

JOSH STEIN
Governor

D. REID WILSON
Secretary

RICHARD E. ROGERS, JR.
Director



September 25, 2025

DWR #20250313
New Hanover County

W3 Built
Attn: Westcott Butler
707 Saint Joseph Street
Carolina Beach, NC 28428

Delivered via email to: butler@w3built.com

Subject: Approval of Individual 401 Water Quality Certification
1215 Saint Joseph St.
USACE Action ID. No. SAW-2025-00193

Location: 34.047516, -77.894720

Dear Westcott Butler:

Attached hereto is a copy of Certification No. WQC008275 issued to Westcott Butler and W3 Built, dated September 25, 2025. This approval is for the purpose and design described in your application.

This Water Quality Certification does not relieve the Permittee of the responsibility to obtain all other required Federal, State, or Local approvals before proceeding with the project, including those required by, but not limited to, Sediment and Erosion Control, Non-Discharge, Water Supply Watershed, and Trout Buffer regulations.

Upon the presentation of proper credentials, the Division of Water Resources (Division) may inspect the property.

This Water Quality Certification shall expire on the same day as the expiration date of the corresponding Section 404 Permit that is current at the time this Certification is issued. The conditions shall remain in effect for the life of the project, regardless of the expiration date of this Water Quality Certification.

Non-compliance with or violation of the conditions herein set forth may result in revocation of this Water Quality Certification for the project and may also result in criminal and/or civil penalties.



North Carolina Department of Environmental Quality | Division of Water Resources
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617
919.707.9000

This approval and its conditions are final and binding unless contested [G.S. 143-215.5].

This Certification can be contested as provided in Chapter 150B of the North Carolina General Statutes by filing a Petition for a Contested Case Hearing (Petition) with the North Carolina Office of Administrative Hearings (OAH) **within sixty (60) calendar days**. Requirements for filing a Petition are set forth in Chapter 150B of the North Carolina General Statutes and Title 26 of the North Carolina Administrative Code. Additional information regarding requirements for filing a Petition and Petition forms may be accessed at <https://www.oah.nc.gov> or by calling the OAH Clerk's Office at (919) 431-3000.

A party filing a Petition must serve a copy of the Petition on:

Dan Hirschman, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, NC 27699-1601

If the party filing the Petition is not the Permittee, then the party must also serve the recipient of the Certification in accordance with N.C.G.S. 150B-23(a).

This letter completes the Division's review under Section 401 of the Clean Water Act and 15A NCAC 02H .0500. Please contact Samantha Wooten at (919) 707-3631 or samantha.wooten@deq.nc.gov if you have any questions or concerns.

Sincerely,

DocuSigned by:

Stephanie Goss

755ABF0CD80B428...

Stephanie Goss, Supervisor
401 & Buffer Permitting Branch

Electronic cc: Megan Dean, Southern Environmental Group, Inc. (megan@segi.us)
Big Bird Land Development, LLC
Brad Shaver, USACE Wilmington Regulatory Field Office
(Brad.E.Shaver@usace.army.mil)
Maria Dunn, NCWRC (maria.dunn@ncwildlife.org)
DWR 401 & Buffer Permitting Branch Electronic file

Filename: 20250313 1215 Saint Joseph St. – New Hanover – 401 – IP w MRTF.docx



NORTH CAROLINA 401 WATER QUALITY CERTIFICATION

CERTIFICATION #WQC008275 is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to North Carolina's Regulations in 15 NCAC 02H .0500 and 15A NCAC 02B .0200, to Westcott Butler and W3 Built, who have authorization for the impacts listed below, as described within your application received by the N.C. Division of Water Resources (Division) on January 24, 2025, with fee received on March 10, 2025, and subsequent information on January 31, 2025, April 15, 2025, June 6, 2025, and September 8, 2025, and by Public Notice issued by the U. S. Army Corps of Engineers on May 13, 2025, and within the *Reasonable Period of Time* pursuant to 40 CFR Part 121.6.

The State of North Carolina certifies that this activity will comply with water quality requirements and the applicable portions of Sections 301, 302, 303, 306, 307 of the Public Laws 92-500 and PL 95-217 if conducted in accordance with the application, the supporting documentation, and conditions hereinafter set forth.

The following impacts are hereby approved. No other impacts are approved, including incidental impacts. [15A NCAC 02H .0506(b)]

Type of Impact	Amount Approved Permanent	Amount Approved Temporary	Mitigation Amount Required
Non-Riparian Wetlands			
Site #1 – Road Infrastructure for lots and associated utilities	0.66 acres	0 acres	0.66 credits
<i>Totals:</i>	<i>0.66 acres</i>	<i>0 acres</i>	<i>0.66 credits</i>

This approval requires you to follow the conditions listed in the Certification below.

CONDITIONS OF CERTIFICATION [15A NCAC 02H .0507(c)]:

- Mitigation must be provided for the proposed impacts as specified in the table below. The attached Compensatory Mitigation Responsibility Transfer Form (Form) shall be completed and provided to the Division prior to *any* impacts occurring. If the Mitigation Provider specified on the attached Form(s) for the proposed impacts changes after issuance of this Certificate, then the Permittee shall request a revised Compensatory Mitigation Responsibility Transfer Form from the Division prior to conducting any impacts.

	Compensatory Mitigation Required	River and Sub-basin Number
Wetland	0.66 acres (credits)	White Oak \ 03020302

Citation: 15A NCAC 02H .0506(c); 15A NCAC 02H .0507(c)



2. The plans and specifications for this project are incorporated by reference as part of this Water Quality Certification. If you change your project, you must notify the Division, and you may be required to submit a new application package with the appropriate fee.

If the property is sold, the Permittee shall provide the new owner must with a copy of this Water Quality Certification and all plans and specifications incorporated by reference. The Permittee may transfer this Water Quality Certification to the new owner by submitting a letter to the Division with the following statement: *"At the time the property is transferred, the terms and conditions of this 401 Individual Water Quality Certification, including the responsibility to ensure compliance, are binding on the new owner(s) of the property."* The letter shall be signed and dated by both the transferee and the new owner.

Citation: 15A NCAC 02H .0507(d)(2)

3. Any final construction plans for this project must include or reference the application and plans approved by the Division under this authorization letter and certification. The applicant will also be required to evaluate all acquired permits to assure that they are consistent, and all relative impacts are accounted for and shown on the construction plans. Any additional impacts to streams and/or wetlands within the project may be considered cumulative to impacts approved in this Certification and may require a modification of this 401 Water Quality Certification approval.

Citation: 15A NCAC 02H .0506; 15A NCAC 02H .0507(c)

4. All wetlands, streams, and surface waters located within 50 feet of the construction area on the project site shall be clearly marked (example- orange fabric fencing) prior to any land disturbing activities and must be maintained on the property until the project phase is completed.

Citation: 15A NCAC 02H .0506(b)(2); 15A NCAC 02H .0507(c)

5. Appropriate measures should be installed prior to any land clearing activities to protect wetlands, streams, and/or buffers from turbidity and/ or sedimentation. These measures should be routinely inspected and properly maintained, and excavated materials should be contained outside wetland, stream, and/or buffer boundaries. Excessive silt and sediment loads can have numerous detrimental effects on aquatic resources including destruction of spawning habitat, suffocation of eggs, and clogging of gills of aquatic species.

Citation: 15A NCAC 02H .0506(b)(2); 15A NCAC 02H .0507(c)

6. The permittee shall comply with any moratoriums per the National Marine Fisheries Service and/or the US Fish and Wildlife Service.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 04B .0125

7. The Permittee shall secure an *approved* stormwater management plan (SMP) from New Hanover County **before any** impacts authorized in this Certification occur. The applicable portion of the approved SMP shall be constructed and operational before any permanent building or other permanent structure is occupied at the site. If any of the SCMs are used as an Erosion and



Sediment Control device, it must be restored to the approved stormwater design condition within 30 days of close-out of the Erosion and Sediment Control Plan.

Citation: 15A NCAC 02H .0506(b)(2) and (3); 15A NCAC 02H .0507(c)

8. If the Permittee becomes aware of any inability to comply with any of the conditions of this Water Quality Certification, they must notify the Wilmington Regional Office within 24 hours (or the next business day if a weekend or holiday) from the time the Permittee becomes aware of the circumstances. The Permittee may be required to submit a new application package with appropriate fee to initiate modification of this authorization, and/or to conduct corrective actions as determined by the Division.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

9. The Permittee shall report to the DWR Wilmington Regional Office any noncompliance with, and/or any violation of, stream or wetland standards [15A NCAC 02B .0200], including but not limited to sediment impacts to streams or wetlands. Information shall be provided orally within 24 hours (or the next business day if a weekend or holiday) from the time the Permittee became aware of the non-compliance circumstances.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

10. No waste, spoil, solids, or fill of any kind shall occur in wetlands or waters beyond the footprint of the approved impacts (including temporary impacts).

Citation: 15A NCAC 02H .0506; 15A NCAC 02H .0507(c)

11. When applicable, all construction activities shall be performed and maintained in full compliance with G.S. Chapter 113A Article 4 (Sediment and Pollution Control Act of 1973). Regardless of applicability of the Sediment and Pollution Control Act, all projects shall incorporate appropriate Best Management Practices for the control of sediment and erosion so that no violations of state water quality standards, statutes, or rules occur.

Design, installation, operation, and maintenance of all sediment and erosion control measures shall be equal to or exceed the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*, or for linear transportation projects, the *North Carolina Department of Transportation Sediment and Erosion Control Manual*.

All devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) sites, including contractor-owned or leased borrow pits associated with the project. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC02B .0200; 15A NCAC 02B .0231



12. Sediment and erosion control measures shall not be installed in wetland or waters except within the footprint of temporary or permanent impacts otherwise authorized by this Certification. If placed within authorized impact areas, then placement of such measures shall not be conducted in a manner that results in dis-equilibrium of any wetlands, streambeds, or streambanks. Any silt fence installed within wetlands shall be removed from wetlands and the natural grade restored within two (2) months of the date that DEMLR or the locally delegated program has released the specific area within the project to ensure wetland standards are maintained upon completion of the project.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

13. Erosion control matting that incorporates plastic mesh and/or plastic twine shall not be used along streambanks or within wetlands.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

14. If the project is covered by NPDES Construction Stormwater Permit Number NCG010000 or NPDES Construction Stormwater Permit Number NCG250000, full compliance with permit conditions including the erosion & sedimentation control plan, inspections and maintenance, self-monitoring, record keeping, and reporting requirements is required.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

15. Application of fertilizer to establish planted/seeded vegetation within disturbed riparian areas and/or wetlands shall be conducted at agronomic rates and shall comply with all other Federal, State, and Local regulations. Fertilizer application shall be accomplished in a manner that minimizes the risk of contact between the fertilizer and surface waters.

Citation: 15A 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

16. If concrete is used during construction, then all necessary measures shall be taken to prevent direct contact between uncured or curing concrete and waters of the state. Water that inadvertently contacts uncured concrete shall not be discharged to waters of the state.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

17. All mechanized equipment operated near surface waters shall be inspected and maintained regularly to prevent contamination of surface waters from fuels, lubricants, hydraulic fluids, or other toxic materials. Construction shall be staged in order to minimize the exposure of equipment to surface waters to the maximum extent practicable. Fueling, lubrication, and general equipment maintenance shall be performed in a manner to prevent, to the maximum extent practicable, contamination of surface waters by fuels and oils.



Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0200; 15A NCAC 02B .0231

18. Heavy equipment working in wetlands shall be placed on mats or other measures shall be taken to minimize soil disturbance and compaction.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c); 15A NCAC 02B .0231

19. In accordance with 143-215.85(b), the Permittee shall report any petroleum spill of 25 gallons or more; any spill regardless of amount that causes a sheen on surface waters; any petroleum spill regardless of amount occurring within 100 feet of surface waters; and any petroleum spill less than 25 gallons that cannot be cleaned up within 24 hours.

Citation: 15A NCAC 02H .0507(c); N.C.G.S 143-215.85(b)

20. The Permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

21. The Permittee shall require its contractors and/or agents to comply with the terms and conditions of this Certification in the construction and maintenance of this project and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this Water Quality Certification. A copy of this Water Quality Certification shall be available at the project site during the construction and maintenance of this project.

Citation: 15A NCAC 02H .0506(b); 15A NCAC 02H .0507(c)

22. This Water Quality Certification neither grants nor affirms any property right, license, or privilege in any lands or waters, or any right of use in any waters. This Water Quality Certification does not authorize any person to interfere with the riparian rights, littoral rights, or water use rights of any other person and does not create any prescriptive right or any right of priority regarding any usage of water. This Water Quality Certification shall not be interposed as a defense in any action respecting the determination of riparian or littoral rights or other rights to water use. No consumptive user is deemed by virtue of this Water Quality Certification to possess any prescriptive or other right of priority with respect to any other consumptive user.



This Water Quality Certification shall expire on the same day as the expiration date of the corresponding Section 404 Permit that is current at the time this Certification is issued. The conditions shall remain in effect for the life of the project, regardless of the expiration date of this Water Quality Certification.

This, the 25th day of September 2025

DocuSigned by:

Stephanie Goss

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Stephanie Goss, Supervisor
401 & Buffer Permitting Branch



JOSH STEIN
Governor

D. REID WILSON
Secretary

RICHARD E. ROGERS, JR.
Director



COMPENSATORY MITIGATION RESPONSIBILITY TRANSFER FORM

September 25, 2025

Permittee: Westcott Butler and W3 Built

DWR Project #20250313

Project Name: 1215 Saint Joseph St.

County: New Hanover

The Division has received a Statement of Availability (SOA) from Davey Resource Group, Inc. for the Lower Cape Fear Umbrella Mitigation Bank (Mitigation Provider) to satisfy the mitigation requirements set forth in 401 Individual Certification No. WQC008275 issued to Westcott Butler and W3 Built, dated September 25, 2025, as provided in the table below.

	Compensatory Mitigation	River and 8-digit HUC Number
Non-Riparian Wetland	0.66 acres (credits)	White Oak \ 03020302

The Permittee must provide a copy of this form to the Mitigation Provider specified above, who will then sign the form to verify receipt of payment and the transfer of the mitigation responsibility. Once the Mitigation Provider has signed this form, it is the Permittee's responsibility to ensure that a signed copy of this form is submitted to DEQ.WR.401MRT@deq.nc.gov **before** conducting any of the authorized impacts.

The Mitigation Provider verifies that the mitigation requirements (credits) shown above, have been released and are available at the identified bank site(s). By signing below, the Mitigation Provider is accepting full responsibility for the identified mitigation. **As a reminder to the Mitigation Provider, no more than 25 percent of the total mitigation required by Division can be met through preservation, unless requested and approved by the Division Director (15A NCAC 02H. 0506(c)(7)).**

Signature Authority Name (print): _____

Signature: _____ Date: _____

