximately 1.2 miles east of NC Highway 32, adjacent to the Yeopim River and Middleton Creek, near Edenton, Chowan County, North Carolina, consistent with the application and plans for USACE Permit Nos. 200632436 and 200640764.

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

Riversound Development failed to comply with special condition 2. of the subject permits, which state that, "No excavated or fill material shall be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill areas indicated on the attached work plan drawings (File number 06-015, dated 7-27-06, titled Waterfront Group Riversound Project)."

The subject permits also state that "Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted plans (File number 06-015, dated 7-27-06, titled Waterfront Group Riversound Project)."

Description of the Nature of the Violation(s):

On October 24, 2007, RG-W staff met onsite with the owner and their consultants to review a jurisdictional determination on the property. During the review of the jurisdictional determination, it was discovered that three additional road crossings had been constructed on the property that were not in compliance with the issued permits. On October 29, 2007, RG-W staff contacted the permittee and their consultants by telephone and informed them that they were not in compliance with the original permits.

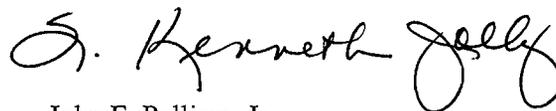
The roadways remained in place for approximately 29 days before the project site was restored.

It is my decision that a Class 1 Administrative Penalty in the amount of \$27,500 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 20th day of April 2008.

A handwritten signature in cursive script, appearing to read "J. Kenneth Kelly".

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