

Permit: USACE Permit Nos. 200632436 and 200640764

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:

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)."

The permit also states that "The permittee shall preserve and maintain 133.64 acres of Department of the Army jurisdictional wetlands as surveyed on the attached plat titled Wetland Boundary Survey Plat on Phase 1 of Riversound. The permittee is prohibited from performing any of the following activities on the property: Filling; grading; excavating; earth movement of any kind; construction of roads, walkways, buildings, signs, or any other structure; any activity that may alter the drainage patterns on the property; the destruction, mowing, or other alteration of vegetation on the property;

disposal or storage of any garbage, trash, or other waste material; or any other activity which would result in the wetlands being adversely impacted or destroyed.”

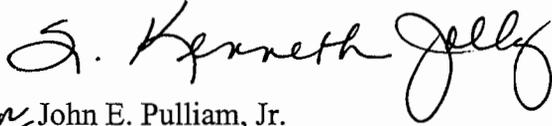
Description of the Nature of the Violation(s):

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, and that they had undertaken work within areas identified as part of their Conservation Easement.

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

I propose to assess a Class I Administrative Penalty against the permittee in this case for \$27,500; 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 7th day of March 2008.


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